

DETERMINATION AND STATEMENT OF REASONS

SYDNEY SOUTH PLANNING PANEL

DATE OF DETERMINATION	Wednesday 19 June 2019
PANEL MEMBERS	Nicole Gurran (Chair), Bruce McDonald, Julie Savet Ward, Bilal El-Hayek, Rachelle Harika
APOLOGIES	Helen Lochhead, Nadia Saleh, Charlie Ishac
DECLARATIONS OF INTEREST	<p>Bilal El-Hayek made the following declaration:</p> <p><i>'Whilst I do not believe that I have any conflict of interest, I nevertheless wish to have noted interactions that I have had with an objector to this application that will come before the panel in June 2019.</i></p> <p><i>On 26 June 2018 I attended a meeting with an objector, the Mayor, and Council officers in relation to this DA. This was the Mayors meeting and I attended with the Mayor and did not participate in any discussion, rather I listened to the proceedings at that meeting.</i></p> <p><i>It is important to note that at that time it was not known that the DA would be determined by the Sydney South Planning Panel. In fact, the matter was to be dealt with either by staff under delegation or Council's Local Planning Panel.</i></p> <p><i>Subsequently amended plans were lodged which would see the matter being delegated to the Sydney South Planning Panel.</i></p> <p><i>An objector proceeded to call me on 3 occasions that I recall, prosecuting her grievances with the application under assessment. Being mindful of my responsibilities as a member of the panel, on each occasion and much to her frustration, I listened politely and advised that I was unable to offer a comment on the matter and that I would need to fully consider the matter once an assessment is complete.</i></p> <p><i>I don't believe that I have in any way breached any code of conduct and am free and open minded to impartially consider this matter. Of course, I always strive to be completely transparent and accordingly I provide this declaration to the Chair for review and consideration.'</i></p> <p>In response to this declaration, the Panel Chair noted:</p> <p><i>'Mr El-Hayek's meeting with the member of the public, and council staff, about the matter was prior to the Panel becoming the determining authority. At this meeting he did not express a point of view.</i></p> <p><i>Mr El-Hayek has not been part of any subsequent meetings about the matter and has not participated in any council voting or resolutions in relation to it.</i></p> <p><i>I note that members of the public who were at that meeting have made written submissions on this matter that have been considered by council staff in their assessment report.</i></p> <p><i>Accordingly, I am of the view that Mr El-Hayek's participation in the Panel meeting today is consistent with the requirements of the Code of Conduct, particularly clause 10.2.'</i></p>

Public meeting held at Former Bankstown Council Chambers (Roundhouse), cnr Chapel Road and The Mall, Bankstown on 19 June 2019, opened at 3.40pm and closed at 8.05pm.

MATTER DETERMINED

2018SSH040 – Canterbury Bankstown – DA384/2018 at 144-146 Boronia Road, Greenacre Demolition of existing site structures and construction of a fifty-two (52) room boarding house, manager's residence, communal room, outdoor areas, associated site works, landscaping and basement car parking under SEPP (Affordable Rental Housing) 2009 (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 3:2 in favour, against the decision were Bilal El-Hayek and Rachelle Harika.

REASONS FOR THE DECISION

1. The proposed development will provide additional affordable rental housing supply in the form of boarding house accommodation within the Canterbury -Bankstown local government area and the Sydney South District in a location with access to the district bus services providing access to Bankstown, Milperra, Moorebank and Liverpool.
2. The Panel has considered the Applicant's request to vary the development standards contained in Cl.4.3(2B)(c) of Bankstown LEP 2015. The Panel accepts the assessment that these departures constitute minor technical departures only due to the wording of the respective clauses. On this basis, technical compliance with the standards is considered unreasonable and unnecessary in the circumstances of this case as the proposed height will not generate unacceptable impacts on the nearby premises and is consistent with the emerging scale and form of housing in this regenerating residential locality.
3. The proposed development adequately satisfies the relevant State Environmental Planning Policies including SEPP (Affordable Rental Housing) 2009, SEPP 55 -Remediation of Land, and the SEPP (Infrastructure) 2007.

In relation to the requirement under Clause 30A of Division 3 of SEPP (Affordable Rental Housing) 2009, the Panel considers that the design of the development is compatible with the existing and anticipated character of the local area, noting that the development satisfies the prevailing FSR under Bankstown LEP 2015 (which has a FSR of 0.5:1, compared to the proposal which has an FSR of 0.49:1), and the built form controls under the boarding house provisions of the Bankstown DCP 2015. The Panel also notes the range of permissible uses in the R2 Low Density Residential zone, which include seniors housing and multi-dwelling housing.

4. The proposal adequately satisfies the applicable objectives and provisions of Bankstown Local Environmental Plan 2015 and Bankstown DCP 2015.

In addition, the design minimises overlooking and overshadowing, noting in particular the single story element to the rear of the site, and is compliant with car parking requirements.

5. The proposed development subject to the conditions imposed will have no unacceptable adverse impacts on the natural or built environments including the amenity of nearby buildings or the utility of the local road system.

6. In consideration of conclusions 1-6 above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

Bilal El-Hayek and Rachelle Harika disagreed with the majority decision for the following reasons:

- The development is not compatible with the objectives of the R2 zone and the character of the locality in which it is placed.
- Traffic impacts and related safety on the surrounding areas, mainly Boronia Road, noting that the area is a 60km zone.
- Safety issues relating to the surrounds including the school, childcare centres and the local Scout Hall.
- One manager for 52 units is not considered sufficient.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments, to strengthen the Boarding House Plan of Management, and to address neighbour concerns expressed at the public meeting, in relation to boundary fencing.

Condition 7 amended to read as follows:

- 7) The Plan of Management and House Rules, dated 23 November 2018, shall be amended to include the following requirements:

Section 1.0 'Object of the Plan':

- The purpose needs to include establishing the culture and expectations of tenants of the new age Boarding House as well as ensuring neighbourhood amenity.

Section 2.0 'Primary Person Responsible':

- The Tenant Induction Process is to be more fully described, beyond receiving a copy of the Plan of Management and House Rules. The expected culture of the new age Boarding House needs to be established in the induction process.

Section 3.0 'Manager':

- The required skills and experience of the Manager is to be more fully described.
- The Tenant Selection Process is to be more fully described including criteria for selection, interview process as well as background checks.

Section 9.0 'Public Complaints Resolution Procedure' shall include the following:

- The nature of the complaint.
- The time and date the issue occurred.
- The name of the employee that received the complaint.
- Actions taken to investigate the complaint and the summary of the results of the investigation.
- Required remedial action (if applicable).
- Validation of the remedial action.
- Summary of feedback to the complainant.

The revised Plan of Management and House Rules shall be submitted to Council for approval prior to the issue of any Occupation Certificate

Condition 23 amended to read as follows:

- 23) The landscape plan shall include the provision for the replacement of all boundary fencing. A new fence is to be erected along all side and rear boundaries of the subject allotment at full cost to the developer. The colour of the fence is to complement the development and the fence is to be constructed of lapped and capped timber paling, sheet metal or other suitable material. When measured from the existing natural ground level, the height of the fence shall be at least 1.8 metres,

and no greater than 2.4 metres, and is to be determined in consultation with each respective adjoining property owner. Any portion of the fence that exceeds 1.8 metres in height must be self-supporting and may either be of solid material or lattice screening (as determined in consultation with each respective adjoining property owner). The selection of materials and colours of the fence is to be determined in consultation with the adjoining property owners. If any portion of the existing boundary fencing is of an acceptable height, material and condition, this fencing can be retained if agreed upon by the respective adjoining property owner. Fencing forward of the building line shall be no higher than 1m unless otherwise approved by Council.

Condition 71 to read as follows:

- 71) All boundary fencing behind the building line shall be replaced during the construction process in accordance with the requirements of Condition 23.

Add Condition 92 to read as follows:

- 92) Evidence of Council approval of the amended Plan of Management and House Rules referenced in Condition 7 shall be obtained and submitted to the PCA prior to the issue of any Occupation Certificate.

Re-number conditions 93-112 as a result of the addition of Condition 92.






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 notes that issues of concern included:

- Traffic and parking impacts
- Privacy and overlooking
- Scale of development
- Consistency with R2 zone
- Tenant selection and management
- Security and crime risks
- Interface with neighbouring properties

Addressed in responses by applicant with reference to supporting information and additional conditions.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues, appropriate conditions have been imposed and amended addressing the concerns raised.

PANEL MEMBERS	
 Nicole Gurrán (Chair)	 Bruce McDonald
 Julie Savet Ward	 Bilal El-Hayek
 Rachelle Harika	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SSH040 – Canterbury Bankstown – DA384/2018
2	PROPOSED DEVELOPMENT	Demolition of existing site structures and construction of a fifty-two (52) room boarding house, manager’s residence, communal room, outdoor areas, associated site works, landscaping and basement car parking under SEPP (Affordable Rental Housing) 2009
3	STREET ADDRESS	144-146 Boronia Road, Greenacre
4	APPLICANT/OWNER	CK Design / George Steven Valiotis and Stamatia Valiotis
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ SEPP (State and Regional Development) 2011 ○ SEPP No. 55 – Remediation of Land ○ SEPP (BASIX) 2004 ○ SEPP (Infrastructure) 2007 ○ SEPP (Affordable Rental Housing) 2009 ○ Bankstown Local Environmental Plan 2015 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Bankstown Development Control Plan 2015 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: 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	<ul style="list-style-type: none"> • Council assessment report: 5 June 2019 • Clause 4.6 variation request – Building Height • Written submissions during public exhibition: <ul style="list-style-type: none"> ○ Exhibition period 1 – 35 submissions (including 5 petitions containing 102 signatures) ○ Exhibition period 2 and 3 – 47 submissions (including 3 petitions containing 50 signatures) • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support – Nil ○ In objection – Clr Khal Asfour; Hamish Woudsma- Principal, Banksia Rd Public School; Sue Samad; Resident 1- has requested confidentiality and is also reading out letters on behalf of other community members, also requesting confidentiality; Dusanka Popadic; Darinka Popadic; Mohieddine Derbas; Resident 2 has requested confidentiality and is also reading out letters on behalf of other community members, also requesting confidentiality; Leyla Derbas – on behalf of Greenacre Community Lobbying

		<p>Group; Mariam Derbas; Resident 2 - has requested confidentiality and is also reading out letters on behalf of other community members, also requesting confidentiality; Irfan Rahman; Ashfara Rahman; Victoria Banki;</p> <ul style="list-style-type: none"> ○ Council assessment officer –Steve Arnold ○ On behalf of the applicant – Andrew Martin, Chris Khoury
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: 19 June 2019 • Briefing: 4 September 2018 • Final briefing to discuss council’s recommendation, 19 June 2019, 2.55pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Nicole Gurran (Chair), Bruce McDonald, Julie Savet Ward, Bilal El-Hayek, Rachelle Harika ○ <u>Council assessment staff</u>: Samantha Mitchell, Steve Arnold
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report