

SYDNEY WEST JOINT REGIONAL PLANNING PANEL

STATEMENT OF REASONS **for decision under the *Environmental Planning and Assessment Act 1979***

The Sydney West Joint Planning Panel provides the following Statement of Reasons for its decision under section 80 of the *Environmental Planning and Assessment Act 1979* (NSW)(the Act) to:

grant consent to the development application subject to conditions

for:

the construction of a Neighbourhood Retail Centre with basement and at-grade car parking as well as associated landscaping at Lots 1074 and 1075 DP 1119679, Riverbank Drive, The Ponds. JRPP13-965 (2013SYW059)

made by:

Australand

Type of regional development:

The proposed development is classified as regional development as it has a Capital Investment Value of more than \$20 million.

A. Background

1. JRPP meeting

Sydney West Joint Planning Panel meeting held on 21 November 2013 at Blacktown City Council at 5.00pm.

Panel Members present:

Mary-Lynne Taylor – Chair

Paul Mitchell

Bruce McDonald

Council staff in attendance:

Melissa Parnis

Judith Portelli

Nadeem Shaikh

Apologies:

Nil

Declarations of Interest:

Nil

2. JRPP as consent authority

Pursuant to s 23G(1) of the Act, the Sydney West Joint Planning Panel (the Panel), which covers the Blacktown City Council's area, was constituted by the Minister.

The functions of the Panel include any of a council's functions as a consent authority as are conferred upon it by an environmental planning instrument [s 23G(2)(a) of the Act, which in this case is the *State Environment Planning Policy (State and Regional Development) 2011*.

Schedule 4A of the Act sets out development for which joint regional planning panels may be authorised to exercise consent authority functions of councils.

3. Procedural background

An initial briefing meeting was held with council planning staff on 25 July 2013.

Information received during the first briefing meeting on the matter with Council staff included:

- Information of the zoning of the site when surrounding residential subdivision occurred;
- Background to relocation of the community hub site;
- Relationship of the Second Ponds Development agreement to the proposed development.

A site visit was undertaken by Mary-Lynne Taylor, Bruce McDonald and Paul Mitchell on 21 November 2013 with Judith Portelli from Council. The matters observed during the site visit included:

- The relationship of the development to the adjacent school, nearby dwellings and the community facility;
- The current traffic arrangements and proposed entry/exit;
- The school entry and student pick up-drop off arrangements;
- The general physical qualities of the site.

A final briefing meeting was held with council planning staff on 21 November 2013.

Matters discussed at the briefing of interest to the Panel were:

- The access arrangements for the loading area and car park;
- The relationship of the development to and impact upon nearby dwellings;
- The relationship to and impact upon the adjacent school
- The relevance of the Parklea Release contribution plan and Second Ponds Creek Planning Agreement to the development;
- The centres' hierarchy applying across the broader urban development area.

B. Evidence or other material on which findings are based

In making the decision, the Panel considered the following:

79C (1) Matters for consideration—general

(a) (i) the provisions of:

Environmental planning instruments:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 — Remediation of Land
- Blacktown Local Environmental Plan 1988

(ii) Any proposed instrument that is or has been the subject of public consultation under the act and that has been notified to the consent authority:

- Draft Blacktown Local Environmental Plan 2013

The proposed use is specifically permitted in the B1 Neighbourhood Centre Zone under the draft plan.

(iii) Relevant development control plans:

- Blacktown Development Control Plan 2006

(iia) Any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F:

- The Second Ponds Creek Planning Agreement made by Landcom and Council – the execution of this agreement has the effect that any development application within the Second Ponds Creek Release Area does not need any Section 94 contributions to be levied as alternative payment arrangements have been facilitated through the agreement.

(v) Any coastal zone management plan

- Not applicable

(iv) Relevant regulations

- Not applicable

The Panel was provided with twelve submissions, made in accordance with the Act or the regulations, all of which objected to the proposal. In making the decision, the Panel considered all of those submissions.

In making the decision, the Panel considered the Statement of Environmental Effects of the applicant and the Council assessment report based on:

1. Architectural Plans prepared by NH Architecture, dated 18 September 2013.
2. Shadow diagrams by NH Architecture.
3. Locality Plan
4. Site Plan by Australand, dated 14 October 2013.
5. DA Environmental Noise Emission Assessment, dated 24 May 2013.

together with:

6. Information received during the briefing meeting.
7. Matters observed on the site visit.
8. Submissions made during the public Panel Meeting by Anthony Long on behalf of the John Palmer Public School and David Hoy, and Adam Trent representing the applicant.

C1. Findings on material questions of fact by the majority

The Panel has carefully considered all of the material referred to in Section B above.

(a) Environmental planning instruments.

The Panel has considered each of the environmental planning instruments referred to in Section B above.

The Panel agrees with and adopts the analysis in Council's Assessment Report in relation to each of the environmental planning instruments referred to in Section B above.

(b) Draft environmental planning instruments

The Panel has considered the draft environmental planning instrument/s referred to in Section B above.

The Panel agrees with and adopts the analysis in Council's assessment Report in relation to the draft environmental planning instrument referred to in Section B above.

(c) Development control plan.

The Panel has considered the Blacktown Development Control Plan 2006 referred to in Section B above.

The Panel agrees with and adopts the analysis in Council's Assessment Report in relation to the Development Control Plan.

(d) Planning agreement.

The Panel considered the planning agreement made in relation to the Ponds development. There is no further requirement for a development contribution for the subject site.

In addition at the time of the community hub approval an agreement between the Council and Landcom was reached to share the car parking for both sites and this has been evidenced by notation on the legal title of both sites.

(e) Other Policies

The Panel notes that the Council has a policy not to approve the use of eucalypts as street trees. The Panel accepts this policy.

(f) Likely environmental impacts on the natural environment. In relation to the likely environmental impacts of the development on the natural environment, the Panel's findings are as follows.

The Panel agrees with and adopts the analysis in relation to the likely environmental impacts of the development on the natural environment in sections 10 (o) and (p) of Council's Assessment Report.

(f) Likely environmental impacts of the development on the built environment.

In relation to the likely environmental impacts of the development on the built environment, the Panel's findings are as follows.

The Panel agrees with and adopts the analysis in relation to the likely environmental impacts of the development on the built environment in sections 10 of Council's Assessment Report.

(g) Likely social and economic impacts.

In relation to the likely social and economic impacts of the development in the locality, the Panel's findings are as follows.

The Panel agrees with and adopts the analysis in relation to the likely social and economic impacts of the development in section 10 of Council's Assessment Report.

(h) Suitability of site.

Based on a consideration of all of the material set out in Section B above and given the Panel's findings in this Section C, the Panel accepts that the site is suitable for the proposed development given its position adjacent to the community hub and its location within the broader context of the Second Ponds Creek Release area, the size of the site and its freedom from development constraints.

(i) Public Interest.

Based on a consideration of all of the material set out in Section B above and given the Panel's findings in this Section C, the Panel's finding is that granting consent to the development application is in the public interest. In particular, the Panel is of the view that the following matters lead to the conclusion that granting consent to the development application is in the public interest.

The development will provide a community focus in this locality, adding to the utility of the existing school and community hub.

The proposal will provide a significant additional retail service to the existing and future residents of the Ponds.

The services provided will provide additional amenity to residents in the local district.

D1. Why the decision of the majority was made

In light of the Panel's findings in Section C1 above, all three members of the Panel decided this was an appropriate use of the site and to grant consent to the development application, subject to the conditions recommended by Council in its Assessment Report except proposed conditions 3.6.3, 12.2.1 and 12.2.5 which have been amended by the Panel to read:

3.6.3 - A Construction Traffic Management Plan (CTMP) must be submitted to Council's Traffic Management Section for separate approval prior to the release of the Construction Certificate. In this regard, the CTMP must address truck movements for the development and must contain a protocol for continuing consultation between the centres management and the John Palmer Primary School management during the period of construction

12.2.1 - Spillage of light, if any, shall be controlled so as not to cause nuisance to the amenity of adjoining land in compliance with the relevant Australian Standard (AS 4282) dealing with control of obtrusive light

12.2.5 The hours of operation of the development shall not be outside of the following nominated times.

Any alteration to these hours will require the separate approval of Council.

Approved hours of operation:

Supermarket: Monday to Sunday – 6am to 10pm

Specialty tenancies: Monday to Sunday – 6am to 10pm

Loading Dock: Monday to Saturday – 7am to 8pm

Sunday and Public Holidays – 8am to 8pm

In addition, the loading dock shall not receive truck deliveries between 8am and 9.30am as well as between 2.30pm and 4pm Monday to Friday during school terms.

The restriction on the morning truck delivery hours is to be the subject of review by an appropriately qualified person prior to the end of the first year of operation to determine whether the continuation of the morning restriction is warranted for the protection of pedestrian safety and whether alternative traffic control measures might be substituted. The subject report is to be submitted to Council for consideration and determination.



JRPP member (chair)



JRPP member



JRPP member