

DATE OF DETERMINATION	9 December 2020
PANEL MEMBERS	Peter Debnam (Chair), Sue Francis, Ross Walker, David White
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 2 December 2020.

MATTER DETERMINED

PPSSNH-22 – Hornsby – DA315/2019 at 284 Castle Hill Road Castle Hill for a seniors living development (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.

Application to vary a development standard

The Panel considered the written request under Clause 4.6 from the applicant, made under cl 40 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors), which has not demonstrated that:

- compliance with cl.40 (SEPP Seniors is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard.

The Panel is **not** satisfied that:

- the Applicant's written request adequately addresses the matters required to be addressed under cl 40 of SEPP Seniors; and
- the development is in the public interest because it is consistent with the objectives of cl. 40 of SEPP Seniors.

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

The Panel originally considered the proposal in December 2019 and at that time, at the request of the Applicant, deferred determination to allow urgent resolution of outstanding concerns. In the intervening year, the Applicant submitted amendments to Council, which were further assessed.

The amended proposal does not comply with the 8 metre building height development standard in Clause 40(4)(a) and the 2 storey building height control in Clause 40(4)(b) of SEPP Seniors. The Applicant made a submission in accordance with Clause 4.6 of the HLEP. While Council considered the development's character and height could be supported, in principle, there remain technical concerns with the form and content of the Clause 4.6 submission, which need resolution.

Additionally, the RMS does not support the proposed development and has not provided concurrence for the proposed roadwork at Old Northern Road and the relocation of the RMS drainage easement from

Castle Hill Road. Section 138(2) of the Roads Act provides that 'A consent may not be given with respect to a classified road except with the concurrence of RMS.'





Consequently, the Panel does not support the applicant's Clause 4.6 variation request to vary development standards in the SEPP Seniors and is not empowered to approve the application in the absence of the RMS concurrence. Therefore, the Panel determined to refuse the application for the reasons outlined in Council's Assessment Report.

CONDITIONS

Not applicable.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered one written submission, regarding privacy concerns, made during public exhibition of the amended proposal. The Panel notes the issue was adequately addressed in the Assessment Report.

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-22 – Hornsby – DA315/2019
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of seniors housing incorporating a 92 bed residential care facility, 162 independent living units, and ancillary works and facilities including office, café, earthworks and landscaping.
3	STREET ADDRESS	284 Castle Hill Road Castle Hill, 411-415 and 417-419 Old Northern Road Castle Hill
4	APPLICANT/OWNER	Anglican Community Services / Anglican Retirement Villages and Anglican Community Services
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 No. 44 - Koala Habitat ○ State Environmental Planning Policy No.55 - Remediation of Land ○ State Environmental Planning Policy No.65 - Design Quality of Residential Apartment Development ○ State Environmental Planning Policy No. 20 - Hawkesbury-Nepean River ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ 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 • Biodiversity Conservation Act 2016 • Roads Act 1993 • 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: 29 November 2019 • Clause 4.6 Variation Request • Council supplementary report: 25 November 2020 • Written submissions during public exhibition: 2 • Verbal submissions at the public meeting 11 December 2019: <ul style="list-style-type: none"> ○ In support – Nil ○ In objection – Nil ○ Council assessment officer - Nil ○ On behalf of the applicant - Nil

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing:11 September 2019 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, John Roseth, David White, Ross Walker ○ <u>Council assessment staff</u>: Caroline Maeshian, Deborah Dickerson (consultant for council), Cassandra Williams • Site inspection: 11 December 2019 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, John Roseth, David White, Ross Walker ○ <u>Council assessment staff</u>: Caroline Maeshian, Deborah Dickerson (consultant for council), Cassandra Williams • Final briefing to discuss council's recommendation,11 December 2019 at 1pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, John Roseth, David White, Ross Walker ○ <u>Council assessment staff</u>: Caroline Maeshian, Rodney Pickles, Deborah Dickerson • Final briefing to discuss council's recommendation, 9 December 2020 at 9.30am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, David White, Ross Walker ○ <u>Council assessment staff</u>: Caroline Maeshian, Rodney Pickles, Deborah Dickerson
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report