

## **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 23 April 2019 at 6:02 pm.**

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### **Present**

Jan Murrell, Chairperson  
Robert Montgomery, Independent Expert Member  
Helen Deegan, Independent Expert Member  
Jesse Hanna, Community Representative

### **Also Present**

Luis Melim, Manager Development Services  
Darcie Husiman, Acting Coordinator Governance & Risk  
Michael Maloof, Senior Development Assessment Planner  
Patrick Nash, Senior Development Assessment Planner  
Adam Iskander, Senior Development Assessment Planner  
Ana Trifunovska, Development Assessment Planner  
Lauren Thomas, Governance Officer  
Wolfgang Gill, IT Officer

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The Chairperson opened the meeting in the Committee Room of Botany Town Hall at 6:02pm.

### **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 - 9 April 2019**

#### **Decision**

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 9 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 DA-18/1164 - 16 Ramsgate Street, Botany**

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

The following people spoke:

- Mrs Tanya Brabrook, affected neighbour, spoke against the officer's recommendation.
- Mr Paul Rappoport, interested citizen/resident, spoke against the officer's recommendation.
- Mr Jason Starkey, affected neighbour, spoke against the officer's recommendation.
- Mr David Mace, affected neighbour, spoke against the officer's recommendation.
- Mr Brad Humphries, affected neighbour, spoke against the officer's recommendation.
- Ms Ana De Oliveira, affected neighbour, spoke against the officer's recommendation.
- Mr Ben Broadbent, affected neighbour, spoke against the officer's recommendation.
- Mr Anthony Betros, town planner, spoke for the officer's recommendation and responded to the Panel's questions.
- Mr John Baker, architect, spoke for the officer's recommendation and responded to the Panel's questions.

**Determination**

1. That this Development Application be DEFERRED to give the applicant the opportunity to submit amended plans and accompanying documentation within one month to address issues raised in the council officer's report and in the submissions, together with the issues highlighted by the Panel, including: a revised plan of management to allow for community liaison and a register of complaints and how these are addressed which may be inspected by Council at any time; an acoustic report regarding the car stacking and access arrangements for vehicles; light spill management; the provision of privacy measures (fixed horizontal external louvres to windows east and west and privacy screens for balconies); and verified overshadowing diagrams.
2. The amended plans and documentation are to be notified in accordance with Council's policy.
3. The matter is to be assessed and referred back to the Panel in a timely manner.
4. That the objectors be advised of the Bayside 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"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Reason for the Panel's Determination**

- While the applicant prepared amended plans to address some of the issues raised, the Panel is not satisfied that all issues have been appropriately addressed. Furthermore, due process prevents the Panel accepting the late plans received by the Panel today.
- The Panel considered the plans and documentation for the 35-room boarding house do not warrant approval given the number of issues that must be addressed.

**6.2 DA-2018/1164 - 10 Garden Street Eastlakes**

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

The following people spoke:

- Mr Salah Shirajee, affected neighbour, spoke against the officer's recommendation.

- Rodney A Yannakis, building designer of the project, spoke for the officer's recommendation and responded to the Panel's questions.

### Determination

- 1 That the Bayside Local Planning Panel is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of Botany Bay Local Environmental Plan 2013 and that the proposed development is in the public interest as it is consistent with the objective of the FSR Standard and the objectives for the R2 Low Density Residential zone and therefore it is in the public interest.
- 2 That the Bayside Local Planning Panel APPROVES Development Application No. DA-2018/1164 for Demolition of existing structures and construction of two semi-detached dwellings and Torrens title subdivision into two (2) lots at 10 Garden Street, Eastlakes, subject to the conditions attached in this report.
- 3 That the objectors be advised of the determination made by the Bayside Local Planning Panel.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Reason for the Panel's Determination

- The Panel has carefully considered the issues raised by the objector in particular, the overshadowing of the solar panels and the rear extension at number 10A and has determined that the impact is not unreasonable and is consistent with Council's guidelines and controls.
- The Panel notes that the development is also consistent with the Planning Framework of the Council's controls and is in an area designated as H2 Zone that allows for zero lot boundaries and subdivision with a minimum width of 5 metres.

### 6.3 S82-2019/1 - 11 Gertrude Street, Wolli Creek

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

- Mario Mourad, planning consultant for the Development Application was unwell and unable to attend the meeting.

**Determination**

1. That the Division 8.2 Review (S82-2019/1) of Development Application No. DA-2017/555 for demolition of existing structures and construction of a nine (9) storey boarding house comprising 59 boarding rooms including a manager's residence, partial basement and above ground parking, landscaping and associated site works at 11 Gertrude Street, Wolli Creek be 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)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be suitable for the site.
  - b. Insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development. In this regard, the application was not accompanied by a Plan of Management, shadow diagrams, the stormwater plans are inconsistent with the architectural plans, an updated landscape plan, acoustic assessment/BCA report and Access report were not submitted and the Geotechnical report is inadequate.
  - c. The application has not had adequate regard to the NSW Land & Environment Court Planning Principles in respect of the isolation of the neighbouring property at 13 Gertrude Street.
  - d. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the Rockdale Local Environmental Plan 2011, including:
    - i. Clause 6.2 - Earthworks: The submitted Geotechnical investigation is insufficient and does not adequately consider likely impacts on adjacent properties.
    - ii. Clause 6.6 - Flood Planning: The proposed platform lift at the front of the site on the ground floor plan is not supported as accessible access unless it can be adequately flood proofed.
    - iii. Clause 6.7 - Stormwater: The submitted stormwater plans are inconsistent with the architectural drawings and are therefore inadequate for assessment.
  - e. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the Rockdale Development Control Plan 2011, including:
    - Part 4.1.3 - Flood Risk Management
    - Part 4.4.3 - Natural Lighting and Ventilation (insufficient ceiling heights)
    - Part 4.5.2 - Social Equity - Equitable Access

## Part 4.6 - Car Park Location and Design

- f. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, is unsatisfactory given the inadequate proposed means of access to and from the development site and the manoeuvring of vehicles.
  - g. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the non-compliances with the planning controls, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.
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"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Reason for the Panel's Determination**

- The Panel considers that the site is unsuitable for the scale of development as proposed.
- The provision of extensive mechanical car stacking is not practical and is unacceptable for the likely frequency and type of use
- The overall design and scale of the proposed development is not responsive to the restrictive width of the site and other constraints presented by the site.

**6.4 DA-18/1182 - 24 Carinya Avenue, Mascot**

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

**Determination**

- 1 That the Bayside Planning Panel has considered the Clause 4.6 request to vary the FSR standard contained in Clause 4.4 of the BBLEP 2013 and is not satisfied that the variation will result in consistency with the objectives of the FSR standard and the objectives of the R2 Low Density Residential zone and it is therefore not in the public interest to vary the control.
- 2 That Development Application DA-2018/1182 for demolition of the existing building and structures, Torrens Title subdivision into two (2) lots and

construction of two x two (2) storey semi-detached dwellings at 24 Carinya Avenue Mascot be REFUSED 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 4.4 of Botany Bay LEP 2013 relating to floor space ratio and the Clause 4.6 written variation request submitted by the applicant is not supported, and
- b. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of Clause 3E of Botany Bay DCP 2013 which relates to the subdivision of land and integrity of the existing subdivision pattern within an existing street block. As such, the proposal will result in adverse impacts on the amenity of the surrounding precinct and will set an undesirable precedent, and
- c. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act, the proposed development is excessive in terms of bulk, size and density, and is inconsistent with the character of the area and streetscape, and would adversely impact upon the amenity of the locality, and
- d. The proposal is inconsistent with the objectives of the R2 Low Density Residential zone under Botany Bay Local Environmental Plan 2013 and as such fails to satisfy Section 4.15(1)(a)(i) & (ii) of the Environmental Planning & Assessment Act 1979, and
- e. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of Clauses 2.4, 2.8, 3G, 4.1, 4A & 4.3 of Botany Bay DCP 2013 which relate to streetscape, stormwater management (stormwater drainage and flooding), privacy, car parking, and will result in impacts on the amenity of the surrounding precinct, and
- f. Having regard to the above and pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts, the proposed development will set an undesirable precedent and is not considered to be in the public interest.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Reason for the Panel's Determination**

- The fundamental issue for the Panel is that the proposed development, if approved, would have an unacceptable impact on the existing subdivision pattern and streetscape character. This would set an undesirable precedent for the locality, especially those lots east of the subject site, which are shorter in depth. Compliance with the development standard would ensure development with less bulk and scale and less amenity impact.
- The Clause 4.6 written request is not supported as per the Council officer's report and in particular non compliance with the objectives of Clause 4.4 of the BBLEP 2013 FSR including:
  - Excessive density and intensity of use, resulting in an unacceptable impact on neighbours.
  - The bulk and scale of the proposed development will be inconsistent with the character of the street, especially to the east of the site.
  - The proposed development would not provide an appropriate visual relationship to the existing character.

As well as the objectives of the R2 Zone in particular, to provide for the housing needs of the community within a low density residential environment.

The Chairperson closed the meeting at 8:00 pm.

Certified as true and correct.

Jan Murrell  
**Chairperson**