

DATE OF DETERMINATION	29 July 2020
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Annelise Tuor, Steve Kennedy
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by Public Teleconference on 29 July 2020, opened at 2.05pm and closed at 3.03pm.

MATTER DETERMINED

PPSSNH-47 – Northern Beaches – DA2019/1190 at 9999 Pittwater Road Brookvale for construction works at Brookvale Oval (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 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 unanimous.

REASONS FOR THE DECISION

The development application is for demolition works and the construction of a building containing a Centre of Excellence for the Manly Warringah Sea Eagles rugby league football club, the formalisation of seating for approximately 3,000 spectators and public amenities at the northern end of the existing Brookvale Oval with associated landscape and stormwater management works.

The current application to upgrade Brookvale Oval by constructing a Centre of Excellence and formalising 3,000 seats was submitted in June 2019 and an Independent Assessor was then appointed by Northern Beaches Council to assess the proposal. Between June 2019 and July 2020, there was extensive feedback on the proposal from the community, Council and external authorities.

The proposal involves the removal of 11 Brush Box trees that form part of the trees that surround Brookvale Oval, which are listed as a local heritage item.

The assessment report identified two principal issues of concern. Firstly, the Independent Assessor formed the view that the proposal did not satisfy the requirements of Section 35 of the Local Government Act 1993, which requires that the use and management of community land be in accordance with the relevant plan of management (in this case, the Brookvale Oval Plan of Management (PoM)).

Secondly, the Assessor formed the view that the removal of 11 heritage-listed trees and the impact of the building on the adjoining public open space as a result of the siting of the Centre of Excellence building behind the grandstand at the northern end of the playing field is of such significance as to warrant refusal of the application. The assessment report concluded that the development proposal is inconsistent with the relevant plan of management for the use and management of the community land and would have unacceptable impacts with regards to the heritage significance of the site and the use of adjoining public open space.

Notwithstanding the above two issues, for the reasons provided in the Applicant's submissions and in the memo from Council's Executive Manager Property dated 27th July 2020, the Panel is satisfied that the proposal has been assessed against the PoM and is consistent with the requirements of the PoM. Notably, the PoM envisages the development of a northern stand, does not specifically require the retention of the heritage trees, requires a major event traffic and parking strategic plan but only for developments proposed to significantly increase the number of visitors. The Panel also notes there has been extensive community consultation on various proposals for Brookvale Oval since the PoM was adopted in 2002.

The Applicant was also able to demonstrate to the Panel that various design and siting options had been considered at length to balance the removal of heritage trees and the functional requirements for the ongoing use of the Oval. The proposal includes replacement trees for the heritage trees to be removed. The Applicant has also agreed to bear the cost of undergrounding electricity infrastructure and to vary the species and size of proposed replacement trees to be the same species as the heritage trees to be removed. The replacement trees will also reduce the impact of the bulk and scale of the building when viewed from the village green.

In summary, the Panel considers the proposed development has been assessed against the relevant matters for consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979, including likely impacts. The Panel believes the development is suitable for the site, is in the public interest and the proposed development is considered appropriate.

By way of comment, the Panel does recommend that in due course the PoM be updated to include a Masterplan to guide future development of Brookvale Oval. Preferably, it is suggested the Masterplan should be submitted as a Staged Development with subsequent applications being consistent with the approved Masterplan.

CONDITIONS

The development application was approved subject to the conditions in the Independent Assessor's conditions without prejudice received 21 July 2020 with the following amendments.

- **Deferred Commencement Condition** is deleted.
- **Condition 7(b)** is deleted.
- **Condition 9** amended to read as follows:
Hours of operation

The hours of operation of the Centre of Excellence are to be restricted to:

- *Monday to Friday – 7.00am to 10.00pm*
- *Saturday and Sunday – 10.00am to 10.00pm*

Reason: To confirm the details of the application and to ensure that amenity of the surrounding locality is maintained.

- **Condition 16** amended to read as follows:
Medical rooms not to be available to the general public

No members of the general public are to be treated within the proposed medical rooms at any time (including during events).

Reason: To ensure that the premises will comply with public health licensing and approval standards as required by the regulatory operator, NSW Health

- **Condition 18(d)** amended to read as follows:
Measures to prevent any potential pollution or public health risk from stockpiles of potentially contaminated soil. Recommendations made for potentially contaminated fill in accordance with conditions 18(c) must be actioned in accordance with condition 18(b) or removed for disposal within 48 hours.
- **Condition 20** title amended to Section 68 Local Government Act 1993 approval – upgrade of Council’s existing 600mm stormwater line.
- **Condition 20(h)** is deleted.
- **Condition 27** amended to read as follows:
Motorcycle parking provision

The applicant shall provide 9 motorcycle parking spaces in compliance with the Australian Standards AS2890.1:2004. The location of the motorcycle parking spaces is to be identified and submitted to Council for approval prior to the issue of the Construction Certificate

The locations are not to result in the loss of approved landscape areas or community facilities or the loss of access to other parking or servicing areas on site. The locations of the motorcycle parking spaces is not to result in any hazard to traffic or pedestrians.

Reason: To provide adequate motorcycle parking spaces for the staff and patrons.

- **Condition 28** amended to read as follows:
Bicycle parking provision

The applicant shall provide 13 high to medium security level bicycle parking spaces to comply with Council’s Development Control Plan 2011. The location of the bicycle parking spaces is to be identified and submitted to Council for approval prior to the issue of the Construction Certificate.

The locations are not to result in the loss of approved landscape areas or community facilities or the loss of access to other parking or servicing areas on site. The locations of the bicycle parking spaces is not to result in any hazard to traffic or pedestrians.

Reason: To comply with Council’s DCP.

- **Condition 29**, dot point 7, amended to read as follows:

Make provision for parking onsite.

- **Conditions 31** amended to read as follows:

Revised Landscape Plan and undergrounding of power lines

The landscape plan (Drawing A_0500, Revision G, dated 03/07/2020 by Hassell) is to be revised and submitted to Council for approval prior to the issue of the Construction Certificate. The amended plan is to provide for the planting of 11 x Lophostemon confertus. Such trees to be located to the north of the proposed Centre of Excellence are to replace the proposed 8 x Banksia and 7 x Callistemon shown on the landscape plan. The trees are to be evenly spaced, have a minimum 200 Litre pot size, and are to be protected by a permanent tree guard of either metal or timber to facilitate establishment.

The powerlines at the northern end of the proposal, between the building and path to the north, are to be undergrounded. This is to be shown on the plans submitted for the Construction Certificate.

Reason: To best maintain the integrity of the heritage item

- **Condition 33(a)** amended to read as follows:

Prior to commencement of works on site, a Construction Management Plan, based on the scope of works area as defined in the Proposed Demolition Site Plan dated 10/02/2020 prepared by APP and the Demolition Plan drawing No. A_0400 revision F dated 03/07/2020 by Hassell, and shall be issued to Council for approval, inclusive of appropriate environmental site management measures that must be in place and incorporating the following throughout demolition and construction:

- i) access to and from the site during construction and demolition,*
- ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting,*
- iii) methods of loading and unloading machinery and building materials,*
- iv) location of storage materials, excavation and waste materials,*
- v) methods to prevent material being tracked off the site onto surrounding roadways,*
- vi) erosion, sediment and dust control measures, and*
- vii) protection of existing trees and vegetation including the tree protection zone, in accordance with AS 4970-2009 Protection of Trees on Development Sites.*

- **Condition 33(b)** amended to read as follows:

The northern portion of Brookvale Oval containing the public park and Brookvale Pre-School, including all associated vehicular and pedestrian access provisions, shall remain open to Council and to the public, including vehicular access provisions along Federal Parade and Pine Avenue, except as permitted under clause c) below, and pedestrian footpaths through the public park. All other areas beyond the scope of works area as defined in the Proposed Demolition Site Plan dated 10/02/2020 prepared by APP and the Demolition Plan drawing No. A_0400 revision F dated 03/07/2020 by Hassell shall remain open to Council and the public.

- **Condition 45(a)** amended to read as follows:

The upgrade and re-diversion of Council's existing 600mm stormwater drainage is to be constructed in accordance with the Section 68 Drainage Approval required by the Local Government Act 1993.

The upgraded stormwater drainage line is to be a minimum 900mm RCP pipe and is to include all approved drainage inlet pits. The works are to include the installation of a 6m x 1.2m wide stormwater inlet grate to be located within the property where practical.

- **Condition 64** amended to read as follows:

Landscape Completion Certification

- a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan, as amended by Condition 31 and any conditions of consent.*
- b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the approved landscape plan, as amended by Condition 31 and any conditions of consent.*

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

- **Condition 67** amended to read as follows:

Undergrounding of Power Lines

The powerlines at the northern end of the proposal, between the building and path to the north, are to be undergrounded.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To best maintain the integrity of the heritage item

- **New “Development Consent Operational Condition”** condition to read as follows:

Use of the development

The proposed development is to be used at all times so as to ensure it falls within the definition of a “recreation facility (major)” as defined in Warringah Local Environmental Plan 2011 and ancillary uses thereto.

Reason: To ensure that the use of the development is permissible under the relevant planning controls.

- **New “Conditions Which Must be Complied with Prior to the Issue of the Occupation Certificate”** condition to read as follows:

Mitigation of heritage impacts

The recommendations of the Heritage Impact Statement by Urbis dated 22/10/2019 are to be implemented, including:

- *Planting of trees required by Conditions 31 and 67 of this consent are to be undertaken in conjunction with students, teachers and the extended community associated with Brookvale Public School, if feasible. Consideration could also be given to engaging members of the Manly Warringah Sea Eagles team and club in the commemorative plantings.*

- *Wood from removed heritage trees is to be reused for artwork, woodwork or seating on site.*
- *The collection of seed or cuttings to regrow trees to ensure the “Terra” or heritage value of the trees is conserved. Trees that are regrown are to be planted in the local area as replacement street trees or in parks.*
- *Interpretative signage to be provided in an appropriate location detailing the heritage significance of the site and the heritage-listed trees.*

Reason: To mitigate the heritage impacts of the proposal.

- **New “Conditions Which Must be Complied with Prior to the Issue of the Occupation Certificate” condition to read as follows:**



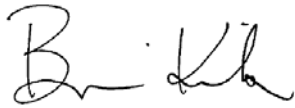


Tree Planting Certification

The Project Arborist is to certify that all new and replacement trees are of the required species, container size, planting locations and planting standards, and have been grown and supplied by a recognised nursery complying to AS2303 “Tree stock for landscape use” 2018.

Reason: Tree Management; Public Asset Management

CONSIDERATION OF COMMUNITY VIEWS

Members of the public did not seek to attend or speak at the public meeting. In coming to its decision, the Panel considered written submissions made during public exhibition, which raised the following issues: traffic & parking; public exercise circuit; sustainable financing and liquor licence. The Panel considers that the concerns raised have been adequately addressed in the assessment report.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Annelise Tuor
 Steve Kennedy	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-47 – Northern Beaches – DA2019/1190
2	PROPOSED DEVELOPMENT	Construction of a Centre of Excellence and formalizing of 3,000 seats at Brookvale Oval.
3	STREET ADDRESS	Lot 1 DP 784268, Lot 1 DP 114027, Lot B DP966128, Lot 6 DP 785409, Pittwater Road, Brookvale
4	APPLICANT/OWNER	Manly Warringah Sea Eagles Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 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 ○ State Environmental Planning Policy No. 64 – Advertising and Signage ○ 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 ○ Warringah Local Environmental Plan 2011 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Warringah Development Control Plan 2011 • 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: 15 July 2020 • Applicant memo: 21 July 2020 • Council addendum: 23 July 2020 • Council memo: 27 July 2020 • Conditions: 22 July 2020 • Council addendum memo: 23 July 2020 • Written submissions during public exhibition: 25 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Independent assessment officer – Geoff Goodyer (consultant planner for Council) ○ On behalf of the applicant – Chris Dare, Stephen White, Glenn Scott

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 29 April 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Annelise Tuor, Steve Kennedy ○ <u>Council assessment staff</u>: Geoff Goodyer (independent consultant planner for Council), Daniel Milliken, Peter Robinson • Final briefing to discuss council's recommendation, 29 July 2020. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Annelise Tuor, Steve Kennedy <u>Council assessment staff</u>: Geoff Goodyer (consultant planner for council), Daniel Milliken, Louise Kerr, Campbell Pfeiffer
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report