

DATE OF DECISION	19 December 2017
PANEL MEMBERS	John Roseth (Chair), Louise Camenzuli, Lindsay Fletcher, Eugene Sarich
APOLOGIES	Deborah Dearing
DECLARATIONS OF INTEREST	Scott Bennison declared a conflict as he voted on the Voluntary Planning Agreement in his role as Councillor. Sue Francis declared a conflict due to a colleague will be making a public submission against the development.

Electronic Determination meeting held between 18 December 2017 and 19 December 2017.

MATTER DETERMINED

2016SYE036 – Lane Cove – DA2015/212 at 496-498, 500, 504-520 Pacific Highway, St Leonards (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 the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to:

- (a) uphold the applicant’s request to vary Clause 4.4 Floor space ratio pursuant to Clause 4.6 Lane Cove LEP 2009; and
- (b) approve the development application as described in Schedule 1 subject to the recommended conditions of consent set out in Supplementary Report IV dated 18 December 2017 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979* for the reasons set out below.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel agreed to approve the application for the following reasons:

- The proposal complies with the planning controls, which allow a large tall building on this site. When the whole site is considered as one, the proposal complies with the FSR control. The clause 4.6 variation request is based on this fact and is, in Panel’s view, justified.
- The Panel has considered the Applicant’s request to vary the development standard contained in Clause 4.4 Floor space ratio of lane Cove LEP 2009 and considers that:
 - i. the applicant’s submissions adequately address the matters required under cl.4.6;
 - ii. the development remains consistent with the objectives of the standard and the objectives of the zone;
 - iii. when the whole site area is taken into consideration the proposal does not exceed the permitted total gross floor area;
 - iv. there are sufficient environmental planning grounds to justify the variation; and




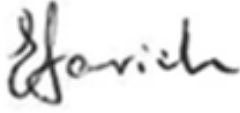
- v. compliance with the standard is unreasonable and unnecessary in the circumstances of this case as the proposed variations are acceptable from a streetscape perspective, will not generate unacceptable impacts on adjoining or nearby properties and will not result in development inconsistent in form and scale with that planned for the locality.

For the above reasons, the Panel is satisfied that the variation from the LEP development standard is in the public interest.

- The applicant has responded to the concerns that the Panel had when it considered the application previously.
- The Panel gave serious consideration to the concerns of objectors living near the site and this consideration resulted in the additional condition on dust control as well as in the retention of Condition 17.
- The Panel also considered the objection of the owners of 69 Christie Street, the main one of which was that the proposed building will reduce the residential potential of their site. The Panel notes that the current zoning of 69 Christie Street prohibits residential development and that the site is in the commercial core. The Panel cannot speculate what future planning controls might be and must be guided by the current controls. Moreover, in order to address the concerns of 69 Christie Street, the subject development would have to substantially increase its setback from the rear boundary, which would result in a significant reduction of its own development potential as permitted by the current controls.

CONDITIONS

- The development application was approved subject to the conditions set out in the Council Supplementary Report IV dated 18 December 2017.

PANEL MEMBERS	
	
John Roseth (Chair)	Louise Camenzuli
	
Lindsay Fletcher	Eugene Sarich

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016SYE036 – Lane Cove – DA2015/212
2	PROPOSED DEVELOPMENT	Demolition of existing site improvements. Construction of a mixed use development comprising non-residential podium, 458 apartments and associated car parking and upgrade works to Friedlander Place.
3	STREET ADDRESS	496-498, 500, 504-520 Pacific Highway, St Leonards
4	APPLICANT OWNER	Urbis New Hope Ving Project Pty Ltd & Lane Cove Council (Friedlander Place)
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 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.65 – Design Quality of Residential Flat Development ○ State Environmental Planning Policy (Building Sustainability Index) 2004 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy No.55 – Remediation of Land ○ Airport Act 1996 and Airports (Protection of Airspace) Regulations 1996 ○ Lane Cove Local Environmental Plan 2009 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Lane Cove Development Control Plan 2010 • 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: 12 January 2017 • Council Addendum Report: 25 January 2017 • Applicant presentation: 25 January 2017 (presented at meeting) • SEPP 65 Addendum: 25 January 2017 • Council supplementary report: 30 November 2017 • Applicants response to conditions: 11 December 2017 • Applicants response to submissions: 11 December 2017 • Transport Sydney Trains submission: 13 December 2017 • Council supplementary report III: 13 December 2017 • Clause 4.6 variation: 14 December 2017 • Council supplementary report IV: 18 December 2017 • Written submissions during public exhibition: 22 • Verbal submissions at the public meeting 25 January 2017: <ul style="list-style-type: none"> ○ In objection – Kathryn van den Heuvel, Steven Alch, Anita Jubian, Albert Jubian On behalf of AMA House 69 Christie Street St Leonard Julie Grant, Paul Walter, Andrew Gough ○ On behalf of applicant: Jackie Parker • Verbal submissions at the public meeting 13 December 2017:

		<ul style="list-style-type: none"> ○ Object – Paul van den Heuvel, Kathy van den Heuvel, Pat Quirke-Parry, Jack Qian, Stephen Kerr on behalf of AMHA, ○ On behalf of the applicant – [names of speakers]
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> ● Briefing meeting: 16 August 2016, 25 January 2017 ● Site inspection by Lindsay Fletcher 5 December 2017 ● Final briefing meeting to discuss council’s recommendation, 13 December 2017 at 2.10pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: John Roseth (Chair), Louise Camenzuli, Lindsay Fletcher, Eugene Sarich ○ <u>Council assessment staff</u>: Michael Mason, Rajiv Shankar
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report