

Local Planning Panel

Meeting No 82

Wednesday 28 June 2023

Notice Date 21 June 2023

minutes

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Present

Ms Linda Pearson (Chair), Mr Paul Berkemeier, Ms Megan Jones and Mr John McInerney AM.

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

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

The Manager Planning Assessments 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 17 May 2023, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 45 Renwick Street, Alexandria - D/2022/592

The Panel refused consent for Development Application No. D/2022/592 for the reasons outlined below.

Reasons for Decision

The application was refused for the following reasons:

Failure to exhibit design excellence

- (A) The proposed development fails to demonstrate design excellence, as it:
- (i) fails to deliver a high standard of architectural and urban design that is appropriate for the location;
 - (ii) has a form and external appearance that will detract from the quality and amenity of the public domain;
 - (iii) detrimentally impacts on the view corridor of Renwick Street and Dibbs Street; and
 - (iv) fails to respect the heritage significance of the Kingsclear heritage conservation area.

As such, the proposed development is contrary to and fails to satisfy:

- (i) Clause 1.2(2) of the Sydney Local Environmental Plan 2012, including the aims at parts (h), (j), and (k);
- (ii) Clause 6.21 of the Sydney Local Environmental Plan 2012, including the objective of the clause;
- (iii) Clause 6.21C(2) of the Sydney Local Environmental Plan 2012, including the matters for consideration at parts (a), (b), (c) and (d); and
- (iv) Section 4.1 of the Sydney development Control Plan 2012, including the objectives of 4.1.1 (a)-(c), and Provisions (1)-(5); Objectives 4.1.2(a) and (b); Objectives 4.1.3 (a) and (b); Section 4.1.3.6 (1) and (2), Sections 4.1.6 and 4.1.8.

Unacceptable impacts on the significance of the heritage conservation area

- (B) The proposed development fails to:
- (i) establish and respond to the objectives of the Kingsclear heritage conservation area;
 - (ii) provide a sympathetic infill development in accordance with objectives of Provision 3.9 of the Sydney Development Control Plan 2012; and
 - (iii) provide a built form that represents a modern interpretation of the existing single storey contributory building as viewed from Renwick Street.

As such, the proposed development is contrary to and fails to satisfy:

- (i) Clause 1.2(2) of the Sydney Local Environmental Plan 2012, including the aim at part (k);
- (ii) Clause 5.10(1) of the Sydney Local Environmental Plan 2012, including the objectives of part (b);

- (iii) Clause 5.10(4) of the Sydney Local Environmental Plan 2012; and
 - (iv) Provision 3.9 of the Sydney Development Control Plan 2012, including the objectives at parts (a) and (b).
- (C) The proposal is not in the public interest.
- (D) In light of the above, approval of the application is not in accordance with the public interest, as required under Clause 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979

Carried unanimously.

D/2022/592

Speakers

Michelle Dance and Lisi Schappi.

Talea Bader – on behalf of the applicant, Emily Townsend – on behalf of the applicant, Anastasia Leone (Urban Style Design) – applicant, and Michael Edwards (Edwards Heritage) – on behalf of the applicant.

Item 4 Development Application: 8 Coneill Place, Forest Lodge - D/2022/846

The Panel:

- (B) 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
- (C) granted consent to Development Application No. D/2022/846 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) ***With the exception of the lift***, the setback from the ~~southern~~ boundary ***between 8 and 9 Coneill Place*** is to be increased to ***generally*** 2.5m for the first floor.
- (b) All first-floor windows on the southern boundary are to be either fixed obscure glazing or with a sill height of at least 1.6m above the finished floor level.

The modifications are to be submitted to and approved by 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.

(3) AFFORDABLE HOUSING CONTRIBUTION – RESIDUAL LAND OR CENTRAL SYDNEY – PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION – PRIOR TO CONSTRUCTION CERTIFICATE

- (a) In accordance with the City of Sydney Affordable Housing Program and prior to the issue of a Construction Certificate, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid to the City of Sydney Council.
- (b) The contribution is \$213,769.25 (indexed at 26 May 2023). This is calculated by establishing the sum of the equivalent monetary contribution \$10,611.53 multiplied by 1% of the total floor area for non-residential development (0 sqm) and the equivalent monetary contribution \$10,611.53 multiplied by 3% of the total floor area for residential development (671.5sqm).
- (c) If the contribution is paid after the indexation period in which the consent is granted, being 1 March 2023 to 29 February 2024, the above contribution will be adjusted according to the Sydney LGA median strata dwelling price ('MDP') using the following formula.
- (d) Contribution payable at Time of Payment = $C \times \text{MDP2} / \text{MDP1}$, where:
 - (i) C is the original total contribution amount payable to the City of Sydney as shown above;

- (ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA taken from the most recent NSW Government Rent and Sales Report at the time of indexation of the equivalent monetary contribution rate; and
- (iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Report used to establish the current equivalent monetary contribution rate, being 1 March 2023 to 29 February 2024.

(e) This contribution is subject to revision, as specified in condition 2(a), in which event the amount specified in condition 3(b) is to be recalculated and submitted for approval to the Area Planning Manager.

Contact Council’s Planning Assessment Unit at planningsystemsadmin@cityofsydney.nsw.gov.au for written confirmation of the amount payable, with indexation as necessary, prior to payment.

Reason

To ensure development contributions are paid to contribute to the provision of essential affordable rental housing infrastructure.

(24) TREE PROTECTION ZONE

- (a) Before the commencement of works, Tree Protection Zone/s (TPZ) must be established around all trees to be retained not less than the distance indicated in the TPZ schedule below.
- (b) Tree protection must be installed and maintained in accordance with the Australian Standard 4970 Protection of Trees on Development Sites and with the following schedule:

TPZ Schedule

Tree No.	Species Name	Location	Radius (m) From Trunk
1-2	<i>Celtis australis</i> (Southern Hackberry)	Street tree – front	10.0
4	<i>Elaeocarpus reticulatus</i> (Blueberry Ash)	Neighbouring property – South boundary	2.5
15	<i>Phoenix canariensis</i> (Canary Island Date Palm)	Rear yard – South west corner	44.0 3.5

16	<i>Magnolia grandiflora</i> (Southern Magnolia)	Neighbouring property – South boundary	6.0
17	<i>Callistomen viminalis</i> (Weeping Bottlebrush)	Neighbouring property – South boundary	6.0

Note: Only applies to the TPZ within the subject development site and the public domain.

- (c) Ground surface protection must be installed if construction access is required through any TPZ of this condition where hard surface / paving is not existing. The ground protection must be:
- (i) Protected with boarding (ie scaffolding board or plywood sheeting or similar material), placed over a layer of mulch to a depth of at least 75mm and geotextile fabric;
 - (ii) The protective boarding must be left in place for the duration of the construction and development.
- (de) The following works must be excluded from within any TPZs:
- (i) Excavation; - except for the localised siting of piers / demolition of the concrete slab
 - (ii) Soil cut or fill including trenching;
 - (iii) Soil cultivation, disturbance or compaction;
 - (iv) Stockpiling, storage or mixing of materials;
 - (v) The parking (except existing on street parking), storing, washing and repairing of tools, equipment and machinery;
 - (vi) The disposal of liquids and refuelling;
 - (vii) The disposal of building materials;
 - (viii) The siting of offices or sheds;
 - (ix) Any action leading to the impact on tree health or structure.
- (ef) Any trenching works for services / hydraulics / drainage etc must not be undertaken within any TPZ. Alternative installation methods for services, such as directional boring/drilling, or redirection of services must be employed.
- (fg) All work undertaken within or above the TPZ must be:
- (i) Carried out in accordance with a work methodology statement prepared by an Arborist (minimum AQF Level 5) and written approval is obtained from Council's Tree Management Officer before its implementation; and

- (ii) Supervised by a Project Arborist (minimum AQF Level 5).

Reason

To ensure the protection and ongoing health of trees.

Reasons for Decision

The application was approved for the following reasons:

- (A) 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 adequately addresses the matters required by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Height 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 R1 - General Residential zone and the Height of Buildings development standard.
- (B) The proposal is generally consistent with the relevant objectives and controls of the Sydney Local Environmental Plan 2012 (LEP) and Sydney Development Control Plan (2012).
- (C) The proposed development complies with the maximum floor space ratio development standard contained in clause 4.4 of the Sydney Local Environmental Plan 2012
- (D) The proposed development provides an appropriate contribution that is suitable in terms of its context, scale and built form which is consistent with the desired future character of the area, subject to conditions. As such, the proposed development exhibits design excellence in accordance with the requirements contained in clause 6.21C of the Sydney Local Environmental Plan 2012.
- (E) The development is generally consistent with the objectives of the Sydney Development Control Plan 2012.
- (F) Suitable conditions of consent are recommended, and the development is considered to be in the public interest.
- (G) Condition 2(a) was amended to limit the extent of the setback on the first floor to that part of the development adjoining 9 Coneill Place, maintaining the amenity of neighbouring residents.
- (H) Condition 3(e) was added to clarify the potential change to the contribution effected by the amendment to condition 2(a).
- (I) Condition 24 was amended to correct an administrative error.

Carried unanimously.

D/2022/846

Speaker

Peter Paddon – on behalf of the applicant.

Item 5 Development Application: 6-8 Huntley Street, Alexandria - D/2021/1528

The Panel granted consent to Development Application No. D/2021/1528 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 E3 Productivity Support zone pursuant to Sydney Local Environmental Plan 2012.
- (B) The development will not result in adverse impact on the significance of neighbouring heritage items, including the Alexandra Canal.
- (C) The development exhibits design excellence under section 6.21C of Sydney Local Environmental Plan 2012.
- (D) The development, subject to conditions, will safeguard the amenity of neighbouring properties and operate in an orderly manner.
- (E) The development, subject to conditions, is generally consistent with the relevant environmental planning instruments, including the State Environmental Planning Policy (Resilience and Hazards) 2021 and the Sydney Local Environmental Plan 2012, and the Sydney Development Control Plan 2012.

Carried unanimously.

D/2021/1528

Item 6 Development Application: 68-80 Erskine Street, Sydney - D/2023/92

The Panel granted consent to Development Application Number D/2023/92 subject to the conditions set out in Attachment A to the subject report, subject to the following amendment (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

(10) PLAN OF MANAGEMENT – SEX SERVICES PREMISES

The use must always be operated and managed in accordance with the Plan of Management (as amended by Condition 3 of this consent), prepared by ABC Planning Pty Ltd and in consultation with Urban Realists Planning and Health Consultants dated November 2013, that has been approved by Council (Council Reference: 2023/080188).

Should there be any additional or altered activities/procedures to those specified in the approved plan of management that remain within the scope of the development consent, ***or change of ownership or management***, then the plan of management must be appropriately reviewed and submitted to and approved by Council.

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

Reason

To ensure all parties are aware of the approved supporting documentation that applies to the development.

Reasons for Decision

The application was approved for the following reasons:

- (A) The development is consistent with the objectives of the SP5 Metropolitan Centre Zone as it promotes the primary role of the zone as a centre for employment, contributes towards commercial opportunities, as well as the diversity of compatible land uses within Sydney.
- (B) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 including Clause 7.21 (Location of Sex Services Premises), and subject to conditions, will not create adverse amenity impacts nor cause disturbance in the neighbourhood.
- (C) The proposal is consistent with the relevant objectives of the Sydney Development Control Plan 2012.
- (D) The proposal is consistent with the permissible hours of operation of Section 3.15.4 of Sydney Development Control Plan 2012 and accords with Section 4.4.6 of Sydney Development Control Plan 2012 for sex services premises.

- (E) Subject to the recommended conditions of consent, the proposed development will maintain the existing level of amenity currently obtained for the site locality and adjoining sites and will not result in additional adverse environmental impacts. Conditions of consent are recommended to ensure the use continues to be managed in appropriate manner in accordance safe practices and the procedures outlined within the endorsed Plan of Management.
- (F) Condition 10 was amended to clarify that the Plan of Management remains in effect if the ownership or management of the premises changes.

Carried unanimously.

D/2023/92

Item 7 Section 4.55(2) Modification Application: 38-44 Mountain Street, Ultimo - D/2020/1288/A

The Panel granted consent to Section 4.55 Application No. D/2020/1288/A subject to the amendment of the conditions in Attachment A to the assessment report (with modifications shown in **bold italics** (additions) and ~~striketrough~~ (deletions):

(68A) SITE SUPERVISION AND REPORTING

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone of ~~any tree~~ **the two street trees along Smail Street which are located adjacent to the building's carpark entrance and listed for retention.** The Arborist must certify compliance with each key milestone detailed below:
 - ~~(i) The installation of tree protection measures prior to the commencement of any construction works;~~
 - ~~(ii) During demolition of any ground surface materials (pavers, concrete, grass etc.) within the Tree Protection Zone (TPZ) of any tree to be retained;~~
 - ~~(iii) During any excavation and trenching for services located within the Tree Protection Zone (TPZ);~~
 - ~~(iv) During any Landscape works within the TPZ which has been approved by Council.~~

- (b) An Arboricultural Compliance Report which includes photographic evidence and provides details on the health and structure of tree/s must be submitted to and acknowledged by Council's Area Planning Coordinator or Area Planning Manager at each hold-point listed below:
 - ~~(i) Certification that tree protection measures have been installed in accordance with these consent conditions;~~
 - ~~(ii) Certification of compliance with the each key milestone listed above within 48 hours of completion;~~
 - ~~(iii) Monthly reporting for the duration of construction and development works within the site;~~
 - ~~(iv) Details of any other works undertaken on the specified trees to be retained or any works within the TPZ. which has been approved by Council.~~

- (c) A final compliance report must be submitted to and approved by Council's Area Planning Coordinator or Area Planning Manager prior to the issue of any Occupation Certificate.

Reason

To ensure the protection and ongoing health of trees on the site.

(Condition Added – D/2020/1288/A – 28 June 2023)

(74A) ON SITE LOADING AREAS AND OPERATION

All loading and unloading operations associated with servicing the site, ***aside from bin collection***, must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

Reason

To maintain the orderly operation of vehicle parking areas and to ensure the public domain is kept free from physical obstructions.

(Condition Added – D/2020/1288/A – 28 June 2023)

Reasons for Decision

The application was approved for the following reasons:

- (A) The development, as modified, is substantially the same development as that originally approved and is consistent with Section 4.55(2)(a) of the Environmental Planning and Assessment Act, 1979.
- (B) The proposal is consistent with the aims, objectives and relevant provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 for the reasons set out in the report.
- (C) The development, as modified, is in the public interest.
- (D) Condition 68A was amended to reduce the requirements of the condition to specifically relate to the two trees on Smail Street.
- (E) Condition 74A was amended to remove conflict with condition 73.

Carried unanimously.

D/2020/1288/A

Speakers

Brendon Clendenning (Creative Planning Solutions) – on behalf of the applicant.

Item 8 Report to the Local Planning Panel - Status of Applications

It is resolved that the subject report be received and noted.

Carried unanimously.

X019228

The meeting of the Local Planning Panel concluded at 6.35pm.

CHAIR