

DATE OF DETERMINATION	03 August 2023
DATE OF PANEL DECISION	03 August 2023
DATE OF PANEL MEETING	26 July 2023
PANEL MEMBERS	Peter Debnam (Chair), Nicole Gurran, Brian Kirk, Vivienne Albin
APOLOGIES	Eugene Sarich
DECLARATIONS OF INTEREST	To avoid the perception of a potential conflict, Michael Mason withdrew from the Panel for this DA.

Public meeting held by teleconference on 26 July 2023, opened at 10.00am and closed at 10.55am.

MATTER DETERMINED

PPSSNH-354 – DA 154/2022- LANE COVE – 26 - 50 Park Road, 27 - 47 Berry Road and 48 - 54 River Road St Leonards South. Areas 22 and 23), Construction of 4 residential flat buildings (ranging from 3 - 10 storeys) comprising a total of 306 dwellings and basement parking for 545 vehicles (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 listed at item 8 in Schedule 1.

Application to vary a development standard

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

- compliance with cl. 7.2 Minimum Site Area for Area 23 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 request adequately addresses 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 4.6 and 7.1 of the LEP and the objectives for development in the R4 High Density Residential 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 Panel's decision was unanimous.

REASONS FOR DECISION

The Panel approved the development application for the reasons set out below and in Council's Assessment Report.

The subject site is located within the south-western most end of the St Leonards South Precinct and is identified as Areas 22 and 23, which have a total combined area of 11,557.5 sq m.

However, Area 23 is 45 square metres or 0.6% below the 6,800 square metre minimum required under Lane Cove's LEP. Council does note a site area of 6,800 square metres is not possible as all land within Area 23 has been accounted for in the site survey, which calculates the site area less than the prescribed minimum. As a result, the Applicant submitted a Clause 4.6 written request to vary the development standard. Clause 4.6 of the Lane Cove LEP allows a consent authority to vary development standards in certain circumstances and provides a degree of flexibility to achieve a better design outcome.

Council noted that while Clause 7.2 of the Lane Cove LEP does not contain any specific objectives for the minimum site area requirements, Clause 7.1 contains the overarching objectives for the Precinct, which is to promote (by providing building height and floor space incentives) residential development within the St Leonards South Precinct. The Panel concurs with Council that the proposal is consistent with the overall objectives of the St Leonards South Precinct and the applicant's variation request should be supported.

The Panel considered Council's comprehensive Assessment Report and noted the proposal benefited from extensive design refinement after feedback from Council's Design Review and Design Excellence Panels prior to lodgement of the DA.





The Panel concurs with Council that the proposal has been properly assessed against relevant planning controls. The proposal will achieve the required standard for development within the St Leonards South Precinct in relation to building envelope, height in storeys and compliance with the newly made planning provisions. Consequently, approval of the development is in the community interest.

CONDITIONS

During the public meeting, the Panel discussed condition amendments with Applicant and Council in relation to NSW Water Concurrence, EV Charging infrastructure and enclosure of fire hydrant fittings. The development application was approved subject to revised conditions in Council's email of 02 August 2023 - (Annexure 1).

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 36 written submissions made during the public exhibition of the proposal and heard from those members of the public wishing to address the Panel. Issues raised included FSR, design excellence/quality, height, bulk and scale, setbacks, street wall height, solar access, natural ventilation, overshadowing, edge treatments/basement protrusions above ground, traffic, transport and access, parking, flora and fauna, through site link, sustainability, open space, safety and security, privacy, views, property values and construction impacts. The Panel considers concerns raised in submissions have been adequately addressed in Council's Assessment Report, Applicant and Council responses during the public meeting and in the amended conditions.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Nicole Gurrán
 Brian Kirk	 Vivienne Albin

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-354 – DA 154/2022- LANE COVE
2	PROPOSED DEVELOPMENT	Construction of 4 residential flat buildings (ranging from 3 - 10 storeys) comprising a total of 306 dwellings and basement parking for 545 vehicles.
3	STREET ADDRESS	26 - 50 Park Road, 27 - 47 Berry Road and 48 - 54 River Road St Leonards South. Areas 22 and 23)
4	APPLICANT/OWNER	Applicant: Urbis Owner: JQZ
5	TYPE OF REGIONAL DEVELOPMENT	Capital investment value (CIV) over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> SEPP 65 – Design quality of Residential Apartment Development and Apartment Design Guide (ADG) SEPP Resilience and Hazards 2021 SEPP (Building Sustainability Index) 2004 SEPP (Transport and Infrastructure) 2021 Lane Cove Local Environmental Plan 2009 Environment SEPP (Consolidation of Sydney Harbour SREP) Transport and Infrastructure SEPP Resilience and Hazards SEPP Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Lane Cove Development Control Plan 2009 (including Amendment 20) Planning agreements: Yes – draft planning agreement that a developer has offered to enter into under Section 7.4 (see Annexure 7) Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Clause 92(1)(b) – Demolition of Structures Coastal zone management plan: Nil Other relevant plans: <ul style="list-style-type: none"> St Leonards South Landscape Masterplan St Leonards South Section 7.11 Contributions Plan Special Infrastructure Contribution Levy Direction 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 Draft conditions of consent received 26 July 2023.

		<ul style="list-style-type: none"> • Written submissions during public exhibition: 36 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Members of the community – John Southwood, Raymond Wong, Frances Vissel, Rachel Falk, Arlett, Anita & Albert Jubian. ○ Council Assessment Officers - Mark Brisby, Chris Shortt, Christopher Pelcz, Rajiv Shankar • On behalf of the applicant – Jeremy Hung, Steve White, Harsha Yadav, Nicholas Byrne, Xiaoran Ding, Asier Celaya
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • 17 May 2023 - Briefing • 26 July 2023 - Final briefing to discuss council's recommendation: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Nicole Gurran, Brian Kirk, Vivienne Albin ○ <u>Council assessment staff</u>: Mark Brisby, Chris Shortt, Christopher Pelcz, Rajiv Shankar
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report