

DATE OF DEFERRAL	29 May 2020
PANEL MEMBERS	Peter Debnam (Chair), Sue Francis, Eugene Sarich, Deborah Sutherland
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held via teleconference on 27 May 2020, opened at 2.35pm and closed at 3.31pm.

MATTER DEFERRED

PPSSNH-1 – Lane Cove – DA50/2019 at 20 Mindarie Street, Lane Cove North for a concept development application (as described in Schedule 1)

The decision to defer the mater was 4:1, against the deferral was Eugene Sarich.

REASONS FOR DEFERRAL

The Panel heard from neighbours, members of the public, the Applicant and Council during the public meeting. The majority of the Panel (Peter Debnam, Sue Francis and Deborah Sutherland) shares neighbours' concerns that issues outlined in the Panel's October 2019 Deferral have not yet been satisfactorily resolved and the currently proposed building envelope does not address community or planning concerns.

The previous deferral also noted the Applicant's Clause 4.6 Request provided insufficient grounds to justify the variation and that concern remains. Relying on the provision of 'additional social housing on the site', which provision is unstated but where the Panel is informed that it is likely to be 9 dwellings of the 31 currently proposed is, in itself inadequate justification for the cl4.6 variation sought; where that variation would allow some four additional dwellings beyond that anticipated on the site. Further, it was agreed by the applicant in the meeting that the height variation sought did not include the lift overrun (which is not shown on the envelope sketches) and thus the breach being sought would be greater than identified in the cl4.6.

The applicant states that the additional height as they propose would not have any adverse impact in terms of overshadowing. However, mere lack of adverse solar impact is not justification for a breach of a standard.

The objectives of the height standard in the LCLEP are as follows:

- a) *to ensure development allows for reasonable solar access to existing buildings and public areas;*
- b) *to ensure that privacy and visual impacts of development on neighbouring properties, particularly where zones meet, are reasonable;*
- c) *to seek alternative design solutions in order to maximise the potential sunlight for the public domain; and*
- d) *to relate development to topography.*

Further, since the lift overrun has not been included and is required for the envelope and indicative sketch proposed and sought to be approved, there is no certainty that solar impact on neighbouring properties and public areas will not be adversely affected.

Notwithstanding the above, the height variation sought (including the lift overrun) needs to address and satisfy all the objectives. This has not been done and the Panel is uncertain that the variation sought (and required to be sought) would satisfy objectives (b) (c) and (d).

The Panel's satisfaction with the cl4.6 is a pre-condition to any favourable determination of the application. As it stands at present, it is not satisfied

While the prospect of adding conditions to address some of the concerns was discussed during the meeting, the Panel considers appropriate setbacks, height breaches, overshadowing, deep soil landscaping, social housing and vehicular entry and exit are best resolved in the Concept Application itself especially given this project provides an opportunity for a demonstration of excellence in design and planning.

The Panel therefore, again decided to defer the determination of the matter and requests the Applicant address the above concerns and provide additional information and amended concepts plans to Council by the end of June 2020, if practicable.

The Panel request the following additional information and amendments be addressed by the Applicant and submitted to Council for assessment:

- The proposed development, as stated in the Council Assessment Report, purports to be a concept application (cl4.22 of the Environmental Planning and Assessment Act). However, the provisions and assessment criteria of this type of application is not discussed in the report and nor is the recommendation for approval refenced to this application type.

The Panel therefore requires assessment and consideration of the implications and requirements of seeking a concept application and any subsequent detailed development applications. Any approval needs to be pursuant to the relevant provisions of the Act.

- That the proposed plans be amended to incorporate the appropriate lift overrun and the cl4.6 be amended to address the proposed maximum height breach. That the cl4.6 address satisfaction of all the objectives of the height standard so that the public interest may be satisfied and justification for the application as being unnecessary and unreasonable can be considered
- Solar impact assessment of the increased height breach be addressed.
- If the provision of social housing is to be the sufficient environmental ground for justifying the variation then the provision of such housing needs to be confirmed and established, including commitment to actual number of units to be used as social and affordable housing as part of this application; since it is the basis for the variation. Alternatively, if the cl4.6 cannot be justified then the Panel considers that the proposal should comply with the height controls.
- Relocation of the car park entry further north so that the setback on the southern boundary is increased to a min of 2.5m to allow for sufficient deep soil to grow screen plants and canopy trees along the southern boundary.
- In addition to the above the basement shall be lowered so that it has minimal projection above existing ground level so that the increased southern setback and planting will not be overshadowed by an immediate elevated structure
- That any communal open space on the southern boundary be located at existing ground level and not elevated as indicted on the indicative plans. Such a location would have an adverse impact on neighbouring properties.

When this information has been provided to Council, a Supplementary Assessment Report will be prepared and the Panel Chair will convene another public meeting to determine the matter.

Conditions of Consent submitted with the Supplementary Assessment Report are to provide certainty as to the built form outcome and include, but not limited to setbacks, height RLs, FSR, landscaped area (quantity and quality), car parking and access requirements as would be required for the detailed application under cl4.22 of the Act.

Panel member Eugene Sarich voted to support the approval of the concept application with conditions he considers that sufficient information is provided in the context of a concept development application pursuant to Section 4.22 of the Act.

Eugene Sarich did have reservations about the interface between No. 28 Pinaroo Place and the driveway entry of the development and the omission of the lift overrun however considers that these concerns may be addressed through the imposition of conditions and notwithstanding, these same concerns are open to further scrutiny under a future detailed development application and a new Clause 4.6 variation in relation to the lift overrun.

Further, Eugene Sarich is satisfied as to shadow impact, setbacks (other than the interface with No. 28 mentioned above), the height variation (other than the lift overrun), deep soil landscaping and the social housing component.

PANEL MEMBERS	
 Peter Debnam (Chair)	
 Deborah Sutherland	 Eugene Sarich

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-1 – Lane Cove – DA50/2019
2	PROPOSED DEVELOPMENT	Concept development application for a residential flat building.
3	STREET ADDRESS	20-22 Mindarie Street and 30 Pinaroo Place, Lane Cove
4	APPLICANT/OWNER	NSW Land and Housing Corporation
5	TYPE OF REGIONAL DEVELOPMENT	Crown 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 No. 55 – Remediation of Land ○ State Environmental Planning Policy No.65 – Design Quality of Residential Apartment and Apartment Design Guide ○ 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: 9 October 2019 • Council supplementary report: 13 May 2020 • Clause 4.6 Variation request (height of building) • Written submissions during public exhibition: 11 • Written submissions presented at public meeting 23 October: Charlene Tay, Guy Hallows (on behalf of the Stringy Bark Creek Residents Association) • Verbal submissions at the public meeting 23 October 2019: <ul style="list-style-type: none"> ○ In support – Nil ○ In objection –Guy Hallows (on behalf of the Stringy Bark Creek Residents Association), Jason Man, Jayant Ahuja, Charlene Tay. ○ Council assessment officer –Michael Mason ○ On behalf of the applicant – Cameron Yeates, Daniel Natoli. • Verbal submissions at the public meeting 27 May 2020: <ul style="list-style-type: none"> ○ Community Members: Jason Man, Jay Ahuja, Harsha Kondur, Guy Hallows (on behalf of the Stringy Bark Creek Residents Association), Charlene Shum, Jacky Barker ○ Council assessment officer –Michael Mason ○ On behalf of the applicant – Robert Start, Manny Hunjan
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 14 August 2019 <ul style="list-style-type: none"> ○ <u>Panel members</u>: John Roseth, Sue Francis, Deborah Sutherland ○ <u>Council assessment staff</u>: Rajiv Shankar, Henry Burnett Michael Mason • Final briefing to discuss council’s recommendation, 23 October 2019 at 10am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), John Roseth, Sue Francis, Deborah Sutherland, Eugene Sarich

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Rajiv Shankar, Henry Burnett, Michael Mason ● Final briefing to discuss council's recommendation, 27 May 2020 at 2.30pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, Deborah Sutherland, Eugene Sarich ○ <u>Council assessment staff</u>: Rajiv Shankar, Henry Burnett, Michael Mason
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report