

DETERMINATION AND STATEMENT OF REASONS

SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	20 October 2025
DATE OF PANEL DECISION	20 October 2025
PANEL MEMBERS	Justin Doyle (Chair), David Kitto, Louise Camenzuli, Judy Clark, Jeff Organ
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 3 October 2025.

MATTER DETERMINED

PPSSWC-552 – Hawkesbury City Council – DA0137/25 – No.170 Cabbage Tree Road, Grose Vale - Construction and use of a two-storey community facility with ancillary accommodation, tennis court, car parking facilities and landscape works. The proposal is Integrated Development under Section 100B of the Rural Fires Act 1997. The matter is to be determined by the Sydney Western City Planning Panel.

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings listed at item 8 in Schedule 1.

Development application

The Panel has 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

The Panel determined to approve the application for the reasons outlined in the Council Assessment Report which have been summarised below:

The application has been assessed relative to Section 4.15 of the Environmental Planning and Assessment Act 1979, and found to be acceptable taking into consideration all relevant state and local planning controls. Particular matters considered include:

1. Biodiversity

The site contains significant vegetation including the threatened Cumberland Shale Sandstone Ironbark Forest and the DA proposal will impact on native vegetation mapped on the Biodiversity Value Map (DPE 2024a). However, the Panel accept the assessment in the BDAR prepared by Narla Environmental submitted with the DA, which states that *“The development footprint has been strategically positioned in order to avoid impacts to biodiversity values as much as possible with all areas that require wholesale vegetation removal being located in areas containing landscaped exotic vegetation and lawn.”* No SAI (Serious and Irreversible) is expected to occur as a result of the development and 2 ecosystem credits have been calculated to offset the limited impacts. The conclusions of the BDAR are accepted.

2. Koala Habitat Protection

Management of the inner protection area (IPA) associated with the proposal will involve impacts on vegetation associated with koala habitat. A Koala Assessment Report was submitted with the DA. The Panel accepts its evaluation of the potential impacts which include this assessment:

“As a result of the minimal impact to habitat and the suite of available Koala Use Tree species continuing to occur within and directly outside the Impact Area and greater locality it is not expected that any select tree removal for bush fire management will have a negative impact on the viability of a local Koala population. The extent of any impacts will be limited to the Impact Area, which is designed in such a way as to maintain connectivity of Koala habitat within the Site Area.”

Management measures included in the development will suitably address koala habitat.

3. Bushfire Risk

Positioning of the proposed building has allowed for the creation of an APZ with minimum vegetation removal. However, around 0.38ha of native vegetation is required be managed as an IPA. The application was referred to Rural Fire Service and General Terms of Approval have issued. If complied with those terms of approval are expected to suitably address bushfire risk.

4. General impacts

The development is described as providing for “silent retreats, weekend personal development seminars, study and mentoring programmes for university and HSC students, and residential/live in courses covering ethical, anthropological and theological topics.”

With maximum accommodation capacity of 20 it is not expected that there will be substantial impacts on the area. A parking merit assessment has been provided allowing for parking exceeding the rate applied to motel accommodation for the same number of guests. The Panel accepts that assessment is satisfactory.

Other issues including potential contamination, river catchment impacts, and infrastructure demands are assessed as satisfactory by Council staff, so as to satisfy applicable State instruments and planning policies. No unacceptable acoustic or other amenity impacts on neighbours are expected.

The proposed development has been assessed having regard to the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land. On balance, the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the exception only of condition 41 relating to the payment of the housing and productivity contribution (HPC) assessed to be payable in the sum of \$38,820.24 (adjusted). Council advises that the contribution is based on an indexed rate of \$32.35 per square metre of new GFA for commercial development.

The Applicant objected to the contribution being levied principally on the basis of its status as a not-for-profit organisation and the public purpose of the development being for a “Study Centre” offering programs and educational retreats for members of the community.

The Council had concluded that the accommodation component of the development meant that the development fit within the applicable definition of “commercial development” relevant to the levy.

The Panel notes that the explanatory material issued by the Department dated May 2023 under the heading “What development will be subject to the contribution?” says the “commercial and retail development” intended to be caught is development “*such as shops, neighbourhood shops, supermarkets, and commercial office buildings where new floorspace is created*”. That seems quite different to the development considered with this DA.

To resolve the issue the Applicant and the Council agreed at the briefing to a condition which in substance levied only the GFA associated with the accommodation use, but waived the payment if written confirmation could be obtained from the Department that the use was exempted.

The wording of the condition should be to the effect:

41 Housing and Productivity Contribution

- a) The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with (b) below, is required to be made prior to the issue of any Construction Certificate, provided that the contribution will not be payable if written confirmation is received from the Department of Planning Housing and Infrastructure that the contribution is not payable).
- b)

Housing and productivity contribution	Amount
Applied to the GFA of the accommodation component of the development only (with the remainder considered not to be commercial development) calculated by Council to be 343.79 m2 and with the indexed rate presently \$31.48	\$10,822.51 (indexed as provided for by clause 22 of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

The Panel notes that the Applicant confirmed that it did not dispute condition 38 which requires a developer contribution to be paid in the sum of \$63,990 under s 7.12 of the EP&A Act Council's "*Hawkesbury Section 7.12 Contributions Plan 2024*" after considering the exemptions potentially allowable by that 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:

- Permissibility concerns
- Acoustic and visual impacts regarding the tennis court
- Improper use of the outbuildings
- Car parking and access concerns
- Bushfire hazard

The Panel considers that concerns raised by the community have been adequately addressed in the Council Assessment Report.

PANEL MEMBERS	
Justin Doyle (Chair) 	David Kitto 
Louise Camenzuli 	Judy Clark 
Jeff Organ 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-552 – Hawkesbury City Council – DA0137/25
2	PROPOSED DEVELOPMENT	Construction and use of a two storey community facility with ancillary accommodation, tennis court, car parking facilities and landscape works, The proposal is Integrated Development under Section 100B of the Rural Fires Act 1997, The matter is to be determined by the Sydney Western City Planning Panel.
3	STREET ADDRESS	No.170 Cabbage Tree Road, Grose Vale
4	APPLICANT/OWNER	Applicant: Barry Abboud Owner: Education Development Association
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy (Planning Systems) 2021 - State Environmental Planning Policy (Transport and Infrastructure) 2021 - State Environmental Planning Policy (Biodiversity and Conservation) 2021 - State Environmental Planning Policy (Resilience and Hazards) 2021 - Hawkesbury Local Environmental Plan 2012 - Draft environmental planning instruments: Nil - Development control plans: - Hawkesbury Development Control Plan 2002 - Hawkesbury Development Control Plan 2023 - Planning agreements: Nil - Relevant 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	- Council Assessment Report: 19 September 2025 - Written submissions during public exhibition: Two (2) - Total number of unique submissions received by way of objection: One (1)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing: 25 August 2025 <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Judy Clark, Jeff Organ <u>Council assessment staff</u>: Eric Kim, Steven Chong <u>Applicant representatives</u>: Greg Hall, Sela Crisfulli Kefu, Barry Abboud, Alex Torville, Daniel Donai - Final briefing to discuss council's recommendation: 13 October 2025 <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Judy Clark, Jeff Organ <u>Council assessment staff</u>: Eric Kim, Steven Chong <u>Applicant representatives</u>: Barry Abboud, Alex Torville, Sela Crisafulli Kefu, Rick Alloggia

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report