

# Local Planning Panel

Meeting No 44

Wednesday 14 October 2020

Notice Date 7 October 2020

*minutes*

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#### Present

Mr Richard Pearson (Chair), Mr Shaun Carter, Ms Darlene van der Breggen and Mr John McInerney.

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

Mr Pearson, Mr Carter, Ms van der Breggen 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.

The Chair advised that the meeting was being held via audio visual links, with Panel members, relevant staff and those addressing the Panel attending the meeting remotely.

**Item 1      Disclosures of Interest**

In accordance with section 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.

No 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 23 September 2020, which have been endorsed by the Chair of that meeting.

**Item 3 Development Application: 1049, 1051 and 1053-1055 Bourke Street, Waterloo - D/2019/1082**

The Panel:

- (A) delegated authority to the Chief Executive Officer to determine Development Application No. D/2019/1082, following the conclusion of the public exhibition of the draft Voluntary Planning Agreement and considering any public submissions received in response;
- (B) delegated authority to the Chief Executive Officer to determine if the Design Excellence Strategy for 1049-1055 Bourke Street, Waterloo prepared by Sutherland and Associates Planning on behalf of Lateral Estate and dated August 2020, as shown in Attachment E to the subject report, be approved pursuant to Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the Competitive Design Policy; and
- (C) determined that, if the Chief Executive Officer determines to approve the application, consideration be given, pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, to granting a deferred commencement consent to Development Application No. D/2019/1082 subject to the conditions set out in **Attachment A** to the subject report, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

**(11) DETAILED DESIGN OF THE BUILDING**

The design brief for the competitive design process and the building design submitted as part of any subsequent DA for the detailed design of the building, must address the following design requirements:

- (a) a maximum street frontage height of 4 storeys and a minimum setback of 3m above the street frontage height to Bourke Street;
- (b) incorporate public art that is commensurate with the nature and scale of the development, giving consideration to locations in addition to the public art opportunity in the residential entry lobby identified in the Preliminary Art Plan submitted as part of the concept DA (D/2019/1082);
- (c) a continuous footpath awning, no greater than 2.5m wide, is to be provided to the building's Bourke Street frontage;
- (d) the following landscape strategy and the relevant requirements of the City's [\*Landscape code \(volume 2\): All development except single dwellings\*](#):
  - (i) landscaping is to comprise a mix of locally indigenous tree, shrub and groundcover species with low water needs, as outlined in the City's Landscape Code. Where this is not possible it is preferred that plants native to Australia are used;
  - (ii) urban tree canopy cover to at least 15% of the site area is to be provided within 10 years of the completion of the development;
  - (iii) deep soil area – which is an area of natural ground without structures above or below and excluding pools and non-permeable paved areas - is to be provided in the area identified as DEEP SOIL on the approved concept envelope drawings as modified in accordance with the DESIGN MODIFICATIONS – ENVELOPE DRAWINGS condition above;

- (iv) screens, fencing and plantings are to be located and designed to minimise and mitigate any impacts on the visual and acoustic privacy of the subject and neighbouring buildings;
- (e) provide minimum floor to floor heights of 4.5m on the ground floor and ~~3.4m on residential levels above the ground floor, to provide~~ minimum floor to ceiling heights of 2.7m on residential levels above the ground floor;

## **(19) TRANSPORT REPORTS**

Any subsequent DA for the detailed design of the building must include the following information:

- (a) a Transport Impact Study in accordance with provision 3.11.1 and Schedule 7.4 of the Sydney DCP 2012; and
- (b) a Parking and Access Report that addresses the following:
  - (i) the requirements of Schedule 7.5 of the Sydney DCP 2012;
  - (ii) swept path analyses to demonstrate the minimum width of crossovers and driveways necessary to accommodate service vehicles that will need to access the site; and
  - (iii) detailed information as to the bicycle parking and end of trip facilities to be provided to achieve ambitious active transport targets appropriate to the proposed boarding house use and the site's proximity to pedestrian and bicycle paths.
- (iv) ***the minimisation of onsite carparking in accordance with the assessment of Council's Transport Planner.***

## **Reasons for Decision**

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

- (A) The concept proposal is for mixed-use development comprising ground level retail and boarding house uses above and which are permitted with consent in the B4 Mixed Use Zone as stated in the land use table in the Sydney Local Environmental Plan 2012 (the LEP).
- (B) The proposed concept building envelope complies with the 22m height of buildings control pursuant to clause 4.3 of the LEP and is capable of accommodating development that complies with the floor space ratio controls pursuant to clauses 4.4, 6.14 and 6.21 of the LEP. The concept proposal is capable of satisfying the relevant objectives of Sydney Development Control Plan 2012.
- (C) The concept proposal and Design Excellence Strategy establish a concept building envelope and suitable parameters for a competitive design process. Subject to the recommended conditions, the proposed envelope is able to accommodate a detailed building design of an appropriate bulk and scale, that responds to the character of the area and which is capable of achieving design excellence.

- (D) Condition 11 was amended to align with the intended boarding house use.
- (E) Condition 19 was added in accordance with the City's strategic objective to increase active transport.

Carried unanimously.

D/2019/1082

### **Speakers**

Ms Rachel Sansom (local resident), Mr Peter Smith (Smith and Tzannes) – on behalf of the applicant, Mr Benjy Levy (Lateral Estate) – on behalf of the applicant, and Mr Aaron Sutherland (Sutherland and Associates Planning) – on behalf of the applicant.

## Item 4 Development Application: 135-139 McEvoy Street, Alexandria - D/2018/1581

The Panel:

- (A) upheld in this instance the variation requested to the LEP building height standard in accordance with Clause 4.6 'Exceptions to development standards'; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, granted a deferred commencement consent to Development Application No. D/2018/1581 subject to the conditions set out in **Attachment A** to the subject report, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strike through~~):

### (8) FLOOR SPACE RATIO - ALL OTHER AREAS

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the site must not exceed ***1.49:1*** ~~1:49:1~~; calculated in accordance with the Sydney Local Environmental Plan 2012. For the purposes of the calculation of FSR, the Gross Floor Area of the commercial component is 143sqm, the residential component is 3456sqm, and the total Gross Floor Area is 3599sqm.

### (19) STREET ~~TREE~~ REMOVAL

The removal of any street tree approved by Council must include complete stump removal and the temporary reinstatement of levels so that no trip or fall hazards exist until suitable replanting occurs. These works must be completed immediately following the trees removal.

## Reasons for Decision

The application was approved for the following reasons:

- (A) The proposed development is permissible with consent in the B4 Mixed Use zone.
- (B) The proposed development complies with the 22m and 15m building height controls under Clause 4.3 of the LEP, except for the clerestory windows. It also complies with the 1.5:1 floor space ratio control pursuant to Clauses 4.4 and 6.14 of the LEP.
- (C) The applicant's written request to vary the height standard adequately addresses the matters required to be demonstrated by Clause 4.6(3) of the LEP. The Applicant's request demonstrates that compliance with the building height development standard is unreasonable and unnecessary, and that there are sufficient planning grounds to justify the clerestory windows contravening Clause 4.3 of the LEP. The proposal is also in the public interest because it is consistent with the objectives of the B4 Mixed Use zone and the building height development standard.
- (D) The proposed development provides an appropriate architectural outcome that is suitable in terms of its scale, built form and response to the site's context. It is consistent with the desired future character of the area, as expressed in the applicable planning policies. As such, it is considered to satisfy the design excellence provisions under Clause 6.21 of the LEP.

- (E) The proposed development satisfies the relevant objectives and provisions of the DCP.
- (F) The proposed development will not unreasonably impact the amenity of surrounding residential properties.
- (G) Conditions 8 and 19 were amended to correct minor typographical errors.

Carried unanimously.

D/2018/1581

The meeting of the Local Planning Panel concluded at 5.41pm.

CHAIR