

Local Planning Panel

Meeting No 83

Wednesday 19 July 2023

Notice Date 12 July 2023

minutes

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Present

Mr Steven Layman, Mr Brendan Randles, Mr Marcus Trimble and Associate Professor Amelia Thorpe.

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

Mr Layman, Mr Randles, Mr Trimble and A/Prof Thorpe.

The Executive Manager Planning and Development was also present.

Mr Trimble left the meeting of the Local Planning Panel at 6.59pm prior to discussion on Item 7, and did not return. Mr Trimble was not present at, nor in sight of, the meeting of the Local Planning Panel during discussion or voting on Item 7.

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.

Marcus Trimble disclosed a reasonably perceived conflict regarding Item 7 on the agenda, in that Bennett and Trimble have been approached by Mirvac and are currently tendering for design services for sites included in this development application.

Following assessment of the above disclosure of interest under the Code of Conduct for Local Planning Panels and the City of Sydney Local Planning Panel Operational Procedures, Mr Trimble will step out of the meeting during discussion of, and voting on, Item 7.

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 28 June 2023, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 28-30 Orwell Street, Potts Point - D/2021/893

The Panel deferred consideration of Development Application No. D/2021/893 until a subsequent meeting of the Local Planning Panel to enable the applicant to submit additional information and amended plans which address the Panel's concerns regarding the inadequate clause 4.6 variation request – height of buildings and/or the potential to minimise the view impacts by reducing the height of part of the proposed development above the fly tower.

The question of reversibility is also required to be more effectively addressed. The privacy and amenity of residents to the north requires more consideration with suitable design amendments, as well as further design resolution in separating the cabaret area from the hotel use.

The issues of hotel room amenity, hotel and venue circulation, the lack of hotel back-of-house facilities and the inadequacy of theatre back-of-house needs to be resolved.

The operational constraints imposed on the venue due to the number of hotel rooms and the potential conflicts between discrete uses also require further consideration.

Reasons for Decision

The Panel expressed reservations regarding the application in its current form, however considered it reasonable to defer rather than refuse the application as there appears to be reasonable potential for additional information and design refinements required to enable finalisation of the assessment.

The motion was carried on the following show of hands –

Ayes (3) Steven Layman, Marcus Trimble and Amelia Thorpe

Noes (1) Brendan Randles*.

Carried.

D/2021/893

(*Note – Brendan Randles would refuse the proposal as it fails to resolve circulation and amenity issues identified by Design Advisory Panel (thereby failing to demonstrate design excellence), unnecessarily breaches height, irreversibly alters a significant heritage-listed purpose-built cultural building and fails to demonstrate the appropriateness and practicality of the uses proposed).

Speakers

Andrew Woodhouse, David Orr (chairperson of the Owners Committee at 25 Hughes Street, Potts Point), Dr Peter Sheridan AM, Brandon Martignago, Lorrae Collins (Wayside Chapel), Chris Winston and Vanessa Stuart.

Giovanni Cirillo (Planning Lab) – on behalf of the applicant, Tim Greer (Tonkin Zulaikha Greer Architects) – on behalf of the applicant and Dean LaVigne (owner, operations, Mondaine vision) – on behalf of the applicant.

Item 4 Development Application: 2 Avenue Road, Glebe - D/2022/229

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 be upheld; and
- (B) granted development consent to Development Application No. D/2022/229 subject to the conditions set out in Attachment A to the subject report and **subject to the following amendments** (additions shown in **bold italics** deletions shown in ~~strike through~~):

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2022/229 dated 22 March 2022 and the following drawings prepared by DJRD Architects:

Drawing Number	Drawing Name	Date
DA-000 Rev 12	Cover Sheet	24.04.2023
DA-010 Rev 8	Extg Level 2 Plan - Demolition	24.04.2023
DA-011 Rev 9	Extg Level 3 Plan – Demolition	24.04.2023
DA-012 Rev 8	Extg Level 4 Plan – Demolition	24.04.2023
DA-100 Rev 16	Proposed Level 2 Plan (D-Lower Ground)	24.04.2023
DA-101 Rev 16	Proposed Level 3 Plan (D-Ground)	24.04.2023
DA-102 Rev 16	Proposed Level 4 Plan (D-Level 1)	24.04.2023
DA-103 Rev 16	Proposed Level 5 Plan (D-Level 2 & Roof)	24.04.2023
DA-200 Rev 14	Elevations Sheet 1	24.04.2023
DA-201 Rev 14	Elevations Sheet 2	24.04.2023
DA-250 Rev 13	Sections	24.04.2023
DA-255 Rev 2	Rail Tunnel Section	24.04.2023
DA-950 Rev 9	Materials Schedule	24.04.2023

Drawing Number	Drawing Name	Date
DA-951 Rev 1	Finishes Schedule	24.04.2023 10.20.20

As well as the following drawings prepared by Jane Irwin Landscape Architecture:

Drawing Number	Drawing Name	Date
L-DA-001 Rev E	Legend + Schedule	26.04.2023
L-DA-002 Rev F	General Arrangement	26.04.2023
L-DA-090 Rev G	Tree Management Plan	26.04.2023
L-DA-091 Rev B	Tree Canopy Cover	26.04.2023
L-DA-101 Rev F	Levels and Finishes Plan 01	26.04.2023
L-DA-102 Rev F	Levels and Finishes Plan 02	26.04.2023
L-DA-103 Rev B	Level 5 Roof Terrace Plan	26.04.2023
L-DA-400 Rev D	Planting Plan + Schedule	26.04.2023
L-DA-401 Rev D	Detail Planting Plan 01	26.04.2023
L-DA-402 Rev D	Detail Planting Plan 02	26.04.2023
L-DA-403 Rev D	Detail Planting Plan 03	26.04.2023
L-DA-404 Rev B	L5 Roof Terrace Planting Plan	26.04.2023
L-DA-501 Rev D	Landscape Section 01	26.04.2023
L-DA-502 Rev E	Landscape Section 02	26.04.2023

Drawing Number	Drawing Name	Date
L-DA-503 Rev C	Landscape Section 03	26.04.2023
L-DA-504 Rev C	Landscape Section 04	26.04.2023

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason

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

(2) 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 an **Occupation 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 \$92,479.48 (indexed at 1 March 2023). This is calculated by establishing the sum of the equivalent monetary contribution \$10,611.53 multiplied by 0.5% of the total floor area for non-residential development (1,743sqm).
- (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 = $C \times MDP2 / MDP1$, 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.

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.

(3) DESIGN MODIFICATIONS

The design of the building must be modified to ensure the air condition compressor units located to the rear of the Administration Building (**also known as Building A**) are appropriately screened.

The modifications are to be submitted to and approved by Council's Area Coordinator Planning Assessments / 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.

(5) GENERAL HERITAGE

- (a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.
- (b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures are to be specified in the construction management plan.
- (c) All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 2013.
- (d) New services in the *Administration Building* and *Wych Wood* are to be surface mounted rather than chased-in to existing walls to minimise impact on heritage fabric.
 - (i) New services must use existing service runs;
 - (ii) Where this is not possible, details of an alternative solution must be shown on drawings at a suitable scale and submitted and approved by ~~Council's Urban Design and Heritage Manager / Area Planning Manager~~ **a suitably qualified and experienced heritage practitioner or historian** prior to the issue of any Construction Certificate.
- (e) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.
- (f) The new windows and doors on the existing building must match the original material, which is timber joinery.
- (g) The face brickwork/stone/tiles must not be rendered, painted or coated.
- (h) Where internal partitions meet external walls they must abut window mullions, columns or other such building elements and not glazing.

Reason

To ensure that the development does not result in adverse heritage impacts.

(7) REDUCTION OF RISING DAMP AND SALT ATTACK IN BUILDINGS CONSTRUCTED PRIOR TO 1920

- (a) To avoid potential damage caused by rising damp and migrating salts the following is to apply to the ground floor.
 - (i) No concrete slab is to be laid directly on the ground within the heritage buildings;
 - (ii) Expansion strips should be used in conjunction with external walls; and
 - (iii) External slabs must be set down from internal levels to improve cross ventilation.
- (b) The existing suspended timber floors at ground floor level **are to be retained or replaced where necessary**, and the ventilated subfloor space is to be retained in the *Administration Building* and *Wych Wood*.

Reason

To avoid potential damage caused by rising damp and migrating salts.

(11) LANDSCAPING OF THE SITE

- (a) Detailed landscape design including plans and details drawn to scale, and technical specification must be submitted to and approved by Council's Area Planning Manager/ Area Coordinator Planning Assessments prior to the issue of any Construction Certificate. These documents must be in accordance with the approved landscape drawings in Condition 1 of this consent and be prepared by Jane Irwin Landscape Architecture.
- (b) A drawing set must demonstrate full coordination with plans prepared by the architect, engineers, arborist for works near existing trees and heritage brick wall. These documents must include:
 - (i) Location of existing and proposed planting on the site including existing and proposed trees, planting in natural ground, and planting on structure.
 - (ii) Location and details of existing and proposed structures on the site including, but not limited to, paving, walls, services, furniture, shade structures, lighting and other features
 - (iii) Details of earthworks and soil depths including finished levels and any mounding. The minimum soil depths for planting on structure must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers, excluding mulch and drainage layers.
 - (iv) Coordination and details of stormwater pits and pipes in garden beds near existing retained trees and the heritage brick wall to Avenue Road that comply with the tree conditions provided in Part C of this consent.
 - (v) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.

- (vi) Details of drainage, waterproofing and watering systems.
- (vii) Landscape maintenance plan. This plan is to be complied with during occupation of the property.
- (c) All landscaping in the approved plan is to be complete prior to an Occupation Certificate being issued **for the new multi-purpose building (also known as Building D)**.

Reason

To ensure the development is supported by a good quality, buildable landscape scheme that meets the City's controls.

(21) USE OF HERITAGE CONSULTANT - MAJOR DEVELOPMENT

- (a) An experienced heritage consultant is to be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The conservation architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.
- (b) Evidence and details of the above commission on the above terms are to be provided to Council prior to the issue of any Construction Certificate or commencement of work on site whichever is the earlier.
- (c) Throughout the documentation and construction stages of the approved works the experienced heritage consultant is to:
 - (i) Undertake site inspections of not less than fortnightly intervals **during construction works relating to the Administration Building and Wych Wood**.
 - (ii) Maintain a diary of site inspections that includes photographs of the works, details of heritage advice and decisions arising out of each inspection and any further physical evidence uncovered during the works.
 - (iii) Compile a final report, including the diary, verifying how the heritage conditions have been satisfied, and the works completed in accordance with the Conservation Management Plan.
- (d) Upon completion of the works, the final report is to be submitted for approval by Council's Urban Design and Heritage Manager / Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of any Occupation Certificate or the commencement of the use, whichever is earlier.

Reason

To ensure that the implementation of the approved development is carried out in a manner that does not have adverse heritage impacts.

Reasons for Decision

The application was approved for the following reasons:

- (A) The site is located in the Zone R1 General Residential. The proposed development comprises alterations and additions to an educational establishment (school) which is permitted with consent in the zone.
- (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 to contravene the Height of Buildings development standard has adequately addressed the matters required to be demonstrated under clause 4.6(3) of the Sydney Local Environmental Plan 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 Local Environmental Plan 2012; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the Zone R1 General Residential and the Height of Buildings development standard.
- (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 and the proposal is consistent with the design quality principles set out in Schedule 8 of State Environmental Planning Policy (Transport and Infrastructure) 2021.
- (E) The development is consistent with the objectives of the Sydney Development Control Plan 2012.
- (F) The proposed development will not unreasonably impact the amenity of surrounding residential properties.
- (G) Suitable conditions of consent are recommended and the development is considered to be in the public interest.

Carried unanimously.

D/2022/229

Speakers

Ian Stephenson (Glebe Society).

Kendal Mackay (DFP Planning) – on behalf of the applicant and Julie Roach (djrd Architects) – on behalf of the applicant.

Item 5 Development Application: 1-5 Wheat Road, Sydney - D/2019/280

The Panel refused consent for Development Application No. D/2019/280 for the reasons outlined below.

Reasons for decision

The application was refused for the following reasons:

- (A) The application is inconsistent with Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 in that the application does not ensure a public benefit will be delivered with the project and as such is not considered to be in the public interest.
- (B) The application does not meet the objectives of signage as set out in Section 3.1 of the State Environmental Planning Policy (Industry and Employment) 2021. The application has not demonstrated that it ensures public benefits will be derived from advertising in and adjacent to transport corridors.
- (C) The application does not satisfactorily address the matters for consideration set out in Section 3.11 of the State Environmental Planning Policy (Industry and Employment) 2021. The application has not demonstrated that a public benefit will be provided with the delivery of the development in accordance with Chapter 4 of the Transport Corridor Outdoor Advertising and Signage Guidelines 2017.
- (D) The application does not satisfy the objectives and provisions for advertising structures and third party advertisements as set out in Section 3.16 of the Sydney Development Control Plan 2012. The application has not demonstrated that the upgrades to the existing third party advertising structure will deliver improved design quality and community benefits through a Planning Agreement.

Carried unanimously.

D/2019/280

**Item 6 Development Application: 136 Oxford Street and 4080 Bourke Street,
Darlinghurst - D/2023/25**

The Panel granted consent to Development Application No. D/2023/25 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, subject to conditions, is consistent with the objectives of the R1 General Residential and SP2 Classified zone, including to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (B) Appropriate conditions have been imposed to ensure the development does not detrimentally impact on the heritage significance of the heritage items known as 'Former Electrical substation (No. 6) including interior' (I400) and 'Underground lavatory including interior' (I401), as well as the site as a whole.
- (C) The development will not adversely affect the character of the Taylor Square and Darlinghurst Civic Precinct locality, nor the East Sydney and Oxford Street heritage conservation areas.
- (D) The development accords with the objectives of the relevant planning controls.
- (E) The development is in the public interest. The proposed sustainability-focused farmer's market will support the revitalisation of the locality by providing access to quality, farm fresh produce at moderate prices for local residents. The market will also facilitate an educational platform for sustainable living practices within an urban context and provide a lively meeting space.

Carried unanimously.

D/2023/25

**Item 7 Development Application: 960A Bourke Street and 6 Geddes Avenue,
Zetland - D/2022/548**

The Panel granted consent to Development Application No. D/2022/548 subject to the conditions set out in Attachment A to the subject report.

Reasons for Decisions

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 conditions of consent, it achieves the objectives of the planning controls for the site for the reasons outlined in this report to the Local Planning Panel.
- (B) The development is permissible in the zone in accordance with the requirements of the Sydney Local Environmental Plan (Green Square Town Centre) 2012. The proposed earthworks are consistent with the objectives of the MU1 - Mixed Use zone.
- (C) The development satisfies the objectives of the Green Square Town Centre Development Control Plan 2012.
- (D) The proposal has provided sufficient information to address the Secretary's Environmental Assessment Requirements.
- (E) All other issues have been addressed by recommended conditions of consent.

Carried unanimously.

D/2022/548

Speaker

Daniel Howard (Ethos Urban) – on behalf of the applicant.

The meeting of the Local Planning Panel concluded at 7.05 pm.

CHAIR