

Local Planning Panel

Meeting No 23

Wednesday 17 July 2019

Notice Date 10 July 2019

minutes

city of villages

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Present

Mr Richard Pearson (Chair), Mr Paul Berkemeier, Mr Steve Kennedy and Associate Professor Amelia Thorpe.

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

Mr Pearson, Mr Berkemeier, Mr Kennedy 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 6.40pm, prior to discussion on Items 6 and 7, and returned to the meeting at 7.19pm, at the conclusion of discussion and voting on Items 6 and 7.

Order of Business

For the convenience of members of the public speaking on or in attendance for Item 4 – Development Application; 208-218 Riley Street, Surry Hills - D/2018/1451 and D/2018/1305 and Item 5 – Development Application; 208-218 Riley Street, Surry Hills - D/2018/1305, and to assist with deliberations, Items 4 and 5 were addressed at the same time.

Item 1 Disclosures of Interest

In accordance with Clause 4.17 of the Code of Conduct, Local Planning Panel members have lodged an annual Disclosure of Pecuniary Interests return.

The Disclosure of Interest forms are received and noted.

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 the following reasonably perceived conflicts of interest:

- Item 3 - Development Application: 810-812A George Street, Haymarket as his firm, Kennedy Associates, has worked with and engaged the services of NBRS in the past;
- Items 4 and 5 - Development Applications: 208-218 Riley Street, Surry Hills as his firm has worked with and been engaged by Urbis in the past. Kennedy Associates has a minor ongoing relationship with Urbis on one project at present.
- Item 6 - Development Application: 306, 308, 310 and 312 Cleveland Street, Surry Hills as his firm works with Weir Phillips Heritage on a regular basis and are currently working with them on one project.
- Item 7 - Development Application: 117-119 Foveaux Street, Surry Hills as his firm works with Planning Ingenuity on a regular basis and are working with them on projects at present.

Following assessment of the above disclosures of interest under the Code of Conduct for Local Planning Panels (August 2018) and the City of Sydney Local Planning Panel Operational Procedures, Mr Kennedy will step out for deliberation on Items 6 and 7.

No members have 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 notes the minutes of the Local Planning Panel of 26 June 2019, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 810-812A George Street, Haymarket - D/2019/120

The Panel refused consent for Development Application No. D/2019/120 for the following reasons as per the Council Officer's report and subject to the addition of reason (I) as recommended in late advice provided by Council staff:

- (A) The development, by way of its height, bulk, form, materials and location will have an adverse impact on the visual setting and heritage significance of the Christ Church St Laurence, associated buildings, streetscape and Haymarket/Chinatown Special Character Area. The development is therefore contrary to the following planning controls:

Sydney Local Environmental Plan 2012

- (i) Clause 1.2(2)(k) - to conserve the environmental heritage of the City of Sydney
- (ii) Clause 5.10(4) - effect of proposed development on heritage significance

Sydney Development Control Plan 2012

- (iii) Section 2.1.3 - Haymarket/Chinatown Special Character Area
 - (iv) Section 3.9.5 - Heritage items
 - (v) Section 3.9.13 - Excavation in the vicinity of heritage items and in heritage conservation areas
- (B) The development exceeds the maximum 50 metre height of buildings development standard by 2.2 metres (4.4%) pursuant to Clause 4.3 of the Sydney Local Environmental Plan 2012. A request to vary the development standard has been made pursuant to Clause 4.6 of the Sydney Local Environmental Plan 2012. The requested variation is not supported, as the applicant's written request has not adequately addressed the matters required to be addressed by Clause 4.6(3) of the Sydney Local Environmental Plan 2012. The proposed development is not in the public interest under Clause 4.6(4)(ii) because it is inconsistent with objectives (a), (b) and (c) of the height of buildings development standard.
- (C) The development, by way of its height, bulk, form, landscape details, overshadowing and location fails to achieve design excellence. In particular, the development will:
- adversely impact the heritage significance of adjoining properties in this special precinct of the Haymarket/Chinatown Special Character Area;
 - result in adverse wind effects and overshadowing on the adjoining childcare centre;
 - not provide passive sun shading and passive natural ventilation within the design;
 - not ensure the success of the proposed landscaping;
 - not include public art; and
 - fail to provide adequate floor to floor heights.

The development is therefore contrary to the following planning controls:

Sydney Local Environmental Plan 2012

- (i) Clause 1.2(2)(c) - to promote ecologically sustainable development
- (ii) Clause 1.2(2)(j) - to achieve a high quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities
- (iii) Clause 6.21(4)(a) - whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved
- (iv) Clause 6.21(4)(b) - whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain
- (v) Clause 6.21(4)(c) - whether the proposed development detrimentally impacts on view corridors
- (vi) Clause 6.21(4)(d)(i) - the suitability of the land for development
- (vii) Clause 6.21(4)(d)(iii) - any heritage issues and streetscape constraints
- (viii) Clause 6.21(4)(d)(v) - the bulk, massing and modulation of buildings
- (ix) Clause 6.21(4)(d)(vii) - environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity
- (x) Clause 6.21(4)(d)(viii) - the achievement of the principles of ecologically sustainable development
- (xi) Clause 6.21(4)(d)(x) - the impact on, and any proposed improvements to, the public domain
- (xii) Clause 6.21(4)(d)(xi) - the impact on any special character area
- (xiii) Clause 6.21(4)(d)(xiii) - excellence and integration of landscape design

Sydney Development Control Plan 2012

- (xiv) Section 2.1.3 - Haymarket/Chinatown Special Character Area
- (xv) Section 3.1.5 - Public art
- (xvi) Section 3.2.6 - Wind effects
- (xvii) Section 4.2.1.2 - Floor to ceiling and floor to floor heights
- (xviii) Section 4.2.3.4 - Design features to manage solar access
- (xix) Section 4.2.3.5 - Landscaping
- (xx) Section 5.1.2.2 - Side and rear setbacks
- (xxi) Section 5.1.2.3 - Setbacks for buildings adjoining or fronting lanes

- (D) The application is not accompanied by a detailed environmental site investigation as recommended within the preliminary site investigation undertaken. The application therefore fails to determine whether the site is contaminated and whether it is or can be made suitable for the proposed use. The development is therefore contrary to Clause 7 of the State Environmental Planning Policy 55 - Remediation of Land.
- (E) The application has not provided sufficient information to satisfy Transport for NSW (a concurrent authority) that the development can be undertaken without adverse impacts to the interim rail corridor located under the site. The development is therefore contrary to Section 88 of the State Environmental Planning Policy (Infrastructure) 2007.
- (F) The development will not accommodate on-site servicing for waste collection, deliveries. The development therefore externalises demand and burdens the surrounding street network. The development is therefore contrary to the following planning provisions:

Sydney Local Environmental Plan 2012

- (i) Clause 1.2(2)(c) - to ensure that the pattern of land use and density in the City of Sydney reflects the existing and future capacity of the transport network and facilitates walking, cycling and the use of public transport

Sydney Development Control Plan 2012

- (ii) Section 3.11.6 - Service vehicle parking
 - (iii) Section 3.14.1 - Waste and Recycling Management Plans
 - (iv) Section 3.14.2 - Construction and demolition waste
 - (v) Section 3.14.3 - Collection and minimisation of waste during occupation
 - (vi) Section 4.2.3.6 - Waste and recycling management
- (G) The development fails to provide adequate communal facilities and management practices to meet the demands of guests and protect the amenity of the surrounding area. The development is therefore contrary to the following planning provisions:

Sydney Local Environmental Plan 2012

- (i) Clause 1.2(2)(h) - to enhance the amenity and quality of life of local communities

Sydney Development Control Plan 2012

- (ii) Section 4.4.8.1 - Visitor accommodation - General
 - (iii) Section 4.4.8.4 - Additional provisions for backpacker accommodation
- (H) The application does not adequately consider construction impacts in particular noise, dust and traffic impacts. The development is therefore contrary to the following planning provisions:

Environmental Planning and Assessment Act 1979

- (i) Section 4.15(1)(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

- (I) The application proposes a floor space ratio of 7.89:1 which exceeds the maximum permitted floor space ratio of 7.5:1 pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012. A request to vary the maximum permitted floor space ratio in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 has not been submitted. As such, the development cannot be granted in accordance with Clause 4.4(2) of the Sydney Local Environmental Plan 2012.
- (J) For the reasons above, the development is not in the public interest.

Item 4 Development Application: 208-218 Riley Street, Surry Hills - D/2018/1451

For the convenience of members of the public speaking on or in attendance for Item 4 – Development Application; 208-218 Riley Street, Surry Hills - D/2018/1451 and D/2018/1305 and Item 5 – Development Application; 208-218 Riley Street, Surry Hills - D/2018/1305, and to assist with deliberations, Items 4 and 5 were addressed at the same time.

The Panel granted consent to Development Application No. D/2018/1451 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~~):

That Condition 22 be added and the remaining conditions renumbered accordingly.

(22) AWNING

The awning above the restaurant is to be effectively extended to the south by one bay. Amended plans are to be submitted to the Director City Planning, Development and Transport for approval prior to the issue of any Construction Certificate.

(35) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

- (a) The Construction Traffic Management Plan submitted during the assessment of the application has not been approved by this consent.
- (b) A Construction Traffic Management Plan must be submitted to and approved by Council's ~~Area Planning Manager/Area Planning Coordinator~~ ***Director City Planning, Development and Transport*** prior to the issue of any Construction Certificate. The CTMP must be prepared in accordance with Council's requirements, located at –
- <http://www.cityofsydney.nsw.gov.au/business/businessresponsibilities/traffic-management/construction-traffic-managementplans>
- and in consultation with the Transport for NSW Sydney Coordination Office.
- (c) The CTMP must not permit vehicles parking on Lower Campbell Street that will inhibit vehicular ingress and egress from neighbouring properties.
- (d) The development must be undertaken in accordance with the CTMP approved under (b) above.

Reasons for Decision

The application was approved for the following reasons:

- (A) The development is permissible in the B4 – Mixed Use zone and consistent with the zone objectives.

- (B) The development achieves a high standard of architectural design, materials and landscaping, contributing positively to the public domain with a contemporary and distinct choice of brick to reference the character of the surrounding area. The development will improve the presentation of the ground floor facade of the existing Cambridge Hotel and be complemented by public art, to be confirmed prior to the issue of a Construction Certificate. The development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore exhibits design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012 and consent may be granted.
- (C) The development is consistent with the concept approval granted under D/2016/1177.
- (D) Subject to conditions, construction impacts can be managed to mitigate impacts on the amenity of neighbouring properties.
- (E) For the reasons above, the development is in the public interest.
- (F) Condition 22 was added to require the extension of the awning on the Riley Street frontage. The amendment seeks to achieve compliance with Clause 3.2.4(3) of the Sydney Development Control Plan 2012.
- (G) Condition 35 was amended to require the Construction Traffic Management Plan to be submitted to Council's Director City Planning, Development and Transport for approval. This was considered appropriate given the Director was present at the meeting and heard concerns raised by submitters in relation to the impact of construction works on neighbouring properties.

Carried unanimously.

Speakers

Mr Matt Sherman (resident), Mr Raz Szpalinski (resident), Mr Todd McAllistair (resident – on behalf of residents of The Darlington), Mr Tony Sheldon (resident) and Mr Tim Blythe (Urbis – on behalf of applicant).

D/2018/1451

Item 5 Development Application: 208-218 Riley Street, Surry Hills - D/2018/1305

For the convenience of members of the public speaking on or in attendance for Item 4 – Development Application; 208-218 Riley Street, Surry Hills - D/2018/1451 and D/2018/1305 and Item 5 – Development Application; 208-218 Riley Street, Surry Hills - D/2018/1305, and to assist with deliberations, Items 4 and 5 were addressed at the same time.

The Panel granted consent to Development Application No. D/2018/1305 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~~):

(21) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

- (a) The Construction Traffic Management Plan submitted during the assessment of the application has not been approved by this consent.
- (b) A Construction Traffic Management Plan must be submitted to and approved by Council's ~~Area Planning Manager/Area Planning Coordinator~~ ***Director City Planning, Development and Transport*** prior to the issue of any Construction

Certificate. The CTMP must be prepared in accordance with Council's requirements, located at –

<http://www.cityofsydney.nsw.gov.au/business/businessresponsibilities/traffic-management/construction-traffic-managementplans>

and in consultation with the Transport for NSW Sydney Coordination Office.

- (c) The CTMP must not permit vehicles parking on Lower Campbell Street that will inhibit vehicular ingress and egress from neighbouring properties.
- (d) The development must be undertaken in accordance with the CTMP approved under (b) above.

Reasons for Decision

The application was approved for the following reasons:

- (A) Subject to the approval of D/2018/1451, demolition, excavation and early works will not result in long term adverse visual impacts on the streetscape and therefore satisfy Clause 7.19 of the Sydney Local Environmental Plan 2012.
- (B) The development is consistent with relevant planning policies and in the public interest.
- (C) The development is consistent with the concept approval granted under D/2016/1177.
- (D) Condition 21 was amended to require the Construction Traffic Management Plan to be submitted to Council's Director City Planning, Development and Transport for approval. This was considered appropriate given the Director was present at the meeting and heard concerns raised by submitters in relation to the impact of construction works on neighbouring properties.

Carried unanimously.

Speakers

Mr Matt Sherman (resident), Mr Raz Szpalinski (resident), Mr Todd McAllistair (resident – on behalf of residents of The Darlington), Mr Tony Sheldon (resident) and Mr Tim Blythe (Urbis – on behalf of applicant).

D/2018/1305

Item 6 Development Application: 306, 308, 310 and 312 Cleveland Street, Surry Hills - D/2019/149

Mr Kennedy left the meeting at 6.40pm, prior to discussion on Item 6 and returned to the meeting at 7.19pm, at the conclusion of discussion and voting on Item 6.

The Panel refused consent for Development Application No. D/2019/149 for the following reasons:

- (A) The entrance to the site is located less than 75 metres to the entrance to an existing brothel at 278-284 Cleveland Street and is located adjacent to and opposite residential premises and a residential zone. Intensification and expansion of the premises will have an adverse impact on the streetscape, character and amenity of the surrounding area and is contrary to the following planning provisions:

Sydney Local Environmental Plan 2012

- (i) Clause 1.2(2)(h) - to enhance the amenity and quality of life of local communities
- (ii) Clause 2.3(2) - B4 Mixed Use zone - To provide a mixture of compatible land uses and to ensure uses support the viability of centres
- (iii) Clause 7.21 - Location of sex services premises

Sydney Development Control Plan 2012

- (iv) Section 2.13.1 - Cleveland Street locality statement
 - (v) Section 4.2.9 - Non-residential land uses in the B4 - Mixed Use zone
 - (vi) Section 4.4.6.1 - proximity to residential premises and existing sex services premises
- (B) The internal layout and revised Plan of Management inadequately address the following matters:
- The maximum patron capacity of each room and the premises.
 - How access will be managed from Goodlet Lane.
 - The provision of a sufficient break-out area for staff.

The development is therefore likely to adversely impact the character and amenity of the surrounding area and provide insufficient facilities for the safety and security of staff, patrons and the general public. The development is therefore inconsistent with the following planning provisions:

Sydney Development Control Plan 2012

- (i) Section 4.4.6.2 - Access to the premises

- (ii) Section 4.4.6.4 - Health, Safety and Security
- (iii) Section 4.4.6.6 - Plan of Management

- (C) The application fails to demonstrate compliance with relevant planning provisions regarding accessibility. In particular, the application fails to identify the number of rooms required with accessible entry and that there is an acceptable path of travel for guests requiring an accessible entry. The development is therefore contrary to the following planning provisions:

Sydney Development Control Plan 2012

- (i) Section 3.12.1 - Accessible design

- (D) Unauthorised works have been undertaken to the premises such that it currently appears dilapidated, adversely impacting on its contribution to the character and appearance of the Goodlet Street conservation area (C63). The heritage impact statement submitted during the assessment of the application identifies works required to rectify these unauthorised works and improve the character and appearance of the building, however the application does not propose undertaking these works. The development is therefore contrary to the following planning provisions:

Sydney Local Environmental Plan 2012

- (i) Clause 1.2(2)(k) - to conserve the environmental heritage of the City of Sydney
(ii) Clause 5.10 - Heritage conservation

Sydney Development Control Plan 2012

- (iii) Section 3.9.7 - Contributory buildings

- (E) The application does not include areas for waste storage and is not accompanied by a demolition, construction and operational waste management plan. The development is therefore inconsistent with the following planning provisions:

Sydney Development Control Plan 2012

- (i) Section 3.14 - Waste Management

Guidelines for Waste Management in New Development 2018

Item 7 Development Application: 117-119 Foveaux Street, Surry Hills - D/2018/761

Mr Kennedy left the meeting at 6.40pm, prior to discussion on Item 7, and returned to the meeting at 7.19pm, at the conclusion of discussion and voting on Item 7.

The Panel:

- (A) Upheld the written request seeking a variation to Clause 4.3 'height of buildings' development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012.
- (B) Granted consent to Development Application No. D/2018/761 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 development is permissible in the B4 – Mixed Use zone and consistent with the zone objectives.
- (B) The requested variation to the height of buildings 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 the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the B4 - Mixed Use zone.
- (C) The development as amended achieves design excellence having regard to the form and scale of the apartment building, its relationship to the streetscape and neighbouring buildings, the provision of landscaping and consideration of neighbour's amenity.
- (D) The development will have an acceptable impact on the character and appearance on the Little Riley Street conservation area (C65) in accordance with Clause 5.10 of the Sydney Local Environmental Plan 2012 and Section 3.9 of the Sydney Development Control Plan 2012.
- (E) The development addresses the design quality principles of State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development and the accompanying Apartment Design Guide, providing a good standard of amenity for residents and protecting the character and amenity of the surrounding area.
- (F) The extent of overshadowing caused by the proposal has been reduced through amendments during the assessment of the application and meets Objective 3B-2 of the Apartment Design Guide. Non-compliance with overshadowing controls under Section 4.2.3.1 of the Sydney Development Control Plan 2012 are acceptable in accordance with Section 1.1.
- (G) For the reasons above, the development is in the public interest.

Carried unanimously.

Speakers

Mr Paul Preobrajensky (resident), Mr Simon Hanson (Bureau SRH Pty Ltd – on behalf of applicant) and Mr David Waghorn (Planning Ingenuity – on behalf of applicant).

D/2018/761

Item 8 Development Application: Junction Street, Woolloomooloo - D/2019/467

The Panel granted consent to Development Application No. D/2019/467 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 installation and operation of a chicken coop is ancillary to the use of the site as a community garden and which is permitted with consent in the zone.
- (B) The proposed development is suitable to its setting and satisfies the relevant provisions of the Sydney LEP 2012, the Sydney DCP 2012 and the relevant SEPPs.
- (C) Subject to the recommended conditions the proposed development will not detract from the amenity of nearby residences.

Carried unanimously.

D/2019/467

The meeting of the Local Planning Panel concluded at 7.20 pm.

CHAIR