

<b>DATE OF DETERMINATION</b>	26 September 2022
<b>DATE OF PANEL DECISION</b>	26 September 2022
<b>DATE OF PANEL MEETING</b>	23 September 2022
<b>PANEL MEMBERS</b>	Peter Debnam (Chair), Brian Kirk, Susan Budd, Annelise Tuor, Graham Brown
<b>APOLOGIES</b>	Julie Savet Ward
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held by teleconference on 23 September 2022, opened at 9.38am and closed at 10.28am.

**MATTER DETERMINED**

PPSSNH-302 – DA2021/2600 - Northern Beaches – 43, 45, 49 Warriewood Road, Warriewood – Thirteen (13) lot subdivision, civil and creek line works and construction of integrated residential development including two (2) residential flat buildings containing thirty-four (34) apartments (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 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 Pittwater Local Environmental Plan 2014 (LEP), that has not demonstrated that:

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

the Panel is not satisfied that:

- a) the applicant’s written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (Building Heights) of the LEP and the objectives for development in the R3 zone.

**Development application**

The Panel determined to refuse the Clause 4.6 written request for the building height variation and the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* for the reasons detailed below and in the Independent Assessment Report.

**Reasons for the Decision**


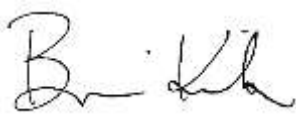



The Panel notes the comprehensive Assessment Report detailed significant concerns with the current proposal. Additionally, the proposal is ‘designated development’ under clause 2.7 of State Environmental Planning Policy (Resilience and Hazards) 2021 and the Panel cannot be satisfied that sufficient measures have been, or will be taken to protect the biophysical, hydrological and ecological integrity of the coastal wetlands. The proposal is also integrated development under section 100B of the Rural Fires Act and section 91 of the Water Management Act 2000. Agency responses to these integrated development referrals have not yet been provided.

Further, the proposed residential flat buildings do not comply with the 10.5m maximum building height development standard prescribed by clause 4.3(3) of PLEP 2014 and the Panel concurs with the Independent Assessor that the Applicant's written variation request provided inadequate justification and cannot be supported.

The decision was unanimous.

### 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 issues of concern included traffic, vehicle access, bulk & scale, privacy and height.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Brian Kirk
 Susan Budd	 Graham Brown
 Annelise Tuor	

SCHEDULE 1		
1	<b>PANEL REF – LGA – DA NO.</b>	PPSSNH-302 – DA2021/2600 - Northern Beaches
2	<b>PROPOSED DEVELOPMENT</b>	Thirteen (13) lot subdivision, civil and creek line works and construction of integrated residential development including two (2) residential flat buildings containing thirty-four (34) apartments.
3	<b>STREET ADDRESS</b>	43, 45, 49 Warriewood Road Warriewood
4	<b>APPLICANT/OWNER</b>	Creative Planning Solutions Pty Ltd / Northern Beaches Council
5	<b>TYPE OF REGIONAL DEVELOPMENT</b>	<b>Council related development over \$5 million</b>
6	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments:               <ul style="list-style-type: none"> <li>○ Environmental Planning and Assessment Act 1979</li> <li>○ Environmental Planning and Assessment Regulation 2021</li> <li>○ State Environmental Planning Policy (Planning Systems) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Biodiversity and Conservation)</li> </ul> </li> </ul>

		<p>2021</p> <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX)</li> <li>○ State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)</li> <li>○ Pittwater Local Environmental Plan 2014 (PLEP 2014)</li> <li>● Draft environmental planning instruments: nil</li> <li>● Development control plans: <ul style="list-style-type: none"> <li>○ Pittwater 21 Development Control Plan (P21 DCP)</li> </ul> </li> <li>● Planning agreements: Nil</li> <li>● Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2000</i></li> <li>● Coastal zone management plan: Nil</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	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>● Council Assessment Report: 7 September 2022</li> <li>● Clause 4.6 variation request for cl 4.3 (Height of Buildings) Pittwater Local Environmental Plan 2014</li> <li>● Written submissions during public exhibition: 26</li> <li>● Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Stuart Quirk</li> <li>○ Independent assessment officer - Danielle Deegan</li> <li>○ On behalf of the applicant – Sonya Constantinou, Tarun Chadha</li> </ul> </li> </ul>
8	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>● Briefing: 11 May 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Graham Brown, Annelise Tuor</li> <li>○ <u>Council assessment staff</u>: Danielle Deegan and Lashta Haidari</li> </ul> </li> <li>● Final briefing to discuss council’s recommendation: 23 September 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Susan Budd, Brian Kirk, Graham Brown, Annelise Tuor</li> <li>○ <u>Council Officer</u>: Jordon Davies</li> <li>○ Independent assessment officer - Danielle Deegan</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Refusal
10	<b>DRAFT CONDITIONS</b>	N/A

