

DATE OF DETERMINATION	9 December 2024
DATE OF PANEL DECISION	6 December 2024
DATE OF PANEL MEETING	4 December 2024
PANEL MEMBERS	Peter Debnam (Chair), Nicole Gurrán, Brian Kirk, Sue Weatherley, Mark McCrindle
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 4 December 2024, opened at 9:33am and closed at 12.32pm.
Papers circulated electronically on 25 November 2024.

MATTER DETERMINED

PPSSNH-430 - DA/975/2023 – 62 QUARTER SESSIONS ROAD, 42 QUARTER SESSIONS ROAD, 8-10 WARRIGAL DRIVE, 91X WAREEMBA AVENUE and 115 NORMAN AVENUE THORNLEIGH 2120 - Redevelopment of Westleigh Park (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 Hornsby Local Environment Plan 2013 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 (2) Height of buildings is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is 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 (2) Height of buildings of the LEP and the objectives for development in the C3 and R2 zones; and
- c) the concurrence of the Secretary has been assumed.

The Hornsby LEP permits building heights up to 8.5m on R2 zoned land and 10.5m on C3 zoned land whereas the proposal includes light poles with heights of 29m North West Pole where the control is 10.5m, 33m Central West Pole where the control is 8.5m and 38m South West Pole where the control is 10.5m. Additionally, the proposal includes 10m and 12m fencing where the control is 8.5m.

Consequently, the Applicant submitted a request to vary the height development standard noting that fencing and lighting structures are characteristic of recreational facilities within suburban residential areas and are therefore not out of character with the area. The Applicant also argued that recreational facilities are permitted within the relevant zones, and to accommodate such uses, high fencing and lighting are required to ensure the facilities are fit for purpose and compliant with the relevant Australian Standards. The request to vary the height standard was considered extensively in the Assessment Report and the

Panel concurs with the Independent Assessor that, in the circumstances, the variation to heights can be accepted.

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 heights (Light Poles and Fencing); and approve the application for the reasons below and in the Independent Assessor's comprehensive Assessment Report and Supplementary Report.

The proposal is Integrated Development requiring authorisation under National Parks and Wildlife Act 1974, the grant of an Aboriginal Heritage Impact Permit (AHIP), authorisation under the Protection of the Environment Operations Act 1979 and the grant of an Environmental Protection License from the EPA for contaminated soil treatment.

The Panel notes Council began the process of identifying additional sports and recreational sites more than a decade ago and considered the Westleigh Park option over the last decade. The site comprises four lots totalling approximately 79 hectares in the southern portion of Hornsby Shire LGA and adjoins Berowra Valley Regional Park to the east and south. The site is zoned part R2 Low Density Residential, part C3 Environmental Management and part RE1 Public Recreation.

The proposal envisages three stages (1A, 1B and 2) of construction over 8 years and, as the result of extensive community consultation, the proposal was significantly amended as detailed in the Assessment Report.

The Panel concurs with the Independent Assessor that the proposal has been appropriately assessed against relevant planning controls, has been located and designed to minimise impacts and does not create unreasonable environmental impacts.

The proposed development and use of the site are permissible with consent and the proposal will provide valuable social infrastructure for the recreational needs of the local and regional community.

The Panel notes the extensive community consultation undertaken and thorough Independent Assessment of the amended proposal have appropriately balanced competing community interests and the Panel believes approval of the amended proposal would be in the community interest.

CONDITIONS

The Development Application was approved subject to the draft conditions in the Assessment Report.

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 during the public meeting. The Panel notes issues of concern included:



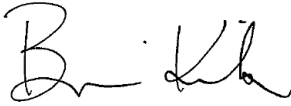

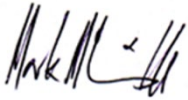
- Size, scale and design
- Impact on residential amenity (including noise)
- Overdevelopment
- Mountain bike trail and night time use
- Roundabout location
- Traffic, loss of on-street parking and congestion
- Impact on flora and fauna & Fauna Management Plan
- Aboriginal heritage impacts (including scar tree)
- Use of the name "GuriNgai"
- Aboriginal cultural heritage assessment and consultation
- Bushfire evacuation

- Remediation of contaminated land
- Dark Sky and fauna impacts from night lighting and height of lights
- Use of synthetic turf and organic fill
- Community consultation
- Impact on biobank area

The Panel also notes the issues raised in support of the proposal:

- Provision of local and regional sporting facilities to meet existing and growing demand
- Community interest – social and health benefits
- Appropriate site design and management
- NPWS support mountain biking

The Panel considers concerns raised by the community have been adequately addressed in the Independent Assessment Reports.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Nicole Gurran
 Brian Kirk	 Sue Weatherley
 Mark McCrindle	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-430 - DA/975/2023
2	PROPOSED DEVELOPMENT	Redevelopment of Westleigh Park for a recreational facility
3	STREET ADDRESS	62 Quarter Sessions Road Westleigh, 42 Quarter Sessions Road Westleigh, Dog Pound Creek Bushland 8-10 Warrigal Drive, Westleigh Dog Pound Creek Bushland 91x Wareemba Avenue, Thornleigh Dog Pound Creek Bushland 115x Norman Avenue Thornleigh
4	APPLICANT/OWNER	Hornsby Shire Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ <i>State Environmental Planning Policy (Planning Systems) 2021</i> ○ <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> ○ <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> ○ <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> ○ <i>Hornsby Local Environmental Plan 2013</i> • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Hornsby Development Control Plan 2024 • 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: 13 November 2024 • Clause 4.6 Variation to Hornsby LEP 2013 Clause 4.3 Height of building • Council Supplementary Report: 3 December 2024 • Written submissions during public exhibition: 233 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Robert Syron, Jayson Daniel Cooke, Geoff Knowles, Malcolm Walker, Daniel Ristic, Scott Franks, Connor Hindmarch, Sue Higginson, Melissa Sedgwick, Jacob O’Sullivan, Alice Clayton, Simon Kean, Daniel Smith, Karen Benhar, Colin Druitt, David Conway Martin, Justin Gross, Simon Trowell, Katrina Emmett, Shaun Warden, Ana Warnecke, Catherine Woolnough, Jan Primrose, Nathan Moran, Jill Green, Peter Hitchiner, Meg Montgomery, Karl Van Dyke, John Inshaw, Michael Gyler, Andrew Janiszews ○ Council assessment officers: Rodney Pickles, James Farrington, Cassandra Williams, Richard Kinninmont (consultant Planner)

		<ul style="list-style-type: none"> ○ On behalf of the applicant – Warren Waddell (Mayor, Hornsby Shire Council), Steven Head (General Manager, Hornsby Shire Council), Michael Baker (consultant Planner) ● Total number of unique submissions received by way of objection: 125
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> ● Preliminary Briefing: 22/1/2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Nicole Gurrán ○ <u>Council assessment staff</u>: Rod Pickles, James Farrington, Cassandra Williams, Richard Kinnimont (consultant Planner) ● Final briefing: 4/12/2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Nicole Gurrán, Brian Kirk, Sue Weatherley, Mark McCrindle ○ <u>Council assessment staff</u>: Rod Pickles, James Farrington, Cassandra Williams, Richard Kinnimont (consultant Planner) ○ <u>Applicant representatives</u>: Michael Baker, Michael Gylér ● Public Meeting: 4/12/2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Nicole Gurrán, Brian Kirk, Sue Weatherley, Mark McCrindle ○ <u>Council assessment staff</u>: Rod Pickles, James Farrington, Cassandra Williams, Richard Kinnimont (consultant Planner) ○ <u>Applicant representatives</u>: Michael Baker, Michael Gylér
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report