

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY CENTRAL CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	11 May 2020
<b>PANEL MEMBERS</b>	Abigail Goldberg (Chair), Ken McBryde, David Ryan, Sameer Pandey and Martin Zaiter
<b>APOLOGIES</b>	Nil
<b>DECLARATIONS OF INTEREST</b>	Ms Morrish advised that she has worked with both the applicant and the architects on another nursing home development in the Northern Beaches area about 18 months ago and as such will not participate in the Panel meeting.

Public meeting held by teleconference on 6 May 2020, opened at 12.00pm and closed at 1:55pm.

#### MATTER DETERMINED

2019CCIO13 – City of Parramatta – DA85/2019 - 43-47 Murray Farm Road and 13-19 Watton Road, Carlingford, Demolition of existing structures, tree removal and construction of a part two (2) part three (3) and part four (4) storey residential care facility (Seniors Housing) (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.

#### Development application

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

- 1) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* and Clause 30 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the site analysis does not adequately address the privacy of the adjoining properties by failing to identify location of balconies and windows overlooking the site.
- 2) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* and Clause 33 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the proposed development does not maintain a reasonable neighbourhood amenity and appropriate residential character by failing to adopt a building height that is compatible in scale with adjacent developments.
- 3) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* and Clause 34 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the proposed development fails to maintain a reasonable visual privacy of neighbours in the vicinity of the development.
- 4) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* and Clause 35-‘Solar Access’ of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the proposed development fails to provide adequate solar access to the

living areas and private open space for the future residents of the Residential Care Facility. Poor cross ventilation is also provided for the proposed residents.

- 5) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 and Clause 37 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the proposed development is inconsistent with the intent of the safety measures.
- 6) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 and Clause 40(4) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the proposed development is not suitably located and designed to be consistent with the objective of the Clause.
- 7) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 and Clause 40(4)(a) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 'Height in zones where residential flat buildings are not permitted' as the proposal will result in a building height of 12.6m exceeding the maximum building height by 4.6m (57.5%). The variation under the provisions in Clause 4.6 of Parramatta (former The Hills) LEP 2012 is not supported.
- 8) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 and Clause 40(4)(b) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the proposal breaches the number of storeys control stipulated under this Clause.
- 9) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 and Clause 48(a) – 'Building Height' of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, as the building height is greater than the maximum under this clause and is excessive.
- 10) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 and Clause 48(b) – 'Density and scale' of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, as the FSR is greater than the maximum under this clause and the density and scale is excessive.
- 11) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposal is inconsistent with Parramatta (former The Hills) Local Environmental Plan 2012, Clause 1.2(a) and (d) 'Aims of Plan' as the subject application fails to provide an orderly and sustainable built environment that is compatible within the local context of the area.
- 12) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, as the proposal fails to comply with the objectives of a low density residential zone objectives bullet point three of Clause 2.3 of Parramatta (former The Hills) Local Environmental Plan 2012, in that it does not satisfactorily maintain the existing low density residential character of the area.
- 13) Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the development would result in an adverse environmental and amenity impact on the surrounding built environment as the proposal would result in adverse visual and overshadowing impacts and not be consistent with the existing streetscape.
- 14) The proposal fails to satisfy the relevant considerations under Section 4.15(1)(c) Environmental Planning and Assessment Act 1979 for suitability of the site, built environment, and the public interest.

- 15) The proposal fails to satisfy the relevant considerations under Section 4.15(1)(e) Environmental Planning and Assessment Act 1979 in that the adverse impacts by the development due to non-compliances with the applicable planning controls are not beneficial for the local community and as such, are not in the wider public interest.






The Panel regrets the Applicant's declining to attend meetings with Council's Design Review Panel, poor response to Council's requests for design amendments, and electing not to present at the public meeting.

#### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during the public exhibition and verbal submissions made at the meeting. The Panel notes that issues of concern raised by the community included:

- Non-compliance with SEPP HSPD 2004 and LEP controls, in particular building height;
- Bulk and scale of development not in keeping with low density character of area/streetscape;
- Overlooking of neighbouring properties;
- Tree removal;
- Proximity to other Aged Care Facilities;
- Suitability of the site for Aged Care residents, including as a result of gradient and areas subject to flooding;
- Construction impacts – noise, dust, trucks, cranes, sediment control, deliveries;
- Increased traffic/lack of infrastructure/safety/lack of parking;
- Noise impacts;
- Lack of appropriate shops and other facilities for residents in the local area;
- The proposed facility is poorly serviced by public transport;
- Flooding/stormwater drainage on site and in the local vicinity;
- Overshadowing/sun glare; and
- Impacts on visual privacy.

The Panel considers that several of the concerns raised by the community have not been adequately addressed or resolved by the application, as described in the assessment report.

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 Ken McBryde
 David Ryan	 Sameer Pandey
 Martin Zaiter	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019CCIO13 – City of Parramatta – DA85/2019
2	PROPOSED DEVELOPMENT	Demolition of existing structures, tree removal and construction of a part two (2) part three (3) and part four (4) storey residential care facility (Seniors Housing) comprising of 120 beds with one level of basement car parking.
3	STREET ADDRESS	Lot 1 DP 210512, Lot 16 DP 238510, Lot 6 DP 259726, 43-47 Murray Farm Road and 13 and No. 19 Watton Road, Carlingford
4	APPLICANT/OWNER	H B+B Property Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (State and Regional Development) 2011.</li> <li>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>State Environmental Planning Policy 55 – Remediation of Land</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD 2004).</li> <li>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>Parramatta (Former The Hills) Local Environmental Plan 2012</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>The Hills Development Control Plan 2012</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the Environmental Planning and Assessment Regulation 2000</li> <li>Coastal zone management plan: [Nil]</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations <ul style="list-style-type: none"> <li>The public interest, including the principles of ecologically sustainable development</li> </ul> </li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 6 May 2020</li> <li>Council addendum report: 6 May 2020</li> <li>Written submissions during public exhibition: 45</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>In support – Nil</li> <li>In objection –</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ Lynton Kallimer</li> <li>○ Scott Hale</li> <li>○ Philip Baker</li> <li>○ Wal Haidar</li> <li>○ Suzanne Kennewell</li> <li>○ Brian Lin</li> <li>○ Council assessment officer – Deepa Randhawa and Steven Chong</li> <li>○ On behalf of the applicant – Robert Pufflett did not attend the public presentations, nor did he present but made himself available to answer questions subsequent to Council having presented.</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 12 June 2019 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Paul Mitchell (Acting Chair), Peter Brennan and Sameer Pandey</li> <li>○ <u>Council assessment staff</u>: Deepa Randhawa</li> </ul> </li> <li>• Site inspection: Site inspections have been curtailed due to COVID-19. Where relevant, Panel members undertook site inspections individually.</li> <li>• Final briefing to discuss council's recommendation, 6 May 2020, 10.45am. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Abigail Goldberg (Chair), Ken McBryde, David Ryan, Sameer Pandey and Martin Zaiter</li> <li>○ <u>Council assessment staff</u>: Deepa Randhawa and Steven Chong</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A