

Local Planning Panel

Meeting No 74

Wednesday 12 October 2022

Notice Date 5 October 2022

minutes

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Present

Ms Abigail Goldberg (Chair), Mr Tony Caro, Professor Helen Lochhead and Associate Professor Amelia Thorpe.

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

Ms Goldberg, Mr Caro, Prof Lochhead 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.

Item 1 Disclosures of Interest

No members disclosed any pecuniary or non-pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

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.

Item 2 Confirmation of Minutes

The Panel noted the minutes of the Local Planning Panel of 31 August 2022, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 26-28 and 34 Pirrama Road, Pyrmont - D/2021/1445

The Panel resolved that consent be refused for Development Application No. D/2021/1445 for the reasons outlined below.

Reasons for Decision

The application is refused for the following reasons:

Unacceptable noise and amenity impacts

- (A) The proposed development is likely to result in unreasonable noise and amenity impacts, as it does not:
- (i) address the likely impacts of the development on the occupants of surrounding residential land uses;
 - (ii) consider the potential cumulative noise impacts from the proposed and existing late night premises in the area;
 - (iii) consider the potential impacts from patrons arriving and leaving the site en masse as is typical for a function centre use;
 - (iv) provide sufficient information to enable an accurate or detailed assessment of the potential noise impacts to be undertaken;
 - (v) satisfactorily demonstrate that the recommended noise emission restrictions are appropriate for the proposed use, will adequately protect the surrounding resident's amenity, or will be capable of being complied with; and
 - (vi) provide adequate measures to eliminate or control unreasonable noise impacts on nearby residential land uses.

The proposed development is therefore contrary to and fails to satisfy:

- (vii) Section 4.15(1)(b) of the Environmental Planning and Assessment Act, 1979.
- (viii) Clause 1.2 of the Sydney Local Environmental Plan 2012, including the aim at part 2(h) of the clause.
- (ix) Objective (b) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (x) Objective (h) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (xi) Objective (k) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (xii) Section 4.2.3.11 'Acoustic privacy' of the Sydney Development Control Plan 2012.

Unacceptable Plan of Management

- (B) The Plan of Management is unsatisfactory given that:
- (i) the proposed management practices would be difficult to carry out and enforce and not likely to be adequate;
 - (ii) it has not been demonstrated that noise and amenity impacts on residential properties could be effectively managed;
 - (iii) it has not been demonstrated that use of the outdoor areas could operate in accordance with the proposed recommended patron and operating hour restrictions;
 - (iv) the proposed management measures rely on constant monitoring of the outdoor terrace areas; and
 - (v) the proposed management practices seek to encourage patrons to behave in a particular manner but cannot guarantee or enforce the terms of the management plan.

The proposed development is therefore contrary to and fails to satisfy:

- (vi) Objective (c) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (vii) Objective (n) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (viii) Section 3.2 'Plan of management requirements' at Schedule 3 of the Sydney Development Control Plan 2012.

Does not promote orderly development

- (C) The proposal does not promote the orderly use of the land, given that:
- (i) the dual use of the site, for a restaurant and function centre, would be difficult to manage given that each use would have different patron capacities, different hours of operation and different plans of management.

The proposed development is therefore contrary to and fails to satisfy:

- (ii) Object (c) at Clause 1.3 of the Environmental Planning and Assessment Act 1979.

Site unsuitable for the development

- (D) The proposed development has not satisfactorily demonstrated that:
- (i) the site is suitable for the development given its proximity to sensitive residential land uses.

The proposed development is therefore contrary to and fails to satisfy:

- (ii) Section 4.15(1)(c) of the Environmental Planning and Assessment Act, 1979.
- (iii) The B3 Commercial Core zone objectives of the Sydney Local

Environmental Plan 2012.

- (iv) Objective (a) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.

Impacts on the public domain

- (E) The proposal has the potential to impact negatively on the amenity of the street and public domain, given that:
 - (i) it has not been demonstrated that there will be no queuing on the footpath.

The proposed development is therefore contrary to and fails to satisfy:

- (ii) Objective (a) at Section 3.2.2 'Addressing the street and public domain' of the Sydney Development Control Plan 2012.

Not in the public interest

- (F) The proposal is unsatisfactory having regard to the submissions made in objection; and is contrary to the public interest.

The proposed development is therefore contrary to and fails to satisfy:

- (i) Section 4.15(1)(d) of the Environmental Planning and Assessment Act, 1979.
- (ii) Section 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979.

Carried unanimously.

D/2021/1445

Speakers

Julianne Adamo, Ken Loudon (Pymont Action Inc.).

Scott Barwick (SJB Planning), Victor Fattoretto (Acoustic Logic), Frank Sartor (SPP Services) and Joseph Murray (Doltone House) – on behalf of the applicant.

Item 4 Development Application: 360 Victoria Street, Darlinghurst - D/2021/1531

The Panel resolved that consent be granted to Development Application No. D/2021/1531 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 development complies with the objectives of the B4 Mixed use zone pursuant to the Sydney LEP 2012.
- (B) The proposal is consistent with the relevant objectives and controls of the Sydney LEP 2012 and the Sydney DCP 2012.
- (C) Subject to conditions of consent, the development will not have a detrimental impact upon the locally listed heritage item.
- (D) Subject to conditions of consent, the development will not adversely affect the character of the Darlinghurst Civic Precinct Locality or the Oxford Street and Victoria Street Heritage Conservation Area.
- (E) Subject to conditions of consent, the development will achieve the principles of design excellence.
- (F) Subject to conditions of consent, the development will not adversely impact upon the amenity of the locality.
- (G) Suitable conditions of consent have been applied and the development is considered to be in the public interest.

The motion was carried on the following show of hands –

Ayes (3) Abigail Goldberg, Helen Lochhead and Tony Caro

Noes (1) Amelia Thorpe.

Carried.

D/2021/1531

Speakers

Angus Murray (Safer Impact Hotel Group).

Sophie Kuszniczuk (Ethos Urban) - on behalf of the applicant.

Item 5 Development Application: 657-657A Botany Road, Beaconsfield - D/2021/1335

The Panel resolved that pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2021/1335 subject to the conditions set out in Attachment A to the subject report, subject to the following amendment (additions shown in ***bold italics*** and deletions in ~~strikethrough~~):

(4) DESIGN MODIFICATIONS/DETAILS

- (a) The design of the rear elevation of the building is to be refined to provide an improved presentation of the building to the laneway. In this regard consideration should be given to incorporating materials and design elements consistent with the front elevation of the building such as the use of brickwork, brick banding and incorporation of horizontal window elements and projecting window surrounds. All windows and doors are to be set into the facade to give depth to the facade. The building is also to be designed to ensure that it is contained wholly within the site boundaries adjacent the laneway.
- (b) The exposed blank side elevations of the building are to provide a quality ***of*** finish. ***This may include a modulated material such a formed / lined concrete.*** ~~In this regard~~ ***The*** details of the material, colour and architectural detailing of the elevations are to be provided.

Reasons for Decision

A deferred commencement approval of the application is granted for the following reasons:

- (A) The proposal complies with the relevant controls of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (B) The proposal represents appropriate development for the site and is in line with transition of the Botany Road corridor.
- (C) Subject to conditions, the proposal satisfies design excellence provisions.
- (D) A public benefit offer has been made and satisfies 6.14 of the Sydney LEP relating to the provision of community infrastructure within Green Square. This is subject to deferred commencement to execute the associated Voluntary Planning Agreement.
- (E) The Panel supports uses on the first floor that will enable surveillance over the public domain from the window.
- (F) Condition 4 was amended in order to mitigate the impact of the exposed blank side elevations by modulating their appearance, with a view to contributing positively to the streetscape.

Carried unanimously.

D/2021/1335

Item 6 Report to the Local Planning Panel - Status of Applications

The Panel received and noted the subject report.

Carried unanimously.

X019228

Item 7 Proposed Schedule of Local Planning Panel Meetings for 2023

The Panel adopted the draft Schedule of Local Planning Panel Meetings for 2023, as shown at Attachment A to the subject report.

Carried unanimously.

X086707

The meeting of the Local Planning Panel concluded at 6.09 pm.

CHAIR