

SYDNEY EAST JOINT REGIONAL PLANNING PANEL

Meeting held at Ryde Council on Thursday 19 November 2015 at 5.00pm

Panel Members: John Roseth (chair), David Furlong, Tim Moore and Craig Chung

Apologies: Sarkis Yedelian - Declarations of Interest: None

Determination and Statement of Reasons

2014SYE130 Ryde LDA2014/419: Fernleigh Residential Care Facility, including demolition of the existing nursing home buildings and construction of a new part 2, part 3 and part 4 storey aged care facility over a partial basement containing 30 parking spaces and ancillary uses to provide a total of 134 bedrooms containing 142 beds. The proposal includes ancillary drainage and landscaping works at 8-14 Sherbrooke Road & 78-82 Mons Avenue, West Ryde as described in Schedule 1.

Date of determination: 19 November 2015

Decision:

The panel determined to refuse the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

Panel consideration:

The panel considered: the matters listed at item 6 as addressed in the Council Assessment Report, the material listed at item 7 and the material presented at meetings listed at item 8 in Schedule 1.

Reasons for the panel decision:

The Panel accepts the recommendation of the second supplementary report to refuse the application for the following reason:

The second supplementary report accepts that the physical design of the proposal is acceptable and the minor variation in height is justified. The recommendation for refusal is based on two reasons: cl 26 of the State Environmental Planning Policy Seniors Living (SEPPSL) and the public interest. The Panel accepts the first of these reasons, namely that cl 26 does not give the Panel the power to approve the application. As concerns cl 26, there have been four legal opinions sought in this matter, two by the applicant, one by the council and one by the Panel. The opinions are inconsistent with each other. The Panel considers that the requirements of cl 26 are more likely to be development standards than prohibitions; however, this question does not arise, because the Panel considers the access to shops and public transport outside the site to be too long and too steep to vary the distance and slope required by cl 26(2).

The Panel has considered whether cl 26 may be satisfied if the services and facilities required are provided on the site. This is because the applicant submits that the residents in the facility are too frail to access services outside the site. Despite the fact that the Panel considers this a beneficial development, it has concluded that the requirement of cl 26(2), that services and facilities are "located at a distance of not more than 400m from the site" means that they cannot be located on the site.

In the alternative, if the Panel is wrong and the provision of services on the site meets the requirements of cl 26, then ALL the services mentioned in cl 26(1) need to be provided, and this is clearly not the case. The inability of the application to satisfy cl 26 means that the Panel, as much as it considers the proposal to be in the public interest, has no power to approve it.

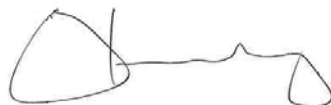
The confusion of the terms of the SEPPSL, as evidenced by the range and difference in the various legal opinions, clearly indicates the need to review the Policy in order to bring it up to date with the currently available electronic means of providing retail and banking services.

Conditions: N/A

Panel members:



John Roseth (chair)

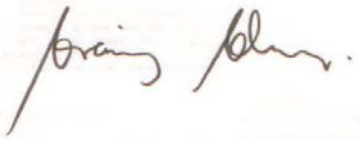


David Furlong



Tim Moore

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 Craig Chung		
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SCHEDULE 1

1	JRPP Reference – LGA- Council Reference: 2014SYE130 Ryde LDA2014/419: Fernleigh Residential Care Facility
2	Proposed development: Fernleigh Residential Care Facility, including demolition of the existing nursing home buildings and construction of a new part 2, part 3 and part 4 storey aged care facility over a partial basement containing 30 parking spaces and ancillary uses to provide a total of 134 bedrooms containing 142 beds. The proposal includes ancillary drainage and landscaping works
3	Street address: 8-14 Sherbrooke Road & 78-82 Mons Avenue, West Ryde
4	Applicant: Opal Specialist Aged Care
5	Type of Regional development: General development with a Capital Investment Value of more than \$20 million
6	Relevant mandatory considerations <ul style="list-style-type: none"> • Environmental Planning & Assessment Regulation 2000 • Environmental Planning and Assessment Act 1979 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 55 – Remediation of Land • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 • Ryde Local Environmental Plan 2014 • City of Ryde Development Control Plan 2014 • 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 EPA Act or EPA Regulation. • The public interest.
7	Material considered by the panel: Council Assessment Report Dated: 4 November 2015 Written submissions during public exhibition: 78 Verbal submissions at the panel meeting: Support- Nil; Against- Cr Jerome Laxale, Jayne Walsh and Gideon Reiss; On behalf of the applicant- Sean Bilton, Mike George, John Flower and Susan Hill
8	Meetings and site inspections by the panel: Briefing Meeting on 19 February 2015 and Public Determination Meeting on 20 August 2015
9	Council recommendation: Refusal
10	Draft conditions: Attached to council assessment report