DETERMINATION AND STATEMENT OF REASONS

SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	Monday, 21 September 2020
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran, Stuart, McDonald and Glenn McCarthy
APOLOGIES	Ross Fowler
DECLARATIONS OF INTEREST	Louise Camenzuli: One of my Partners at Corrs Chambers Westgarth has advised the applicant or an affiliated entity of the applicant of the above development proposal. As a Partner of the firm, I consider that this fact, while the relevant file is unrelated to the proposal being assessed, may result in a reasonably perceived conflict of interest.

Public meeting held Public Teleconference on 21 September 2020, opened at 11:02am and closed at 12:10pm.

MATTER DETERMINED

PPSSWC-43 – Penrith – DA19/0808 at 39 Jordan Springs Boulevard, Jordan Springs NSW 2747 – Stage Two (2) Works of an Approved Concept Development Application (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 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

1. The panel notes that the DA made under Sydney Regional Environmental Plan No. 30 (SREP 30) has been assessed by Council staff to comply with the relevant provisions of that instrument and to warrant approval having regard to the considerations identified in section 4.15 of the Environmental Planning & Assessment Act 1979 (EP&A Act). The Panel accepts and in substance agrees with that assessment and is satisfied that the development described in the DA conforms with the development consent issued for the site by the determination of concept development application DA18/0678. The concept development approved by that consent included as Stage 2 indicative building envelopes for three apartment buildings along the site's southern boundary of up to 6 storeys for each building. The development proposed in this DA is consistent with that concept.

2. The proposed facility will facilitate the supply and choice of aged persons housing within the developing Jordan Springs Estate residential area as part of the Western Precinct close to the facilities offered by the Jordan Springs commercial centre, but with a pleasing outlook over the preserved natural bushland in the regional park and waterbody to the south and west of the site.

3. The proposed development, subject to the conditions imposed, adequately satisfies the relevant State Environmental Planning Policies including most relevantly SREP 30, State Environmental Planning Policy No 65 (Design Quality of Residential Flat Development) 2004 (SEPP 65), and SEPP 55 Remediation of Land. It also adequately conforms with the requirements and objectives of the Precinct Plan for the

Western Precinct (WPP) and an accompanying Development Control Strategy (DCS). While not strictly applying as the DA was made under SREP 30, the application has been assessed by Council against the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 with which it has been found to be substantially compliant. After its own review, the Panel accepts that important issues raised by that instrument of scale of the proposal within the character of the locality and solar access to the new seniors units are sufficiently addressed.

4. Notably, the Council report has been undertaken on the basis that SEPP 65 does not apply, but nonetheless a detailed consideration of the considerations raised by that Instrument and relevant considerations under the Apartment Design Guide is included. The Panel is of the view that SEPP 65 does in fact apply as the development meets the description in the instrument of a development incorporating residential flat buildings. In considering the important matters raised by that SEPP the Panel in terms of privacy, presentation to the locality and solar access, the Panel is of the view the building performs sufficiently, generally for the reasons set out in the assessment reports consideration of the relevant matters. In particular, while solar access is compromised by the orientation of the building to the south, there will be sufficient areas receiving sun from the north taking into account the offsetting advantages of the bushland outlook gained by the southern orientation. The larger development of the site includes communal facilities which will be available for the use of residents of these new buildings.

5. The proposed development subject to the conditions imposed complies with the requirements of the Rural Fires Act 1997. While seniors housing is a special fire protection purpose development under Section 100B of the Rural Fires Act 1997) and the site of the new buildings is mapped as bushfire prone land, the DA was referred to the NSW Rural Fires Service which has issued its General Terms of Approval (GTA) dated 13 March 2020, raising no objection to approval of the proposal). The Panel is satisfied that the requirements of the Act will be met, and fire risk will be sufficiently mitigated.

6. The Panel considers that the 'Kingfisher Grove Retirement Village, Jordan Springs Aboriginal Cultural Heritage Assessment Report' prepared by GML Heritage and dated 22 May 2020 adequately addresses potential aboriginal heritage, noting that the document is reported to have been reviewed by NSW DPIE, who issued its GTA dated 21 July 2020, raising no objection to the proposal, subject to conditions.

7. The scale, architectural treatment and landscape treatment adopted for the proposal are consistent with the character of the larger development described in the concept approval and is sufficiently sensitive to its proximity to adjoining bushland.

8. The proposed development will have no unacceptable adverse impacts on the natural or built environments including impacts on natural bushlands and on the performance of the local road network, noting that these issues have been addressed in strategic assessments determining the urban use of this land reflected in the staged development consent and concept plan for the adjoining development which identifies the seniors living apartments use and flat building typology for this property.

9. In consideration of conclusions 1-8 above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

CONDITIONS

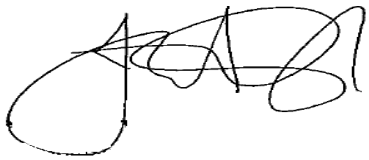
10. The development application was approved subject to the conditions in the council assessment report but with an additional condition with final wording as drafted by Council to the effect:

    - Prior to occupation of the development a positive covenant is to be registered on the title under s.88E of the Conveyancing Act 1919, with the Council's approval required before it can be released, which requires the communal facilities within Building A including the swimming pool and gymnasium to be available to residents of the buildings approved by this Stage 2 consent at all times they are available to other residents, with suitable access arrangements to be kept in place.

CONSIDERATION OF COMMUNITY VIEWS

11. In coming to its decision, the panel considered a number of issues raised in response to the proposal in written submissions made by Mr William Kennedy during public exhibition and his oral address during the meeting. Mr Kennedy is the owner of a torrens allotment he is constructing in a new subdivision on the western side of the drainage channel. His new house will be oriented to take into account views across the water to the site of these buildings which is currently bush.

12. In coming to the opinions listed above, the Panel took careful consideration of those matters. The panel noted particularly the introduction of a significant planting to soften over time the presentation of the new buildings when viewed from the West. The Panel was also satisfied that the Western Precinct of the Jordan Springs Estate will be adequately serviced by range of open space and recreational areas and facilities for passive and active recreation within close proximity to the subject site.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurran
 Stuart McDonald	 Glenn McCarthy

SCHEDULE 1		
1	**PANEL REF – LGA – DA NO.**	PPSSWC-43 – Penrith – DA19/0808
2	**PROPOSED DEVELOPMENT**	Stage Two (2) Works of an Approved Concept Development Application comprising the Construction of Three (3) Six (6) Storey Seniors Living Apartment Buildings including 139 x Independent Living Units, Communal Facilities, 171 x Car Parking Spaces and associated Earthworks and Landscaping
3	**STREET ADDRESS**	39 Jordan Springs Boulevard, Jordan Springs NSW 2747
4	**APPLICANT/OWNER**	Lendlease R1 Jordan Springs Holding Pty Ltd
5	**TYPE OF REGIONAL DEVELOPMENT**	Crown development over $5 million

6	**RELEVANT MANDATORY CONSIDERATIONS**	• Environmental planning instruments:
		  ○ Sydney Regional Environmental Plan No. 30 – St Marys
		  ○ Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River
		  ○ State Environmental Planning Policy No. 55 – Remediation of Land
		  ○ State Environmental Planning Policy (Building Sustainability Index BASIX) 2004
		  ○ State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2009
		  ○ State Environmental Planning Policy No 65 (Design Quality of Residential Flat Development) 2004
		• Draft environmental planning instruments: Nil
		• Development control plans:
		  ○ Western Precinct Development Control Plan 2014
		  ○ Penrith Development Control Plan 2014
		• Planning agreements: Nil
		• Provisions of the *Environmental Planning and Assessment Regulation 2000*: (including **Section 143**)
		• 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
		• Submissions made by a nearby land owner - William Kennedy - in accordance with the *Environmental Planning and Assessment Act 1979* or regulations
		• The public interest, including the principles of ecologically sustainable development

7	**MATERIAL CONSIDERED BY THE PANEL**	• Council memo received: 21 September 2020
		• Council assessment report: 10 September 2020
		• Written submissions during public exhibition: 1
		• Verbal submissions at the public meeting:
		  ○ William Kennedy
		  ○ Council assessment officer – Gavin Cherry
		  ○ On behalf of the applicant – Karen Armstrong, Dan Keary, Laurice Elhaj nd Chris Newman
		• Total number of unique submissions received by way of objection: 1

8	**MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL**	• Briefing: Monday, 17 February 2020
		  ○ Panel members: Justin Doyle (Chair), Nicole Gurran, Susan Budd, Glenn McCarty and Jeni Pollard
		  ○ Council assessment staff: Jane Hetherington and Kate Smith

		• Final briefing to discuss council's recommendation**:** Monday, 21 September 2020
		  ○ Panel members: Justin Doyle (Chair), Nicole Gurran, Stuart McDonald and Glenn McCarthy
		  ○ Council assessment staff: Jane Hetherington, Kate Smith, Natalie Stanowski and Gavin Cherry

9	**COUNCIL RECOMMENDATION**	Approval
10	**DRAFT CONDITIONS**	Attached to the council assessment report