

DETERMINATION AND STATEMENT OF REASONS
SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	7 February 2022
DATE OF PANEL DECISION	2 February 2022
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Ross Walker and David White
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 19 January 2022.

MATTER DETERMINED

PPSSNH-261– Hornsby – DA/1012/2021, Lot 10 DP 1209584, No. 449D Pennant Hills Road, Pennant Hills, Change of use of the Mount St Benedict (MSB) Centre to an educational establishment including associated fitout and alterations and additions (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

Following consideration of a written request from the applicant, made under cl 4.6 (3) (Building Height) of Hornsby Local Environmental Plan 2013 (LEP), that has demonstrated:

- a) compliance with cl. 4.3 is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

The Panel is satisfied that:

- a) the applicant’s written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 of the LEP and the objectives for development in the R2 Low Density Residential zone; and
- c) the concurrence of the Secretary has been assumed.

Development application

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

The Panel’s decision was unanimous.

REASONS FOR THE DECISION

The Proposal seeks consent for the change of use of the Mount St Benedict (MSB) administration and Conference Centre to an educational establishment including associated fit-out, alterations and additions.

The Proposal does not comply with Clause 4.3 of the *HLEP* with regard to building height. The applicant submitted a Clause 4.6 Request to contravene the building height development standard and the Panel concurs with Council that the request is well founded and can be supported.

The Panel notes the Proposal does not seek an increase in the number of students or staff imposed by Condition No. 9 of Development Consent No. DA/383/2017 (1,232 students and 135 staff). The Panel suggests that Council require any future proposal seeking to increase the approved student numbers to be submitted as a DA - as opposed to a modification application.

The Proposal satisfies the definition of 'educational establishment' which is a permissible use with consent in the R2 Low Density Residential zone of the *HLEP*.

A key issue was balancing the retention of heritage fabric of the MSB Centre with the fire egress upgrades necessitated by the *Building Code of Australia* (BCA). The Panel concurs with Council that the proposed development provides for a safe and accessible school building that effectively balances the BCA and heritage considerations of the *HLEP* and Hornsby Development Control Plan 2013 (HDCP).

The development generally meets the desired outcomes of Council's planning controls and is satisfactory having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The Panel concurs with Council the proposed development complies with the requirements of the relevant environmental planning instruments, including *State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017*, does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, overshadowing, solar access, amenity, privacy, heritage conservation and traffic management, subject to conditions. Accordingly the Panel considers approval of the DA to be in the public interest.

CONDITIONS

The DA was approved subject to the conditions in Council's Assessment Report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes no written submissions were made during public exhibition.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Ross Walker OAM
 David White	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-261– Hornsby – DA/1012/2021
2	PROPOSED DEVELOPMENT	Change of use of the Mount St Benedict (MSB) Centre to an educational establishment including associated fitout and alterations and additions
3	STREET ADDRESS	Lot 10 DP 1209584, No. 449D Pennant Hills Road, Pennant Hills
4	APPLICANT/OWNER	Applicant - Mecone - Addison Boykin Owner - Sisters of The Good Samaritan
5	TYPE OF REGIONAL DEVELOPMENT	Integrated Development - CIV>\$5M - Private Infrastructure and Community Facilities
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> • State Environmental Planning Policy No. 55 Remediation of Land • State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 • State Environmental Planning Policy (Infrastructure) 2007 • Hornsby Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: Nil • 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: 19 January 2022 • Architectural Plans • Clause 4.6 Request • Heritage Report • Statement of Environmental Effects • Arboricultural Report • BCA & Access Report • Acoustic Report • Written submissions during public exhibition: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Kick off briefing – 19 October 2021 • Assessment Briefing – 23 November 2021 • Final briefing to discuss council's recommendation: 2 February 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk,

		<p>David White and Ross Walker</p> <ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Thomas Dales and Rodney Pickles
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report (Attachment A)