

DATE OF DEFERRAL	Thursday 11 October 2018
PANEL MEMBERS	Stuart McDonald (Chair), Clare Brown and Peter Brennan
APOLOGY	Gabrielle Morrish
DECLARATIONS OF INTEREST	Nil

Public meeting held at Cumberland Council, Thursday 11 October 2018, opened at 10.03 am and closed at 11.00am.

MATTER DEFERRED

2015SYW068 – Cumberland – DA110/2015 AT Lot 8 Main Avenue, Lidcombe (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 the meeting and the matters observed at site inspections listed at item 8 in Schedule 1.




The Panel determined to refuse the application as described in Schedule 1 subject to the recommended conditions pursuant to section 4.55 of the Environmental Planning and Assessment Act 1979.

REASONS FOR THE DECISION

The application is refused for the following reasons:

1. The proposed development for the purpose of residential flat buildings is prohibited with the R3 Medium Density Residential zone of Auburn Local Environmental Plan 2010.
2. The land on which the development is proposed is within a conservation area and is not a heritage item pursuant to Schedule 5 of Auburn Local Environmental Plan 2010.
3. The application seeks to rely on Clause 5.10(10) of Auburn Local Environmental Plan 2010 in order to allow the development that otherwise prohibited.
4. As the land and buildings thereon is not listed as a heritage in Schedule 5 of Auburn Local Environmental Plan 2010, Clause 5.10(10) of Auburn Local Environmental Plan 2010 cannot be relied upon and there the proposed development is prohibited.

The decision was unanimous. The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

PANEL MEMBERS	
 Stuart McDonald (Acting Chair)	 Clare Brown
 Peter Brennan	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2015SYW068 – Cumberland - DA110/2015
2	PROPOSED DEVELOPMENT	Adaptive re-use of the former Nurses Quarters into 8 dwellings, including refurbishment and demolition of various minor works, construction of 2 x 3 storey residential flat buildings containing a total of 24 dwellings, basement & at-grade car parking, strata subdivision, site reshaping & benching, tree removal and associated landscaping, civil works and provision of site services (Stage 82) – Integrated Development (Heritage Act, 1977).
3	STREET ADDRESS	Lot 8, DP 270668, Lot 8 Main Avenue, Lidcombe
4	APPLICANT/OWNER	Australand Property Group (now known as Frasers Property Australia)
5	TYPE OF REGIONAL DEVELOPMENT	CIV over \$20million lodged before 1 March 2018
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 No. 65 – Design Quality of Residential Flat Development State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (BASIX) 2007 State Regional Environmental Plan (Sydney Harbour Catchment) 2005 Auburn Local Environmental Plan 2010 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Auburn Development Control Plan 2010 Auburn Development Contributions Plan 2007 Planning agreements: Nil <ul style="list-style-type: none"> <i>Environmental Planning and Assessment Regulation 2000:</i>

		<p>Section 92 of the EP&A Regulation</p> <ul style="list-style-type: none"> • 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 – March 2017 • Council addendum report – July 2018 • The applicant's legal opinion prepared by Richard Lancaster SC dated 27 July 2018. • Independent legal opinion from Senior Counsel regarding permissibility pursuant to the provisions of Clause 5.10 of the Auburn LEP 2010. • The Council's further legal advice dated 31 July 2018 • Written submissions during public exhibition: 1 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Support – Nil ○ Object – Nil • On behalf of the applicant – Matthew Van Rijswijk and Simon Magri.
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site Inspection, Final Briefing Meeting and Public Meeting – 16 March 2017 • Final Briefing Meeting and Public Meeting – 31 July 2018 • Public Meeting – 11 October 2018 <p>Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Stuart McDonald (Chair), Clare Brown and Peter Brennan ○ <u>Council assessment staff</u>: Karl Okorn and Bernadette Barry
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A