

# Local Planning Panel

Meeting No 62

Wednesday 15 December 2021

Notice Date 8 December 2021

*minutes*

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### **Present**

Mr Steven Layman (Chair), Mr Ron Edgar, Mr Brendan Randles and Associate Professor Amelia Thorpe.

At the commencement of business at 5.03pm, those present were:

Mr Layman, Mr Edgar, Mr Randles 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.

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 24 November 2021, which have been endorsed by the Chair of that meeting.

### Item 3      **Development Application: 888 Bourke Street, Zetland - D/2021/514**

The Panel granted consent to Development Application No. D/2021/514 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) AFFORDABLE HOUSING CONTRIBUTION - GREEN SQUARE - PAYMENT OF MONEY IN LIEU OF FLOOR SPACE**

In accordance with Clause 7.13 of *Sydney Local Environmental Plan 2012* and prior to a Construction Certificate being issued, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid at the office of the Department of Planning, Industry and Environment or a bank guarantee in favour of the Department of Planning, Industry and Environment to the value of the required contribution has been lodged. The contribution is ~~\$3,080,318.42~~ ***\$4,579,369.12*** based on the in lieu monetary contribution rate for non-residential development at \$76.16 per square metre of total non-residential floor area (~~9,913~~ ***78***sqm), and for residential development at \$228.58 per square metre of total residential floor area (~~40,173~~ ***20,008***sqm). Contributions will be indexed in accordance with the formula set out below.

Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the applicant must provide evidence that the bank guarantee referred to above has been redeemed as payment of this contribution. If the contribution is paid after the indexation period in which the consent is granted 1 March 2021 to 28 February 2022, the amount of the contribution will be indexed in accordance with the formula set out below.

#### **Reasons for Decision**

The application was approved for the following reasons:

- (A) The development is consistent with the concept approval conditions in accordance with the provisions of Division 4.4 Concept Development Application of the Environmental Planning and Assessment Act 1979.
- (B) The development is consistent with the design principles under SEPP No 65 Design Quality of Residential Apartment Development and the NSW Apartment Design Guideline.
- (C) The development is consistent with the objectives of the B4 Mixed Use zone in accordance with Sydney Local Environmental Plan 2012.
- (D) The development complies with the permitted Floor Space Ratio pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (E) The development retains the approved height, built form, scale and overall design and external appearance of the building and improves the amenity for future occupants. Therefore, similarly to the approved design, the amended development achieves design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.
- (F) The development is compatible with the character of the Mary O'Brien Park Locality Statement, as per Section 2 of the Sydney Development Control Plan 2012.
- (G) The development is consistent with the objectives of the Sydney Development Control Plan 2012 in particular, Section 4.2 Residential Flat Buildings and Section 5.2 Green Square.

- (H) Suitable conditions of consent have been applied and the development is considered to be in the public interest.
- (I) Condition 2 was amended to ensure the affordable housing contribution applies to the total area of residential floor space.

Carried unanimously.

D/2021/514

**Speakers**

Larissa Brennan (LJB Planning) – on behalf of the applicant.

#### **Item 4      Development Application: 79A John Street, Pyrmont - D/2021/987**

The Panel granted consent to Development Application No. D/2021/987 subject to the conditions set out in Attachment A to the subject report to the Local Planning Panel on 15 December 2021, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

#### **SCHEDULE 1B**

#### **PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING**

##### **(33) ADVANCE TREE PLANTING**

Tree planting within the property must be undertaken in accordance with the following conditions, and to Council's satisfaction, prior to the issuing any Occupation Certificate:

- (a) ~~Two trees are~~ ***One tree is*** to be planted in Courtyard 1 at the completion of all construction works.
- (b) The tree species, when mature, must attain a minimum height of no less than 8 metres and minimum canopy spread of 6 metres. Palms, fruit trees and species recognised to have a short life span are not considered a suitable replacement.
- (c) The tree must be grown to Australian Standard 2303:2015 'Tree stock for landscape use'.
- (d) At the time of planting, the container size is to be a minimum of 200 litres and a minimum height of 3 metres.
- (e) New trees must be planted in natural ground with adequate soil volumes to allow maturity to be achieved. Planter boxes will not be accepted for tree planting.
- (f) The tree/s must be appropriately located away from existing buildings and structures to allow healthy tree maturity to be achieved without restrictions.
- (g) The trees must be planted by a qualified Horticulturalist or Arborist of Level 3 under the Australian Qualifications Framework (AQF).
- (h) The trees must be planted in such a manner as to promote good health during the establishment period, and must be maintained, as far as practicable to ensure tree growth into maturity.
- (i) Prior to the issue of any Occupation Certificate, suitable documentation (including a written statement and photographic evidence) is to be submitted to Council for review and written confirmation is to be obtained from Council's Area Planning Coordinator / Area Planning Manager confirming all trees have been planted to Council's satisfaction (excluding tree maintenance).
- (j) Any newly planted tree that fails to establish within 2 years of the initial planting date must be replaced with a tree of comparable qualities.

**SCHEDULE 3**

***The following condition has been imposed by Ausgrid:***

**(59) OVERHEAD POWERLINES**

***Safe Work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.***

***The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, [www.ausgrid.com.au](http://www.ausgrid.com.au)***

***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.***

***It is also 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.”***

**Reasons for Decision**

The application was approved for the following reasons:

- (A) The proposal generally complies with the provisions of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.
- (B) The proposal generally complies with the provisions of the State Environmental Planning Policy No 64 – Advertising and Signage.
- (C) The proposal is generally consistent with the relevant objectives and controls of Sydney Local Environmental Plan 2012 (LEP) and Sydney Development Control Plan 2012 (DCP).
- (D) The proposal exhibits high quality built form, design and materiality in the context of the heritage item on site and wider heritage conservation area and is appropriate within the streetscape. Through restoration works and the introduction of a high quality contemporary building, the proposal improves the presentation of the development to the public domain.
- (E) The application has demonstrated the proposal will not result in unacceptable amenity impacts on surrounding properties.
- (F) The continued use of the site as a community facility is consistent with the objectives of the R1 – General Residential zone.
- (G) The proposal provides for a use that is compatible with the surrounding area. The proposal is in keeping with the future desired character of the area and is considered to be in the public interest.

- (H) Condition 33 was amended to replace one tree on site and a new street tree in line with the Street Tree Master Plan, and to ensure the development achieves the objectives of relevant tree management provisions.
- (I) Condition 59 was added in response to advice provided by Ausgrid.

Carried unanimously.

D/2021/987

**Speakers**

Elizabeth Elenius (Pymont Action Inc) and Mary Mortimer (Friends of Pymont Community Centre).

Anna Field (City of Sydney) – on behalf of the applicant.



**Item 5      Development Application: 26-28 Rainford Street, Surry Hills - D/2021/759**

The Panel:

- (A) upheld the variation requested to the height of buildings standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012;
- (B) upheld the variation requested to the floor space ratio standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (C) granted consent to Development Application No. D/2021/759 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~~):

**(3)      DESIGN MODIFICATIONS**

The design of the building must be modified as follows:

- (a) The Level 3 planter bed is to be raised in height to the balustrade height across the length of the north elevation terrace.
- (b) ***The ground floor window to the north elevation to the 'gymnasium area' must be deleted and infilled.***

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

**Reasons for Decision**

The application was approved for the following reasons:

- (A) The proposal is consistent with the objectives of the R1 General Residential Zone.
- (B) The proposal generally satisfies the controls relating to dwellings.
- (C) The proposal subject to conditions satisfies the provisions of clause 6.21 of Sydney Local Environmental Plan 2012 and demonstrates a high level of design excellence.
- (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 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; and
  - (iii) 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 floor space ratio development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.4 of the Sydney LEP 2012; and

- (iv) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential Zone and the floor space ratio development standard.
- (E) Condition 2 was amended to remove an unserviceable window and protect the privacy of the adjoining property.

Carried unanimously.

D/2021/759

**Speakers**

Joanne McGuinness (SJB Planning) and Adam Haddow (SJB Planning) – on behalf of the applicant.

**Item 6 Development Application: 21 Collins Street, Alexandria - D/2020/1171**

The Panel:

- (A) delegated authority to the Chief Executive Officer to determine Development Application No. D/2020/1171, after the completion of the public exhibition period of the draft Voluntary Planning Agreement and consideration of any public submissions received;
- (B) delegated authority to the Chief Executive Officer to determine whether the Design Excellence Strategy for 21 Collins Street, Alexandria, prepared by Urbis on behalf of Jaimee Alex Pty Ltd (Attachment D), be approved pursuant to Section 3.3 of the Sydney Development Control Plan 2012 and Section 1.2 of the City of Sydney Competitive Design Policy; and
- (C) requested 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/2020/1171, subject to the conditions set out in Attachment A to the subject report to the Local Planning Panel on 15 December 2021, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strike through~~):

**(8) DETAILED DESIGN OF BUILDINGS**

The competitive design process brief and subsequent detailed design development application must incorporate the following requirements:

- (a) Minimise overshadowing on adjoining properties in accordance with Apartment Design Guide (ADG) objective 3B-2.
- (b) Maximise natural ventilation and natural cross ventilation, in accordance with ADG objective 4B and with reference to documents entitled 'Acoustic Design Guidance for Natural Ventilation' and 'Letter in response to Council Queries', prepared by Acoustic Logic and dated 9 August 2021 (Trim: 2021/379619-03 and 2021/379619-06).
- (c) Provide a compliant amount of communal open space, including at the roof level of building 1, in accordance with the ADG that receives adequate solar access, in accordance with the ADG.
- (d) A minimum 6m wide deep soil zone is to be provided on the northern boundary where the site adjoins 36 O'Riordan Street. Architectural and landscape plans shall fully dimension and quantify (in sqm) the deep soil zones.
- (e) Consistency in relation to flood issues and floor levels, as per flood risk assessment reports, lodged with the Stage 1 Concept application (trim: 2020/498946, 2020/498947 and 2020/498948).
- (f) Consistency in relation to site contamination with the Remediation Action Plan prepared by EI Australia dated 6th September 2021, referenced E23754\_Rev 6, Council ref: 2021/402161-01 and Interim advice 04: review of Remedial Action Plan – 21 Collins street Alexandria, NSW (EI Australia, August 2021) by Rod Harwood, NSW EPA Accredited Contaminated Sites Auditor (Accreditation No. 03-04) dated 9th September 2021, Council Ref: 2021/402161-02.

- (g) If roof top communal open space is proposed it must provide equitable access, be designed to prevent overlooking and noise impacts and all structures (including but not limited to plant and lift overruns) must be within the 15m height limit.
- (h) Generous residential lobbies and a clear street address for both buildings, facing O’Riordan Street and Collins Street.
- (i) Salvage and re-use of existing building fabric to retain interpretive heritage elements and for use in landscaped areas, with remaining ‘heritage’ material to be or disposed of to a materials recycler/dealer.
- (j) Protection of all existing street trees, including their canopy spread over the site. Amended survey drawings that show full canopy spread of existing street trees are required, as well as an Amended Arboricultural Impact Assessment Report detailing impacts of the development to existing street trees.
- (k) Retention of the existing retaining wall at the Collins Street boundary, unless removal is substantiated through extensive exploratory root investigations and a work methodology that demonstrates tree roots and structures will not be affected.
- (l) Provision of individual residential entries for ground floor units facing William Lane.
- (m) Requiring the rear of apartment W-UG101 to be designated as non-habitable area.
- (n) Avoid using high performance tinting or glazing as a mid-summer sun control device, and use of external sun shading devices.
- (o) Mail rooms and letterboxes that do not rely on master key locks for security.
- (p) Waste management facilities in accordance with Section 4.2.6 of the Sydney Development Control Plan 2012. Waste collection vehicles must be able to access waste collection areas within the basement from Collins Street, meeting the Design Requirements for collection vehicles in accordance with Guidelines for Waste Management in New Developments 2018. At least a 4m clearance height must be provided for a 9.25m truck, and swept path analysis must be provided.
- (q) A footpath weather protection awning, wrapping around the corner of the site and continuing along the O’Riordan Street frontage of the site.
- (r) Consider green roofs and combined PVC cells with green roof understorey for increased mitigation of heat island effect.
- (s) Adherence to the Preliminary Public Art Plan, dated ~~September 2020~~ **June 2021**, prepared by UAP on behalf of Jamiee Alex Pty Ltd.

**Reasons for Decision**

The application was approved for the following reasons:

- (A) The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that, subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.
- (B) The proposed development complies with the permitted height for the site under the Sydney Local Environmental Plan 2012 and has a height and form which is considered to be generally suitable for the condition of the site and its context.
- (C) The proposed building envelopes are capable of accommodating future buildings that can exhibit design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (D) The proposed envelopes are capable of being consistent with the provisions of the State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the Apartment Design Guide in that, subject to the recommended conditions it will provide building envelopes which are capable of accommodating future buildings which can achieve high amenity for future residents with regard to communal open space, solar access, natural ventilation, private open space, building separation and privacy.
- (E) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City's assessing officers, subject to recommended conditions imposed.
- (F) Condition 8 was amended to refer to the updated Stage 1 Preliminary Public Art Plan.

Carried unanimously.

D/2020/1171

**Speakers**

Andrew Harvey (Urbis) and Ben Pomroy (Rothelowman) – on behalf of the applicant.

The meeting of the Local Planning Panel concluded at 6.08pm.

CHAIR