

## **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 22 October 2019 at 6:01 pm.**

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### **Present**

Jan Murrell, Chairperson  
Marcia Doheny, Independent Expert Member  
Robert Montgomery, Independent Expert Member  
Thomass Wong, Community Representative

### **Also Present**

Luis Melim, Manager Development Services  
Fausto Sut, Manager Governance & Risk  
Marta Gonzalez-Valdes, Coordinator Development Assessment  
Patrick Nash, Senior Development Assessment Planner  
Ana Trifunovska, Development Assessment Planner  
Helen Lai, Development Assessment Planner  
Angela Lazaridis, Senior Development Assessment Planner  
Lauren Thomas, Governance Officer  
Suhradam Patel, IT Technical Support Officer

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The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6:01 pm.

### **1 Acknowledgement of Country**

The Chairperson affirmed that Bayside Council and the Panel respects the traditional custodians of the land, elders past, present and emerging, 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 - 8 October 2019**

#### **Decision**

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 8 October 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-2015/10216/G - 8 Galloway Street, Mascot**

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

The following person spoke:

- Mr Walter Gordon, Meriton, 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, and pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 is satisfied that the proposed modification:
  - a. is of minimal environmental impact;
  - b. is substantially the same development as the development for which consent was originally granted and before that consent was modified;
  - c. has been assessed having regard to the relevant matters in s4.15 of the Environmental Planning and Assessment Act 1979.
- 2 That modification application DA-2015/10216/G seeking to modify Development Consent No. 2015/216 to amend Condition No. 39 regarding the damage deposit at 8 Galloway Street, Mascot is APPROVED. The proposal is modified as follows:

By amending Condition No. 39 to state the following:

39. Prior to the issue of the Construction Certificate for above ground works, the applicant shall lodge a Damage Deposit of \$157,500.00 (GST Exempt) by the way of cash deposit or unconditional bank guarantee to Council against

possible damage to Council's asset during the course of building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupation Certificate has been issued for the final building under ~~DA16/117~~ **DA15/216**.

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

#### Reason for Panel Determination

- The Panel is satisfied that the modification will not have adverse impacts on the environment and is of a minor nature.

## 6.2 DA-2019/160 - 10/30 Stephen Road, Botany

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

The following person spoke:

- Mr Melvin Li, applicant, 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 pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, approve a variation to the building height prescribed by Clause 4.3 - Height of Buildings of the Botany Bay Local Environmental Plan 2013, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.
- 2 That development application, DA-2019/160, for conversion of the attic storage area into a bedroom and alterations to the existing roof at 10/30 Stephen Road, Botany, be APPROVED pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979, subject to the conditions of consent attached to this report and subject to the following amendment:

A condition is imposed to clarify the height of the window sill to be 1.5 metres from finished floor level and capable of opening to allow ventilation into the bedroom.

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

#### Reason for Panel Determination

- The Panel is satisfied that the conversion of the attic to a bedroom is reasonable in the circumstances and will not have privacy implications for the townhouse opposite.

### 6.3 DA-2018/378 - 13A-17 Swinbourne Street, Botany

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

The following people spoke:

- Mr Patrick Nicholas, Architect, spoke for the officer's recommendation and responded to the Panel's questions.
- Ms Alison Davidson, Town Planner, 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 Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 approved a variation to the building height prescribed by clause 4.3 of the Botany Bay Local Environmental Plan 2013, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by clause 4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.
2. That Development Application No. DA-2018/378 for demolition of existing structures and construction of a three (3) storey shop top housing development comprising one (1) ground floor commercial tenancies, 20 dwellings, basement and ground floor parking and stratum subdivision, be APPROVED 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 except that condition 133 is to be amended to refer to condition 39.

3. That the submitters be notified 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"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### Reason for Panel Determination

- The Panel agrees with the officer's assessment of the amended proposal.
- The Panel acknowledges that the applicant has provided design amendments as previously requested, and the Panel is satisfied with those amendments.
- The Panel notes that the design amendments will provide superior amenity for the future residents of the development and surrounding properties.

#### 6.4 DA-2018/368 - 1449 Botany Road, Botany

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

The following people spoke:

- Mr Troy Nicholson, affected neighbour, spoke for the officer's recommendation of refusal.
- Mark Probert, affected neighbour, spoke for the officer's recommendation of refusal.
- Roland Stephens, affected neighbour, spoke for the officer's recommendation of refusal.

#### Determination

1. That development application DA-2018/368 for the demolition of the existing building and construction of a four storey mixed use development containing nine (9) units with basement parking and associated landscaping at 1449 Botany Road, Botany is REFUSED pursuant to s4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
  - a) The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is

not consistent with the State Environmental Planning Policy – BASIX as the applicant has failed to provide an amended BASIX Certificate.

- b) The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment and the design criteria and guidelines of the following sections of the Apartment Design Guide with respect to the following:
  - (i) Part 4C - Ceiling Heights – the proposed development does not comply with the 3.3 metre floor to ceiling height for the ground floor commercial/office premises;
  - (ii) Part 4K – Unit Mix – the proposed development has not demonstrated a variety of unit types.
- c) 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 6.15- Active Street frontages of the Botany Bay Local Environmental Plan 2013 as the development provides insufficient active street frontage along Botany Road.
- d) 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 following sections of the Botany Bay Development Control Plan 2013 with respect to the following:
  - (i) Part 3A – Car Parking and Access. The proposed development does not comply with the minimum car parking requirement under Table 1 of Part 3A.2- Parking Provisions of Specific Uses and does not provide loading and unloading facilities on site. The basement car parking level does not provide an appropriate layout and manoeuvring;
  - (ii) Part 3B – Heritage. The proposed development is not compatible or consistent with the existing built form and character of the Botany Township Heritage Conservation Area in addition to conserving the existing dwelling on the site;
  - (iii) Part 3C – Access and Mobility. The proposed development does not provide appropriate pedestrian access to units and has not allocated any units as adaptable units;
  - (iv) Part 3G – Stormwater Management. The proposed development does not comply with Section 7.1(i) of Part 10 of the Botany Bay Development Control Plan 2013 and does not provide sufficient detail as to the On-site detention system proposed on the site;
  - (v) Part 3N – Waste Minimisation and Management. The proposed development does not comply with the required garbage bins required as well as does not distinguish between the residential and commercial uses;
  - (vi) Part 4C.4.2- Family Friendly Apartment Buildings within High Density Residential. The proposed development does not comply

with the family friendly controls relating to separate living areas, waterproofing common areas, having two separate bathrooms and storage space requirements;

- (vii) Part 5 – Business Centres. The proposed development do not comply with the objectives and controls of Part 5.2.2.7- Botany Local Centre of the Botany Bay Development Control Plan 2013 relating to site consolidation, desired future character, setbacks, material choice, car parking, design excellence, building design, active street frontage, solar amenity, servicing.
  - 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, including stormwater plans, landscape plans, Access Report, Acoustic Report and Traffic report, to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.
  - 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 area available for the loading and unloading of goods and manoeuvring of vehicles.
  - g) Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory as it fails to demonstrate acceptable disposal of stormwater from the subject land.
  - h) Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in terms of bulk, scale, size, height, density, inconsistent with local character and would adversely impact upon the amenity of the locality.
  - i) 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 its size of the site and density proposed in correlation with the existing heritage context of the street and is likely to adversely impact on the adjoining heritage items and heritage conservation area.
  - j) Having regard to the advice received from Roads and Maritime Services, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the development application cannot be supported on the basis of sightlines and right turn access.
  - 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 considered to be in the public interest and is likely to set an undesirable precedent.
2. That the submitters be notified of the Bayside Local Planning Panel's decision.

<b>Name</b>	<b>For</b>	<b>Against</b>
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Reason for Panel Determination**

- The Panel concurs with the officer's report and recommendation and is of the opinion the proposal is inappropriate in the context of this conservation area.

The Chairperson closed the meeting at 6:38 pm.

Certified as true and correct.

Jan Murrell  
**Chairperson**