

DETERMINATION AND STATEMENT OF REASONS

SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	Wednesday 11 March 2020
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Ken Robinson
APOLOGIES	Virginia Waller
DECLARATIONS OF INTEREST	None

Public meeting held at North Sydney Council Chambers, 200 Miller Street North Sydney, on 11 March 2020, opened at 2.04pm and closed at 5.52pm.

MATTER DETERMINED

PPSSNH-28 – North Sydney – DA255/19 at 147, 151 and 153 Kurraba Road, Kurraba Point, for construction of a residential flat building (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 unanimously agreed to approve the proposal for the reasons outlined in the Council Assessment Report and for other reasons that arose during the public meeting and the Panel's deliberations.

- The development application has been assessed against the North Sydney Local Environmental Plan 2013, the North Sydney Development Control Plan 2013 and the relevant State Planning Policies and found to be satisfactory in the site circumstances.
- The subject site is zoned R4 (High Density Residential) where residential flat buildings are permissible with consent of Council, and the development would provide for additional housing in the Kurraba Point South Neighbourhood, where the desired future character includes residential flat buildings.
- It is acknowledged that the proposal will involve significant excavation, however the site sits upon sandstone and the submitted Geotechnical Investigation did not identify any specific areas of geotechnical concern. Subject to a number of conditions the development can be safely executed with minimal likelihood of adverse impacts on the structural integrity of neighbouring land and buildings.
- The proposed scale and massing of the development is considered satisfactory in the site context, and the placement of building mass, stepped form and central courtyard has been designed to ensure reasonable view sharing. Compliance with key controls including building height and site coverage is achieved, and where there are non-compliances with building separation and setback

controls these are assessed as acceptable in the site circumstances and are unlikely to result in unreasonable amenity impacts for neighbours.

- The architectural design and materiality of the development is suitable in the context, and the dark brick facade and curved bays will complement the character of the area which includes a number of inter-war and Art Deco buildings. The proposed external materials are considered high quality and durable.
- Whilst it is acknowledged that the proposal will have some impact on views and outlooks from neighbouring properties, the design of the development including the stepped buildings, height and central courtyard will minimise impacts and ensure acceptable view sharing is achieved.
- The development provides for compliant vehicle and cycle parking within the site, and the increase in vehicle movements resulting from this development is unlikely to compromise traffic and parking conditions around the site. Temporary traffic impacts during construction can be managed via a detailed Construction Management Program to be approved by Council's Traffic Committee.
- The proposal will require the removal of several trees from the site, however these generally have low retention values, and the landscaping scheme provides for substantial replenishment planting within compliant deep soil zones.
- The proposal includes private and communal roof top terraces. These terraces may not strictly comply with the controls of the North Sydney DCP; however, the Panel is mindful that there are approved examples of non-complying roof terraces within the local government area. With regard to the roof top terraces proposed as part of this development, the Panel has had regard to the Council Officer's assessment report and the comments in support of these terraces by Council's Design Excellence Panel and considers them to be satisfactory.
- Overall, the proposed development is considered to be satisfactory having regard to the relevant Environmental Planning Instruments, Development Control Plans and Council policies.

CONDITIONS

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

- **Condition A1** is amended, in regard to the reference of Drawing DA0101, to read as follows:

Drawing Number	Revision	Title	Drawn by	Dated
DA-0101	22	Site Plan	SJB Architects	10/03/2020

- **Condition A3** amended to read as follows:
All external finishes and materials must be in accordance with those specified within the approved plans listed within Condition A1 of this consent. All face brick shall comprise 'Bowral Shorthorn Mix' or similar with dark mortar. Details are to be submitted for the written approval of Council's Team Leader Assessments prior to the issue of any Construction Certificate.
- **New Condition B2** to read as follows:
Community Information Plan
A Community Information Plan to be prepared and submitted to Council for approval prior to the issue of any Construction Certificate.
- **Condition C6**, third paragraph, amended to read as follows:
The security will be refundable following the expiration of 12 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.
- **Condition C9** amended to read as follows:

A photographic survey and dilapidation report of adjoining properties No's. 145, 145A and 192B Kurraba Road, Kurraba Point, detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

- **Condition C10** is amended to read as follows:

A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of the adjoining properties at No's. 145, 145A and 192B Kurraba Road, Kurraba Point, which certifies its ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to these adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

- **Condition C11**, second last paragraph (after point f), is amended to read as follows:

The report, satisfying the requirements of this condition, must be submitted to Council for independent geotechnical assessment and approval prior to the issue of any Construction Certificate. All costs shall be borne by the applicant.

- **Condition D6**, last paragraph, amended to read as follows:

The tree protection measures contained in the arborist report prepared by prepared by Tree Management Strategies within the lodgement documents received by Council on 29 August 2019, and as subsequently amended as per addendum letter prepared by Tree Management Strategies dated 28/10/19, shall be strictly adhered to, but the cabling/bracing required shall be installed in addition to, and not in place of, the previously recommended windbreak. It is imperative that both these protective measures be implemented, and the cabling/bracing shall be required to remain in place for a minimum of 12 months following issue of occupation certificate.

- The table in **Condition G1** is amended to read as follows:

Tree	Location	Height
T1 <i>Ficus hillii</i>	Southwestern corner of 147 Kurraba Road	14.5m
T2 <i>Ficus rubiginosa</i>	Attached to the cliff face and retaining wall on the western boundary of 147 Kurraba Road.	15m
T3 <i>Ficus rubiginosa</i>	Attached to the cliff face and retaining wall on the western boundary of 147 Kurraba Road.	15m
T7 <i>Lagerstroemia indica</i>	Southern boundary of 145 7 145A Kurraba Road	5m
T12 <i>Plumeria sp.</i>	Southern boundary of 145 7 145A Kurraba Road	3m
T13 <i>Persia americana</i>	Southern boundary of 145 7 145A Kurraba Road	6m
T14 <i>Cupaniopsis anacardiodes</i>	Southern boundary of 145 7 145A Kurraba Road	5m
T15 <i>Ficus rubiginosa</i>	Attached to the cliff face and retaining wall on the western boundary of 147 Kurraba Road.	10m

- **Condition I1**, third paragraph, is amended to read as follows:

The by-law required by Condition G18 must be maintained at all times. The use of the roof terrace for any purposes shall cease, and must not recommence, in the event that the by-law required is extinguished.

- **Condition I3(b)** amended to read as follows:

No approval is granted or implied for the installation of any umbrella or shade structure on the roof terrace.

- **Condition I4**, first paragraph, is amended to read as follows:

Lighting of all roof terrace areas, for communal use, and any outdoor access on the same level to the roof communal terrace areas must cease illumination at 9.00pm Monday to Sunday. Lighting fixtures to communal and private roof top terrace areas must not exceed the height of the balustrade. The design and placement of the lighting must:



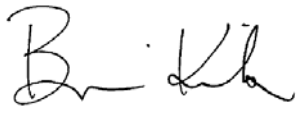

- **Condition 15** amended to read as follows (last paragraph deleted):
The owner/s of the site are to maintain the landscaping across the site generally and in accordance with the anticipated mature heights shown on the approved landscape plan listed in Condition A1 of this consent. Any required replacement trees and plants shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.
- **Condition 16** amended to read as follows:
The 3 x Ficus rubiginosa located on the western boundary of the site on the cliff face within Kurraba Reserve shall be watered for a period of six (6) months after the Occupation Certificate is issued. The watering shall be approximately 20 litres per week (min) delivered gently by hose or watering can so that the surrounding soil can absorb the water. Seasol (seaweed) solution is recommended once a month over this period.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition, late submissions received and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- View loss
- Loss of visual and acoustic privacy
- Impacts on traffic and parking
- Location and extent of excavation
- Impacts on structural stability of surrounding buildings and land
- Tree removal and impact on trees to be retained
- Scale and bulk
- Heritage
- Design and external appearance

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and by the applicant's responses during the public meeting and in the amended conditions.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Ken Robinson

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-28 – North Sydney – DA255/19
2	PROPOSED DEVELOPMENT	Demolition of existing buildings, excavation, and construction of a part 4 part 6 storey residential flat building.
3	STREET ADDRESS	147, 151 and 153 Kurraba Road, Kurraba Point
4	APPLICANT/OWNER	Thirdi Kurraba Pty Ltd / Multiple Owners (SP129, SP400586, and SP22851)
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy No.55 – Remediation of Land and draft Remediation SEPP State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP) (site is located within the Sydney Opera House Buffer Zone – Clause 58A of the SREP) North Sydney Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> North Sydney Development Control Plan 2013 Sydney Harbour Foreshores and Waterways Are Development Control Plan 2005 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: 25 February 2020 Written submissions during public exhibition: 134 original plans, 75 amended plans Submission of photos presented at meeting by Barbara Byers Verbal submissions at the public meeting: <ul style="list-style-type: none"> In support – Mark Monk (on behalf of owners of 147 Kurraba Rd) In objection – Tony Moody (on behalf of owners and residents of adjoining flat buildings), Peter Gill, Bernard Bradney, Shirren Premaratne, Alexandra Newton, Libby O'Neill, Barbara Byers Council assessment officer – Lisa Kamali On behalf of the applicant – Scott Barwick, Peter Hartcliff, Brett Maynard, Adam Haddow

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 12 February 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Kevin Alker, Ken Robinson ○ <u>Council assessment staff</u>: Lisa Kamali • Site inspection: 11 March 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Ken Robinson ○ <u>Council assessment staff</u>: Lisa Kamali • Final briefing to discuss council's recommendation, 11 March 2020 at 1.40pm <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Ken Robinson ○ <u>Council assessment staff</u>: Lisa Kamali
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report