

Local Planning Panel

Meeting No 73

Wednesday 31 August 2022

Notice Date 24 August 2022

minutes

Index to Minutes

ITEM	PAGE NO
1. Disclosures of Interest	3
2. Confirmation of Minutes	3
3. Development Application: 242 Cleveland Street, Surry Hills - D/2020/1361	4
4. Development Application: 114-120 Castlereagh Street, Sydney - D/2022/555	5
5. Development Application: 650 Botany Road, Alexandria - D/2022/165	7

Present

Ms Linda Pearson (Chair), Ms Megan Jones, Ms Annelise Tuor and Mr John McInerney AM.

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

Ms Pearson, Ms Jones, Ms Tuor and Mr McInerney.

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.

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 10 August 2022, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 242 Cleveland Street, Surry Hills - D/2020/1361

The Panel:

- (A) upheld the variation requested to the height of buildings development 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/2020/1361 subject to the conditions set out in Attachment A to the subject report.

Reasons for Decision

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

- (A) The proposed land uses are permissible with consent within the B4 Mixed Use zone.
- (B) The proposal complies with the FSR development standard prescribed by the Sydney Local Environmental Plan 2012.
- (C) The proposal involves a heritage item of State significance. It has been reviewed and approved by the Heritage Council of NSW, and General terms of Approval have been issued.
- (D) Subject to the recommended conditions of consent, the proposal is generally consistent with the relevant provisions of the Sydney Development Control Plan 2012. Where variations to the Development Control Plan provisions are approved, impacts to the locality are acceptable.
- (E) Subject to conditions of consent, the development will not adversely impact the amenity of the locality.
- (F) 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.

Carried unanimously.

D/2020/1361

Speakers

Giovanni Cirillo (Planning Lab) – on behalf of the applicant, and Jeremy Loblay (Candalepas Associates) – on behalf of the applicant. A written submission by Angelo Candalepas (Candalepas Associates) was read out by Mr Cirillo.

Item 4 Development Application: 114-120 Castlereagh Street, Sydney - D/2022/555

The Panel granted consent to Development Application No. D/2022/555 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~~):

(8) FIRST FLOOR TERRACE

~~Patron access to the first floor terrace must be restricted to between 10.00am and 9.00pm, Monday to Sunday.~~

~~The door between the terrace and the main gaming area on level one must be closed at all times after 9.00pm.~~

The first floor terrace at the rear of the premises must not be used for patrons at any time.

(12) PLAN OF MANAGEMENT

~~The use must always be operated / managed in accordance with the Plan of Management, prepared by City Tattersalls Group, signed and dated May 2022 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.~~

(a) ***The Plan of Management prepared by City Tattersalls Group, signed and dated June 2022, must be amended to:***

- (i) ***delete reference to a smoking terrace under section 8.1;***
- (ii) ***identify that the only area where smoking is permitted is the first floor al fresco area; and***
- (iii) ***note that the first floor terrace at the rear of the premises must not be used for patrons at any time.***

The amended Plan of Management must be submitted to and approved by Council's Area Planning Manager prior to the issue of an Occupation Certificate.

(b) ***The use must always be operated/managed in accordance with the Plan of Management approved in (a) above.***

(c) ***In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.***

(26) EMISSIONS

(a) ***The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.***

(b) ***Gaseous emissions from the development must comply with the requirements of the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Clean Air) Regulation 2010.***

- (c) ***Uses that produce airborne particulate matter must incorporate an effective dust collection system.***

Reason

To protect the amenity of the surrounding area.

(27) VENTILATION MINOR WORKS

The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1-1998 and AS1668.2-1991.

Reason

To ensure the ventilation system complies with relevant standards.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposal is consistent with the objectives of the B8 Metropolitan Centre zone contained within the Sydney Local Environmental Plan 2012.
- (B) Subject to conditions, the proposal is consistent with the relevant late night trading provisions in section 3.15 of the Sydney Development Control Plan 2012.
- (C) Issues raised in submissions have been considered and where appropriate have been addressed in the recommended conditions of consent.
- (D) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that the proposal is in the public interest because it is consistent with the objectives of the B8 Metropolitan zone and the development standards detailed in the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (E) Condition 8 was amended to ensure the first floor rear terrace is not used by patrons, to protect the amenity of neighbouring residents.
- (F) Condition 12 was amended to clarify the areas where smoking is and is not permitted.
- (G) Conditions 26 and 27 were added to protect the amenity of neighbouring residents and ensure the ventilation system complies with relevant standards.

Carried unanimously.

D/2022/555

Speakers

Mary-Ellen Betts

William Corbett (City Tattersalls Club) – on behalf of the applicant.

Item 5 Development Application: 650 Botany Road, Alexandria - D/2022/165

The Panel refused consent for Development Application No. D/2022/165 for the reasons outlined below.

Reasons for Decision

The application was refused for the following reasons:

- (A) Insufficient justification has been provided to demonstrate that the proposed development complies with the height of buildings development standard pursuant to Clause 4.3 of the Sydney Local Environmental Plan 2012. A written request to vary the height standard has not been submitted in accordance with Clause 4.6 of the Sydney LEP 2012.
- (B) The proposed development fails to comply with the floor space ratio development standard pursuant to Clause 4.4 of the Sydney LEP 2012. A written request to vary the floor space ratio standard has not been submitted in accordance with Clause 4.6 of the Sydney LEP 2012.
- (C) The proposal has not adequately demonstrated that the proposed development meets the definition of shop top housing. The proposed development and lack of ground floor commercial does not satisfy the objectives of the B7 Business Park zone which focuses on the delivery of employment uses.
- (D) The proposal fails to demonstrate design excellence in accordance with Clause 6.21C of the Sydney LEP 2012. The development does not exhibit a high standard of architectural design, materials and detailing, results in adverse impacts to the public domain on both Botany Road and Birmingham Street, provides poor amenity for future occupants of the site and neighbouring properties and does not achieve excellence and integration of landscape design.
- (E) The proposal results in a poor level of amenity for future occupants and neighbouring properties due to issues such as noise, visual privacy, natural ventilation and cross ventilation, communal open space, access, landscaping and overshadowing. Specifically, the development fails to comply with the following controls:
 - (i) State Environmental Planning Policy (SEPP) No. 65 Design Quality of Residential Apartment Development - the development is not in accordance with the Design Quality Principles under Schedule 1 of the SEPP.
 - (ii) Apartment Design Guideline - the development has not demonstrated compliance with the objectives and controls contained in Part 3D Communal and public open space, 3E Deep soil zones, 3F Visual privacy, 4A Solar and daylight access, 4B Natural ventilation, 4D Apartment size and layout, 4F Common circulation and spaces, 4G Storage and 4J Noise and pollution.
 - (iii) Sydney Development Control Plan 2012 - the development has not demonstrated compliance with the objectives and controls contained in Section 2 – Locality statements; Section 3 relating to public domain, urban ecology, ESD, water and flood management, heritage, accessible design, social and environmental responsibilities and waste; and Section 4 relating to amenity including solar access, lightwells, internal common areas, deep soil, common open space, ventilation, acoustic privacy and dwelling mix.
- (F) The application fails to demonstrate that the land can be made suitable for the purpose for which the development is proposed to be carried out, in accordance with Section 4.6 (Remediation of Land) of the SEPP (Resilience and Hazards) 2021.

- (G) The application contains inaccurate and insufficient information to adequately assess the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. The application has failed to provide a Design Verification Statement signed by a nominated architect, a Public Benefit Offer for the required 1.4m land dedication on Botany Road, an arborist report, an adequate BCA report, accurate BASIX/ NatHERS certification, a peer review of the Remediation Action Plan, a flood assessment and a Heritage Impact Statement.
- (H) The various non compliances and their impacts results in a development that is not in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

Carried unanimously.

D/2022/165

Speaker

John Mavrocordatos (Denka Pty Ltd).

The meeting of the Local Planning Panel concluded at 6.10pm.

CHAIR