

RECORD OF DECISION

THE SYDNEY EAST JOINT REGIONAL PLANNING PANEL

Members:

John Roseth	Chair
David Furlong	Member
Julie Savet Ward	Member
Lloyd Graham	Member

Apology: Nil

The Regional Panel considered the following application and this is a record of the process and decision.

Business Item:

2013SYE031 – Warringah - DA2013/0412 - Stage One Redevelopment of Harbord Diggers Site for Seniors Housing, New Club Facilities, Child Care, Gymnasium, Community Centre & Respite Care - 80 Evans Street and 4A Lumsdaine Drive, Freshwater

On 6 September 2013, the Regional Panel Secretariat circulated the council's supplementary report and minutes of Panel Meeting on 8 August 2012 to panel members and requested confirmation of the panel member's decision on the application.

Panel Resolution:

1. At a public meeting on 8 August 2013, the Panel deferred its decision on the application pending
 - a. the applicant submitting amended drawings that comply with the Panel's instructions, together with a SEPP 1 Objection seeking to vary the height standard in relation to Building D (the existing club building), part of which is proposed to be converted to apartments;
 - b. a supplementary report by the council's assessment officer assessing the SEPP 1 Objection, reporting on whether the amended drawings comply with the Panel's requirements, and providing draft conditions of consent.
 2. The Panel did not require re-exhibition of the amended drawings because the amendments required by the Panel had the effect of reducing the size of the proposal in comparison to the original application. The Panel foreshadowed that it would determine the application by communicating by electronic means, unless it considered that another public meeting was necessary.
 3. The Panel received the supplementary report on 6 September 2013. The report finds that the amended drawings fulfill all the requirements of the Panel. It assesses the SEPP 1 Objection as not being well founded. The report recommends that the Objection, and therefore the application, be refused. The failure of the Objection is the only reason for the recommendation to refuse the application. The report also contains without prejudice
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conditions of consent in case the Panel does not accept the report's recommendation to refuse the application.

4. The Panel does not consider that another public meeting is necessary; however, for ease of communication, it has decided to determine the matter at a face-to-face meeting rather than by email. The meeting took place on 12 September 2013 at Thakral House, George Street, Sydney.
 5. The Panel is unanimous in not accepting the assessment of the supplementary report that the SEPP 1 Objection relating to the height of the converted club building is not well founded. The Panel's reasons are as follows:
 - a. First, the assessment of the Objection gives no weight to the fact that Building D is an existing building. For example, the assessment states on page 5 that the club building "*will set an undesirable precedent for the locality that envisages low density residential development*". This does not mention that the building has been setting an undesirable precedent for more than forty years. While this fact does not give the applicant a legal right to exceed the height limit, it is a powerful circumstance of the case in favour of allowing the Objection.
 - b. Second, the assessment gives no weight to the fact that club building, when converted in accordance with the application, will have a smaller mass than it does now. Therefore, it will be more compliant with the height standard than it is now.
 - c. Third, the assessment does not mention that the club building is not alone in its surroundings to exceed the 8.5m height limit. To its south there are at least two buildings whose heights significantly exceed that of the club building. The Panel notes that urban design advice received by the council suggested that the height of the existing club building be increased at the southern end in order to reflect these taller buildings.
 - d. Fourth, the application provides ample new space for landscaping near the existing club building. As a result, Building D will be more screened by landscaping than it now is. The proposal, when built, will fit into the landscape better than the existing club building and car park.
 6. For the above reasons, the Panel allows the SEPP 1 Objection in relation to varying the height standard applying to Building D. Since the failure of the SEPP 1 Objection is the only reason that the assessment report recommends refusal of the application, and since the amended application complies with the Panel's resolution of 8 August 2013, the Panel unanimously resolves to approve the application subject to the conditions recommended in the assessment report, except as below:
 - a. In Condition 4 the words "*assessment and determination of the*" are deleted.
 - b. In Condition 5, the words "*and provide an appropriate relationship with neighbouring buildings and structures and the public domain*" are deleted, as they are too uncertain for a lawful condition of consent.
 - c. In Condition 7 the words "*to demonstrate the design excellence of the development*" are deleted; and in the reasons below the condition the words "*design excellence is achieved at Stage 2*" are also deleted.
 - d. In Condition 9 the words "Use of Recyclable and Renewable Materials" are deleted from the heading and the new wording of the condition is: "*The Stage 2*"
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DA is to be accompanied by a sustainability report which provides details of how renewable and recyclable materials are integrated into the development”.

- e. In Condition 17(1) the words “shops and public transport facilities” are deleted.
- f. Condition 23 is deleted.

Endorsed by

Dr John Roseth
Chair, Sydney East
Joint Regional Planning Panel
12 September 2013