

<b>DATE OF DETERMINATION</b>	7 July 2021
<b>PANEL MEMBERS</b>	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Eugene Sarich, Deborah Sutherland
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held by teleconference on 7 July 2021, opened at 10:02 am and closed at 11:15 am.  
Papers circulated electronically on 28 June 2021.

#### **MATTER DETERMINED**

PPSSNH-183 – Lane Cove – DA171/2020 - 29-57 Christie Street, St Leonards – Concept Development Application to establish three building envelopes (18, 12 and 8 storeys) and detailed development application for the demolition of an existing building on the site, construction of two commercial buildings, alterations to the existing car park, landscaping, and public domain works.

#### **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.

#### **Application to vary a development standard**

Following consideration of written requests from the Applicant, made under cl 4.6 (3) of the Lane Cove Local Environmental Plan 2009 (LEP), that has demonstrated that:

- compliance with clauses 4.3 and 4.4 (Height of Buildings and FSR) 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 requests adequately address 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 clauses 4.3 and 4.4 (Height of Buildings and FSR) of the LEP and the objectives for development in the B3 Commercial Core 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 variations to Building Height and FSR and approve the application for the reasons outlined below and in Council's Assessment Report.

The Clause 4.6 written requests for Height and Floor Space Ratio departures rely upon the building envelope controls under the St Leonards and Crows Nest 2036 Plan to justify variations from the existing LEP controls. The Panel notes the St Leonards and Crows Nest Plan 2036 was finalised in August 2020.

The development proposes 8 storeys for Building A, an increase of 2 storeys above the 2036 Plan. Building B is proposed to be 12 storeys, an increase of 1 storey above the 2036 Plan. Building C is proposed to be 18 storeys, which is a very significant reduction of 7 storeys below the heights proposed in the 2036 Plan.

The Panel concurs with Council that the proposed built form, massing, and scale is contextually appropriate and is consistent with the emerging character of St Leonards under the 2036 Plan. In addition, the reduced height of Building C would facilitate greater view sharing with residential units in Building B of the St Leonards Square development at 486 Pacific Highway to the south-east.

With regard to FSR, the proposed overall FSR of 7.5:1 would exceed the 4.5:1 FSR control under the Lane Cove LEP but would be compliant with the 7.5:1 FSR in the 2036 Plan.

Further, the Panel concurs with Council's assessment that the proposal has been designed to distribute bulk and massing across the site through varying forms, shapes, heights and setbacks to reduce the actual and perceived bulk of the development and to reduce amenity impacts to surrounding residential development in terms of view impacts to St Leonards Square, privacy impacts, and solar access impacts to residential development to the south and Newlands Park.

The proposed height variations allow for reduced building footprints and provision of two through site links by relocating floor space from lower levels to higher within the tower forms. The proposed development would improve the pedestrian environment of the strategic centre and enable better connectivity and increased permeability throughout the precinct to both the future Crows Nest Metro Station and St Leonards station.

Consequently, the Panel concurs with Council that the clause 4.6 written requests are well founded. Further, there are sufficient environmental planning grounds to justify the proposed variation and it is in the public interest to do so.

Having concurred with Council and accepted the Applicant's justification for the 4.6 variations to Height and FSR, the Panel stresses the importance it placed on the very significant reduction in height of the proposed Building C.

The Panel placed considerable weight on the reduction in height of Building C (versus the 2036 Plan) in forming its opinion of satisfaction in support of the clause 4.6 variations and also acknowledged the Applicant's assurance during the public meeting that a future height increase would not be sought for Building C. If in the future a height increase is sought, the Panel at that time is to be made aware of the original determination on this matter.

The Panel notes a draft Voluntary Planning Agreement (VPA) has been prepared for the public domain works including the improvement of Christie Street Reserve, provision of two through-site linkages and council footpaths, provision of public toilets and monetary contribution as part of the Stage 1 works. A deferred commencement condition is included which requires the VPA to be executed, prior to the consent becoming operative.

It is also noted that an extensive view analysis was undertaken as part of Council's assessment including site inspections of objector's units. The view impacts resulting from the proposal are considered reasonable on the basis that the height/FSR variations would facilitate a better planning outcome that aligns with planned growth and built-form guidelines for the site under the Greater Sydney Region Plan, North District Plan, and 2036 Plan.

The subject site is located in the St Leonards Precinct and this area is undergoing extensive change as part of revitalisation of the precinct in accordance with strategic objectives for St Leonards under the Greater Sydney Region Plan, North District Plan and the St Leonards Crows Nest 2036 Plan to deliver employment opportunities in strategic centres close to public transport.

The Panel also notes the Applicant's advice during the public meeting that they acknowledge the importance of providing ongoing childcare facilities in the precinct. The Panel encourages the Applicant and Council to work with operators to ensure childcare facilities continue to be available in the precinct.

In summary, the Panel concurs that the proposed development results from extensive consultation between the Applicant, Council and Community. It has been comprehensively assessed by Council and by the community and is a well-resolved, large-scale commercial development, which also includes significant public benefits to be provided under the VPA. Consequently, the Panel considers the proposed development will enhance the precinct and approval is in the public interest.

#### CONDITIONS



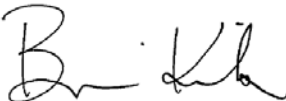
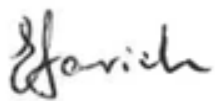

The development application was approved subject to the conditions in Council's Assessment Report as amended by Council's email of 7<sup>th</sup> June 2021 with the following additional amendments.

- Deletion of Condition 2.5 – Positive Covenant (unnecessary condition as per Council's legal advice).
- Deletion of Condition 9.27 – Proposed Vehicular Crossing (Council has accepted the increase in driveway width).

#### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 45 written submissions made during public exhibition and heard from all those wishing to address the public meeting. Issues of concern included: traffic and parking concerns; height/FSR variation; building height; bulk and scale; views; loss of existing community facilities; solar access to residential development to the south and amenity impacts during construction.

The Panel considers that concerns raised by the community have been adequately addressed in Council's Assessment Report, in Applicant and Council responses during the public meeting and in the amended conditions.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Eugene Sarich
 Deborah Sutherland	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-183 – Lane Cove – DA171/2020
2	PROPOSED DEVELOPMENT	Concept development application to establish three building envelopes (18, 12 and 8 storeys) and detailed development application for the demolition of an existing building on the site, construction of two commercial buildings, alterations to the existing car park, landscaping, and public domain works.
3	STREET ADDRESS	29-57 Christie Street, St Leonards
4	APPLICANT/OWNER	Applicant: Arrow Capital Partners c/o Urbis (Contact: Elyse Kenny) Owner: The Trust Company (Australia) Ltd ATF Christie Street Property Trust
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>List all of the relevant environmental planning instruments: s4.15(1)(a)(i) <ul style="list-style-type: none"> <li>SEPP 55 – Remediation of Land;</li> <li>SEPP (Infrastructure) 2007; and</li> <li>Lane Cove Local Environmental Plan 2009;</li> </ul> </li> <li>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii) <ul style="list-style-type: none"> <li>Nil</li> </ul> </li> <li>List any relevant development control plan: s4.15(1)(a)(iii) <ul style="list-style-type: none"> <li>Lane Cove Development Control Plan 2010</li> </ul> </li> <li>Other relevant plans: <ul style="list-style-type: none"> <li>Lane Cove Section 94 Contributions Plan 1996 (as amended)</li> </ul> </li> <li>List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under s7.4: s4.15(1)(a)(iv) <ul style="list-style-type: none"> <li>Draft VPA (See Annexure 20)</li> </ul> </li> <li>List any coastal zone management plan: s79C(1)(a)(v) <ul style="list-style-type: none"> <li>Nil</li> </ul> </li> <li>List any relevant regulations: s4.15(1)(a)(iv) <ul style="list-style-type: none"> <li>clause 92 <i>Environmental Planning and Assessment Regulation 2000</i> (EP&amp;A Regulation): Additional matters the consent authority must consider</li> <li>clause 98(1)(a) EP&amp;A Regulation : Compliance with Building Code of Australia</li> </ul> </li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 28 June 2021</li> <li>Clause 4.6 variation requests - Building height, FSR</li> <li>List any council memo or supplementary report received: 7 July 2021</li> </ul>

		<ul style="list-style-type: none"> <li>• Written submissions during public exhibition: 45</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Deborah Searle, Adrian Chau, Daniel Brink, Jason Soon, Sue Yelland, Merri Southwood on behalf of Greenwich Community Association, Peter Lotz</li> <li>○ Council assessment officer – Rajiv Shanker, Mark Brisby, Henry Burnett, Phillipa Frecklington</li> <li>○ On behalf of the applicant – Rob Battersby, Kurt Wilkinson, James Fitzpatrick, Stephen Day, Scott Staniforth, Matthew Aylmer, Michael Barnett, Aaron Pau</li> </ul> </li> <li>• Total number of unique submissions received by way of objection: 45</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 17 February 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Bran Kirk, Eugene Sarich, Deborah Sutherland</li> <li>○ <u>Council assessment staff</u>: Rajiv Shanker, Mark Brisby, Henry Burnett, Phillipa Frecklington, Chris Pelz</li> </ul> </li> <li>• Site inspection: Panel members visited the site individually on different days due to Covid precautions.</li> <li>• Final briefing to discuss council's recommendation: 7 July 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Bran Kirk, Eugene Sarich, Deborah Sutherland</li> <li>○ <u>Council assessment staff</u>: Rajiv Shanker, Mark Brisby, Henry Burnett, Phillipa Frecklington</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report