

SYDNEY WEST JOINT REGIONAL PLANNING PANEL

Supplementary Report

JRPP No. 2014SYW042

**Development
Application No.** 15.1/2014

**Local
Government Area** Fairfield City Council

**Proposed
Development** Demolition of the existing Calabria Community Club buildings, construction of a residential flat building, basement car park, associated landscaping, subdivision to create two (2) Torrens title allotments and construction of new roads.

The DA is Integrated Development as it requires a controlled activity approval under the *Water Management Act 2000*.

Street Address 184-192 Restwell Road, Prairiewood

Applicant/Owner Applicant - Alfredo G. Pagano (Pagano Architects Pty Ltd)
Owner - Calabria Community Club Ltd.

**Capital
Investment Value** \$24,215,000

**Number of
Submissions** 37

Recommendation Deferred Commencement Approval

Report By Stuart Gordon, SJB Planning – consultant town planners to Fairfield City Council

1. Purpose of Supplementary Report

The purpose of this Supplementary Report is to:

- Include a further recommendation to the Report for Development Application 15.1/2014 for Integrated Development including the demolition of the existing Calabria Community Club buildings, construction of a residential flat building, basement car park associated landscaping, subdivision to create two (2) Torrens title allotments and construction of new roads at Lot 7, Section E in Deposited Plan 6934, No. 184-192 Restwell Road; and
- Amend condition 44 of the draft conditions as outlined in Attachment 7 of the Report.

2. Report

Further Recommendation

The Report for Development Application DA/1370/2014 (JRPP Reference: 2014SYW042) discusses the gross floor area and FSR over the entire site and the recommended draft conditions of consent at Attachment 7 to the Report includes the following condition:

“4. Restriction of use of land relating to gross floor area

Proposed Lot 2 of the approved “Proposed Subdivision Plan” must be burdened through the creation of a “Restriction on Use of Land” that limits the gross floor area permitted to be developed on that lot to no more than 14,742m² or an amount that when added to the gross floor area approved for Lot 1 of the approved “Proposed Subdivision Plan” equates to a floor space ratio of no more than 3.0:1 over the combined site areas of Lot 1 and Lot 2.

The amount of gross floor area approved for Lot 1 is 10,415.1m², and the combined site areas of Lot 1 and Lot 2 equals 8,385.7m².

The restriction shall be applied to Lot 2 via a Section 88B Instrument. Written confirmation from Council approving the wording of the 88B Instrument is to be provided prior to the registration of the subdivision with the NSW Land and Property Information Division.

The 88B Instrument is to set out that the restriction relating to gross floor area on Lot 2 cannot be removed from the Title, modified or amended without Council consent. Gross floor area and site area are to be calculated in accordance with the definitions within the Fairfield Local Environmental Plan 2013.”

Given the specific nature of this condition to the subject land, it is considered that it is appropriate that Council upon registration of the approved subdivision and pursuant to the provisions of 149(5) of the *Environmental Planning and Assessment Act 1979*, include advice on any future Planning Certificate issued under section 149 for the site outlining that the land is known to be the subject of a Restriction of Use of Land

relating to gross floor area and providing reference to the terms of the said Restriction of use of Land.

Amend Condition 44

Draft condition 44 in Attachment 7 to the Report states the following:

“44. Registration of Restriction relating to gross floor area

Prior to the issue of the Final Occupation Certificate, proof of the creation of a ‘Restriction on Use of Land’ over Lot 2 of the approved “Proposed Subdivision Plan” in accordance with Condition shall be submitted to the Principal Certifying Authority”

The above condition is missing a reference to Condition 4 such that the condition should read as follows:

“44. Registration of Restriction relating to gross floor area

Prior to the issue of the Final Occupation Certificate, proof of the creation of a ‘Restriction on Use of Land’ over Lot 2 of the approved “Proposed Subdivision Plan” in accordance with Condition 4 shall be submitted to the Principal Certifying Authority”

3. Conclusion

In accordance with the discussion in this Supplementary Report, it is proposed that the draft condition 44 in Attachment 7 of the Report be amended as follows:

“44. Registration of Restriction relating to gross floor area

Prior to the issue of the Final Occupation Certificate, proof of the creation of a ‘Restriction on Use of Land’ over Lot 2 of the approved “Proposed Subdivision Plan” in accordance with Condition 4 shall be submitted to the Principal Certifying Authority”.

Additionally, a further recommendation is proposed to be added to the Recommendations outlined in Section 8 of the Report. The amended Recommendation is provided in full below, with “(e)” being the additional recommendation.

4. Amended Recommendation

- (a) *That the report for Development Application 15.1/2014 for Integrated Development including the demolition of the existing Calabria Community Club buildings, construction of a residential flat building, basement car park, associated landscaping, subdivision to create two (2) Torrens title allotments and construction of new roads at Lot 7, Section E in Deposited Plan 6934, No. 184-192 Restwell Road, Prairiewood be approved as a deferred*

commencement approval subject to conditions as outlined in Attachment 7 of this report;

- (b) That the variation to Clause 4.3 Building Height pursuant to Clause 4.6 Exceptions to Development Standards in the Fairfield Local Environmental Plan 2013 be supported.*
- (c) That the Panel note the applicant's request to vary the Floor Space Ratio development standard applicable under clause 4.4 of Fairfield Local Environmental Plan 2013 and determine that, as the land has not yet been subdivided, then the current application does not result in a breach of the development standard.*
- (d) That the Panel also note that, in order that the totality of developments that may occur across the site area as exists at the time of determination does not exceed the maximum floor space ratio, an appropriate condition of consent is proposed that will limit the quantum of gross floor area for future development on proposed Lot 2.*
- (e) That the Panel recommend to Council that pursuant to the provisions of 149(5) of the Environmental Planning and Assessment Act 1979, the Council, upon registration of the approved subdivision, should include advice on any future Planning Certificate issued under section 149 for the site outlining that the land is known to be the subject of a Restriction of Use of Land relating to gross floor area and providing reference to the terms of the said Restriction of use of Land."*