

MINUTES

of a meeting of the
Bayside Local Planning Panel
held in the Committee Room, Botany Town Hall
Corner of Edward Street and Botany Road, Botany
on **Tuesday 21 May 2019 at 6.00 pm**

Present

Jan Murrell, Chairperson
Robert Montgomery, Independent Expert Member
Greg Wright, Independent Expert Member
Thomass Wong, Community Representative

Also present

Ben Latta, Acting Manager Development Services
Fausto Sut, Manager Governance & Risk
Marta Gonzalez-Valdes, Coordinator Development Assessment
Angela Lazaridis, Senior Development Assessment Planner
Ana Trifunovska, Development Assessment Planner
Wolfgang Gill, IT Technical Support Officer
Anne Suann, Governance Officer

The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6.00 pm.

1 Acknowledgement of Traditional Owners

The Chairperson affirmed that Bayside Council respects the traditional custodians of the land, elders past and present and future leaders, on which this meeting takes place, and acknowledges the Gadigal and Bidjigal Clans of the Eora Nation.

2 Apologies

There were no apologies received.

3 Disclosures of Interest

There were no disclosures of interest.

4 Minutes of Previous Meetings

4.1 Minutes of the Bayside Local Planning Panel Meeting - 30 April 2019

Decision

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 30 April 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

5 Reports – Planning Proposals

Nil

6 Reports – Development Applications

6.1 SF19/1525 - 5 Finch Drive, Eastgardens

An on-site inspection took place at the property earlier in the day.

The following person spoke:

- Mr Walter Gordon, Head of Planning and Development, Meriton Group, spoke for the officer's recommendation.

Determination

That the Bayside Local Planning Panel **APPROVES** the Section 4.55(1A) Application to modify Development Consent No. 2017/1224 to reduce the number of units on Level 15, change unit mix in Building A and Building B, modify the terraces on Level 16, and reduce floor area, at 5 Finch Drive, Eastgardens as follows:

- Amend Condition No.1 to reflect the amended plans.
- Amend Condition No. 24 to reflect the amended Section 7.11 Contribution fees in the overall fee breakdown and state the following:

24. Prior to the issue of any Construction Certificate, the following fees are to be paid:-

(a)	Development Control	\$13,583.00
(b)	Footpath Crossing Deposit	\$314,700.00 (See below)
(c)	Section 7.11 Contributions (See below)	\$7,120,000.00 \$7,040,000.00
(d)	Long Service Levy	See below

- (e) Tree Maintenance Bond \$7,500.00 (See below)
- (f) Street Tree Planting Bond \$7,500.00 (See below)
- (g) Public Works Defect Liability Bond \$25,000.00 (See below)
- c Amend Condition No. 25 to reflect the amended Section 7.11 Contribution fees and state the following:
25. Prior to the issue of any Construction Certificate, the payment of a monetary contribution of ~~\$7,720,000.00~~ **\$7,040,000.00** in accordance with Council's Section 94 Contributions Plan 2016 which is broken down as follows:
- | | | |
|--------------------------|---------------------------|-----------------------|
| a) Community Facilities | \$582,829.10 | \$576,280.46 |
| b) Recreation Facilities | \$6,013,136.89 | \$5,945,573.56 |
| c) Transport Management | \$472,191.93 | \$466,886.40 |
| d) Administration | \$51,842.08 | \$51,259.58 |

The Section 7.11 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which the consent is granted. If the contribution is paid in a later financial year the fee applicable at the time will be required to be paid.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Greg Wright	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Recommendations

The Panel is satisfied that the modifications as proposed will not have any adverse environmental effects and are minor in nature.

6.2 BDA-2017/1154/A - 904-922 Botany Road, Mascot

An on-site inspection took place at the property earlier in the day.

The following person spoke:

- Tone Wheeler, architect, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

The Bayside Local Planning Panel **REFUSES** the Section 4.55(1A) Application to modify Development Consent No. 2017/1154 to provide a roof over car spaces and driveway on the northern side of Level 1, modification to the layout of units 6, 7, 8, 9, 10 and 11 on Level 2 and unit 17 on level 4, privacy screen proposed on the northern side of the private open space on units 9, 10 and 11. The reasons for refusal on a merits assessment required under Section 4.15 and the Regulations are as follows:

- 1 Insufficient information has been provided to justify the repositioning of the balconies for the units on Level 2 to encroach into the original separation distance and to convert the original private open space to an additional bedroom for the units. This would not have the effect of achieving an equitable sharing of the separation distances between buildings as detailed in the Apartment Design Guide. Furthermore, northern solar access to these balconies should not be relied upon that are located within this separation distance.
- 2 The plans and information submitted with the modification application are unclear in terms of the building constructed to date and the proposed changes shown on the modification plans. For example, in the unit inspected, the study has been constructed with a solid wall and door opening that for all intents and purposes could be used as an additional bedroom.

By way of comment, the Panel does not raise a concern with the north facing private courtyards to Units 6, 7 and 8 and the slab built to provide greater coverage to the car parking area.

The Panel, as mentioned above, notes from the site inspection that there is a lack of conformity with the built form and the plans the subject of this modification application. These changes could have the effect of changing the private open space requirements and the contributions under Section 7.11 adjusted. Any future modification application would also need to satisfy the requirement of being substantially the same development.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Greg Wright	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Recommendations

The Panel is not satisfied that all the changes in the modification application will result in a development that provides acceptable internal and external amenity.

6.3 DA-2015/421/E - 8-10 Martin Avenue, 47-49 Bonar Street & 9 Bidjigal Road, Arncliffe

The following person spoke:

- Michael Gheorghiu, applicant, spoke for the officer's recommendation.

Determination

- 1 That Development Application No 2015/421/E, being a Section 4.56 application to amend development consent number 2015/421, to modify and delete conditions relating to land subdivision, dedications, strata management and public domain matters at 8-10 Martin Avenue, 47 - 49 Bonar Street and 9 Bidjigal Road Arncliffe be APPROVED and the consent amended in the following manner:

- A. By amending conditions 2, 97, 99, 141 and 146 in the following manner:

Condition 2:

2. *The development must be implemented in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.*

Plan/Dwg No.	Drawn by	Dated	Received by Council
Architectural Plans			
AR-1701 Issue 15 (Section BB)	Mode Design	12/01/2018	15/01/2018
AR - 1700 Issue 15 (Section AA)	Mode Design	12/01/2018	15/01/2018
AR-1604 Issue 14 (North Elevation)	Mode Design	12/01/2018	28/03/2018
AR-1603 Issue 16 (West Elevation)	Mode Design	12/01/2018	15/01/2018
AR-1602 Issue 15 (East Elevation)	Mode Design	12/01/2018	15/01/2018
AR-1601 Issue 18 (South Elevation)	Mode Design	26/03/2018	28/03/2018
A-201 Rev 17 (Upper Basement Plan)	Mode Design	23/10/2017	18/01/2018
A-200 Rev 16 (Lower Basement Plan)	Mode Design	23/10/2017	18/01/2018
AR-1109 Issue 11 (Roof Plan)	Mode Design	12/01/2018	15/01/2018

AR-1108 Issue 13 (Level 9)	Mode Design	12/01/2018	15/01/2018
AR-1107 Issue 13 (Level 8)	Mode Design	12/01/2018	15/01/2018
AR-1106 Issue13 (Level 7)	Mode Design	12/01/2018	15/01/2018
AR-1105 Issue 13 (Level 6)	Mode Design	12/01/2018	15/01/2018
AR-1104 Issue 13 (Level 5)	Mode Design	12/01/2018	15/01/2018
AR-1103 Issue12 (Level 4)	Mode Design	12/01/2018	15/01/2018
AR-1102 Issue 12 (Level 3)	Mode Design	12/01/2018	15/01/2018
AR-1101 Issue12 (Level 2)	Mode Design	12/01/2018	15/01/2018
AR-1100 Issue 18 (Level 1)	Mode Design	12/01/2018	15/01/2018
AR-320 Issue 8 (Site Plan)	Mode Design	10/03/2016	16/03/2016
Landscape Plans			
AR-8002 Issue 5 (Level 9)	Mode Design	16/08/2016	31/08/2016
AR-8001 Issue 5 (Level 8)	Mode Design	15/08/2016	31/08/2016
AR-8000 Issue 5 (Ground level)	Mode Design	24/08/2016	31/08/2016
<i>Plan of subdivision of Lots 1 & 2 in DP233666 and Lot 21 in DP1238386 and easements over Lot 2 in DP233666, Lot 21 in DP1238386 and Lot 3 in DP1247416</i>	<i>Matthew William Cleary</i>	29/06/2018	26/04/2019
Park Landscape Plans			
PP-L000-E Cover Sheet (Materials & Finishes Specification)	Mode Design	18/03/2016	31/03/2016
PP-L400-F Landscape Plan 1 of 2	Mode Design	18/03/2016	31/03/2016
PP-L401-F Landscape Plan 2 of 2	Mode Design	18/03/2016	31/03/2016
PP-L500-D Planting Plan 1 of 2	Mode Design	18/03/2016	31/03/2016
PP-L501-D Planting Plan 2 of 2	Mode Design	18/03/2016	31/03/2016

PP-L600- C Typical Landscape Details Sheet 1 of 3	Mode Design	18/03/2016	31/03/2016
PP-L601- C Typical Landscape Details Sheet 2 of 3	Mode Design	18/03/2016	31/03/2016
PP-L602- C Typical Landscape Details Sheet 3 of 3	Mode Design	18/03/2016	31/03/2016
Driveway Plans			
DRIVEWAY LONG SECTION B99 VEHICLE Drawing DR1 Issue F	Acor Consulting Pty Ltd	13/12/2017	10/01/2018
DRIVEWAY LONG SECTION B85 VEHICLE Drawing DR1 Issue F	Acor Consulting Pty Ltd	13/12/2017	10/01/2018
LOADING BAY PLAN Drawing DR3 Issue F	Acor Consulting Pty Ltd	13/12/2017	10/01/2018
DRIVEWAY CLEARANCE DETAIL DR4 Issue F	Acor Consulting Pty Ltd	13/12/2017	10/01/2018
Drainage Plans			
GO170325 – C1 (ISSUE 8) Stormwater Management Plan- Cover Sheet& Notes	Acor Consulting Pty Ltd	31/05/2017	26/02/2018
GO170325 – C2 (ISSUE 8) Basement Level B2	Acor Consulting Pty Ltd	31/05/2017	26/02/2018
GO170325 – C3 (ISSUE 8) Basement LevelB1	Acor Consulting Pty Ltd	31/05/2017	26/02/2018
GO170325 – C4 (ISSUE 8)Ground Floor Plan	Acor Consulting Pty Ltd	31/05/2017	26/02/2018
GO170325 – C5 (ISSUE 8) - OSR / OSD Schematic Diagram	Acor Consulting Pty Ltd	31/05/2017	26/02/2018
GO170325 – C6 (ISSUE 8) Details Sheet 1	Acor Consulting Pty Ltd	31/05/2017	26/02/2018

GO170325 – C7 (ISSUE 8)Details Sheet 2	Acor Consulting Pty Ltd	31/05/2017	26/02/2018
GO170325– C9 (ISSUE 8)Details Sheet 4	Acor Consulting Pty Ltd	31/05/2017	26/02/2018
GO170325 – C10 (ISSUE 8)Details Sheet5	Acor Consulting Pty Ltd	31/05/2017	26/02/2018
GO140198 – C11 (ISSUE 7) STORMWATER MANAGEMENT PLANS - EROSION SEDIMENT CONTROL PLAN	Acor Consulting Pty Ltd	2/3/2016	
GO140198 – C12 (ISSUE 7) STORMWATER MANAGEMENT PLANS - EROSION SEDIMENT CONTROL PLAN – NOTES AND DETAILS.	Acor Consulting Pty Ltd	2/3/2016	
GO140198 – 1.01 (ISSUE 2) WATER CYCLE MANAGEMENT REPORT – COVER SHEET	Acor Consulting Pty Ltd	4/3/2016	
GO140198 – 1.02 (ISSUE 2) WATER CYCLE MANAGEMENT REPORT – STORMWATER QUALITY INVESTIGATION SECTION 1-3.	Acor Consulting Pty Ltd	4/3/2016	
GO140198 – 1.03 (ISSUE 2) WATER CYCLE MANAGEMENT REPORT – STORMWATER QUALITY INVESTIGATION SECTION 4-5.	Acor Consulting Pty Ltd	4/3/2016	
GO140198 – 1.04 (ISSUE 2) WATER CYCLE MANAGEMENT REPORT – STORMWATER QUALITY INVESTIGATION SECTION 5-6.	Acor Consulting Pty Ltd	4/3/2016	
GO140198 – 1.05 (ISSUE 2) WATER CYCLE MANAGEMENT REPORT – STORMWATER QUALITY INVESTIGATION SECTION 7.	Acor Consulting Pty Ltd	4/3/2016	

GO170325 D1 Issue E – Stormwater Management Plan Public Park	Acor Consulting Pty Ltd	31/05/2017	26/02/2018
GO170325 D2 Issue E – Rear Overland Flow Path Plan 51-61 Bonar Street Arncliffe	Acor Consulting Pty Ltd	31/05/2017	26/02/2018

[Amendment A - S96(AA) amended on 15/11/2016]

[Amendment B - S96(AA) amended on 15/01/2018]

[Amendment C - S96(AA) amended on 16/02/2018]

[Amendment D - S96(AA) amended on 29/03/2018]

[Amendment E - S4.56 amended on 28/05/2019]

Condition 97:

97. *The footpaths and streetscape on Martin Avenue and Bonar Street shall be constructed in accordance with Rockdale City Council Public Domain Plan for 'Wolli Creek and Bonar Street Precinct'. Existing surface levels shall remain unchanged unless approved by the Council in writing. No work shall commence within the road reserve fronting Martin Avenue and Bonar Street prior to obtaining a section s138 permit from the Council.*

[Amendment A – S96(AA) deleted on 15/11/2016]

[Amendment E - S4.56 amended on 28/05/2019]

Condition 99:

99. *Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by the developer at their expense. Repairs shall be completed prior to the issue of the Occupation Certificate.*

[Amendment E - S4.56 amended on 28/05/2019]

Condition 141:

141. *The new lots created are as per 'Plan of subdivision of Lots 1 & 2 in DP233666 and Lot 21 in DP1238386 and easements over Lot 2 in DP233666, Lot 21 in DP1238386 and Lot 3 in DP1247416', prepared by Matthew William Cleary, dated 29/6/2018. The subdivision plan is to be reviewed and approved by Council prior to the issue of the Subdivision Certificate.*

[Amendment E - S4.56 amended on 28/05/2019]

Condition 146:

146. *All existing and proposed services on the property shall be shown on a plan, and shall be submitted to Council. This includes electricity, gas, water, sewer, stormwater and telephone services. Where any service crosses one lot but benefits another lot, it is to be covered by an*

easement. The service easement is to be covered by a Section 88B or 88E Instrument, which may only be varied or extinguished with the consent of Bayside Council, except for Lot 3 which is proposed to be amalgamated with Lot 2 in the future consolidation plan.

These provisions are to be put into effect prior to the release of any Occupation Certificate.

[Amendment A — S96(AA) amended on 15/11/2016]
[Amendment E - S4.56 amended on 28/05/2019]

B. By deleting conditions 104 and 140 as follows:

Condition 104:

104. Deleted

[Amendment E - S4.56 amended on 28/05/2019]

Condition 140:

140. Deleted

[Amendment E - S4.56 amended on 28/05/2019]

C. By inserting condition 95A as follows:

Condition 95A:

95A. The developer install an additional light pole within the north-eastern corner of the future Community Park along the frontage of 49 Bonar Street to Council's satisfaction. Lighting shall comply with Australian Standards AS1158.

[Amendment E - S4.56 amended on 28/05/2019]

2 That the objector be advised of the Bayside Local Planning Panel's decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Greg Wright	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Recommendations

The Panel is satisfied the above minor modifications will not create any adverse impacts and approval is warranted.

6.4 DA-2018/213 - 8-20 Sarsfield Circuit, Bexley North

An on-site inspection took place at the property earlier in the day.

Determination

- 1 The Development Application No. DA-2018/213 for the demolition of the existing mixed use and residential buildings and the construction of a seven (7) storey plus rooftop mixed use development, comprising 56 units, 6 retail shops and basement car parking at 8-20 Sarsfield Circuit, Bexley North, is **REFUSED** pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
 - a Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4.3 - Height of Buildings of Rockdale Local Environmental Plan 2011. The applicant's written request has not adequately addressed the matters required to be demonstrated by Clause 4.6(3) of Rockdale Local Environmental Plan 2011 Height of Buildings standard and the objectives of the control. In this regard high quality of urban form, an appropriate transition in built form, and land use intensity are not met. As such the development is not in the public interest.
 - b Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4.4 for the FSR standard in the Rockdale Local Environmental Plan 2011. The applicant's written request has not adequately addressed the matters required to be demonstrated by Clause 4.6(3) of Rockdale Local Environmental Plan 2011 for a variation to FSR and its objectives are not met. That is: to maintain an appropriate visual relationship between the development and existing character of the area; and the impacts on the use or enjoyment of adjoining properties. As such the development is not in the public interest.
 - c Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is unsuitable for the proposed development.
 - d The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is inconsistent with requirements and objectives of State Environmental Planning Policy No. 55 - Remediation of Land. In particular, a Phase 1 Environmental Site Investigation has not been provided.
 - e Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development with respect to the loss of existing affordable housing on the subject site.

- f The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is inconsistent with State Environmental Planning Policy 65 & the Apartment Design Guide in regard to context and neighbourhood character, built form and scale, density, landscape and amenity.
- g Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 6.6 - Flood Planning of Rockdale Local Environmental Plan 2011 as a new flood advice letter did not accompany the application.
- h Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 6.7 - Stormwater of Rockdale Local Environmental Plan 2011 as it fails to demonstrate acceptable disposal of stormwater from the subject land.
- i The proposal is inconsistent with the provision of Clause 4.6(8)(ca) of Rockdale LEP 2011 and does not accommodate or otherwise provide any demonstrable public benefit to the community.
- j Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is an overdevelopment of the site and is excessive in terms of its bulk, scale, height and density. The proposal is inconsistent with the future desired character of the area because it is inconsistent with the development controls applying to the land.
- k Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts and submissions made, the proposed development is not in the public interest and is likely to set an undesirable precedent for overdevelopment within this locality of a neighbourhood centre.

2 That the objectors be informed of the Bayside Local Planning Panel's decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Greg Wright	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Recommendations

The Panel considers the proposal represents an overdevelopment of the site and the development application is not supported for the reasons given above.

The Chairperson closed the meeting at 7.00 pm.

Certified as true and correct.

Jan Murrell
Chairperson