

## SYDNEY WEST JOINT REGIONAL PLANNING PANEL

Meeting held at **Ku-ring-gai Council** on **Thursday 24 March 2016 at 1.00 pm**

Panel Members: Mary-Lynne Taylor (Chair), Bruce McDonald, John Colvin, Cr Elaine Malicki and Cr Christiane Berlioz

**Apologies:** None

**Declarations of Interest:** None

### Determination and Statement of Reasons

2014SYW112 – Ku-ring-gai Council, DA 0289/14, Demolish existing & construct new church hall & rectory, 3A Hill Street, Roseville and 1 Bancroft Avenue, Roseville.

**Date of determination:** 24 March 2016

**Decision:**

The Panel, by a majority of 3 to 2, 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 as addressed in the Council Assessment Report, the material listed at item 7 the matters presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

**Reasons for the panel decision:**

The Panel, by a majority of 3 to 2, determined to approve the development application subject to the conditions in the Assessment Report, and as amended at the meeting, for the following reasons:

1. The proposed development will add to and contemporise the provision of church related spiritual, recreation social and cultural services and activities provided to the Roseville and the wider Ku-ring-gai community by the long established church and associated hall and rectory on the subject lands.
2. The Panel has considered the applicant's request dated April 2014 to vary the development standard contained in the Ku-ring-gai LEP (Local Centres) 2012 (Clause 4.4) relating to Floor Space Ratio development standards and agrees with the conclusion reached by the applicant's planning consultant that compliance with the standard would be unreasonable and unnecessary in the circumstances of this case as the variation will allow the orderly use of the land in an appropriate manner. [There has been no need to consider a later clause 4.6 Variation request as the Panel has received legal advice, with which the majority of the panel agrees that the original variation request is legally satisfactory].
3. The proposed development adequately satisfies the relevant State Environmental Planning Instruments including SEPP 55 – Remediation of Land SEPP (Infrastructure) 2007 and SEPP (Sydney Harbour Catchment) 2005.
4. The proposal adequately satisfies the provisions and objectives of Ku-ring-gai (Local Centres) LEP 2012 and Ku-ring-gai DCP 2013. In this regard the Panel considers the proposal, in particular, is consistent with the objective of the R2 Low Density Residential Zone to enable other land uses that provide facilities or services to meet the day to day needs of residents.
5. The proposed development is considered to have acceptable impacts on the Heritage Conservation Area and adjacent locally listed heritage item No. 3 Bancroft Avenue. In this regard the Panel appreciates the change of character rendered to the rear yard of No. 1 Bancroft Avenue which is currently not readily visible from the public domain and considers this impact on the character of the conservation area is acceptable as this property is the terminal residential lot within the conservation area and its development as proposed will not interrupt the integrity of the element located to the north east of the subject land.
6. The proposed development is adequately compatible with the character of the element of Roseville Village within which it is placed given that it is adjacent to the existing church building, a residential flat building, Roseville Village shops and is opposite the railway line.
7. The proposed development, subject to the conditions imposed, will have no unacceptable adverse impacts on the natural or built environments including the amenity of the adjacent or nearby residential dwellings, the heritage quality of the adjoining residential building or impacts on the operation of local road network.
8. In consideration of conclusions 1-7 above the majority of the Panel (M L Taylor, B McDonald and J Colvin) considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

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Cr Malicki and Cr Berlioz dissented and determined that the application should be refused for the following reasons:

Cr Malicki reasons for refusal:

1. Notes her concern that the most recent 4.6 variation was received late and there was no time for staff to report to Panel members on this major document.
2. She does not accept the argument given in the 4.6 variation that there is an acceptable justification for the increase in FSR on the Rectory block, particularly as there is no satisfactory environmental planning justification provided.
3. The additional FSR on the rectory site amounts to an excess of 67% or 278sq m which is a most significant increase and departure from the standard.
4. The additional height and bulk created provides an unacceptable impact on the heritage conservation area due its scale, lack of rear yard landscaping, and site coverage.
5. In particular there will be profound and irreversible impacts on the locally listed Heritage house at 3 Bancroft Ave due to the proximity of an inability to adequately screen such out of scale, dominating buildings.
6. There will also be unacceptable impacts on adjoining sites due to the noise generating capacity of the terrace and the difficulties of regulating the use of this area.

Cr Berlioz reasons for refusal:

1. There are insufficient grounds provided to justify Clause 4.6 to vary the FSR.
2. The 67 percent noncompliance of the FSR results in an overdevelopment of 270sqm, the resulting built form is out of character with the R2 zoned area.
3. The whole of the site is within the Lord Street and Bancroft Ave HCA and the fact that the site is at the end of block will therefore impact on the HCA.
4. The church is in a prominent position and the bulk and scale of the new building when viewed from Bancroft Avenue will detrimentally impact on the streetscape and be out of character with the Heritage Conservation Area and visually impacts on the amenity of the neighbouring heritage property at 3 Bancroft Ave and leaves limited opportunities for planting of canopy trees.
5. The noise generation from the terrace and children's play area will impact on the adjacent neighbours particularly with the increased usage in the future envisaged by the applicant.

### Conditions:

The development application was approved subject to the draft conditions submitted by the Council Assessment Officer and with the following changes:

### Amendments to approved landscape plan

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that the approved landscape plans, listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this consent:

Plan no.	Drawn by	Dated
LA101 A LA102 A LA103 A	Site Image	18/03/2015

The above landscape plan(s) shall be amended in the following ways:

- The existing *Murraya paniculata* (Orange Jessamine) hedge and other existing shrubs located adjacent to the east site boundary behind the building line is to be shown to be retained. These shall be enhanced further with the planting of super advanced (min 25litre) evergreen shrubs capable of attaining a minimum height of 3.0m.
- The planting of a *Jacaranda mimosifolia* (Jacaranda) is to be shown to be as a 100litre pot size.
- A minimum of two additional evergreen tree species capable of attaining a minimum height of 8.0m shall be planted within the eastern side setback adjacent to the taller built form. The trees shall be appropriately spaced from each other and the built form within the side setback to ensure their ongoing health and viability. Minimum pot size at planting shall be 100litres.

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that the landscape plan has been amended as required by this condition.

**Note:** An amended plan, prepared by a landscape architect or qualified landscape designer shall be

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submitted to the Certifying Authority.

**Reason:** To ensure adequate landscaping of the site

### NEW CONDITION

#### Operational noise management plan

Prior to the issue of the occupation certificate an operational noise management plan is to be prepared by a suitably qualified expert addressing the likely operational noise of the proposed development, and be provided to the Principal Certifying Authority. The management plan should provide consistency with the WGE Acoustic Report, adopt the mitigation measures specified in 5.2.2 in the acoustic report and identify any further amelioration measures to ensure that the predicted noise levels for the development are not exceeded.

The management plan shall address, but not be limited to, the following matters:

- identification of the specific activities that will be carried out and associated noise sources;
- identification of all potentially affected sensitive receivers, including residences;
- the relevant noise objectives specified in the conditions of this consent;
- determination of appropriate noise objectives for each identified sensitive receiver;
- noise monitoring, reporting and response procedures;
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise during operation;
- procedures for notifying residents of activities that are likely to affect their amenity through noise;
- contingency plans to be implemented in the event of non-compliances and/or noise complaints

**Reason:** To protect the amenity afforded to surrounding occupants during operation.






**Amendment to Condition 85**, condition to read:

#### Noise impacts

At all times the use of the premises is to comply with the Mitigation Measures specified in Part 5.2.2 of the approved acoustic report and the specific mitigation treatments, management methods, procedures and contingency plans identified in the operational noise management plan.

**Reason:** To minimise impacts on the adjacent dwelling.

#### Panel members:

 <b>Mary-Lynne Taylor</b>	 <b>Bruce McDonald</b>	 <b>John Colvin</b>
 <b>Elaine Malicki</b>	 <b>Christiane Berlioz</b>	

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## SCHEDULE 1

1	<b>JRPP Reference – 2014SYW112, LGA – Ku-ring-gai Council, DA/0289/14</b>
2	<b>Proposed development:</b> Demolish existing & construct new church hall & rectory.
3	<b>Street address:</b> 3A Hill Street, Roseville and 1 Bancroft Avenue, Roseville.
4	<b>Applicant/Owner: Applicant – St Andrews Anglican Church Roseville (Applicant), Anglican Church Property Trust Diocese of Sydney (Owner).</b>
5	<b>Type of Regional development:</b> The proposed development is a place of worship and has a capital investment value of greater than \$5 million and falls into the category of private infrastructure and community facility.
6	<b>Relevant mandatory considerations</b> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy 55 – Remediation of Land</li> <li>• Sydney Harbour Catchment 2005</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• Ku-ring-gai Local Environmental Plan (Local Centres) 2012</li> <li>• Local Centres DCP</li> <li>• Development Contributions Plan 2010</li> <li>• Environmental Planning and Assessment Regulation 2000</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	<b>Material considered by the panel:</b> <ul style="list-style-type: none"> <li>• 8 July 2015 - The decision of the Panel was 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.</li> <li>• 4 December 2015 - The decision of the Panel was to defer determining the application. The Panel have received legal advice from the applicant which was not been sent to Council. The Panel was to send the advice to Council for their response. Panel will then refer the council's response and the applicant's legal advice to their own legal advice.</li> </ul> <p>At the next meeting of the Panel there would be further site visit. The Panel required the development to be pegged out on site, the provision of a height pole and access provided by 3 Bancroft Avenue.</p> <ul style="list-style-type: none"> <li>• 8 July 2015 - Original Council Report;</li> <li>• 4 December 2015 - Addendum Report;</li> <li>• 24 March 2016 - Council's supplementary report, Pre DA Report, Letter to applicant, Heritage Consultants comments, Clause 4.6 variation, Plans and elevations, Sydney Trains letter, Department of Planning &amp; Environment Legal advice, Applicant's Legal Advice and Ku-ring-gai Council's Response to Applicant's Legal advice.</li> <li>• Verbal submissions at the panel meeting: <ul style="list-style-type: none"> <li>○ On behalf of the Applicant - Julie Bindon (JBA), Matthew McGuery (Acoustics Engineer), Peter Ireland (Architect), Meredith Hatcher (on behalf of the congregation of St. Andrews), Santino Dimarco (on behalf of St. Andrews)</li> <li>○ Members of the Public – Caroline Pidcock (on behalf of neighbours of 3 Bancroft Avenue)</li> </ul> </li> </ul>
8	<b>Meetings and site inspections by the panel:</b> 04 February 2014 – Briefing Meeting; 08 July 2015 - Site Inspection & Final Briefing meeting. 04 December 2015 – Final Briefing meeting. 24 March 2016 – Site Inspection and Final Briefing Meeting.
9	<b>Council recommendation:</b> Refusal
10	<b>Reasons for Refusal:</b> Attached to council assessment report