

Local Planning Panel

Meeting No 101

Wednesday 24 July 2024

Notice Date 17 July 2024

minutes

Index to Minutes

ITEM	PAGE NO
1. Disclosures of Interest	3
2. Confirmation of Minutes	3
3. Development Application: 87 Lower Fort Street, Millers Point - D/2024/179.....	4
4. Development Application: 87 Lower Fort Street, Millers Point - D/2023/1036.....	6
5. Development Application: 2-4 Raper Street, Surry Hills - D/2024/214.....	10
6. Development Application: 36 Selwyn Street, Paddington - D/2024/10.....	11

Present

At the commencement of business at 5.02pm, those present were:

Ms Jan Murrell (Chair), Ms Penny Murray, Mr John Bilmon and Ms Judy MacGraw.

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.

Adjournment

Following discussion on Item 6, at 6.09pm, the meeting was adjourned to allow Panel members to consider matters raised by the speakers.

All Panel members were present at the resumption of the meeting of the Local Planning Panel at 6.34pm.

Item 1 Disclosures of Interest

In accordance with clause 4.17 of the Code of Conduct, all Local Planning Panel members have lodged an annual Disclosure of Pecuniary Interests written return.

The Disclosure of Pecuniary Interests written returns are received and noted.

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 3 July 2024, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 87 Lower Fort Street, Millers Point - D/2024/179

Application for concept building envelope for a dwelling

The Panel:

- (A) upheld the variation requested to clause 6.47(5) relating to the height of buildings in the Millers Point heritage conservation area in accordance with clause 4.6 'Exceptions to development standards) of the Sydney Local Environmental Plan 2012; and
- (B) granted consent to Development Application Number D/2024/179 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 proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the imposition of appropriate 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 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 development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 6.47(5) of the Sydney Local Environmental Plan 2012.
- (C) The proposal generally satisfies the objectives and provisions of the 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 indicative concept design scheme accompanying the application demonstrates the envelope can accommodate a building which complies with the maximum floor space ratio development standard in clause 6.47(4)(b)(ii) of the Sydney Local Environmental Plan 2012.
- (F) The proposed development is of a form that is sympathetic to the heritage significance of the Millers Point heritage conservation area in accordance with Clause 5.10 and 6.47(4)(a) of the Sydney Local Environmental Plan 2012, including the provision of appropriate setbacks from the curtilage of the heritage item.
- (G) The proposed development has a height and form suitable for the site and its context, satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and broader locality. The proposed building envelope can accommodate the proposed uses and does not result in any significant adverse environmental or amenity impacts on surrounding properties, the public domain and the broader Millers Point locality, subject to conditions on the subsequent detailed design development application.

- (H) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City and the community, subject to recommended conditions imposed relating to heritage conservation, setbacks, views and privacy.

Carried unanimously.

D/2024/179

Speakers

Nicholas Wolff and Anthony Bekker.

Greg O'Dea, Giovanni Cirillo (Planning Lab) – on behalf of the applicant, Tasman Storey (Tasman Storey Architects) – on behalf of the applicant and Dr Andrew Burns (Architecture AND) - on behalf of the applicant.

Item 4 Development Application: 87 Lower Fort Street, Millers Point - D/2023/1036**Application for demolition of existing structures and construction of a dwelling and associated works**

The Panel:

- (A) upheld the variation requested to Clause 6.47(5) relating to the height of buildings in the Millers Point heritage conservation area in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (B) granted consent to Development Application No D/2023/1036, subject to the conditions detailed in Attachment A to the subject report to the Local Planning Panel on 24 July 2024, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

(20) SITES IN THE VICINITY OF A HERITAGE ITEM – 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 64 Argyle Place, 85 Lower Fort Street and ***65, 67, 69, 71 and 73 Windmill Street, including the retaining wall running along the northern boundary adjoining the Windmill Street properties*** 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) Details of temporary hydraulic drainage works to ensure that all water both in ground and above ground is channelled to the street and that no such water is channelled onto the adjacent property fabric or interiors.
 - (ii) Construction debris on neighbouring properties, in drainage lines or in cavities between the boundary walls of the adjacent buildings, is to be removed progressively as the works progress.
 - (iii) A geotechnical report detailing the investigation of the location and depth of footings 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.

Reason

To ensure the protection of adjacent/nearby heritage items.

(42) DILAPIDATION REPORT –EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 85 Lower Fort Street, 64 Argyle Place and the retaining wall running along the northern boundary of the site (and any other properties identified by the qualified structural engineer engaged to undertake the report) are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Registered Certifier and the Council prior to the issue of a Construction Certificate.

UPON COMPLETION OF EXCAVATION/DEMOLITION

- (b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifier and the Council prior to the issue of any Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be **addressed** ~~fully rectified~~ by the applicant or owner, **as soon as practicable**, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

Reason

To ensure that dilapidation reports are prepared and to identify damage to adjoining/nearby properties resulting from building work on the development site.

(44) USE OF A STRUCTURAL ENGINEER

A suitably qualified practising structural engineer, **with relevant experience**, is to be commissioned to **supervise** work ~~with the consultant team~~ throughout the design development, contract documentation and excavation stages of the project. The engineer is to be involved in the resolution of all matters relating to the excavation of the basement. The structural engineer 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 excavation issues throughout the project.

Reason

To ensure the structural stability integrity of the subject site and neighbouring buildings **and structures**.

(45) EXCAVATION AND CONSTRUCTION METHODOLOGY

- (a) A Detailed Excavation and Construction Methodology is to be prepared by the builder engaged for the project. The methodology must be endorsed by the structural **consultant engineer** and submitted to the Principal Certifier prior to commencement of excavation or construction works whichever is the earlier.
- (b) ***The methodology must include details on the instrumentation used to monitor the structural stability of the retaining wall running along the northern boundary of the site shared with properties fronting Windmill Street.***
- ~~(c-b)~~ Excavation is to be carried out in accordance with the methodology required by (a) above.

Reason

To ensure the structural stability integrity of the subject site and neighbouring buildings.

(46) USE OF GEOTECHNICAL ENGINEER

- (a) A suitably qualified geotechnical engineer, ***with relevant experience***, is to be commissioned to work with the consultant team throughout the design development, contract documentation and excavation stages of the project. The engineer is to be involved in the resolution of all matters relating to the excavation to extend the existing basement. The geotechnical engineer 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 excavation issues throughout the project.
- (b) The recommendations of the Geotechnical Assessment must be implemented, and where relevant be included in the Detailed Excavation and Construction Methodology.

Reason

To ensure the structural stability / integrity of the subject site and neighbouring buildings ***and structures.***

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 appropriate 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 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 development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 6.47(5) of the Sydney Local Environmental Plan 2012.
- (C) The proposal is consistent with the approved concept Development Application as required by the Sydney Local Environmental Plan 2012 and the application was accompanied by an approval issued by Heritage NSW in accordance with section 60 of the Heritage Act 1979.

- (D) The proposal is consistent with the objectives of the R1 - General Residential zone. The proposal also generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2102 and Sydney Development Control Plan 2012.
- (E) The proposed development is of a form that is sympathetic to the heritage significance of the Millers Point heritage conservation area in accordance with Clause 5.10 and 6.47(4)(a) of the Sydney Local Environmental Plan 2012, including the provision of appropriate setbacks from the curtilage of the heritage item.
- (F) The proposed development has a height and form suitable for the site and its context, satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and broader locality. The proposed development is unlikely to result in any significant adverse environmental or amenity impacts on surrounding properties, the public domain and the broader Millers Point locality, subject to conditions on the subsequent detailed design development application.
- (G) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City and the community, subject to recommended conditions imposed relating to heritage conservation, setbacks, views and privacy.
- (H) Condition 42 was amended to clarify rectification works in the event there is damage to buildings and adjoining properties.
- (I) Conditions 44 and 46 were amended to clarify the expertise required to ensure the structural integrity of the subject site and neighbouring buildings and structures.

Carried unanimously.

D/2023/1036

Speakers

Nicholas Wolff and Anthony Bekker.

Greg O'Dea, Giovanni Cirillo (Planning Lab) – on behalf of the applicant, Tasman Storey (Tasman Storey Architects) – on behalf of the applicant, and Dr Andrew Burns (Architect AND) – on behalf of the applicant.

Item 5 Development Application: 2-4 Raper Street, Surry Hills - D/2024/214

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; and
- (B) granted consent to Development Application Number D/2024/214 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 proposal generally complies with the relevant controls of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (B) The proposal will enable critical restoration works and ensure Disability Discrimination Act (DDA) compliance to safeguard the ongoing use of the building as a Community Facility.
- (C) The proposed development uses high quality materials, achieves the principles of ecologically sustainable development, and has an acceptable environmental impact. As such, the proposal is considered to exhibit design excellence.
- (D) Based upon the material available to the Panel at the time of determining this application, the Panel was satisfied that:
 - (i) the applicant has demonstrated those matters at 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 SP2 Infrastructure Zone and Height of Buildings development standard.

Carried unanimously.

D/2024/214

Speaker

Bruce Ewan.

Item 6 Development Application: 36 Selwyn Street, Paddington - D/2024/10

The Panel:

- (A) upheld the variation requested to the minimum site area non-discretionary development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (B) granted consent to Development Application Number D/2024/10 subject to the conditions set out in Attachment A to the subject report, subject to the following amendments (additions shown in ***bold italics***):

(38) SECONDARY DWELLING – OBSCURE GLAZING

The first floor window to the hallway of the secondary dwelling on the western elevation is to be installed with fixed obscure glazing.

The first floor windows on the western elevation with a sill height of 1500mm can be operable.

Reason

To achieve acceptable visual privacy protection while also providing ventilation.

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 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 site area' development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify contravening section 53(2)(a) of State Environmental Planning Policy (Housing) 2021.
- (B) The development exhibits design excellence under Clause 6.21C of Sydney Local Environmental Plan 2012.
- (C) The development responds appropriately to the scale of surrounding buildings and is compatible with the character of the Selwyn Street / Iris Street locality, and the Paddington Urban heritage conservation area.
- (D) The development will not unreasonably compromise the amenity of neighbouring properties.
- (E) The development is generally consistent with the objectives of Chapter 3 Part 1 of State Environmental Planning Policy (Housing) 2021, Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (F) Condition 38 was amended to clarify the plans.

Carried unanimously.

D/2024/10

Speaker

Keiran McInerney (Keiran McInerney Architect) – on behalf of the applicant.

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

CHAIR