

DATE OF DETERMINATION	25 November 2020
PANEL MEMBERS	Peter Debnam (Chair), Sue Francis, Brian Kirk, Marcus Sainsbury, Steve Kennedy
APOLOGIES	Annelise Tuor, Julie Savet Ward
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 25 November 2020, opened at 1.35pm and closed at 2.16pm.

MATTER DETERMINED

PPSSNH-92 – Northern Beaches – DA2020/0484 at Hakea Avenue Frenchs Forest for a new chapel (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) of the Warringah Local Environmental Plan 2011 (LEP), that has demonstrated that:

- a) compliance with cl.4.3 (Height of Buildings) 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 (Height of Building) of the LEP and the objectives for development in the SP1 Special Activities - Cemetery 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 decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variation to building height; and approve the application for the reasons outlined below and in the Council Assessment Report.

The development application was lodged on behalf of the Crown seeking approval for the redevelopment of part of the site as a cemetery and associated facilities, known as the Frenchs Forest Bushland Cemetery. The proponent is the Northern Metropolitan Cemeteries, which is a Crown authority for the purposes of the DA and Clause 4.33 of the EP&A Act.

The proposed development was assessed against applicable state and local planning policies and the proposal represents a design and form that is generally consistent with the objectives of the planning controls and policies as they apply to the site and it will have an acceptable environmental impact.

The main building in the proposal is the chapel building, which is reliant upon a variation to the 8.5m maximum building height development standard prescribed by clause 4.3 of WLEP 2011, having a height of 10.97m, which represents a variation of 29% (2.47m). The Panel concurs with Council that the proposal is consistent with the objectives of the zone and the development standard and the proposed variation is appropriate in the circumstance.

The development will not create unreasonable impacts on the site or adjoining properties and the Applicant successfully demonstrated that strict compliance with the development standard is unreasonable and unnecessary and there are sufficient environmental planning grounds to justify contravening the development standard. The Clause 4.6 variation is well founded and has addressed the matters within Clause 4.6(3).

The proposed development also does not comply with the 6.5m front setback requirement in Clause B7 "Front Building Setback" of WDCP 2011. The siting of the proposed chapel is dictated by the constraints of the site, being the location of existing and future internments, a stormwater channel, significant native trees, the riparian zone and the location of existing buildings. Due to these circumstances, the available area for the Chapel results in the building having a reduced setback, ranging from 1.9m to 3.5m. The Panel concurs with Council that the setback non-compliance is acceptable in the circumstances, having regard to the site constraints. In relation to neighbours' concerns with landscaping, the Panel formed the view that new trees planted adjacent to the Chapel and the Hakea Road frontage should be advanced and the conditions were amended to require 100 litre minimum size when planted.

Having considered all the relevant matters, the Panel formed the view that the proposal is an appropriate and considered development response to the site, which satisfies the relevant planning controls and policies and is in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report and with the following amendment:

- Condition 42 to read as follows.

Landscape completion

Landscaping is to be implemented in accordance with the Landscape Plans numbered L-00, L- 01, L-02, L-03, L-04, L-11, L-12, L-13, L-14, L-21, L-22, L-23, L-24, L-31, L-32, L-41, L-42, L-51, L-52, and L-53, all revision G, prepared by Spackman Mossop Michaels Landscape Architects, inclusive of the following requirement:

- *Works and planting within the road reserve as shown on L-13 is to be excluded and subject to a Minor Encroachment within the Road Reserve application.*
- *All trees within the area adjacent to the proposed Chapel and the Hakea Road frontage as identified on the Landscape plans attached dated 27/7/20, must be 100 litres minimum size when planted.*

Upon completion of the works, a landscape report prepared by a landscape architect or landscape designer shall be prepared certifying that the landscape works have been completed in accordance with the Landscape Plans and any conditions of consent.






Reason: environmental amenity.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the public meeting. The Panel noted issues of concern included:

Lack of parking; Traffic; Neighbourhood Character; Chapel Height; Insufficient Consultation; and Landscaping.

The Panel considers concerns raised by the community have been adequately addressed in Council’s Assessment Report, Applicant and Council responses during the public meeting and in the conditions as amended.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Sue Francis
 Brian Kirk	 Steve Kennedy
 Marcus Sainsbury	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-92- Northern Beaches – DA2020/0484
2	PROPOSED DEVELOPMENT	Demolition works, alterations and additions to an existing Cemetery, including the construction of new chapel building, new amenities building, storage and operations shed.
3	STREET ADDRESS	Lot 7335, DP 1152473 Hakea Avenue, Frenchs Forest
4	APPLICANT/OWNER	Department Of Lands (Owner) Frenchs Forest Cemetery (Owner) Northern Metropolitan Cemeteries Land Manager (Applicant)
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Coastal Management) 2018 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No. 55 – Remediation of Land (and draft) Warringah Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Warringah Development Control Plan 2011 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: 11 November 2020 Clause 4.6 Written Request – Height of Building Written submissions during public exhibition: 15 Total unique submissions received by way of objection: 15 Verbal submissions at the public meeting 25 November 2020: <ul style="list-style-type: none"> Community members: Beth Robertson, James Harrison Council assessment officer: On behalf of the applicant: Michael Haynes, David Ham
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 25 June 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Annelise Tuor, Steve Kennedy <u>Council assessment staff</u>: Lashta Haidari, Steve Findlay Final briefing to discuss council's recommendation: 25 November 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, Brian Kirk, Steve Kennedy, Marcus Sainsbury <u>Council assessment staff</u>: Lashta Haidari, Steve Findlay
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report