

JOINT REGIONAL PLANNING PANEL (Sydney West)

JRPP No	2014SYW112
DA Number	DA0289/14
Local Government Area	Ku-ring-gai
Proposed Development	Demolish existing & construct new church hall & rectory
Street Address	3A Hill Street Roseville and 1 Bancroft Avenue Roseville
Lot & DP	Lots 2, 3 and 4 in DP 1046733
Applicant	St Andrews Anglican Church Roseville
Owner	Anglican Church Property Trust Diocese of Sydney
Number of Submissions	Original proposal: 20 in support, 5 objections Amended proposal: 3 in support, 2 objections
Regional Development Criteria (Schedule 4A of the Act)	The proposed place of public worship has a CIV of over \$5 million and falls into the category of 'private infrastructure and community facility'
List of All Relevant s79C(1)(a) Matters	SEPP 55 – Remediation of Land SEPP (Sydney Harbour Catchment) 2005 SEPP (Infrastructure) 2007 Ku-ring-gai LEP (Local Centres) 2012 Local Centres DCP Development Contributions Plan 2010
List all documents submitted with this report for the panel's consideration	Attachment A – Pre DA Report Attachment B – Letter to applicant Attachment C – Heritage Consultant comments Attachment D – Clause 4.6 variation Attachment E – Plans and elevations Attachment F – Sydney Trains letter Attachment G – Assessment Report considered by JRPP on 5/12/2015
Recommendation	Refusal
Report By	Jonathan Goodwill – Executive Assessment Officer

SUPPLEMENTARY REPORT

EXECUTIVE SUMMARY

Primary Property	3A Hill Street and 1 Bancroft Avenue Roseville
Lot & DP	Lots 2, 3 and 4 in DP 1046733
Proposal	Demolish existing & construct new church hall & rectory
Development application no.	DA0289/14
Applicant	St Andrews Anglican Church Roseville
Owner	Anglican Church Property Trust Diocese of Sydney
Date lodged	1/08/2014
Issues	Floor space ratio, heritage, BASIX, stormwater management
Submissions	No
Land & Environment Court	N/A
Recommendation	Refusal
Assessment Officer	Jonathan Goodwill

LEGISLATIVE REQUIREMENTS:

Zoning	R2 Low Density Residential
Permissible under	Ku-ring-gai LEP (Local Centres) 2012
Relevant legislation	Environmental Planning and Assessment Act 1979 SEPP 55 – Remediation of land SEPP (Sydney Harbour Catchment) 2005 SEPP (Infrastructure) 2007 Ku-ring-gai LEP (Local Centres) 2012 Local Centres DCP Development Contributions Plan 2010
Integrated development	NO

BACKGROUND

The JRPP considered an assessment report which recommended refusal of the application on 8 July 2015. The resolution of the JRPP was:

The decision of the Panel is to defer determining the application until a response has been received from Sydney Trains and will take its own legal advice in relation to FSR issues. The resolution today does not imply one way or the other that there will be an approval or refusal. Once the responses have been received the matter will be considered again by the Panel at a public meeting.

The JRPP considered an assessment report which recommended refusal of the application on 4 December 2015. The resolution of the JRPP was:

The decision of the Panel is to defer determining the application. The Panel have received legal advice from the applicant which is not been sent to Council. The Panel will send the advice to Council for their response. Panel will refer the council's

response and the applicant's legal advice to their own legal advice.

At the next meeting of the Panel there would be further site visit. The Panel requires the development to be pegged out on site, the provision of a height pole and access provided by 3 Bancroft Avenue.

Upon the receipt of the advice, and after the site meeting the panel will meet again to determine the matter.

PURPOSE FOR REPORT

To determine Development Application No. 0289/13 for the demolition of the existing church hall and dwelling house and construction of a place of public worship at 3A Hill Street and 1 Bancroft Avenue, Roseville.

The Joint Regional Planning Panel (JRPP) is the consent authority as the proposed place of public worship is captured by the development category 'private infrastructure and community facilities' pursuant of Schedule 4A Clause 6 of the Environmental Planning and Assessment Act, 1979 and as the CIV for this development exceeds \$5 million (\$9.81 million).

RESPONSE TO JRPP DEFERRAL

As requested, Council staff reviewed the applicant's legal advice and provided the following response:

'We agree with the legal advice which states in paragraphs 20-22 that for the JRPP to approve the development application they must first conclude that the clause 4.6 variation request satisfies all the requirements specified in clause 4.6 of the LEP.'

We also note that the legal advice does not provide an opinion on the merits of Council's assessment of the clause 4.6 variation request nor conclude that the assessment contains any errors.'

The JRPP resolved to obtain legal advice on FSR issues on 8 July 2015. On 4 December 2015 the JRPP resolved (for the second time) to obtain legal advice on FSR issues and to have a second site meeting. It is not known whether the JRPP has obtained their own legal advice on this matter consistent with their resolution of 8 July 2015. A site inspection consistent with the JRPP's most recent resolution may be scheduled at their next meeting.

CONCLUSION

This application has been assessed under the heads of consideration of Section 79C of the *Environmental Planning and Assessment Act* 1979 and all relevant instruments and policies. The proposal does not achieve compliance with the requirements of the relevant instruments and policies and refusal is recommended.

RECOMMENDATION

PURSUANT TO SECTION 80(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

THAT the Sydney West Joint Regional Planning Panel, as the consent authority, refuse development consent to Development Application No. 0289/14 for the following reasons:

1. The clause 4.6 variation to the development standard for floor space ratio is not well founded.

Particulars

- i. Clause 4.4 of Ku-ring-gai LEP (Local Centres) 2012 limits the maximum floor space ratio of development at 1 Bancroft Avenue to 0.34:1 (410m²). The floor space ratio of the development at 1 Bancroft Avenue is 0.57:1 (688²).
- ii. The proposed development at 1 Bancroft Avenue exceeds the maximum gross floor area by 278m² (67%).
- iii. It has not been demonstrated that compliance with the development standard is unreasonable or unnecessary.
- iv. It has not been demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.
- v. The variation to the development standard is not consistent with the first and third objectives of the R2 Low Density Residential zone as the proposal is not consistent with the characteristics of a low density residential environment or compatible with the character of Bancroft Avenue.
- vi. The variation to the development standard is not consistent with objective (b) of clause 4.4 Floor space ratio as the built form and density of the proposal is not compatible with the context.

2. Unsatisfactory impacts on adjacent heritage item and the Lord Street/ Bancroft Avenue Heritage Conservation Area

Particulars

- i. The site is located in the Lord Street/Bancroft Avenue Heritage Conservation Area under the provisions of Ku-ring-gai LEP (Local Centres) 2012.
- ii. The site is adjacent to 3 Bancroft Avenue which is identified as a heritage item by Ku-ring-gai LEP (Local Centres) 2012.
- iii. The inclusion of 1 Bancroft Avenue within an amalgamated site will disrupt the lot boundary patterning and streetscape rhythms of Bancroft Avenue as the development of the open space at the rear of the existing rectory introduces commercially-scaled patterns of site coverage and development into the residential precinct.
- iv. The spatial qualities of the existing rectory site are consistent with the traditional pattern of development throughout the Heritage Conservation Area and contribute to the heritage significance of the Heritage Conservation Area. The scale of the development at the rear of 1 Bancroft Avenue is not consistent with the garden setting of the Heritage Conservation Area and has adverse impacts on the setting of the heritage item at 3 Bancroft Avenue.
- v. The variation to the maximum floor space ratio development standard contributes to the unacceptable impacts on the significance of the Heritage Conservation Area and the heritage item at 3 Bancroft Avenue.
- vi. For the reasons identified above, the proposal is not consistent with objectives (a) and (b) of clause 5.10 'Heritage conservation' or Ku-ring-gai LEP (Local Centres) 2012.

3. The design of the stormwater system does not comply with the requirements of Volume C, Part 4, Water Management Controls of the Local Centres DCP.

Particulars

- i. No calculations for the on site detention tank have been provided to demonstrate that the proposed system will achieve the objectives. No information was provided to support the proposed volume or outlet configuration so that likely outflows are unknown.
- ii. No orifice plate is shown so it is not demonstrated that flows will be attenuated by the tank.
- iii. An apparently superfluous 225mm diameter outlet pipe is shown which could affect the functioning of the system.
- iv. The outlet pipe from the detention tank is incorrectly labelled IL97.65 on the Site Plan Drawing C-100 F (should be IL96.65).
- v. The Stormwater Management Plan still refers to Ku-ring-gai Municipal Council – Draft Drainage Code, a non-existent document. The correct reference is Ku-ring-gai Local Centres Development Control Plan.
- vi. The arboricultural addendum does not reference the stormwater Layout Plan Drawing C-100 Revision F. Two pits which are inferred to be at least 1 metre deep are shown close to Tree 15 and the method of constructing these pits would need to be specified by the arborist.
- vii. Two sections of 375mm diameter pipe are shown on the stormwater plans as being bored under Tree 29. This is not discussed in the arborist's letter either and this matter should be addressed by the arborist.
- viii. The stormwater plan does not show the substation. A grated pit which could surcharge and direct water into the substation is not likely to be acceptable to Ausgrid.
- ix. Surface pits in the Hill Street setback appear to be unnecessary.

4. The proposal does not satisfy the requirements of SEPP (BASIX) 2004

Particulars

- i. The BASIX water commitments require a 5,000 litres rainwater tank for the new rectory and a common 5,000 litres rainwater tank. These tanks are not shown on any plans, as required under 1(a)(i)(h) and 3(b)(i)(b) in the Schedule of BASIX commitments. There are circles labelled "WT" on DA2101 Issue 10 but no sizes, configurations or connections are shown.
- ii. There is a discrepancy between the lawn area shown on the BASIX certificate (130m²) and the plans (<130m²).

Jonathan Goodwill
Executive Assessment Officer– South

Corrie Swanepoel
Manager Development & Assessment Services

Michael Miocic
Director Development & Regulation

ATTACHMENTS		
A	Pre DA Report	TRIM: 2015/160676
B	Letter to applicant	TRIM: 2015/160679
C	Heritage Consultant comments	TRIM: 2015/160680
D	Clause 4.6 variation	TRIM: 2015/160681
E	Plans and elevations	TRIM: 2015/160684
F	Sydney Trains letter	TRIM: 2015/290294
G	Assessment Report considered by JRPP at 5/12/2015 meeting	TRIM: 2015/282468