

Local Planning Panel

Meeting No 19

Wednesday 3 April 2019

Notice Date 27 March 2019

minutes

city of villages

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Present

Ms Abigail Goldberg (Chair), Professor Helen Lochhead, Mr Peter Romey and Mr John McInerney.

At the commencement of business at 5.00pm, those present were:

Ms Goldberg, Prof. Lochhead, Mr Romey and Mr McInerney.

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.

Order of Business

At the request of the Director City Planning, Development and Transport, the order of business was amended as follows:

- Item 5 Development Application: 30-42 Lower Fort Street, Dawes Point
- Item 8 Development Application: 174 St Johns Road, Glebe
- Item 3 Development Application: 180-182 St Johns Road, Glebe
- Item 7 Development Application: 19 Ralph Street, Alexandria
- Item 4 Development Application: 1 Missenden Road, Camperdown
- Item 6 Development Application: 21 O'Connor Street, Chippendale
- Item 9 Development Application: 115-117 Regent Street, Chippendale
- Item 10 Development Application: 1-7 Raglan Street, Waterloo

Mr Romey left the meeting at 5.06pm prior to discussion on Item 5, and returned to the meeting at 5.26pm, at the conclusion of discussion and voting on Item 5.

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 Romey disclosed a non-pecuniary interest in Item 5 - Development Application: 30-42 Lower Fort Street, Dawes Point as Mr Romey has previously determined this development application as a member of the Heritage Council Approvals Committee. Given this conflict of interest, Mr Romey will step out for deliberation on Item 5.

Mr Romey also disclosed a reasonably perceived interest in Item 7- Development Application: 19 Ralph Street, Alexandria as Mr Romey worked on a separate project with SJB Architects four or more years ago. It is not considered that past work with this professional service provider constitutes a pecuniary interest or a significant non-pecuniary conflict of interest, principally in the latter case for reasons of infrequency of contact.

No other members disclosed any 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 20 February 2019, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 180-182 St Johns Road, Glebe

The Panel:

- (A) upheld the variation sought to Clause 30(1)(h) of State Environmental Planning Policy (Affordable Rental Housing) 2009 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/2018/1074 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 ~~strike through~~):

(8) PLAN OF MANAGEMENT

The plan of management submitted with the application is not approved. Prior to any Occupation Certificate being issued, an updated Plan of Management is to be submitted to Council's ~~Area Planning Manager~~ **Director City Planning, Development and Transport** for approval including the following updates:

- (a) A complaints procedure including incident register that is to be made available to Council upon request.
- (b) That the contact details of on-site manager to be made available to residents and neighbours.
- (c) That CCTV cameras are to be located in common areas, including basement bicycle parking.
- (d) Advice to occupants that they are not eligible to participate Council's onstreet parking schemes.
- (e) Bicycle parking provisions are updated to reflect the conditions of this consent.
- (f) The recommendations included within the submitted acoustic report are to be included **as well as consideration of previous DA requirements particularly in relation to the outdoor terrace.**

(56) AIR CONDITIONERS

Any air conditioner/s installed, must comply with the requirements of Protection of the Environment Operations (Noise Control) Regulation 2008 and shall not:

- (a) Emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
 - (ii) before 7.00am and after 10.00pm on any other day; or
- (b) Emit a sound pressure level that when measured at the boundary of any other residential property, at a time other than those specified in (i) and (ii) above, which exceeds the background (LA90, 15 minute) by more than 5dB(A). The source and background noise level must be measured as an LAeq 15 minute and LA90 15 minute in accordance with Australian Standard AS1055:1997, Acoustics – Description and measurement of environmental noise.

(69) WASTE AND RECYCLING MANAGEMENT

- (70) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must ensure that waste handling works have been completed in accordance with: the Waste and Recycling Management Plan; other relevant development consent conditions; and Council's Guidelines for Waste Management in New Developments 2018.

(704) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposed development is consistent with the objectives of the B1 Neighbourhood Centre Zone.
- (B) The proposed development is generally consistent with the relevant objectives and controls within State Environmental Planning Policy (Affordable Rental Housing) 2009, Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) The requested variation to the minimum motorcycle parking standard required under clause 30(1)(h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 is approved 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 the standard and the B1 Neighbourhood Centre Zone.
- (D) Condition 8 Plan of Management was amended in response to concerns raised by a submitter in relation to noise emissions, parking and the level of detail provided in the submitted 'House Rules' in comparison with the previously approved development application. An amended Plan of Management is required to be submitted for approval by the Director City Planning, Development and Transport which addresses these concerns.
- (E) Condition 56 Air Conditioners was amended to rectify an error which resulted in missing preamble text in the published Recommended Conditions of Consent. The missing text was added to the condition.
- (F) The numbering of Conditions 70 and 71 was corrected.

Carried unanimously.

D/2018/1074

Speakers

Ms Lindy Walker (on behalf of SP58270 Executive Committee - 157-163 St Johns Rd, Glebe), Mr Giovanni Cirillo (applicant) and Mr Mark Shapiro (Mark Shapiro Architects – on behalf of applicant).

Item 4 Development Application: 1 Missenden Road, Camperdown

The Panel:

- (A) delegated authority to the Chief Executive Officer to determine Development Application No. D/2015/154 after:
- (i) the Voluntary Planning Agreement (VPA) between the City of Sydney and the applicant has been prepared, publicly exhibited, and any submissions considered; and
 - (ii) if the Chief Executive Officer determines to approve the application, then consideration be given to granting consent subject to the relevant deferred commencement conditions pursuant to section 4.16(3) of the Environmental Planning and Assessment Act 1979, the conditions set out in [Attachment A](#) to this report and any other relevant conditions; and
- (B) supported 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.

Reasons for Decision

The application is delegated to the Chief Executive Officer for determination for the following reasons:

- (A) The advertisement, as amended, complies with the relevant aims, objectives and provisions of the State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64).
- (B) The application is consistent with the objectives of the B4 Mixed Use zone applicable under the Sydney Local Environmental Plan 2012.
- (C) The application achieves design excellence in accordance with Clause 6.21 (4) of the Sydney Local Environmental Plan 2012 in that the materials and detailing of the proposed LED digital sign improves the external appearance of the building by removing the visual clutter of the existing access gantry and flood lighting. The visual impacts of the proposed sign are addressed through the reduction in the sign size and the use of dimming capabilities to mitigate obtrusive glare to adjoining residential uses.
- (D) The proposal has mitigated the impact on the public domain by reducing the glare associated with the illumination of the proposed sign, incorporating separate metering for energy consumption, reducing the size of the sign and amending the transition times between day-time and night-time to address the visual amenity of residential receivers in the immediate locality. Conditions addressing the public submissions have been recommended.
- (E) Conditions of consent have been imposed to address the dwell times and the transition of the electronic content to reduce the visual impact of the sign. Conditions have also been imposed regarding the illumination and the submission of a management plan to address the operation of the sign's content.
- (F) The requested variation to the Clause 4.3 of the Sydney LEP 2012 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 LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the Height of Buildings development standard and the B4 Mixed Use zone.

Carried unanimously.

D/2018/73

Item 5 Development Application: 30-42 Lower Fort Street, Dawes Point

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

The Panel:

- (A) upheld the variation sought to the development standard under Clause 4.3 Height of Buildings in accordance with Clause 4.6 'Exceptions to development standards' in Sydney Local Environmental Plan 2012;
- (B) upheld the variation sought to the development standard under Part 4D of the Apartment Design Guide and clause 30 of the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development; and
- (C) granted consent to Development Application No. D/2018/903 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) NEW ENTRY GATES

The new entry gates to each entry point are to be of an open construction **similar to the existing balustrades** allowing views into the premise. **The gates are to be set back from the boundary as far as practicable.** The gates must not open over Council's footway.

The detailed gate design must be submitted to and approved by Council's Area Planning Manager prior to the issue of any Construction Certificate.

The drawings must also be submitted for assessment and approval by the Heritage Council of NSW (or its delegate) with the s60 application.

(5) PUBLIC DOMAIN PLAN

- (a) **A detailed Public Domain Plan must be prepared by a suitably qualified architect, urban designer, landscape architect or engineer and must be lodged with Council's Public Domain Section and be approved by Council prior to a Construction Certificate being issued for public domain work or any above ground building work, whichever is later. The completed Public Domain Plan is to include appropriate cycle parking having regard to the City of Sydney's Public Domain Manual, Sydney Streets Design Code and Sydney Streets Technical Specification, and the Director City Planning, Development and Transport's requirements. All costs related to installation of the cycle parking are to be borne by the developer/applicant.**
- (c) **The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.**

- (d) A Public Domain Works Deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual. The Public Domain Works Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.**
- (e) Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Construction Certificate being issued.**
- (f) The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.**

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposal is consistent with the objectives of the R1 - General Residential zone for the reasons set out in the report to the Local Planning Panel.
- (B) The variation to Clause 4.3 of the Sydney Local Environmental Plan 2012 Height of buildings is consistent with the provisions of Clause 4.6 'Exceptions to development standards' and is in the public interest.
- (C) The variation to the size of the 1 bedroom apartments in the Design Criteria of Objective 4D-1 of the Apartment Design Guide under SEPP 65, legally considered to be a 'development standard', is consistent with the provisions of Clause 4.6 'Exceptions to development standards' and is in the public interest.
- (D) Non-compliance with several controls in Sydney DCP 2012 and the SEPP 65 Apartment Design Guide is considered acceptable with regard to the constraints of the site, the existing building and the surrounding area. The development represents a reasonable balance between maintaining the heritage fabric of a State heritage listed item, being the first government built residential flat building, and improving the amenity of an existing substandard residential flat building to a standard compatible with modern requirements.
- (E) The proposal exhibits design excellence as required under Clause 6.21 Design Excellence of Sydney Development Control Plan 2012 as the external appearance of the existing building will generally be retained, and the retention of heritage fabric balanced with reasonable amenity upgrades throughout the rest of the development.
- (F) The adaptive re-use and additions to the building are compatible with and contribute to the character and appearance of the Millers Point Conservation Area (SHR: 00884); the Millers Point and Dawes Point Village Precinct (SHR: 01682); and the Millers Point heritage conservation area (HCA C35) under Sydney LEP 2012.
- (G) As conditioned, it is generally consistent with the objectives of the relevant controls for the site and will not adversely impact the amenity of neighbouring properties and is in the public interest.
- (H) Condition 4 New Entry Gates was amended to ensure that the new entry gates are consistent with the design of the existing balustrades and are appropriately recessed so as to not detract from the design and appearance of the building.

- (I) Condition 5 Public Domain Plan was added to include provision for public domain works in particular the installation of bicycle racks to serve future occupants of the development. This addresses concerns raised about the lack of bicycle parking on site.

Carried unanimously.

D/2018/903

Speakers

Ms Rachel Neeson (Neeson Murcutt Architects – on behalf of applicant) and Mr Andrew Darroch – (Neeson Murcutt Architects – on behalf of applicant).

Item 6 Development Application: 21 O'Connor Street, Chippendale

The Panel noted the applicant's late proposal for amendments to the design, however for procedural reasons, including the need for time for Council to assess the proposal, and for a fee to be paid for this task, did not consider the amendments.

The Panel refused consent for Development Application No. D/2018/1360 for the following reasons:

- (A) The variations sought to development standards prescribed under Clause 4.3 Height and Clause 4.4 Floor Space Ratio of the Sydney LEP 2012 are inconsistent with the provisions of Clause 4.6 and are not considered to be in the public interest.
- (B) The proposal results in unsympathetic alterations and additions to a contributory building within the Chippendale Heritage Conservation Area (C9). The proposal is therefore contrary to the requirements of Clause 5.10 of the Sydney LEP 2012 and Section 3.9 of the Sydney DCP 2012.
- (C) The proposal fails to demonstrate design excellence in accordance with Clause 6.21 of the Sydney LEP 2012 as it is excessive in bulk and scale, will have detrimental impacts on the character of the contributory building and wider heritage conservation area, and will have adverse impacts on the amenity of neighbouring buildings.
- (D) The proposal will have detrimental impacts on the amenity of neighbouring properties by way of unacceptable visual privacy impacts as well as potential acoustic impacts, and as such is inconsistent with the provisions of Section 4.2.3 of the Sydney DCP 2012.
- (E) The proposal is not in keeping with the desired future character of the area and is not considered to be in the public interest.

Carried unanimously.

D/2018/1360

Speakers

Mr Christian Grennan (Kreis Grennan Architecture – on behalf of applicant), Ms Jenny Askin (Kreis Grennan Architecture – on behalf of applicant) and Mr Anthony Rodgers (applicant).

Item 7 Development Application: 19 Ralph Street, Alexandria

The Panel:

- (A) upheld the written request seeking variation to Clause 4.3 height of building development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (B) granted deferred commencement consent be granted to Development Application D/2018/156 pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, 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~~):

(2) DESIGN MODIFICATIONS

The design ***and the drawings*** of the building must be modified ***and submitted for approval to the Director City Planning, Development and Transport*** as follows:

- (a) A 1.6m high privacy screen must be provided to:
 - (i) the western side of the balcony located on level 5 of apartment number 5.4; and/or
 - (ii) the eastern side of the balcony located on level 5 of apartment number 5.3.
- (b) Privacy measures including window sill heights of 1.6m above finished floor level, fixed obscure glazing up to a minimum height of 1.6m above finished floor level or external privacy screens, must be provided to the following windows:
 - (i) The bedroom window located on the west elevation of apartment number 1.3 located on level 1.
 - (ii) The bedroom window located on the west elevation of apartment number 2.3 located on level 2 or the bedroom window located on the east elevation of apartment number 2.2 located on level 2.
 - (iii) The walk-in-robe window located on the west elevation of apartment number 2.3 located on level 2 or the bathroom window located on the east elevation of apartment number 2.2 located on level 2.
 - (iv) The bedroom window located on the west elevation of apartment number 3.3 located on level 3 or the bedroom window located on the east elevation of apartment number 3.2 located on level 3.
 - (v) The walk-in-robe window located on the west elevation of apartment number 3.3 located on level 3 or the bathroom window located on the east elevation of apartment number 3.2 located on level 3.

In complying with this condition, the development must remain compliant with the natural ventilation and natural cross ventilation provisions contained in Objective 4B of the Apartment Design Guide.

- (c) Fixed perimeter planter boxes with a minimum width of 750mm and height of 1m are to be provided to the roof top terraces in the following locations:

- (i) On the northern, eastern and western edge of the roof top terrace for apartment 5.1;
 - (ii) On the southern, eastern and western edge of the roof top terrace for apartment 5.2;
 - (iii) On the northern, southern and western edge of the roof top terrace for apartment 5.3; and
 - (iv) On the northern, southern and eastern edge of the roof top terrace for apartment 5.4.
- (d) *The bedrooms in the north-east corner of apartments 1.1, 2.1, 3.1, 4.1 and 5.1 are to be relocated to directly abut the eastern wall and window. The en-suite bathrooms are to be relocated to the interior of the room.***

Reasons for Decision

The application was approved for a deferred commencement consent for the following reasons:

- (A) The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site and does not result in any unreasonable environmental impacts for the reasons outlined in the report to the Local Planning Panel.
- (B) The requested variation to the height development 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 SLEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.3 Height of Building and the B4 Mixed Use zone.
- (C) The development, subject to conditions, will provide good amenity for future occupants and is generally compliant with SEPP No 65 - Design Quality of Residential Apartment Development and the ADG.
- (D) The development, subject to conditions, is generally consistent with the objectives and provisions contained in SLEP 2012 and SDCP 2012.
- (E) The proposed development is of a high standard and satisfies the design excellence criteria contained in Clause 6.21 of SLEP 2012.
- (F) The proposal will improve the quality of the public domain through dedication of land towards the widening of the footpath along Beaconsfield Lane as detailed in the draft VPA.
- (G) For the reasons above and as outlined in this report, the proposed development is in the public interest subject to conditions.
- (H) Condition 2 Design Modifications was amended to require the north east corner of five apartments to be reconfigured to allow for better light and ventilation to bedrooms and improve the amenity of the apartments and prevent the 'snorkel effect'.

Carried unanimously

D/2018/156

Speaker

Mr Aaron Sutherland (Sutherland & Associates – on behalf of applicant).

Item 8 Development Application: 174 St Johns Road, Glebe

The Panel granted consent to Development Application No. D/2019/22 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~~):

(3) COMPLIANCE WITH SUBMITTED MATERIALS AND SAMPLES BOARD

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the colour and surface schedule, and specifications approved under Condition (1). ***Existing tiles on the shopfront façade are to be retained where possible.***

Reason for Decision

The application was approved for the following reasons:

- (A) The application is consistent with the objectives of the B1 Neighbourhood Centre zone applicable under the Sydney Local Environmental Plan 2012.
- (B) The proposal will have no significant adverse impacts on the environment and will not be detrimental to the public interest, subject to appropriate conditions.
- (C) Condition 3 Compliance with Submitted Materials and Samples Board was amended to ensure that the original tiles on the front façade are retained and restored as far as practicable.

Carried unanimously.

D/2019/22

Speakers

Mr Vinay Singh (applicant) and Ms Angela Muller (applicant).

Item 9 Development Application: 115-117 Regent Street, Chippendale

The Panel granted consent to Development Application No. D/2018/1475 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 Sydney LEP 2012, Sydney DCP 2012 and the City of Sydney Outdoor Dining Policy and Guidelines 2016; and
- (B) subject to the recommended conditions of consent, the proposal will not have an unreasonable impact on neighbouring amenity.

Carried unanimously.

D/2018/1475

Item 10 Development Application: 1-7 Raglan Street, Waterloo

The Panel granted consent to Development Application No. D/2019/82 subject to the conditions set out in [Attachment A](#) to this report.

Reasons for Decision

The application was approved for the following reason:

The proposed development is consistent with the requirements under the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012 and the Education and Care Services National Regulations.

Carried unanimously.

D/2019/82

Wednesday 3 April 2019

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The meeting of the Local Planning Panel concluded at 7.02 pm.

CHAIR