

DETERMINATION AND STATEMENT OF REASONS
SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	1 July 2020
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Sue Francis, Ken Robinson, Kevin Alker
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held via teleconference on 1 July 2020, opened at 1.05pm and closed at 3.38pm.

Due to poor audio quality at the end of public submissions, the Panel Chair requested representatives from the applicant and Council participate in a separate teleconference to provide clarification to the Panel and respond to issues raised in the public meeting.

MATTER DETERMINED

PPSSNH-43 – North Sydney – DA347/2019 at 4 Alfred Street South and Olympic Drive Milsons Point for alterations and additions to North Sydney Pool (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7, 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 development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was 4:1 in favour, against the decision was Ken Robinson.

REASONS FOR THE DECISION

The majority of the Panel (Peter Debnam, Julie Savet Ward, Sue Francis and Kevin Alker) voted to approve the application for the following reasons.

The North Sydney Olympic Pool opened in 1936, was substantially upgraded around the turn of the century and has had a number of alterations and additions in subsequent years. It is listed as a local heritage item and is in the vicinity of a number of heritage items, including Luna Park and the Sydney Harbour Bridge both of which are listed on the State Heritage Register. It is also within the buffer zone of the Sydney Opera House - listed with UNESCO as being of World Heritage significance. The Pool site is zoned RE1 Public Recreation and the proposed development is permissible with consent within the zone.

The Panel accepted Council's advice regarding independent structural engineering: the concrete structure of the existing 50m swimming pool is in poor condition and there is a history of reported significant leaks which have not been rectified despite numerous attempts; the children's and wading pool structures are in a similar condition; the condition of the existing grandstand is such that it should not be subjected to crowd loading, such as major events and swimming carnivals; and, the poor condition of these structures is such that redevelopment of the pool facility is required to enable it to continue to provide recreational facilities for the community.

The proposal has been independently reviewed with regard to its heritage impacts and has undergone a series of design amendments in response to that advice, including the deletion of the shade structure over

the sundeck and children's pool, the opening up of the area in front of the original pool entrance stairs and the reduction in height of the entry structure, grandstand and Ripples Café.

While the shade structure is no longer part of this development application, the Panel shares community concern with the lack of a shade structure over the children's pool. The applicant advised that there will be increased shade "generally" in the new development and there will also be two indoor swimming opportunities. Nevertheless, the applicant also acknowledged the desirability of a shade structure over the children's pool, and the Panel agreed that this should form part of a further application.

The proposal was twice referred to the North Sydney Design Excellence Panel and the proposal design was amended in response to their comments. In its subsequent comments, the Panel acknowledged the significant improvements made and offered qualified support for the proposal subject to identified issues being addressed. The proposal underwent further amendments in response to those comments.

The proposal has been designed and amended to retain some existing vegetation and to provide additional landscaping in retained areas of open space, noting that the expansion of the children's pool and the addition of a program pool will occupy existing lawn areas. The incorporation of Hopkins Park into the site will provide further open space for use in association with the pool facilities, noting that there are areas of public open space in the immediate vicinity of the site outside of the pool facility in Bradfield Park.

The proposal maintains reasonable levels of amenity for nearby residents and impacts relating to traffic, parking, noise and light spill have been addressed. With regards to noise, conditions provide for a trial period for the extended use of the proposed splash pad and northern landscaped area as the acoustic assessment forecasts their use will exceed the relevant acoustic criteria.

Overall, therefore, the proposed development is considered to be satisfactory having regard to the relevant Environmental Planning Instruments, Development Control Plans and Council policies and the Panel considered the proposal to be in the public interest, balancing the concerns of heritage to those of retaining and improving an important community facility for the future.

Ken Robinson disagreed with the majority decision for the following reasons:

- Whilst the Council owned North Sydney Olympic Pool is in need of significant upgrade to its swimming facilities, this should be done without detriment to the heritage values of the site.

The initial application failed to do this and, whilst some of the impacts were subsequently reduced in consultation with Council's independent assessors, the proposal assessed still represents an overdevelopment of the site, resulting in the heritage values being compromised.

- This overdevelopment included proposed works not related to the original purpose of the site.
- The proposal fails to justify to the public need for the demolition of the architecturally important 25m pool room.
- The Panel heard that heritage impacts could be further reduced by the implementation of a number of draft conditions of consent relating to heritage. The proposed amendments by condition and other possible improvements such as essential shading in the children's pool should have been developed and incorporated into the concept design. The community would then be given an opportunity to see and understand a more appropriate design in the context of preserving the pool's heritage value, before a determination could be made.

A deferral of the application to give the applicant the opportunity to develop the concept further would have been appropriate.

CONDITIONS

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

- **Condition A2 amended to read as follows:**

The sundeck shall extend across the roof of the kiosk kitchen to the southern wall of the pool complex with the roof of the kiosk located beneath the sundeck level. Revised plans showing this amendment are to be submitted to Council's Manager Development Services for approval prior to the release of the Construction Certificate.

(Reason: To maintain the heritage significance of the site)

- **Condition A3 amended to read as follows:**

Developed details of the structure of the entrance lobby and the roof over the cafe seating at the south-eastern corner of the complex, including the size, colours, details of the steel support structure and details of the glazed component and fixings to the existing brick walls, are to be provided to Council's Manager Development Services for approval prior to the release of the Construction Certificate. The details should be designed such that the impact on the original structure and fabric is minimised. The new structural elements and their fixings are to be detailed to be as slender as possible in order to minimise visual and physical impact.

(Reason: To maintain the heritage significance of the site)

- **Condition A4 is deleted.**

- **Condition A5 amended to read as follows:**

The proposed pedestrian access ramp on Olympic Drive is to be amended so that the profile at the end of the ramp is angled (chamfered) at 45 degrees so that it falls within the wheel envelope of a 19m semi-trailer and does not impede access into and out of the gates to Luna Park adjacent to the western end of the pool concourse. Amended plans are to be provided to Council's Manager Development Services for approval prior to the release of the Construction Certificate.

(Reason: To maintain vehicular access to Luna Park for oversized vehicles)

- **Condition C10 amended to read as follows:**

Further assessment is to be carried out by a suitably qualified environmental consultant. The assessment should include site characterisation of soils and ground water with respect to contaminants of concern. This could be carried out through intrusive borehole or test pit investigations following the removal of structures, prior to the engagement of groundworks contractor.

A Construction Environmental Management Plan (CEMP) shall be drawn up by a suitably qualified person/environmental consultant detailing the process for excavation, storage & handling, classification, disposal or re-use of disturbed soils on the site.

Soil to be excavated/disturbed shall be tested for contamination. Should any soil or material be subsequently found to contain contaminants of concern, work in the immediate area must cease and the advice of a suitably qualified specialist, accredited by the NSW Environment Protection Authority, be gained and, if needed, a Remedial Action Plan be developed. The contaminated material must be classified for disposal purposes, appropriately stored, and properly disposed of to a facility licensed to receive that category of waste.

Waste facility receipts must be retained on site for inspection by Council's officer upon request (or submitted to Council/PCA).

The CEMP must detail the required management processes / procedures to be adopted during site demolition/construction works to ensure soil and materials are handled / disposed appropriately. Where groundwater is encountered during development works, the CEMP should include details on required treatment and disposal requirements.

The site will be required to be adequately remediated and validated as being fit for its intended use by a suitably qualified environmental consultant. A notice of completion, including validation is to be provided to Council following removal of and remediation of any contamination.

(Reason: To ensure the site is suitable for the proposed use)

- **Condition C19 amended to read as follows:**

The following tree(s) are approved for removal in accordance with the development consent:

Trees that are acceptable to remove	Location	Height
T3 Lagerstroemia indica - Transplanting preferred	Northern boundary (Paul St)	5 x 6
T4 Livistona australis	Olympic Park	5x5m
T5 Livistona australis	Olympic Park	6x5m
T6 Livistona australis	Olympic Park	6x5m
T7 Livistona australis	Olympic Park	6x5m
T8 Livistona australis	Olympic Park	6x5m
T9 Livistona australis	Olympic Park	5x6m
T10 Livistona australis	Olympic Park	6x5m
T28 Nerium oleander	Hopkins Park	2x2m

Removal of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

- **Condition C20(a) is deleted.**

- **Condition D1 amended to read as follows:**

Before any works commence on site, all contractors and subcontractors shall undergo an induction session, prepared and delivered by a suitable heritage consultant, highlighting the historical significance of the site and in particular those building elements and archaeology requiring conservation. This induction session is to be delivered to any new contractors and subcontractors during the construction period.

(Reason: To maintain the heritage significance of the site and the area)

- **Condition E12 amended to read as follows:**

All trees on the site must be protected and retained save for those expressly identified below as being approved for removal:

Trees that are acceptable to remove	Location	Height
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<i>T3 Lagerstroemia indica - Transplanting preferred</i>	<i>Northern boundary (Paul St)</i>	<i>5 x 6</i>
<i>T4 Livistona australis</i>	<i>Olympic Park</i>	<i>5x5m</i>
<i>T5 Livistona australis</i>	<i>Olympic Park</i>	<i>6x5m</i>
<i>T6 Livistona australis</i>	<i>Olympic Park</i>	<i>6x5m</i>
<i>T7 Livistona australis</i>	<i>Olympic Park</i>	<i>6x5m</i>
<i>T8 Livistona australis</i>	<i>Olympic Park</i>	<i>6x5m</i>
<i>T9 Livistona australis</i>	<i>Olympic Park</i>	<i>5x6m</i>
<i>T10 Livistona australis</i>	<i>Olympic Park</i>	<i>6x5m</i>
<i>T28 Nerium oleander</i>	<i>Hopkins Park</i>	<i>2x2m</i>

(Reason: To ensure compliance with the terms of this development consent)





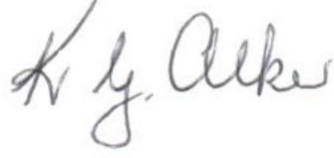
CONSIDERATION OF COMMUNITY VIEWS

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 community concern included:

- Heritage impacts
- Noise
- Views
- Design
- Costs
- Configuration of pools and facilities including pool depths, change rooms, toilet and showers, seating, shading, potable versus salt-water.
- Pool depths
- Operating hours
- Traffic & parking
- Over-commercialisation
- Construction impacts.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report, in the conditions and amended conditions, and by applicant and Council responses during and following the meeting.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Sue Francis	 Ken Robinson
 Kevin Alker	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-43 – North Sydney – DA347/2019
2	PROPOSED DEVELOPMENT	Alterations and additions to North Sydney Pool including new 50m pool, new warm water pool, upgrade to existing 25m pool, incorporation of Hopkins Park, new water play area, replacement of sundeck, replacement of grandstand, expansion of gymnasium, upgrade of facilities, enclosed entry, retail space, replacement of western stairs, alterations and additions to food and drinks premises, bus/coach parking, and site landscaping.
3	STREET ADDRESS	Lot 100 DP 875048, Lot 101 DP 880236, Lot 102 DP 854064 and Lot 103 DP 1007291, 4 Alfred Street South, and part Lot 6 DP 127637, Olympic Drive, Milsons Point
4	APPLICANT/OWNER	North Sydney Council
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 No.55 – Remediation of Land and draft SEPP State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 Sydney Regional Environmental Plan (Sydney Harbour Catchment) (Deemed SEPP) North Sydney Local Environmental Plan 2013 Draft environmental planning instruments: State Environmental Planning Policy (Environment) Development control plans: <ul style="list-style-type: none"> North Sydney Development Control Plan 2013 Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 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: 17 June 2020 Applicant memo: 30 June 2020 Council memo: 1 July 2020 Written submissions during public exhibition: 189 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Community members – Mayor Gibson and Cllr Mutton on behalf of North Sydney Council, Julia Connor on behalf of the Milson Point Community Group, Grace Mortlock, Elaine Wziontek on behalf of Milson Precinct Group, John Hancox on behalf of

		<p>Wollstonecraft Precinct, Genia McCaffery on behalf of Waverton Precinct Group, Ken Maher, Liz King, Stephen Badger, Jillian Christie, Clive Smith, Andrew Duggan, Josh Milston, Christina Echols, Michael Fox, Brett Pollard, James Spenceley, Louise O'Hara, Mark Wolfe, Mik Sadubin, John Wilton, Kathlyn Loseby</p> <ul style="list-style-type: none"> ○ Council assessment officer – Geoff Goodyer ○ On behalf of the applicant – Ken Gouldthorp, Larry Melocco, Danielle Blakely, Duncan Mitchell, Ian Brewster
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 11 March 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Ken Robinson, Kevin Alker ○ <u>Council assessment staff</u>: Geoff Goodyer (independent planner for Council), Stephen Beattie, Lara Huckstepp • Final briefing to discuss Council's recommendation, 1 July 2020 at 12.30pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Sue Francis, Ken Robinson, Kevin Alker ○ <u>Council assessment staff</u>: Geoff Goodyer (independent planner for Council), David Logan (independent heritage planner), Lisa Trueman (independent heritage planner), Stephen Beattie, Lara Huckstepp • Applicant & Council briefing post-public meeting, 1 July 2020 at 3.50pm. At this briefing the Council and applicant provided clarification to the Panel and responded to concerns raised by the community during the public meeting. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Sue Francis, Ken Robinson, Kevin Alker ○ <u>Council assessment staff</u>: Geoff Goodyer (independent planner for Council), David Logan (independent heritage planner), Lisa Trueman (independent heritage planner), Stephen Beattie, Lara Huckstepp ○ <u>Applicant representatives</u>: Ken Gouldthorp, Ian Brewster, Larry Melocco, Danielle Blakely, Lynette Gurr
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report