

DETERMINATION AND STATEMENT OF REASONS

SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	13 August 2024
DATE OF PANEL DECISION	13 August 2024
PANEL MEMBERS	Brian Kirk – (Acting Chair), Susan Budd, Nicole Gurran, Eugene Sarich, Vivienne Albin
APOLOGIES	Peter Debnam
DECLARATIONS OF INTEREST	None

Panel Meeting held by teleconference on 7 August 2024, opened at 2:30pm and closed at 2:56pm.
Papers circulated electronically on 24 July 2024.

MATTER DETERMINED

PPSSNH-498 – Lane Cove Council – DA33/2024 – 13 to 19 Canberra Avenue, St Leonards – Alterations & additions to an approved mixed use residential building.

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7, the material presented at briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Application to vary a development standard

Consideration of written requests from the applicant, made under cl. 4.6(4) of the *Lane Cove Local Environmental Plan 2009* (LCLEP 2009), that sought to demonstrate:

- compliance with cl. 4.3 Height of buildings and cl. 4.4 Floor space ratio of the LCLEP 2009 is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standards.

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 4.3 and 4.4 of the LEP and the objectives for development in the R4 – High density residential zone.

Development application

The panel determined to approve the development application pursuant to section 4.17 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council Assessment Report.

Excavation has commenced on this site in accordance with the consent (as modified) to DA162/2021. DA33/2024 was lodged under Chapter 2 Affordable Housing, Division 1 *In-fill Affordable Housing* in the Housing SEPP 2021 (as amended on 14 December 2023), seeking to benefit from a bonus to the maximum

building height and a bonus to the floor space ratio development standards that apply under the LCLEP 2009. The proposal seeks to benefit from a 30% bonus to the 44m incentive height control which would achieve a height of 57.2m (the proposed development would be a maximum of 56.65m to the lift overrun when measured against the ground level existing at the time consent DA162/2021 was granted). The proposal also seeks to benefit from a 27.3% bonus to the 3.7:1 FSR control which would achieve an FSR of 4.5:1.

The Panel concurs with the Council's approach to the Applicant's two cl. 4.6 written requests as detailed in the Assessment Report. In particular, the Panel agrees with the explanation by Council of the measurement of building height.

During the public meeting, the Panel questioned the Council and the Applicant about the calculation and location of the dedicated Affordable Housing component of the development. Further written explanation was provided to the Panel by the Council and the Applicant on 8 August 2024. The Panel agrees that the SEPP Housing 2021 is somewhat vague in relation to the calculation of the Affordable Housing component; however, the approach taken by the Council and the Applicant to mix the affordable units throughout the building is preferred rather than concentrate or isolate them all on one or two levels, which would be most likely the lowest and least desirable levels of the building.

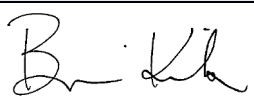
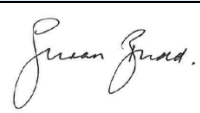



The Panel considers the application has been properly assessed against relevant planning controls, and having regard to all of the matters raised in the assessment report is satisfied that the proposed development is supportable and that the grant of consent would be in the public interest. The Panel concurs with Council that the proposal is consistent with the objectives of the R4 zone, the objectives of the standards for maximum building height and floor space ratio set out in Clause 4.3(1) and Clause 4.4(1) of the LCLEP 2009, and the objectives of Chapter 2 Affordable Housing, Division 1 In-fill affordable housing contained in the State Environmental Planning Policy (Housing) 2021.

CONDITIONS

During the final briefing with Council, the Panel asked questions about the draft set of conditions annexed to the Assessment Report. Council responded by email on 8 August 2024, with a revised set of draft conditions. The Panel accepts the revised conditions as the final conditions.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the 17 written submissions made during public exhibition. No members of the public addressed the Panel at the public meeting. In coming to its decision, the Panel considers that concerns raised by the community have been satisfactorily addressed in the Assessment Report.

PANEL MEMBERS	
 Brian Kirk (Chair)	 Susan Budd
 Nicole Gurran	 Eugene Sarich
 Vivienne Albin	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-498 – Lane Cove Council – DA33/2024
2	PROPOSED DEVELOPMENT	Alterations and Additions Development Application to the approved Mixed Use Residential building for Infill Affordable Housing pursuant to the SEPP (Housing)
3	STREET ADDRESS	13 to 19 Canberra Avenue, St Leonards
4	APPLICANT/OWNER	Stephen Abolakian – HPG GENERAL PTY LTD / SLS Five Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 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 (Resilience and Hazards) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Building Sustainability Index) 2004 State Environmental Planning Policy (65- Design Quality) 2022 State Environmental Planning Policy (Transport and Infrastructure) 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: <ul style="list-style-type: none"> VPA under Section 7.4 of original Development Consent Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> 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: 24 July 2024 Verbal submissions at the public meeting: <ul style="list-style-type: none"> None Council assessment officer - Mark Brisby, Christopher Shortt On behalf of the applicant – Stephen Abolakian – Hypercorp, Jeff Mead – Planning Ingenuity Building Height and Floor Space

		<ul style="list-style-type: none"> Written submissions during public exhibition: 17
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 5 June 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam, Nicole Gurran, Brian Kirk <u>Council assessment staff</u>: Andrew Bland, Rajiv Shankar, Andrew Bland, Christopher Shortt <u>Department staff</u>: George Dojas, Adam Iskander and Suzie Jattan <u>Applicant representatives</u>: Stephen Abolakian, Romila Hartnett, Lishi Li, Jonathan Joseph, Norelle Hyecorp Council briefing: 7 August 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Brian Kirk (Acting Chair), Susan Budd, Nicole Gurran, Eugene Sarich, Vivienne Albin <u>Council assessment staff</u>: Mark Brisby, Christopher Shortt <u>Department staff</u>: George Dojas, Adam Iskander and Joel Burgess Public Meeting: 7 August 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Brian Kirk (Acting Chair), Susan Budd, Nicole Gurran, Eugene Sarich, Vivienne Albin <u>Council assessment staff</u>: Mark Brisby, Christopher Shortt <u>Department staff</u>: George Dojas, Adam Iskander and Joel Burgess
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report