

DATE OF DETERMINATION	4 December 2020
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Steve Kennedy
APOLOGIES	Annelise Tuor
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 11 November 2020.

MATTER DETERMINED

PPSSNH-91 – Northern Beaches – DA2020/0272 at 691 Pittwater Road Dee Why for a mixed-use 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

Following consideration of a written request from the Applicant, made under cl 4.6 (3) of the Warringah Local Environmental Plan 2011 (LEP), that has demonstrated that:

- compliance with cl.30(1)(h) (motorcycle parking spaces) 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 purpose of cl.30(1)(h) (motorcycle parking spaces) of State Environmental Planning Policy (Affordable Rental Housing) 2009 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 determined to uphold the Clause 4.6 variation to motorcycle parking spaces and approve the application for the reasons outlined below and in the Council Assessment Report.

After comprehensive briefings from Council and the Applicant, the Panel considered the proposal during two meetings – in August and November 2020.

At the August meeting, the Panel formed the view the proposal could not be approved, as a number of key issues were unresolved and the justification for the Clause 4.6 variation was insufficient. At that time, the Panel also acknowledged the importance of the rear access issue for the proposal and adjoining properties and noted the Council had previously identified the desirability of establishing the rear access / right of way but inadequate steps had been taken to secure that outcome.

While the rear access is unlikely to be achieved in the very short term, the Panel considered the development concept proposed by the Applicant had stand-alone merit in such a population dense and public transport rich precinct. Consequently, the Panel resolved to defer the matter so Council and the Applicant could address the following issues: lack of motorcycle parking; potential Isolation of 687 Pittwater Road; confirmation of construction access through the adjoining Salvation Army property; lack of loading facility & property services plans; rework of the Pittwater Road frontage; and to further address car parking & sharing.

As a result of discussions between Council and the Applicant in the months August to November, Council and Panel concerns relating to 687 Pittwater Road, construction access through the adjoining Salvation Army property and the Pittwater Road façade were resolved. The Applicant also submitted additional information, revised plans and a revised Clause 4.6 variation request.

A Supplementary Assessment Report was prepared and considered by the Panel at a meeting with the Applicant and Council on 25th November 2020. Each of the remaining issues of concern were discussed extensively and are addressed below:

- **Lack of Motorcycle Parking** – The Applicant will provide alternative short term off site parking for 2 motorcycles at the shop top housing development at 5 Mooramba Road, Dee Why (400 metres south along Pittwater Road) as has been proposed for the off site car parking space. In the long term when rear lane access for 691 Pittwater Road is activated, the proposal will provide 13 motorcycle spaces on site. Additionally, spaces for 45 bicycles including 10 electric bicycles will be provided in the Boarding House.
- **Lack of Loading Facility & Property Services** – The Applicant submitted a report to Council addressing the viability of planned property services including the collection of garbage and amended plans for the Bin Room and to demonstrate waste delivery by ramp to the Pittwater Road frontage. The Council agreed to provide a “wheel in/wheel out” service in the short term, until the rear lane access is activated. The Applicant also addressed the lack of storage rooms noting residents will not be permitted to bring their own furniture into the property.
- **Car Parking & Sharing** – The Applicant submitted a Green Travel Plan to Council and confirmed that in the short term one car (managed by the Boarding House) and one parking space would be provided at the 5 Mooramba Road property for the use of Boarding House residents. When the rear lane access is activated at 691 Pittwater Road, the Applicant confirmed 12 car parking spaces would be provided with a combination of car share (managed by the Boarding House Operator) and allocated car parking.

In considering the proposed design, the Panel formed the view the Applicant had readily acknowledged the challenges of the site and as a result identified innovative construction, design and operational solutions for an 8 storey, mixed use building, comprising retail floor space, commercial offices and a “new age” boarding house including a manager’s residence. The Panel also believes the proposed building design itself will add value to and complement the character of the surrounding town centre development and local area.

In summary, while Council recommended refusal, the Panel considers the proposal an innovative planning outcome for a significant but challenging site in a very population dense and public transport rich precinct of Dee Why. While Council had assessed the proposal against relevant planning controls and noted continuing concerns, the Panel believes the Applicant has adequately addressed planning issues and demonstrated both the short and long term viability of the proposal. As such, the Panel considers approval of the proposal to be in the public interest.

CONDITIONS

The development application was approved subject to conditions date 4 December 2020. With the following amendments:

- Condition 66 amended to read as follows:

66. Compliance with the Boarding House Plan of Management and occupation rates





The requirements of the Boarding House Plan of Management required by this consent is to be fully implemented in perpetuity from the issue of any interim / final occupation certificate. The Boarding House Plan of Management is to be reviewed annually and any proposed amendment is to be submitted to Council for its written agreement 28 days prior to being implemented. Implementation of the revision is not to be postponed if Council do not reply within the 28 days. The building is to contain a maximum of 63 rooms (excluding the Boarding House Manager unit), being no more than 1 persons per designated single bedroom or 2 persons per designated double bedroom. In order to maintain this occupancy rate, a sign is to be erected immediately adjacent to the doorway accessing the building detailing the maximum sleeping capacity of each room.

Reason: To ensure the premises are maintained in an appropriate manner in perpetuity.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from those wishing to address the Panel. The Panel noted issues of concern included: traffic & parking; privacy impact; and neighbourhood character.

The Panel considers that concerns raised by the community were adequately addressed in the Assessment Reports, Applicant and Council responses during the two meetings and in the conditions.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Steve Kennedy

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-91 – Northern Beaches – DA2020/0272
2	PROPOSED DEVELOPMENT	Demolition and construction of a mixed use building - “Shop-top boarding house” development.
3	STREET ADDRESS	Lot 1 DP 166322, 691 Pittwater Road, Dee Why
4	APPLICANT/OWNER	A.C.N. 605 170 358 Pty Ltd (Owner) Gannet Developments (Applicant)
5	TYPE OF REGIONAL DEVELOPMENT	Development with a Capital Investment Value (CIV) of more than \$5 million for affordable housing (which includes a Boarding House)
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (Building Sustainability Index: BASIX) State Environmental Planning Policy – Infrastructure 2011 State Environmental Planning Policy (Affordable Rental Housing) 2009 Warringah Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Warringah Development Control Plan 2011 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil 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	<ul style="list-style-type: none"> Council assessment report: 7 August 2020 Clause 4.6 variation to the SEPP Affordable Housing Applicant memo: 18 August 2020 Council supplementary report: 11 November 2020 Applicant memo: 24 November 2020 Council memo: 3 December 2020 Revised conditions: 4 December 2020 Written submissions during public exhibition: 5
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 25 June 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Annelise Tuor, Steve Kennedy <u>Council assessment staff</u>: Lashta Haidari, Steve Findlay Final briefing to discuss council’s recommendation: 19 August 2020 at 12.30pm <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Annelise Tuor, Steve Kennedy <u>Council assessment staff</u>: Lashta Haidari, Steve Findlay Applicant Briefing: 19 August 2020 at 1.30pm <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Annelise Tuor, Steve Kennedy <u>Council assessment staff</u>: Lashta Haidari, Steve Findlay

		<ul style="list-style-type: none"> ○ <u>Applicant representatives</u>: Michael Hayes, Jesus Garcia, John Kavanagh, Oleg Sannikov <u>Note</u>: Panel requested Applicant respond to the recommendation in the council assessment report. • Final briefing to discuss council's recommendation: 25 November 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Steve Kennedy ○ <u>Council assessment staff</u>: Lashta Haidari, Steve Findlay ○ <u>Applicant representatives</u>: Michael Hayes, Jesus Garcia, John Kavanagh, Oleg Sannikov
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report