

DATE OF DETERMINATION	Wednesday 18 December 2018
PANEL MEMBERS	Peter Debnam (Chair), Sue Francis, John Roseth, Annelise Tuor, Steve Kennedy
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Dee Why Town Hall 1 Belgrave Street Manly on 18 December 2018, opened at 2.45pm and closed at 3.35pm.

MATTER DETERMINED

2018SNH032 – Northern Beaches – DA2018/0995 at 5 Skylike Place 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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

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

The Panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel notes that the proposed use is permissible with consent under SEPP (HSPD) 2004. However, the Panel considers that the Infill Self-Care development proposed at 26.52m high and an FSR of 2.2:1 would be inconsistent with the existing and desired future character of the area established by Warringah LEP 2011 and the DCP, which is required to be considered by clause 33 of SEPP (HSPD).

In addition, the Sydney North District Plan establishes the Precautionary Principle in respect of the retention of employment generating zones and uses. The proposal would be inconsistent with this principle, as, other than for a component of “commercial” uses, limited demonstrable employment is generated by the independent living units.

Accordingly, the Panel accepts the advice of the assessment report to refuse the application for the following reasons:

1. The proposed development is unsatisfactory in respect to Section 4.15 of the EPA Act, as the application is found to be inconsistent with the provisions of SEPP (HSPD) 2004, in particular:
 - a) The proposed development is inconsistent with the Aims of the Policy (namely Clause 2c) in relation to design and compatibility.
 - b) The proposal development has not satisfied the requirement of Clause 19 of SEPP (HSPD) and therefore consent cannot be granted to the development in its current form.
 - c) The scale, bulk and height of proposal is not compatible with the existing and desired future character of the area and does not contribute to the quality and identity of the area as required by Clause 33 of SEPP (HSPD). Whilst there is no FSR or height standard under the SEPP (HSPD), a FSR of 2.2:1 (0.5:1 being a non-refusable provision) and a height of 26.52 metres (8 metres to the

underside of the top most ceiling being the non-refusable provision) is significantly greater than that anticipated by the SEPP (HSPD) for such uses and greater than the likely form of development anticipated in the B7 zone where residential flat buildings are not permitted.

- d) The proposed development does not comply with the requirement of Clause 50 of SEPP (HSDP) with regards to building height, density and scale and solar access requirements.
- e) The proposed development is inconsistent with the amenity provisions of Clause 33 of the SEPP (HSPD).
- f) The proposed development fails to satisfy the infill self-care provisions under Clause 31 of the SEPP (HSPD), specifically the Seniors Living Policy – Urban Design Guidelines for Infill Development.

2. The proposed development should not be approved in its current form as it fails the principles of SEPP 65 insofar as they apply to context and neighbourhood character, built form and scale, density, landscaping, amenity, housing diversity and Social Interaction, and aesthetics. Particulars:
 - a) The proposed building is not compatible with the context of the site that currently contemplates development that is non-residential and of a scale significantly less than that proposed.
 - b) The development does not provide sufficient landscape area commensurate with the bulk and scale of the proposed built form.
 - c) The proposal is inconsistent with several of the requirements as contained in the ADG referenced in SEPP 65.
3. The proposed development is unsatisfactory in respect to Section 4.15 of the EPA Act, as the application is found to be inconsistent with the provisions of SEPP55. Particulars:
 - a) Insufficient information has been submitted to demonstrate that the land will be suitable in its current state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out.
4. The proposed development is inconsistent with the desired future character established by the objectives of the B7 Business Park zone under the Warringah Local Environmental Plan 2011 and the WDCP and the objectives of the Sydney North District Plan in relation to the retention of employment zones and uses.

CONDITIONS

Not applicable.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 18 written submissions made during public exhibition, of which 17 were in objection, and heard from one objector at the public meeting. The issues for which the Panel refused the application were mentioned in most of those objections.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Sue Francis
 John Roseth	 Annelise Tuor
 Steve Kennedy	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SNH032 – Northern Beaches – DA2018/0995
2	PROPOSED DEVELOPMENT	Subdivision of land into 2 allotments, demolition of existing structures, and construction of a mixed use development containing 78 Seniors Housing units, and commercial space.
3	STREET ADDRESS	Lot CP SP 49558, 5 Skyline Place, Frenchs Forest
4	APPLICANT/OWNER	Applicant - Platino Properties Owner - The Owners Of Strata Plan 49558
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy No.55 Remediation of Land - State Environmental Planning Policy (Building Sustainability Index: BASIX) - State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 - State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development - Warringah Local Environmental Plan 2011 - Draft environmental planning instruments: Nil - Development control plans: - 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	- Council assessment report: 6 December 2018 - Applicant submission: 14 December 2018, 17 December 2018 - Conditions received: 17 December 2018 - Written submissions during public exhibition: number - Verbal submissions at the public meeting: - In objection – Theo Zotos - On behalf of the applicant – Dan Keary, Dennis Wilson
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Site inspection and briefing: 8 August 2018 - Final briefing to discuss council's recommendation, 18 December 2018 at 12pm. Attendees: <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, John Roseth, Annelise Tuor, Steve Kennedy <u>Council assessment staff</u>: Lashta Haidari, Anna Williams
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report