

Local Planning Panel

Meeting No 81

Wednesday 17 May 2023

Notice Date 10 May 2023

minutes

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Present

Mr Steven Layman, Mr Marcus Trimble, Ms Annelise Tuor and Associate Professor Amelia Thorpe.

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

Mr Layman, Mr Trimble, Ms Tuor 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

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 5 April 2023, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 29-33 Ithaca Road, Elizabeth Bay - D/2021/1478

The Panel granted deferred commencement consent to Development Application number D/2021/1478 subject to the conditions set out in Attachment A to the subject report to the Local Planning Panel on 17 May 2023, subject to the following amendments (additions shown in **bold italics**, deletions shown in ~~strikethrough~~):

(32) SITES IN THE VICINITY OF BUILDINGS WITHIN A HERITAGE CONSERVATION AREA – MAJOR DEVELOPMENT

- (a) A protection strategy for the duration of the construction works is to be submitted to and approved by Council's Urban Design and Heritage Manager / Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of any Construction Certificate. The Strategy is to detail how the proposed works will ensure that the buildings at 68 Elizabeth Bay Road, 72 Elizabeth Bay Road, and 74 Elizabeth Bay Road, **27 Ithaca Road and 28 Onslow Avenue** and are to be suitably protected and stabilized during the construction process including from any construction waste, dust, damp, water runoff, vibration or structural disturbance or damage.
- (b) Additionally, the protection strategy is to include:
 - (i) a geotechnical report detailing the investigation of the location and depth of footings **and structures** of the adjacent buildings. The report must address details of lateral ground movement, advice of any additional boundary offsets that may be required as a result of the location of footings and on the suitability of structural engineer's proposals for underpinning or other support to adjacent footings; **and**
 - (ii) **onsite continuous vibration monitoring with an appropriate alarm or notification mechanism in place during the excavation and construction activities on the site.**

Reason

To ensure the protection of adjacent/nearby heritage items.

Reasons for Decision

The application was approved 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 LEP 2012, that compliance with the minimum internal area apartment size development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 30(1)(b) of the State Environmental Planning Policy 65 – Design Quality; and

- (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the minimum internal area apartment size development standard established by Clause 30(1)(b) of the State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development.
- (C) The proposal generally satisfies the objectives and provisions of Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (D) The proposal is consistent with the objectives of the R1 - General Residential zone.
- (E) The proposal complies with the maximum height of buildings development standard established by Clause 4.3 of the Sydney Local Environmental Plan 2012.
- (F) The proposal complies with the maximum floor space ratio development standard established by Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (G) The proposal provides an appropriate response to the heritage significance of the contributory building by securing an adaptive reuse and is consistent with the desired future character for The Bays Locality, whilst making a positive contribution to the Elizabeth and Rushcutters Bays heritage conservation area, in accordance with Clause 5.10 of the Sydney LEP and Section 2.4.6 and Section 3.9.7 of the Sydney Development Control Plan 2012.
- (H) Subject to the recommended conditions of consent, the proposed development achieves acceptable amenity for the existing and future occupants of the subject and adjoining sites.
- (I) The proposed development provides a high standard of architectural design and has appropriately addressed issues of heritage, bulk and massing, environmental impacts and landscape integration to deliver a development which responds to the scale and character of surrounding buildings and is appropriate within the context.
- (J) 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 6.21C of the Sydney Local Environmental Plan 2012.
- (K) Condition 32 was amended to ensure consistency in the protection measures afforded to adjoining properties and address the construction impact concerns of neighbouring residents.

Carried unanimously.

D/2021/1478

Speakers

Philip North (Weir Phillips Heritage) – on behalf of 68 Elizabeth Bay Road, Andrew Cox, Aida Tomescu, Vanessa Gazy and Alex Gelbart.

Jonathan Archibald (Architectus) – on behalf of the applicant, and Joshua Zoeller (CHROFI) – on behalf of the applicant.

Item 4 Section 4.55(2) Modification Application: 23A Lime Street, Sydney - D/2021/1212/A

The Panel granted consent to Section 4.55(2) Modification Application number D/2021/1212/A 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, as modified is considered to be substantially the same as that originally approved.
- (B) The modified development is consistent with the objectives of the SP5 Metropolitan Centre Zone.
- (C) The modified development is considered acceptable having regard to the reasons given for the original consent in accordance with section 4.55(3) of the Environmental Planning and Assessment Act 1979. Besides the other matters discussed in this report, the previous assessment against the provisions of Section 4.15 of the EP&A Act are still relevant.
- (D) The modified development, subject to conditions, will promote the orderly operation of the premises and achieve an acceptable level of amenity for the existing and future occupants of adjoining sites.
- (E) The proposal satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

Carried unanimously.

D/2021/1212/A

Speakers

Dragan Pasatovic (Sydney Architecture Group) – on behalf of the applicant, and Claudiu Pop (Norrebro Design) – on behalf of the applicant.

Item 5 **Development Application: 169-173 Darlinghurst Road, Darlinghurst - D/2022/911**

Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, the Panel granted deferred commencement consent to Development Application number D/2022/911 subject to the conditions set out in Attachment A to the subject report to the Local Planning Panel on 17 May 2023, subject to the inclusion of a reason for each condition and the following amendments to deferred commencement condition (1) and condition (5) (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

(1) PLANNING AGREEMENT

- (a) The Voluntary Planning Agreement between the COUNCIL OF THE CITY OF SYDNEY and PG WEALTH PTY LTD and JC DECAUX AUSTRALIA TRADING PTY LTD shall be executed and submitted to Council; and
- ~~(b) The Voluntary Planning Agreement, as executed, must be registered on the title of the land.~~

Reason

To ensure the community benefit, approved as part of the consent, continues to be delivered.

(5) ~~POSITIVE COVENANT AND ADVERTISING DEED~~

~~Prior to any Occupation Certificate being issued, a positive covenant, in the form specified in the Planning Agreement, is to be registered on title of the land to which this consent relates requiring all ***the*** operators of the advertisement ***must*** to enter into an Advertising Deed with the Council ***in the form specified in the Planning Agreement***. The covenant must be created at no cost to Council.~~

Reason

To ensure the community benefit approved as part of the consent continuously used for the approved purpose.

Reasons for Decision

The application was approved for the following reasons:

- (A) The continued use and associated works of the sign relies upon existing use rights that are preserved within the existing development consent. The replacement sign is of similar size and design to the existing sign, it will not result in an increase in the intensity of the use or expansion beyond what was previously permitted. Therefore, the proposed replacement of the sign complies with the existing use requirements of the Environmental Planning and Assessment Act, 1979.
- (B) Conditions of consent are recommended to address the dwell times and the transition of the electronic content to address the visual impact of the sign. Conditions are also recommended regarding the illumination and compliance with the submitted management plan addressing the operation of the sign's content.
- (C) The reasons for all conditions were inserted to correct a drafting error.

- (D) Conditions 1 and 5 were amended in line with requests made by the applicant, retaining the original intent of each of the conditions in relation to ensuring the Voluntary Planning Agreement is binding and its public benefits are delivered accordingly.

Carried unanimously.

Speakers

Simon Wilkes (Urbis) – on behalf of the applicant.

The meeting of the Local Planning Panel concluded at 6.20pm.

CHAIR