

DETERMINATION AND STATEMENT OF REASONS
SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	Wednesday 1 May 2019
PANEL MEMBERS	Peter Debnam (Chair), John Roseth, Annelise Tuor, Marcus Sainsbury
APOLOGIES	Abigail Goldberg
DECLARATIONS OF INTEREST	Sue Francis declared a conflict as she is providing planning advice on a similar development in close proximity to this site.

Public meeting held at Northern Beaches Council Chambers at 725 Pittwater Road Dee Why on 1 May 2019, opened at 10.30am and closed at 1.45pm.

MATTER DETERMINED

2018SNH046 – Northern Beaches – DA2018/1332 at 199 & 207 Forest Way Belrose – Glenaeon Retirement Village (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 approve 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 gave major weight to the social benefit of a residential care facility being on the same site as a retirement village with independent living units. The Panel unanimously approved the application, with the deletion of building D.

Despite the advice in the assessment report that the proposal is not permissible, the Panel noted the legal advice provided by the Applicant and the Panel considered that the use was permissible because it meets the requirements in Warringah LEP 2000 that it is land that adjoins land that is primarily used for urban purposes and on which a dwelling house is permissible.

The Panel further noted that the site is near to or neighbouring in sufficient proximity to the R2 zone. The nearest part of the site is within 147m of the nearest part of the R2 zone. The pedestrian connection is at grade and the site would enjoy the same access to facilities as residents in the R2 zone. The Panel was reinforced in this view by the fact that the Department had refused to issue a Site Compatibility Certificate for the site, not because the proposed use was incompatible with the surrounding area, but because the Department considered that the Certificate was unnecessary as the use was permissible.

The additional information provided by the applicant and the deletion of Building D have addressed the environmental concerns to the extent that the Panel considers that the proposal is consistent with the desired future character within the B2 Locality, therefore supports the variation to the height control under Clause 20.

The Panel considered the applicant's request to delete Condition 2, which requires the removal of Building D, but on the basis of the design and information currently before the Panel it was decided to retain Condition 2.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following notes and amendments:

The Panel notes that the applicant has requested also the deletion or amendment of Conditions 9, 11, 12, 13, 14, 27, 28, 29 and 99. The Panel determined to retain conditions 27, 28 and 29. Condition 99 is retained to ensure the provision of shuttle services.

Further, the Panel notes that Condition 9 remains as the council has no written evidence that the development will be run by a not-for-profit service provider. On receipt of such evidence, the applicant may apply for the deletion of this condition.

The following amendments to conditions were made:

- Condition 3 is amended to include conditions from AusGrid.
- Condition 11 amended to reflect a financial bond to \$150,000 required.
- Condition 12 to be deleted.
- Condition 13 amended to read as follows:
The developer/applicant must lodge with Council a Maintenance Bond of \$70,000 for the construction of footpath works. The Maintenance Bond will only be refunded on completion of the six month Maintenance Period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council issuing practical completion and may be exchanged for the works bond.
- Condition 14 amended to read as follows:
An Application for footpath reconstruction works to be approved within Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design and construction of 1.5m wide footpaths to the existing bus shelter on the eastern side of Forest Way and to the existing bus stop on the western footpath of Forest Way. (corner Morgan Road).





The Footpath to the bus stop on the eastern side of Forest Way is to be constructed from the Gleneon corner to the existing signalised crossing at Morgan Road, then on then continue on the western side of Forest way to the existing Bus stop (corner Morgan Road) on an approved Council alignment.

The kerb and gutter and road pavement in Gleneon Avenue is also to be reconstructed where it has been damaged by trees roots .

All newly constructed footpaths, road works, pedestrian ramps , driveway crossings and the bus shelter are to be generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and/ or Council's Minor Works Policy and other Council specifications. The plans shall be prepared by a qualified structural/civil engineer. The design must include the following information: The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. An approval is to be submitted to the Council prior to the issue of the Construction Certificate

CONSIDERATION OF COMMUNITY VIEWS

The Panel notes that there were 52 letters of support for the proposal and no objections. Two supporters addressed the public meeting pointing out its benefits.

PANEL MEMBERS	
 Peter Debnam (Chair)	 John Roseth
 Annelise Tuor	 Marcus Sainsbury

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SNH046 – Northern Beaches – DA2018/1332
2	PROPOSED DEVELOPMENT	Demolition works and construction of major additions to Glenaeon Retirement Village, including self-contained dwellings and a new residential care facility on a neighbouring lot, with associated car parking, landscaping and public road modifications.
3	STREET ADDRESS	199 & 207 Forest Way, Belrose
4	APPLICANT/OWNER	Lendlease Retirement Living Holding Pty Ltd (Applicant) John Frederick Lindley (Owner) Colleen Lindley (Owner) Lendlease Retirement Living Holding Pty Ltd (Owner)
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 (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: <ul style="list-style-type: none"> Warringah Development Control Plan 2000 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: 18 April 2019 Applicants Responses: 29 April 2019 Written submissions during public exhibition: 52 letters and 2 petitions all in support Clause 20 of Warringah Local Environmental Plan 2000 request Verbal submissions at the public meeting: <ul style="list-style-type: none"> In support – David Judge, Anne Savern On behalf of the applicant – Simon Militano, Adraian Galasso, Andrew Duggan, Elizabeth Ashby, Kevin Roberts
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: 17 October 2018 Briefing: 17 October 2018 Final briefing to discuss council's recommendation, 1 May 2019 at 10am. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), John Roseth, Annelise Tuor, Marcus Sainsbury <u>Council assessment staff</u>: Lashta Haidari, Peter Robinson, Anna Williams, Ben Fallowfield, Rob Blackall, Anthony Powe, Rob Barbuto
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report

