

DATE OF DETERMINATION	14 May 2026
DATE OF PANEL DECISION	14 May 2026
DATE OF PANEL MEETING	13 May 2026
PANEL MEMBERS	Peter Debnam (Chair), Brian Kirk, Stephen O'Connor, Alec Taylor, Kim Wheatley
APOLOGIES	Martin Smith
DECLARATIONS OF INTEREST	Sue Francis

Public meeting held by videoconference on 13 May 2026, opened at 10:35 am and closed at 10:56 am.

Papers circulated electronically on 29 April 2026.

MATTER DETERMINED

PPSSNH-727 – Ku-ring-gai – eDA0470/25 – 4 Cherry Street, Warrawee NSW 2074 – Construction of a 9-storey residential flat building and associated landscaping and civil works (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at the meeting listed at item 8 in Schedule 1.

Application to vary a development standard:

Following consideration of the written request from the applicant, made under cl 4.6 (2) and cl 4.6 (3) of the Ku-ring-gai Local Environmental Plan 2015 (LEP) seeking to contravene s. 16(3) of the State Environmental Planning Policy (Housing) 2021 (SEPP) with regard to the maximum height of the building;

The Panel is NOT satisfied that:

- a. the Applicant's written request to exceed the maximum permissible building height has demonstrated that compliance with the development standards is unreasonable or unnecessary in the circumstances; and
- b. there are sufficient environmental planning grounds to justify the contravention of the development standard.

Development Application

The Panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to refuse the Clause 4.6 request to contravene the maximum permissible building height and the Panel refused the application for the reasons outlined in Council's Assessment Report as uploaded to the NSW Planning Portal on 28 April 2026 by Council.

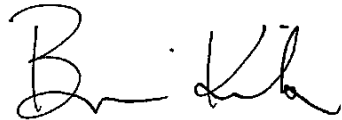
The Panel notes the Applicant declined the opportunity to address the Panel or respond to the verbal submissions made by members of the public during the Public Determination Meeting held on 13 May 2026.

The Panel further notes Council's Assessment Report listed 20 reasons for refusal of the application, and the Panel accepted these reasons. Consequently, the Panel determined to refuse the application.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Bulk and scale
- Building height
- Insufficient Clause 4.6 height variation request
- Traffic and parking impacts
- Impact on local character and desired future character
- Privacy and overlooking
- Impacts specific to No. 2 Cherry Street, including overlooking, acoustic impacts and solar impacts
- Building separation
- Heritage impacts, including upon Nos 1, 2, 3, 5 Laurel Avenue and No. 8 King Street
- Stormwater and groundwater impacts
- Excavation and geotechnical impacts
- Impacts from demolition and construction
- Impacts upon vegetation and local biodiversity
- Inadequate open space at ground level
- Health and safety risks posed by structural features
- Visual impacts
- Overshadowing
- Impact to pedestrian footpath
- Increased foot traffic
- Impacts specific to No. 18 Ray Street, including overlooking, groundwater and drainage impacts, visual impacts and environmental concerns

PANEL MEMBERS	
 Peter Debnam (Chair)	 Brian Kirk
 Stephen O'Connor	 Alec Taylor
 Kim Wheatley	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-727 – Ku-ring-gai – eDA0470/25
2	PROPOSED DEVELOPMENT	Tree removal, construction of a 9-storey residential flat building over 3 levels of basement parking plus associated landscaping and civil works
3	STREET ADDRESS	4 & 8 Cherry Street, Warrawee NSW 2074
4	APPLICANT/OWNER	Applicant: Wallace Ng / Celesteem Turramurra Development Pty Ltd. Owner: Celesteem Turramurra Development Pty Ltd.
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy (Biodiversity and Conservation) 2021 - State Environmental Planning Policy (Resilience and Hazards) 2021 - State Environmental Planning Policy (Planning Systems) 2021 - State Environmental Planning Policy (Sustainable Buildings) 2022 - State Environmental Planning Policy (Transport and Infrastructure) 2021 - State Environmental Planning Policy (Housing) 2021 - Ku-ring-gai Local Environmental Plan 2015 - Draft environmental planning instruments: Nil - Development control plans: - Ku-ring-gai Development Control Plan 2025 - Planning agreements: Nil - Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> - Coastal zone management plan: Nil - The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality - The suitability of the site for the development - Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations - The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	- Council Assessment Report: 28 April 2026 - Clause 4.6 Variation Request Report (maximum building height): 21 August 2025 - Written submissions during public exhibition: 62 - Written submissions during public re-exhibition: 7 - Total number of written submissions received: 69 - Verbal submissions at the public meeting: - Michael Ference, Judy Matthews, David Larkin, Judith Gill, Angus Fabian, Nicholas Lawson - Council assessment officer – Asmaa Rabiee - On behalf of the applicant – nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Public meeting to discuss Council's recommendation: 13 May 2026 <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Stephen O'Connor, Alec Taylor, Kim Wheatley <u>Council assessment staff</u>: Asmaa Rabiee, Ross Guerrero, Johnathan Goodwill, Michael Miocic, Shaun Garland, Robyn Askew, Zoran Popovic, Stephen Collier <u>Applicant representatives</u>: Nil <u>Department staff</u>: Nathan Laird, Anaise Nagy
9	COUNCIL RECOMMENDATION	Refusal
10	DRAT CONDITIONS	Attached to the Council Assessment Report as uploaded by Council to the NSW Planning Portal on 28 April 2026