

DATE OF DETERMINATION	21 August 2023
DATE OF PANEL DECISION	21 August 2023
DATE OF PANEL MEETING	16 August 2023
PANEL MEMBERS	Brian Kirk (Chair), Nicole Gurran, Sue Francis, Eugene Sarich, Vivienne Albin
APOLOGIES	Peter Debnam
DECLARATIONS OF INTEREST	Nil

Public meeting held by teleconference on 16 August 2023, opened at 2.00pm and closed at 3.00pm

MATTER DETERMINED

PPSSNH-358 – DA 134/2022 - Lane Cove, 40A Cope Street, Lane Cove, Seniors Housing, comprising:

- Demolition of the seven (7) existing buildings on the site containing existing 52 aged care units and removal of vegetation as necessary.
- Construction of two buildings (Building A on Lot 120 and Building B on Lot 51) of 6 storeys and 4 storeys in height respectively containing:
 - 52 Independent Living Apartments
 - Associated facilities (i.e., ground floor lobby and reception area; sales office; resident kitchen, café and undercover barbeque area; outdoor communal, outdoor open space areas
 - Parking for 53 vehicles in a single basement level.

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 two written requests from the applicant, made under cl. 4.6(3) of the Lane Cove Local Environmental Plan 2009 (LEP), seeking to demonstrate that:

- a) compliance with clauses 4.3 Height of Buildings and 4.4 Floor Space Ratio and Clause 87 of State Environmental Planning Policy (Housing) 2021 is unreasonable or unnecessary in the circumstances; and
- b) there are insufficient environmental planning grounds to justify contravening the development standard

The Panel is not satisfied that:

- a) the Applicant's written requests adequately address the matters required to be addressed under cl. 4.6(3) of the LEP; and
- b) the proposed development will be in the public interest: because it is considered by the Panel to be inconsistent with the objectives of the particular standards and the objectives for for development in the R4 High Density Residential Zone.

The concurrence of the Secretary has been assumed.

DEVELOPMENT APPLICATION

The Panel determined to refuse 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 agrees with the Council assessment that the bulk and scale of the proposed development represents an overdevelopment of the site. The site has numerous constraints that the Panel considers have not been adequately dealt with by the project design. The proposed form of development will not provide high amenity for future residents of the development and will heavily impact on the amenity of surrounding properties. The Panel does not support the proposed demolition and subsequent rebuilding of the heritage listed stone wall along the Burns Bay Road frontage for construction access as this is considered unreasonable.

The development fails to comply with numerous development standards set out in the State Environmental Planning Policy (Housing) 2021, State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development, the Apartment Design Guide, Lane Cove Local Environmental Plan 2009, and controls in Lane Cove Development Control Plan 2010.

The Panel determined to refuse the application for the reasons in Attachment 1 to the Council's Assessment Report with the inclusion of the following additional reason:

The proposed development does not satisfy the requirements of Clause 85 of State Environmental Planning Policy (Housing) 2021. In particular, the applicant has not demonstrated compliance with all of the standards contained within Schedule 4 concerning accessibility and usability of the proposed independent living units.

Further, a correction is required to reason 4 to include reference to clause 2.119 of State Environmental Planning (Transport and Infrastructure) 2021.

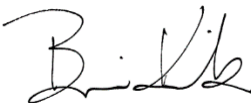
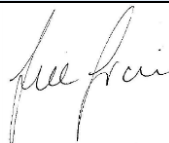
CONSIDERATION OF COMMUNITY VIEWS




In coming to its decision, the Panel considered the 99 written submissions made during the public exhibition of the proposal and heard from members of the public and community groups who addressed the public meeting.

Issues raised included; traffic congestion, impacts on surrounding residents and traffic, insufficient parking, impact on amenity, insufficient width of Caroline Chisolm Lane, pedestrian safety, overshadowing, overdevelopment of the site, unacceptable impact on heritage sandstone wall, excessive height, loss of trees, noise impact, breach of right of carriageway and lack of landowner's consent, inadequate public transport, insufficient turning space, site isolation, potential damage, insufficient boundary setback, solar access, non-compliance with SEPP 65 & ADG, insufficient deep soil, incorrect BCA classification, CPTED non-compliance, non-compliance with Lane Cove DCP 2010, and waste storage.

The Panel considers community concerns were adequately addressed in the Assessment Report.

During the public meeting, verbal submissions were made to the Panel on the question of landowner's consent and whether this application had been properly made. Mr. Matthew Cole (solicitor) represented the owners of SP 19076, and Dr. Nicholas Brunton (solicitor) represented the Applicant. After considering both submissions, the Panel is satisfied that necessary landowner's consent has been provided and this application can be determined by the Panel.

PANEL MEMBERS	
 Brian Kirk (Chair)	 Sue Francis

 Nicole Gurrán	 Eugene Sarich
 Vivienne Albin	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-358 – DA 134/2022 - Lane Cove
2	PROPOSED DEVELOPMENT	<p>Seniors Housing, comprising:</p> <ul style="list-style-type: none"> • Demolition of the seven (7) existing buildings on the site containing existing 52 aged care units and removal of vegetation as necessary. • Construction of two buildings (Building A on Lot 120 and Building B on Lot 51) of 6 storeys and 4 storeys in height respectively containing: <ul style="list-style-type: none"> – 52 Independent Living Apartments – Associated facilities (i.e., ground floor lobby and reception area; sales office; resident kitchen, café, and undercover barbeque area; outdoor communal, outdoor open space areas – Parking for 53 vehicles in a single basement level.
3	STREET ADDRESS	40A Cope Street, Lane Cove
4	APPLICANT/OWNER	Retire Australia (Lane Cove) Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Development has a capital investment value of more than \$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 (Housing) 2021 • State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • 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 2009 • Planning agreements: Nil • Provisions of the Environmental Planning and Assessment Regulation 2021 • Coastal zone management plan: Nil

		<ul style="list-style-type: none"> • Other relevant plans: St Leonards South Section 7.11 Contributions Plan • 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 • Attachment 1 – Draft Reasons for Refusal • Attachment 2 – Architectural Plans • Attachment 3- Statement of Environmental Effects • Attachment 4 –Applicant’s Housing SEPP Compliance Table • Attachment 5 – Applicant’s ADG Compliance Table • Attachment 6 – Plan showing Proposed Changes to Caroline Chisolm Lane • Attachment 7 – Clause 4.6 Submission for Building Height Standard • Attachment 8 – Clause 4.6 Submission for FSR Standard • Attachment 9 – Heritage Impact Statement • Attachment 10 – Traffic Report and Response to RFI • Attachment 11 – Swept Path Analysis • Written submissions during public exhibition: 92 • Verbal submissions at the public meeting: Melissa Barry, Sylvia Raymond, Matthew Cole, Lynnette Johnson, Ian Macintosh, Jeff Bulfin on behalf of the Strata Plan. • Council Assessment Officers – Robert Montgomery, Principal Montgomery Planning Solutions (Independent Consultant), Mark Brisby, Greg Samardzic, Christopher Shortt and Rajiv Shankar • On behalf of the applicant – Tim Shelley, Nicholas Brunton, Christian Doppler, Robert McDonald, Bill Clydesdale, Peter Strudwick, Simo Corda, Tim Rogers, Brad Vale, Guy Sturt, Joel Parry-Jones.
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • 22 March 2023 – Council briefing • 22 March 2023 – Site Inspection • 16 August 2023 - Final briefing to discuss council’s recommendation: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Brian Kirk (Chair), Nicole Gurran, Sue Francis, Eugene Sarich, Vivienne Albin ○ <u>Council assessment staff</u>: Robert Montgomery, Principal Montgomery Planning Solutions (Independent Consultant), Mark Brisby, Greg Samardzic, Christopher Shortt and Rajiv Shankar
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A

