

Local Planning Panel

Meeting No 91

Wednesday 13 December 2023

Notice Date 6 December 2023

minutes

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Present

Ms Abigail Goldberg (Chair), Ms Megan Jones, Mr Brendan Randles and Mr John McInerney.

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

Ms Goldberg, Ms Jones, Mr Randles and Mr McInerney.

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 22 November 2023, which have been endorsed by the Chair of that meeting.

**Item 3 Development Application: 52-58 William Street Woolloomooloo -
D/2022/1354**

It is resolved that consent be granted to Development Application Number D/2022/1354 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~~):

(28) HERITAGE INTERPRETATION PLAN

- (a) An interpretation plan for the site must be submitted to and approved by Council's Urban Design and Heritage Manager / Area Planning Manager prior to a Construction Certificate being issued. The plan is to be prepared by a suitably qualified and experienced heritage practitioner or historian.
- (b) The interpretation plan must detail how information on the history and significance of the site will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Public art, details of the heritage design, the display of selected artefacts are some of the means that can be used.
- (c) The plan must specify the location, type, making materials and contents of the interpretation device being proposed.
- (d) ***The interpretation plan must consider protection measures and interpretation of Busby's Bore and associated structures.***
- (de) Prior to occupation certificate being issued the approved interpretation plan must be implemented to the satisfaction of Council's Urban Design and Heritage Manager / Area Planning Manager.

Reason

To ensure that the heritage of the site is appropriately interpreted and incorporated into the development.

(51) LANDSCAPE MAINTENANCE PLAN

A detailed landscape maintenance plan must be submitted to and approved by Council's Area Coordinator Planning Assessments or Area Planning Manager prior to the issue of a ~~Construction~~ ***Occupation*** Certificate. This plan is to be complied with during occupation of the property.

Reason

To ensure the development is supported by a well maintained landscape scheme that meets the City's controls.

(54) DISPOSAL OF SURPLUS SALVAGED MATERIALS

Salvaged traditional building materials surplus to the requirements of this project are to be sold, **or made available for reuse**, to an established dealer in second-hand heritage building materials. Documentation of the **sale or reuse salvage methodology** must be submitted for the approval of Council prior to the commencement of demolition.

Reason

To ~~ensure~~ **encourage** the salvaging and reuse of traditional building materials.

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) The development, subject to conditions, is consistent with the objectives of the MU1 Mixed Use zone.
- (C) 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.
- (D) The proposal complies with the maximum height of buildings development standard in Clause 4.3 of the Sydney Local Environmental Plan 2012 and the design of the development responds appropriately to the scale of surrounding buildings.
- (E) The proposed density of the development complies with the maximum floor space ratio development standard in Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (F) The development, subject to conditions, exhibits design excellence and satisfies the provisions of Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (G) Subject to conditions, the proposal generally satisfied the relevant strategy, objectives and provisions of the Sydney Local Environmental Plan 2012 and the Transport and Infrastructure SEPP.
- (H) Condition 28 was modified to protect the heritage significance of Busby's Bore.
- (I) Conditions 51 and 54 were modified at the request of the applicant.

Carried unanimously.

D/2022/1354

Speakers

Kerrie McKenzie (Owner's Corporation - Park Lane Towers).

Alaine Roff (Urbis) – on behalf of the applicant, and Chris Savva (Woods Bagot) – on behalf of the applicant.

Item 4 Development Application: 82 Wentworth Park Road, Glebe - D/2023/21

It is resolved that:

- (A) the variation requested to Height of Buildings development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (B) the variation requested to Landscaped Area development standard under subsection 18(2)(b) of State Environmental Planning Policy (Housing) 2021 in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (C) the variation requested to Solar Access development standard under subsection 18(2)(e) of State Environmental Planning Policy (Housing) 2021 in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (D) the variation requested to Parking Spaces development standard under subsection 18(2) (f) of State Environmental Planning Policy (Housing) 2021 in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (E) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application Number D/2023/21 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 R1 General Residential zone pursuant to the Sydney LEP 2012.
- (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 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 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.
- (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 Landscaped Area development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 18(2)(b) of State Environmental Planning Policy (Housing) 2021; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the Landscaped Area development standard.

- (D) 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 Solar Access development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 18(2)(e) of State Environmental Planning Policy (Housing) 2021; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the Solar Access development standard.
- (E) 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 Parking Spaces development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 18(2)(f) of State Environmental Planning Policy (Housing) 2021; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the Parking Spaces development standard.
- (F) The development exhibits design excellence under Clause 6.21C of Sydney LEP 2012.
- (G) The development meets the objectives of the Apartment Design Guide and is consistent with the design quality principles under State Environmental Planning Policy No 65 - Design Quality of Residential Apartments.
- (H) The development generally meets the objectives and provisions of the Housing SEPP 2021.
- (I) The development is generally consistent with the objectives of Sydney LEP 2012 and Sydney Development Control Plan 2012.

A show of hands on the motion resulted in an equality of voting as follows -

Ayes (2) Abigail Goldberg and Megan Jones

Noes (2) Brendan Randles and John McInerney

The Chair (Ms Goldberg) exercised her casting vote in favour of the motion.

Pursuant to clause 41 of the City of Sydney Local Planning Panel Operational Procedures the motion was declared carried.

D/2023/21

Note – Mr McInerney and Mr Randles voted against the motion as they could not support the demolition of a purpose built, relatively recent building, when its modification and expansion (such as flagged at the meeting) would appear capable of achieving a feasible outcome in a more sustainable and less disruptive manner. In addition, the proposal's various non compliances (required to achieve its own feasibility) cannot be supported by Mr McInerney and Mr Randles.

Speakers

Denis Doherty (Hands Off Glebe), Carolyn Ienna, Emily Valentine Bullock, Ian Stephenson (The Glebe Society), Hector Abrahams (Hector Abrahams Architects), Andrew Chuter and Councillor Sylvie Ellsmore (City of Sydney Councillor).

Gerald Walker (NSW Land and Housing Corporation) – on behalf of the applicant, and Adam Haddow (SJB) – on behalf of the applicant.

Item 5 Development Application: 51-53 Wells Street, Redfern - D/2022/792

It is resolved that:

- (A) the Panel consider the amended plans and additional information, submitted since the meeting of the Local Planning Panel held on 1 November 2023;
- (B) the Panel consider the previous recommendation for approval, and the updated set of recommended conditions reflecting the amended plans which are set out in Attachment A to the subject report; and
- (C) consent be granted to Development Application No. D/2022/792 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 ~~strike through~~):

(3) GEOTECHNICAL REPORT

A geotechnical report with analysis of the existing site conditions and demonstrating the proposal does not impact upon neighbouring buildings must be submitted to and approved by Council's Area Planning Manager prior to the issue of a construction certificate.

Remaining conditions to be renumbered accordingly.

Reasons for Decision

The application was approved for the following reasons:

- (A) The development is consistent with the objectives of the E1 Local Centre zone contained in Sydney Local Environmental Plan 2012.
- (B) The development responds appropriately to the scale of surrounding buildings, and is compatible with the character of the Prince Alfred Park South locality and the Redfern Estate heritage conservation area.
- (C) The development exhibits design excellence under Clause 6.21C of Sydney Local Environmental Plan 2012.
- (D) The development will not unreasonably compromise the amenity of neighbouring properties.
- (E) The development is generally consistent with the objectives of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (F) Condition 3 was added to address the concerns of neighbouring residents.

Carried unanimously.

D/2022/792

Speakers

Paul Wise (Milestone Planning)

Eleanor Clapham - on behalf of the applicant.

Item 6 Development Application: 175 St Johns Road, Glebe - D/2023/107

It is resolved that consent be refused for Development Application Number D/2023/107 for the reasons listed below.

Reasons for Decision

The application was refused for the following reasons:

Failure to submit written justifications for contravention of development standards

- (A) The proposed development contravenes non-discretionary development standards for:
- the provision of communal living area;
 - communal open space; and
 - car-parking;
- specified at section 68(2)(c), (d) and (e) of the State Environmental Planning Policy (Housing) 2021 (the Housing SEPP).
- (B) The proposed development contravenes the development standard pertaining to minimum lot size specified at section 69(1)(b) of the SEPP (Housing) 2021.
- (C) A written request seeking to justify the contravention of the development standards listed above has not been submitted for the subject application. Subsequently and in accordance with clause 4.6 of the Sydney Local Environmental Plan 2012 (the LEP) development consent must not be granted to the subject application.

Inadequate common open space provision

- (D) The proposed development provides a communal open space that does not achieve:
- the minimum area and dimension requirements for communal open space pursuant to the non-discretionary development standard specified at section 68(2)(d) of the Housing SEPP; and
 - the minimum area and dimension requirements for communal open space specified at provision 4.1.4.4 of the Sydney Development Control Plan 2012 (the DCP).
- (E) As such the proposal is contrary to objectives 4.4.1(a) of the DCP to ensure an acceptable level of amenity and accommodation in boarding houses, 1.2(h) of the LEP to enhance the amenity and quality of life of local communities, section 3(c) of the Housing SEPP to ensure new housing development provides residents with a reasonable level of amenity and section 1.3(g) of the Environmental Planning and Assessment Act 1979 to promote good design and amenity of the built environment.

Inadequate bicycle parking

- (F) The proposed development fails to provide a bicycle parking space in association with the proposed new private boarding room. The proposal fails to satisfy DCP provision 3.11.3(2) and contravenes the bicycle parking requirements at section 69(1)(h) of the Housing SEPP.

(G) As such the proposal is contrary to objectives:

- 3.11(a) and (b) of the DCP to ensure transport demand is managed sustainably, and that bicycle parking is considered in all development; and
- 3(d) of the Housing SEPP to promote planning and delivery of housing where it will make good use of existing and planned infrastructure.

Inadequate waste storage facilities

(H) The proposed development does not provide a separate area for bulky waste storage to avoid illegal waste dumping. The proposal:

- fails to address the waste management requirements specified at DCP provision 3.14.3(4); and
- is contrary to DCP objective 3.14(c) to ensure waste can be collected and disposed of in a manner that is healthy, efficient and minimises disruption to amenity.

Lack of deep soil provision

(I) The proposed development does not provide adequate deep soil and fails to satisfy provision 4.1.3.4 of the DCP. The proposal is contrary to objectives:

- 4.1.3(a) and (b) of the DCP to enhance residential amenity by ensuring adequate deep soil planting and to reduce urban heat load and increase canopy cover and ground absorption of water;
- 1.2(h) of the LEP to enhance the amenity and quality of life of local communities; and
- section 1.3(g) of the Environmental Planning and Assessment Act 1979 to promote good design and amenity of the built environment.

Inadequate private open space

(J) The proposal exacerbates existing non-compliance with DCP private open space requirements and fails to satisfy the requirements of DCP provision 4.4.1.4.

(K) As such the proposal is contrary to objectives;

- 4.4.1(a) of the DCP to ensure an acceptable level of amenity and accommodation in boarding houses;
- 1.2(h) of the LEP to enhance the amenity and quality of life of local communities;
- section 3(c) of the Housing SEPP to ensure new housing development provides residents with a reasonable level of amenity; and
- section 1.3(g) of the Environmental Planning and Assessment Act 1979 to promote good design and amenity of the built environment.

Insufficient information

(L) The submitted shadow diagrams do not accurately illustrate overshadowing impacts from the proposed development to neighbouring properties in accordance with the requirements of DCP provision 4.1.3.1(3).

(M) The submitted Plan of Management does not refer to or reflect the proposed development and fails to adequately address the requirements of DCP provision 4.4.1.7.

Failure to exhibit design excellence

- (N) The proposed massing of the new outbuilding in the rear yard significantly reduces the useable common open space area such that it does not achieve the minimum size requirements pursuant to the SEPP (Housing) 2021 and provision 4.4.1.4 of the DCP.
- (O) The proposed new communal living room is not designed to maximise its connection and integration with the already under-sized communal open space area.
- (P) The site does not have the capacity to accommodate and the proposal does not seek to provide adequate bicycle parking or a bulky waste storage area.
- (Q) For these reasons, the proposal does not demonstrate that the site is suitable and does not demonstrate design excellence. As such the proposal is contrary to the aims of the plan specified at LEP clause 1.8(2)(j) and which is to achieve a high quality urban form by ensuring that new development exhibits design excellence. In accordance with LEP clause 6.21C(1) development consent must not be granted.

Carried unanimously.

D/2023/107

Speakers

Susannah Dale.

Glenn Apps (Cohesive Planning) – on behalf of the applicant.

Item 7 Development Application: 107-109 Darlinghurst Road, Potts Point - D/2022/1107

It is resolved that consent be refused for Development Application Number D/2022/1107 for the reasons outlined below.

Reasons for Decision

The application was refused for the following reasons:

- (A) The proposal is in breach of the floor space ratio development standard applying to the site pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012 and the application fails to satisfy the provisions of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 to justify contravention of the standard.
- (B) The Clause 4.6 variation request is not supported as the proposal is inconsistent with the Floor Space Ratio development standard objectives of Clause 4.4 of the Sydney Local Environmental Plan 2012. The proposed variation of the development standard creates excessively bulk and massing, which will adversely impact upon the character of the locality, and adversely impacts upon the residential amenity of the locality by way of unacceptable overshadowing to adjoining properties.
- (C) The applicant's written request to vary the Floor Space Ratio development standard fails to address the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 as it does not accurately identify or address the Floor Space Ratio controls applying to the site or the zoning of the land.
- (D) The proposal is in breach of the height of buildings development standard applying to the site pursuant to Clause 4.3 of the Sydney Local Environmental Plan 2012 and the application fails to satisfy the provisions of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 to justify contravention of the standard.
- (E) The applicant's written request to vary the Height of Buildings development standard fails to address the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 as it does not accurately identify or address the zoning of the land.
- (F) The proposed development causes unacceptable overshadowing of neighbouring residential properties, resulting in a non-compliance with the solar access provisions provided by Section 4.2.3.1 of the Sydney Development Control Plan 2012.
- (G) The proposed development is in breach of the 4-storey street frontage height control applying to the site, pursuant to Section 4.2.1 of the Sydney Development Control Plan 2012.
- (H) The design of the proposed development lacks cohesion, appears incongruous within the streetscape and fails to exhibit detailing appropriate to the building type and location, pursuant to the design excellence provisions established by Clause 6.21C(2)(a) the Sydney Local Environmental Plan 2012.
- (I) The design of the proposed development, which exceeds the maximum height and floor space ratio standards, is of poor quality and fails to achieve the objectives of Division 4 Design Excellence of the Sydney Local Environmental Plan 2012, which is to deliver the highest standard of architectural, urban and landscape design.

- (J) The development is considered unsatisfactory when assessed against the considerations contained in 6.21C (2) of the Sydney Local Environmental Plan 2012, particularly as it:
- (i) does not demonstrate that a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved;
 - (ii) does not demonstrate that the form and external appearance of the proposed development will improve the quality and amenity of the public domain; and
 - (iii) will result in unacceptable overshadowing impacts to neighbouring properties.

Carried unanimously.

D/2022/1107

Speakers

James Burns (James Burns Architect) – on behalf of the applicant.

The meeting of the Local Planning Panel concluded at 7.00pm.

CHAIR