

DETERMINATION AND STATEMENT OF REASONS

SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	Wednesday, 20 December 2017
PANEL MEMBERS	Julie Savet Ward (Chair), Steve Kennedy, Marcus Sainsbury and Louise Camenzuli
APOLOGIES	None
DECLARATIONS OF INTEREST	Sue Francis declared a non-pecuniary conflict as City Plan Services was engaged to write the Access Report.

Electronic meeting held between 25 June 2018 and 2 July 2018.

2017SNH040 – Northern Beaches – DA2017/0385 and Lot 2/ 1145029 Myoora Rd Terry Hills (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 approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The panel determined to approve the application for the reasons outlined in the council assessment report.

The Panel Chair also notes the following:





- The site is zoned 'RU4 - Primary Production Small Lots' under the Warringah Local Environmental Plan 2011 (WLEP) in which hospitals are normally prohibited. However, the site is located within Area 18, as identified under Schedule 1 'Additional Permitted Uses' of the WLEP which permits hospitals.
- The Species Impact Statement (SIS) has been considered by the Office of Environment and Heritage (OEH) and the OEH has granted concurrence subject to specific conditions. These conditions require, amongst other things, a single Biodiversity Management Plan containing the requirements for protecting and/or minimising impacts to biota within all areas of the site, including the conservation area (until the time where it is secured by the biodiversity stewardship agreement) and the asset protection zones. The OEH also requires that the instrument to secure the management of the minimal-impact asset protection zones be a planning agreement under the *Environmental Planning and Assessment Act 1979*.
- The OEH concurrence identified that clause 5.1(1)(c) of the Biodiversity Conservation Regulation 2017 acts to require that all biodiversity credits generated in connection with the land that is subject to the biodiversity stewardship agreement would need to be retired and could not be

traded nor used to meet any other biodiversity offset obligation. The OEH notes that the applicant has been notified and understands this requirement.

- The development was assessed and consent was determined by application of the former planning provisions, as allowed by clause 28 of the Biodiversity Conservation (Savings and Transitional) Regulation 2017.
- The conditions of consent have been amended to reflect the concurrence conditions from the OEH.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report.

PANEL MEMBERS	
 Julie Savet Ward (Chair)	 Steve Kennedy
 Marcus Sainsbury	 Louise Camenzuli

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017SNH040 – Northern Beaches – DA2017/0385
2	PROPOSED DEVELOPMENT	Construction of a Health Services Facility Private Hospital with associated consulting rooms, car parking, signage and landscaping
3	STREET ADDRESS	Lot 2 DP 1145029 Myoora Rd, Terry Hills
4	APPLICANT/OWNER	Gran-Dia Investments Pty Ltd (Owner) Wyvern Health Pty Ltd (Applicant)
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"> Environmental Planning and Assessment Act 1979 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy No. 33 – Hazardous and Offensive Development State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy No. 64 – Advertising and Signage State Environmental Planning Policy – Infrastructure 2011 Warringah Local Environmental Plan 2011 Draft environmental planning instruments: Nil 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>: 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 supplementary reports: 12 March 2018 and 19 June 2018 Council assessment report: 8 December 2017 Written submissions during public exhibition: 20 Verbal submissions at the public meeting 20 December 2017: <ul style="list-style-type: none"> On behalf of the applicant – Adam Byrnes, Dr. Bill Sears, Kurtis Lindsay, Paul Burcher, Tom Heal and Jeff Fulton. Verbal submissions at the public meeting 21 March 2018: <ul style="list-style-type: none"> In objection: Paul Fullerton on behalf of the Terry Hills Progress Association, On behalf of the applicant – Adam Byrnes, Dr. Bill Sears, Danielle Le Bretton, Kurtis Lindsay, Paul Burcher
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing meeting 31 August 2017 Final briefing meeting to discuss council's recommendation, Wednesday, 20 December 2017 at 9.30am. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: John Roseth (Chair), Steve Kennedy, Marcus Sainsbury, Julie Savet Ward and Louise Camenzuli <u>Council assessment staff</u>: Lashta Haidari, Brendan Smith, Anna Williams, Elizabeth Ashby and Ben Fallowfield

		<ul style="list-style-type: none"> ○ <u>In attendance as an observer:</u> Peter Debnam • Final briefing meeting to discuss council's recommendation, Wednesday, 21 March 2018. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members:</u> Julie Savet Ward (Chair), Steve Kennedy, Marcus Sainsbury and Louise Camenzuli ○ <u>Council assessment staff:</u> Lashta Haidari, Brendan Smith, Anna Williams, Elizabeth Ashby and Ben Fallowfield
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report