

COMMENCEMENT

The meeting opened at 10.30am.

IN ATTENDANCE

| | |
|--------------------|--------------------------|
| Peter Tomasetti SC | Chair |
| Peter Watts | Expert Member |
| Eugene Sarich | Expert Member |
| Barry Buffier | Community Representative |

ALSO PRESENT

| | |
|----------------|---------------------------|
| Steve Kourepis | Director, Town Planning |
| Sarah Jenkins | Town Planning Coordinator |

APOLOGIES

No apologies were received.

DECLARATIONS OF INTEREST

The Chair called for Declarations of Interest without response.

CONFIRMATION OF MINUTES

RESOLVED on the MOTION of Mr Tomasetti SC, seconded Mr Buffier

That the Minutes of Local Planning Panel of previous Meeting held on 28/03/2024 12:00:00 AM be adopted.

| RECORD OF VOTING | |
|--------------------|---------|
| For | Against |
| Mr Peter Watts | |
| Mr Peter Tomasetti | |
| Mr Eugene Sarich | |
| Mr Barry Buffier | |

DEVELOPMENT APPLICATIONS

3.1 7-11 RYDE ROAD, HUNTERS HILL

PROCEEDINGS IN BRIEF

- Public Addresses
- Vishal Lakhia, architect, addressed the Panel on behalf of No. 5 Ryde Road, Hunters Hill. Mr Lakhia outlined his concerns with access to the property at No.5 and made comment on the design and appearance of the proposal.
 - Dr Nirmal Taluja addressed the Panel as owner of No. 5 Ryde Road, Hunters Hill. Dr Taluja outlined concerns with access to No. 5.

RECOMMENDATION

That Development Application No. 20230164 for the demolition of existing structures and construction of a residential development comprising of a residential flat building containing 8 units and multi-dwelling housing providing 5 townhouse dwellings erected over single level basement parking at 7-11 Ryde Road Hunters Hill be refused for the following reasons.

1. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it does not satisfy the applicable provisions of Chapter 2 – Vegetation in Non-rural Areas of State Environmental Planning Policy (Biodiversity and Conservation) 2021 in that it does not:
 - (a) protect the biodiversity values of trees and other vegetation in non-rural areas of the State.
 - (b) preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
2. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it does not satisfy the applicable provisions of Chapter 6 - Water Catchments of State Environmental Planning Policy (Biodiversity and Conservation) 2021 in that it does not demonstrate the proposal will satisfy the relevant provisions relating to development in a regulated catchment having regard to the matters to be considered and satisfied in Part 6.2, Sections 6.6 and 6.7.
3. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it does not satisfy the applicable provisions of Chapter 4- Remediation of Land of State Environmental Planning Policy (Resilience and Hazards.) 2021 in that it does not demonstrate whether the Site is contaminated or suitable for its intended use.
4. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it does not satisfy the applicable provisions of Chapter 2- Standards for Residential Development of State Environmental Planning Policy (Sustainable Buildings.) 2022.
5. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it does not satisfy the applicable provisions of Cl. 4 – Design of Residential Apartment Development of State Environmental Planning Policy (Housing) 2021 in that it does not adequately demonstrate the proposal achieves the design quality principles contained in Schedule 9 or satisfies the Apartment Design Guide.
6. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it is incompatible with the general character and amenity of the surrounding locality, which does not satisfy the following specific aims of the Hunters Hill Local Environmental Plan 2012:
 - (a) *to maintain and enhance the character and identity of established neighbourhoods in Hunters Hill by regulating the use and development*

- of land,*
- (c) *to conserve Aboriginal heritage and European heritage that influence the character and identity of the municipality,*
 - (d) *to accommodate a range of housing that will maintain the garden suburb character of the municipality, while responding to the needs of a growing population and changing demographics.*
 - (i) *to promote high standards of urban and architectural design quality.*
7. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it is inconsistent with the following objectives for the R3 – Medium Density Zone:
- *To provide for the housing needs of the community within a medium density residential environment.*
 - *To ensure that development is compatible with the character and heritage of the locality.*
 - *To provide for levels of amenity that are reasonable for a medium density residential environment.*
8. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it fails to demonstrate compliance with Hunters Hill Local Environmental Plan 2012 with respect to Clause 5.10 – Heritage Conservation as the proposal will have an unacceptable adverse impact on the surrounding Heritage Items and the character of the surrounding Heritage Conservation Area.
9. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it fails to demonstrate compliance with Hunters Hill Local Environmental Plan 2012 with respect to Clause 6.1 – Acid Sulfate Soils in that it fails to provide an acid sulfate soils management plan.
10. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it fails to demonstrate compliance with Hunters Hill Local Environmental Plan 2012 with respect to Clause 6.2 – Earthworks in that it fails to provide sufficient information in order for the Consent Authority to be satisfied that the proposal will not have an adverse effect on the soils and groundwater flows of the surrounding area.
11. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to demonstrate the following strategic objectives of the Hunters Hill Development Control Plan 2013 will be achieved:
- To maintain and enhance the character and identity of established neighbourhoods in the Hunters Hill Municipality.
 - To maintain and enhance biodiversity values by conserving natural features and scenic qualities that distinguish this Municipality.
 - To conserve identified heritage values that influence the character and identity of this Municipality.
 - To specify services that are necessary for each development, which

- include car parking and water cycle management.
12. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to demonstrate compliance with the provisions of the Hunters Hill Development Control Plan 2013 with respect to the following matters:
 - Section 2.2.2 Aims and Objectives insofar as the proposal having an unsatisfactory outcome on the character and amenity of the heritage conservation area.
 - Section 2.2.3 Existing Character insofar as the proposal having an unsatisfactory outcome on the existing character and amenity of the heritage conservation area.
 - Section 2.2.4 Desired Character insofar as the proposal having an unsatisfactory outcome on the desired future character and amenity of the heritage conservation area.
 - Section 3.4 Multi-Unit Residential insofar as the proposal does not comply with the relevant side and rear setbacks, landscaped area or number of storeys.
 - Section 3.5 – Residential Amenity insofar as the proposal does not ensure adequate privacy to adjoining properties.
 13. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to demonstrate the relevant provisions of the Hunters Hill Consolidated Development Control Plan will be achieved, having regard to Development within the Ryde Road Precinct.
 14. The proposed development does not satisfy the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the impacts on the values of the adjacent heritage items and conservation areas have not been adequately addressed in the design of the proposal, particularly relating to height, bulk, scale, setbacks, landscaping and separation distances.
 15. The proposed development does not satisfy the provisions of Section 4.15(1)(c) in that the supporting documentation has not demonstrated the site is suitable the intended development given the failure to address and comply with the applicable statutory and policy controls intended to ensure development is designed, located and operated in a manner that does not adversely affect the amenity of the surrounding residential environment.
 16. The proposed development does not satisfy the provisions of Section 4.15(1)(e) approval of a development that does not achieve good planning outcomes is contrary to the public interest, given the circumstances of the case.

030/24

RESOLVED on the MOTION of Mr Tomasetti, seconded Mr Sarich

That Development Application No. 20230164 for the demolition of existing structures and construction of a residential development properly characterised as a residential flat building containing 13 dwellings erected over single level basement parking at 7-11 Ryde Road Hunters Hill be refused for reasons set out in the report and the recommendation, with the following amendments:

- (i) The “core failure” of the proposed development as highlighted in the report is to be included as reason 1 of the refusal. The reason was prepared by the assessment officer, Michael Brewer, as follows:
- The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i), (iii) and (b) of the Environmental Planning and Assessment Act 1979 given the core failure of the design lies in the inability meet the relevant building envelope controls or provide sufficient information to demonstrate compliance with the applicable State Environmental Planning Policies, the Hunters Hill Local Environmental Plan 2012 or the Hunters Hill Development Control Plan 2013. Furthermore, the proposal fails to satisfy the Design Quality Principles, which are embodied in Schedule 9 of the Housing SEPP 2021 and in doing so, fails to respond the surrounding built environment or the significance of its location within a Heritage Conservation Area
- (ii) That an additional ground for refusal be imposed by the Panel, being that the Development Application, as proposed, does not address the need to ensure that 5 Ryde Road, Hunters Hill is not isolated by the proposed development, particularly in regard to vehicular access and in accordance with the planning principles of the Land and Environment Court.

Final Decision

That Development Application No. 20230164 for the demolition of existing structures and construction of a residential development properly characterised as a residential flat building containing 13 dwellings erected over single level basement parking at 7-11 Ryde Road Hunters Hill be refused for the following reasons:

1. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i), (iii) and (b) of the Environmental Planning and Assessment Act 1979 given the core failure of the design lies in the inability meet the relevant building envelope controls or provide sufficient information to demonstrate compliance with the applicable State Environmental Planning Policies, the Hunters Hill Local Environmental Plan 2012 or the Hunters Hill Development Control Plan 2013. Furthermore, the proposal fails to satisfy the Design Quality Principles, which are embodied in Schedule 9 of the Housing SEPP 2021 and in doing so, fails to respond the surrounding built environment or the significance of its location within a Heritage Conservation Area.
2. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it does not satisfy the applicable provisions of Chapter 2 – Vegetation in Non-rural Areas of State Environmental Planning Policy (Biodiversity and Conservation) 2021 in that it does not:
 - (a) protect the biodiversity values of trees and other vegetation in non-rural areas of the State.
 - (b) preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
3. The proposed development does not satisfy the provisions of Section

- 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it does not satisfy the applicable provisions of Chapter 6 - Water Catchments of State Environmental Planning Policy (Biodiversity and Conservation) 2021 in that it does not demonstrate the proposal will satisfy the relevant provisions relating to development in a regulated catchment having regard to the matters to be considered and satisfied in Part 6.2, Sections 6.6 and 6.7.
4. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it does not satisfy the applicable provisions of Chapter 4- Remediation of Land of State Environmental Planning Policy (Resilience and Hazards.) 2021 in that it does not demonstrate whether the Site is contaminated or suitable for its intended use.
 5. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it does not satisfy the applicable provisions of Chapter 2- Standards for Residential Development of State Environmental Planning Policy (Sustainable Buildings.) 2022.
 6. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it does not satisfy the applicable provisions of Cl. 4 – Design of Residential Apartment Development of State Environmental Planning Policy (Housing) 2021 in that it does not adequately demonstrate the proposal achieves the design quality principles contained in Schedule 9 or satisfies the Apartment Design Guide.
 7. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it is incompatible with the general character and amenity of the surrounding locality, which does not satisfy the following specific aims of the Hunters Hill Local Environmental Plan 2012:
 - (a) *to maintain and enhance the character and identity of established neighbourhoods in Hunters Hill by regulating the use and development of land,*
 - (c) *to conserve Aboriginal heritage and European heritage that influence the character and identity of the municipality,*
 - (d) *to accommodate a range of housing that will maintain the garden suburb character of the municipality, while responding to the needs of a growing population and changing demographics.*
 - (i) *to promote high standards of urban and architectural design quality.*
 8. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it is inconsistent with the following objectives for the R3 – Medium Density Zone:
 - *To provide for the housing needs of the community within a medium density residential environment.*
 - *To ensure that development is compatible with the character and heritage of the locality.*
 - *To provide for levels of amenity that are reasonable for a medium density*

residential environment.

9. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it fails to demonstrate compliance with Hunters Hill Local Environmental Plan 2012 with respect to Clause 5.10 – Heritage Conservation as the proposal will have an unacceptable adverse impact on the surrounding Heritage Items and the character of the surrounding Heritage Conservation Area.
10. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as it fails to demonstrate compliance with Hunters Hill Local Environmental Plan 2012 with respect to Clause 6.1 – Acid Sulfate Soils in that it fails to provide an acid sulfate soils management plan.
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12. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to demonstrate the following strategic objectives of the Hunters Hill Development Control Plan 2013 will be achieved:
 - To maintain and enhance the character and identity of established neighbourhoods in the Hunters Hill Municipality.
 - To maintain and enhance biodiversity values by conserving natural features and scenic qualities that distinguish this Municipality.
 - To conserve identified heritage values that influence the character and identity of this Municipality.
 - To specify services that are necessary for each development, which include car parking and water cycle management.
13. The proposed development does not satisfy the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as it fails to demonstrate compliance with the provisions of the Hunters Hill Development Control Plan 2013 with respect to the following matters:
 - Section 2.2.2 Aims and Objectives insofar as the proposal having an unsatisfactory outcome on the character and amenity of the heritage conservation area.
 - Section 2.2.3 Existing Character insofar as the proposal having an unsatisfactory outcome on the existing character and amenity of the heritage conservation area.
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 - Section 3.4 Multi-Unit Residential insofar as the proposal does not comply with the relevant side and rear setbacks, landscaped area or

- number of storeys.
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 15. The proposed development does not satisfy the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the impacts on the values of the adjacent heritage items and conservation areas have not been adequately addressed in the design of the proposal, particularly relating to height, bulk, scale, setbacks, landscaping and separation distances.
 16. The proposed development does not satisfy the provisions of Section 4.15(1)(c) in that the supporting documentation has not demonstrated the site is suitable the intended development given the failure to address and comply with the applicable statutory and policy controls intended to ensure development is designed, located and operated in a manner that does not adversely affect the amenity of the surrounding residential environment.
 17. The proposed development does not satisfy the provisions of Section 4.15(1)(e) approval of a development that does not achieve good planning outcomes is contrary to the public interest, given the circumstances of the case.
 18. The Development Application, as proposed, does not address the need to ensure that 5 Ryde Road, Hunters Hill is not isolated by the proposed development, particularly in regard to vehicular access and in accordance with the planning principles of the Land and Environment Court.

| RECORD OF VOTING | |
|--------------------|---------|
| For | Against |
| Mr Peter Watts | |
| Mr Peter Tomasetti | |
| Mr Eugene Sarich | |
| Mr Barry Buffier | |

The meeting closed at 11.15am.