

Local Planning Panel

Meeting No 18

Wednesday 20 February 2019

Notice Date 13 February 2019

minutes

city of villages

ITEM	PAGE NO
1. Disclosures of Interest	26
2. Confirmation of Minutes	26
3. Development Application: 29-33 Balfour Street, Chippendale	27
4. Development Application: 13-15 Bayswater Road, Potts Point:	30
5. Development Application: 22-24 Billyard Avenue, Elizabeth Bay	31
6. Report to the Local Planning Panel - Status of Applications	32

Present

Mr Steven Layman (Chair), Mr Steve Kennedy, Mr Peter Romey and Associate Professor Amelia Thorpe.

At the commencement of business at 5.02pm, those present were:-

Mr Layman, Mr Kennedy, Mr Romey and A/Prof. Thorpe

The Director City Planning, Development and Transport 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 Kennedy left the meeting at 5.08pm prior to discussion on Item 3, and returned to the meeting at 5.43pm, at the conclusion of discussion and voting on Item 3.

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 Kennedy disclosed a reasonably perceived, non-pecuniary conflict of interest in Item 3 - Development Application: 29-33 Balfour Street, Chippendale as he has a long-standing friendship and on-going professional relationship with the principal of a professional services provider involved in Item 3.

Given the conflict of interest, Mr Kennedy will step out for deliberation on Item 3.

Mr Kennedy also disclosed a potential conflict of interest in that Kennedy Associates has in the past worked with three professional services providers who are involved in Item 3 - Development Application: 29-33 Balfour Street, Chippendale and Item 5 – Development Application: 22-24 Billyard Avenue, Elizabeth Bay. It is not considered that past work with these professional service providers constitutes a pecuniary conflict of interest, a significant non-pecuniary conflict of interest or a reasonably perceived conflict of interest.

Mr Romey disclosed that he has worked with two professional services providers more than four years ago, who are involved in Item 3 - Development Application: 29-33 Balfour Street, Chippendale and Item 5: 22-24 Billyard Avenue, Elizabeth Bay. It is not considered that past work with these professional service providers constitutes a pecuniary conflict of interest, a significant non-pecuniary conflict of interest or a reasonably perceived conflict of interest, principally in the latter case for reasons of infrequency of contact.

A/Prof. Thorpe disclosed a potential conflict of interest in that two professional services providers who are involved in Item 3 - Development Application: 29-33 Balfour Street, Chippendale sit on an advisory panel for research that she is undertaking and that this is an informal and unpaid role. A/Prof. Thorpe also disclosed that she has had a preliminary discussion about further research collaboration with a professional services provider in the future. It is not considered that past work or the possibility of a future research partnership with this professional service provider constitutes a pecuniary conflict of interest, a significant non-pecuniary conflict of interest or a reasonably perceived conflict of interest, principally in the latter case for reasons of infrequency and duration of contact.

No members including myself 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 13 February 2019, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 29-33 Balfour Street, Chippendale

Mr Kennedy left the meeting prior to consideration and determination of this matter as per his declaration of a reasonable perceived, non-pecuniary conflict of interest in this item.

The Panel:

- (A) upheld the variation sought to the Height in Buildings development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012;
- (B) upheld the variation sought to the Floor Space Ratio development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (C) granted consent to Development Application No. D/2018/1097 subject to the conditions set out in Attachment A to the subject report, subject to the following amendments (additions shown in bold italics and deleted text shown in strikethrough):

(4) TERRACE HOURS OF OPERATION - SENSITIVE USES

The hours of operation of the roof terrace are regulated as follows:

- (a) The hours of operation of the roof terrace must be restricted to between 7:00am and 8:00pm Monday to Friday.
- (b) Notwithstanding (a) above, the use of the terrace may operate between 8:00pm and 10:00pm **during Australian Daylight Saving Time** for a trial period of 12 months from the date of issue of the Occupation Certificate. Council's Planning Assessments Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to DASubmissions@cityofsydney.nsw.gov.au
- (c) A further application may be lodged to continue the operating hours outlined in (b) above not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

(5) MAXIMUM CAPACITY OF PERSONS ON TERRACE

The maximum number of persons permitted on the ~~outdoor~~ **eastern** roof terrace at any one time is 166 persons. **The western roof terrace is non-trafficable and for service access only.**

(9) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OR OCCUPATION CERTIFICATES

- (a) All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by Wood & Grieve Engineers dated 15/1/198, ref 38720, titled 29-43 Balfour Street, Chippendale Acoustic Report, Council Ref 2019/026426 and must be implemented as part of the detailed design assessment and implemented into the design drawings prior to the commencement of the use of the premises in accordance with the requirements of (b) and (c) below and to the satisfaction of the Principal Certifier.
- (b) Prior to the issue of a Construction Certificate, the construction drawings and construction methodology must be assessed and certified by a suitably qualified acoustic consultant* (see definition below) to be in accordance with the requirements of the DA acoustic report set out below. Specifically, the consultant will prepare a written Acoustic Certification Report with reference to drawings, to the satisfaction of the Principal Certifier.
- (c) Prior to the issue of an Occupation Certificate, a suitable qualified acoustic consultant is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier that the development complies with the requirements set out in the Report and in (a) and (b) above.

Note: Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

(11) PRIVACY BLINDS

- (a) *Privacy blinds are to be installed on the three windows facing the adjoining property on the first and second floor.*
- (b) *Opposite the core the blinds are to be closed when the building is occupied at sunset.*

(12) ACOUSTIC SCREENING

The specification of the acoustic screening of the plant on the western terrace is to be submitted for approval by the Director City, Development and Transport prior to the issue of a Construction Certificate.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposal is consistent with the objectives of the B4 Mixed Use zone in that it provides for a range of compatible land uses and will support the viability of the surrounding centre.
- (B) The requested variation to the Height of Buildings is supported 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 Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.3 Height of Buildings and the B4 Mixed Use zone.
- (C) The requested variation to the Floor Space Ratio is supported 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 Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.4 Floor Space Ratio and the B4 Mixed Use zone.
- (D) The proposal is considered to exhibit design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (E) The proposal is considered appropriate within its setting and is generally compliant with the other relevant planning controls contained in the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (F) The proposed use is compatible with the mixed use nature of the area and it is considered that the development will not result in unreasonable impacts to nearby residential properties, subject to the attached conditions.
- (G) Condition 4 was amended to limit use of the proposed terrace to 10.00pm during daylight savings time only during the trial period of one year. Council can then monitor the potential impacts of the use of this space at night and assess the acceptability of an extended trial period after 12 months of operation.
- (H) Condition 5 was amended to ensure that the western roof terrace is non-trafficable and cannot be used by office staff.
- (I) Condition 9 was amended to correct the date of the referenced acoustic report.
- (J) Condition 11 was added to prevent overlooking and light spill from the development site into the adjoining properties.
- (K) Condition 12 was added to require that the details of the acoustic screening of the plant on the western terrace is to be submitted for approval to allow for the protection of neighbouring amenity.

Carried unanimously.

D/2018/1097

Speakers

The following people addressed the meeting of the Local Planning Panel on Item 3 – Ms Gillian McDonald (resident) and Ms Belinda Thomas (Ethos Urban Pty Ltd – on behalf of applicant).

Item 4 Development Application: 13-15 Bayswater Road, Potts Point:

The Panel resolved to delegate the determination of Development Application D/2018/1411 to the Director City, Development and Transport, subject to the submission of a revised legally competent Clause 4.6 Variation Request that addresses all matters listed in clause 4.6 of Sydney Local Environmental Plan 2012 and satisfactorily demonstrates that the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.3 Height of Buildings and the R1 Residential zone.

Reason for Decision:

Determination of the application was delegated to the Director City Planning, Development and Transport for the following reasons:

- (A) To provide an opportunity for the submission of a legally competent Clause 4.6 Variation Request; and
- (A) The application is capable of approval for the reasons set out in the report, subject to conditions provided that all matters in Clause 4.6 of the Sydney Local Environmental Plan 2012 are competently addressed.

Carried unanimously.

D/2018/1411

Speakers

The following people addressed the meeting of the Local Planning Panel on Item 4 – Ms Pam Williams (applicant).

Item 5 Development Application: 22-24 Billyard Avenue, Elizabeth Bay

The Panel:

- (A) upheld the variation sought to Clause 4.3 Height of Buildings in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (B) granted consent to Development Application No. D/2018/1286 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 R1 Residential zone.
- (B) The requested variation to the Clause 4.3 height of buildings 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 Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.3 Height of Buildings and the R1 Residential zone.
- (C) As conditioned, it is generally consistent with the objectives of the relevant controls for the site.
- (D) For reasons outlined in the report to the Local Planning Panel.

Carried unanimously.

D/2018/1286

Item 6 Report to the Local Planning Panel - Status of Applications

The Panel received and noted the report.

Carried unanimously.

X019228

The meeting of the Local Planning Panel concluded at 6.03pm.

CHAIR