

DATE OF DETERMINATION	06 July 2023
DATE OF PANEL DECISION	06 July 2023
DATE OF PANEL MEETING	05 July 2023
PANEL MEMBERS	Peter Debnam (Chair), Sue Francis, Brian Kirk, Vivienne Albin, Eugene Sarich
APOLOGIES	Nicole Gurran
DECLARATIONS OF INTEREST	Nil

Papers circulated electronically on 15 June 2023.

MATTER DETERMINED

PPSSNH-383 - DA 135/2022 – Lane Cove Council, No. 67 Mars Road, Lane Cove West, Demolition of existing structures and construction of a light industrial/self-storage building development comprising a total of 19 light industrial units, 44 self-storage units and car/truck parking spaces over three basement levels with associated landscaping (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 two 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 cl. 4.3 *Height of buildings* and cl. 4.4 *Floor space ratio* 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 of the LEP and the objectives for development in the IN2 Light Industrial 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 determined to approve the development application for the reasons below and in Council's Assessment Report.

The Applicant submitted Clause 4.6 written requests for variation to building height and FSR.

In the case of height, the Panel accepts that the proposed variation to the development standard is minor and is limited to six rooftop vents along the eastern portion of the development. The Panel concurs with

Council that the vents (akin to “chimneys, flues and the like”) can be considered exceptions to the maximum height. Nevertheless, the Applicant submitted a detailed clause 4.6 written justification, which has been assessed and found satisfactory.

In the case of FSR, the proposal has a maximum FSR of 1.197:1 (a 20% variation) with 11,287sqm of floor space versus the maximum permitted 9,431sqm. The Applicant provided a written request seeking variation to the development standard and notes the variation is due in part to the proposed excavated areas below natural ground level to create self-storage units and as such would not produce any visual, bulk and scale impacts. The Council notes the additional floor space created by the proposed development would support the delivery of a modern high-quality warehouse/self-storage space and would provide a significant contribution to employment within the Lane Cove Industrial Precinct and would not have any significant adverse impacts on surrounding properties. The Panel concurs with Council that the variation to the FSR standard is justified in the circumstances of this case.

Additionally, while the proposed development has a very minor landscaping DCP non-compliance with the minimum landscaped areas control, the Panel concurs with Council that the development would achieve a reasonable landscaped outcome when viewed from the public domain areas and from adjoining developments.

In summary, the Panel agrees the Development Application has been properly assessed in accordance with relevant planning controls, is suitable for the site, would provide employment in the Lane Cove West Industrial Precinct and would maintain relevant amenity objectives to surrounding developments. The proposed building is compatible with the local industrial character without having significant adverse impacts on surrounding properties and approval is in the community interest.

CONDITIONS

The Panel discussed with the Applicant and Council several minor amendments to the draft conditions and the development application was subsequently approved subject to amended conditions in Council’s email of 5th July.

Condition B.5 - Remediation Action Plan to read as follows

Prior to the issue of a construction certificate, a Remediation Action Plan (RAP) must be submitted to Council. The plan must be reviewed to the satisfaction of an NSW EPA Accredited Site Auditor.

Any variations to the remediation strategy or, new information which is identified during remediation, demolition or construction works that has the potential to alter previous conclusions about site contamination or the remediation strategy shall be notified to the Site Auditor and Council immediately in writing.

The written concurrence of the Site Auditor must be obtained prior to implementing any changes to the remediation action plan, strategies, or associated conditions of consent. All recommendations of the RAP are to be fully implemented and signed off by an NSW EPA Accredited Site Auditor.

Reason: To ensure health and safety.





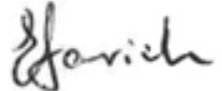
Condition F.13 - Remediation Action Plan to read as follows -

Prior to the issue of an occupation certificate, the Site Auditor is to sign off that the recommendations of the Remediation Action Plan (RAP) have been completed to their satisfaction.

Reason: To ensure health and safety.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel noted no written submissions were made during public exhibition.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Sue Francis
 Brian Kirk	 Vivienne Albin
 Eugene Sarich	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-383 - DA 135/2022 – Lane Cove Council
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a light industrial/self-storage building development comprising a total of 19 light industrial units, 44 self-storage units and car/truck parking spaces over three basement levels with associated landscaping
3	STREET ADDRESS	No. 67 Mars Road, Lane Cove West
4	APPLICANT/OWNER	Applicant: Robert Del Pizzo - Architex Owners: Lane Cove West Development P/L
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 (Resilience and Hazards) 2021SEPP (Transport and Infrastructure) 2021SEPP (Biodiversity and Conservation) 2021Lane Cove Local Environmental Plan 2009Draft environmental planning instruments: NilDevelopment control plans:<ul style="list-style-type: none">Lane Cove Development Control Plan 2009Planning agreements: Yes – planning agreement that a developer has offered to enter into under Section 7.4Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Regs 92, 93, 94, 94A, 288. Clause 92(1)(b) – Demolition of StructuresCoastal zone management plan: Nil

		<ul style="list-style-type: none"> • Other relevant plans: Lane Cove 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 with draft conditions of consent. • Written submissions during public exhibition: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • 03 May 2023 - Briefing • 05 July 2023 - Final briefing to discuss council's recommendation: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, Brian Kirk, Vivienne Albin, Eugene Sarich ○ <u>Council assessment staff</u>: Greg Samardzic, Rajiv Shankar ○ <u>Applicant</u>: Robert Del Pizzo
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report