

Local Planning Panel

Meeting No 77

Wednesday 14 December 2022

Notice Date 7 December 2022

minutes

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Present

Ms Linda Pearson (Chair), Mr Paul Berkemeier, Ms Penny Murray and Mr John McInerney AM.

At the commencement of business at 5.06pm, those present were:

Ms Pearson, Mr Berkemeier, Ms Murray and Mr McInerney.

The Executive Manager Planning and Development was also present.

Ms Murray left the meeting of the Local Planning Panel at 6.03pm prior to discussion on Item 5, and did not return. Ms Murray was not present at, nor in sight of, the meeting of the Local Planning Panel during discussion nor voting on Item 5.

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.

Penny Murray disclosed:

- a reasonably perceived less than significant conflict of interest in Item 3 on the agenda, in that in her business practice she has been on joint consultancy teams with Ethos Urban and Urbis on a sporadic basis;
- a reasonably perceived less than significant conflict of interest in Item 4 on the agenda, in that an employee in her business practice is an unpaid volunteer on the Sydney Catholica Archdiocese property committee. Ms Murray stated that both she and the employee have no knowledge of the matter; and
- an actual conflict of interest in Item 5 on the agenda, in that two partners in her business practice have Toga as a client.

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, Ms Murray is not required to step out for deliberation on Items 3 and 4.

In accordance with the Code of Conduct for Local Planning Panels and the City of Sydney Local Planning Panel Operational Procedures, Ms Murray will step out of the meeting during discussion of, and voting on, Item 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 23 November 2022, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 169-173 Victoria Street and 92-98 Brougham Street, Potts Point - D/2021/927

The Panel:

- (A) supported the variations requested to Clause 4.3 'Height of buildings' and Clause 4.4 'Floor space ratio' 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/2021/927, 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) PRELIMINARY PUBLIC ART PLAN

Prior to the operation of consent, a preliminary public art plan, prepared ***in compliance with Clause 7.26(2) of the Sydney Local Environmental Plan 2012, and*** in accordance with the relevant requirements of the Sydney Development Control Plan 2012, the City of Sydney Public Art Policy, and the City of Sydney Interim Guidelines: Public art in private developments must be provided to the satisfaction of Council's Area Planning Manager.

Reason

To ensure public art is incorporated into the development.

(3) FIRE HYDRANT DESIGN MODIFICATION AND DETAILS – VICTORIA STREET

No consent is granted or implied for the proposed hydrant booster arrangement in front of the former Golden Apple building at 169 Victoria Street, Potts Point.

The design and details of fire hydrant booster arrangement in the front yard of that property must be amended to ~~delete the proposed hydrant cupboard and~~ provide a revised design, which is sympathetic to the heritage fabric and character of the adjoining buildings.

The amended design and details must be submitted to the satisfaction of Council's Area Planning Manager.

Reason

To ensure an appropriate heritage outcome.

(27) PUBLIC ART

- (a) A Detailed Public Art Plan with final details of the proposed public artwork must be submitted to and approved by Council's Area Planning Manager prior to issue of any Construction Certificate for above ground works.

The public artwork must be in ***compliance with Clause 7.26(2) of the Sydney Local Environmental Plan 2012, and in*** accordance with the Preliminary Public Art Plan referred to in deferred commencement condition (2) and approved by Council, the *Sydney Development Control Plan 2012*, the *Public Art Policy*, and the *Interim Guidelines: Public art in private developments*.

- (b) Public artwork must be installed to the City's satisfaction, inspected and approved and the Final Public Art Report submitted and approved by Council's Area Planning Manager prior to the issue of any Occupation Certificate.

Note: Public Art must be reviewed and endorsed by the City's Public Art Team and/or the Public Art Advisory Panel prior to submission for Council approval. Further information is available online at the following website:

<http://www.cityofsydney.nsw.gov.au/explore/arts-and-culture/public-art>

Please contact the Public Art Team for further information at the following email address:

publicartreferrals@cityofsydney.nsw.gov.au

Reason

To ensure public artwork is installed to the City's satisfaction.

(51) ACOUSTIC UPGRADE OF EXISTING ORIGINAL DOORS AND WINDOWS OF PICCADILLY HOTEL AND THE TERRACES

No consent is granted or implied for the replacement of existing glazing within retained original windows and doors within the Piccadilly Hotel at 171-173 Victoria Street, Potts Point.

Detailed drawings and specifications for **any** alternative acoustic options for those doors and windows that does not involve replacement of original fabric must be **included with a report detailing the appropriateness of any replacement glazing or alternatives which must to be** prepared and submitted to and approved by Council's Area Coordinator Planning Assessments or Area Planning Manager prior to a Construction Certificate being issued.

Reason

To ensure an appropriate heritage outcome.

(122) SITE AUDIT STATEMENT

~~Prior to the issue of a construction certificate associated with the built form of the development (excluding building work directly related to remediation), a Section A Site Audit Statement must be obtained from a NSW Environment Protection Authority accredited Site Auditor and submitted to the Council's Area Planning Manager at email address:~~

~~hbapplications@cityofsydney.nsw.gov.au~~

In the event that further contamination investigation requires a Section A Site Audit Statement from a NSW Environmental Protection Authority accredited Site Auditor, it must be submitted to the Council's Area Planning Manager at email address hbapplications@cityofsydney.nsw.gov.au prior to the issue of a construction certificate associated with the built form of the development (excluding building work directly related to remediation).

The Site Audit Statement must confirm that the site has been remediated in accordance with **any subsequently** the approved Remedial Action Plan and clearly state that site is suitable for the proposed use.

- (a) In circumstances where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council, these must be reviewed and must be approved by the Council's Health and Building Unit in writing through the Area Planning Manager before the Site Audit Statement is issued.
- (b) In circumstances where the Site Audit Statement conditions (if applicable) are not consistent with the consent, the development must not proceed until the inconsistency has been resolved to the satisfaction of Council (such as via a Section 4.55 modification of the consent pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*).
- (c) No Occupation Certificate is to be issued by the Principal Certifier unless a Site Audit Statement has been submitted to and approved by Council in accordance with this condition.

Reason

To ensure that the site is appropriately remediated.

Reasons for Decision

The application was granted deferred commencement consent for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act, 1979, in that, subject to the imposition of 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) 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 Local Environmental Plan 2012, that compliance with the 'Height of buildings' and 'Floor space ratio' development standards is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 and Clause 4.4 of the Sydney Local Environmental Plan 2012; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 Mixed Use and R1 General Residential zones and the 'Height of buildings' and 'Floor space ratio' development standards.
- (C) The proposal otherwise generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012.
- (D) The proposal is consistent with the objectives of the B4 Mixed Use and R1 General Residential zones.
- (E) The proposal will conserve the heritage significance of the Piccadilly Hotel building and the surrounding Potts Point and Woolloomooloo heritage conservation areas, in accordance with Clause 5.10 of the Sydney Local Environmental Plan 2012.
- (F) The articulation, materiality and architectural contribution of the proposal combine to exhibit design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21 of the Sydney Local Environmental Plan 2012.

- (G) The proposed development will have a height, scale and form suitable for the site and its context, and subject to conditions, satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the broader locality.
- (H) The proposed development will result in a mix of compatible land uses which will support the vitality of the area and will not result in any significantly adverse environmental or amenity impacts on either the subject or surrounding properties, the public domain or the broader Potts Point locality, subject to the recommended conditions.
- (I) Subject to the recommended conditions of consent, the proposed development achieves an acceptable level of amenity for the existing and future occupants of the subject and adjoining sites.
- (J) The public interest is served by the approval of the proposal, as amendments to the proposed development have generally addressed the matters raised by the City and the community, subject to recommended conditions imposed relating to the appropriate management of the potential environmental impacts associated with the development.
- (K) Conditions 2 and 27 were amended to provide more certainty with regard to compliance with Clause 7.26(2) of the Sydney Local Environmental Plan 2012.
- (L) Conditions 3 and 51 were amended at the request of the applicant, to permit a degree of flexibility whilst retaining the original intent in relation to addressing the potential for heritage impacts in an appropriate manner.
- (M) Condition 122 was amended to ensure it aligns with the requirements of condition 121.

Carried unanimously.

D/2021/927

Speakers

Phillip George (PG Capital) – on behalf of the applicant, Stephen Gouge (Ethos Urban) – on behalf of the applicant, and Ian Lomas (Woods Bagot) – on behalf of the applicant.

Item 4 Development Application: 163 Bridge Road, Glebe - D/2022/285

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;
- (B) upheld the variation requested to Clause 68 (2)(d) communal open space, of the SEPP (Housing) 2021, 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/2022/285 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 building must be modified as follows:

- (a) Details of the screening around the ground level mechanical plant area are to be provided at a scale of 1:50 and must demonstrate that the plant and associated screen do not sit higher than the sill of the adjacent windows or the adjacent fence. Details of the screen design, along with materials, colours and finishes are required.
- (b) Window W2.18 on the eastern elevation to the side of the level 2 dormer window is to be ~~deleted~~ ***redesigned to achieve a single vertically proportioned form.***
- (c) All external glazing is to be clear (not tinted), with a minimum VLT of 70% to ensure all glazing is consistent with the character of the contributory building
- (d) The ground floor southern communal outdoor area is to include two fixed seating benches with piers footings. These seats are to be sufficiently distanced from the mechanical plant and drying area.
- (e) All new windows and doors to the first floor as well as any windows / doors in the existing original walls on level 2 are to be timber framed
- (f) The building identification sign on the east elevation is to be externally illuminated from a concealed or discrete source.
- (g) The required bike spaces for the child care centre under D/2006/1792/B are to be re-located.
- (h) A workspace for the manager is to be provided either within the communal living area or in a separate space.
- (i) ***The new access to the front porch is to be redesigned to retain as much as possible of the original porch including the tiled roof, the ceiling (soffit) and rafters, brick columns and the stepped balustrade (which references to the stepped balustrade of St James Church).***

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

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposed development is consistent with the objectives of the R1 General Residential zone.
- (B) The proposed development satisfies the relevant objectives and provisions of the Sydney Development Control Plan 2012
- (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 building height development standard and communal open space development standard are unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012 and clause 68(2)(d) of the SEPP (Housing) 2021; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone, the building height development standard and the SEPP (Housing) 2021 standards.
- (D) Having considered the matters in Clause 6.21 of the Sydney LEP 2012, the building displays design excellence because:
 - (i) The alterations and additions to the existing building are sympathetic and respond to the heritage fabric and features of the existing building.
 - (ii) The proposed roof additions are appropriately designed to limit the perceived additional bulk and massing.
 - (iii) The proposal does not result in unreasonable amenity impacts to neighbouring properties.
- (E) The proposal provides for uses that are 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.
- (F) Condition 2(b) was amended to improve amenity to the communal area.
- (G) Condition 2(i) was added to retain as much of the existing front porch as possible.

Carried unanimously.

D/2022/285

Speakers

David Tran (TP Consulting), John Dixon and Ian Stephenson (The Glebe Society).

Item 5 Development Application: 110-122 Oxford Street, Darlinghurst - D/2022/810

The Panel granted consent to Development Application No. D/2022/810 subject to the recommended conditions set out in Attachment A to the subject report.

Reasons for Decision

The application was approved for the following reasons:

- (A) The development, subject to conditions, is consistent with the objectives of the B2 Local Centre zone pursuant to Sydney Local Environmental Plan 2012.
- (B) The development conserves the heritage significance of the heritage items on site and satisfied clause 5.10 of the Sydney Local Environmental Plan 2012.
- (C) The development exhibits design excellence to satisfy clause 6.21 of the Sydney Local Environmental Plan 2012.
- (D) The development is consistent with the executed planning agreement for the site.
- (E) The development promotes land uses that will attract pedestrian traffic along with ground floor street frontage.

Note – the Panel affirmed that the assessment report provides the detailed underlying reasons why the above conclusions have been reached, including the detailed assessment by reference to all relevant planning instruments and development control plans applicable to the site.

Carried unanimously.

D/2022/810

Speakers

Sean Fliegner.

Vincent Santos (Toga) – on behalf of the applicant.

The meeting of the Local Planning Panel concluded at 6.30pm.

CHAIR