

Local Planning Panel

Meeting No 16

Wednesday 30 January 2019

Notice Date 23 January 2019

minutes

city of villages

Index to Minutes

ITEM	PAGE NO
1. Disclosures of Interest	4
2. Confirmation of Minutes	4
3. Development Application: 39A Elizabeth Bay Road, Elizabeth Bay	5
4. Development Application: 20-40 Meagher Street, Chippendale	8
5. Development Application: 79-83 Abercrombie Street, Chippendale.....	9
6. Development Application: 89-105 Kent Street, Millers Point.....	9
7. Development Application: 82 City Road, Chippendale	10
8. Development Application: 84 City Road, Chippendale	12
9. Development Application: 4010 and 5010 William Street, Paddington	14
10. Development Application: 38 Barwon Park Road, Alexandria and 410-416 Sydney Park Road, Alexandria	15

Present

Mr Richard Pearson (Chair), Mr Peter Romey, Mr Shaun Carter and Associate Professor Amelia Thorpe.

At the commencement of business at 5.05pm, those present were:-

Mr Pearson, Mr Romey. Mr Carter and Assoc Prof Thorpe

The Executive Manager Development was also present.

The Chair opened the meeting with introductory comments about the purpose and format of the meeting and an acknowledgement of country. Mr Carter left the meeting at 5.10pm, prior to discussion on Item 3, and returned to the meeting at 6.27pm, at the conclusion of discussion and voting on Item 3.

The Chair adjourned the Panel meeting at 5.58pm to further consider Item 3.

The Chair reconvened the Panel meeting at 6.20pm.

Order of Business

For the convenience of members of the public speaking on or in attendance for the item:

Item 9 – Development Application: 4010 and 5010 William Street, Paddington was discussed at the conclusion of discussion and voting on Item 3 – Development Application: 39A Elizabeth Bay Road, Elizabeth Bay).

Item 7 – Development Application: 82 City Road, Chippendale and Item 8 – Development Application: 84 City Road, Chippendale were discussed at the conclusion of discussion and voting on Item 9 – 4010 and 5010 William Street, Paddington.

Item 1 Disclosures of Interest

In accordance with Clause 4.9 of the Code of Conduct for Local Planning Panel Members, all panel members have signed a declaration of interest in relation to each matter on the agenda.

Mr Carter disclosed a reasonably perceived conflict of interest in Item 3 - Development Application: 39A Elizabeth Bay Road, Elizabeth Bay, Item 5 – 79-83 Abercrombie Street, Chippendale and Item 6 – Development Application: 89-105 Kent Street, Millers Point as Carter Williamson Architects works with Weir Philips Heritage and Urbis.

Mr Romey disclosed a reasonably perceived conflict of interest in Item 5 – Development Application: 79-83 Abercrombie Street, Chippendale as he has worked on other projects with Tzannes Architects and Mr Romey's wife is employed by Urbis; and Item 6 – Development Application: 89-105 Kent Street, Millers Point as Mr Romey's wife is employed by Urbis.

No members disclosed any other pecuniary or non-pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

Item 2 Confirmation of Minutes

The Panel noted the minutes of the Local Planning Panel of 5 December 2018, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 39A Elizabeth Bay Road, Elizabeth Bay

Mr Carter left the meeting prior to consideration and determination of this matter as per his declaration of a reasonably perceived conflict of interest in this item.

The Chair adjourned the Panel meeting at 5.58pm to further consider Item 3.

The Chair reconvened the Panel meeting at 6.20pm.

The Panel:

- (A) Upheld the variation sought to Clause 4.3 (Building Height) of the LEP 2012 in accordance with Clause 4.6 'Exceptions to Development Standards' of the Sydney LEP 2012;
- (B) Granted consent to Development Application No. D/2017/1518 subject to the conditions set out in Attachment A to this report, subject to the following amendments (additions shown in **bold italics** and deleted text shown in ~~striketrough~~):

(2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) Room 3 and Room 8 on each Level 1-3 as shown on Plan DA 07 Rev E are to be redesigned. Room 8 is to be reduced in size with the entry door in line with the entry door of Room 7. The corridor is to be enlarged to allow an entry door to Room 3 adjacent to where the bed is currently shown. The room is to be reconfigured similar to that of typical Room 1 on Levels 1-3 to allow natural light directly to the bedroom.
- (b) The roof plane must be a ballasted slab with any service penetrations carefully designed to minimise visual impact.
- (c) The 'Private Terrace' to the Proposed Roof Terrace Plan is not approved. The door from Room 1 on Plan DA08 Rev E is not approved and is to be replaced with **an openable awning or casement** window, which is to have a minimum 750mm depth awning to provide weather protection for the full width of the opening. ~~The 'Private Terrace' is to be incorporated into the 'Community Garden' and must comply with (d) below. The doors to this terrace must also have an awning of minimum depth 750mm for the full width of the opening, to provide adequate weather protection.~~
- (d) The 'Private Terrace' and 'Community Garden' as shown on Plan DA 08 Rev E are not approved to be trafficable. A pebble finish is required. The roof terrace is to be accessed only for maintenance purposes. A window to Room 1 on Plan DA 08 E is not approved and ~~t~~ The doors to this area from Room 1 should **from the Corridor are to** be deleted and replaced with one or more **unopenable** windows, **which is/are to have a minimum 750mm depth awning to provide weather protection for the full width of the opening.** ~~This area is to be incorporated into the rooftop terrace area.~~

- (e) The proposed metal cladding 'CL1' is too dark. It must be revised in colour to a lighter grey to better complement the existing building.
- (f) The proposed custom feature 'Individual Panel Screen' as shown on Plan DA 32 Rev A to the loft level is to be amended to provide a perforation percentage of at least 50% to achieve adequate ventilation and optimise the relationship between passive sun control and visibility through the screen. Solid edges to the laser cut screens are to be minimised.

Amended plans incorporating modifications (a)-(f) above and an amended physical materials/sample board detailing all proposed finishes and profiling are to be submitted to and approved by Council's Director City Planning, Development and Transport prior to the issue of any Construction Certificate.

The updated materials and samples board must not include generic material or colour descriptions, or use terminology such as 'or similar'.

(5) USE OF THE GUEST LOUNGE AND SERVERY AT BASEMENT LEVEL

The basement level lounge and servery is to be used for hotel guests only between the hours of 7.00am and 8.10.00pm Mondays to Sundays only. It is not to be accessed by the general public at any time.

Reasons for Decision

The Panel approved the application for the following reasons:

- (A) The proposed development is consistent with the objectives of the B4 - Mixed Use zone and the relevant maximum Floor Space Ratio (FSR) development control for the site.
- (B) The non-compliance with the height in storeys control prescribed by the DCP 2012 is acceptable given the two storey addition preserves the street frontage height through the proposed setback of 3.5m, and is not inconsistent with the scale and form of the surrounding buildings and the character of the street.
- (C) The proposal is generally in keeping with the development approved by the Council under D/2009/1985 and the Land and Environment Court proceedings (10747 of 2008) where amenity impacts were established as being acceptable in relation to a proposal of a similar scale.
- (D) The requested variation to the height in metres standard is upheld because the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the height in metres control and the B4 Mixed Use zone.
- (E) The proposal demonstrates compliance with Clause 6.21 of the LEP 2012 subject to conditions and is considered to achieve design excellence.
- (F) The proposal, subject to conditions, will not adversely impact the residential amenity of neighbouring properties or appearance of the surrounding heritage conservation area, and is therefore in the public interest as demonstrated in the above reasons.
- (G) Conditions 2(c) and 2(d) were amended to ensure that the roof top is non-trafficable and cannot be used by hotel occupants as a roof top terrace.

- (H) Condition 5 was amended to extend the opening hours of the basement level lounge and servery to 10.00pm. The extension of hours will have minimal impact on neighbouring amenity given the proposed use as a servery for hotel occupants only.

Speakers

The following people addressed the meeting of the Local Planning Panel on Item 3 – Mr David Hand (resident), Ms Lisa Bella (Milestone – on behalf of residents), Mr Alex Ding (on behalf of his mother – resident), Ms Nicole Berthou (resident), Mr Matt O'Donnell (Mod Urban Pty Ltd – on behalf of applicant), and Mr Ashkan Mostaghim (Mostaghim & Associates – on behalf of applicant).

Item 4 Development Application: 20-40 Meagher Street, Chippendale

The Panel:

- (C) Upheld the variation sought to Clause 4.4 (Floor Space Ratio) of the Sydney LEP 2012, in accordance with Clause 4.6 'Exceptions to Development Standards' of the Sydney LEP 2012; and
- (D) Granted consent to Development Application No. D/2018/1252 subject to the conditions set out in Attachment A to the subject report.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposed development is consistent with the objectives of the B4 Mixed Use zone for the reasons set out in the report to the Local Planning Panel.
- (B) The variation to Clause 4.4 of the Sydney LEP 2012 is consistent with the provisions of Clause 4.6 of the Sydney LEP 2012 and is in the public interest.
- (C) The built form and design of the addition is consistent with the scale of the existing building and adjoining buildings and is not considered to result in detrimental impacts on the character of the heritage conservation area.
- (D) The proposed addition and outdoor communal area will provide break-out space for the staff of the co-working business that occupies the building.
- (E) The recommended operational conditions for the outdoor terrace will ensure the proposal does not result in adverse amenity impacts to the surrounding area.

Carried unanimously.

D/2018/1252

Item 5 Development Application: 79-83 Abercrombie Street, Chippendale

This Item was deferred due to lack of quorum as a result of disclosures of interest (refer Item 1).

Item 6 Development Application: 89-105 Kent Street, Millers Point

This Item was deferred due to lack of quorum as a result of disclosures of interest (refer Item 1).

Item 7 Development Application: 82 City Road, Chippendale

The Panel refused Development Application No. D/2018/842 for the following reasons:

- (A) The proposal does not comply with the following provisions of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* which will have an unacceptable impact on the amenity of the future occupants:
 - (i) Clause 29 2(c) - Solar Access
 - (ii) Clause 29 2(d) - Private Open Space
 - (iii) Clause 29 2(f) - Accommodation Size
 - (iv) Clause 30 1(h) - Motorcycle Parking
 - (v) Clause 30A - Character of the Local Area
- (B) The proposal does not comply with Clause 4.6 of the *Sydney Local Environmental Plan 2012* in relation to the written request for a waiver of the requirements under Clause 30 1(h) of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* as it is considered to not be in the public interest.
- (C) The proposal results in unsympathetic alterations and additions to a contributory building within a conservation area which fail to respect the characteristic built form of a row of contributory terraces, resulting in detrimental impacts on the Chippendale heritage conservation area (C9). The proposed development is therefore contrary to the requirements of Clauses 5.10 of *Sydney Local Environmental Plan 2012*, and Sections 3.9.6, 3.9.7 and 3.9.13 of *Sydney Development Control Plan 2012*.
- (D) As a result of the unsympathetic additions, the proposal alters the profile and form of the original building and extends beyond the predominant rear alignment of contributory buildings within the street block. The proposal fails to respond to the scale and character of the existing building or adjoining development and is therefore inconsistent with Section 4.2.2 of *Sydney Development Control Plan 2012*.
- (E) The proposed development fails to demonstrate design excellence in accordance with Clause 6.21 of *Sydney Local Environmental Plan 2012* as it results in unacceptable bulk and scale, detrimental impacts on the character of the conservation area, detrimental impacts on the amenity of neighbouring properties and on the streetscape on Maze Lane.
- (F) The application has failed to demonstrate that the proposal will not have detrimental impacts on the amenity of neighbouring properties by way of unacceptable visual privacy and overshadowing impacts, and as such is inconsistent with the requirements of Section 4.2.3 of *Sydney Development Control Plan 2012*.
- (G) The application has failed to demonstrate the proposed excavation will not have detrimental impacts on the subject and adjoining properties contained within the heritage conservation area in accordance with Section 3.9.13 of the *Sydney Development Control Plan 2012*.
- (H) The proposed boarding house will have unacceptable amenity impacts to the future occupants due to the proposal's noncompliance with the following sections of the *Sydney Development Control Plan 2012*:

- (i) Section 4.4.1.2 - Bedrooms
 - (ii) Section 4.4.1.4 - Communal Living Areas and Open Space
 - (iii) Section 4.4.1.5 - Bathroom. Laundry and drying facilities
 - (iv) Section 4.4.1.6 - Amenity, safety and privacy
- (I) The submitted Waste Management Plan does not adequately address the requirements of Section 3.14 of the *Sydney Development Control Plan 2012*.
- (J) The proposal does not comply with the provisions of tree management under Section 3.5.3 of the *Sydney Development Control Plan 2012* due to the loss of tree canopy and insufficient information to support the proposed removal of 3 trees.
- (K) The proposed development is not in keeping with the future desired character of the area and is not considered to be in the public interest.

Carried unanimously.

D/2018/842

Item 8 Development Application: 84 City Road, Chippendale

The Panel refused Development Application No. D/2018/841 for the following reasons:

- (A) The proposal does not comply with the following provisions of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* which will have an unacceptable impact on the amenity of the future occupants:
 - (i) Clause 29 2(c) - Solar Access
 - (ii) Clause 29 2(d) - Private Open Space
 - (iii) Clause 29 2(f) - Accommodation Size
 - (iv) Clause 30 1(h) - Motorcycle Parking
 - (v) Clause 30A - Character of the Local Area
- (B) The proposal does not comply with Clause 4.6 of the *Sydney Local Environmental Plan 2012* in relation to the written request for a waiver of the requirements under Clause 30 1(h) of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* as it is considered to not be in the public interest.
- (C) The proposal results in unsympathetic alterations and additions to a contributory building within a conservation area which fail to respect the characteristic built form of a row of contributory terraces, resulting in detrimental impacts on the Chippendale heritage conservation area (C9). The proposed development is therefore contrary to the requirements of Clauses 5.10 of *Sydney Local Environmental Plan 2012*, and Sections 3.9.6, and 3.9.7 of *Sydney Development Control Plan 2012*.
- (D) As a result of the unsympathetic additions, the proposal alters the profile and form of the original building and extends beyond the predominant rear alignment of contributory buildings within the street block. The proposal fails to respond to the scale and character of the existing building or adjoining development and is therefore inconsistent with Section 4.2.2 of *Sydney Development Control Plan 2012*.
- (E) The proposed development fails to demonstrate design excellence in accordance with Clause 6.21 of *Sydney Local Environmental Plan 2012* as it results in unacceptable bulk and scale, detrimental impacts on the character of the conservation area, detrimental impacts on the amenity of neighbouring properties and on the streetscape on Maze Lane.
- (F) The application has failed to demonstrate that the proposal will not have detrimental impacts on the amenity of neighbouring properties by way of unacceptable visual privacy and overshadowing impacts, and as such is inconsistent with the requirements of Section 4.2.3 of *Sydney Development Control Plan 2012*.
- (G) The application has failed to demonstrate the proposed excavation will not have detrimental impacts on the subject and adjoining properties contained within the heritage conservation area in accordance with Section 3.9.13 of the *Sydney Development Control Plan 2012*.
- (H) The proposed boarding house will have unacceptable amenity impacts to the future occupants due to the proposal's noncompliance with the following sections of the *Sydney Development Control Plan 2012*:

- (i) Section 4.4.1.2 - Bedrooms
 - (ii) Section 4.4.1.4 - Communal Living Areas and Open Space
 - (iii) Section 4.4.1.5 - Bathroom. Laundry and drying facilities
 - (iv) Section 4.4.1.6 - Amenity, safety and privacy
- (I) The submitted Waste Management Plan does not adequately address the requirements of Section 3.14 of the *Sydney Development Control Plan 2012*.
- (J) The proposal does not comply with the provisions of tree management under Section 3.5.3 of the *Sydney Development Control Plan 2012* due to the loss of tree canopy and insufficient information has been submitted to support the proposed removal of one tree.
- (K) The proposed development is not in keeping with the future desired character of the area and is not considered to be in the public interest.

Carried unanimously.

D/2018/841

Item 9 Development Application: 4010 and 5010 William Street, Paddington

The Panel granted consent to Development Application No. D/2018/693 subject to the conditions set out in Attachment A to the subject report.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposal is consistent with the provisions of Sydney LEP 2012 and Sydney DCP 2012.
- (B) The proposal is consistent with the City of Sydney Public Toilet Strategy 2014.
- (C) The proposed development will enhance the public domain by adding facilities which contribute to the functionality and amenity of the area.
- (D) As such, the proposal is considered to be in the public interest.

Carried unanimously.

D/2018/693

Speakers

The following people addressed the meeting of the Local Planning Panel on Item 9 – Ms Margaret Destereos (resident) and Dr Mary Kearney (South Paddington Residents Association).

Item 10 Development Application: 38 Barwon Park Road, Alexandria and 410-416 Sydney Park Road, Alexandria

The Panel granted consent to Development Application No. D/2018/1186 subject to the conditions set out in Attachment A to the subject report.

Reasons for Decision

The application was approved for the following reasons:

- (A) It is consistent with the objectives of the RE1 Public Recreation zone in that the new shade structures contribute to the land being appropriately used for recreational purposes, providing for a range of recreational activities, and promotes access by members of the public to areas in the public domain.
- (B) It does not result in any adverse impacts on surrounding land.
- (C) It will assist in facilitating the delivery of additional recreational opportunities within Sydney Park by improving shade access, amenity and visual character to the community area, and is consistent with the Sydney Park Plan of Management 2014.

Carried unanimously.

D/2018/1186

Wednesday 30 January 2019

16

The meeting of the Local Planning Panel concluded at 7.03 pm.

CHAIR