

DATE OF DETERMINATION	Monday, 3 August 2020
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran and Lara Symkowiak
APOLOGIES	Theresa Fedeli
DECLARATIONS OF INTEREST	None

Public meeting held Public Teleconference on 3 August 2020, opened at 11:04am and closed at 11:37am.

MATTER DETERMINED

2019WCI039 – Camden City Council – DA/2019/402/1 at 62-68 Peter Brock Drive, Oran Park – Oran Park Tavern (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.

Application to vary a development standard

The DA proposes contravention of the height of buildings development standard that applies to the site under Clause 4.3 of the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth SEPP).

3 different maximum building height controls apply to the subject site under clause 4.3, namely:

- 24 metres for the area zoned B2 Local Centre;
- 9.5 metres (or 16m for residential flat buildings) for the area zoned R3 Medium Density Residential; and
- 12 metres for the area zoned RE2 Private Recreation.

The proposal has a maximum height of 12.15m within the area R3 Medium Density Residential subject to a 9.5m maximum height, which exceeds the standard by 2.65m (or 27.9%). However, the non-compliance arises in relation to a small portion of the proposed building only which the assessment report states is less than 10% of the total development.

The Panel agrees with the Council staff assessment that the non-compliance will not cause adverse impacts on the built environment or the amenity of nearby properties in terms of overshadowing, privacy or visual impact due in part to the location of perimeter roads around the proposal.

It is for those reasons that following consideration of a written request from the applicant, made under cl 4.6 of the Growth SEPP, the Panel is satisfied that the Applicant has demonstrated that:

- a) compliance with the height standard is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard.

On that basis the panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 of the Growth SEPP and the objectives for development in each of the applicable zonings; and
- c) the concurrence of the Secretary has been assumed.

Development application

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 development will provide a well-designed licensed venue to service the expanding residential population of Oran Park. In doing so it will providing services and social infrastructure to meet people's changing needs, while allowing an additional location to develop social connections. It will thereby contribute to the fulfillment of Planning Priorities W3 and W4 of the Western Sydney District Plan. In that way it will assist with the overall development of the Oran Park Town Centre as a desirable place to live.
2. The Council assessment report concludes that the proposal will not have an unacceptable impact upon the surrounding road network. The provision of the temporary overflow parking across the road intended to service the development until the future Oran Park Podium Stage 3 is to be constructed will satisfactorily address parking demand.
3. The RMS did not object following referral under State Environmental Planning Policy (Infrastructure) 2007.
4. The proposed presentation of the development to the public domain, and the Ron's Creek open space and riparian corridor to the east, has been well considered. The proposed landscaping and street planting will allow the proposal to be compatible with the surrounding development as it presently exists and as it is expected to develop.
5. The proposal satisfies the applicable instruments including Sydney Region Growth Centre 2006, the Oran Park Indicative Layout Plan, SEPP55 Remediation of Land and SEPP (Infrastructure) 2007.
6. The development adequately satisfies the zone objectives of the 3 zones applying to the site and the height control (for reasons including those set out in the discussion of the clause 4.6 request above).
7. The proposed development is sufficiently consistent with the provisions of Camden DCP 2011 and Oran Park DCP 2007. While 'Figure 66: Public Transport Routes' (shown in Figure 11 of the Oran Park DCP) identified a 'Proposed Transit Hub' in the location of the proposed pub, Transport for NSW also did not object to the proposal. It is likely that the Transit Hub will be planned closer to the newly announced Oran Park train station.
8. The proposed development is of a form and scale consistent with that of existing and proposed buildings within the locality.
9. No objections were received from the Police, with conditions recommended by the Police included in the recommended conditions attached to this report.
10. The proposed development subject to the conditions imposed will have no unacceptable impacts on the built or natural environments.
11. No detrimental impacts are expected with regard to the provisions of Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (SREP 20).

CONDITIONS

The development application was approved subject to the conditions in the council assessment report but with Conditions 6.0(4) and (4)(a) amended to read:

- (4) **Hours of Operation** - The property is only to be open for business and used for the purpose approved within the following hours:

Day	Hours of Operation
Monday	7.00am to 2:00am
Tuesday	7.00am to 2:00am
Wednesday	7.00am to 2:00am
Thursday	7.00am to 2:00am
Friday	7.00am to 2:00am
Saturday	7.00am to 2:00am
Sunday	7.00am to 12:00am





- (4)(a) **Hours Operation for First 12 Months and Acoustic Audits** – Notwithstanding condition 6.0(4), and any other supporting document or report, the hours of operation for the premises are restricted to between the hours of 7:00am and 1:00am Monday to Saturday for the first 12 months of operation following the issue of the Occupation Certificate for Stage 1 of the development (as labelled in the approved staging plans SK 400 - 403 prepared by Archebiosis Date: 16 April 2020, Issue: 5).

The acoustic parameters relating to the development (including, but not limited to plant, equipment, materials, operations etc.) in the Plan of Management and approved Acoustic Report are to be audited by the firm that authored the approved Acoustic Report with the findings documented and provided to Council's satisfaction. Suitable remedial measures to address any non-compliances and/or noise issues identified as part of the acoustic audit are to be included in the audit report. Any additional recommendations of the acoustic engineer which are required to ensure that the development satisfies noise design targets in the approved Acoustic Report are to be adopted into an update of the Plan of Management with any additional acoustic measures to be implemented in the final design and operation of the premises. The following two audit reports are to be provided:

- a) The first audit is to be completed and provided to Council 9 months after the date of issue of an Occupation Certificate for Stage 1 of the development with the updated documents (acoustic audit report and updated Plan of Management) being submitted to Council's satisfaction prior to the premises reverting to the hours approved as part of condition 6.0(4).
- b) A further acoustic audit is to be carried out during the first summer (December – February) after the issue of the Occupation Certificate for the final stage of the development (Stage 7) with the updated documents (acoustic audit report and updated Plan of Management) being submitted to Council's satisfaction within 1 month at the end of that summer.

CONSIDERATION OF COMMUNITY VIEWS

There were no public submissions received in relation to the proposal

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurran
 Louise Camenzuli	 Lara Symkowiak

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019WCI039 – Camden City Council – DA/2019/402/1
2	PROPOSED DEVELOPMENT	Construction of Oran Park Tavern, comprising of a 3 storey pub and ancillary uses including a function room, two cinemas, two training rooms, at-grade and basement car parking, temporary overflow car park, earthworks, infrastructure and services work, landscaping and associated works.
3	STREET ADDRESS	41 Central Avenue, Oran Park, A Dick Johnson Drive, Oran Park, B Civic Way, Oran Park, and, 76 Central Avenue, Oran Park.
4	APPLICANT/OWNER	Applicant: DFP Planning Pty Limited Owner: Perich Property Pty Ltd and Leppington Pastoral Co Pty Ltd.
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
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 (Sydney Regional Growth Centre) 2006 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No 55 – Remediation of Land State Environmental Planning Policy No 64 – Advertising and Signage Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Camden Development Control Plan 2011 Oran Park Development Control Plan 2007 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: 20 July 2020 Clause 4.6 Variation Request to vary Height Limit Standard Written submissions during public exhibition: 0 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Council assessment officer – Jamie Erken and Jordan Soldo On behalf of the applicant – Marcello Colosimo, Mark Perich and Mick Owens
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Final briefing to discuss council's recommendation, Monday, 3 August 2020, 10:10am. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran and Lara Symkowiak <u>Council assessment staff</u>: Jordon Soldo, Jamie Erken, Mathew Rawson, Ryan Pritchard, Tom Allen and Ray El Kazzi

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report