

# SYDNEY WEST JOINT REGIONAL PLANNING PANEL

Meeting held at **Ku-ring-gai Council** on **Wednesday 7 October 2015 at 3.00 pm**

Panel Members: Bruce McDonald (Acting Chair), Bruce Clarke, Bob McCotter, Cr Elaine Malicki and Cr Cheryl Szatow

**Apologies:** None

**Declarations of Interest:**

Bob McCotter declared the following nonpecuniary interest:

1. I am a resident and ratepayer of Ku-ring-gai Council, but that does not affect my impartiality in either of these matters.
2. In about 1997 I was a director and shareholder of a company that employed Dr David Robertson, the principal ecological advisor to the proponent for both applications. Dr Robertson left our employ about 15 years ago and I left, including selling all shares, about 13 years ago. I thus have no material interest that could influence my decision in these matters.

## Determination and Statement of Reasons

2013SYW034 – Ku-ring-gai Council, DA 0053/13, Sydney Adventist Hospital – Demolish existing structures and construct 1 x 3 storey building and 2 x 4 storey buildings containing offices, central atrium, café and basement parking, landscaping and stormwater works and subdivision – DA0053/13 lodged pursuant to the Minister of Planning Major Project Approval No. 07\_0166 MOD 4, Concept Plan for Wahroonga Estate (Precinct D: Fox Valley Road East), 172 Fox Valley Road, Wahroonga.

**Date of determination:** 7 October 2015

**Decision:**

The panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

**Panel consideration:**

The panel considered: the matters listed at item 6, the material listed at item 7 the matters observed at site inspections listed at item 8 in Schedule 1.

### Decision of the Panel

As required by the Environmental Planning and Assessment Act the Panel is satisfied that the proposed development is generally consistent with the terms of Concept Plan 07-0166 as determined by the Minister for Planning on 31 March 2010 and subsequently modified.

In determining that position the Panel considered the compatibility of the proposed development application plans with the plans relating to the current Precinct D Concept Plan as modified and is satisfied they are consistent.

The Panel also considered the Director General's Environmental Assessment Report on the Wahroonga Estate Concept Plan and is satisfied the proposed is consistent with Section 6.4 Biodiversity of that report.

**Reasons for the panel decision:**

The Panel by a majority of 4 to 1 (B McDonald, B Clarke, B McCotter and E Malicki) determined that the application be approved for the following reasons, subject to the conditions attached to the Council's assessment report as amended by the decision of the Panel.

1. The proposed development will provide commercial facilities as planned under the Project Approval Concept Plan applying to the site, in the immediate vicinity of the existing Seventh Day Adventist Hospital and existing local neighbourhood centre.
2. The proposed development, subject to the conditions imposed is generally consistent with the terms of Project Approval No. 07-0166 Concept Approval granted by the Minister for Planning under Part 3A of the Act.
3. The proposal adequately satisfies the relevant State legislation and State Environmental Planning Policies including the Rural Fires Act 1997, SEPP 65 Design Quality of Residential Flat Buildings SEPP (Infrastructure) 2007 and SEPP 55 Remediation of Land.
4. Subject to the conditions imposed the proposed development will have no further impacts on the natural or built environments than those considered acceptable under the Concept Plan Approval, including sustainability of natural bushland species, the amenity of nearby residential premises and the performance of the local road

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network. In this regard the Panel notes the intersection signaling works that are to be carried out in conjunction with the proposed development as requirements of the Concept Plan approval. The Panel also notes that while the proposal involves loss of trees the ecological evaluation undertaken by Cumberland Ecology concludes this will not have a significant impact on Sydney Turpentine Ironbark Forest.

5. In considering of conclusions 1-4 above the Panel considers approval of the proposed development is in the public interest.

Councillor Szatow determined she would refuse the application. While agreeing that the proposal was generally consistent with the Concept Plan Approval she considered the loss of the 5 trees it involved was an unacceptable impact on the integrity of the Sydney Turpentine Iron Bark Forest.

**Conditions:** The development application was approved subject to the conditions recommended in the Council supplementary report with amendments to the following conditions:

### **Amended Conditions:**

The deferred commencement arrangement is to be deleted as operational consent is given and is to be issued. The deferred commencement condition is to be appropriately amended by deleting last sentence and then incorporate into the conditions of consent.

Condition 8 – 3 copies of the material to be provided in lieu of 2.

Condition 13 – delete the work 'certificate'.

Condition 19 – amend to require, as discussed, re-sitting of storage area to a more appropriate location to the satisfaction of the relevant Council Officer.

Conditions 18, 28, 67 and 95 – these are to be consolidated into a single condition written to remove any inconsistencies among specified times and specified permitted noise levels.

Conditions 37 and 56 – replace reference to RTA with RMS.



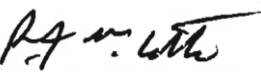
Condition 45 – delete 'and' from initial statement and express as 2 requirements.

Condition 82 – delete condition as it repeats condition 19.

Condition 92 – delete condition as it repeats condition 68.

Add a further condition requiring preparation of and approval by the relevant Council Officer of a construction management plan.

### **Panel members:**

 <p><b>Bruce McDonald</b></p>	 <p><b>Bruce Clarke</b></p>	 <p><b>Bob McCotter</b></p>
<p>Approved by email</p> <p><b>Elaine Malicki</b></p>	<p>Approved by email</p> <p><b>Cheryl Szatow</b></p>	

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## SCHEDULE 1

1	<b>JRPP Reference – 2013SYW034, LGA – Ku-ring-gai Council, DA/0053/13</b>
2	<b>Proposed development:</b> Sydney Adventist Hospital – Demolish existing structures and construct 1 x 3 storey building and 2 x 4 storey buildings containing offices, central atrium, café and basement parking, landscaping and stormwater works and subdivision – DA0053/13 lodged pursuant to the Minister of Planning Major Project Approval No. 07_0166 MOD 4, Concept Plan for Wahroonga Estate (Precinct D: Fox Valley Road East).
3	<b>Street address:</b> 172 Fox Valley Road, Wahroonga
4	<b>Applicant/Owner: Applicant –</b> Seventh-Day Adventist Church (Spd) Limited, <b>Owner:</b> Australasian Conference Association Limited.
5	<b>Type of Regional development:</b> The development application has a capital investment value of greater than \$20 million.
6	<p><b>Relevant mandatory considerations</b></p> <ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>◦ State Environmental Planning Policy 55 – Remediation of Land</li> <li>◦ State Environmental Planning Policy (Infrastructure) 2007</li> <li>◦ SREP (Sydney Harbour Catchment) 2005</li> <li>◦ Wahroonga Estate Concept Approval – Major Project No. 07_0166</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>◦ Nil</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Regulations: <ul style="list-style-type: none"> <li>◦ Environmental Planning and Assessment Regulation 2000</li> </ul> </li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</li> <li>• The suitability of the site for the development.</li> <li>• Any submissions made in accordance with the EPA Act or EPA Regulation.</li> <li>• The public interest.</li> </ul>
7	<p><b>Material considered by the panel:</b></p> <p>At the meeting on 16 June 2015 the Panel deferred making determination for the application to allow the applicant to respond to the following issues raised by the Panel:</p> <ol style="list-style-type: none"> <li>1. Provision of a revised ecological statement addressing on a precautions basis the potential loss of five trees No. 66, 65, 63, 49 and 50 prepared by an appropriately qualified party.</li> <li>2. Amended plans addressing: <ul style="list-style-type: none"> <li>• Street activation along Fox Valley Road and the corner of Comenarra Parkway to provide direct public access into the central atrium from the Fox Valley Road/Comenarra Parkway corner entry during business hours. This access is not to be via a private tenancy.</li> <li>• The pedestrian path along the western side of building 2 is to be widened to and a single avenue of trees and associated landscape is to be accommodated within the setback zone. These amendments are to be prepared in consultation with Council's landscape officer.</li> </ul> </li> </ol> <p>This information was to be provided to Council by 16 July 2015.</p> <p>The Panel requires that a further assessment report be presented addressing the above matters. Should the assessment recommend refusal of the proposed development the Panel required without prejudice draft conditions of consent to be included to enable a final decision to be made in the event the Panel determine to approve the proposal.</p> <p>Council supplementary report, Applicant letter responding to JRPP deferral, Ecological statement, Amended architectural plan: ground floor, Amended architectural plan: site plan, Amended landscape plans, Biodiversity management plan, Flora and fauna assessment, Concept plan determination MP07_0166, Concept plan determination MP07_0166:Mod4, Assessment report considered by JRPP at the meeting on 16 June 2015, JRPP decision (deferral) at the meeting on 16 June 2015, Without prejudice conditions of consent requested by the JRPP and written submissions.</p>

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	Verbal submissions at the panel meeting: <ul style="list-style-type: none"><li>• Wayne Gersbach</li></ul>
8	<b>Meetings and site inspections by the panel:</b> 15 August 2013 – Briefing Meeting; 16 June 2015 - - Site Inspection & Final Briefing meeting. 7 October 2015 – Final Briefing Meeting.
9	<b>Council recommendation:</b> Refusal
10	<b>Reasons:</b> Attached to council assessment report