

# Local Planning Panel

Meeting No 47

Wednesday 16 December 2020

Notice Date 9 December 2020

*minutes*

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### Present

Mr Richard Pearson (Chair), Ms Helena Miller, Mr Peter Romey and Associate Professor Amelia Thorpe.

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

Mr Pearson, Ms Miller, Mr Romey and A/Prof Thorpe.

The Acting 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.

Ms Miller left the meeting of the Local Planning Panel at 6.06pm prior to discussion on Item 4 and returned at 6.43pm, after the vote on Item 4. Ms Miller was not present at, nor in sight of, the meeting of the Local Planning Panel during discussion or voting on Item 4.

## **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.

Mr Richard Pearson disclosed a reasonably perceived conflict of interest in relation to Item 4 - Development Application: 5-11 Botany Road and 80-82 Cope Street, Waterloo, in that the applicant is a former colleague from over 5 years ago and they have no current relationship.

Following assessment of the Mr Pearson's disclosure of interest under the Code of Conduct for Local Planning Panels and the City of Sydney Local Planning Panel Operational procedures, Mr Pearson is not required to step out for deliberation on Item 4.

Ms Helena Miller has disclosed a reasonably perceived conflict of interest in relation to Item 4 - Development Application: 5-11 Botany Road and 80-82 Cope Street, Waterloo, in that the planning consultant for that development application is a close personal friend.

Ms Miller will step out of the meeting during discussion of, and voting on, Item 4, in accordance with the Code of Conduct for Local Planning Panels and the City of Sydney Local Planning Panel Operational Procedures.

Mr Peter Romey disclosed a reasonably perceived conflict of interest in relation to Item 5 – Development Application: 10-12 Egan Street, Newtown, in that he was formerly a Partner at GML Heritage and retired in December 2015. Mr Romey has since provided input into a small number of GML projects as an external reviewer but has had no involvement in Item 5.

Mr Romey disclosed a reasonably perceived conflict of interest in relation to Item 9 – Development Application: 3 Joynton Avenue, Zetland, in that the Director of City Plan Heritage is a family friend, and they have cooperated on heritage conservation initiatives through organisations such as Australia ICOMOS. Mr Romey stated that they have no pecuniary relationship and Mr Romey has not worked on any projects with City Plan Heritage.

Following assessment of Mr Romey's disclosures under the Code of Conduct for Local Planning Panels and the City of Sydney Local Planning Panel Operational Procedures, Mr Romey is not required to step out for deliberation on Item 5 nor Item 9.

## **Item 2      Confirmation of Minutes**

The Panel noted the minutes of the Local Planning Panel of 25 November 2020, which have been endorsed by the Chair of that meeting.

**Item 3      Development Application - 1-5 Sterling Circuit, Camperdown - D/2019/635**

The Panel granted consent to Development Application No. D/2019/635 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~~):

**(2)    WORK METHODOLOGY STATEMENT**

Prior to the issue of a Construction Certificate, a work methodology statement must be submitted to and approved by Council's Area Planning Manager. The statement is to include the following:

- (a) sequencing of the proposed works, including details of how each stage of the work will be undertaken;
- (b) the minimum qualifications of personnel that are required in order to facilitate the development;
- (c) a schedule of equipment that will be used in the excavation and construction of the retaining wall;
- (d) details of tree sensitive excavation techniques to ensure tree roots are not damaged as part of the works. This may include the use of an air spade or hydro vac excavation;
- (e) plans identifying the staged sections of the boundary wall demolition and replacement. The sections identified in the statement are to be individually labelled to provide clarity in any future correspondence and are to be ~~no longer than two metres in length~~ ***of a length as agreed with Council's arborist***;
- (f) identify processes that allow enough time for notifying Council's Tree Management Team of root inspections to be undertaken once each section of the boundary wall has been demolished; and
- (g) detail the methodology for supporting the exposed roots and soil in the period between the demolition of the existing wall and the reconstruction of the approved wall.

**(3)    TREE PRUNING, REMOVAL AND REPLACEMENT**

- (a) The consent from Council must be obtained prior to the undertaking of any tree pruning works including tree roots greater than 40mm diameter.
- (b) No trees are to be removed without the written approval of the City's Tree Management Team and Area Planning Manager. It must be substantiated that tree removal was considered as a last resort and is the only feasible outcome.
- (c) The removal of any tree must include stump removal to allow for the potential replanting of trees onsite.
- (d) Adjoining trees conditioned for retention must not be damaged as a result of any tree works.
- (e) All tree works must be undertaken in accordance with the Code of Practice: Amenity Tree Industry - SafeWork NSW.

- (f) Any tree works carried out under this consent must not result in the death of the tree, the creation of a hazard or in excessive or inappropriate amounts of pruning, which result in the overall shape of the tree becoming unbalanced and/or unstable, ***without the written approval of the City's Tree Management Team and Area Planning Manager.***

**(7) TREE PROTECTION ZONE (TPZ)**

- (a) Before the commencement of works, Tree Protection Zones (TPZ) must be established ***within the boundaries of the site*** around all trees to be retained not less than the distance indicated in the TPZ schedule below.
- (b) ***All works within the TPZ are to be in accordance with the work methodology statement approved to satisfy Condition (2) and the reconstruction and footing details submitted to satisfy Condition (12).***
- (c) Tree protection must be installed and maintained in accordance with the Australian Standard 4970 Protection of Trees on Development Sites and as follows;

**TPZ Schedule**

<b>Tree No</b>	<b>Species Name</b>	<b>Location</b>	<b>Radius (m) From Trunk</b>
1 and 3-21	<i>Ficus microcarpa</i> var 'Hillii' ( Hills Weeping Fig)	Within raised garden bed on Booth Street frontage	6
2	<i>Lophostemon confertus</i> (Brush Box)		6

- (d) Tree Protection Fencing must be installed and maintained prior commencement of any works and in accordance with the following:
- (i) A 1.8 metre high fully supported chainmesh protective fencing, secured and fastened to prevent movement shall be installed around Trees 12-21 and be located around the edge of the raised garden area surrounding the trees. Woody roots must not be damaged or destroyed during the establishment or maintenance of the fencing.
  - (ii) The area within the fencing shall be mulched to a depth of 75mm and kept free of weeds and grass for the duration of works.
  - (iii) Tree Protection Signage shall be attached facing outwards in a visible position identifying the name and contact details of the site Arborist. All signs must remain in place throughout all work on site.

- (iv) Tree Protection Fencing must not be relocated unless written approval is obtained from the Site Arborist and a copy is provided to Council which outlines alternate protection measures required to ensure all trees remain viable and confirmation that the relocation of the fencing will not impacted the tree/s.
- (e) Tree trunk and major limb protection must be undertaken on Trees 1 -11 prior to the commencement of any works. The protection must be installed and certified by a qualified Arborist (AQF level 3) and must include:
  - (i) Tree trunk/s and/or major branches must be protected by wrapped hessian or similar material to limit damage.
  - (ii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion.
  - (iii) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.
- (f) The ground surface protection must be installed if construction access is required through any TPZ and part **(h)** ~~(f)~~(i) of this condition has been approved:
  - (i) Protected with boarding (ie scaffolding board or plywood sheeting or similar material), placed over a layer of mulch to a depth of at least 75mm and geotextile fabric;
  - (ii) The protective boarding must be left in place for the duration of the construction and development.
  - (iii) The following works must be excluded from within any TPZs:
  - (iv) Excavation except for localised installation of the retaining wall footing and demolition of the existing wall;
  - (v) Soil cut or fill including trenching;
  - (vi) Soil cultivation, disturbance or compaction;
  - (vii) Stockpiling, storage or mixing of materials;
  - (viii) The parking, storing, washing and repairing of tools, equipment and machinery;
  - (ix) The disposal of liquids and refuelling;
  - (x) The disposal of building materials;
  - (xi) The siting of offices or sheds;
  - (xii) Any action leading to the impact on tree health or structure.
- (g) Any trenching works for services / hydraulics / drainage etc must not be undertaken within any Tree Protection Zone (TPZ). Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed.

- (h) All work undertaken within or above the TPZ must be:
- (i) carried out in accordance with a work methodology statement prepared by an Arborist (minimum AQF Level 5) and written approval is obtained from Council's Tree Management Officer before its implementation; and
  - (ii) supervised by a qualified Consultant Arborist (minimum AQF Level 5).

**(8) TREE ROOT PROTECTION**

- (a) Structural Root Zone (SRZ) Schedule for trees located within the raised garden bed on Booth Street frontage.

Tree No.	Botanic / Common Name	SRZ (m) from Trunk
1	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	4
2	<i>Lophostemon confertus</i> (Brush Box)	3
3	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	2.4
4	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	2.4
5	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	2.9
6	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	3.2
7	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	3.2
8	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	3.2
9	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	3.3
10	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	2.1
11	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	3.2
12	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	3.1
13	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	3.2
14	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	3.3
15	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	3.3

Tree No.	Botanic / Common Name	SRZ (m) from Trunk
16	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	2.6
17	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	2.6
18	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	2.9
19	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	3
20	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	2.6
21	<i>Ficus acrocarpa</i> var 'Hillii' ( Hills Weeping Fig)	3.5

- (b) ~~Excavation must not occur within the SRZ. If excavation is proposed within this zone, the Council's Tree Management Officer must be contacted immediately and the excavation must be carried out in accordance with Council's direction.~~
- (b) **All works within the SRZ are to be in accordance with the work methodology statement approved to satisfy Condition (2) and the reconstruction and footing details submitted to satisfy Condition (12).**
- (c) Without prejudice to clause (b) above any excavations within the SRZ must be undertaken using non-destructive methods (such as by hand or with an Airspade) to ensure no tree roots greater than 40mm diameter are damaged, pruned or removed.
- (d) ~~Footings shall be relocated / realigned if any tree root greater than 40mm in diameter is encounter during excavations. Ideally, a minimum of 150mm clearance is provided between the tree root and footing.~~
- (d) All excavations located within the TPZ must be supervised by a qualified Consultant Arborist, who holds the Diploma in Horticulture (Arboriculture), Level 5 under the Australian Qualification Framework.
- (e) All root pruning must be undertaken by a qualified Arborist with a minimum AQF Level 3.



**Reasons for Decision**

The application was approved for the following reasons:

- (A) The existing section of wall on the site has failed and poses a significant public safety risk.
- (B) The like-for-like replacement of the boundary wall will result in little visual difference to the existing wall.
- (C) Conditions of consent are recommended to ensure thorough investigation of alternatives prior to any tree loss being considered, if tree loss is necessary any tree loss is minimised and if that is to occur then suitable replacement trees will be planted.
- (D) The proposed development has an acceptable impact on the heritage significance of the locally listed item on the site.
- (E) Condition 2 was amended to facilitate more accurate tree root mapping.
- (F) Condition 3(f) was amended to provide consistency with Condition 3(b).
- (G) Conditions 7 and 8 were amended to better delineate the tree and root protection zones during works and what works might be acceptable within the protection zones..

Carried unanimously.

D/2019/635

**Speakers**

Mr Ian Mallett (resident), Prof Helen Armstrong (Saving Sydney's Trees), Ms Rosalie Nott (3 Sterling Circuit Strata Committee) – on behalf of the applicant, Ms Marisa Sidoti (resident), Mr Graham Brooks (Brooks Tree Care), and Mr George Dahrie (Noviion Engineering) – on behalf of the applicant.

**Item 4      Development Application: 5-11 Botany Road and 80-82 Cope Street,  
Waterloo - D/2019/1201**

The Panel:

- (A) delegated authority to the Chief Executive Officer (CEO) to determine Development Application No. D/2019/1201 to allow the surrender of the concept approval over the site prior to determination of this application; and
- (B) resolved that, if the Chief Executive Officer determines to approve the application, then consideration be given to granting a deferred commencement consent to Development Application D/2019/1201, pursuant to section 4.16(3) of the Environmental Planning and Assessment Act 1979, subject to conditions as detailed in Attachment A to the subject report, subject to the following amendments (additions shown in ***bold italics***):

**(17) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION**

***Prior to a Construction Certificate being issued, an archival photographic recording of 82 Cope Street building is to be prepared to Council's satisfaction. The recording is to be in digital form, prepared in accordance with the NSW Heritage Division of the Department of Environment and Heritage guidelines titled "Photographic Recording of Heritage Items using Film or Digital Capture". One copy of the record is to be submitted to Council to be lodged with Council's Archives.***

***Procedure***

***The archival documentation, and the number and type of selected enlarged photographs required will be determined by the significance and quality of the building or structure. For a scope of work, refer to Heritage Specialist to determine the particular architectural/design features of the building/site that may need to be recorded.***

***The form of recording is to be a photographic documentation of the site and its context, and the exteriors and interiors of the existing building(s) photographed, where appropriate, using a camera/lens capable of 'perspective correction'. The photographic recording is to be in digital form, prepared in accordance with the NSW Heritage Division of the Department of Environment and Heritage guidelines titled 'Photographic Recording of Heritage Items using Film or Digital Capture'. One copy of the record is to be submitted to Council to be lodged with Council's Archives.***

***The digital form of the recording is to be as follows:***

- (i) The Development Application number and the Condition of Consent number must be noted.***
- (ii) Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.***
- (iii) The electronic images are to be taken with a minimum 8 megapixel camera, saved as JPEG TIFF or PDF files with a size of approximately 4-6MB, and cross referenced to the digital catalogue sheets and base plans. Choose only images that are necessary to document the process, and avoid duplicate images.***

- (iv) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive licence to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.***
- (v) The report can be submitted on a USB, CD or DVD, in PDF/A format (created directly from the digital original), with a digital catalogue of images with the following data for each: DOS title, image subject/description and data photograph taken.***

**(18) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION**

- (a) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.***
- (b) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the National Parks and Wildlife Act 1974***
- (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the Occupational Certificate;***
- (d) If the discovery is on Council's land, Council must be informed.***

Remaining conditions to be renumbered accordingly.

### **Reasons for Decision**

The application was approved for the following reasons:

- (A) To allow the application to proceed to determination once the concept DA has been surrendered.
- (B) The development, subject to conditions, is consistent with the objectives of the B4 mixed use zone.
- (C) The design of the development responds appropriately to the scale of surrounding buildings.
- (D) The development, subject to conditions, exhibits design excellence and satisfies the provisions of Clause 6.21 of the Sydney LEP 2012.
- (E) The development, subject to conditions, will safeguard neighbourhood amenity and will promote the orderly operation of the premises.
- (F) The applicant's written request to vary the height standard of the Sydney LEP 2012 has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney LEP 2012, that compliance with the height of buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney LEP 2012.
- (G) The applicant's written request to vary the motorcycle parking standard of the ARHSEPP has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney LEP 2012, that compliance with the motorcycle parking development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 30(1)(h) of the ARHSEPP.
- (H) Subject to conditions, the proposal generally satisfies the relevant strategy, objectives and provisions of the Sydney LEP 2012 and Sydney DCP 2012.
- (I) Condition 17 was added to ensure appropriate heritage documentation.
- (J) Condition 18 was added to ensure the development meets all obligations should any archaeological material be uncovered.

Carried unanimously.

D/2019/1201

### **Speakers**

Ms Donna Young (resident), Ms Jane Hanley (resident), Mr Richard Schofield (Strata Committee, 1-3 Botany Road) and Mr Giovanni Cirillo (Planning Lab) – on behalf of the applicant.

## Item 5 Development Application: 10-12 Egan Street Newtown - D/2020/517

The Panel:

- (A) supported the variation sought to the minimum motorbike parking spaces required under Clause 30(1)(h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 in accordance with Clause 4.6 'Exception to development standards' of the Sydney Local Environmental Plan 2012 in the circumstances of this application;
- (B) supported the variation sought to the Height of Buildings development standard under Clause 4.3 of the Sydney Local Environmental Plan 2012 in accordance with Clause 4.6 'Exception to development standards' of the Sydney Local Environmental Plan 2012 in the circumstances of this application; and
- (C) granted consent to Development Application No. D/2020/517 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~~).

### **(17A) AUSGRID**

- (a) ***Comply with the requirement in the Safe work NSW – Work Near Overhead Powerlines: Code of Practice which outlines the minimum safety separation requirements between mains/poles to structures within the development throughout the construction process. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.***
- (b) ***Comply with the “as constructed” minimum clearance to the main as outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual.***
- (c) ***It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite. Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.***
- (d) ***It is the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.***

### **(21) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION**

- (a) ***Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.***
- (b) ***Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the National Parks and Wildlife Act 1974***
- (c) ***Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the Occupational Certificate;***

**(d) if the discovery is on Council's land, Council must be informed.**

Remaining conditions to be renumbered accordingly

### **(33) PROTECTION OF STONE KERBS**

- (a) The existing stone kerbs on the ~~Layton~~ **Egan** Street frontage of the site are to be retained and properly protected during demolition, excavation and construction works.

### **Reasons for Decision**

The application was approved for the following reasons:

- (A) The proposed boarding house is a permissible within the R1 General Residential zone and is consistent with the objectives of this zone.
- (B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the motorcycle parking development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify contravening clause 30 (1)(h) of the SEPP (Affordable Rental Housing); and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the SEPP (Affordable Rental Housing) development standards.
- (C) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Height of Buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012; and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the Height of Buildings development standard.
- (D) The proposal is consistent with the requirements of Division 3 of the State Environmental Planning Policy (Affordable Rental Housing) 2009.
- (E) The development complies with the permitted Floor Space Ratio pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (F) The development, subject to conditions, respects the heritage significance of the subject local heritage item I2251 and conservation area known as O'Connell Town Estate Conservation Area (C43).
- (G) The development, subject to conditions, appropriately responding to the context of the site, provides reasonable amenity to the future occupants and neighbouring properties and is consistent with the desired future character of the area as per Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (H) The development is consistent with the objectives of the Sydney Development Control Plan 2012.

- (I) Suitable conditions of consent have been applied and the development is considered to be in the public interest.
- (J) Condition 17A was added to comply with Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.
- (K) Condition 21 was added to ensure the development meets all obligations should any archaeological material be uncovered.
- (L) Condition 33 was amended to correct a minor typographical error.

The motion was carried on the following show of hands:

Ayes (3)        Mr Pearson, Ms Miller and A/Prof Thorpe

Noes (1)        Mr Romey

Motion carried.

D/2020/517

### **Speakers**

Mr Robert Scotland (neighbour), Mr Daniel McNamara (DMPS) – on behalf of the applicant and Mr Tony Owen (Tony Owen Partners) – on behalf of the applicant.

**Item 6      Development Application: 385 Wattle Street, Ultimo - D/2019/811**

The Panel:

- (A) upheld the variation requested to height of buildings standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, granted deferred commencement consent to Development Application No. D/2019/811 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 objectives of the B4 Mixed Use Zone.
- (B) The proposal generally satisfies the relevant controls relating to student accommodation and boarding house uses.
- (C) The proposal, subject to conditions, satisfies the provisions of clause 6.21 of Sydney LEP 2012.
- (D) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height of buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 Sydney LEP 2012; and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 Mixed Use zone and the height of buildings development standard.

Carried unanimously.

D/2019/811

**Speaker**

Ms Susan Teng (H3 Architects) – on behalf of the applicant.



**Item 7      Development Application: 277 Glebe Point Road, Glebe - D/2020/941**

The Panel refused consent for Development Application No. D/2020/941 for the reasons outlined below.

**Reasons for Decision**

The application was refused 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 detrimentally impact the amenity of current and future occupants:
  - (i) Clause 29 2 (d) - Private Open Space; and
  - (ii) 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 variation to the floor space ratio development standard contained in Clause 4.4 of the LEP, as it is not considered to be in the public interest.
- (C) The proposed development will have unacceptable amenity impacts to occupants of the boarding house as it will reduce the amount of communal open space provided on site to an area less than 20sqm, and adversely impact the remaining communal open space in terms of unacceptable overshadowing, which is non-compliant with Clause 4.4.1.4 of the *Sydney Development Control Plan 2012*.
- (D) The proposal results in an oversized and unsympathetic addition located within the backyard of a heritage item within a conservation area, which is contrary to the requirements of Clause 5.10 of the *Sydney Local Environmental Plan 2012* and Section 3.9.5 and 3.9.6 of the *Sydney Development Control Plan 2012*.
- (E) The proposed development fails to demonstrate design excellence in accordance with Clause 6.21 of the *Sydney Local Environmental Plan 2012* as its scale is incompatible with the heritage significance of the heritage item, the materials to be used are inconsistent with the predominantly masonry character of the area, the size of the structure is considered excessive for storage purposes, and the increase in floor area exceeds the desired density.
- (F) 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/2020/941

**Speakers**

Mr Mark Solomon (Plan Urbia) – on behalf of the applicant, and Flo (boarder) – on behalf of the applicant.

**Item 8      Development Application: 503-505 Elizabeth Street, Surry Hills - D/2020/20**

The Panel refused consent for Development Application No. D/2020/20 for the reasons outlined below.

**Reasons for Decision**

The application was refused for the following reasons:

- (A) Insufficient justification has been provided to support the variation to exceed the Clause 4.3 height of buildings standard in accordance with Clause 4.6 of Sydney LEP 2012.
- (B) The proposal results in excessive height, bulk and scale and fails to comply with the height in storeys provision outlined in Section 4.2.1 of Sydney DCP 2012.
- (C) The proposal is inconsistent with the requirements of Clause 5.10 of the Sydney LEP 2012 and Section 3.9 of the Sydney DCP 2012 relating to heritage conservation.
- (D) The proposal results in a poor level of amenity for future occupants and does not adequately satisfy the principles and provisions of SEPP 65 Design Quality of Residential Apartment Development and the Apartment Design Guideline.
- (E) The proposal fails to demonstrate design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.

Carried unanimously.

D/2020/20

**Speaker**

Mr John Tauszik – applicant.

## Item 9      **Development Application: 3 Joynton Avenue Zetland - D/2020/923**

The Panel granted consent to Development Application No. D/2020/923 subject to the conditions set out in Attachment A to the subject report, with the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

### ~~(27)~~(20)    **ARCHAEOLOGICAL ASSESSMENT**

An archaeological assessment undertaken by a suitably qualified archaeologist must be submitted to and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of a Construction Certificate. The report must assess whether the proposed works have the potential to disturb any archaeological remains and the need for any archaeological investigation prior to commencement of any works on site. The report should also recommend measures and documentation to be undertaken during the process of demolition and excavation work.

Recommendations by the archaeological assessment are to be implemented during the process of demolition and excavation work.

Should the assessment report suggest the site may contain relics and the proposed work may disturb them, council may request the applicant to amend the proposal so that the relics are properly protected or interpreted.

(Remaining conditions to be renumbered accordingly)

### ~~(28)~~    **ARCHAEOLOGICAL INVESTIGATION**

- ~~(a)    The applicant must apply to the Heritage Division of the Department of Environment and Heritage for an excavation permit under Section 140 of the *Heritage Act 1977*.~~
- ~~(b)    Should any potential archaeological deposit likely to contain Aboriginal objects be identified by any person during the planning or historical assessment stage, application must be made by a suitably qualified archaeologist to the NSW Government Office of Environment and Heritage for an excavation permit for Aboriginal objects.~~
- ~~(c)    The applicant must comply with the conditions and requirements of any excavation permit required, and are to ensure that allowance is made for compliance with these conditions and requirements into the development program.~~
- ~~(d)    General bulk excavation of the site is not to commence prior to compliance with the conditions and requirements of any excavation permit required.~~
- ~~(e)    Should any relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the *Heritage Act 1977*.~~
- ~~(f)    Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*;~~

- ~~(g) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council's Area Coordinator Planning Assessments / Area Planning Manager prior to issue of any Occupation Certificate.~~

### **Reasons for Decision**

The application was approved for the following reasons:

- (A) The application is supported by a detailed environmental site investigation and remediation action plan that demonstrates that the site can be made suitable for the future Green Square Integrated Community Facilities and School, in accordance with State Environmental Planning Policy No. 55 - Remediation of Land.
- (B) The application is consistent with other relevant local environmental planning policies and City planning and public domain strategies.
- (C) Subject to conditions, excavation can be undertaken whilst protecting any unexpected archaeological finds.
- (D) The development is therefore within the public interest.
- (E) Condition 27 was renumbered to place it in the appropriate schedule of conditions.
- (F) Condition 28 was deleted as it pertains to issues already addressed in other conditions of archaeological discovery.

Carried unanimously.

D/2020/923

**Item 10    Report to the Local Planning Panel - Status of Applications**

The Panel received and noted the subject report.

Carried unanimously.

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The meeting of the Local Planning Panel concluded at 7.41 pm.

CHAIR