

SYDNEY WEST JOINT REGIONAL PLANNING PANEL

STATEMENT OF REASONS

for decision under the *Environmental Planning and Assessment Act 1979 (NSW)*

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

Grant consent to the Fairfield development application subject to conditions

Demolition of an existing at-grade car park and toilet block facilities, subdivision of land and construction of a three (3) storey building comprising ground level retail outlets (30 tenancies with a total 2,995m² lettable floor area), first level car parking and commercial floor space (4 tenancies with a total 505m² lettable floor area), third level car parking and associated road works.

Council Reference: DA 664.1/2013, JRPP Reference: (2013SYW105)

Applicant/Owner: Fairfield City Council

The proposed development is classified as regional development as it has a Capital Investment Value of more than \$5 million (\$16.3 million) with Council Interest as per Clause 4 of Schedule 4A of the act.

A. Background

An assessment report was originally submitted for the consideration of the JRPP as its meeting of 8 May 2014. At that meeting, the Panel agreed to defer determining the application until 19 June 2014 and for the Cabramatta Business Association to submit further material to be considered by the Council's planner.

1. JRPP meeting

Sydney West Joint Planning Panel meeting was held on 19 June 2014 at Fairfield Council, 2.00 pm.

Panel Members present:

Mary-Lynne Taylor
Paul Mitchell
Bruce McDonald
Cr Ninos Khoshaba
Mick Raby

Council staff in attendance:

Paul Grech (Independent Consultant Planner)
Sunnee Cullen

Apologies: None made

Declarations of Interest:**Declaration for Councillor Ninos Khoshaba –**

Whilst Councillor Ninos Khoshaba does not believe that he has a conflict of interest, he will err on the side of caution and declare a non-significant non pecuniary interest as he is an elected Councillor of Fairfield City Council, who in this case is also the applicant for this commercial development.

Furthermore, given the allegations made that he has a perceived conflict of interest, and in order to protect the integrity of this panel and to provide fairness for the residents and applicant, he will remove himself from this meeting and not take part in voting on this matter.

Declaration for Mick Raby

Mr Raby does not believe that he has a conflict of interest in this matter, however given that he is employed by the applicant he will err on the side of caution and declare a non-significant, non-pecuniary interest.

In addition, given that a significant number of the community have made clear they perceive he has a conflict, he has decided that in this particular case, to protect the integrity of any decision made by the panel, he will remove himself from the panel and take no part in the decision making on this application.

As a result Cr Khoshaba and Mr Raby – left the podium and took no further part in the meeting or the decision making.

Otherwise no other declarations of interest**2. JRPP as consent authority**

Pursuant to s 23G(1) of the Act, the Sydney West Joint Planning Panel (the Panel), which covers the Fairfield City Council 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

The development application was lodged with Council on 26 September 2013.

A briefing meeting was held with council planning staff on 6 February 2014.

A **site visit** was undertaken by panel and Council's Independent Planner Paul Grech on 8 May 2014.

A **final briefing meeting** was held with Council's independent planner on 19 June 2014.

B. Evidence or other material on which findings are based

In making the decision, the Panel considered the following:

s79C (1) Matters for consideration—general

(a) the provisions of:

(i) any environmental planning instrument

- ***State Environmental Planning Policy (Infrastructure) 2007***
- ***Fairfield Local Environmental Plan 2013 (FLEP)***

(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

There is none

(iii) any relevant development control plan

- ***Fairfield City Wide Development Control Plan 2013 (FDCP)***
- ***Cabramatta Town Centre DCP No.5/2000***

(iiia) 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:

There is none

(a) (iv) Relevant Regulations:

- ***Environmental Planning & Assessment Regulation 2000.***

There were 1085 submissions plus a petition including over 5,000 signatures made in accordance with the Act or the regulations for this application. In making the decision, the Panel considered the submissions.

In making the decision, the Panel considered the following material:

1. Statement of Environmental Effects prepared by Elton Consulting dated September 2013.
2. Architectural Plans prepared by Antoniades Architects, as amended.
3. Response to development application submissions prepared by Elton Consulting dated 24 March 2014.
4. Proposed subdivision superimposed on existing lot layout.
5. Submission by the Roads and Maritime Service (RMS) dated 14 November 2013.
6. Height Variation Plan.
7. Summary table assessing DCP controls.
8. Extract from Council's Section 94 Plan identifying the location of the proposed public car park.
9. Redesign of Hughes Street showing existing and proposed arrangements, including seagull treatment.
10. Proposed Conditions of Consent.
11. Original assessment report to JRPP on 8 May 2014 by Paul Grech.
12. Addendum Report to Assessment Report by Paul Grech originally submitted to JRPP Meeting 8 May 2014.
13. Letter to Cabramatta Business Association from Fairfield City Council dated 3 May 2014.
14. Independent assessment of the reclassification process and Council's Traffic Engineer memorandum relating to a parking survey.
15. Cabramatta Business Association letter dated 22 May 2014 with attachments.
16. Urbis letter dated 22 May 2014 with appendix.
17. Traffix letter dated 22 May 2014 with attachments.
18. Applicant's response dated 29 May 2014.
19. Group Manager City Development Comments.
20. Traffic Engineering Comments.
21. Revised Proposed Conditions of Consent.

In making the decision, the Panel also considered the following submissions made at the meeting of the Panel on 19 June 2014:

Submissions made against the development application:

1. Dr Thomas Diep read submission on behalf of The Honourable Charlie Lynne (MLC
2. Charles Gream
3. The Honourable Helen Sham Ho
4. Duy Can Nguyen
5. Peter Jones
6. Wendy Cheng
7. Dung Dao
8. Chanh Tong Nguyen
9. Dr Thomas Diep
10. Dr William Trinh
11. This Bach Yen Nguyen
12. Toan Ba Nguyen
13. Joseph Hoang
14. Paul Nguyen
15. Ngoc Vac Nguyen
16. Mark Trinh
17. Richard Tran
18. Dr Thomas Diep on behalf of Cabramatta Business Association
19. Maria Diep
20. Delena Thai
21. David Nguyen
22. Adam Temple
23. Van Duoc Pham
24. Keith Hewlett
25. Andrew Harvey from Urbis
26. Graham Pindar from Traffix
27. Jane Tran
28. Al Lien Nguyen
29. Loi My Phan
30. Rebecca Huynh

Submissions made in favour of the development application:

1. Ken Chapman – Secretary Cabramatta Chamber, Canley Vale Chamber and neighbourhood watch CM8
2. Bang Tran
3. Trang Tran
4. Lien Nguyen

Presentation on behalf of applicant – Fairfield City Council:

1. Dave Niven
2. Hao Dang

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

C. Relevant documents and assessment in accordance with the terms of the documents

(a) Environmental planning instruments. The Panel has considered each of the environmental planning instruments referred to in Section B.

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

(b) Development control plan. The Panel has considered the Fairfield City Wide Development Control Plan 2013 referred to in Section B above.

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

(c) 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 Council's Assessment Reports.

(d) 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 Council's Assessment Reports.

(e) 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 Council's Assessment Reports.

(f) 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's finding is that the site is suitable for the proposed development.

(g) 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.

D. Why the decision was made

The Panel considers this site represents a critical space within the Cabramatta Town Centre and the form of its development is a key element in the centre's future performance.

The Panel also recognizes that during the construction period of any new development on the Dutton Lane site there will inevitably be some disruption to the normal operation of the Centre.

In that context the Panel determined that the application be approved for the following reasons:

1. The Proposed development will consolidate the active role of the central precinct of the Cabramatta Town Centre by removing the non-retail/commercial component between John Street and Hughes Street that now interrupts the Centre's continuity and cohesion and its pedestrian connectivity and amenity.
2. The proposed arrangements will improve the pedestrian connectivity of the central retail precinct of Cabramatta, which the Panel considers will in turn enhance the experience of those utilizing the services and facilities it offers to local residents and visitors.

3. The proposed development will not have additional negative impact on the supply of parking within the Dutton Lane precinct as the proposal incorporates replacement of the existing on ground parking in Dutton Lane and provides for the additional demand generated by the additional retail/commercial use. That parking is to be provided substantially on site and in part by the collection of Section 94 contributions to be directed to future parking facilities in the Centre's public car parking system.
4. The loading arrangements proposed will provide more orderly arrangements than now in place which will result in improved vehicular and pedestrian safety.
5. The conditions of approval require the applicant to develop a construction management plan that addresses the special circumstances of this location and the plan is to include measures to minimize the impact of the temporary loss of parking from the Dutton Lane car park. Further the terms of approval require Council to develop a liaison group to assist in resolution of particular issues identified during construction.
6. The proposed development will add to the stock of retail and commercial facilities available which will increase competition and therefore benefit both customers and the economy of Cabramatta generally.
7. For all of the reasons given above the proposed development will be in the wider public interest.

The Panel determines the height non-compliance of 0.85m at the top of the four stairwells and 0.10m at the left lobby under Clause 7.3 (5) of Fairfield Local Environmental Planning 2013 (FLEP) is acceptable with regard to the justification for the variation submitted by the applicant pursuant to Clause 4.6 of FLEP.

The Panel has concluded from the various studies addressing the application and the written and verbal submissions received in response to this proposal that there is a high level of demand on the current parking supply within the Cabramatta Township, particularly during peak hours and weekends. The Panel has determined to suggest to Council that it address a strategic response to these conditions as a priority in the development of its Community Strategic Plan and associated delivery programmes.

The Panel has further determined to advise Council that it considers there would be value in conducting a concerted public information program to communicate its longer term plans and intentions relative to parking supply and broader urban form issues to the Cabramatta business operators and the wider Cabramatta community.



JRPP member (chair)
Mary-Lynne Taylor



JRPP member
Bruce McDonald



JRPP member
Paul Mitchell