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| DATE OF DETERMINATION | 19 October 2020 |
| PANEL MEMBERS | Peter Debnam (Chair), Julie Savet Ward, Sue Francis, Annelise Tuor |
| APOLOGIES | Brian Kirk |
| DECLARATIONS OF INTEREST | Steve Kennedy declared a conflict of interest as his firm provided a preliminary architectural plan for the site. |

Public meeting held by teleconference on 19 October 2020, opened at 1pm and closed at 1.52pm.

MATTER DETERMINED

PPSSNH-80 – Northern Beaches – DA2020/0393 at 28 Lockwood Avenue, Belrose (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 sought to demonstrate that:

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

the Panel was 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, in particular, does not provide sufficient environmental justification to warrant the variation; and
- b) the development is in the public interest because it is inconsistent with the objectives of cl. 4.3 (height) of the LEP and the objectives for development in the B2 Local Centre 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 Panel’s decision was unanimous.

REASONS FOR THE DECISION

The Panel concurred with the Assessment Report that the Applicant’s Clause 4.6 written request was inadequate and the Panel refused the application for the reasons outlined in the Independent Assessor’s Report.

The site is zoned B2 Local Centre and was previously used for the Belrose Library, which has been relocated nearby. The current proposal is to demolish the existing buildings and construct a mixed-use development containing retail space, gymnasium, commercial car wash, shop-top housing containing 51 dwellings, basement car parking for 193 vehicles spaces, landscaping and a central public square.

The proposal has a maximum building height of 12.48m, which exceeds the maximum building height of 8.5m permitted on the land under clause 4.3(2) of the LEP.

The proposal was assessed against the Design Quality Principles in SEPP 65 and failed to satisfy the principles and guidelines relating to: context and neighbourhood character; built form and scale; density; sustainability; landscape; and amenity. Additionally, the Panel concurred with the Independent Assessor that the proposal will not provide a suitable level of amenity for the future residents of the building as it failed to satisfy objectives and criteria relating to: visual privacy; vehicle access; bicycle and car parking; solar and daylight access; natural ventilation; ceiling heights; apartment size and layout; private open space; storage; landscape design; and energy efficiency.

Further, the Panel had concerns with the extent of tree removal, excavation, the lack of setback to Lockwood Avenue and the resultant lack of deep soil landscaping. The Panel acknowledged the slope in the site but considered that the height, bulk and scale and layout of the uses, particularly the lower ground 'retail' uses resulted in poor functionality, low floor to ceiling heights exacerbating the breach of the height standard and inappropriate relationship to the site.





The Panel formed the view that the proposal's breach of planning controls, its design and the impacts arising from those breaches were indicative of a substantial overdevelopment of the site.

During the public meeting, the Applicant advised that an appeal had been lodged and that redesign was underway to address height, parking, stormwater and ADG concerns and it was anticipated amended plans could be submitted within the next month. The Applicant sought a deferral to allow Council to consider amended plans and provide a Supplementary Assessment Report to the Panel.

The Panel considered deferring the determination but decided that the height, setback, landscaping, ADG and amenity changes required to make the project acceptable would be too substantial to warrant a short term deferral and resolved to refuse the development application for the reasons set out in the Assessment Report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 134 written submissions (of which 114 objected to the proposal) made during public exhibition and heard from all those wishing to address the public meeting. The Panel noted that issues of concern included the impacts of the proposal on the character of the area, the height, bulk, scale and setbacks of the development, the removal of existing vegetation and the lack of adequate car parking.

| PANEL MEMBERS | |
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|  Peter Debnam (Chair) |  Sue Francis |
|  Julie Savet Ward |  Annelise Tuor |

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DA NO. | PPSSNH-80 – Northern Beaches – DA2019/1274 |
| 2 | PROPOSED DEVELOPMENT | Demolition of existing structures and construction of a mixed-use development comprising retail uses, gymnasium, commercial car wash, shop-top housing containing 51 dwellings, basement car parking for 193 vehicles spaces, landscaping and a central public square. |
| 3 | STREET ADDRESS | Lot 1 in DP 1199795, No. 28 Lockwood Avenue, Belrose |
| 4 | APPLICANT/OWNER | Willana Urban / Platinum Property Advisors No 1 Trust |
| 5 | TYPE OF REGIONAL DEVELOPMENT | General development over \$30 million |
| 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 and draft SEPP ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development ○ State Environmental Planning Policy (Infrastructure) 2007 ○ 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: 1 October 2020 • Clause 4.6 Variation Request (Height) • Conditions without prejudice: 13 October 2020 • Written submissions during public exhibition: 134 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Community members: Jack Hall, David Looms, Penelope Barnes, Michael Tanner, Colin Horne. ○ Council assessment officer – Geoff Goodyer (consultant planner for council) ○ On behalf of the applicant – Matt Sonter |
| 8 | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> • Briefing: 26 August 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Steve Kennedy, Annelise Tuor ○ <u>Council assessment staff</u>: Tony Collier, Geoff Goodyer (consultant planner for council), Anne-Marie Young • Final briefing to discuss council's recommendation: 19 October 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Sue Francis, Steve Kennedy, Annelise Tuor ○ <u>Council assessment staff</u>: Tony Collier, Geoff Goodyer (consultant planner for council), Anne-Marie Young |

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| 9 | COUNCIL RECOMMENDATION | Refusal |
| 10 | DRAFT CONDITIONS | Attached to the council assessment report |