



DETERMINATION AND STATEMENT OF REASONS
SYDNEY EASTERN CITY PLANNING PANEL

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| DATE OF DETERMINATION | Thursday 5 September 2019 |
| PANEL MEMBERS | Carl Scully (Chair), Abigail Goldberg, John Roseth, Toni Zeltzer, Mary-Lou Jarvis |
| APOLOGIES | Sue Francis |
| DECLARATIONS OF INTEREST | Panel members Zeltzer and Jarvis both stated that they knew several people attending and presenting at the meeting through their roles at Woollahra Council. This did not preclude them from participating on the panel both for and against the application. |

Public meeting held at Fraser Suites, 488 Kent Street, Sydney, on 5 September 2019, opened at 10am and closed at 1.02pm.

MATTER DETERMINED

2019ECI002 – Woollahra – DA438/2015/2 at 30 Alma Street Paddington for modifications to an approved concept development application (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 item 8 in Schedule 1.

The panel deliberated on the matter and formulated a resolution after the meeting was closed.

Development application

The panel determined to approve the development application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was 3:2 in favour, against the decision were Mary-Lou Jarvis and Toni Zeltzer.

REASONS FOR THE DECISION

The majority of the Panel notes that the application is made under section 4.55(2) of the Environmental Planning and Assessment Act 1979 for the modification of a 2015 consent for a Concept Development Application, which was granted under section 4.22 of the Act.

The majority of the Panel is satisfied that the proposal as modified is substantially the same as the original proposal. In addition, the majority of the Panel has taken into account that the original consent is extant. Therefore the applicant is not required to re-justify issues that have been dealt with in the 2015 consent, and the Panel has no power to require changes to aspects of the proposal for which consent has already been granted.

The majority of the Panel notes that the proposal being modified is a concept proposal and that at least one further development application and consent are necessary before the applicant can act on the consent. Accordingly, matters that relate to detailed design are not considered at the concept proposal stage, but are deferred for consideration at the development application stage.

The majority of the Panel is satisfied that:

1. The proposal as modified will not have unacceptable impacts on the built and natural environment;
2. The issues raised by objectors have been properly considered and, where justified, responded to;

3. The proposal as modified has reduced the impact of the original proposal and has improved its response to the heritage significance of the site by retaining the grandstand.

Panel members Mary-Lou Jarvis and Toni Zeltzer voted to defer the modification application so that the applicant can provide a more comprehensive and robust assessment of the following:

1. To address traffic and safety issues, in particular:
 - a) Traffic flows on Glenmore Road.
 - b) Current traffic numbers and movements including but not limited to, patterns of pedestrian behaviour in and around Alma Street and the right of way within the site.
 - c) Child safety within the shared zone.
 - d) Issues with sight lines at the proposed egress point on Glenmore Road.
 - e) An alternative egress point from New South Head Road.
2. The applicant be advised that the stage 2 development application must include a detailed landscape plan which addresses the following matters which were raised during the submissions:
 - a) The potential loss of trees on the site and the reduction of tree canopy.
 - b) Proposed new landscaping, including replacement trees and areas of deep soil landscaping.
 - c) Provision of landscaped screening in all shared easements.
 - d) Retention of as much of the existing landscaping as possible to retain a green buffer between the school and the proposed development.
 - e) The implementation of the Green Grid, as relevant to the site and as outlined in the Sydney Eastern District Plan and Council's Draft Local Strategic Planning Statement.
 - f) How the proposal will facilitate the implementation of the Paddington Greenway project, as described in Council's resolution of 8th July 2019.
3. The minority further notes a number of conditions agreed to by the applicant in relation to the buffer between the school and the site, including the rearrangement/ removal of parking bays to reduce the conflict between cars and pedestrians on the right of way.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments:

- Condition B.14 a) is re-worded to name Alma Street as being included in the local area traffic management scheme (LATM), and require that the Applicant make best endeavours to consult with the local schools and community members in the preparation of the LATM, viz:

B.14.a) The Applicant develop, fund and implement a local area traffic management scheme (LATM) in the area bound by Glenmore Road, Lawson Street, Alma Street, Neild Avenue and New South Head Road, to the satisfaction of the Council's Engineering Services Department. The Applicant is to make best endeavours to consult with the local schools and community members in the preparation of the LATM.
- Condition B24 is re-worded to allow the applicant to get closer than 1m to the drainage easement, provided Sydney Water agrees.

CONSIDERATION OF COMMUNITY VIEWS

The Panel considered 111 written submissions plus a petition from the Parents and Citizens Association of the Sydney Grammar Edgecliff Preparatory School with 532 signatures. At the public meeting the Panel heard 16 objectors. The principal issues raised were:

- Traffic impacts and inadequacy of the traffic report;
- Tree removal and loss of green character of the valley floor of Rushcutters Creek;
- Landscape impacts of the modification;

- Construction impacts;
- Amenity impacts such as view loss, noise, overlooking and overshadowing;
- Lack of public access through the site.

After the conclusion of the presentation of objector's the panel chair indicated to the applicant's representatives that the panel was giving consideration to adjourning the matter pending further comment from them to council in relation to traffic impacts. However, after hearing the views of the applicant's representatives, the panel was satisfied that an adjournment was not necessary and that it could proceed to determine the application.

Regarding traffic impacts, the majority of the Panel notes that the council's traffic engineer accepted the applicant's traffic report and raised no objection to the traffic impact of the modified proposal. It also notes that the applicant's permission to allow queuing on its site for parents delivering or collecting their children from Sydney Grammar is likely to improve child safety. It notes that Condition B14 requires further extensive details to be submitted in future development application(s) in order to ensure that the proposal performs satisfactorily with regard to traffic, parking and vehicular access.






As regards tree removal and the greening of the valley floor, the majority of the Panel notes that the Panel has no power to revoke permission already granted to remove trees. Nor can it require a fundamental re-design to fit in with the proposed "Paddington Greenway", which is a concept not included in any statutory planning instrument.

The Panel accepts the advice of the assessment report that construction impacts will be dealt with in future development application(s).

The majority of the Panel notes that the modifications to the approved Concept Proposal have reduced its external impacts.

As concerns public access through the site, the majority of the Panel notes that it has no power to require it, nor does it consider it practical, given that the agreement of several other land owners, including the Sydney Grammar school would be required to bring it to reality.

In conclusion, the majority of the Panel accepts that the valid public submissions have been dealt with either by amendments to the application or by conditions of consent.

| PANEL MEMBERS | |
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|  Carl Scully (Chair) |  Abigail Goldberg |
|  John Roseth |  Mary-Lou Jarvis |
|  Toni Zeltzer | |

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DA NO. | 2019ECI002 – Woollahra – DA438/2015/2 |
| 2 | PROPOSED DEVELOPMENT | Modifications to the approved concept proposal which includes building envelopes, indicative uses, vehicle access and car parking and the heritage interpretation strategy. |
| 3 | STREET ADDRESS | 30 Alma Street, Paddington |
| 4 | APPLICANT/OWNER | Hakoah Club Limited (Applicant) Hakoah Club Limited and Sydney Maccabi Tennis Club Limited |
| 5 | TYPE OF REGIONAL DEVELOPMENT | Section 4.55(2) Modification Application |
| 6 | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy No. 55: Remediation of Land Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Woollahra Local Environmental Plan 2014 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Woollahra 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: 26 August 2019 Written submissions during public exhibition: 111 Council memos: 28 August and 2 September 2019 Verbal submissions at the public meeting: <ul style="list-style-type: none"> In objection – Richard Malpass and Dan Brindle (On behalf of Sydney Grammar School), Cllr Matthew Robertson, Jeanine Prentic, Harshane Kahagalle and Caroline Williams (on behalf of Parents' Association Sydney Grammar School Edgecliff Preparatory School), James Dolton (on behalf of Glenmore Road Public School), Brooke Flint and Alex Giyahi (on behalf of Whites Paddington SP65708), Bridget Fair, Julian Martin (on behalf of The Lawson Street North Residents Association), Noel Robinson, Andrew Moss, Yaron Finkelstein, John Richardson (on behalf of the Paddington Society), Simon Chan. Council assessment officer – Max Moratelli On behalf of the applicant – Aaron Sutherland, Angelo Di Marco, George Farkas, Rob Woolf, Robert Krochmalik, Stephen Davies |

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| 8 | MEETINGS AND, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> • Briefing: 30 July 2019 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Sue Francis, Abigail Goldberg, Mary-Lou Jarvis, Toni Zeltzer • <u>Council assessment staff</u>: Max Moretelli, George Fotis • Final briefing to discuss council's recommendation, 5 September 2019 at 9.30am Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Abigail Goldberg, John Roseth, Mary-Lou Jarvis, Toni Zeltzer ○ <u>Council assessment staff</u>: Max Moratelli, George Fotis, Emilio Andari |
| 9 | COUNCIL RECOMMENDATION | Approval |
| 10 | DRAFT CONDITIONS | Attached to the council assessment report |