

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY WESTERN CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	15 December 2022
<b>DATE OF PANEL DECISION</b>	15 December 2022
<b>DATE OF PANEL MEETING</b>	28 November 2022
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Nicole Gurran, Brian Kirk, Mick Fell, Romola Hollywood
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Louise Camenzuli declared that her firm acts for the Catholic Church, but not on this site

Papers circulated electronically on 9 December 2022.

#### MATTER DETERMINED

**PPSSWC-227 – Blue Mountains – x/38/2022 - 168 HAWKESBURY ROAD SPRINGWOOD** - Removal of 8 demountable blocks and construction of a 2 storey classroom building with sports court, including the removal of 12 trees, associated landscaping and stormwater works, and upgrades to existing roads.

#### 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.

On 28 November 2022, the panel determined to defer its consideration of the development application to allow for the draft conditions of consent to be considered by the applicant, and for the applicant to consider whether it wished to tender any further material in relation to the potential for Aboriginal objects. The panel otherwise agreed that the application should be approved once issues concerning investigation on the potential presence of Aboriginal archaeological objects is resolved.

If the council and the applicant did not agree on the proposed conditions, the panel scheduled to reconvene on 12 December 2022 to determine this application finally.

Detailed reasons for the panel's decision are given in the Record of Deferral.

Council provided a supplementary report to the panel on 9 December 2022 confirming that the issue of Aboriginal due diligence is resolved, and conditions of consent are agreed between council and the applicant.

#### Development application

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

The development proposal does not comply with the maximum 8m building height development standard detailed in Clause 4.3 of the Blue Mountains Local Environmental Plan 2015. The proposed maximum building height is 11.4m, which is a variation of 3.41m or 42.6% from the development standard.

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the LEP, that has demonstrated that:

- a) compliance with cl. 4.3 (Height of Buildings standard) is unreasonable or unnecessary in the circumstances; and

- b) there are sufficient environmental planning grounds to justify contravening the development standard

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 PLEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (Height of Buildings standard) of the LEP and the objectives for development in the RE2 Private Recreation zone; and
- c) the concurrence of the Secretary has been assumed.

The decision was unanimous.

#### REASONS FOR THE DECISION

Council initially recommended refusal of this development application on the basis that a Aboriginal Due Diligence Report, prepared by a suitably qualified consultant, in accordance with the OEH Code of Practice had not been submitted. A report has now been submitted and council is satisfied with the findings of the report that no Aboriginal objects are known to be present where construction and demolition of existing structures is proposed and impacts to Aboriginal objects as a result of the proposed development is unlikely. Accordingly, council has withdrawn this reason for refusal and that matter is resolved. An agreed condition of consent is recommended to address unexpected finds, should they arise.

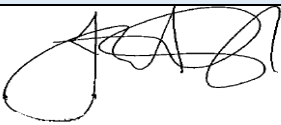

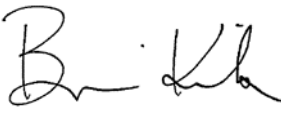
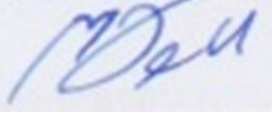

The Panel determined to uphold the Clause 4.6 variation to building height; and approve the application. The proposed development generally complies with the relevant State and local planning policies. The proposed development maintains a balance between the preservation of heritage items, native bushland including endangered ecological communities and protection of assets from bush fire. The proposed development provides additional facilities for the school, but does not increase the school population, or adversely impact on traffic, parking, or neighbour amenity.

#### CONDITIONS

The Development Application was approved subject to the revised conditions in the council's supplementary assessment report of 9 December 2022.

#### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered the one written submission made during public exhibition of the application, which raised the issue of pedestrian safety. The panel considered that this concern has been adequately addressed in the assessment report and is satisfied that the proposal will not impact on pedestrian safety.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurran
 Brian Kirk	 Mick Fell
 Romola Hollywood	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-227 – Blue Mountains – x/38/2022
2	PROPOSED DEVELOPMENT	Removal of 8 demountable blocks and construction of a 2 storey classroom building with sports court, including the removal of 12 trees, associated landscaping and stormwater works, and upgrades to existing roads
3	STREET ADDRESS	168 HAWKESBURY ROAD SPRINGWOOD
4	APPLICANT/OWNER	Applicant: Amy Cropley Owner: The Parramatta Diocese Catholic School System
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
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 (Planning Systems) 2021</li> <li>○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 <ul style="list-style-type: none"> <li>○ Chapter 4 - Koala habitat protection 2021</li> <li>○ Chapter 8 - Sydney drinking water catchment</li> </ul> </li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021 <ul style="list-style-type: none"> <li>○ Chapter 3 - Educational establishments and child care facilities</li> </ul> </li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021 <ul style="list-style-type: none"> <li>○ Chapter 4 Remediation of Land</li> </ul> </li> <li>○ Blue Mountains Local Environmental Plan 2015</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Blue Mountains Development Control Plan 2015</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>• Council assessment report: 22 November 2022</li> <li>• Council supplementary assessment report: 9 December 2022</li> <li>• Clause 4.6 variation Blue Mountains LEP 2015, Clause 4.3 height of Buildings</li> <li>• Written submissions during public exhibition: 1</li> <li>• Total number of unique submissions received by way of objection: 1</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 18 July 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Romola Hollywood</li> <li>○ <u>Council assessment staff</u>: Debbie Pinfold</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 28 November 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Brian Kirk, Mick Fell, Romola Hollywood</li> <li>○ <u>Council assessment staff</u>: Debbie Pinfold</li> </ul> </li> </ul>

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	N/A