

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 13 August 2019 at 6:00 pm.**

Present

Marcia Doheny, Chairperson
Jan Murrell, Independent Expert Member
Lindsey Dey, Independent Expert Member
Patrick Ryan, Community Representative

Also Present

Luis Melim, Manager Development Services
Fausto Sut, Manager Governance & Risk
Adam Iskander, Development Assessment Planner
Petra Blumkaitis, Development Assessment Planner
Gary Choice, Development Assessment Planner
Lauren Thomas, Governance Officer
Taif George, IT Support 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 - 16 July 2019

Decision

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 16 July 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

4.2 Minutes of the Bayside Local Planning Panel Meeting - 23 July 2019

Decision

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 23 July 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-2018/379 - 1274 Botany Road, Botany

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

The following person spoke:

- Mr Anthony Betros, Director of ABC Planning, attended in support of the officer's recommendation .

Determination

It is RECOMMENDED, pursuant to Section 4.16 of the EP&A Act 1979:

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2018/379 for the demolition of existing dwelling and construction of a two storey boarding house containing 13 double rooms, one managers room and 7 car spaces, pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
2. That the submitters be notified of the Bayside Local Planning Panel's decision.

Name	For	Against
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for Panel Determination

- The proposal complies with all requirements of Council's LEP and DCP including front and side setbacks and height. It also complies with all requirements of the State Environmental Planning Policy (Affordable Rental Housing).
- The design will result in a built form that will consist of two modest buildings with substantial landscaped setbacks around the perimeter.
- In terms of the test for compatibility with the local character, the design will not have unacceptable impact on surrounding development and will be in harmony with the buildings around it and the character of the street.

6.2 S82-2019/5 - 11 Aylesbury Street, Botany

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

The following people spoke:

- Stephen Kerr, Planner & Executive Director, City Plan, spoke against the officer's recommendation and responded to the Panel's questions.
- David Epstein, Architect & Principal, DRE Design, spoke against the officer's recommendation and responded to the Panel's questions.

Determination

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to Division 8.2 relating to development application S82-2019/5 for a review of determination, resolve to confirm the previous decision of REFUSAL of the development application DA-2018/316 for alterations and additions including construction of a two storey residential unit above the existing warehouse, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979, with the following modified reasons:

The proposal is unsatisfactory with regards to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act for the following reasons:

- The application fails to provide sufficient information to determine whether the application complies with State Environmental Planning Policy No 55 Remediation of Land.
 - The proposed development is not consistent with State Environmental Planning Policy No 55 Remediation of Land.
- 2 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 objectives of the B4 Mixed Use zone as contained in Part 2.3 of the zone under Botany Bay Local Environmental Plan 2013, including:
- *To provide a mixture of compatible land uses.*
- 3 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 Clause 4.4 – Floor Space Ratio in the Botany Bay Local Environmental Plan. The 4.6 variation statement justifying non-compliance with this standard is not supported.
- 4 The proposal is unsatisfactory with regards to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, as the layout and design of the proposal is not compliant with or fails to provide sufficient information to determine whether the proposal is compliant with the controls contained within the Development Control Plan 2013 including but not limited the following:
- (a) Part 3A – Parking and Access.
 - (b) Part 3I – Crime Prevention, Safety and Security
 - (c) Part 3K - Contamination
 - (d) Part 4C - Residential Flat Buildings.
- 5 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 area available for the loading and unloading of goods and manoeuvring of vehicles.
- 6 Having regard to the previous reasons noted above pursuant to the provision of Section 4.15(1)(e) of the Environmental Planning and Assessment act 1979, approval of the development application is not in the public interest and is likely to set an undesirable precedent.
- 7 The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in terms of compatibility of mixed land uses and is likely to adversely impact on the functionality of the existing commercial premises and the amenity and safety of future residents.

Name	For	Against
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for Panel Determination

- The reasons for the Panel's determination are as set out in the Council report (page 81), in addition:
 - With respect to the Clause 4.6 request, the Panel is not satisfied that it justifies non-compliance with the standard as it fails to demonstrate consistency with the zone objectives and it also fails to identify satisfactory environmental planning grounds for the variation. The Panel is also of the view that the proposed development would not be consistent with the zone objectives and therefore would not be in the public interest.
 - In terms of compatibility with the objectives of the B4 mixed-used zone, the Panel does not consider that the proposed residential use is compatible with potential noise impacts from adjoining development.
 - The Panel does not consider that the design is appropriate in terms of residential amenity, particularly the arrangements for accessing the residential component using the same entry and stairs as the commercial use.

6.3 BDA-2018/1140/A - 11 Edward Street, Botany

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

The following person spoke:

- Paul Grounds, Building Designer, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

1. That the Bayside Local Planning Panel SUPPORTS the proposed modification application as:
 - i. it is of minimal environmental impact;
 - ii. it is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - iii. it has been notified; and

- iv. it has been assessed having regard to the relevant matters in s4.15 of the Environmental Planning and Assessment Act 1979.
- 2. That the Bayside Local Planning Panel APPROVES the Section 4.55(2) application to modify Development Consent No. 2018/1140/A to increase size of approved semi-detached dwellings, including internal reconfiguration works at 11 Edward Street, Botany as follows:
 - i. By amending condition 1 and 4:
 - 1 The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing	Author	Dated
Site/roof Plan- Issue D S4.55 01	GUD Studio	March 2019
Ground Floor Plan- Issue D S4.55 02		March 2019
First Floor Plan- Issue D S4.55 03		March 2019
Elevations- Issue D S4.55 04		March 2019
Section – Issue D S4.55 05		March 2019
Demolition plan – Rev B DA06		10 October 2018
Subdivision plan – Rev B DA07		10 October 2018
Construction management plan – Rev B DA09		10 October 2018
Finishes Schedule – Rev B DA10		10 October 2018
Landscape plan 18-3763 LO1	Zenith Landscape Designs	25 July 2018
Stormwater plans Sheet 1 of 1, Job ref: 18081-C01-B	Cpm Engineering	9 March 2019

4. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (Certificate number: 644504M_02) are fulfilled.

Note:

- a) Relevant BASIX Certificate means:
- i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
- b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.

Name	For	Against
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for Panel Determination

- The proposed modified development fully complies with the requirements of Council's DCP in terms of setbacks, landscaped area, height and site coverage. These elements manage the spatial relationship between this development and its impact on neighbours and the streetscape.
- The additional floor space will be added to the rear and will have no solar access, overshadowing, privacy or other amenity impacts on neighbours nor will it impact on the streetscape.
- Even though the proposal will result in non-compliant FSR, it will still result in site coverage of only 40% compared with the 60% that is permitted and will produce a more functional building with better amenity for its residents.

6.4 DA-18/1164 - 14-16 Ramsgate Street, Botany

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

The following people spoke:

- Mr Michael Barrington, affected neighbour, spoke against the officer's recommendation.
- Mr David Mace, affected neighbour, spoke against the officer's recommendation.
- Mr Ben Broadbent, affected neighbour, spoke against the officer's recommendation.
- Mr Ivan Wunderlin, affected neighbour, spoke against the officer's recommendation.
- Dr Jane Carland, affected neighbour, spoke against the officer's recommendation.
- Mr Mark Brabrook, affected neighbour, spoke against the officer's recommendation.
- Mr John Baker, architect, spoke for the officer's recommendation and responded to the Panel's questions.
- Mr Anthony Betros Director of ABC Planning, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2018/1164 for demolition of existing structures and construction of a 2-storey boarding house with 32 rooms and a manager's room, associated parking and tree removal at 14-16 Ramsgate Street, Botany; pursuant to s4.16 (1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report and subject to the deletion of conditions 78, 32 and 42.
2. That the submitters be notified of the Bayside Local Planning Panel's decision.

Name	For	Against
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for Panel Determination

- The updated information from the applicant has adequately addressed the issues raised by submitters and the previous Panel being car parking and access design, privacy, noise and overshadowing as well as community liaison and complaints management.
- This is a large site and a much larger building would be permitted within the controls that apply to the site.
- The proposed development is well below the permitted FSR, complies with the height control and has setbacks that exceed DCP requirements.
- The proposed development will have the appearance of a two storey dwelling and as such will be compatible with the local character.
- The reduction in floor space reflected in the amended plans has resulted in appropriate, workable, parking arrangements and has also allowed privacy and overshadowing impacts to be appropriately addressed.
- The Plan of Management requires an on-site manager, with an available phone number 24 hours a day, seven days a week. It also only permits visitors between 9:00 am and 9:00 pm and requires the common room not to be used between 9:00pm and 7:00am.

The Chairperson closed the meeting at 8:22 pm.

Certified as true and correct.

Marcia Doheny
Chairperson