

DETERMINATION AND STATEMENT OF REASONS

SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	Wednesday 5 December 2018
PANEL MEMBERS	Peter Debnam (Chair), John Roseth, Sue Francis, David White, Ross Walker
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Hornsby Council Chambers, 296 Peats Ferry Road Hornsby on 5 December 2018, opened at 4pm and closed at 6.30pm.

MATTER DETERMINED

2018SNH043 – Hornsby – DA668/2018 at 3 Quarry Road and 4 Vineys Road Dural (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 application does not comply with the maximum height in the Hornsby LEP 2013 of 10.5m. The applicant has lodged a written request under cl 4.6 of the LEP to vary the control. The Panel accepts the assessment report's conclusion that the cl4.6 variation has not satisfactorily demonstrated that:

- the 10.5m height of buildings development standard is unreasonable or unnecessary in the circumstances of the case;
- there are sufficient environmental planning grounds to justify contravening the development standard; or that
- the development would be in the public interest as it would not be consistent with the zone or standard objectives, and thus would not be in the public interest.

Clause 24(2) of the SEPP(HSPD) requires a development under the Policy to be compatible with the surrounding environment. Clause 24(3)(a)(ii) enables a council to refuse an application based on its own assessment of the compatibility of the proposal with the surrounding environment. Notwithstanding the Site Compatibility Certificate issued for this site, the Panel accepts the assessment report's conclusion that the proposed development is not compatible with its surroundings. The Panel accepts that seniors' housing on this site may be designed to be compatible with the surroundings; however, this particular built form is not compatible. While the site partially adjoins urban land which has urban character, its major visual connection is to land possessing rural character. The Panel also accepts that a seniors' housing development cannot have the exact appearance of rural residential development. However, the design of this particular proposal does not appear to have made any compromise to the fact that, in the main, it is surrounded by rural character.






Clause 17 of SEPP(HSPD) requires that development on land adjoining land zoned for urban purposes is to be serviced self-care housing, where meals, cleaning services, personal care and nursing care are available on site. The applicant has not provided suitable evidence that all these services will be provided.

Clause 28 of the SEPP(HSPD) states that a consent authority must not consent to a development unless it is satisfied by written evidence that the development will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage. There has not been sufficient such evidence.

As the application is integrated development, the Panel cannot grant consent without the written concurrence of the NSW Rural Fire Service. The Service has not issued this concurrence.

The Panel noted the applicant's request, made during the public meeting, that the Panel should defer the determination application. The applicant indicated that it intends to submit amended plans to the court, which would reduce the gross floor space by about one third and would reduce the height so as to comply with the control of 10.5m and further address the threshold issues of permissibility. The Panel's usual practice is to defer applications only when it can require specific nominated amendments which have a good chance to make an application acceptable. In this case, no specific amendments can be indicated due to the extent of amendments required and it is possible that an amended application is so different from the current one before the Panel that it should be treated as a new application.

Accordingly, the Panel unanimously resolved to refuse the application before it for the reasons in the Assessment Report.

PANEL MEMBERS	
 Peter Debnam (Chair)	 John Roseth
 Sue Francis	 David White
 Ross Walker	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SNH43- Hornsby – DA668/2018
2	PROPOSED DEVELOPMENT	Seniors living development comprising 146 independent living units and 74 residential aged care beds.
3	STREET ADDRESS	3 Quarry Road and 4 Vineys Road, Dural
4	APPLICANT/OWNER	Willowtree Planning / Grace Custodian Pty Ltd and H Investments International Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No.55 Remediation of Contaminated Lands State Environmental Planning Policy No.65 – Design Quality of a Residential Apartment Development Sydney Regional Environmental Plan No.20 – Hawkesbury-Nepean River (Deemed SEPP) Hornsby Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Hornsby Development Control Plan 2013 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: 22 November 2018 Written submissions during public exhibition: 225 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Object – Jan Primrose on behalf of Protecting Your Suburban Environment Inc, John Inshaw on behalf of Galston Area Residents' Association Inc, Patricia Brown on behalf of Byles Creek Valley Union, Colin Norris, Ben Seale, John Clarke, Raymond Sloss, Vince Del Gallego, Mario Campo, Doedie Fatt, Mark Bevan, Mark Barlow, Matthew Murphy, Scott Ashwood, Peter Thorburn Council assessment officer - [names of speakers] On behalf of the applicant – Matt Sonter, Steve Zappia, Christo Winters
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: 5 December 2018 Final briefing to discuss council's recommendation, 5 December 2018 at 1.30pm. Attendees:

		<ul style="list-style-type: none">○ <u>Panel members</u>: Peter Debnam (Chair), John Roseth, Sue Francis, David White, Ross Walker○ <u>Council assessment staff</u>: Caroline Maeshian, Rodney Pickles, Scott Barwick (consultant planner for Council)
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report