

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY EASTERN CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	Tuesday 4 June 2019
<b>PANEL MEMBERS</b>	Carl Scully (Chair), Julie Savet Ward, Deborah Laidlaw, Jacinta Reid, Peter Brennan
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	<p>Sue Francis declared a conflict as City Plan Services is the town planner for this application.</p> <p>Brian McDonald declared a conflict having participated on a separate panel regarding this application.</p> <p>Sam Iskandar and Vic Macri both declared a conflict having participated in discussions on this application in their role as Councillor for Inner West Council.</p> <p>John Roseth declared a non-pecuniary conflict as his daughter is close friends with the architect for this development.</p>

Public meeting held at Fraser Suites Sydney, 488 Kent Street Sydney, on 4 June 2019, opened at 2.05pm and closed at 3.45pm.

#### MATTER DETERMINED

2018SCL035 – Inner West – DA20800173 at 3-7 & 13-17 Regent Street, 287-309 Trafalgar Street & 16-20 Fisher Street Petersham – Petersham RSL redevelopment (as described in Schedule 1)

#### PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings 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.

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### REASONS FOR THE DECISION

1. The Panel is satisfied that the written requests to vary the development standards in clauses 4.3 (height) and 4.4 (FSR) have adequately addressed the matters required under clause 4.6(3) of the Marrickville Local Environmental Plan 2011 ('the LEP'). The Panel is satisfied that the written requests demonstrate that compliance with the development standards are unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standards.
2. The Panel is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the development standards in clauses 4.3 and 4.4 of the LEP and the objectives for development within the R4 High Density Zone.

3. Having considered the heads of consideration in s4.15 of the Environmental Planning and Assessment Act 1979, the Panel is satisfied that it is appropriate to grant development consent to the Development Application. In particular:
- a. The Development is consistent with the LEP and the Marrickville Development Control Plan 2011;
  - b. The likely impacts of the development are satisfactory and will be adequately controlled by the conditions of consent;
  - c. The site is suitable for the development;
  - d. The Panel has considered written submissions made during the public exhibition and heard from all those wishing to address the Panel. The Panel notes the community's issues of concern which are set out in the previous record of deferral of 2 May 2019.

The Panel notes that following an earlier planning proposal, the applicant has agreed to enter into a voluntary planning agreement and a condition has been imposed that the agreement be implemented and complied with.

### CONDITIONS

The development application was approved subject to the Revised Conditions dated 30 May 2019 with the following amendments:

- New condition 2a) to read as follows:  
*The landscape plan LT307[A] prepared by Taylor Brammer for the 'RSL Gaming Area Screen' shall be amended to delete the reference to the species 'Bambusa texillis Gracillis' and replace it with 'Lilli Pilli – Syzigium australe'. The planter bed shall include an automatic irrigation system.*

- Condition 120 to be amended to include two new additional dot points to read as follows:
  - *Complaints management (including register of complaints and record of resolution);*
  - *Crowd and behaviour management of patrons entering and exiting the Club.*

Condition 120 is also to have the words added: 'the Plan of Management must be implemented and complied with'.






- Condition 252 (a) to be amended to read as follows:  
*Prior to the issue of any Occupation Certificate of Stage 1 of the development, the person acting on this consent shall seek approval from the relevant roads authority (ies) to relocate or add an additional signalised pedestrian crossing at the intersection at Trafalgar Street and Regent Street to provide a pedestrian crossing on the western side of the intersection to facilitate the increased pedestrian movements generated by the development and to provide safe and direct access to Petersham Railway Station from the new Bus Stop location and the new RSL Club. Detailed design plans shall be submitted for the approval of RMS and Council before the installation of the new signalised works. If approved, the signalised works shall be implemented prior to the issue of any Occupation Certificate of Stage 1 at no cost to Council.*
- Condition 252 (b) to be amended to read as follows:  
*Prior to the issue of any Occupation Certificate of Stage 1 of the development the person acting on this consent shall seek approval from the State Transit Authority (STA) for the proposed relocation of the bus stop and shelter as detailed on SK34 (Rev C) submitted by ACE Engineers Pty Ltd. The person acting on this consent must also liaise with Council's bus shelter service provider to organise the relocation/new shelter at no cost to Council. A plan of the proposed bus shelter relocation with signposting alterations shall be submitted to Council's Traffic Committee for approval before implementation of the works. If approved, the works shall be implemented prior to the issue of any Occupation Certificate of Stage 1 at no cost to Council.*

- Condition 252 (c) to be amended to read as follows:  
If the approvals in condition 252 (a) and (b) are not granted, the applicant is to provide an alternative design for upgrade works to the satisfaction of Council's Traffic Committee, the RMS and Transport for NSW prior to the issue of an Occupation Certificate for Site 3. The alternative design must have regard to part (a) and (b) of this condition, adequately facilitate increases in pedestrian numbers generated by the development and ensure safe access for pedestrians using Petersham Railway Station. If approved, the works shall be implemented prior to the issue of any Occupation Certificate of Stage 1 at no cost to Council.
- Condition 359 is to be deleted.

#### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel noted that issues of concern included:

- excessive height, bulk and scale and consequently overshadowing on existing residential properties and lack of privacy
- inadequate provision of open space and loss of trees
- global warming
- inadequate provision of affordable housing
- the impact on the existing congested roads and inadequate consideration of the cumulative impacts from traffic congestion and parking
- unsuitable location of the outdoor gaming area along Trafalgar Street
- provision of a community meeting room, separate to the club facilities, for general community use.

PANEL MEMBERS	
 Carl Scully (Chair)	 Julie Savet Ward
 Peter Brennan	 Deborah Laidlaw
 Jacinta Reid	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SCL035 – Inner West – DA201800173
2	PROPOSED DEVELOPMENT	Demolish existing structures and construct ‘staged’ development over three (3) sites. The proposal includes 357 apartments, a registered club with ancillary uses and a food and drink premises. A new through-site link connecting Regent Street to Fozzard Lane is also proposed.
3	STREET ADDRESS	3-7 & 13-17 Regent Street. 287-309 Trafalgar Street & 16-20 Fisher Street Petersham
4	APPLICANT/OWNER	Deicorp Projects Petersham Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy No 65 —Design Quality of Residential Apartment Development</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 Commonwealth Airports (Protection of Airspace) Regulations 1996</li> <li>Civil Aviation Regulations 1988</li> <li>Roads Act 1993</li> <li>Marrickville Local Environmental Plan 2011</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Marrickville Development Control Plan 2011</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</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 <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 23 April 2019</li> <li>Clause 4.6 variation requests</li> <li>Council supplementary report: 17 May 2019</li> <li>Amended conditions: 30 May 2019</li> <li>Written submissions during public exhibition: 179</li> <li>Verbal submissions at the public meeting 2 May 2019: <ul style="list-style-type: none"> <li>In objection – Adrienne Shilling</li> <li>Council assessment officer – Tom Irons</li> <li>On behalf of the applicant – Danny Fitzgerald, Stephen Kerr, Fouad Deiri, Glen Barker, Angelo Candalepas, Robert Day</li> </ul> </li> <li>Verbal submissions at the public meeting 4 June 2019: <ul style="list-style-type: none"> <li>Council assessment officer – Tom Irons, Joe Berttacca</li> <li>On behalf of the applicant – Glen Coleman, Fouad Deiri, Tina Christie</li> </ul> </li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Site inspection: 7 March 2019</li> <li>Briefing: 29 November 2018, 7 March 2019</li> </ul>

		<ul style="list-style-type: none"> <li>• Final briefing to discuss council's recommendation, 2 May 2019 at 9am. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Julie Savet Ward, Peter Brennan, Deborah Laidlaw, Jacinta Reid</li> </ul> </li> <li>• <u>Council assessment staff</u>: Luke Murtas, Tom Irons</li> <li>• Final briefing to discuss council's recommendation, 4 June 2019 at 1.30pm. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Julie Savet Ward, Peter Brennan, Deborah Laidlaw, Jacinta Reid</li> <li>○ <u>Council assessment staff</u>: Tom Irons, Jay Reid, Ruba Osman, Joe Bertacca</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report