

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY NORTH PLANNING PANEL

<b>DATE OF DETERMINATION</b>	25 September 2019
<b>PANEL MEMBERS</b>	Peter Debnam (Chair), John Roseth, Sue Francis, Deborah Sutherland and Eugene Sarich
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Christie Conference Centre North Sydney on 25 September 2019, opened at 1.30pm and closed at 1.55pm.

#### MATTER DETERMINED

2018SNH048 – Lane Cove – DA145/2018 at 56-60 Burns Bay Road, Lane Cove – mixed use development (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.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

#### 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 accepts that the existing facility is 'tired'.
- The proposed development is of good design and will deliver a vibrant mixed-use development, as well as high amenity for future residents, workers and the community, along with streetscape enhancement along Burns Bay Road and Sera Street.
- The proposed development complies with significant planning controls and fits into the desired future character of the area.

#### CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments.

- **All conditions with separate (bracket) numbers shall have those bracket numbers deleted.**
- **Condition No. 9 amended to read as follows:**  
*A detailed Construction Environmental Management Plan shall be prepared by a suitably qualified professional outlining the proposed measures to ensure safety and reasonable amenity to the nearby Child Care Centre (Goodstart Early Learning - 17 Austin Street, Lane Cove) and preschool (Birralee – 70 Burns Bay Road, Lane Cove) during the entirety of the construction period.*  
*The Plan shall address such matters as dust control, debris from construction works, noise mitigation measures, and access during the construction period.*  
*The detailed noise and dust management plans must be prepared for the demolition and construction phase by a suitably qualified air quality and noise consultant.*  
*The plans must address all potential noise and dust impacts, with a focus on the nearby Birralee preschool, and must set out all key activities that will be conducted, the potential noise and dust*

*impacts that may arise, and specify the mitigation measures that will be implemented to prevent or minimise the impacts.*

*The plans must list a 24-hour contact number for complaints, and outline the process for managing complaints, follow up actions and any poorly performing contractors.*

*No demolition or construction activity may commence until the noise and dust management plan is agreed to in writing by Council.*

*The draft plans must be made available for inspection and comment to any neighbours for a 4 week period, prior to consideration by Council. (Council may request that any draft plan it considers is inadequate be improved before it is made available/ exhibited to any neighbours).*

*Before agreeing to the plans in writing, Council must reasonably consider and seek that the plan be updated to incorporate any aspect required by Council, or any reasonable comments provided on the draft plans by neighbours likely to be affected in a materially adverse way (i.e. Birralee Preschool and adjacent neighbours).*

*The Plan shall be developed in consultation with the Director(s) of the Child Care Centre and Preschool, prior to the issue of the first Construction Certificate.*

*(Reason: To protect the safety of children, parents, staff and visitors of the adjoining child care centre).*

- **Condition No. 47 amended to read as follows:**

- 47. Noise Level Restrictions - Demolition and Construction Works

- Noise from demolition and construction works must comply with the following criteria:

- a) For demolition periods of four (4) weeks or less, the noise from demolition work must not exceed the background noise level by more than 20dB(A) when measured at the boundary of the worst affected premises in the vicinity.
    - b) For demolition or construction periods greater than 4 weeks the noise level from demolition or construction work must not exceed the background noise level by more than 10dB(A) when measured at the boundary of the worst affected premises in the vicinity.
    - c) Where noise from the demolition or construction activity exceeds the limit at a) or b) above at the Birralee Pre-school, consultation must occur with the pre-school to ensure adequate measures are in place to protect nearby amenity.
    - d) Demolition hammers/ rock breakers must not be used in any situation where demolition shears can be used instead. If used, a temporary noise barrier must be used in the near vicinity of the point of impact, (where not more than 5m below ground level, or at ground level otherwise) in a position that will shield neighbours from noise impacts.

- (Reason: To minimise noise impacts from the development.)*

- **Condition No. 48 amended to read as follows:**

- 48. Noise Monitoring

- Noise monitoring is to be carried out by a qualified acoustical consultant within 7 working days if complaints are received, or if directed by Council, and any control measures recommended by the acoustical consultant or Council must be implemented during works (including demolition or construction).

- (Reason: To mitigate noise impacts during construction.)*

- **Condition 52(a) amended to read as follows:**

- a) A speed hump shall be installed on the entry and exit of the site before the pedestrian crossing

- **Condition No. 129 amended to read as follows:**

- 129. Dust Control Measures

- The following measures must be undertaken to control the emission of dust:

- a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the works. Dust screens must also be erected on scaffolding up to the full height of the construction activity.






- b) Any existing accumulations of dust (e.g. in ceiling voids and wall cavities) must be removed prior to demolition works, using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter. Daily housekeeping to clean-up all loose dust on hard surfaces must occur during demolition and construction.
- c) All dusty surfaces must be wetted down and any dust created by any wind or activity on the site must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system.
- d) All stockpiles of materials that are likely to generate dust must be kept damp and/or covered.
- e) Demolition and construction work must not be carried out during high wind speeds (above 5m/s as measured using a hand-held anemometer), or under any other conditions which may cause dust to spread beyond the boundaries of the site.
- f) Demolition hammers/ rock breakers must not be used in any situation where demolition shears can be used instead. If used, a water spray must be directed onto the point of impact.
- g) Concrete, tile and stone sawing, cutting, grinding or polishing with high speed rotating plant must be avoided as far as possible. Where it is necessary, for reasons other than cost or time savings, only plant fitted with water controls can be used, and any slurry or fine material generated must be immediately cleaned up, including with a damp cloth.
- h) The use of blowers to move dust or rubbish is not permitted on the site. A broom or vacuum sweeper fitted with a HEPA filter must be used instead.
- i) No plant associated with the project may have any visibly detectable exhaust emissions. Plant that develops any visibly detectable exhaust emissions whilst on or near the site must be permanently removed within 24 hours.

(Reason: To reduce or prevent the surface and air transport of dust during construction.)

#### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered two written submissions made during public exhibition of the first revision of the application. The second revision was not exhibited since it did not have any additional impact. Both submissions showed concern about the impact on nearby businesses during construction. One of the submitters addressed the public meeting.

The Panel believes that the amended conditions adequately address the concerns relating to impact during construction.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Sue Francis
 John Roseth	 Deborah Sutherland
 Eugene Sarich	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SNH048 – Lane Cove – DA145/2018
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a mixed-use development comprised of twenty-nine (29) apartments, three (3) retail spaces, supermarket, community space and three (3) levels of basement car parking
3	STREET ADDRESS	56-60 Burns Bay Road, Lane Cove
4	APPLICANT OWNER	Tony Leung (A+ Design Group) Sun Property Lane Cove Pty Ltd (56-60 Burns Bay Road); Land to be acquired (Lane Cove Council)
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy No 55 – Remediation of Land</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (BASIX: Building Sustainability Index) 2004</li> <li>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and Apartment Design Guide</li> <li>State Environmental Planning Policy No 64 – Advertising and Signage</li> <li>Lane Cove Local Environmental Plan 2009</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Lane Cove Section 94 Contributions Plan 1994 (as amended)</li> </ul> </li> <li>Planning agreements: A draft planning agreement has been entered into by the developer and Lane Cove Council</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: 92 – additional matters the consent authority must consider (demolition of structures)</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 11 September 2019</li> <li>Written submissions during public exhibition: nine (9)</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>Comments – Georgia Millar (on behalf of Birralee Preschool), Aleks Todoroski (specialist environmental consultant)</li> <li>Council assessment officer – Philippa Frecklington, Rajiv Shankar, Henry Burnett</li> </ul> </li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 14 August 2019 <ul style="list-style-type: none"> <li>Panel members: John Roseth (Acting Chair), Sue Francis and Deborah Sutherland</li> <li>Council assessment staff: Philippa Frecklington, Rajiv Shankar, Henry Burnett, Michael Mason</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>Final briefing to discuss council's recommendation, 25 September 2019, 1pm. Attendees:               <ul style="list-style-type: none"> <li><u>Panel members</u>: Peter Debnam (Chair), John Roseth, Sue Francis, Deborah Sutherland and Eugene Sarich</li> <li><u>Council assessment staff</u>: Philippa Frecklington, Henry Burnett and Rajiv Shankar</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report