

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 12 November 2019** at **6.00 pm**

Present

Jan Murrell, Chairperson
Helen Deegan, Independent Expert Member
Stephen Moore, Independent Expert Member
Amber O'Connell, Community Representative

Also present

Luis Melim, Manager Development Services
Marta Gonzalez-Valdes, Coordinator Development Assessment
Christopher Mackay, Coordinator Development Assessment
Patrick Nash, Senior Development Assessment Planner
Christopher Lazaro, Development Assessment Planner
Petra Blumkaitis, Development Assessment Planner
Andrew Ison, Senior Development Assessment Planner
Fiona Prodromou, Senior Development Assessment Planner
Taif George, 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 Country

The Chairperson affirmed that Bayside Council 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 - 22 October 2019

Decision

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 22 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 S82-2019/9 - 29 Caledonian Street, Bexley

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

Determination

- 1 The Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to Division 8.2 relating to development application No. S82-2019/9 for a review of the determination, resolve to confirm the previous decision to refuse the development application DA-017/216/A, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979.
- 2 The development application DA-2019/216/A for the modification to reduce the setback of the retaining wall from the side boundary at the rear at 29 Caledonian Street, Bexley is REFUSED pursuant to s4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
 - a The proposal is not of minimal environmental impact and therefore does not satisfy the provisions of Section 4.55(1A)(a) of the *Environmental Planning and Assessment Act 1979*.
 - b The location and amount of fill proposed is a significant variation to the original approval as shown in the approved plans and as required by Conditions of consent, particularly with regards to Condition 10. The proposed development is therefore not substantially the same development as the development for which consent was originally granted and does not satisfy the provisions of Section 4.55(1A)(b) of the *Environmental Planning and Assessment Act 1979*.
 - 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 amenity

impacts on adjoining properties resulting from the proposal do not satisfy the objectives of the R3 - Medium Density Residential zone in *Rockdale Local Environmental Plan 2011*, including:

- *To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.*

d 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 the following Clauses under the Rockdale Local Environmental Plan 2011:

- Clause 6.2 - Earthworks
- Clause 6.6 - Flood planning
- Clause 6.7 – Stormwater

e Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 insufficient information has been provided to demonstrate that the proposed development will not result in the following adverse environmental impacts:

- Natural Environment – quality of, and stability of, significant filling carried out on site.
- Built Environment – Structural adequacy of retaining wall, and failure to demonstrate acceptable disposal of stormwater from the filled part of the land.

f Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the issues raised in the submission made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

3 That the submitter be notified of the Bayside Local Planning Panel's decision.

| Name | For | Against |
|-----------------|-------------------------------------|--------------------------|
| Jan Murrell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Helen Deegan | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Stephen Moore | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Amber O'Connell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Reason for the Panel's Refusal

The Panel concurs with the Officer's report and recommendation and has determined the modification would result in unreasonable impacts on the environment and adjoining neighbours.

By way of comment the panel notes the property has been sold and the unauthorized works remains on the property.

6.2 DA-2016/86/D - 15-17 Gertrude Street, Wolli Creek

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

The following person spoke:

- Alfredo Pagano, architect, spoke in support of the modification application and responded to the Panel's questions.

Determination

That this item be deferred to allow the applicant to provide further information to Council to investigate connecting the third bedroom to the unit above, Unit 2, and information with amended plans is to be provided to Council within 21 days to allow the matter to be further considered.

| Name | For | Against |
|-----------------|-------------------------------------|--------------------------|
| Jan Murrell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Helen Deegan | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Stephen Moore | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Amber O'Connell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Reason for the Panel's Determination

The Panel considers the previous modification to convert a 3 bedroom unit on the upper level to a 2 bedroom and one bedroom unit has changed the unit mix, and the further loss of this 3 bedroom unit the subject of the current modification is not acceptable in the circumstances.

6.3 DA-2018/151 - 238-242 Rocky Point Road, Ramsgate

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

The following people spoke:

- Nathan Richau, affected neighbour, spoke against the officer's recommendation and responded to the Panel's questions.

- Elaine Timbs, affected neighbour, spoke against the officer's recommendation and responded to the Panel's questions.
- Clifford Bernard, affected neighbour, spoke against the officer's recommendation and responded to the Panel's questions.
- Daisy Buchanan, affected neighbour, spoke against the officer's recommendation and responded to the Panel's questions.
- Suzanne O'Connor, interested resident, spoke against the officer's recommendation and responded to the Panel's questions.
- Michael Gheorghiu, Town Planning Consultant from Tudor Planning and Design, spoke for the officer's recommendation and responded to the Panel's questions.
- Chris Tsioulos, Architect from CMT Architects Australia Pty Ltd / applicant, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 The development application for the construction of a Boarding House with 70 rooms on the above site is deferred for the applicant to address the following:
 - A recalculation of the FSR to include access corridors that should be included as GFA and for any necessary amended plans.
 - Consideration to the allocation of an additional Manager's residence in the plans to allow 24 hour management of the property together with details of management.
 - The Plan of Management must be revised to be comprehensive given the large number of rooms.
 - Details of the management of the communal open space on the rooftop to restrict use of the eastern portion from the hours after 6 pm and how numbers are to be generally monitored to maintain reasonable residential amenity of the area.
 - The social impact statement is to include the likely range and mix of tenants.
 - Consideration of the amenity impact on ground floor apartments of the adjoining RFB and how this is addressed.
 - Greater detail required of the availability and access to a range of goods and services, including convenience stores for daily requirements.
 - The Plan of Management is to reference details of a Community Liaison Committee to be formed to address concerns of the local community that may arise from time to time with the operation of the boarding house. The Manager is responsible to arrange such forums on a regular basis.

- Details of a Complaints Register including how it is to operate and made available for Council inspection at any time.

The Applicant is to submit the further information and amended plans if necessary to the Council by mid January 2020. A further assessment report is to then be prepared with the draft conditions to include: a condition that the development is not to be converted to another form of development or strata subdivided at any time for the life of the development; and prior to the commencement of demolition, the Development Consent dated 27 February 2018 (DA-2017/174) is to be surrendered if the applicant acts on this consent, or alternatively this consent is surrendered if the applicant acts on the previous consent.

- 2 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"/> |
| Helen Deegan | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Stephen Moore | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Amber O'Connell | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Reason for the Panel's Determination

The majority of the Panel considers that the application for a large 70 room Boarding House on the subject site is deficient to allow a determination at this time. Furthermore, the FSR calculation appears to be incorrect.

The Community representative voted against the development application as she considered it was an overdevelopment of the site. In considering the merits of the development as a whole she could not reconcile the aspects of non-compliance including height exceedance and solar access to the common room. Regard was also given to the distance of train services and a range of services and conveniences for everyday living.

6.4 DA-2016/150/A - 401-405 Princes Highway, Rockdale

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

The following people spoke:

- James Alexander-Hatziplac, architect, spoke for the officer's recommendation and responded to the Panel's questions.
- Craig Munnings, Development Manager, Munnings & Associates, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 The Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(2) of the Environmental Planning and Assessment Act 1979 is satisfied that the proposed modification:
 - i is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - ii has been notified; and
 - iii has been assessed having regard to the relevant matters in s4.15 of the Environmental Planning and Assessment Act 1979.
- 2 The modification application DA-2016/150/A seeking to modify development consent DA-2016/150 to: increase apartment numbers from 39 to 43; reduce the extent of excavation by deleting one basement level; reduce plant requirements; changes to internal layout; podium level; and changes to facade details at 401-405 Princes Highway Rockdale is APPROVED subject to the conditions as recommended in the Council officer's report that the description, 'deferred commencement' and consent conditions 2, 5, 13, 30, 36, 39, 41, 43, 48, 112, 117, 118, 123, 137 are modified and conditions 39A, 41A, 42A, 99A, 111A and 140A are inserted.

| Name | For | Against |
|-----------------|-------------------------------------|--------------------------|
| Jan Murrell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Helen Deegan | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Stephen Moore | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Amber O'Connell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Reason for the Panel's Determination

The Panel is satisfied the modification application warrants approval and the development will benefit by the changes.

6.5 DA-2019/117 - 19 Gladstone Street, Bexley

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

The following people spoke:

- Ken James, affected neighbour, spoke against the officer's recommendation.
- Peter O'Kane, affected neighbour, spoke against the officer's recommendation and responded to the Panel's questions.

- Miceal Bradley, affected neighbour, spoke against the officer's recommendation.
- Liz Barlow, interested resident, spoke against the officer's recommendation and responded to the Panel's questions.
- Peter Smith, Urban Designer, spoke for the officer's recommendation and responded to the Panel's questions.
- Andrew Bova, applicant, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

The Panel has considered the submissions received, including both oral and written, the Council Officer's Report and has the benefit of a site inspection before making this determination.

- 1 The Bayside Local Planning Panel, exercising the functions of the Council as the consent authority pursuant to S4.16(3) of the Environmental Planning and Assessment Act 1979 grants DEFERRED COMMENCEMENT consent to development application DA-2019/119 for demolition of existing structures and construction of part two (2) and part three (3) storey boarding house comprising 13 rooms with basement parking and single storey communal room at 19 Gladstone Street, Bexley, The consent does not operate until the Deferred Commencement Condition below is satisfied.

DEFERRED COMMENCEMENT CONDITION

The consent shall not operate until the Director City Futures is satisfied as to the following matters:

- a An easement to drain water shall be legally registered with NSW Land Registry Services over the rear property at 26 Caledonian Street, Bexley benefiting the subject site 19 Gladstone Street, Bexley. The width, length and the location of the easement shall be in accordance with Stormwater management plan prepared by Donovan Associates drawing number E288259 sheet number D3, Revision D dated 26.03.2019.*
- b Boarding room 202 on the Level 02 Plan shall be deleted with the roof form modified and lowered in height, the rear dormer deleted, this results in a secondary roof form below the primary roof.
(Reason: to allow improved solar access to adjoining rear yards.)*
- c Deletion of the larger southern window (not including bathroom) from the common room.
(Reason: to mitigate impacts of noise on adjoining properties.)*
- d Reduce setback of the rear building on the northern boundary to 900 mm and as a consequence increase landscaping along southern boundary of rear building.
(Reason: to provide opportunity for screen planting for adjoining semi detached houses at No.'s 21 and 23 Gladstone Street.)*

- e *Increase setback of garage door 1.5 m .further from front boundary
(Reason: to attenuate noise from door opening and closing by being located further into the building.)*
- f *Provide lapped and capped acoustic fencing along southern boundary.
(Reason: to provide further attenuation of noise for southern neighbour.)*
- g *Update Plan of Management to also include:*
- *A Community Liaison Committee to allow residents to meet with the Manager and raise any concerns.*
 - *Details of Complaints Register including action and time taken to address concerns and the Register is to be available for Council to inspect at any time.*
 - *Manager's phone number is to be clearly displayed on outside of building.*
 - *Information to be provided to Tenants in relation to the use and operation of basement car park to minimise disturbance to neighbours.*
 - *A copy of the approved Plan of Management is to be made available by the manager to neighbours on request.*
- (Reason: to provide mechanism for neighbours to raise any concerns with the manager and for issues to be addressed in a timely manner.)*
- h *The brickwork is to be of lighter tones to provide improved light reflection for adjoining properties.*

The above Deferred Commencement conditions are to be addressed within 12 months from the date of this determination.

Upon receiving written satisfaction from Council that the above Deferred Commencement requirements have been approved, the consent will then become operational subject to conditions.

- 2 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"/> |
| Helen Deegan | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Stephen Moore | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Amber O'Connell | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Reason for the Panel's Determination

The Panel has carefully considered the submissions received and has decided to grant a deferred commencement consent with the need for the applicant to provide updated plans and an amended Plan of Management to the satisfaction of the Director City Futures.

The Panel must determine the application having regard to the Legislative Planning framework and this permits Boarding Houses in residential areas. Apart from providing a built form that does not create unreasonable impacts, at the same time the Panel is aware that the management and operation is important to ensure residential amenity is reasonably maintained for all. The Panel has therefore imposed the above additional Deferred Commencement conditions for this purpose.

The removal of the upper level room on Building 1 and amended roof form will allow for improved solar access to the neighbours' yards. The common room window facing the yard of dwelling No 21 is to be deleted to improve acoustic and potential privacy issues.

Building 2 is to be moved closer to the northern boundary with a setback of 900 mm to allow an increased separation and opportunities for landscaping along the southern boundary, to improve visual impact, privacy and impact to adjoining neighbours.

To improve acoustics between neighbouring properties, especially in relation to the basement garage, the door has been moved into the building by 1.5 m and a lapped and capped fence has been required along the southern boundary.

An updated comprehensive Plan of Management, including a Community Liaison Committee and details of a Complaints Register, are required to respond to concerns of neighbours and provide a clear operational framework for the boarding house to minimize impacts in the locality.

The Chairperson closed the meeting at 9.30 pm.

Certified as true and correct.

Jan Murrell
Chairperson