

Minutes of the Cumberland Local Planning Panel Meeting held at Merrylands Administration Building, 16 Memorial Avenue, Merrylands on Wednesday 13 November 2019.

**PRESENT:**

The Hon. Paul Stein AM (Chairperson) QC, Lindsay Fletcher, Michael Ryan and Bruce Simpson.

**IN ATTENDANCE:**

Michael Lawani, Elma Sukurma, Diep Hang, Sarah Pritchard, Elif Haliloglu, Rennie Rounds, Esra Calim and Laith Jammal.

**NOTICE OF LIVE STREAMING OF CUMBERLAND LOCAL PLANNING PANEL MEETING**

The Chairperson advised that the Cumberland Local Planning meeting was being streamed live on Council's website and members of the public must ensure their speech to the Panel is respectful and use appropriate language.

The meeting here opened at 11:32a.m.

**DECLARATIONS OF INTEREST:**

There was an actual conflict of interest declared by the Hon. Paul Stein in relation to Item LPP071/19 – 2/2-6 Peel Street, Holroyd. The Hon. Paul Stein noted that he chaired the original hearing and decision and therefore would not participate in the review of this application.

There was also a perceived conflict of interest declared by Mr Bruce Simpson in relation to Item LPP077/19 – 9 Wainwright Street, Guilford as he stated that his appointment by Council may be perceived as a conflict of interest as a Councillor is a part owner of the site.

**ADDRESS BY INVITED SPEAKERS:**

The Hon. Paul Stein AM exited the Chamber at 11:34a.m. and Mr Michael Ryan assumed the Chair for the remainder of the speakers for 2/2-6 Peel Street, Holroyd.

The Hon. Paul Stein AM re-entered the Chamber at 11:50a.m.

The following persons had made application to address the Cumberland Local Planning Panel meeting:

<u>Speakers</u>	<u>Item No. Subject</u>
Mr Allan Caladine	Section 8.3 Review of Application - 2/2-6 Peel Street, Holroyd
Mr Moussaab Legha	Section 8.3 Review of Application - 2/2-6 Peel Street, Holroyd
Mr Jonathon Wood	Development Application-17 Nottingham Road, Lidcombe

- Ms Suzan  
(last name not disclosed) Development Application-17 Nottingham Road, Lidcombe
- Mr Jonathon Wood Modification Application - 15 Hyacinth Street, Greystanes
- Mr Ziad Boumelhem Development Application - 9-15 Raphael Street, Lidcombe
- Mr Tony Jreige Development Application - 9-15 Raphael Street, Lidcombe
- Ms Myrna Mallouk Development Application - 6/1-3 Ferngrove Place, Chester Hill
- Mr Jonathon Wood Modification Application - 27B & 29 Garfield Street, Wentworthville

The Chairperson enquired to those present in the Gallery as to whether there were any further persons who would like to address the Panel and no further persons presented themselves.

The open session of the meeting here closed at 1:06p.m.

The closed session of the meeting here opened at 1:13p.m.

ITEM LPP071/19 - SECTION 8.3 REVIEW OF APPLICATION - 2/2-6 PEEL STREET, HOLROYD

The Hon. Paul Stein left the Chamber at 1:13p.m. for the duration of the determination of this item and returned to the Chamber once the item was resolved at 1:32p.m.

**RESOLVED:**

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1. That the Panel confirm the decision from 22 May 2019 to refuse DA 2018/185.
2. That those persons who made a submission be advised of the determination.

**For:** Michael Ryan (Acting Chairperson), Lindsay Fletcher and Bruce Simpson.

**Against:** Nil.

**Reasons for Decision:**

1. The Panel notes that there was no additional information provided with the request for review and the Panel further notes that there has been no change in relevant policy or other circumstances relating to the application. On that basis the Panel is of the opinion that the issue of insufficient off-street car parking is still of primary relevance.
2. The Panel notes the applicant's email correspondence dated the 29 October 2019 with the offer to reduce the maximum number of attendees from 80 to

**60 in order to reduce car parking demand and the local impacts including on adjoining businesses and surrounding streets. Notwithstanding that offer, the Panel was not satisfied that such a reduction would overcome all of the concerns raised in the previous decision.**

ITEM LPP072/19 - DEVELOPMENT APPLICATION-17 NOTTINGHILL ROAD,  
LIDCOMBE NSW 2141

**RESOLVED:**

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- 1. The application by an objector for the deferral of the matter for 6-12 months is declined as not being justified.**
- 2. That Development Application No. DA-153/2019 for the demolition of existing structures and construction of a 48 place childcare facility with basement level parking to operate 7.00 a.m. to 6.00 p.m. Monday to Friday on land at 17 Nottinghill Road, LIDCOMBE NSW 2141 be approved subject to the conditions attached to the Assessment Report as amended by the Panel.**
- 3. That condition 9 to be amended to read as follows:**

**9. Heritage Assessment**

Prior to the demolition of the existing structures on site – the archival recording of the dwelling shall be done. The recording shall be in accordance with the NSW Heritage Office Guidelines. These archival records shall be submitted to Council for Council's local studies collection.

The archival recording shall include, inter alia, the identification of sandstone blocks in the existing building to be incorporated into new building and or landscaping. Details to be included in the Construction Certificate or landscape plans to the satisfaction of Council's Executive Manager Development and Building.

Reason:- To comply with the recommendations of the Heritage Assessment.

- 4. A new Condition 9A be included to read as follows:**

**9A. Limit on children attending the child care centre**

The number of children attending the child care centre shall not exceed a maximum of 48 places under any circumstances unless further consent is obtained from the Council.

In this regard, the age groups of the child care places shall be as follows:

- 2-3 years – 24 places; and
- 3-5 years – 24 places.

Reason:- to limit the capacity of the child care centre.

**5. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.**

**For:** The Hon. Paul Stein AM QC (Chairperson), Lindsay Fletcher, Michael Ryan and Bruce Simpson.

**Against:** Nil.

**Reasons for Decision:**

1. The Panel generally agrees with the Planning Officer's report and notes that the heritage impact study commissioned by the Council did not recommend that the subject building be considered as an item of environmental heritage for inclusion in the Auburn LEP 2010. Their Panel notes the findings of the remedial action plan prepared by Envirotech that the site can be made suitable for its intended use through remedial action and therefore the Panel is satisfied that the development meets the requirements of SEPP 55 Remediation of Land.
2. The Panel is satisfied that the application was suitably notified and the Panel notes that the proposed development is fully compliant with both State and Local planning controls.

ITEM LPP073/19 - MODIFICATION APPLICATION - 15 HYACINTH STREET, GREYSTANES

**RESOLVED:**

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1. **That Section 4.55(1A) modification application (DA2018/284/2) seeking removal of the external storage shed and dense planting, reinstatement of visitor parking space numbered 10 in the basement, and amendments to the outdoor play space to increase the capacity of approved child care centre from 26 to 28 places, on land at 15 Hyacinth Street, Greystanes, be approved, subject to the conditions provided in Attachment 5 of the assessment report as amended by the Panel.**

2. **Amendment to Proposed Development description to read as follows:**

Demolition of existing structures and construction of a **28** place two storey, child care centre over basement parking accommodating **10** parking spaces

3. **Amendment to Condition 8 to read as follows:**

Condition 8 is amended to read as follows:

**Child Care Centres**

An approval shall be obtained from Department of Education and Communities (DEC) prior to commencement of operations. The number of children cared for in the new centre shall not exceed **28** aged up to 5 years.

**Amendment to Condition 202 to read as follows:**

Condition 202 is amended to read as follows:

**General**

The number of children cared for in the new centre shall not exceed **28** aged up to 5 years.

- 4. That the applicant and those persons who lodged a submission in respect of the application be notified of the determination of the application.**

**For:** The Hon. Paul Stein AM QC (Chairperson), Lindsay Fletcher, Michael Ryan and Bruce Simpson.

**Against:** Nil.

**Reasons for Decision:**

1. The Panel generally concurs with the Planning Officer's report but is of the view that the open swale and drainage pits may be included in the calculation of unencumbered outdoor playing space. Accordingly the Panel has increased the capacity of the childcare centre to 28 places in accordance with the revised calculations provided by Council staff.

ITEM LPP074/19 - DEVELOPMENT APPLICATION - 9-15 RAPHAEL STREET, LIDCOMBE

**RESOLVED:**

1. **That this application be deferred at the applicant's request to permit the applicant to lodge amended plans which;**
  - (i) **Delete the 5<sup>th</sup> basement level from the proposal**
  - (ii) **Reduce the number of dwelling units from the top floor of the proposal**
  - (iii) **Include a plan of the proposed communal open space on the top floor**

**In addition, the deferral will allow the applicant to lodge a revised Clause 4.6 Variation with the Council.**

**The amended plans and revised Clause 4.6 Variation to be lodged by Friday 13 December 2019.**

**For:** The Hon. Paul Stein AM QC (Chairperson), Lindsay Fletcher, Michael Ryan and Bruce Simpson.

**Against:** Nil.

ITEM LPP075/19 - DEVELOPMENT APPLICATION - 6/1-3 FERNGROVE PLACE,  
CHESTER HILL

**RESOLVED:**

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- 1. That Development Application No. DA-257/2019 for the use and fitout of an existing industrial tenancy as a Place of Public Worship to operate 10.00 a.m. to 7.30 p.m. Monday to Friday and 10.00 a.m. to 1.00 p.m. Saturday on land at 6/1-3 Ferngrove Place, CHESTER HILL NSW 2162 be refused for the reasons listed in the attached schedule as amended by the Panel for the following reasons.**
- 2. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.**

**For:** The Hon. Paul Stein AM QC (Chairperson), Lindsay Fletcher, Michael Ryan and Bruce Simpson.

**Against:** Nil.

**Reasons for Decision:**

1. The dominant purpose of the proposed development is not a Place of Public Worship within the definition of the Parramatta Local Environmental Plan 2011. Accordingly the use is prohibited.
2. The proposed development does not satisfy the objectives of the Parramatta Development Control Plan 2011 at part 5 (Places of Public Worship and Educational Establishments), specifically Section 5.3:

*O.2 To ensure that places of public worship and educational establishments have a scale and intensity that is suitable to the site and consistent with the prevailing and likely neighbourhood character in which the development is proposed.*

The useable floor space of the development generates a car parking rate which the site is unable to accommodate. Further, the development proposes a high proportion of children's activities/classes and given the surrounding industrial land uses within the complex and the activities associated with these uses, the site is not considered to be a suitable environment for children to be frequenting, having regard to safety.

*(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(a)(iii)).*

3. The proposed development does not satisfy the objectives of the Parramatta Development Control Plan 2011, at part 5 (Places of Public Worship and Educational Establishments), specifically section 5.3.3.5:

*O.1 To ensure that pedestrian safety is maintained and protected.*

The proposed internal car parking fails to provide a separation between vehicles and pedestrians, resulting in the potential for conflict. Further, the location of the site within an industrial complex, surrounded by existing industrial uses, results in an environment that is not appropriate for children, having regard to truck movements within the industrial complex.

*O.3 To minimise the impact of parking on the local streets.*

The development proposes to utilise on-street parking along Ferngrove Place, in lieu of providing the required number of off-street car parking spaces. This would result in an unsatisfactory impact on the availability on-street car parking.

*(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(a)(iii)).*

4. The proposed development does not comply with the provisions of the Parramatta Development Control Plan 2011, at part 5 (Other Provisions), specifically section 5.3.3.5 (Traffic, Parking and Access):

*P.2 On-site parking shall be provided at the rate determined by the traffic impact statement having regard to the objectives of this clause. As a general guide for places of public worship, new development shall provide 1 car parking space per 5m<sup>2</sup> of usable floor space for the first 100m<sup>2</sup> and 1 car parking space per 3m<sup>2</sup> of usable floor space thereafter. (Usable floor space not being corridor space, stairways, storage areas, toilets and other floor space that will not increase the capacity of the development.)*

The usable floor space of the development generates the requirement for 111 on-site car parking spaces. The seventeen (17) on-site car parking spaces proposed to service the development are inadequate. The Traffic Impact and Parking Assessment Study fails to provide a satisfactory justification for the reduced car parking provision; Council do not support the sharing of car parking spaces allocated to other tenants within Units 1 to 5 in SP 34532, nor do Council support the use of on-street parking.

*P.3 All vehicles shall enter and leave the site in a forward direction. Clear distinctions should be made for vehicular traffic and pedestrian movements, both onsite and off-site. Measures should be taken to separate these and reduce potential conflict through design and management practices.*

A turning area has not been provided within the building to facilitate the forward entry and exit of vehicles, in the event that all car parking spaces are occupied. Further, the design of the internal car parking fails to provide a clear separation between vehicles and pedestrians, creating the potential for conflict.

*P.4 Car parking spaces are to be designed to ensure ease of access, egress and manoeuvring on-site. The standards of AS 2890 are to be complied with.*



The internal car parking layout does not comply with the Australian Standards AS2890.1 and AS2890.6. Adequate manoeuvring space has not been provided for the number of car parking spaces proposed.

*(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(a)(iii)).*

5. The proposed development, will have an adverse environmental impact in the locality as the amount of traffic likely to be generated will impact on the movement of traffic in the local road system.

*(Environmental Planning and Assessment Act (as amended) Sec 4.15 (1)(b)).*

6. The proposed development will have an adverse environmental impact in the locality as the use of the car parking spaces allocated to the remaining five (5) units in SP 34532 has the potential to cause adverse operational impacts for the owners/tenants of these tenancies.

*(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(b)).*

7. The proposed development will have an adverse environmental impact in the locality as the operation of vehicles, internal to the building, presents an environmental health risk, having regard to exhaust emissions and the impact of this on patrons frequenting the premises, noting that a high proportion of users of the site would comprise children.

*(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(b)).*

8. The site is considered unsuitable to accommodate the proposed development as the site is not capable of accommodating the number of car parking spaces required for a place of public worship, pursuant to the provisions of the Parramatta DCP 2011.

*(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(c)).*

9. In the circumstances of the case, approval of the application is not in the public interest.

*(Environmental Planning and Assessment Act 1979 (as amended) Sec 4.15 (1)(e)).*

ITEM LPP076/19 - MODIFICATION APPLICATION - 27B & 29 GARFIELD STREET,  
WENTWORTHVILLE

**RESOLVED:**

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**That DA 2018/196/2 for alterations and additions to approved residential flat building including additional ground floor unit, changes to pedestrian access and basement egress, and deletion of padmount substation be approved, subject to the conditions within the draft notice of determination provided at attachment 4.**



**For:** The Hon. Paul Stein AM QC (Chairperson), Lindsay Fletcher, Michael Ryan and Bruce Simpson.

**Against:** Nil.

**Reasons for Decision:**

1. **The Panel concurs with the Planning Officer's report.**

ITEM LPP077/19 - SECTION 4.55(1A) MODIFICATION APPLICATION - 9  
WAINWRIGHT STREET, GUILDFORD

**RESOLVED:**

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**That Development Application No. 2018/396/2 to amend stormwater drainage requirements on land at 9 Wainwright Street, Guildford, be deferred to receive further reports from Council detailing the height of the retaining walls and filling relative to existing ground levels and perimeter fence heights. This information from Council shall be provided within 21 days from today.**

**Subject to the satisfaction of the Panel, this matter may be dealt with electronically by the Panel rather than any further public hearing.**

**For:** The Hon. Paul Stein AM QC (Chairperson), Lindsay Fletcher, Michael Ryan and Bruce Simpson.

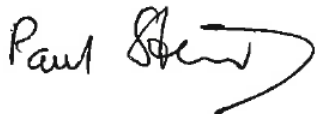
**Against:** Nil.

The closed session of the meeting here closed at 3:02p.m.

The open session of the meeting here opened at 3:04p.m. The Chairperson delivered the Cumberland Local Planning Panel's resolutions to the Public Gallery.

The meeting terminated at 3:09p.m.

Signed:



The Hon. Paul Stein AM QC  
Chairperson

