

Local Planning Panel

Meeting No 113

Wednesday 16 April 2025

Notice Date 9 April 2025

minutes

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Present

Mr Graham Brown, Ms Megan Jones, Ms Elizabeth Kinkade and Mr Jayden Bregu.

At the commencement of business at 5:03pm, those present were:

Mr Brown, Ms Jones, Ms Kinkade and Mr Bregu.

The Executive Director 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 9 April 2025, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 21C Billyard Avenue, Elizabeth Bay - D/2023/727

The Panel:

- (A) was satisfied that the variation to the 'height of buildings' development standard in Clause 4.3 is in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 as the Panel is satisfied that compliance with the development standard is unreasonable and unnecessary in the circumstances and there are sufficient environmental planning grounds to justify the contravention of the development standard; and
- (B) granted consent to Development Application Number D/2023/727 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 ~~strike through~~):

(39) ONSLOW AVENUE BOUNDARY WALL AND SANDSTONE BLOCK WALL

(A) Prior to the issue of any Construction Certificate other than demolition, a suitably qualified practitioner Engineer (NER) shall certify that the existing brick wall on the Onslow Avenue boundary, or any proposed replacement boundary or retaining wall, has/will have the required structural integrity for immersion and the impact of hydraulic forces of floodwaters and debris up to the 1% AEP flood level plus 0.5m (RL 20.90) for the full Onslow Avenue frontage. The Certification shall be submitted to and shall be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate. A copy of the approved Certification report shall be provided to Council for record keeping purposes.

(B) Prior to the issue of any Construction Certificate other than demolition, a structural engineer's assessment report must be prepared to demonstrate how the adjacent sandstone wall is to be protected and preserved, and submitted to Council's Manager Planning Assessments for approval.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposed development is a permissible use in the R1 General Residential zone pursuant to the Sydney Local Environmental Plan 2012.
- (B) The development complies with the objectives of the R1 General Residential zone pursuant to the Sydney Local Environmental Plan 2012.
- (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 to vary the maximum building height has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012; and
 - (ii) the proposal provides high levels of internal amenity and minimises external amenity impacts.
- (D) Having considered the matters in Clause 6.21C(2) of the Sydney Local Environmental Plan 2012, the building displays design excellence because the proposed development:
 - (i) provides a high standard of architectural design, materials and detailing appropriate to the building type and its location

- (ii) will have a positive impact on the subject site, the heritage conservation area and the streetscape
 - (iii) is compatible with the built form and density of surrounding developments
 - (iv) will not result in any detrimental visual privacy, acoustic privacy, overshadowing or view loss impacts
 - (v) will result in appropriate interfaces at ground level between the buildings and the public domain, and suitable integration of landscaping.
- (E) The assessment included consideration of matters in Chapter 6 Water Catchments within the State Environmental Planning Policy (Biodiversity and Conservation) 2021, as detailed in the Information Relevant To memorandum of 16 April 2025.
- (F) The development will not adversely affect the character of The Bays locality or the Elizabeth Bay and Rushcutters Bay Heritage Conservation Area.
- (G) Conditions of consent are included in the approval that provide for a building that will sit comfortably in its context and minimise amenity impacts on adjoining properties.
- (H) Condition 39 was amended to protect the existing adjacent wall in the public domain from potential damage during the construction process.

Community Objections

A number of objectors provided oral and further written submissions at the Panel meeting. Representatives from the applicant also provided oral submissions. The objectors raised the following matters:

- breach of height development standard
- loss of existing palm trees
- heritage status of existing buildings
- loss of smaller dwellings
- inadequate side setbacks
- geotechnical issues
- groundwater issues
- encroachment of crane operations on other properties
- inadequate floor to floor heights
- inadequate assessment of loss of solar access
- loss of views
- determination of Natural Ground Level in determining height

The Panel was satisfied that the issues raised during the Panel meeting have been satisfactorily addressed in the Council Officer's report, advice from the applicant's representatives, advice from Council staff and conditions of consent.

Overall, by majority, the Panel concluded that the proposed development is suitable for approval.

Carried on the following show of hands:

Ayes (3) The Chair (Graham Brown), Megan Jones and Elizabeth Kinkade

Noes (1) Jayden Bregu

Carried.

D/2023/727

Speakers

Rosie Fairbairn-Watt, Dr Maryanne Dever, Mark Gazy, Harry Hughes, Natalie Richter, Lester Sutton, Brett Daintry, Olivia Ross, George Anastas and Costas Condoleon.

Andrew Harvey (Urbis) - on behalf of the applicant, William Smart (Smart Design Studio) - on behalf of the applicant and Jane Maze-Riley (Urbis) – on behalf of the applicant.

Adjournment

During the discussion on Item 3, at 6:45pm, 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 7:01pm

The meeting of the Local Planning Panel concluded at 7:06pm.

CHAIR