

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 10 December 2019 at 6:02 pm.**

Present

Marcia Doheny, Chairperson
Robert Montgomery, Independent Expert Member
Robert Furolo, Independent Expert Member
Jesse Hanna, Community Representative

Also Present

Michael McCabe, Director City Futures
Luis Melim, Manager Development Services
Fausto Sut, Manager Governance & Risk
Christopher Mackay, Coordinator Development Assessment
Pascal Van De Walle, Coordinator Development Assessment
James Arnold, Consultant Development Assessment Planner
Andrew Ison, Senior Development Assessment Planner
Ana Trifunovska, Development Assessment Planner
Michael Maloof, Senior Development Assessment Planner
Angela Lazaridis, Senior Development Assessment Planner
Julia Hunt, Development Assessment Planner
Lauren Thomas, Governance Officer
Wolfgang Gill, IT Technical Support Officer

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

1 Acknowledgement of Country

The Chairperson affirmed that Bayside Council respects the traditional custodians of the land, on which this meeting takes place, elders past, present and emerging, 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 - 25 November 2019

Decision

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 25 November 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 - 26 November 2019

Decision

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 26 November 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

5 Reports – Planning Proposals

There were no Planning Proposals.

6 Reports – Development Applications

6.1 DA-2018/222/A - 152-200 & 206 Rocky Point Road, Kogarah

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

The following people spoke:

- Jeremy Hung, Ethos Urban, 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 S4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
 - i. is of minimal environmental impact;
 - ii. is substantially the same development as the development for which consent was originally granted and before that consent was modified;

- iii. was not required to be notified; and
 - iv. has been assessed having regard to the relevant matters in s4.15(1) of the Environmental Planning and Assessment Act 1979.
2. That the Bayside Local Planning Panel notes that there were no submissions made concerning the proposed modification and took into account the reasons of the consent authority that granted the consent that is sought to be modified.
3. That modification application DA-2019/222/A seeking to modify development consent DA-2019/222 to increase the number of staff from 11 to 12 be APPROVED. The proposal is modified in the following manner:
 - i. By amending condition No. 2 to reference an Amended Plan of Management
 - ii. By amending condition No. 13 to increase staff numbers from 11 to 12.

Name	For	Against
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Panel Determination

- The modifications arose out of the amended requirements of applicable legislation that changed staff-to-child ratios.
- The Panel is satisfied that this is a technical modification that will have no adverse impacts.

6.2 DA-2019/253 - 100 Bestic Street, Kyeemagh

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

The following person spoke:

- Mr Ali Rizwan, Development Manager Bayside Council, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

It is RECOMMENDED, pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*:

1. That the development application, being for designated development, can now be determined as 21 days have lapsed since the Planning Secretary was forwarded copies of the submissions received in relation to the development application pursuant to Section 4.16(9)(b) of the *Environmental Planning and Assessment Act 1979*.
2. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE Development Application DA-2019/253 for the demolition of the existing building known as The Fisherman's Club to slab level, 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.
3. 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"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Panel Determination

- The Panel acknowledges that the site is located in coastal wetlands which is a sensitive environment but considers that the conditions of consent will protect against any adverse environmental impacts.
- The consent will enable a dilapidated building to be removed and the preparation of a Master Plan and associated community consultation that will enable valuable public recreational land to be optimised in terms of its benefit to the community.
- The Panel encourages Council to progress preparation of the Master Plan without delay.

6.3 DA-2018/29 - 53 Hannam Street, Bardwell Valley

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

The following people spoke:

- Mr Alan Peers, affected neighbour, spoke against the officer's recommendation.
- Mr Nicholas Heinecke, affected neighbour, spoke against the officer's recommendation.
- Mr David Benson, architect, spoke for the officer's recommendation and responded to the Panel's questions.

- Mr Bernard Moroz, applicant, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 That development application DA-2018/29 for the demolition of existing structures and construction of a two storey boarding house containing ten rooms with associated landscaping and basement car park at 53 Hannam Street, Bardwell Valley, 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 with the following amendment to Condition 22:

22: *The vertical timber screening within the first floor of the front elevation shall be reduced in height and re-designed to replicate the height and design of the balustrade treatment within the rear elevation. In this regard, details of the design of the screening shall be submitted to and approved by Council's Director of City Futures, or a delegated employee, prior to the release of the Construction Certificate.*

- 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"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Panel Determination

- The proposal complies with all applicable planning controls.
- The privacy and other impacts that the previous design created have been addressed by the approved design.
- The development will provide boarding house accommodation which will add to the diversity of housing options within the area.
- The amendments to Condition 22 will result in a better outcome in terms of character and streetscape.

6.4 DA-2018/11013/F - 3 Haran Street, Mascot

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

The following person spoke:

- Walter Gordon, from 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, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
 - i. is of minimal environmental impact;
 - ii. is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - iii. has not required notification; and
 - iv. 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-2018/11013/F seeking to modify Development Consent No. 2018/1013 to amend Condition No. 36 relating to the damage deposit and Condition No. 95 relating to undergrounding of power at 3 Haran Street Mascot be APPROVED. The proposal is modified as follows:
 - i. By amending Condition No. 36 to state the following:
 36. Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of \$295,200.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during of the course of building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of public domain works excluding the undergrounding of the street electrical mains.
 - ii. By amending Condition No. 95 to state the following:
 95.
 - a) Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high voltage street electrical mains in that section of the street/s adjacent to the development, and associated services and the installation of the underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.
 - b) **Notwithstanding the above, if the abovementioned undergrounding works required by Condition 95(a) cannot be satisfied prior to the Final Occupation Certificate, the applicant must submit a bond payment of \$50,000.00 plus GST to Bayside Council to be paid in full (this payment shall be indexed at the time of payment in accordance with**

**the Consumer Price Index (All Groups Index – Sydney))
prior to the issue of the Final occupation certificate;**

- c) The bond payment required by Condition 95(b) above will not be refunded until unfinished undergrounding of overhead electricity works required by Council have been completed. The payment is to ensure that all relevant works required by this consent are completed and an inspection of the Public Domain has been carried out to the satisfaction of Council. This inspection and satisfaction with the works is required prior to the release of the bond;
- d) If the undergrounding of overhead electricity works required is unable to be completed within twelve (12) months of the date of determination of this modification (10 December 2020), the bond payment will be forfeited to Council subject to the agreement of the Applicant. This bond payment will be used for the sole purposes of completing the unfinished undergrounding of overhead electricity works within the public domain.

Name	For	Against
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Panel Determination

- The modification is sought as a result of circumstances outside of the applicant's control in that Ausgrid is currently not permitting work to be conducted on live power lines.
- The Panel is satisfied that the payment of the \$50,000 bond will provide satisfactory security for Council for the completion of the works.

6.5 DA-2014/10068/B - 20 Pemberton Street, Botany

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

The following person spoke:

- Mr Nick Krikis, 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 S4.56 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. That the Bayside Local Planning Panel has considered the submissions concerning the proposed modification and take into consideration the reasons of the consent authority that granted the consent that is sought to be modified.
3. That modification application DA-2014/10068/B seeking to modify Development Consent DA-2014/10068 to allow various electrical and communications cupboards and other minor amendments resulting in minor increase in gross floor area at 20 Pemberton Street, Botany be APPROVED. The proposal is modified in the following manner:
 - (a) Amend Condition 1 to now read:

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 No.	Rev	Author	Dated
A03 – Basement Level 2 Plan (DA-2014/68/2)	14	Krikis Tayler Architects	22 August 2017 (DA-2014/68/2)
A04- Basement Level 1 Plan	17 19 (DA-2014/68/2)		3 February 2017 22 August 2017 (DA-2014/68/2)
A05- Level 1 (Ground) Plan	22A-24 (DA-2014/68/2) (DA-2014/10068/B)		17 October 2017 28 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A06- Level 2 Plan	18-21 22 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A07- Level 3 Plan	14-17 18 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A08- Level 4 Plan	13-16 17 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019

			(DA-2014/68/2) (DA-2014/10068/B)
A09- Level 5 Plan	13 16 17 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A10- Level 6 Plan	12 15 16 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A11- Level 7 Plan	12 15 16 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A13- Roof Plan	42 15 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A20- Elevations 1	46 20 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A21- Elevations 2	46A 20 (DA-2014/68/2)		17 October 2017 25 August 2017 (DA-2014/68/2)
A22- Elevations 3	43 17 (DA-2014/68/2)		19 May 2017 25 August 2017 (DA-2014/68/2)
A23- Elevations 4	44 15 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A30- Sections	9 12 (DA-2014/68/2)		3 February 2017 22 August 2017 (DA-2014/68/2)
Apartment Schedule	P S (DA-2014/68/2)		6 February 2017 30 August 2017 (DA-2014/68/2)
SK170522-02- Page 1 to 11- GFA Diagrams (DA-2014/68/2)	-		22 May 2017 (DA-2014/68/2)
SK170522-01- Page 1 to 3- Car park entry details	-	-	22 May 2017
000- Cover Sheet	G I (DA-2014/68/2)	Site Image Landscape Architects	2 August 2017 25 August 2017 (DA-2014/68/2)
001- Landscape Masterplan	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
101- Landscape Plan- South West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
102- Landscape Plan- North West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)

103- Landscape Plan- South East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
104- Landscape Plan- North East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
105- Landscape Plan- Level 2 and 3	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
106- Landscape Plan- Nature Playground	G		2 August 2017
401- Landscape Planting Plan South West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
402- Landscape Planting Plan North West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
403- Landscape Planting Plan South East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
404- Landscape Planting Plan North East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
405- Planting Plan Level 2 and 3	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
501- Landscape Details	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
502- Landscape Details, Specification and Plant Schedule	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
D20- Landscape Stormwater Drainage Plan	B	Australian Consulting Engineers	July 2017
000 - Cover sheet, legend & drawing schedule	A	Australian Consulting Engineers	August 2015
001 - Basement 2 storm water drainage plan and details	B		
002 - Basement 1 storm water drainage plan	B		
003 - Level 1 storm water drainage plan	C		
004 - Level 2 storm water drainage plan	A		
005 - Level 3 storm water drainage plan	A		

006 - Level 4 storm water drainage plan	A		
007 - Level 5 storm water drainage plan	A		
008 - Level 6 storm water drainage plan	B		
009 - Level 7 storm water drainage plan	B		
010 - Level 8 storm water drainage plan	B		
011 - Roof level storm water drainage plan	A		
015 - Storm water drainage sections and details	B		

Reference Document(s)	Author	Dated
Letter re: Proposed Modifications to Parkgrove Buildings A, B and C, Botany Ref: JH/8501/jj JH/10642/jj (DA-2014/68/2)	Colston Budd Hunt and Kafes Pty Ltd	19 August 2015 31 August 2017 (DA-2014/68/2)
Internal Traffic Assessment	Thompson Stanbury Associates	November 2016
NaTHERS- Class 2 Summary	SLR Consulting Pty Ltd	3 November 2016 31 August 2017 (DA-2014/68/2)
BASIX Certificate No. 540244m_04 540244m_06	SLR Consulting Pty Ltd	3 November 2016 31 August 2017 (DA-2014/68/2)
Noise Intrusion Assessment Report No. 5367-3.1R Rev A	Day Design Pty Ltd	8 November 2016
Environmental Noise Assessment Report 5367-3.2R Rev A	Day Design Pty Ltd	8 November 2016
Geotechnical Assessment 2373- B	Asset Geotechnical	27 March 2014
Geotechnical Assessment Addendum 2373-2-L1 Rev 1 Report No. E22374 GA	Asset Geotechnical	11 November 2016
Dewatering Assessment 2373-1-L1 Rev 1	Asset Geotechnical	17 June 2016
Access Report Job No. IAC-594	Iaccess Consultants	3 November 2016
Letter Re Flood Storage and OSD Storage, Parkgrove, KF111540-L03	KF Williams and Associated Pty Ltd	9 September 2015

Waste Management Plan	Elephants Foot Recycling Solutions	September 2015
Pedestrian Wind Environment Statement WB999-03F01	Windtech Consultants Pty Ltd	4 November 2016
Remediation Action Plan Part of Former Brambles Site Report ID: CES021209- AUS-11-F	Consulting Earth Scientists	15 June 2005
Remediation Action Plan Former Aerosols Australia Site and Proposed Commercial Redevelopment Report ID: CES021209-AUS-12-F2	Consulting Earth Scientists	13 February 2006
Report on Additional Groundwater Investigation	Consulting Earth Scientists	6 February 2006
Sampling Analysis and Quality Plan: Groundwater Monitoring, Austcorp Botany Site, Botany Report JD: CESD21209-AUS-02-F (SAQP)	Consulting Earth Scientists	16 February 2004
Letter Re: Proposed Modifications to Parkgrove Buildings A, B and C, Botany	Zoic Environmental Pty Ltd	21 September 2015
BCA Capability Report Ref: J160528	Vic Lilli and Partners Consulting	4 November 2016

(b) *Condition 1B to be added to read:*

A Building Information Certificate shall be lodged with Council no later than six months after the date of the final Occupation Certificate being issued for external / internal works that are inconsistent with the approved DA plans.

Name	For	Against
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Panel Determination

- This modification application relates to minor changes the need for which has been identified during construction including the location of the electrical and communications cupboards.

- The modifications will create no adverse impacts.

6.6 S82-2019/12 - 11 Richmond Street, Banksia

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

The following person spoke:

- Van Janevski, architect, 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, is satisfied that the amended proposal is substantially the same development as the development for which consent was originally sought.
2. 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 S82-2019/12 for a review of determination, resolve to change the previous decision for refusal of the development application DA-2019/133, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979.
3. That development application DA-2019/133 for demolition of existing dwelling and structures and construction of a new two storey dwelling, basement, pool, cabana and front fence at 11 Richmond Street, Banksia, as amended, 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.
4. That the submitter be notified of the Bayside Local Planning Panel's decision.

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

Name	For	Against
Robert Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Panel Determination

- The Panel is satisfied that the amendments to the approved development respond comprehensively to the reasons for which the original proposal was refused.
- The development will have no adverse impact.

6.7 DA-18/1172 - 106 Wilson Street Botany

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

The following people spoke:

- Philip Bull, Planner from Dickson Rothschild, spoke for the officer's recommendation and responded to the Panel's questions.
- Simon Hanson, architect from SRH Bureau, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

1. That consent be granted to development application DA-2018/1172 for demolition of existing structures and construction of a three (3) storey shop top housing development comprising three (3) residential units, one commercial tenancy and five (5) car parking spaces at 106 Wilson Street, Botany, pursuant to s4.16(3) of the *Environmental Planning and Assessment Act 1979* subject to the conditions of consent attached to this report and subject to the following amendments to Conditions 22 and 23 :

Condition 22: The figure of \$60,000 will be replaced by \$40,000.

Condition 23: The figure of \$60,000 will be replaced by \$40,000 with appropriate adjustments to the breakdown of the contributions.

Condition 1: Change the reference to the Basix report to *the Basix report dated 24 November 2019 and received 10 December 2019*.

2. That the submitter(s) be notified of the Bayside Local Planning Panel's decision.

Name	For	Against
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Name	For	Against
Robert Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jesse Hanna	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Panel Determination

- The reduction of apartments to three apartments has resulted in a number of improvements to the development including compliance with the floor space ratio control, reduction in overshadowing, improvements to the public domain and streetscape and reduction in car-parking non-compliance.
- The Panel is satisfied that the approved development will be acceptable.
- The amendments to conditions 22 and 23 relating to development contributions are due to a calculation error which did not allow a credit for the existing dwelling.

The Chairperson closed the meeting at 7:47 pm.

Certified as true and correct.

Marcia Doheny
Chairperson