

## Resolution of Local Planning Panel

**5 February 2020**

### Item 5

#### Development Application: 12 Toxteth Road, Glebe - D/2019/1242

The Panel granted consent to Development Application No. D/2019/1242 subject to the conditions set out in [Attachment A](#) to the subject report, subject to the following amendments and the addition of an advisory note (additions shown in ***bold italics***, deletions shown in strikethrough):

#### (5) DILAPIDATION REPORT – MAJOR EXCAVATION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of No. 10 and No.14 Toxteth Road, ***and No. 17 and No. 19 Boyce Street***, Glebe are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Accredited Certifier and the Council prior to the issue of a Construction Certificate.

#### UPON COMPLETION OF EXCAVATION/DEMOLITION

- (b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifier and the Council prior to the issue of any Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

**(9) NOISE – GENERAL**

- (a) The emission of noise associated with the use of the premises including the cumulative operation of any mechanical plant and equipment, and air conditioning shall comply with the following:
- (i) The LAeq, 15 minute noise level emitted from the use must not exceed the project specific noise level for that receiver as determined in accordance with the NSW EPA Industrial Noise Policy. Noise must be measured in accordance with the Industrial Noise Policy and relevant requirements of Australian Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
  - (ii) Project specific noise levels shall be determined by establishing the existing environmental noise levels, in complete accordance with the assessment LA90, 15 minute / rating LA90, 15 minute process to be in accordance with the requirements for noise monitoring listed in the NSW EPA Industrial Noise Policy and relevant requirements of Australian Standard AS1055-1997 Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
  - (iii) Modifying factors in Table 4.1 of the NSW EPA Industrial Noise Policy are applicable.
- (b) An LAeq, 15 minute noise level emitted from the use must not exceed the LA90, 15 minute noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence or noise sensitive commercial premises provided that;
- (i) Where the LA90, 15 minute noise level is below the threshold of hearing, Tf at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.
  - (ii) The LAeq, 15 minute noise level and the LA90, 15 minute noise level shall both be measured with all external doors and windows of the affected residence closed;
  - (iii) The relevant background noise level (LA90, 15 minute) is taken to mean the day, evening or night rating background noise level determined in complete accordance with the methodology outlined in the NSW EPA Industrial Noise Policy and Australian Standard AS1055.1997 Acoustics – Description and measurement of environmental noise.
  - (iv) Background noise shall be established in the absence of all noise emitted from the use but with the ventilation equipment normally servicing the affected residence operating. Background noise measurements are to be representative of the environmental noise levels at the affected location.
  - (v) Modifying factors in Table 4.1 of the NSW EPA Industrial Noise Policy are applicable. Internal Noise measurements are not to be corrected for duration.

- (c) ***The design and location of all mechanical ventilation, air conditioning, pool pump and pumping is to be submitted in conjunction with a noise assessment of the proposed design and approved by Council prior to the release of Construction Certificate.***

**ADVISORY NOTE**

***Every effort is to be made by the applicant to transplant the mature frangipani tree at the rear of the property in Church Lane to a suitable off site location.***

**Reasons for Decision**

The application was approved for the following reasons:

- (A) The proposed alterations and additions are considered acceptable as the works are permissible within the R1 General Residential zone.
- (B) Subject to the recommended conditions, the proposed alterations to development application D/2018/681 including rear garage and studio width increase, re-configuration of garage windows and doors, swimming pool relocation, minor internal alterations and installation of solar panels are not considered to detract from the amenity of nearby residences.
- (C) The applicant's accompanying Structural Certificate (prepared by Northern Beaches Consulting Engineers Pty Ltd) and updated Geotechnical Report (prepared by White Geotechnical Group) certify that the proposed excavation works will not adversely affect the structural adequacy of the neighbouring buildings as well as the rear lane, nor will the excavation penetrate the water table. In turn, the proposed basement addition and associated excavation is considered acceptable subject to the imposition of relevant conditions in order to minimise potential environmental impacts to neighbouring property and the public domain.
- (D) The proposed development is suitable to its setting and satisfies the relevant provisions of the Sydney LEP 2012, Sydney DCP 2012 and relevant SEPPs.
- (E) Subject to the recommended conditions the proposed development will not detract from the amenity of nearby residences.
- (F) Condition 5 was amended to provide additional protection for No. 17 and No. 19 Boyce Street, Glebe (to the rear of the subject site) from potential impacts of construction.
- (G) Condition 9 was amended to include an additional review that will provide a further opportunity to assess potential noise impacts on adjoining properties.
- (H) An advice note has been added to encourage the transplantation of the frangipani tree from the rear of the property to ensure its continued existence.

Carried unanimously.

D/2019/1242