



DETERMINATION AND STATEMENT OF REASONS
SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	22 July 2020
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Kevin Alker, Ken Robinson
APOLOGIES	Virginia Waller
DECLARATIONS OF INTEREST	Julie Savet Ward noted that she had previously been a director of Link Housing which is mentioned in the assessment report. This declaration does not preclude Julie from participating on the Panel.

Public meeting held by Public Teleconference on 22 July 2020, opened at 9.40am and closed at 10.40am.

MATTER DETERMINED

PPSSNH-81 – North Sydney – DA47/20 at 2 Blue Street North Sydney for a commercial building (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 meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Application to vary a development standard

During the public meeting, the Applicant and Council confirmed the height variation sought was 1.8m above RL100, which represents a 5.8% variation to the maximum building height when measured in metres from the existing ground level. This being based upon a 1.8m height variation over 31m.

The Panel was satisfied the Applicant had submitted a comprehensive written request for the height variation. The proposal is generally compliant with the building height control of RL100 specified in NSLEP 2013. The non-compliance is limited to the roof top plant to RL101.8.

Following consideration of the written request from the Applicant, made under cl 4.6 (3) of the North Sydney Local Environmental Plan 2013 (LEP), that has demonstrated that:

- compliance with cl.4.3 height (development standard) is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- the Applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl.4.3 height (development standard) of the LEP and the objectives for development in the B4 Mixed Use zone; and
- the concurrence of the Secretary has been assumed.

Development application

The Panel determined to approve 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 noted the proposed development had been assessed with respect to the objects and relevant Sections of the EP&A Act, as well as the objectives, merit based outcomes, development standards and prescriptive controls of State Environmental Planning Policies. The proposal had also been assessed under the North Sydney Local Environmental Plan 2013, North Sydney Development Control Plan 2013, North Sydney Section 7.11 Contributions Plan and the North Sydney Council's Local Housing Strategy.

The Panel noted that notification of the original proposal attracted forty-five submissions (twenty in support and twenty five in objection). The amended proposal attracted fifty-seven submissions (forty-five in support, nine in objection and three neutral). As noted below under Consideration of Community Views, the Panel believed the community concerns had been adequately addressed.

The Applicant accepted feedback from Council and Community during the assessment process. As a result, the amended proposal provided additional setbacks, improved tree plantings at ground level and above podium landscaping along the William Street façade to provided greater articulation and reduced visual massing. The amended proposal had also reduced the roof top plant area, provided additional privacy treatment to the northern façade and compliant podium heights, which reduced amenity impacts for surrounding properties in terms of views, solar access and privacy.

The amended proposal was generally compliant with the building height control of RL100 specified in NSLEP 2013. The non-compliance with the building height control was limited only to the roof top plant to RL101.8. The amended written request prepared pursuant to Clause 4.6 in NSLEP 2013 seeking a variation to the building height control has adequately addressed subclause (3) in Clause 4.6 and is also consistent with the relevant objectives of the building height control and B4 Mixed Use zone and therefore in the public interest. The amended proposal satisfied cl. 6.3 of the NSLEP and in particular, it demonstrated that there will be no additional overshadowing of the Special Area or RE1 zones as specified in the NSLEP 2013.

The Panel considered community concerns regarding loss of views and the Visual Survey Analysis submitted as part of the amended proposal. The Analysis demonstrated that whilst there will be view impact on some of the apartments within 9 William Street, the impact is predominantly caused by elements of the building at or below the building height control of RL 100. The roof top plant to RL 101.8 will not adversely impact views from the apartments at 9 William Street due to its design, location and height which is lower than the parapet of the adjoining building at 40 Miller Street.

The Panel noted some community concern over the heritage merits of the buildings to be demolished. It accepted, however, the assessment undertaken to demonstrate that the buildings do not meet criteria for heritage listing. Additionally, the amended proposal will not detrimentally impact the heritage significance of nearby heritage items given the amended form, massing, scale and materials of the building and the fact that it is generally compliant with the applicable planning controls that apply to the site.

The proposal will result in the demolition of 28 tenanted bedrooms identified under the Affordable Rental Housing SEPP as low-income dwellings. The Panel accepted Council's position that the loss of this number of low cost dwellings would contribute to significant further cumulative loss of affordable housing in North Sydney and should be offset by contributions towards new affordable housing consistent with the objects of the Act which seek "to promote the delivery and maintenance of affordable housing". Further, the Panel accepted the Applicant's request that such a contribution towards affordable housing be payable prior to the issue of an Occupation Certificate.

CONDITIONS

The development application was approved subject to the amended conditions received 20 July 2020, with the following amendments:

- Condition B2 be amended as follows:

Delete “The contribution shall be paid prior to determination of the application for a Construction Certificate.” and insert “The contribution shall be paid prior to the issue of an Occupation Certificate.”

- New condition to read as follows:

Photographic Survey

Conditions D7

Prior to any works commencing a photographic survey recording of the buildings on the site, in accordance with the NSW Heritage Office Guidelines, is to be prepared to the satisfaction of Council’s Historian and Conservation Planner. Two (2) copies of the photographic survey must be provided to Council.

(Reason: To provide a historical record of any significant fabric on site for archival purposes)

- Condition G25 amended to read as follows:

A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979, in accordance with the North Sydney Council Section 7.11 Contribution Plan for the public amenities/ services detailed in column A below and, for the amount detailed in column B below, must be paid to Council.

A	B (\$)
Administration	\$30,861.20
Community Centres	\$65,247.56
Childcare Facilities	\$142,537.27
Library and Local Studies Acquisition	\$13,680.27
Library Premises and Equipment	\$41,372.42
Multi-Purpose Indoor Sports Facility	\$16,976.89
Olympic Pool	\$55,295.77
Open Space Acquisitions	-
Open Space Increased Capacity	-
North Sydney Public Domain	\$1,344,428.15
St Leonards Public Domain Improvements	-
Public Domain Improvements	-
Traffic Improvements	\$74,876.80
TOTAL	\$1,785,312.33

The contribution MUST BE paid prior to the issue of an Occupation Certificate.

The above amount will be adjusted for inflation by reference to the Consumer Price (All Ordinaries) Index applicable at the time of the payment of the contribution.

A copy of the North Sydney Section 94 Contribution Plan can be viewed at North Sydney Council’s Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council’s website at www.northsydney.nsw.gov.au

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered extensive written submissions made during public exhibition and heard from those wishing to address the public meeting. The Panel noted issues of concern included building height, view impacts, loss of amenity, excessive bulk and scale, design, heritage impacts, loss of privacy and overlooking, construction and noise impacts, tree removal, wind tunnel effect along William Street, increased traffic and distraction to students of the Shore School.

The Panel considered that concerns raised by the community have been adequately addressed in the assessment report, by Applicant and Council responses during the public meeting and by the conditions as amended.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Kevin Alker
 Ken Robinson	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-81 – North Sydney – DA47/20
2	PROPOSED DEVELOPMENT	Demolition of five (5) residential flat buildings, bulk excavation, tree removal and the construction of a 10 storey commercial building with basement parking.
3	STREET ADDRESS	2 – 4 Blue Street and 1 – 5 William Street, North Sydney
4	APPLICANT/OWNER	Union Street Developer Pty Ltd Conway Home Units Pty Ltd (2 – 4 Blue Street and 1 William Street), SP 12338 (3 William Street), SP 16506 (5 William Street)
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy (Sydney Harbour Catchment) 2005 - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy No.55 – Remediation of Land - State Environmental Planning Policy (Affordable Housing) 2009 - State Environmental Planning Policy No.70 – Affordable Housing (Revised Schemes) - State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 - North Sydney Local Environmental Plan 2013 - Draft environmental planning instruments: - State Environmental Planning Policy Remediation of Land - Development control plans: - North Sydney Development Control Plan 2013 - Planning agreements: Nil - Provisions of the <i>Environmental Planning and Assessment Regulation 2000</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: 8 July 2020 - Clause 4.6 request to vary height - Applicant memo: 20 July 2020 - Amended conditions: 20 July 2020 - Written submissions during public exhibition: [number] - Verbal submissions at the public meeting 22 July 2020: - Community members – Simon Matthews, Sunny Lin Jiang, Melissa Neighbour, Dominic Bertrand, Nick Couloubis - Council assessment officer – Luke Donovan - On behalf of the applicant – Jennie Buchanan, Wallace Bruderlin
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing: 20 May 2020 <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Kevin Alker, Ken Robinson <u>Council assessment staff</u>: Luke Donovan

		• Final briefing to discuss council's recommendation, 22 July 2020 at 9am. Attendees: - o <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Kevin Alker, Ken Robinson - o <u>Council assessment staff</u>: Luke Donovan
9	COUNCIL RECOMMENDATION	Choose an item.
10	DRAFT CONDITIONS	Attached to the council assessment report