

DATE OF DETERMINATION	17 August 2018
PANEL MEMBERS	Justin Doyle (Chair), Bruce McDonald, Nicole Gurran, Frank Carbone and Ninos Khoshaba
APOLOGY	Nil
DECLARATIONS OF INTEREST	Nil

Electronic meeting held between 10 August 2018 to 17 August 2018.

MATTER DETERMINED

2017SSW066 - LGA – Fairfield– DA525.1/2017, No. 36 Lily Street, Wetherill Park (William Stimson Public School) – Lot 1 DP 56429 (AS DESCRIBED IN SCHEDULE 1).

PANEL CONSIDERATION AND DECISION

On 9 April 2018, the Panel met and considered the matters listed at item 6, the material listed at item 7, and the matters observed at the site inspection listed at item 8 in Schedule 1.

At that time, the Panel unanimously resolved that development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979* is to be approved subject to the amendments to the conditions listed below.

The Minister's approval under s.7.33 of the Act was sought for the imposition of the following additional condition for which the Applicant had not given its approval:

Section 94A Levy Development Contributions

Prior to the commencement of any works, a receipt for the payment to Fairfield City Council of Section 94A Levy Contributions shall be submitted.

The Section 94A Levy as determined at the date of this consent is **\$115,320**.

The contribution amount payable may be adjusted at the date of payment. Any unpaid contributions will be adjusted on a quarterly basis to account for movements in the Australian Bureau of Statistics, Producer Price Index – Building Construction (New South Wales).

The Minister Considered the proposed condition, and on 2 August 2018 advised that he does not approve of that condition on the basis that the proposal will provide significant benefit for the public in terms of essential community services and would not result in a significant increase in demand on public infrastructure. For that reason, the Minister advised that he considered the payment of \$115,320 towards public infrastructure is not justified, and directed the Panel under Section 4.34 of the EP&A Act to approve the development without that condition.

In accordance with that direction, the panel now approves the development application in accordance with its resolution of 9 April 2018, but with Condition 5 as recommended by Council deleted.

REASONS FOR THE DECISION

1. The proposed development will upgrade and add to school facilities servicing the needs of the expanding Sydney Western City District and the Fairfield local government area.
2. The proposed development adequately satisfies the relevant State Environmental Planning Policies including, SEPP (Educational Establishments and Child Care Facilities) 2017, SEPP 55-Remediation of Land, SEPP (Infrastructure) 2007. The proposal is also consistent with the provisions of the Design Guide for Schools.
3. The Panel has considered the Applicant's request to vary the development standard contained in Clause 4.3(2) of Fairfield Local Environmental Plan 2013 and considers that compliance with the standard is unreasonable and unnecessary in the circumstances of this case as the variation will not generate unacceptable impacts on adjoining or on site premises, has no adverse visual impact, provides an environmental benefit of minimising the onsite building footprint, and remains consistent with the objective of the standard.
4. The proposal adequately satisfies the applicable provisions and objectives of Fairfield LEP 2013 and subject to a condition applied requiring additional formal onsite parking adequately satisfies Fairfield City Wide DCP.
5. The proposed development, subject to the conditions imposed will have no unacceptable adverse impacts on the natural or built environments including the local ecology or riparian systems, operation of the local road system and the amenity of nearby existing residential premises.
6. In consideration of conclusions 1-5 above it is considered the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

CONDITIONS

The development application was approved subject to the conditions presented at the meeting with the following amendments:

Condition 2 – deleted

Condition 3 – to read as follows –

Final Architectural Plan

Prior to the commencement of any works, final architectural plans and specifications, shall be prepared and provided to Fairfield City Council.

The final architectural plan shall include details and specifications of provision in the car parking areas for appropriate structural barriers (such as a low fence or raised landscaping) to separate the car parking areas from the general play areas and to include a minimum of 17 car parking spaces.

Condition 5 – deleted

In accordance with the Minister's direction of 2 August 2018 under s.4.34, condition 5 as proposed by the Council is to be deleted.

Condition 15 – to read as follows –

Construction Management Plan

A Final Construction Management Plan shall be submitted prior to the commencement of any works, demonstrating how the site will be managed during construction without impact or disruption to adjoining properties and how impacts upon the amenity and safety of school children are to be adequately mitigated (given that the construction will continue during the school term).

All construction vehicle access is to be directly from Lily Street. Accordingly, the 'Construction Vehicle Access Location' detailed (in Figure 4) within the Preliminary Construction Management Plan (prepared by John staff, dated 10 January 2018), is to be amended accordingly.

Details of the hoardings, cranes and location of car parking, etc., shall be detailed in the Final Construction Management Plan.

The Final Construction Management Plan shall also include details of how workers vehicles will be managed during construction works that does not impact on the adjoining residents in an unacceptable manner.

Condition 24 – to read as follows -

Site Access, Car Parking and Manoeuvring Areas

All existing / informal car parking areas / spaces on site, shall be maintained as existing, as shown on the approved plans other than as required by Condition 3.

Condition 31 – to read as follows –

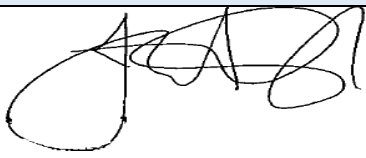
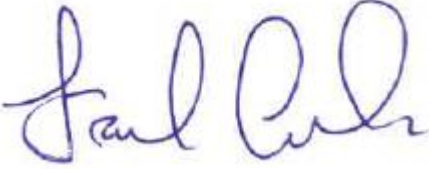
During Construction or Demolition

During the construction or demolition period, the applicant must ensure that:

- a. There is provision of a trade waste service to ensure that all debris and waste material is removed from the site for the period of construction or demolition;
- b. All plant equipment, fencing or materials of any kind is not placed or stored upon any public footpath or roadway; and
- c. Any building work is to be carried out within the following hours.
 1. Monday – Friday between the hours of 7:00am to 6:00pm and Saturday between 8:00am and 4.00pm. No work may be carried out on Sundays or public holidays.

Note: On the spot penalties up to \$1,500 will be issued for any non-compliance with this requirement

Condition 40 b is deleted

PANEL MEMBERS	
	
Justin Doyle	Nicole Gurran
	
Bruce McDonald	Frank Carbone
	
Ninos Khoshaba	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017SSW066 - LGA – Fairfield– DA525.1/217
2	PROPOSED DEVELOPMENT	Removal of 18 trees, removal of demountable buildings (comprising of 12 classroom and a store room), demolition of awning type structures, construction of a two (2) storey school/classroom building (comprising of 12 classrooms), construction of a single storey school/classroom building (comprising of a classrooms), additions to and reconfiguration of the existing administration building and associated works.
3	STREET ADDRESS	No. 36 Lily Street, Wetherill Park (William Stimson Public School) – Lot 1 DP 56429
4	APPLICANT/OWNER	Department of Education
5	TYPE OF REGIONAL DEVELOPMENT	Crown development
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy (State and Regional Development) 2011 - State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 - State Environmental Planning Policy No. 55 – Remediation of Land - Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment - Fairfield Local Environmental Plan 2013 - Draft environmental planning instruments: Nil

		- Development control plans: - Fairfield City Wide Development Control Plan (DCP) 2013 - Section 94 Community Facilities Plan Planning agreements: Nil <i>Environmental Planning and Assessment Regulation 2000</i>: Nil - The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality - The suitability of the site for the development - Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations - The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	- Minister's letter dated 2 August 2018 - Council assessment report with recommended conditions, Aerial photograph of the locality, Fairfield local environmental plan 2013 zoning map extract, Architectural plans, including shadow analysis, Landscape plans, Clause 4.6 written request, Design quality statement, Acoustic request, Traffic and transport assessment report, Site remedial action plan, Biodiversity assessment, including assessment of significance, Preliminary construction management plan and written submissions. - Written submissions during public exhibition: 1 - Verbal submissions at the public meeting: - Support – Nil - Object – Nil - On behalf of the applicant – Stephen Earp - On behalf of the council – Robert Walker
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	- Site Inspection and Briefing Meeting – 15 December 2017 - Site inspection – 9 April 2018 - Final briefing meeting to discuss Council's recommendation – 9 April 2018. - Determination meeting – 9 April 2018 Attendees: <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald, Nicole Gurran, Frank Carbone and Ninos Khoshaba <u>Council assessment staff</u>: Robert Walker
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Council's proposed conditions (enclosed) adopting the amendments described above.

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