

Local Planning Panel

Meeting No 15

Wednesday 5 December 2018

Notice Date 28 November 2018

minutes

city of villages

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Present

Ms Abigail Goldberg, Professor Helen Lochhead, Mr Shaun Carter and Ms Amelia Thorpe

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

Ms Goldberg, Prof. Lochhead, Mr Carter and Ms Thorpe.

The Director City Planning, Development and Transport was also present.

Mr Carter left the meeting at 5.52pm, prior to discussion on Item 5, and returned to the meeting at 6.24pm, at the conclusion of discussion and 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 Clause 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.

Mr Carter disclosed a pecuniary interest in Item 5 - Development Application: 311-315 Sussex Street and 317 Sussex Street, Sydney, Item 6 - Development Application: 54-56 Riley Street, Darlinghurst and Item 7 - Development Application: 44-48 O'Dea Avenue, Waterloo as Carter Williamson Architects are currently employed by Ethos Urban on a project.

Given the conflict of interest, Mr Carter will step out for deliberation on Items 5, 6 and 7.

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 21 November 2018, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 62-64 Epsom Road, Zetland

The Panel:

- (A) Upheld the variation sought to Clause 4.3 (Building Height) in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 in this instance; and
- (B) Granted deferred commencement consent be to Development Application No. D/2018/508 subject to the conditions set out in [Attachment A](#) to the subject report, subject to the following amendments (additions shown in **bold italics** and deleted text shown in ~~strike through~~):

24 MAXIMUM CAPACITY OF PERSONS

- (a) The maximum number of persons permitted in the premises is as follows:
 - (i) The maximum number of guests accommodated in hotel rooms is 44.
 - (ii) The maximum capacity of the restaurant and bar area on the ground floor level is **12074**.
 - (iii) The outdoor rooftop bar / pool area is to have a maximum capacity of 44 patrons.
- (b) The capacity for each area shall not exceed the maximum numbers at any given time.
- (c) The manager/licensee is responsible for ensuring the number of persons in the premises does not exceed that specified above.
- (d) In relation to the ground floor restaurant and bar, a sign in letters not less than 25mm in height must be fixed at the main entry point to the premises alongside the Licensee's name stating the maximum number of persons, as specified in the development consent, that are permitted in the building. Details of the sign are to be submitted to Council's Health and Building Unit for approval prior to issue of a Construction Certificate.

Note: Clause 98D of the *Environmental Planning and Assessment Regulation 2000* requires a sign specifying maximum number of persons permitted in the building to be displayed in a prominent position for the following types of premises:

- (i) entertainment venue,
- (ii) function centre,
- (iii) pub,
- (iv) registered club,
- (v) restaurant.

25 HOURS OF OPERATION – SENSITIVE USES

- (a) The hours of operation must be restricted to between:
- (i) Ground floor restaurant and bar:
 - a. Sunday - Thursday: 10am - 9pm
 - b. Friday - Saturday: 10am – 10pm
 - (ii) Outdoor rooftop bar / pool area:
 - a. Monday - Saturday: 10am - 8pm
 - b. Sunday: 10am - 8pm
 - (ii) Outdoor gym:
 - a. Monday - Sunday: 10am - 7pm
- (b) Notwithstanding (a) above, the use may operate between the hours specified below for a trial period of 1 year from the date of issue of the Occupation Certificate. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to liquor@cityofsydney.nsw.gov.au:
- (i) Ground floor restaurant and bar:
 - a. Sunday - Thursday: 7am - 9pm
 - b. Friday - Saturday: 7am - 12 midnight
 - (ii) Outdoor rooftop bar / pool area:
 - a. Monday - Saturday: 7am - 9pm
 - b. Sunday: 8am - 9pm
 - (iii) Outdoor gym:
 - a. Monday - Sunday: 6am - 7pm
- (c) A further application may be lodged to continue the operating hours outlined in (b) above not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.
- (d) ***The name of the licensee and manager are to be displayed on a sign near the front door of the public entrance together with the contact number for complaints.***

Reasons for Recommendation

The Panel approved the application for the following reasons:

- (A) Subject to conditions, the proposal generally complies with the aims and objectives of the relevant policies and planning controls as outlined in further detail in this report.
- (B) The requested variation to the height development standard is upheld because the consent authority is satisfied that the applicant's amended written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.3 Height and B4 Mixed Use zone.
- (C) The built form and design of the building addresses the scale and context of the surrounding area.
- (D) The recommended operational conditions will address the issues raised by the community.
- (E) The proposed development incorporates the dedication of land for the purposes of road widening of Epsom Road, included within the Voluntary Planning Agreement associated with the development application. The imposition of a deferred commencement is to allow for the execution of the Voluntary Planning Agreement.
- (F) For reasons outlined in the report to the Local Planning Panel.
- (G) Condition 24(a)(ii) was amended to reduce the maximum capacity of the restaurant/bar area to 120 patrons to align with the maximum capacity of a small bar. This provides certainty of the intended use of the space to address residents' concerns, as well as to reflect a more realistic capacity for the restaurant/bar as designed.
- (H) Condition 25(d) was added to provide residents with additional details of how to lodge a complaint at any time, and who to contact should there be any issues once the premises is operational, noting that complaints are required to be recorded in a log that Council will consider at the end of the trial period for extended operating hours.

Carried unanimously.

D/2018/508

Speakers

The following people addressed the meeting of the Local Planning Panel on Item 3 – Ms Roslyn Young (resident) and Mr Jeff Mead (Planning Ingenuity – on behalf of the applicant).

Item 4 Development Application: 10-16 Bay Street, Ultimo

The Panel granted consent to Development Application No. D/2018/1140 subject to the conditions set out in [Attachment A](#) to the subject report.

Reasons for Recommendation

The Panel approved the application for the following reasons:

- (A) The proposal is consistent with the B4 Mixed Use zone.
- (B) The proposal is consistent with the relevant controls for the site.
- (C) The proposal will not detrimentally impact on surrounding heritage items.
- (D) The proposal will not have an adverse impact on neighbourhood amenity.
- (E) The proposal is in the public interest.

Carried unanimously.

D/2018/1140

Item 5 Development Application: 311-315 Sussex Street and 317 Sussex Street, Sydney

Mr Carter left the meeting prior to consideration and determination of this matter as per his declaration of a pecuniary conflict of interest in this item.

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 Sydney Local Environmental Plan 2012; and
- (B) Granted consent to Development Application No. D/2018/686 subject to the conditions set out in [Attachment A](#) to the subject report.

Reasons for Recommendation

The Panel approved the application for the following reasons:

- (A) The proposal satisfies the objects of the Environmental Planning and Assessment Act 1979.
- (B) The proposal generally satisfies the objectives and provisions of Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) The proposal would provide a high level of amenity to the boarding house and residential apartments and would not unreasonably impact on the amenity of neighbouring properties.
- (D) The requested variation to the height of buildings development standard is upheld because the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the height development standard and the B8 Metropolitan Centre zone.

Carried unanimously.

D/2018/686

Speakers

The following people addressed the meeting of the Local Planning Panel on Item 5 – Ms Elizabeth Carpenter (FJMT Architects – on behalf of the applicant).

Item 6 Development Application: 54-56 Riley Street, Darlinghurst

Mr Carter left the meeting prior to consideration and determination of this matter as per his declaration of a pecuniary conflict of interest in this item.

The Panel:

- (A) Upheld the variation sought to Clause 4.3 Height of Buildings contained in the Sydney LEP 2012, pursuant to the provisions of Clause 4.6 of the Sydney Local Environmental Plan (LEP) 2012 in this instance; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, granted deferred commencement consent to Development Application No. D/2018/355, subject to the conditions set out in [Attachment A](#) to the subject report.

Reasons for Recommendation

The Panel approved the application for the following reasons:

- (A) The proposed development is consistent with the objectives of the B4 - Mixed Use zone for the reasons set out in the report to the Local Planning Panel.
- (B) The requested variation to Clause 4.3 of the Sydney Local Environmental Plan 2012 "Height of Buildings" is consistent with the provisions of Clause 4.6 "Exceptions to development standards" is supported and is in the public interest.
- (C) Minor non-compliance with the design criteria of objective 3F-1 (Visual privacy) of the Apartment Design Guide 2015 (ADG) is acceptable. The development achieves the broad objectives of the ADG and the design quality principles of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development. Suitable measures have been provided to ensure adequate visual privacy, and through the provision of the large communal rooftop open space, residents will be ensured of an acceptable level of amenity.
- (D) The built form and design of the proposed development responds appropriately to the site and the scale of surrounding buildings, utilises high quality materials, and is compatible with the character and appearance of the East Sydney heritage conservation area. The development is considered to achieve design excellence under clause 6.21 of the Sydney LEP 2012.
- (E) The proposal provides appropriate level of activation to Riley Street at the ground floor.
- (F) As conditioned, the proposal is generally consistent with the objectives of the relevant controls for the site and will not adversely impact the amenity of neighbouring properties.

Carried unanimously.

D/2018/355

Item 7 Development Application: 44-48 O'Dea Avenue, Waterloo

Mr Carter left the meeting prior to consideration and determination of this matter as per his declaration of a pecuniary conflict of interest in this item.

The Panel:

- (A) Upheld the written request seeking variation to Clause 4.3 height of building development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 in this instance; and
- (B) Granted consent to Development Application No. D/2018/614 subject to the conditions set out in [Attachment A](#) to the subject report.

Reasons for Recommendation

The Panel approved the application for the following reasons:

- (A) The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that it achieves the objectives of the planning provisions for the site and does not result in any unreasonable environmental impacts for the reasons outlined in the report to the Local Planning Panel.
- (B) The development is consistent with the objectives of the B4 Mixed Use zone pursuant to the Sydney Local Environmental Plan 2012 (SLEP 2012).
- (C) The variation to Clause 4.3 height of building development standard under SLEP 2012 pursuant to Clause 4.6 is supported and it is considered to be in the public interest.
- (D) The development exhibits design excellence pursuant to Clause 6.21 of SLEP 2012. In particular, the development exceeds the minimum BASIX targets for water and energy.
- (E) The development is consistent with the Concept DA (D/2016/1450) pursuant to Section 4.24(2) of the Environmental Planning and Assessment Act 1979.
- (F) The development will provide a high level of amenity for future occupants as it is consistent with the design quality principles of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and meets the Objectives and Design Criteria of the Apartment Design Guide.
- (G) The development is generally consistent with the objectives and provisions of the Sydney Development Control Plan 2012, specifically the Green Square Lachlan provisions which apply to the subject site.
- (H) For the reasons above and as outlined in this report, the proposed development is in the public interest subject to conditions.

Carried unanimously.

D/2018/614

Item 8 Development Application: 12-36 Caroline Street, Redfern

The Panel granted consent to Development Application No. D/2018/1236 subject to the conditions set out in [Attachment A](#) to the subject report.

Reasons for Recommendation

The Panel approved the application for the following reasons:

- (A) The proposal is consistent with the objectives of the RE1 Public Recreation zone pursuant to Sydney Local Environmental Plan 2012.
- (B) The proposal is consistent with the relevant heritage provisions of Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) The proposal is consistent with the relevant objectives of Sydney Development Control Plan 2012.
- (D) The proposal is consistent with the Guiding Principles of the City of Sydney's Public Art Policy, and remains an essential part of the Eora Journey programme envisioned as part of Sustainable Sydney 2030.

Carried unanimously.

D/2018/1236

Item 9 Proposed Schedule of Local Planning Panel Meetings for 2019

The Panel adopted the draft Schedule of Local Planning Panel Meetings for 2019, as shown at [Attachment A](#) to the subject report.

Carried unanimously.

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The meeting of the Local Planning Panel concluded at 6.26pm.

CHAIR