

CANTERBURY BANKSTOWN

MINUTES OF THE

INDEPENDENT HEARING AND ASSESSMENT PANEL MEETING

**HELD IN THE COUNCIL CHAMBERS
BANKSTOWN**

ON 4 DECEMBER 2017

PRESENT: Ms Jan Murrell (Planning/Environment) - Chairperson
Dr Ian Garrard (Environment)
Mr Garth Paterson (Urban Design)
Mr Christopher Wilson (Planning)

STAFF IN

ATTENDANCE: Ms Chauntelle Mitchell (Administration Officer - IHAP)
Mr Ian Woodward (Manager Development, not present for the closed session)
Mr Stephen Arnold (Coordinator Planning - West, not present for the closed session)
Ms Lia Chinnery (Coordinator Governance, not present for the closed session)
Ms Casandra Gibbons (Senior Planner, not present for the closed session)
Mr Ryan Bevitt (Planner, not present for the closed session)
Ms Priscilla Prakash (Planner, not present for the closed session)

THE CHAIRPERSON DECLARED THE MEETING OPEN AT 6.05 PM.

INTRODUCTION

The Chairperson welcomed all those present and explained the functions of IHAP and that the Panel would be considering the reports and the recommendation from the Council staff and the submissions made by objectors and the applicant and/or the applicant's representative(s) and determining the development applications.

DECLARATIONS OF INTEREST

The Chairperson asked the Panel if any member needed to declare a pecuniary interest in any of the items on the agenda. There were no declarations of interest.

DELEGATION

By Minute No. 205, dated 25 October 2016 the Council delegated to the Independent Hearing and Assessment Panel the Council's power to determine certain development applications, to consider all Planning Proposals and make subsequent recommendations as to whether the matter should proceed to Gateway Determination.

DECISION

- 1 **220 - 222 SOUTH TERRACE, BANKSTOWN: DEMOLITION OF EXISTING DWELLING, CONSOLIDATION OF TWO LOTS, RELOCATION OF EXISTING SEWER PIPE, CONSTRUCTION OF TWO STOREY BASEMENT CAR PARKING, NINE STOREY MIXED USE BUILDING COMPRISING GROUND FLOOR COMMERCIAL PREMISES (RESTAURANT) AND 91 RESIDENTIAL UNITS WITH ASSOCIATED SERVICES AND ON-SITE LANDSCAPING. S96(2) MODIFICATION: PROPOSED ADDITION OF ONE LEVEL OF BASEMENT (B3) UNDER THE APPROVED BUILDING**

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Public Addresses

Mr Harry Hirkis (objector)	<ul style="list-style-type: none">• Principal of St Euphemia College, speaking on behalf of students, families and future students.• Outlined site context and history of previous development in the area, notes his previous objection made to the original DA including privacy and traffic concerns.• Disputes claims traffic flows will not increase as a result of additional parking.• Concerned about location of basement in relation to entrance of the College.• Raised concern with regard to safety, amenity and security for students.
Ms Ellen Robertshaw (Town Planner on behalf of objector)	<ul style="list-style-type: none">• Town Planner on behalf of St Euphemia College.• Raised concern with regard to cumulative traffic impacts in the vicinity of the College.• Queries if a 30% increase in parking on a site meets the substantially the same development test given the significant impacts on the school and amenity of students and parishioners.• Notes Council was previously satisfied with the number of apartments; queries what justification has the applicant given for additional parking. She has not seen any evidence to justify the increase.• Disputes the statement in the traffic report that additional parking spaces will result in no increase in traffic generation potential. Notes the Council report indicates an increase in vehicle trips, is unclear if this was a subsequent assessment by the applicant or if Council conducted its own assessment. Is of the view there must be some cumulative impact. Is unclear regarding the reference in Council's report to the increase in vehicle trips not impacting the level of service, noting it is her understanding this term is used for intersections not road capacity.• Solar Access: Has requested Council confirm if the College will receive a minimum of two hours of sunlight between 9am-3pm in midwinter, however this information does not appear to be available.• Responded to questions raised by the Panel in relation to solar access concerns and street parking.

Panel Assessment

The Panel carried out a site inspection of the subject site and has considered the officer's report, the 96(2) modification, including the statement of environmental effects, traffic management study and submissions. The Panel heard from submitters who raised objections as detailed above. Their concerns related not only to the section 96 application but to the original development that was approved. The Panel is aware that its function is to determine the modification application and we are satisfied that modification would result in a development substantially the same as the development approved, which is in accordance with the terms of the EP&A Act.

However, the Panel has some concerns, and unfortunately the applicant and/or their architect/town planner were not present to be able to assist in enquires or respond to questions from the Panel.

In particular the Panel is not clear, and it is not stated in the Section 96 application, as to the reason or purpose and objectives of the modification. Coupled with some uncertainty over the modifications potential traffic impacts on the surrounding area, it is difficult for the Panel to determine whether the modification is in the public interest.

The Panel notes the traffic report and a number of statements in the report are contradictory and is not persuaded by the analysis that the additional parking sought will have no impact on traffic movements generated from the subject site. Furthermore, if the applicant considers that it is necessary to increase the number of residential car parking spaces provided on site, then is there a need to also increase the amount of parking allocated to the commercial/retail space. For example, should this be increased to say 35 consistent with the application of the DCP for other centres in the LGA. The Panel considers a consistent approach to the calculation of parking for both residential and commercial uses would appear appropriate and this should factor in the immediate proximity of the site to the station and stated strategic objectives of optimising public transport, particularly for transit orientated development.

Until such time as the Panel is provided with the rationale or objective of the section 96 modification application and the changed circumstances since the original approval then the Panel is not in a position to determine the application. As such the Panel has decided to defer the matter to allow the applicant to respond to the Panel's concerns.

The following additional information required for the Panel's consideration includes:

- a) The fundamental objective and the circumstances that may have changed to justify the section 96(2) modification application.

Under section 79C the public interest must be considered and it must be done in the context of the justification or reason for the section 96 modification taking into consideration the acceptability of potential impacts.

- b) The conclusions in the traffic report require further analysis and clarification. For example, on the one hand the statement that additional traffic is just a part of future developments and on the other hand saying that the additional car parking will not generate any more traffic.
- c) The traffic assessment should address whether in fact the proximity to the railway station justifies the significant 30% additional parking, in terms of 'best practice' and transit orientated development.

The Panel resolved to defer determination of this matter, to allow the applicant the opportunity to provide additional information and to be present for the next Panel meeting to answer any questions that may arise in completing an assessment and determination of this proposed modification.

IHAP Determination

THAT Development Application DA-1314/2015/1 be **DEFERRED** to allow the applicant the opportunity to provide additional information prior to determination.

Vote: 4 – 0 in favour

2 14 FERNDALE ROAD, REVESBY: DEMOLITION OF EXISTING SITE STRUCTURES AND CONSTRUCTION OF A 43 PLACE CHILD CARE CENTRE WITH ASSOCIATED ON-SITE PARKING AND LANDSCAPING

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Public Addresses

Mr Fortunato Scopelliti (applicant)	<ul style="list-style-type: none">• Accepts conditions as proposed in the officer's report.• Raised no objection to conditions proposed by the Panel in relation to:<ul style="list-style-type: none">- requiring a plan of management;- requiring acoustic monitoring post operation;- provision of larger specimen trees.
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Panel Assessment

The Panel considered the Council officer's report, and has the benefit of a site inspection. The Panel is generally satisfied that the proposed development is satisfactory, with a limitation on the number of places in the centre to 40 and the other conditions recommended by the officer, and subject to the following additional conditions.

The Panel has determined that it is appropriate to impose a condition that has the effect of requiring acoustic monitoring post the operation of the centre, between six to twelve months from the opening when it is operating at or near full capacity. The purpose of the post monitoring is to ensure that the acoustic report noise criteria are satisfied. In the event that the noise criteria are not satisfied, then further attenuation of noise is required and this may include operational/management changes. The reason for this is to provide greater certainty for neighbours with respect to noise management.

A further condition is to be imposed that the trees to be planted on site are to have an increased pot size to 100 litres from 45 litres as shown in the landscape plan. Further, the species known as *Nanidina domestica* ('Gulf Stream') is to be deleted and replaced with a more suitable species, such as Lilli Pilli or other suitable native species, with minimal fruit output. The reason for this is that the 'Gulf Stream' species may potentially have poisonous properties and berries that could create problems for small children.

IHAP Determination

THAT Development Application DA-365/2017 be **APPROVED** in accordance with the Council staff report recommendation, subject to the following changes to the recommended conditions:

1. Insert new condition 13A as follows:

“13A The landscape plan must be amended to show:

 - a) the pot size of trees planted on site to be 100 litres;
 - b) the species known as *Nanidina domestica* ('Gulf Stream') is to be deleted and replaced with a more suitable species, such as Lilli Pilli or other suitable native species with no berries and minimal fruit output.”

2. Amend condition 47 to read as follows:

“47 The acoustic report submitted in support of this development application, prepared by VMS Australia Pty Ltd, titled 'Amended Noise Impact Assessment, 14 Ferndale Road, Revesby, Child Care Centre Development Application', dated 24 August 2017, report number 10-1388 and the noise attenuation recommendations stated in the report, forms part of the development consent.

Prior to the issue of the occupation certificate the Principal Certifying Authority (PCA) shall obtain a certificate from an appropriately qualified acoustic consultant, validating that the recommendations outlined in the abovementioned report have been constructed/complied with to achieve the relevant noise criteria.”

3. Insert new condition 68A follows:

“68A The operator of the childcare centre must organise and chair a Neighbourhood Liaison Committee. The purpose of the Committee is for the operator and neighbours to resolve any residual management issues, such as traffic, noise and odour relating to the operation of the childcare centre. The operation of the Committee must ensure:

 - a) Invitation for membership of the Neighbourhood Liaison Committee must include residents who live next to and opposite the childcare centre;
 - b) The Neighbourhood Liaison Committee must meet at least four times during the first 24 months of the childcare centre operating;
 - c) The operator of the childcare centre must forward the meeting minutes to Committee members; and
 - d) The operator of the childcare centre may forward the meeting minutes to Council for information purposes.”

4. Insert new condition 68B follows:

“68B The operator/owner of the premises must engage a suitably qualified consultant to undertake acoustic monitoring following the commencement of operation of the centre between six to twelve months and at a time of full or near full capacity. Any works recommended by the acoustic consultant shall be borne by the operator/owner, the findings submitted to Canterbury Bankstown Council for review and carried out within a period set by Council.”

Vote: 4 – 0 in favour

3 2 GIBSON AVENUE, PADSTOW: ALTERATIONS AND ADDITIONS TO AN EXISTING SELF-STORAGE FACILITY, INCLUDING SITE WORKS AND SIGNAGE

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Public Addresses

<p>Mr Con Saroukos (objector)</p>	<ul style="list-style-type: none"> • Spoke on behalf of seven objectors. He has resided in the area for 40 years and is concerned regarding overdevelopment in the area. • Raised concern regarding: <ul style="list-style-type: none"> - Traffic congestion: Is of the view the proposed development will result in additional traffic and intensify existing traffic issues, noting a hardware store is located next door. - Is of the view local residents will have difficulty accessing their properties during construction, due to construction workers vehicles. - Height of proposed building: Notes the height of building D has increased in the revised plans. Believes the proposed development will affect his skyline views and restrict sunlight into his and neighbouring properties front yards, particularly during winter solstice. - Raised concern regarding loss of property value as a result of the proposed development.
<p>Mr David Cahill (Architect) and Mr Craig Henery (Project Manager)</p>	<ul style="list-style-type: none"> • Responded to concerns raised by the objector as follows: <ul style="list-style-type: none"> - Traffic: Advised the facility generates low traffic movements noting a traffic study has been submitted. - Construction: Suggested a possible solution to address concerns would be to allow construction workers vehicles to park on site. - Height/sunlight: Does not believe the building will contribute to loss of solar access. - Skyline views: Is of the view trees form part of the skyline, advised the parapet is similar to the existing building line and believes the proposed development should provide a better presentation to the street. • Responded to questions raised by the Panel in relation to landscaping, overshadowing neighbouring properties, traffic, function of 15% addition, the size of vehicles using the facility and clientele. • Raised no objection to conditions proposed by the Panel regarding extra planting along Gibson Avenue.

Panel Assessment

The Panel has considered the officer’s report and recommendation and is satisfied that the development should be approved subject to the recommended conditions and a further condition that the landscaping shown on the plans for the Gibson Avenue frontage is to be supplemented.

The objective of the amended landscape condition is to supplement plantings and provide a layering effect by the addition of approximately 10 x 45L Spotted Gum (*Corymbia maculata*), a mix of low native layered planting (less than 1,500mm height including Correa, Callistemon, Grevillea and tufted native grass species). It is also noted that the landscape

plan is to be amended to show the retention of the taller and more upright lemon scented gum closer to the northern boundary as opposed to the poorly formed tree.

The Panel is of the view that the additional plantings will provide a more appropriate interface between the industrial zone and the residential zone on the opposite side of Gibson Avenue.

The Panel is of the opinion that overshadowing of the residential properties is not a reason to refuse the application, given the generous separation distance between the development and residential receivers. Specifically, this separation distance includes the width of the road, the relatively low elevation of the building within the site and its boundary setback, and the fact that the proposed height is of a minimal increase. As such overshadowing is not considered to be an issue.

The Panel notes that a separate development application is required for Signage on the subject site. By way of comment, the Panel considers that signage should have regard to the interface with the residential zone and to avoid further proliferation of large signage in the area generally.

IHAP Determination

THAT Development Application DA-432/2017 be **APPROVED** in accordance with the Council staff report recommendation, subject to the following changes to the recommended conditions:

1. Insert new condition 14A as follows:
"14A The landscape plan must be amended to show the retention of the taller and more upright lemon scented gum closer to the northern boundary as opposed to the poorly formed tree."
2. Insert new condition 32A as follows:
"32A The landscaping for the Gibson Avenue frontage be supplemented, to the satisfaction of Council, by providing a 'layering effect ' including the addition of approximately 10 x 45L Spotted Gum (*Corymbia maculata*), a mix of low native layered planting (less than 1,500mm height including Correa, Callistemon, Grevillea and tufted native grass species) (details to be provided on amended landscape plans)."

Vote: 4 – 0 in favour

4 74 PARK ROAD, EAST HILLS: DEMOLITION OF EXISTING SITE STRUCTURES AND CONSTRUCTION OF A TWO STOREY BUILDING COMPRISING A GROUND FLOOR CHILDCARE CENTRE FOR 29 CHILDREN AND FIRST FLOOR RESIDENCE

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Public Addresses

Mr Eric Sheather and Mrs Mychele Sheather (objectors)	<ul style="list-style-type: none">• Live adjacent to the subject property.• Do not believe the officer's report addresses all the points in their original submission, such as concern regarding work health and safety.• Concerned regarding overshadowing, noting proposed development will impact their solar panels.• Raised concern regarding noise, noting an Acoustic report was submitted that referred to the incorrect lot. Disputes levels of
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	<p>10db higher than the existing is acceptable, is of the view noise resulting from the proposed development will result in amenity impacts for their family.</p> <ul style="list-style-type: none"> • As there will be two adjacent child care centres, is concerned noise complaints will not be able to be attributed to a single childcare centre. • Traffic/Parking: Disputes the findings of the traffic report, noting the report was completed in October 2016, queried if the information is reliable as it could have taken place in the first two weeks of holidays and was conducted in the afternoon i.e not situational. Disputes the accuracy of figures referred to in the report of 17 vehicles in morning and again in the evening and estimate of one car every 3-4 minutes. Raised concern parents will temporarily park across neighbouring driveways and regarding safety of children during drop off/pickup. Notes 2 x 10 minute parking zones have been conditioned, impacting street parking. • Is of the view the proposed development will result in a reduction in value of their home. • Raised concern regarding the location of the proposed developments garbage bins adjacent to their boundary. • Do not believe the proposed development is in line with the objectives of R2 zoning; is of the view it will be detrimental to existing residents.
Ms Victoria Metry (objector)	<ul style="list-style-type: none"> • Queries how two childcare centres can be located adjacent to each other. Raised concern regarding competition between two childcare centres on the same street, noting other Council's have restrictions on proximity of Childcare Centres. • Is concerned about noise and traffic resulting from the proposed development. Is of the view the width of the subject site is not suitable for parking functionality, noting her Childcare Centre to be located adjacent to the subject site has car parking on site. Advised the request to increase the capacity from 40 children to 51 children for her childcare centre was refused based on traffic concerns.
Ms Nansy Metry (objector)	<ul style="list-style-type: none"> • Raised concern regarding noise impacts on her property.
Mr Eli Gescheit (representing the applicant) and Mr Joseph Toth (Architect representing the applicant)	<ul style="list-style-type: none"> • Advised the proposed development complies with DCP, FSR, height, landscape, set back and car parking requirements and a rigorous Plan of Management has been prepared. Notes zone allows mixed use childcare centre/residential. • Responded to issues raised by the previous speakers as follows: <ul style="list-style-type: none"> - Work health and safety: Advised this is regular practice throughout all childcare centres. - Shadow impacts on western neighbour: Shadow diagrams demonstrate compliance. Required setback is 1.5 metres, the proposed development provides 3 metres to reduce solar impact. - Acoustic: Plan of Management has been submitted, the applicant will be adopting the recommendations made in the Acoustic Report, including guidelines relating to the number of children and provision of acoustic walls. - Traffic: Advised the location of the driveway is in the middle of the frontage. Notes Council requires 9 parking

	<p>spots, proposal provides 10 spaces.</p> <ul style="list-style-type: none"> • The applicant's representative confirmed no objection is raised to the design conditions imposed by Council. • Advised addition of two on street 10 minute car parking spaces on Park Road was suggested by Council, not at the request of the applicant. • Responded to questions raised by the Panel in relation to frequency of meetings with the community liaison officer, garbage bin collection/location and mitigation strategies for impact eg. odour, landscaping to soften the front setback area, traffic - minimising impacts of drop off and pick up, acoustic wall, residence occupancy, compliance with new SEPP and guidelines, functionality of parking and drop and go area, clarification of room capacity annotation on drawing D02 and functionality of turning circle. • Advised the Panel the reason a residential component is included is because the site does not have a 25m frontage to allow a 40 place child care centre, prepared to provide alternative access (apart from stairs) to access rear playing area. • Raised no objection to: <ul style="list-style-type: none"> - consider relocation of the garbage bin location; - condition proposed by the Panel regarding requiring acoustic monitoring post operation. • The applicant's representative was of the view a condition that the residence was only to be used in association with the childcare centre was onerous.
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Panel Assessment

The Panel has inspected the subject site, and considered the Council officer's report and recommendation. The Panel however has concluded that this matter should be deferred to allow a number of fundamental concerns to be addressed, these include:

- a) The functionality and potential conflicts of the proposed car parking in the front setback area to serve a number of users: residents; carers and parents; staff parking; as well as a disabled space immediately adjacent to the children's pathway to enter the centre;
- b) The acoustic report does not address the impact of the proposal on the acoustic amenity of the residence above the childcare centre. It is noted that this may have a separate occupant or family as such and there has been no consideration as to the co-existence of the two activities. The acoustic study only addresses the impacts on adjoining properties;
- c) The location of the waste disposal receptacles immediately adjacent to no. 76 is inappropriate and should be relocated such that it does not impact on adjoining properties;
- d) The need to have stairs in a new childcare centre is not considered best practice and would appear to be inconsistent with childcare planning guidelines where direct access is always encouraged. The Panel notes that the need for the stairs is because of the flood level and the need for a freeboard of 500mm. The Panel notes that the applicant has suggested that a lift and/or ramp may be installed to provide the

access, however for a new purpose designed and built child care centre this is not best practice;

- e) The presentation of the proposed development with a predominantly paved hard surface front yard for the necessary car parking is not in keeping with the streetscape of the residential area. The proposal does not provide appropriate landscaping to filter the development or provide adequate room for effective landscaping to the front and side boundaries; and
- f) The applicant has not demonstrated that the co-location of the residence together with a childcare facility on this site will provide an appropriate planning outcome. For example the amenity for future occupants of the dwelling , and the configuration of its open space and parking on the site.

As such the Panel defers this matter to allow the applicant the opportunity to address the above concerns and provide additional information and amended plans to the Council within the next three months.

IHAP Determination

THAT Development Application DA-1167/2016 be **DEFERRED to** allow the applicant the opportunity to address the above concerns raised by the Panel.

Vote: 4 – 0 in favour

The meeting closed at 9.35 p.m.