

DETERMINATION AND STATEMENT OF REASONS

SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	1 December 2022
DATE OF PANEL DECISION	1 December 2022
DATE OF PANEL MEETING	24 November 2022
PANEL MEMBERS	Jan Murrell (Chair), Brian Kirk, Susan Budd, John Faker, George Mannah
APOLOGIES	None
DECLARATIONS OF INTEREST	John Faker (Mayor) has no pecuniary or other conflict of interest. However, he noted for the record that he received a phone call from an objector of which he advised that he was not able to discuss the matter and immediately terminated the call.

Briefing held by Teleconference on 24 November 2022.
Papers circulated electronically on 17 November 2022.

MATTER DETERMINED

PPSSEC-214 – DA 2022/16 – Burwood - 47A Wentworth Road & 3-5 Everton Road, Strathfield, alterations and additions to Strathfield Private hospital for the demolition of the existing dwelling at 47A Wentworth Road, tree removal and the construction of a 3-storey building containing basement and ground level parking, 13 additional beds, 2 operating theatres and ancillary services (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 items listed at item 8 in Schedule 1.

Development application

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

The Panel deferred the matter on 14 October 2022 to allow the applicant to submit further information with respect to potential site isolation of the properties known as 1 and 1A Everton Road. The Panel also facilitated the owners of 1 and 1A Everton Road being advised of the additional information to allow their consultant to make a further submission prior to the Panel determination. The consultant and one of the owners addressed the Panel at the final briefing to ensure their position was put to the Panel prior to a decision being made.

The decision was 4:1 in favour, against the decision was John Faker.

REASONS FOR THE MAJORITY DECISION

The majority of the Panel determined to approve the application for the following reasons:

1. The Panel concurs with the assessment, recommendations and draft conditions contained in the Council Officer's Assessment and Supplementary Assessment reports.
2. The Panel considers the amended Development Application and supporting information has satisfactorily addressed the matters raised in the Pre-DA assessment, the RFI issued during the assessment of the DA, and issues raised by the submitters.

3. The Panel is satisfied from the additional information provided that the 2 sites, 1 and 1A Everton Road, could be developed together for a wide range of permissible uses including the highest order use (a Residential Flat Building) and that the sites cannot therefore be considered isolated in a planning sense. The Panel is also satisfied that the redevelopment potential of 1 and 1A Everton Road is not unreasonably impacted by this application. Furthermore, the development of 47A Wentworth Road for the hospital extension allows 1 and 1A Everton Road to be developed in the future without isolating 47A Wentworth Road.
4. The Panel is satisfied that there are no unreasonable impacts that would warrant refusal of the application and the development is in the public interest.
5. In relation to master planning for the current and possible future expansion of the hospital the Panel noted the applicant had undertaken extensive negotiations with the owners of 1 and 1A Everton Road. As those negotiations had failed the Panel is required to determine the merits of the current application before the Panel. The Panel noted the advice of the applicant that the proposed extension of the hospital facility as proposed in the current application would facilitate integration with a possible future expansion if adjoining sites were to be acquired.

Reasons for minority decision

John Faker disagreed with the majority decision for the following reasons:

- Preferred to see a master plan to allow for a future redevelopment of the whole site to meet future economic and growth projections. The proposal was considered to be an ad hoc extension and preference would be for the amalgamation of the other two sites.
- If 47A Wentworth Road was to be developed on a standalone basis, the opinion would be that it would not meet the planning merit test.

CONDITIONS

The Development Application is approved subject to the conditions in the Council Officer's Supplementary Assessment Report with the following amendments:

- Update references in the conditions to Remedial Action Plan to refer to Remediation Action Plan
- Inclusion of the following conditions as required:

64. Supplementary Testing and Final Remediation Action Plan

- a. Prior to the issue of a construction certificate the further investigations and actions recommended in the Preliminary Site Investigation, Douglas Partners February 2022, must be undertaken and a Final Remediation Action Plan (RAP) prepared, or reviewed and approved, by an appropriately qualified and certified environmental consultant and provided to Council and PCA. The front cover of the report must include the details of the consultant's certification. The supplementary testing shall be carried out, and the Final Remediation Action Plan prepared in accordance with:
 - i. The guidelines in force under the Contaminated Land Management Act 1997.
 - ii. Relevant EPA Guidelines, in particular NSW OEH (2020) Guidelines for Consultants Reporting on Contaminated Sites, and
 - iii. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013).
- b. The Final RAP must identify that the site can be made suitable for the proposed land use with the implementation of the RAP.

65. Implementation of Remedial Action Plan

- a. Prior to the issue of a Construction Certificate, the site must be remediated in accordance with:
 - i. The Final Remediation Action Plan referred to in Condition 64 –“Supplementary Testing and Final Remediation Plan”.
 - ii. State Environmental Planning Policy (Resilience and Hazards) 2021
 - iii. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013); and
 - iv. The guidelines in force under the Contaminated Land Management Act 1997.

- b. The applicant must engage an appropriately qualified and experienced supervising environmental consultant to supervise all aspects of site remediation and validation. The environmental consultant must supervise all aspects of the remediation and validation works in accordance with the approved Remediation Action Plan.
- c. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to Council and the Principal Certifying Authority in writing.
- d. Any variations to the approved Remediation Action Plan must be prepared or reviewed and approved by an appropriately qualified and certified environmental consultant and submitted to Council prior to the commencement of such work.

66. Survey of Contamination Containment Area

- a. The contamination containment area must be delineated and surveyed by a Registered Surveyor and identified on a survey drawing.
- b. The survey drawing must be submitted to the satisfaction of the supervising environmental consultant and be included in the Validation Report, **prior to the issue of the Construction Certificate.**

67. Prior to issue of the Occupation Certificate

The proponent must submit a detailed Validation Report to Council and the Principal Certifying Authority.

- a. The Validation Report must be prepared or reviewed and approved by an appropriately qualified and certified environmental consultant. The front cover of the report must include the details of the consultant's certification.
- b. The Validation Report must verify that the land is suitable for the proposed use(s), and that the remediation and validation of the site has been undertaken in accordance with the Final Remediation Plan.

68. Long Term Environmental Management Plan

- a. Where the Validation Report identifies the need for a Long Term Environmental Management Plan (LTEMP) a LTEMP shall be prepared by an appropriately qualified and certified environmental consultant and provided to Council and PCA prior to issue of an Occupation Certificate. The front cover of the report must include the details of the consultant's certification. The LTEMP must be prepared in accordance with:
 - i. The guidelines in force under the Contaminated Land Management Act 1997.
 - ii. Relevant EPA Guidelines, in particular NSW OEH (2020) Guidelines for Consultants Reporting on Contaminated Sites, and
 - iii. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013).
- b. The LTEMP must describe the nature and location of the contamination and prescribe how the contaminants will be managed/monitored and the responsible parties for management/monitoring in the long term.
- c. The LTEMP must be registered on the title to the land prior to the issue of an Occupation Certificate.


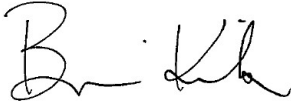



The Panel notes the applicant accepts the recommended conditions and this includes the provision of PV panels and the updated contamination requirements.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered two written submissions made during public exhibition, and the further submissions in response to additional information provided following the public exhibition

In relation to concerns about valuations the Panel's required additional information was to address site isolation. The Panel is satisfied 1 and 1A Everton Road will not become isolated in a planning sense and agrees with the comments in the Supplementary Assessment Report addressing the points raised in the further written submission from the adjoining owners. Given the orientation of the site the Panel also notes and is satisfied that solar access requirements could be met in a potential redevelopment of 1 and 1A Everton Road to a higher use, including a residential flat building.

Other issues raised have been adequately addressed in the assessment reports and where necessary are appropriately managed through conditions of consent.

PANEL MEMBERS	
 Jan Murrell (Chair)	 Brian Kirk
 Susan Budd	 John Faker
 George Mannah	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-214 – DA 2022/16 – Burwood
2	PROPOSED DEVELOPMENT	Alterations and additions to Strathfield Private hospital for the demolition of the existing dwelling at 47A Wentworth Road, tree removal and the construction of a 3-storey building containing basement and ground level parking, 13 additional beds, 2 operating theatres and ancillary services.
3	STREET ADDRESS	47A Wentworth Road & 3-5 Everton Road, Strathfield
4	APPLICANT/OWNER	Mr K Mayoh – Ramsay Health Care Australia Pty Limited
5	TYPE OF REGIONAL DEVELOPMENT	CIV > \$5M - Private infrastructure and community facilities
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Industry and Employment) 2021 ○ Burwood Local Environmental Plan (BLEP) 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Burwood Development Control Plan (BDCP) 2013 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> • 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: dated 28 September 2022 • Additional information provided by the applicant: dated 31 October 2022 and 08 November 2022 • Written submissions during public exhibition: 2 • Written submission post public exhibition and receipt of additional information (31/10/22 & 08/11/22): 2 • Supplementary Council assessment report: dated 16 November 2022 • Total number of unique submissions received by way of objection: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 15 September 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Jan Murrell (Chair), Brian Kirk, Susan Budd, John Faker, George Mannah ○ <u>Council assessment staff</u>: Emma Buttress-Grove, Brian Olsen

		<ul style="list-style-type: none"> 14 October 2022: Council, Applicant and Submitter Briefing: From 10am <ul style="list-style-type: none"> <u>Panel members</u>: Jan Murrell (Chair), Brian Kirk, Susan Budd, John Faker, George Mannah <u>Council assessment staff</u>: Emma Buttress-Grove, Brian Olsen, Dylan Porter From 10:45am <ul style="list-style-type: none"> <u>Applicant</u>: Mike Ryan of Erilyan, Andrew Cowan and Thomas Fernandez of Willowtree Planning <u>On behalf of submitter</u>: Douglas Bennett of Precise Planning 24 November 2022: Council, Applicant and Submitter Briefing From 8.30am <ul style="list-style-type: none"> <u>Panel members</u>: Jan Murrell (Chair), Brian Kirk, Susan Budd, John Faker, George Mannah <u>Council assessment staff</u>: Emma Buttress-Grove, Brian Olsen, Dylan Porter From 9:00am <ul style="list-style-type: none"> <u>Applicant</u>: Mike Ryan of Erilyan, Andrew Cowan of Willowtree Planning <u>On behalf of submitter</u>: Douglas Bennett of Precise Planning <u>Submitters</u>: Sarina Meoli and Gino Russo
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report