

DETERMINATION AND STATEMENT OF REASONS

SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DETERMINATION	9 November 2023
DATE OF PANEL DECISION	9 November 2023
DATE OF PANEL MEETING	7 November 2023
PANEL MEMBERS	Carl Scully (Chair), Amelia Thorpe and Alice Spizzo
APOLOGIES	None
DECLARATIONS OF INTEREST	Mary-Lou Jarvis and Toni Zeltzer declared a conflict of interest as Council as the landowner and they have voted on a matter relating to the development. Mary-Lou Jarvis and Toni Zeltzer did not participate in the meeting.

Public meeting held by teleconference on 7 November 2023, opened at 2.32pm and closed at 3.35pm.

MATTER DETERMINED

PPSSEC-262 – Woollahra – DA 598/2022 – 17 Dover Road, Rose Bay – Demolition of existing at-grade car park and encroaching structures and construction of: A mixed use building with frontage to Wilberforce Avenue incorporating a new multi-storey car park, ground floor retail premises and community centre and public amenities across multiple levels; Single storey ground floor retail building with frontage to Dover Road; and public domain and landscaping works (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 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 Woollahra Local Environmental Plan 2014 (LEP), that has demonstrated that:

- compliance with cl. 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 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 of Buildings) of the LEP and the objectives for development in the E1 Local Centre 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 building height; and approve the application for the reasons outlined in the Council Assessment Report and was satisfied that the additional carparking facilities were justified.

The Panel was satisfied that the conditions of consent proposed to mitigate a number of concerns raised in public submissions.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments.




- Amend deferred condition 1(a)(i) – delete the word ‘along’ in the second line and replace with ‘on’
- Amend deferred condition 1(a)(iii) – insert the word ‘reasonable’ after the words ‘pay to the Owner the’
- Amend deferred commencement condition 1(a)(v) to read as follows:
If an agreement with the Owner is not reached by 6 months of making the offer, the deferred commencement condition is deemed to have been satisfied.
- Amend the period within which evidence must be produced to make it clear that the matters are to be satisfied within 2 years of the date of determination
- Amend condition I.4. Hours of Use for the Community Centre to 7am to 10pm – Monday to Sunday (inclusive)

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 that issues of concern included:

- Traffic, parking and access
- Height, bulk and scale
- Design commentary
- Amenity impacts
- Construction and operational Impacts
- Notification, advertising and community consultation
- Other issues relating to Pannerong Reserve, additional parking not warranted, fiscal basis/rationale, amenity upgrades, demands for additional community facilities retail and commercial space, design selection, suitability, Ian Street Car park, inclusion of additional sites, privatisation of public spaces, connectivity, width of Dover Road, water quality, climate issues, tanked basement, acoustic report, previous developments and compliance with LEP and DCP

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues appropriate conditions have been imposed.

PANEL MEMBERS	
 Carl Scully (Chair)	 Amelia Thorpe
 Alice Spizzo	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-262 - Woollahra - DA 598/2022
2	PROPOSED DEVELOPMENT	Demolition of existing at-grade car park and encroaching structures and construction of: A mixed use building with frontage to Wilberforce Avenue incorporating a new multi-storey car park, ground floor retail premises and community centre and public amenities across multiple levels; Single storey ground floor retail building with frontage to Dover Road; and public domain and landscaping works.
3	STREET ADDRESS	Lot 1 Sec B DP4244, Lots A & B DP104986, Lots 8, 70 & 71 Sec A DP4244, 17 Dover Road, Rose Bay
4	APPLICANT OWNER	Jim Koopman - AJC Architects Council of the Municipality of Woollahra
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Planning Systems) 2021 Woollahra Local Environmental Plan 2014 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Woollahra Development Control Plan 2015 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</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	<ul style="list-style-type: none"> Council Assessment Report: 23 October 2023 Clause 4.6 Variation - Height of Buildings Written submissions during public exhibition: seventy-seven (77) Verbal submissions at the public meeting: <ul style="list-style-type: none"> Nancy Georges, Brett Daintry, Madeline Maric, Oleg Sannikov, Thomas Taylor Council assessment officer - Valdis Aleidzans and Max Moratelli On behalf of the applicant – Richard Pearson, Jim Koopman and Stuart Gordon Total number of unique submissions received by way of objection: sixty-eight (68)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 30 March 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Amelia Thorpe <u>Council assessment staff</u>: Valdis Aleidzans and Max Moratelli

		<ul style="list-style-type: none"> ○ <u>Department staff</u>: Carolyn Hunt and Suzie Jattan • Site inspection: 7 November 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair) and Alice Spizzo ○ <u>Council assessment staff</u>: Valdis Aleidzans and Max Moratelli • Final briefing to discuss council's recommendation: 7 November 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe, Alice Spizzo ○ <u>Council assessment staff</u>: Valdis Aleidzans and Max Moratelli ○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare, and Lisa Ellis
9	COUNCIL RECOMMENDATION	Deferred Commencement
10	DRAFT CONDITIONS	Attached to the Council Assessment Report