

DATE OF DETERMINATION	30 October 2017
PANEL MEMBERS	Dr. Deborah Dearing (Chair), Dr. John Roseth, Clare Brown, Marcus Sainsbury, Steve Kennedy
APOLOGIES	None
DECLARATIONS OF INTEREST	Sue Francis

Public meeting held at PCYC Northern Beaches, 40 The Kingsway, Dee Why on 30 October 2017, opened at 6:00 pm and adjourned at 7:00 pm, closing at 9:45 pm.

MATTER DETERMINED

2017SNH024 – Northern Beaches - DA2017/0237 at 169 Forest Way Belrose (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 the matters observed at site inspections listed at item 8 in Schedule 1.

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*.

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

The decision was 3:2 (Dr Deborah Dearing, Clare Brown and Marcus Sainsbury) in support of refusal of the application. Against the decision were Dr. John Roseth and Steve Kennedy.

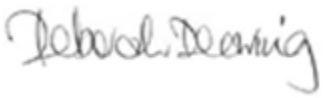


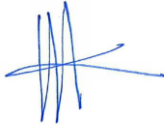

REASONS FOR THE DECISION

The reasons for the decision of the majority of the Panel were:

- Pursuant Section 79C (1) (a) of the *Environmental Planning and Assessment Act 1979* and Clause 12(3) (b) of *Warringah Local Environment Plan 2000* (as amended), the proposed development is inconsistent with the Desired Future Character statement for the B2 Oxford Falls Valley Locality. This inconsistency includes the character of detached style housing conforming with housing density standards as set out in the LEP, low intensity and low impact uses, and the protection and enhancement of land forms and vegetation.
- Insufficient details have been provided to demonstrate that the following requirements of the *Warringah Local Environment Plan 2000* (as amended) can be achieved:
 - Access provisions under Clause (Cl.) 40, in terms of demonstrating equitable access to Forest Way.
 - Cl. 56 – Retaining unique environmental features
 - Cl. 58 – Protection of existing flora
 - Cl. 60 – Watercourses and aquatic habitats
 - Cl. 63 – Landscaped open space
 - Cl. 76 – Management of stormwater
- John Roseth and Steve Kennedy voted to approve the application. They note that the main reason for recommending refusal is that the proposal does not comply with the desired future character of the area. In their view, however, the desired future character has to be read in the context that a seniors housing development to the floor space ratio (FSR) of 0.5:1 is specifically permissible in the

zone. A seniors housing development can never look exactly like a rural residential area, which the desired character statement describes. John Roseth and Steve Kennedy are satisfied that this proposal is consistent with the desired future character to the extent that this is possible for a functioning seniors housing development.

- For the above reason, the minority is satisfied that the height and setback may be varied under Clause 20 of WLEP 2000. In the case of that height variation, the minority notes that the non-complying parts of the building are hardly visible from the outside and that parts of the proposal are below the 8.5m development standard.
- As concerns the variations of setback from the Northern and Southern boundaries, the minority notes that the average setback more than complies and that the proposal provides three large and deep courtyards to both directions. The variation of the setback to Forest Way is of little significance because the building is unlikely to be visible behind the existing street fence. John Roseth and Steve Kennedy are satisfied that the non-complying height and setback do not magnify the extent to which the development is different from a typical rural residential area. For this reason, they consider that, when the whole of WLEP 2000 is considered rather than a single clause, the height and setback may be varied under Clause 20.

PANEL MEMBERS	
 Dr. Deborah Dearing (Chair)	 Dr. John Roseth
 Clare Brown	 Steve Kennedy
 Marcus Sainsbury	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017SNH024 – Northern Beaches - DA2017/0237
2	PROPOSED DEVELOPMENT	Construction of a Residential Care Facility with associated demolition works, car parking and landscaping
3	STREET ADDRESS	169 Forest Way Belrose
4	APPLICANT/OWNER	Japara Healthcare Limited / Brendan Patrick and Adrienne Elizabeth McNally
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy No 55. – Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy – Housing for Seniors or People with a Disability 2004 Warringah Local Environment Plan 2000 Draft environmental planning instruments: Nil 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: 9 October 2017 Written submissions during public exhibition: 48 submissions Verbal submissions at the public meeting: <ul style="list-style-type: none"> Object – Lawrence Ostle, Anne Saxon, representatives from the Child Circuit Community Group - Ange Oliver and Mike Evans On behalf of the applicant – Robert Puflett, Jeff Mead
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing Meeting 10 May 2017 Final briefing meeting to discuss council's recommendation, 30 October 2017 at 4:30 pm. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Dr. Deborah Dearing (Chair), Dr. John Roseth, Clare Brown, Marcus Sainsbury, Steve Kennedy, Larry Peters), <u>Council assessment staff</u>: Lashta Haidari, Anna Williams, Brendan Smith, Ben Fallowfield
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report