

<b>DATE OF DETERMINATION</b>	18 February 2021
<b>PANEL MEMBERS</b>	Carl Scully (Chair), Jan Murrell, Roberta Ryan, Monica Wangmann, Ted Cassidy
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held by videoconference on 18 February 2021, opened at 9.30am and closed at 11am.

### **MATTER DETERMINED**

PPSSEC-61 – Inner West – DA/2020/0520 – 73 Norton Street, Ashfield – Polish Club (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.

#### **Application to vary a development standard**

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Ashfield Local Environmental Plan 2013 (LEP), in the opinion of the Panel it has demonstrated that:

- a) compliance with cl. 4.6 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 LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.4 of the LEP and the objectives for development in the B4 zone; and
- c) the concurrence of the Secretary has been assumed.

#### **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 Panel determined to uphold the Clause 4.6 variation; and approve the application on its merits for the following reasons:

- The Panel endorses the reasons outlined in the Council Officer's Report for approval subject to a design modification to improve the residential entry from Norton Street and the recommended conditions as amended below.

- The Panel is satisfied the co-location of the club and residential apartments is satisfactory subject to the acoustic conditions and construction to mitigate noise from the club premises to the residential apartments above to be fully addressed prior to the issue of a construction certificate.

## CONDITIONS

The development application was approved subject to the conditions in the Council Officer's assessment report with the following amendments.

- Amend Condition 2(d) to read:  
The proposed residents entry/lobby is to be expanded by at least 1m eastward, achieved through the relocation of the adjacent stairs, including any re-design of unit 115 above. The entry area is to be architecturally treated internally as a principle/main entrance and divided from the lift lobby with a second doorway adjacent to the lifts. Amenities and facilities such as mailboxes, bike racks, intercoms and artwork are to be located within the entry before the second door adjacent to the lift lobby to re-enforce and promote its principle entrance to the residential building. The external materials palette of the residential entry is to be revised to be differentiated from the awning of the garage entry, with materials to be selected as to highlight its role and a location as a residential entry.

*Note: Path of travel to external exit of Lobby must comply with BCA minimum unobstructed safe pedestrian width of travel to exit/entry door of Lobby.*

Reason: to ensure bike racks do not present a civil liability safety issue for occupants and visitors.

- Amend Condition 71 (j) to read:
  - (i) Management procedures to ensure patrons arriving/leaving the venue via rideshare are picked up and dropped off from Liverpool Road, not Norton Street. The operator is to provide a Liverpool Road address to patrons wishing to access the site via rideshare.
  - (j) The creation of a consultative committee, as per the NSW Government Guidelines <https://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Community-Consultative-Committees>, to liaise with residents and the registered club, regarding the operation of the development and to discuss any day to day operational concerns.
- Amend Condition 117 as follows:  
Condition 117 – Landscaping Works and Maintenance  
All landscaping, including the plantings within the Green Roofs, Walls and Facades as part of this consent are to be maintained in a healthy and vigorous condition for the life of the development from the issue of an Occupation Certificate. If any of the plantings are found faulty, damaged, dying or dead they must be replaced with the same species within one (1) month.

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Apartment Design Guide compliance;
- Operation of the club and impacts on residential neighbours;
- Impact on heritage items in the vicinity;
- operation of the entrance to the club; and
- design of the entrance to residential apartments.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues appropriate conditions have been imposed.

PANEL MEMBERS	
 Carl Scully (Chair)	 Jan Murrell
 Roberta Ryan	 Monica Wangmann
 Ted Cassidy	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-61 – Inner West – DA/2020/0520
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a 3-8 storey mixed use development containing 88 units, a registered club and landscape works to an existing right of carriageway. Proposed lot consolidation and 2 lot stratum subdivision.
3	STREET ADDRESS	73 Norton Street, Ashfield
4	APPLICANT/OWNER	Deicorp Construction Pty Ltd / Polish Club Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 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 No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ Ashfield Local Environmental Plan 2013</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Inner West Comprehensive Development Control Plan 2016</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: 20 January 2021</li> <li>• Clause 4.6 variation request – floor space ratio</li> <li>• Written submissions during public exhibition: 22</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Ursula Lang</li> <li>○ Council assessment officer – Conor Wilson</li> <li>○ On behalf of the applicant – Andy Ludvik, Greg Colbran, Stephen Nordon, Fouad Deiri, Richard Borysiewicz</li> </ul> </li> <li>• Total number of unique submissions received by way of objection: 22</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 5 November 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan Ted Cassidy</li> <li>○ <u>Council assessment staff</u>: Conor Wilson, Luke Murtas</li> </ul> </li> <li>• Site inspection: Panel members visited the site independently, prior to 18 February 2021</li> <li>• Final briefing to discuss council’s recommendation: 18 February 2021</li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Ted Cassidy, Monica Wangmann</li> <li>○ <u>Council assessment staff</u>: Conor Wilson, Luke Murtas</li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Approval
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report