

Item : 249 Princes Highway, Kogarah - DA457/06 - Extension to existing grandstand and upgrade of associated facilities - Kogarah Council as Trustee of Kogarah Park (Applicant) - Kogarah Council (Owner) - North Ward - Annexure DA2006/457

Author: Rod Logan - Director of Development & Health

Reason for report: Objections received and Council is the applicant.

Recommendation:

- a) That Council, as the Consent Authority, pursuant to Section 80(1)(a) of the Environmental Planning & Assessment Act, 1979, grant consent to Development Application 457/06 for extensions to existing grandstand and upgrade of associated facilities at 249 Princes Highway, subject to the following conditions:-

Prior to the Issue of a Construction Certificate

1. Payment of the following amounts as detailed below:
 - * Long Service Levy of \$21,700.00
2. The development must be implemented in accordance with the approved plans, specifications and details listed below and any supporting information submitted with the Development Application except as amended by any conditions attached to the Development Consent:
 - (i) Architectural Plans prepared by Tony Owen ndm project No.667 drawings A090,A100-A104, A200-A201, A300-A301, A500-A502, A510-A513, A551-A555 Revision A dated 13 November 2006
3. The submission of a detailed Landscape Plan prepared by a Landscape Architect and endorsed by Council, showing all trees to be removed and proposed replacement planting throughout Kogarah Park.

Site Specific Conditions

4. Compliance with all applicable requirements of Council's Standard Development Conditions.

5. The following lists of inspections are the MANDATORY CRITICAL STAGE INSPECTIONS that MUST be carried out by the Principal Certifying Authority (PCA).
- (a) at the commencement of building works
 - (b) prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
 - (c) prior to covering any stormwater drainage connections, and
 - (d) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Certificates from your engineer or subcontractor are NOT acceptable in the first instance for the above inspections. Failure to have your PCA carry out these inspections could result in a delay or refusal to issue an Occupation Certificate.

In addition to the above, it is recommended that the following inspections be carried out for the subject development;

- * Concrete reinforcement
- * Landscaping

6. The building finishes are to be constructed generally in accordance with the colour board and perspective submitted with the Development Application and include the following:
- * Windows – Aluminium Framed Glazing
 - * Feature External Cladding 1 – Bronzed Coloured
 - * Feature External Cladding 2 – Precious Silver Pearl
 - * Lift Core – White on White
 - * Ground Level Masonary Wall – Sand Colour
 - * Roof edge and Gutter – Shale Grey
 - * Exposed Steel Structure – White
 - * Grandstand Soffit – Natural concrete
 - * Balustrade 1 – Semi-Frameless Glass with galvanised metal flat bar with oxide finish
 - * Roofing – Shale Grey
7. Appropriately sized rainwater tanks are to be installed under the new grandstand extensions, with the rainwater harvested used for irrigation of the oval and park.
8. Subject to securing grant funding from the Federal Government prior to commencement of construction a system of Photovoltaic cells are to be incorporated into the roof of the grandstand extensions and any generated electricity is to be used on site with any excess passed onto the grid and any deficit supplemented by the grid.
9. During non-game days, the nine car parking spaces are to be allocated to staff of the Football Offices only.

10. With the exception of game days, the hours of operation of the football offices museum and merchandising store are to be restricted to 8.00am – 6.00pm Monday to Saturday.
11. The area below any cantilevered section of the new grandstand, outside the lease area is to be made accessible to the public at all times.
12. The area designated as a museum is not to be used for functions, entertainment or any other purpose.
13. The corporate/function areas are not to be used for any other function or corporate event not associated with the St George Football Club.
14. All boundary and internal fences shall not obstruct the natural path of overland flows from the site. All fences located within the overland flow path shall be permeable / penetratable in nature to at least up to 0.5m to allow for passage of flows with a clear opening of at least 50mm above the ground level.
15. The existing sandstone retaining wall (south of the driveway) near the proposed new entry turnstiles, is to be de-assembled and placed aside for collection by Council. In addition, the applicant is to investigate the use of these blocks for the steps to be constructed on the edge of Jubilee Avenue, rather than concrete.
16. The developer shall bear all costs associated with the design and construction of additional park area and eight (8) angled parking spaces on the corner of Park Street and English Street and all associated landscaping of that area. The design is to be carried out in consultation with Council and landscape elements are to be included in the overall Landscape Plan which is required to be submitted for the site.

General Conditions

17. Certain items of equipment or forms of construction have been nominated as "fire safety measures" within the building. These are detailed in the Fire Safety Schedule.

Upon completion of works, and before occupation of the building, each of the fire safety measures is required to be certified by an appropriately competent person (chosen by the owner of the building). The certificate is to state that the measure was inspected and found to be designed, installed and capable of operating to a standard not less than that required by the relevant regulations.

Further, it is the responsibility of the owner of the building that each fire safety measure is again inspected and certified as to its condition every twelve (12) months following the submission to Council of the original certification.

18. The proposed building is not to be erected at a height greater than that indicated on the approved plan.
19. Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

20. Prior to commencement of any site works, erosion and sediment controls are to be installed in accordance with Council's guidelines and any approved Soil & Water Management Plan and shall incorporate:
 - * Measures to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways;
 - * Controls to prevent tracking of sand, soil, aggregates, etc, by vehicles onto adjoining roadways.
 21. All roof water being connected to an approved drainage disposal system incorporating appropriately sized rain water harvesting tanks that maximise opportunities for on site re-use.
 22. Car parking spaces, manoeuvring areas and access aisles shall be provided, paved, drained and suitably marked strictly in accordance with the approved plan.
 23. The areas designated as parking areas, loading/unloading areas, and the access to such areas are not to be used at any time for the purposes of storage, or for other commercial uses, or leased to any person, company or organisation not directly associated with the subject site.
 24. The existing trees on the site to be retained shall be protected during the construction of the proposed development to the requirements of Council's Tree Management Officer. Prior to the commencement of any site works, all trees to be retained shall be enclosed with protective fencing, at least 2 metres clear of the trunk of the tree, to prevent the tree trunk and root system being damaged during the construction period.
 25. No goods or signs shall be displayed in walkways, malls, public roads, landscaped areas, without separate approval by Council.
 26. No advertisement or sign shall be erected or displayed without development consent from Council, unless exempted under Development Control Plan No.26 – Exempt and Complying Development.
 - (b) That the applicant be advised of their right of appeal to the Land and Environment Court with regard to Council's decision in this matter.
 - (c) That those who made submission be advised of Council's decision in this matter.
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1. Council is in receipt of an application for the abovementioned property for the purposes of the expansion of the existing grandstand and upgrade of existing facilities including the provision of football club offices, merchandising shop and museum at Oki Jubilee Stadium.
 2. The application is subject to the requirements of the Environmental Planning & Assessment (E P & A) Act 1979, as amended and the Kogarah Local Environmental Plan (KLEP) 1998.

Background

3. As previously noted on earlier assessments of proposals for this site, research and investigations have been conducted by Council's Heritage Advisors, Truman Zaniol, into the history of the site and a Conservation Management Plan has been prepared for the site.
4. The playing area and surrounds within the Oval have changed substantially from their original construction in 1936. Little remains in terms of original fabric from that period, but nonetheless the Oval has been maintained as St George Rugby League's home ground since 1950 and this relationship with the ground is the basis of the strong social significance of the site to the community.
5. While it is acknowledged that various other sports and community organizations have made use of Jubilee Oval, it is without doubt that the most noticeable association is with the St George Rugby League Football Club. In general terms, from a heritage significance point of view, any works that ensure that ongoing relationship take precedence over issues related to the physical form of the place or removal of existing fabric.
6. Previous development application approved include;

19 January 2005	- DA 652/04 Levelling and drainage of training fields
28 January 2005	- DA 660/04 Entrance booth and turnstiles in English Street
16 February 2005	- DA 651/04 Permanent tiered seating to the north and south end and replacement of bench seating
16 February 2005	- DA 674/04 Light towers to training field and Oval
16 December 2005	- DA 651/04 Section 96 to demolish toilet block, new seating above toilet and new kiosk under tiered seating
19 December 2005	- DA 490/05 Replace operations centre, construct new kiosk and garage and demolish toilet block.
17 February 2006	- DA 570/05 Extension of northern tiered seating
18 April 2006	- DA 490/05 Section 96 to extend top concrete slab and install pre fabricated education building
7. As Council is not the owner of Kogarah Park, and is Manager of Kogarah Park (P500479) Reserve Trust, under Section 49 of the Environmental Planning & Assessment Act it has given notice to the Department of Lands of its intention to lodge a Development Application for these works, 14 days prior to the application being lodged. No response has been received from the Department and it is assumed that they have no objection to the proposal but these works will require the Department's formal notification prior to construction being permitted on the site.
8. The proposal before Council is now for the extension of the existing grandstand to the north and south, between English Street and Jubilee Avenue, enhancements to the change rooms and corporate facilities as well as the provision of club offices, shop for club merchandising and a museum.

SECTION 79C ASSESSMENT

9. The following is an assessment of the application with regard to Section 79C E P & A Act 1979, as amended.

(1) Matters for consideration – general

10. In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provision of:

(i) any environmental planning instrument, and

KLEP 1998 Clause 7 – Zoning Control Table

11. The subject site is zoned Open Space 6(a) - Public under the provisions KLEP 1998. The objective of this zoning is to recognise publicly owned land used or capable of being used for local public recreation. Considering the existing and permitted use of the site the proposed works are simply improving the existing use and are ancillary to the main use. The application satisfies the objectives of the zoning and is permissible subject to the consent of Council.

KLEP 1998 Clause 8 – Tree Preservation

12. No significant trees are proposed to be removed as part of this application. Significant trees are in existence along the Park Street frontage of the park/oval, which will provide a screening buffer of the proposed structure. The trees proposed for removal are more recent plantings within a tiered, landscaped slope to the immediate east of the driveway entry to the grandstand area off Jubilee Avenue. These need to be removed to accommodate a new egress and entry point to the new grandstand. The trees to be removed are casuarinas and immature eucalyptus that have no heritage significance. A copy of the comments from Council's Landscape Architect and Tree Preservation Officer can be found in the annexure to the report. In addition to this, a condition will be imposed requesting a detailed landscape plan be submitted that provides for replacement planting within Kogarah Park.

KLEP 1998 Clause 9 – Land Filling and Excavation

13. Minimal cut and fill is being proposed to provide the extension to the existing grandstand. Such minor excavation works are considered to satisfy the objectives of the LEP.

KLEP 1998 Clause 16 – Ecologically Sustainable Development:

14. A development of this type does not require the submission of an ABSA assessment or Basix Certificate. However the submission has indicated the installation of a photovoltaic system on the roof of the new grandstand. In addition to this it is intended to install rainwater tanks below the two new grandstand extensions allowing the rainwater to be harvested and reused for watering of the grounds.
15. It is intended, where appropriate, to reuse any of the existing material on site. In addition to this the grounds have large bins for the disposal and recycling of waste generated on game days.
16. It is considered that the application satisfies the objectives of this clause.

KLEP 1998 Clause 17 - Heritage:

17. As previously noted on earlier assessments of proposals for this site, research and investigations have been conducted by Council's Heritage Advisors, Truman Zaniol, into the history of the site and a Conservation Management Plan for the site has been prepared addressing the major components of the Masterplan for redevelopment of the site.
18. As noted previously, the playing area and surrounds within the Oval have changed substantially from their original construction in 1936. Little remains in terms of original fabric from that period, but nonetheless the Oval has been maintained as St George Rugby League's home ground since 1950.
19. While it is acknowledged that various other sports and community organizations have made use of Jubilee Oval, it is without doubt that the most noticeable association is with the St George Rugby League Football Club and that relationship underwrites the high levels of social significance of the site. In general terms any works that ensure that ongoing relationship take precedence over other considerations.

ASSESSMENT OF HERITAGE IMPACT

20. From the information provided previously and the work undertaken on the Conservation Management Plan, it is considered the principal aspects of the place involve the tangible evidence associated with Kogarah Park, and the great importance of St George Rugby League Football Club's history and associations with Jubilee Oval and its ongoing use as a home ground. Most other aspects are considered incidental to the above principal values of significance of the place, including other listed heritage items within the vicinity of the Park, given that their significance lies largely in the fabric and detail of those places themselves, and less so with any ongoing activities within the Park.

21. It is proposed to extend grandstand stadium seating in a manner similar to the existing stand at the Park Street entry, including increased and improved corporate facilities, with infill of the undercroft areas with offices for the Football Club, Club Museum and ancillary facilities. The proposed works also include refurbishment of change rooms and additional change rooms for other grades and officials. These works are required both for improvement to spectator conditions and to facilitate opportunity to house premium seating which assists the ongoing operation of the Football Club and the grounds.
22. In terms of heritage impact assessment, the proposed new grandstand seating is essentially an extension of existing seating previously established in the late 20th Century. Although it is a significant new built element within the park it does not result in any significant loss of park values. The design, although contemporary in style, provides for a modulated and varied façade to the Park Street frontage which assists in breaking down the scale of the rear grandstand edge and will actually provide an improvement to the current view by screening the rear of the existing stand.
23. There is no loss of any significant vegetation resulting from these works and with the continued implementation of recommended landscape measures contained in the Conservation Management Plan for areas outside the Oval, it is considered that the proposed new seating arrangements and provision for the Club offices and Museum will be acceptable from a heritage point of view, particularly as the works do not impact significant fabric and facilitate the ongoing use and occupation of the site by St George Rugby League Football Club and others.
24. This heritage impact assessment satisfies the requirements of Clauses 17A (4) & (5) of KLEP 1998.
25. No objections are raised to the proposal on heritage grounds.

KLEP 1998 Clause 21 – Development in Open Space 6(a) Zone

26. The objectives of this clause are to ensure that any development within this zone is compatible with the existing and future use of the land and will not conflict with the use of the surrounding land.

27. Council must not grant consent to the carrying out of development on publicly owned land within the Open Space 6 (a) Zone unless it has taken into consideration all of the following;
- (a) the need for the proposed development on that land
 - (b) whether the impact of the proposed development will be detrimental to the existing or future use of the land,
 - (c) whether the proposed development will be secondary and complementary to the existing use of the land as public open space,
 - (d) whether the proposed development will significantly diminish public use and access to public open space,
 - (e) whether the proposed development is compatible with uses on adjacent land in relation to its height, bulk, noise generation, traffic generation, and any other aspects that might conflict with surrounding land uses,
 - (f) whether the proposed development is consistent with any plan of management adopted by Council,
 - (g) whether the height of any building proposed or structure is visually sympathetic to existing vegetation and topography,
28. The above points (a) to (g) have been taken into consideration by Council in its assessment of the subject application. It has been found that the proposed works satisfy these points;
- The works are required to improve spectator conditions and assist with the ongoing operation of the football club and grounds.
 - The works are ancillary and complementary to the existing use of the ground and, more importantly, are required to ensure its future ongoing use.
 - As the open space is currently being used as a sporting oval, the works will be complementary to its existing use.
 - The proposed works do not result in significant loss of land as public open space. In general there is a nett loss of approximately 56sqm, out of a total of 7094sqm available as public park along the Park and English Street frontages of the park. This issue is discussed in more detail further in this report.
 - The proposed works are improvements to an existing use that will not have any significant additional impact on noise or traffic generation on the surrounding area. The height and bulk of the proposed works are in line with the current structures on the grounds. Although taller than the single residential developments in the area, it is compatible with the current structure on the site and other non-residential developments in the area.
 - There is no current Plan of Management for Kogarah Park or the Oval.
 - The height of the works is in line with the current structure, which will be screened to some degree from the immediately adjoining residential properties by the number of existing significant trees located in Kogarah Park.

29. Georges River Catchment Regional Environmental Plan (REP) is applicable to the Kogarah Local Government Area. Given the proposal will incorporate rainwater tanks under the new grandstand extensions and reuse this stormwater for the watering of the playing fields it is considered that the works will satisfy Council's Water Management Policy and the Georges River Catchment REP.

(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and

30. Not applicable.

(iii) any development control plan, and

31. There is no development control plan for this type of development or for development in this zone.

Other Requirements:

Protecting and Enhancing Built Forms:

32. The proposed works are improving the facilities that already exist and will not have any significant impact on the existing built form and will improve the facilities of the park.

Land Uses:

33. The proposal is ancillary and complementary to the existing use of the site and will be beneficial to the use of the land and will not intensify or vary the existing land use.

(iv) any matters prescribed by the regulations, that apply to the land to which the development application relates,

34. Not applicable.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

35. There are no likely additional impacts as a result of the proposed development. It is recognised that there are amenity impacts to the surrounding residential areas when the oval is at maximum use, however this proposal, in itself, will not significantly exacerbate those impacts. It should be noted that these works do not allow for any increase in the maximum number of spectators at the ground. The works are aimed at providing an improved level of spectator amenity and not to accommodate increased usage. The works will have some social and economical benefit to the locality as it will allow greater use of the area and comfort to the patrons of the ground.

(c) the suitability of the site for the development,

36. The site is currently used as a playing ground for rugby league and other community sporting events, and the application is for expanding and improving the current conditions and use of the oval.

- (d) *any submissions made in accordance with this Act or the regulations,*
37. The application was placed on neighbour notification for a period of fourteen (14) days in which adjoining and affected property owners were notified in writing (approximately 2000) of the proposed development. During this period, Council received eight (8) submissions against the application and nine (9) submissions supporting the application. It should be noted that the nine submissions supporting the application were not from residents within close proximity to the oval.
38. Five (5) of the objectors where from Park Street, which is directly opposite the proposed works and the most significantly affected by these works.
39. The brief summary of the issues raised by the objectors are discussed below;
40. *Council cannot grant consent to works outside the boundaries of the oval and the area covered by the lease;*
41. *Concern over the further loss of additional public land with the encroachment of the grandstand on Kogarah Park and the overhang of the grandstand and associated structures;*
42. *The additional use of the site for club offices and a museum is not permissible under the current terms of the lease;*
43. *The museum and offices should be located at the Leagues Club and not Kogarah Park. There is insufficient parking and the constant operation of these offices and retail outlet will have an impact of the quality of life or surrounding residents;*
44. *The proposed works are not in keeping or complementary to the heritage significance of the Park and immediate area;*
45. *The proposed additions to the grandstand will affect the skyline views currently enjoyed by residents in Park Street;*
46. A copy of all submissions in full can be found in the annexure to this report.
47. An assessment of the above issues raised is discussed in detail below:-
- Lease area - Council has sought legal advice regarding this matter and has been advised that it can grant consent to the application even if it goes beyond the current boundaries of the oval or the lease area. The consent relates to and attaches itself to the land. The ability to act on the consent will be dependant upon the rights to occupancy of the land held by that person.

Council's Manager of Property Service has indicated that a report is being presented to Council to redefine the boundaries of the oval and the area leased by the football club.

Only if and when this is adopted by Council and then accepted by the Department of Land & Water Conservation can the Football Club act upon the consent, if granted.

- Encroachment on Open Space - There will be some additional loss of public land in conjunction with the proposed works. These works are required for the continued use of the ground as a major sporting venue for the St. George Football Club and the local community. The losses of area will have little affect to the overall usability of the park, and occurs in locations with little attraction or utility to the general public. The grandstand and oval dominate the area in question and it does not function well as a public park. The additional affect of the overhang on park use is not significant and therefore will not detract from general park use.

A recent survey of the park and oval has been carried out by Council to determine the location of the perimeter of the oval at present and the area currently available to the public.

Even though the current proposal will take up additional area of the park, it is intended to give some area back as park, in particular around the intersection of Park and English Streets. It is also intended that the football club bear the cost of the construction of that additional park area and eight (8) angled parking spaces in English Street.

Overall, there is a loss of approximately 56sqm of usable parkland area. This is mainly due to the perimeter fencing being offset from the tiered seating structures. This area provides a landscape strip/screen of the structure and prevents vandalism of the stands. Although this area is not usable it is landscaped and adds to the visual appearance of the park and screening of the stand areas.

There is some additional loss of parkland, south of the driveway off Jubilee Avenue. This incorporated a raised planted area and a small grass verge area. This area has little recreational utility to the public and its loss has no significant impact on the useable area of Kogarah Park.

A condition will be imposed on the consent that the area below the overhanging portions of the development be made available to the public at all times.

- Permissible Uses - The current lease does not allow for the operation of football offices, merchandising shop or museum. However, these are issues with the lease between Council and St. George Football Club. The zoning of the site permits these uses subject to Development Consent, as they are ancillary to the existing use of the site as an oval for the St. George Football Club.

As part of the report being presented to Council about redefining the lease boundaries, there will also be a component that seeks to modify and vary the terms of the lease to enable the use of the area for the football offices, merchandising shop and museum.

Again, as stated above, even if consent is granted, it cannot be acted upon until such time as Council enters into a modified lease agreement with the Club that is also then accepted by the Department.

- Parking - The Football Club has indicated to Council that having the offices within the oval is the most efficient operating location. In addition to this, the museum will compliment the existing Legends Walk, be easily accessible to the local residents and will add to the attraction on game day.

During the week, the oval provides for nine (9) car parking spaces, which are to be used by the Football Offices during non-game days, with ample time controlled on-street car parking for visitors to the retail store or museum on non-game days. Additional parking is available at the Leagues Club, which is within easy walking distance, if required for occasional administrative parking that cannot be met on site. In general terms the parking arrangement is acceptable.

- Heritage Issue - The issue of heritage has already been discussed in the report and the heritage impact statement has been provided in the body of the report. The conclusion of the report stated that there were no objections to the proposal on heritage grounds.
- Impact on Views - Due to the height of the proposed works matching into the existing grandstands, the current skyline view from residents in Park Street will be significantly affected. However, these are only skyline views and contain no significant or iconic water views. The proposed works are to the south of the residents in Park Street hence having no affect on the sunlight received by these properties, nor will there be any overshadowing on the public park.

(e) *the public interest.*

48. No additional issues are raised with regard to the public interest or that of any public authorities or their policies with regard to this matter that would warrant amendment or refusal of the proposal or which have not been dealt with elsewhere in this report.

Mediation

49. St. George Football Club invited all adjoining residents to a public meeting on November 14, 2006 held at St George Leagues Club.
50. At this meeting residents were advised of the proposed works and the staging of the construction. They were given the opportunity to discuss some of these issues and were given an explanation of why these works are needed.

Conclusion

51. All relevant sections of the EPA Act, Council Codes and Policies have been considered in the assessment of the application for the construction of the expansion of the existing grandstand and upgrade of existing facilities including provisions of a football club offices, retail shop and museum at OKI Jubilee Stadium and found to be satisfactory and as such it is recommended that Council approve the application subject to the conditions outlined in this report.

Annexures

- Neighbour Notification Map
- A4 Plans
- Letters of Objection
- Letters of Support
- Memo from Council's Landscape Architect and Tree Preservation Officer

End of Report