

## Record of Briefing Meeting Sydney South Planning Panel

<b>PANEL REFERENCE, DA NUMBER &amp; ADDRESS</b>	PPSSSH-98 – Sutherland Shire – MA20/0035 - 52 Seventh Avenue, Jannali 2226
<b>APPLICANT / OWNER</b>	Susanna Cheng - NSW Land & Housing Corporation
<b>APPLICATION TYPE</b>	Modification Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 4.33 2(A) Environmental Planning and Assessment Act 1979
<b>KEY SEPP/LEP</b>	Seniors Housing SEPP, Sutherland Local Environmental Plan 2015
<b>CIV</b>	\$6,801,136.00 (excluding GST)
<b>MEETING DATE</b>	1 February 2022

### ATTENDEES

<b>PANEL</b>	Helen Lochhead, Stuart McDonald, Heather Warton
<b>COUNCIL OFFICERS</b>	Gurinder Walia, Carine Elias, Beth Morris and Annette Birchall
<b>CASE MANAGER</b>	Leanne Harris, Holly McCann and Jeremy Martin (observing)

### ISSUES LIST

- This DA was previously approved by the former East Sydney Joint Regional Planning Panel and has subsequently been built.
- The modification application was lodged 7/2/2020
- The application is yet to be considered by the Sydney South Planning Panel and therefore future comment will not be limited to the detail contained within.

### KEY ISSUES IDENTIFIED FOR CONSIDERATION

- Modification application to a Crown DA (LAHC)
- Matter relates primarily to a compensation arrangement between LAHC and the Council.
- The development consent required constructed drainage works over Council reserve at 44R Seventh Avenue. Regardless, these works require development consent under section 68 of the Local Government Act 1993.
- LAHC argues that under Section 68 of the Local Government Act 1993, the Crown is exempt from 'approval to do things incidental to the erection or demolition of building'. Council's Engineer (Assessment Team) does not agree that stormwater drainage works constitute 'incidental works', rather the drainage is critical to the effective operation of the development.

- At this stage there is no easement established and no payment for the right of the drainage easement
- The Sutherland Shire Council (resolution on 16 July 2018), resolved to grant the easement over its land at a compensation fee of \$37,500. This resolution does not give Council staff discretion to charge less compensation for the drainage easement and therefore the current modification application to remove Condition 14 (iii) is recommended for refusal.
- The Panel concurs that a right of easement needs to be established.
- The NSW LAHC should withdraw the application, alternatively the Minister for Planning could be requested to determine the application.
- In accordance with previous advice, the Panel confirms that it does not intend to exercise the functions of a Consent Authority pursuant to Section 4.33(3) of the EP&A Act. The Panel has determined to return the application to Council.