

<b>DATE OF DETERMINATION</b>	13 March 2024
<b>DATE OF PANEL DECISION</b>	13 March 2024
<b>PANEL MEMBERS</b>	Annelise Tuor (Chair), Penelope Holloway, Brian Kirk
<b>APOLOGIES</b>	Glennis James
<b>DECLARATIONS OF INTEREST</b>	Khal Asfour, Charlie Ishac, Karl Saleh (these members declared a conflict having attended a council meeting where the planning proposal for the site was considered).

Panel meeting held by teleconference on 11 March 2024, opened at 1:30pm and closed at 2:10pm.  
Papers circulated electronically on 26 February 2024.

#### **MATTER DETERMINED**

PPSSSH-153 – Canterbury-Bankstown – DA-1196/2023 at 167 Hume Highway, Greenacre – Demolition of existing structures, construction of a 3-storey building containing a 56-room hotel and the relocated pub, a 5-storey mixed use building, containing 37 residential apartments and 1459sqm of commercial floor space on the ground floor level, and construction of three 3-storey residential flat buildings containing a total of 55 apartments, and basement car parking for 323 vehicles (as described in Schedule 1).

#### **PANEL CONSIDERATION AND DECISION**

The panel considered: the matters listed at item 6, the material listed at item 7, the material presented at briefings and the matters observed at a site inspection listed at item 8 in Schedule 1.

#### **Application to vary a development standard**

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Canterbury Bankstown Local Environmental Plan 2023 (LEP), that has sought to demonstrate that:

- compliance with clause 4.3 (Height of Buildings) is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

The panel is not 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 clause 4.3 (Height of Buildings) of the LEP and the objectives for development in the B6 Enterprise Corridor zone.

#### **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 not uphold the clause 4.6 variation to building height and to refuse the application for the reasons outlined in council's assessment report and the SOFAC filed on 6 February 2024. In particular:

- The council officer's assessment report has considered the relevant matters under section 4.15 of the Environmental Planning and Assessment Act 1979;
- The proposed development is a permissible development with consent within the B6 Enterprise Corridor and RE1 Public Recreation zones, but in its current form is not consistent with the relevant zone objectives;
- The proposed development does not satisfy the design principles of State Environmental Planning Policy (Housing) 2021 or relevant criteria and guidelines within the Apartment Design Guide. The Panel notes that the Design Review Panel does not support the proposed design.
- The proposed development does not satisfy relevant provisions of the Canterbury Bankstown Local Environmental Plan 2023 including height and clause 4.6.
- The proposed development does not satisfy the relevant provisions of the Canterbury Bankstown Development Control Plan 2023, especially, the site specific DCP's Indicative Structure Plan. In particular, the area identified for communal open space/one storey commercial is largely occupied by residential built form and the clear pedestrian connection between Hume Highway, through the site, to Peter Reserve is obstructed by the sunken driveway and Building D.
- The proposed development does not appropriately respond to the site, is not compatible with the development within the surrounding area and results in unreasonable impacts on residential amenity.

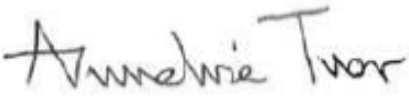

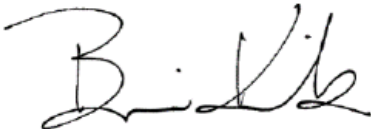
### CONDITIONS

Council recommended refusal and therefore no conditions of consent were prepared.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered a written submission made during public exhibition. The panel notes that issues of concern included:

- Construction noise and dust
- Visual privacy

PANEL MEMBERS	
 Annelise Tuor (Chair)	 Penelope Holloway
 Brian Kirk	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSSH-153 – Canterbury-Bankstown – DA-1196/2023
2	PROPOSED DEVELOPMENT	Demolition of existing structures, construction of a 3-storey building containing a 56-room hotel and the relocated pub, a 5-storey mixed use building, containing 37 residential apartments and 1459sqm of commercial floor space on the ground floor level, and construction of three 3-storey residential flat buildings containing a total of 55 apartments, and basement car parking for 323 vehicles.
3	STREET ADDRESS	167 Hume Highway, Greenacre
4	APPLICANT/OWNER	Warren Duarte The Trustee for Palms Hotel (Chullora) Property Trust
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>○ State Environmental Planning Policy (Biodiversity and Conservation) 2021;</li> <li>○ State Environmental Planning Policy (Planning Systems) 2021;</li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>○ State Environmental Planning Policy (Industry and Employment) 2021;</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021;</li> <li>○ State Environmental Planning Policy (Housing) 2021;</li> <li>○ State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</li> <li>○ Canterbury Bankstown Local Environmental Plan 2023</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Canterbury Bankstown Development Control Plan 2023</li> </ul> </li> <li>• Planning agreements: Yes</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>• Coastal zone management plan: N/A</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 26 February 2024</li> <li>• Clause 4.6 variation request re clause 4.3 – Height of Buildings</li> <li>• Written submissions during public exhibition: 1</li> <li>• Total number of unique submissions received by way of objection: 1</li> </ul>

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Determination Briefing: 11/03/2024               <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway and Brian Kirk</li> <li>○ <u>Council assessment staff</u>: Stephen Arnold and Michael Bonnici</li> <li>○ <u>Applicant representatives</u>: None</li> </ul> </li> <li>• Preliminary Briefing: 20/11/2023               <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James</li> <li>○ <u>Council assessment staff</u>: Stephen Arnold and Michael Bonnici</li> <li>○ <u>Applicant representatives</u>: Warren Duarte, Andrew Harvey, Naomi Ryan, Zachary Quintal, Michael Rodgers</li> </ul> </li> <li>• Site inspection and Assessment Briefing: 19/12/2023               <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James</li> <li>○ <u>Council assessment staff</u>: Stephen Arnold and Michael Bonnici</li> <li>○ <u>Applicant representatives</u>: Zachary Quintal, Naomi Ryan, Michael Rodgers, Andrew Harvey</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	No conditions provided as recommended for refusal.