

Local Planning Panel

Meeting No 53

Wednesday 19 May 2021

Notice Date 12 May 2021

minutes

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Present

Mr Richard Pearson (Chair), Mr Shaun Carter, Mr Steve Kennedy and Associate Professor Amelia Thorpe.

At the commencement of business at 5.01pm, those present were:

Mr Pearson, Mr Carter, Mr Kennedy and A/Prof Thorpe.

The Executive Manager Planning and Development was also present.

The Chair opened the meeting with introductory comments about the purpose and format of the meeting and an acknowledgement of country.

Remote Meeting

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.

A/Prof Thorpe disclosed a reasonably perceived conflict of interest in relation to Items 4 and 5 (Development Application: 233 Riley Street, Surry Hills - D/2020/1394 and Development Application: Application: 117-119 Flinders Street, Surry Hills - D/2020/1178) in that she was a subconsultant for Urbis' transport team on a project about outdoor dining during Covid in Victoria. A/Prof Thorpe stated that this was in February 2021, only two days' work and a one-off engagement that is now complete.

Mr Carter disclosed a reasonably perceived conflict of interest in relation to Items 4 and 5 (Development Application: 233 Riley Street, Surry Hills - D/2020/1394 and Development Application: Application: 117-119 Flinders Street, Surry Hills - D/2020/1178) in that his firm worked with Urbis Heritage over a year ago. Mr Carter stated that his firm has never directly employed Urbis Heritage.

Following assessment of the above disclosures of interest under the Code of Conduct for Local Planning Panels and the City of Sydney Local Planning Panel Operational Procedures, A/Prof Thorpe and Mr Carter are not required to step out for deliberation on Items 4 and 5.

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 28 April 2021, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 43 Avona Avenue, Glebe - D/2020/1453

The Panel granted consent to Development Application No. D/2020/1453 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) DESIGN MODIFICATIONS

The design of the development must be modified as follows:

- (a) The roof terrace and staircase leading to the rooftop are not approved and are to be deleted. Amended Level 2 and rooftop plans are to be submitted depicting removal of terrace and staircase, and relocation of herb garden, air conditioning units and solar panels;
- (b) The eastern elevation balcony at Level 1 is to be modified so that it does not extend beyond the side blade walls, removing approximately 1.4sqm width of the balcony;
- (c) The eastern elevation balcony at Level 2 is to be deleted. Floor to ceiling height glazed windows may remain, with a balustrade installed flush to the glass line. Balcony projection is to be blocked off and replaced with roofing.
- (d) All ~~The balcony glass balustrades to Avona Avenue is (Avona Avenue, all levels at the eastern elevation) are~~ to be replaced with a contemporary metal balustrade with vertical balusters. Materiality and colours are to be specified.
- (e) Window 'G W05-01' at level 2 northern elevation (to the corridor) is to either be replaced with a highlight window at least 1.6m above finished floor level, or be fitted with either louvres/screening angled to limit overlooking of Cook Street properties to the north, or treated with obscure glazing to the entire opening.

The modifications are to be submitted to and approved by Council's Area Coordinator Planning Assessments prior to the issue of a Construction Certificate.

(3) DESIGN MODIFICATIONS – DEEP SOIL

The landscape plans are not approved and are to be modified as follows:

- (a) A deep soil depth of at least 1000mmm ~~is to be provided~~ in areas above sandstone, ***or planters with sufficient soil volumes and depth are to be provided within the site*** ~~The increased soil depth is~~ to allow for planting of two small trees and one medium tree, consistent with the Sydney Landscape Code. These trees must be afforded sufficient spacing from each other to allow them to grow to maturity.
- (b) Two of the tree species, when mature, must attain a minimum height of no less than five metres and minimum canopy spread of five metres. One of the tree species, when mature, must attain a minimum height of no less than eight metres and minimum canopy spread of eight metres. Palms, fruit trees and species recognised to have a short life span are not considered a suitable replacement
- (c) Deep soil is to be provided that is equal to 15% of the site area.

The modifications are to be submitted to and approved by Council's Area Coordinator Planning Assessments prior to the issue of a Construction Certificate.

(13) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 9 and 9A Cook Street, 11-19 Cook Street, 23-27 Sheehy Street, **14 Avona Avenue** and 25-41 Avona Avenue are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Accredited Certifier and the Council prior to the issue of a Construction Certificate.

UPON COMPLETION OF EXCAVATION/DEMOLITION

- (b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifier and the Council prior to the issue of any Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

(14) GEOTECHNICAL INVESTIGATION

Prior to the commencement of demolition and excavation work, the geotechnical investigation is to be amended and submitted to Council's Area Planning Manager, to include the following:

- (a) ***Additional bore hole testing to determine groundwater/aquifer depths and structural impacts of the basement excavation (particularly on adjoining properties) and how these impacts will be addressed;***
- (b) ***A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the Work Cover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted); and***
- (c) ***An Excavation Work Method Statement prepared by an appropriately qualified person.***

The approved geotechnical report and work method statements as required by this condition must be implemented in full during the period of construction.

(Remaining conditions to be renumbered accordingly.)

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposal is generally consistent with the relevant objectives and controls of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (B) The proposal exhibits a suitable built form, design and materiality in the context of the heritage conservation area and is appropriate within the streetscape.
- (C) The proposal will not result in unacceptable amenity impacts on surrounding properties and does not detrimentally impact upon view corridors.
- (D) The view impacts of the proposal are acceptable given that it complies with key planning controls and that there are considered no other reasonable design amendments that could be imposed beyond those required by this consent.
- (E) The proposal exhibits design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (F) Condition 2 was amended in response to a request made by the applicant, as the Level 1 balcony will not be visible from Avona Avenue.
- (G) Condition 3 was amended in response to a request made by the applicant, to provide some flexibility regarding the location of additional tree plantings.
- (H) Condition 13 was amended to include the property at 14 Avona Avenue in the dilapidation report.
- (I) Condition 14 was added to provide further surety around the extent of investigations and concerns regarding structural impacts.

The motion was carried on the following show of hands:

Ayes (3) The Chair (Mr Pearson), Mr Carter and A/Prof Thorpe

Noes (1) Mr Kennedy

Mr Kennedy was of the opinion that whilst the development is permissible and compliant, the building in its current form does not address its role at the interface with the adjoining low scale residential area as sympathetically as it could have and was of the view a more restrained and considered approach to its expression would be appropriate in this location.

Motion carried.

D/2020/1453

Speakers

Daniela Traini (objector), Chris Newton (objector), Ian Stephenson (objector), Andrew Wilson (objector), Lynette Kearney (objector), Pierre Le Bas (objector), Scott Wilson (objector), Harry Bridge (objector), Louise Denver (objector), Roger West (objector), Melissa Wyner (objector), Peter Kohlhoff (objector), Tim Cooper (Chapman Planning) – on behalf of the applicant, and Matthew Young (3EM Architects) – on behalf of the applicant.

Item 4 Development Application: 233 Riley Street, 8-10 Little Riley Street, 153-159 Campbell Street and 235 Riley Street, Surry Hills - D/2020/1394

The Panel:

- (A) upheld the variation requested to heights of buildings standard and motorcycle provision 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 a deferred commencement consent to Development Application No. D/2020/1394 subject to the conditions set out in Attachment A to the subject report, subject to the following amendments (additions shown in ***bold italics***):

(15) COMMUNAL KITCHEN FACILITIES

The design of the first and second floor indoor communal space is to be revised to include full kitchen facilities, including an oven and stove top with extraction, and is to be submitted to and approved by Council's Area Planning Manager prior to the issue of the Construction Certificate.

(Remaining conditions to be renumbered accordingly.)

Reasons for Decision

The application was approved for deferred commencement 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 boarding house uses.
- (C) The proposal, subject to conditions, satisfies the provisions of clause 6.21 of the 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 of the Sydney LEP 2012;
 - (ii) the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 29 of the Affordable Housing SEPP, that compliance with motorcycle provision standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify no motorcycle provision; and
 - (iii) the proposal is in the public interest because it is consistent with the objectives of the B4 Mixed Use zone and the height of building development standard.

(E) Condition 15 was added to improve amenity for boarding house residents.

Carried unanimously.

D/2020/1394

Speakers

Annette Gunnis (objector), Michael Badorrek (objector), Vince Squillace (Squillace Architects) – on behalf of the applicant, and Giovanni Cirillo (Planning Lab) – on behalf of the applicant.

Item 5 Development Application: 117-119 Flinders Street, Surry Hills - D/2020/1178

The Panel:

- (A) upheld the variation requested to Clause 4.3 'Height of Buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (B) granted consent to Development Application No. D/2020/1178 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~~):

(2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The terraces on Level 3 located at the southern and western edges are to be deleted from the plans and replaced with a non-trafficable green roof. The amended plans must illustrate access for maintenance only.
- (b) The design of the rooftop is to be modified to provide an integrated inaccessible and extensive green roof, comprising not less than 25% of the rooftop area.
- (c) Drawings at a scale of 1:20 of the rooftop pergola and adjoining screen are to be provided. The structure is to be made of lightweight material and the roof is to be louvered (these may be adjustable). The design of the structure must ensure access for maintenance of the adjoining planter beds.
- (d) ~~The awning above the lobby entry is to be reduced and setback in line with the other feature awnings.~~
- (e) All projections for decoration or sun shading devices over or into the public footpath are to comply with Section 3.2.4 of the Sydney Development Control Plan 2012. A section drawing at a scale of 1:20 is to be provided to demonstrate this.
- (f) A section drawing at a scale of 1:20 illustrating flashing between the subject site and the existing boundary wall of 457 South Dowling Street is to be provided.
- (g) A glazing schedule is to be submitted which demonstrates the environmental performance provided by coatings and the manner of assembly, such as double-glazed units, closed cavity facade systems, or double-glazed skins. All glazing is to be clear and achieve a high level of transparency to provide visual depth and a neutrality of colour. A consistency in appearance and colour characteristics between all facades is to be achieved. The glass is to not have a black, brown, green, blue or grey tint.
- (h) The Basement Plan is to be amended to illustrate the location of the bin lifter and accurate bin sizes and layout within the waste storage area. For council bin sizes/dimensions, see Guidelines for Waste Management in New Developments 2018.

- (i) ***Awnings are to be provided above the southernmost window bays of the Flinders Street frontage, and the northernmost window bay of the South Dowling Street frontage. The awnings are to extend no more than 2m from the face of the building, and the design is to be commensurate in appearance with the design of the feature awnings elsewhere on the building frontages.***

The modifications are to be submitted to and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of a Construction Certificate.

Note - at the conclusion of Item 6, Item 5 was recommitted to additionally amend a typographical error in Condition 6(a):

(6) FLOOR SPACE RATIO - ALL OTHER AREAS

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the commercial use must not exceed 3:1; and for the End of Journey facilities must not exceed 0.18:1 calculated in accordance with Sydney Local Environmental Plan 2012. For the purposes of the calculation of FSR, the Gross Floor Area of the commercial component is 2.934.9 sqm, for the end of journey component is 173.9 sqm, and the total Gross Floor Area is ~~3,108.8~~ **3,108.8** sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under Sydney Local Environmental Plan 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifier.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposed commercial uses are permissible with consent within the B4 Mixed Use zone.
- (B) Subject to conditions the proposal will have no impact to the significance of the Heritage Conservation Area.
- (C) Subject to the conditions of consent, the development will not adversely impact the amenity of the locality.
- (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 of the 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.

(E) Condition 2 was amended to provide additional shade and protection from the elements.

(F) Condition 6(a) was amended to correct a typographical error.

Carried unanimously.

D/2020/1178

Speakers

Mario Prodromou (objector), Giovanni Cirillo (Planning Lab) – on behalf of the applicant, and Adam Haddow (SJB Architects) – on behalf of the applicant.

Item 6 Local Planning Panel - Delegations

In accordance with the requirements of the Environmental Planning and Assessment Act 1979, the Panel delegated its functions as a consent authority regarding development applications that fall into the following categories:

- (A) development applications for the removal of existing pedestrian bridges/overpasses in King Street, Pitt Street and Castlereagh Street and making good of adjacent buildings, where the sole reason for reporting the application to the Local Planning Panel for determination is that Council is the applicant and/or landowner; and
- (B) development applications for a boarding house development where the sole reason for reporting the application to the Local Planning Panel for determination is the proposal's non-compliance with the motorcycle parking standard contained in Clause 30 Standards for Boarding Houses (1) (h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009,

to the positions of Manager Planning Assessments, Executive Manager Planning and Development, and Director City Planning, Development and Transport.

Carried unanimously.

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The meeting of the Local Planning Panel concluded at 7.26pm.

CHAIR