

DETERMINATION AND STATEMENT OF REASONS

SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	Monday 31 July 2017
PANEL MEMBERS	Deborah Dearing (Chair), Paul Stein, Steve Kennedy
APOLOGIES	None
DECLARATIONS OF INTEREST	<p>John Roseth declared a non-pecuniary conflict of interest, stating “ I note that the letter of objection of Marilyn Dillon, dated 25 April 2017, which includes the following paragraph: <i>“Lastly I would like to remind all those who were present at the last Joint Panel meeting and when the determination was handed down by the Chairman Mr John Roseth, that he clearly stated to the proponents and the gallery and those present ‘that he did not want to see any further amendments/increases and that should that ever occur they would be given a firm NO’.”</i></p> <p>The objection of Megan Laurence, dated 25 April 2017, states: <i>“When advising of his decision, Mr Roseth stated that he did not want to see another DA for this property with an increased number of beds as he felt 45 was the maximum appropriate for this property. Please remember this statement when considering this proposal.”</i></p> <p>The objection of Richard and Mary Cover, dated 4 May 2017, states: <i>“The Chair of the Panel commented at the time that this approval should be the limit of the development on this site, and no further expanded development should be considered in the future”.</i></p> <p>While I clearly remember the previous determination meeting, I have no recollection of having stated that any future application with an increase in beds would be refused. Indeed, to say that a future and yet unknown application will be refused would be against the requirements of planning legislation, which allows applicants to lodge an unlimited number of applications and requires consent authorities to assess and determine each application with an open mind.</p> <p>I believe that I was misunderstood at the 2015 meeting. However, given that three separate objectors have understood me to say that the Panel would not allow further increases in beds on the site suggests that I have inadvertently created the impression that I have a closed mind in relation to this application. For this reason I declare a conflict of interest and will not participate in the decision of the Panel. “</p> <p>Sue Francis declared a conflict of interest as her firm City Plan Strategy and Development is acting for the applicant on this matter.</p>

Public meeting held at Northern Beaches Council, Manly Chambers, 1 Belgrave Street Manly, on 31 July 2017, opened at 2:30pm and closed at 3:40 pm.

MATTER DETERMINED

2017SNH025 – Northern Beaches – DA2017/0206 at Lot 1113 DP 752038, 1113/752038 Oxford Falls Road Frenchs Forest (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 unanimous.

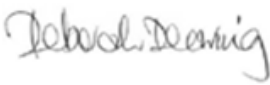

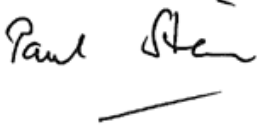
REASONS FOR THE DECISION

The Panel agreed with the Council's recommendation and draft reasons for refusal of the application.

In particular the Panel is of the opinion that;

- Clause 12 subclause 3 of the Warringah LEP 2000 requires that the consent authority "must" be satisfied that the development is consistent with the desired future character statement. The locality statement states that future development will be limited to new detached housing, with low intensity, low impact uses. The Panel is of the opinion that this application is inconsistent with this requirement.
- The Panel believes the site is not a suitable location for the aged care facility proposed. It is an isolated, steep site with no adequate public transport.
- The Panel is of the opinion that the application is inconsistent with the General Principles of the Development Control, clause 58, Protection of Existing Flora, of Warringah LEP 2000.
- The Panel also notes that the application is inconsistent with clause 66 Building Bulk, of Warringah LEP 2000.

The Panel refuses the application for the reasons set out on page 44 of the Council Assessment Report.

PANEL MEMBERS	
 Deborah Dearing (Chair)	 Steve Kennedy
 Paul Stein	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017SNH025 – Northern Beaches – DA2017/0206
2	PROPOSED DEVELOPMENT	Construction of a Residential Care Facility with associated demolition, internal roads, car parking and landscaping
3	STREET ADDRESS	1113 DP 752038, 1113/752038 Oxford Falls Road Frenchs Forest
4	APPLICANT/OWNER	Dukor 24 Pty Ltd Anita Spaliviero
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 Environmental Plan 2000 Draft environmental planning instruments: Nil Development control plans: Nil Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil 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: 17 July 2017 Written submissions during public exhibition: number Verbal submissions at the public meeting: <ul style="list-style-type: none"> In objection: Ann Sharp, Richard Cover, John Dillion, Jennifer Harris, Kathryn Condon, Jacqui Marlow On behalf of the applicant: Dan Maurici, David Ryan, John Travers
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, 31 July 2017 at 12.00 pm. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Deborah Dearing (Chair), Steve Kennedy, Paul Stein <u>Council assessment staff</u>: Lashta Haidari, Anna Williams, Peter Robertson
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report