

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY EASTERN CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	19 August 2021
<b>PANEL MEMBERS</b>	Jan Murrell (Chair), Roberta Ryan, Susan Budd
<b>APOLOGIES</b>	Carl Scully
<b>DECLARATIONS OF INTEREST</b>	<p>Jeremy Swan declared a conflict of interest and did not participate in the Panel for this matter. Mr Swan's wife works for and is a shareholder of Ethos Urban who wrote the Statement of Environmental Effects.</p> <p>Lee Kosnetter declared a conflict of interest and did not participate in the Panel for this matter. Mr Kosnetter represents the Easts Group (applicant) on various matters.</p>

The panel determined the matter electronically on 19 August 2021.

#### MATTER DETERMINED

PPSSEC-136 – Waverley – DA-483/2018/F at 163 Birrell Street, Waverley (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.

#### Development application

The Panel determined to approve the modification of development consent pursuant to section 4.56 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council Officer's assessment report.

The panel is satisfied the development is substantially the same development as that originally approved by the Land and Environment Court. The panel has also considered all relevant section 4.15 matters and has had regard to the original decision and reasons in the Land and Environment Court decision. The panel is satisfied the modification application will have no adverse impacts.

Following notification three submissions were received, these were taken into account by the panel.

The panel is satisfied that the relocation of the wellness centre to the heritage building will increase the amenity of this area for the residents and will not adversely impact on the heritage significance of the building. The issues of noise and residential amenity are addressed in the design and conditions. Furthermore, the Precinct Committee provides the capacity for residents to voice concerns to the operator of the premises. The Plan of Management is also able to be amended from time to time.

The other matters the subject of the modification are minor and will have no adverse impacts.

#### CONDITIONS

The development application was approved subject to the conditions in the Council Officer's assessment report with the following amendments:




- Condition 159 is to be replicated at 147A to ensure the Plan of Management is approved by Council's Executive Manager prior to the issuing of the Occupation Certificate.
- A typographical error is to be corrected at condition number 1(a) iv. The Plan title is to be amended from DA 1100.1 Proposed Basement 1 plan to proposed DA 1100.1 Basement 2 plan.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included:

- Hours of operation
- Noise impacts

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report. The Panel notes that in addressing these issues appropriate conditions have been imposed addressing hours of operation and appropriate design for acoustic attenuation has been undertaken.

PANEL MEMBERS	
 Jan Murrell (Chair)	 Roberta Ryan
 Susan Budd	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-136 – Waverley – DA-483/2018/F
2	PROPOSED DEVELOPMENT	Section 4.56 modification to the ground floor facade of the Bowling Club and Cafe and operating hours of associated terrace (Building A); relocation of residents' wellness centre; added plant and building services; and refinement of design and finishes.
3	STREET ADDRESS	163 Birrell Street, Waverley
4	APPLICANT/OWNER	Eastern Suburbs Leagues Club Limited C/- Mirvac Residential Developments
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.56 Modification Application
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 No. 65 – Design Quality of Residential Flat Development</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>Waverley Local Environmental Plan 2012</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Waverley Development Control Plan 2012</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>Land and Environment Court decision, Eastern Suburbs Leagues Club Ltd v Waverley Council [2019] NSW LEC 130</li> <li>Council assessment report: 2 August 2021</li> <li>Written submissions during public exhibition: 3</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Panel members visited the site independently, prior to 19 August 2021</li> <li>Final briefing to discuss Council's recommendation: 19 August 2021 <ul style="list-style-type: none"> <li><u>Panel members</u>: Jan Murrell (Chair), Roberta Ryan, Susan Budd</li> <li><u>Council assessment staff</u>: Jo Zancanaro, Bridget McNamara</li> <li><u>Applicant representatives</u>: Nicholas McCarthy, Kristy Hodgkinson, Adrian Checchin, Steven De Pasquale</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report