

DETERMINATION AND STATEMENT OF REASONS
SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	18 August 2021
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Susan Budd, Graham Brown and Annelise Tuor
APOLOGIES	Brian Kirk
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 18 August 2021, opened at 1.00pm and closed at 3.02pm.

MATTER DETERMINED

PPSSNH-223 – Northern Beaches – DA2021-0212, Lot 101 DP 1209504, 5 Skyline Place, Frenchs Forest, Demolition works and construction of a mixed development, comprising seniors housing, commercial uses, carparking, landscaping and stratum subdivision (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.

Development application

The Panel determined to refuse the application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

REASONS FOR THE DECISION

The Panel determined to refuse the application for the reasons set out below and in Council's Assessment Report.

The subject site is zoned B7 Business Park under the Warringah Local Environmental Plan 2011 (WLEP 2011). Development for the purposes of seniors housing is permitted with consent pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD) by virtue of 'hospitals' being a permitted land use in the B7 Business Park zone. The Panel notes the application relates to Lot 1, which is located to the rear of Lot 2. A seniors housing development on Lot 2 was approved under Section 8.2 of the EP&A Act in June 2019. That approval was subject to amendments, including a reduction in height and increase in non-residential floor space, which satisfactorily addressed the concerns raised in the previous refusal of the application by the SNPP.

Notwithstanding the approval for Lot 2, Council concerns remain regarding the introduction of residential land uses (in the form of seniors, affordable and disability housing) into the Frenchs Forest B7 Business Park zone, as such a use is inconsistent with the objectives for the zone and the Northern Beaches Hospital Precinct Structure Plan (Structure Plan). However, the Panel notes that as the proposed use is permissible, seniors housing, in some form, can occur on the site, subject to acceptable impacts.

The Panel is of the view that the form and resultant impacts of the proposed seniors housing development are not acceptable. It concurs with Council that the proposed development with a height of 12 storeys, and up to 39m and a floor space ratio of 2.41:1, is excessive in height, bulk and scale and is out of character with the business park and surrounding area. It will be viewed from the nearby R2 Low Density Residential area to the north and from areas within and outside the business park.

The Panel concurs with Council that the proposed development does not satisfy the appropriate controls, in particular relevant provisions of SEPP HSPD. Accordingly, the Panel determined to refuse the proposal for the following reasons:

1. State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004 (SEPP HSPD 2004)

The proposed development is unsatisfactory in respect to Section 4.15 of the EPA Act, as the application is inconsistent with the provisions of SEPP (HSPD) 2004:

- a) The proposed development is inconsistent with Aims of Policy (namely Clause 2c) in relation to design and compatibility;
- b) The proposed development is inconsistent with the requirement of Clause 25 (5) (i) & (v) with regards to land use conflict and bulk and scale;
- c) The scale, bulk and height of the proposal is not compatible with the existing and future character of the area and does not contribute to the quality and identity of the area as required by Clause 33 (a) of SEPP (HSPD) 2004.

2. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and Associated Apartment Design Guide (ADG)

The proposed development fails the principles of SEPP 65 insofar as they apply to context & neighbourhood character, built form & scale, density, landscaping, and amenity:

- a) The proposed building is not compatible with the context of the site that currently contemplates development that is non-residential and of a scale significantly less than that proposed; and
- b) The development does not provide adequate landscaping, in particular canopy trees, to mitigate the height, bulk and scale of the proposed built form.

3. Warringah Local Environmental Plan (WLEP 2011)

The proposed development is inconsistent with the provisions of WLEP 2011 as it relates to promoting development that is compatible with neighbouring development in terms of bulk, scale and appearance and use.

4. Non-compliance with Warringah DCP 2011 (WDCP 2011)

The proposed development fails to comply with the Built Controls as it relates to B4 –Site Coverage and B7 – Front Boundary Setbacks and Clause D9- Building Bulk

5. Public Interest

The community demand for seniors, affordable and disabled housing in this area does not justify that the site is appropriate for a seniors housing development of this height, bulk and scale. The extent of residential floor space proposed is inconsistent with draft Northern Beaches Hospital Precinct Structure Plan, which does not change the B7 Business Park zone for this area. As well as with the State Government North District Plan, which recognises that business parks “need to be developed, from the outset, as urban places which can transition into higher amenity and vibrant places while maintaining their main role as an employment precinct. Councils’ retail and employment strategies should provide guidance on the transition of business parks into mixed employment precincts including, where appropriate, ancillary residential developments to support the business park”. Consequently, approval of the application would not be in the public interest.






The Panel’s decision was unanimous.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 23 written submissions made during the public exhibition and heard from all those wishing to address the public meeting. The Panel notes issues of concern included: the character of the area and non-compliance with planning regulations, traffic safety and congestion, construction impacts, environmental impact, impact on biodiversity, impact of trees, and lack of

appropriate landscaping, privacy, safety and security, swimming pool, devaluation of properties and Northern Beaches Hospital Precinct Structure Plan.

The Panel considers that community concerns raised have been adequately addressed in Council's Assessment Report.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Susan Budd	 Graham Brown
 Annelise Tuor	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-223 – Northern Beaches – DA2021-0212
2	PROPOSED DEVELOPMENT	Demolition works and construction of a mixed development, comprising seniors housing, commercial uses, carparking, landscaping and stratum subdivision
3	STREET ADDRESS	Lot 101 DP 1209504, 5 Skyline Place, Frenchs Forest
4	APPLICANT/OWNER	Applicant - Platino Properties Owner - The Owners of Strata Plan 49558
5	TYPE OF REGIONAL DEVELOPMENT	Development with a Capital Investment Value (CIV) 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 No. 55 – Remediation of Land ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) ○ State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ○ State Environmental Planning Policy - Infrastructure 2011 ○ State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65) ○ Warringah Local Environmental Plan 2011 • Draft environmental planning instruments: Nil <ul style="list-style-type: none"> ○ Draft Remediation of Land State Environmental Planning Policy

		<ul style="list-style-type: none"> • Development control plans: <ul style="list-style-type: none"> ○ Warringah Development Control Plan 2011 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</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: August 2021 • KEYLAN Skyline ST2 Panel Submission Letter. • Attachment A - HillPDA Response to Economic Development referral. • Attachment B - Legal Advice (Jacinta Reid - Barrister). • Attachment C - Legal Advice (Pikes and Verekers). • Written submissions during public exhibition: 23 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Members of the community – Rebecca Mitchell, Peter and Delphine Hill, Robert, Edward & Zenaida Warren, John and Di Waddington, Glenn Keys, Mike Myers, Chris Faulks, Jen Berryman, Mary Dare. ○ Council Assessment Officers – Lashta Haidari and Steve Findlay • On behalf of the applicant – Simon Militano, Matthew Pullinger, Daniel Keary, Michael Staunton, Joshua Palmer and Martin Hill.
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection - site inspections have been curtailed due to COVID-19 precautions. Where relevant, Panel members undertook site inspections individually. • Briefing – 23 June 2021 • Panel members - Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Steve Kennedy and Annelise Tuor • Council assessment staff - Lashta Haidari and Steve Findlay • Final briefing to discuss council’s recommendation: 18 August 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Susan Budd, Graham Brown and Annelise Tuor ○ <u>Council assessment staff</u>: Lashta Haidari and Steve Findlay
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A