

MINUTES

Local Planning Panel

Thursday, 15 August 2019

4.00pm

Georges River Civic Centre,
Hurstville



COMMITTEE MEMBERSHIP

Panel Members:

Mr Paul Vergotis (Chairperson)
Mr John Brockhoff (Expert Panel Member)
Mr Michael Leavey (Expert Panel Member)
Mr Cameron Jones (Community Representative)

Council Staff:

Meryl Bishop (Director Environment and Planning)
Ryan Cole (Manager Development and Building)
Nicole Askew (Coordinator Development Assessment)
Cathy Mercer (PA to Manager Development and Building)
Sue Matthew (Team Leader DA Admin)
Monica Wernej (Admin Assistant)

1. APOLOGIES AND DECLARATIONS OF PECUNIARY INTEREST

There were no apologies received

There were no declarations of Pecuniary Interest

2. PUBLIC SPEAKERS

The meeting commenced at 4.01pm and at the invitation of the Chair, registered speakers were invited to address the panel on the items listed below.

The public speakers concluded at 5.41pm and the LPP Panel proceeded into Closed Session to deliberate the items listed below.

3. GEORGES RIVER LOCAL PLANNING PANEL REPORTS

LPP024-19 4 The Esplanade South Hurstville
(Report by Development Assessment Officer)

The Panel carried out an inspection of the site and nearby locality.

Speakers

- Janelle Carew (submitter)
- Poppy Kostantakis (submitter)
- Gary Finn (applicant)

Voting of the Panel Members

The decision of the Panel was unanimous.

Determination

Refusal

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Development Application No. DA2017/0659 for the demolition of existing structures, tennis court and tree removal and construction of a two storey centre based child care facility for sixty eight (68) children over a basement car park for eighteen (18) vehicles at 4 The Esplanade, South Hurstville, is determined by **refusal** for the following reasons:

1. The proposed development is unsatisfactory having regard to Section 4.15(b), 4.15(c), 4.15(d) and 4.15(e) of the Environmental Planning and Assessment Act 1979 (NSW) in that the site is not suitable for the development and will have an adverse impact for the reasons as follows:
 - (a) The proposed siting and design of the outdoor play structure and acoustic fence results in unnecessary visual bulk and scale which results in an adverse impact to the built environment. Additionally inadequate setback and screen landscaping is proposed adjacent to the acoustic fence.
 - (b) The design and sitting of the proposal results in a built form which is incompatible with the immediate surrounding residential context.
 - (c) The proposal results in adverse built environment and social impacts and is therefore not considered to be in the public interest.

LPP025-19 11 Arnold Street Peakhurst (Report by Development Assessment Planner)

The Panel carried out an inspection of the site and nearby locality.

Speakers

- Anna Kattos (submitter)
- George Mourad (applicant)
- Melissa Rodrigues (town planner)

Voting of the Panel Members

The decision of the Panel was unanimous.

Determination

Refusal

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Development Application No. DA2018/0309 for the demolition of existing structures and construction of an eleven (11) room boarding house with basement car parking at 11 Arnold Street, Peakhurst, is determined by **refusal** for the following reasons:

1. The proposal does not satisfy Clause 30(A) of State Environmental Planning Policy (Affordable Rental Housing) 2009 in that the development is not compatible with the character of the local area in its present form.
2. The proposal does not satisfy the following zone objectives as per Clause 2.3 – Zone Objectives and Land Use Table (R2 Low Density Residential) of Hurstville Local Environmental Plan 2012:
 - *To encourage development of sites for a range of housing types, where such development does not compromise the amenity of the surrounding area, or the natural or cultural heritage of the area.*
 - *To ensure that a high level of residential amenity is achieved and maintained.*
 - *To encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.*
3. The proposal is unsatisfactory having regard to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the development will cause adverse impacts upon the built environment with respect to the elevated nature of the development and the impact upon the streetscape and adjoining allotments.
4. The proposed development is unsatisfactory in terms of internal amenity to the occupants with particular reference to solar access to living areas and communal areas and communal open space and is contrary to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
5. The proposed development is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 in that the site is not suitable for the development in its present form.
6. The proposed development has attracted a number of submissions in regards to Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979 objecting to the proposed development.
7. Approval of the development would not be in the public interest and contrary to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

LPP026-19 7-11 Short Street South Hurstville
(Report by Senior Development Assessment Planner)

The Panel carried out an inspection of the site and nearby locality.

Speakers

- Ahmed Taleb (owner)
- Michael Kitmiridis (applicant)

Voting of the Panel Members

The decision of the Panel was unanimous.

Determination

Refusal

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Development Application No. DA2017/0353 for the demolition of existing dwellings and construction of a seven (7) storey residential flat building containing 41 apartments at 7-11 Short Street, South Hurstville, is determined by **refusal** for the following reasons:

1. A written request has not been submitted pursuant to Clause 4.6 of Kogarah Local Environmental Plan 2012 justifying that compliance with the maximum 2:1 Floor Space Ratio (FSR) development standard that applies to the site is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard, and therefore the Local Planning Panel has no power to grant consent.
2. A written request has not been submitted pursuant to Clause 4.6 of Kogarah Local Environmental Plan 2012 justifying that compliance with the maximum 21m building height development standard that applies to the site is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard, and therefore the Local Planning Panel has no power to grant consent.
3. The proposal fails to satisfy Part 4 of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) as it is inconsistent with various design quality principles of SEPP 65 with respect to its response to the site's context and neighbourhood character and its built form and scale, density, landscape and aesthetics, and fails to comply with the corresponding design criteria of the Apartment Design Guide. The proposal does not achieve an acceptable built form with sufficient façade modulation, setbacks and separation to minimise the visual dominance of the building when viewed from both the public domain and adjoining properties and also respect the existing character of nearby Zone R2 land. The proposal should have a four (4) storey base (G–L3) that achieves compliant street and boundary setbacks, with the upper level setbacks above Level 3 being increased in order to reduce their visual impact. The south eastern elevation (ie the side wall of the corner units facing Short Street) and the north western elevation in particular both require better façade expression and thoughtful modulation in accordance with the 4M – Facades provisions of the Apartment Design Guide. In addition, the proposal should have a 6m wide deep soil landscaped area along the rear (south western) boundary to allow for canopy tree planting.
4. The proposal fails to satisfy Part 4 of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development on the basis that it fails to either achieve or adequately demonstrate compliance with the design criteria of the Apartment Design Guide with respect to internal solar access, visual privacy from balconies, internal amenity to all units (including U001 and U002), internal living room widths, and amenity of the ground level COS area in relation to depth below natural ground levels at the boundaries.
5. The proposal exceeds the maximum 2:1 Floor Space Ratio (FSR) specified for the site pursuant to Clause 4.4 of Kogarah Local Environmental Plan 2012 which would result in an unacceptably bulky building that is incongruous and out of character with the existing streetscape and neighbourhood character and is inconsistent with the desired future character of this Zone R3 precinct.

6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with Kogarah Development Control Plan 2013, C2 – Medium Density Housing, Part 6 Building setbacks. The proposal should achieve a 4.5m street setback from Grosvenor Road, a minimum 3m setback to the first four (4) levels (including any roofed driveway) from the north western boundary adjoining 5 Short Street, and at least 4.5m for Levels 4–6 from that same boundary.
7. Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant Regulations in terms of the following:
 - (a) The development application was not accompanied by a BASIX certificate that was issued no more than three (3) months before the date on which the application was made and therefore fails to satisfy Schedule 1, Part 1, Clause 2A of the Environmental Planning and Assessment Regulation 2000.
8. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the environment:
 - (a) Natural environment – The proposal does not meet the deep soil zones design criteria of the Apartment Design Guide nor provide a sufficient setback (at least 3m to the first four (4) levels including ground level) from 5 Short Street, which precludes the planting of canopy trees around the perimeter of the site to provide a landscaped setting for the proposal and ameliorate the scale of the building. Furthermore, a minimum 1.5m landscaped boundary setback should be provided on the north western side of the vehicle driveway.
 - (b) Built environment – The proposal does not respond to the context of the site and its interface with adjacent R2 zoned land nor the neighbourhood's character on the basis that it significantly exceeds the maximum permitted 2:1 Floor Space Ratio that applies to the site, encroaches on the minimum required street, side and rear setbacks expected on the site and does not have an appropriate expression of built, which would be achieved by the provision of a maximum four (4) storey base or podium, with further increased setbacks to the upper levels beyond the fourth storey and appropriate façade modulation to break down the 6–7 storey scale of the building.
9. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered suitable for the proposed development for the following reasons:
 - (a) The site cannot adequately accommodate the proposed built form without significant adverse impacts on the streetscape, neighbourhood character and the amenity of adjacent and nearby properties with respect to built form, visual dominance, bulk and scale.
10. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent within the locality.

(Report by Development Assessment Officer)

The Panel carried out an inspection of the site and nearby locality.

Speakers

- Theresa Kot (objector)
- Kevin Coleman (submitter)
- Jim Apostolou (applicant)

Voting of the Panel Members

The decision of the Panel was unanimous.

Determination

Approval

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Development Application No. DA2018/0074 for the demolition of existing dwellings, tree removal, lot consolidation and construction of six (6) storey residential flat building consisting of fifty five (55) residential units over two (2) levels of basement parking at 1-7 Bowns Road, Kogarah, is determined by **granting consent** to the application subject to the conditions recommended in the report submitted to the LPP meeting of 15 August 2019 except:

1. Insert Condition 12A to read as follows:

Prior to the issue of any Construction Certificate amended plans detailing:

- (a) All balustrades on the south east elevation shall be constructed of translucent obscure glazing and or solid material.
- (b) Bedroom 1 of Units 4.04 and 5.04 windows shall be either a minimum of 1.5m sill heights or provided with privacy screening.
- (c) All bathrooms and ensuites on external walls shall be provided with an operable window at a minimum of 1.5m sill height with obscure glazing.

Details to be submitted to the satisfaction of the Certifying Authority.

Statement of Reasons

- The proposal results in a built form which is consistent with the envisaged desired character of the R3 Medium Density Residential Zone.
- The proposal adopts a built form which is compatible with the immediate residential character.
- The proposal adopts a design which provides good levels of occupant amenity.
- The proposal does not adversely impact upon the heritage items within the visual catchment.

LPP028-19 6-8 Vaughan Street Blakehurst
(Report by Senior Development Assessment Planner)

The Panel carried out an inspection of the site and nearby locality.

Speakers

- Ben Black (town planning consultant)
- Mario Mourad (project manager)
- Andy Wrisma (hydraulic engineer)

Voting of the Panel Members

The decision of the Panel was unanimous.

Determination

Approval

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Development Application No. DA2018/0237 for the demolition of all structures and construction of a 4-5 storey residential flat building containing 35 apartments with basement car parking at 6-8 Vaughan Street, Blakehurst, is determined by **granting deferred commencement consent** to the application subject to the conditions recommended in the report submitted to the LPP meeting of 15 August 2019 except:

1. Condition 1 to be amended as follows:

- (c) **Option 2:** The applicant must provide an absorption trench (or trenches) within the rear of the subject site to provide for absorption within the site of surface flows and to prevent ponding within the rear communal open space areas of the site. Written certification must be provided by both a suitably qualified hydraulic engineer and a suitably qualified geotechnical engineer to the effect that the hydraulic and geotechnical engineers are satisfied that the site's soil type and soil infiltration rate in the location of the trench or trenches will permit the absorption system to effectively operate such that ponding will not occur within the rear of the property to the extent that safety fencing and cautionary signage is not required. This written certification along with soil infiltration test results (with testing to be carried out strictly at the location of the proposed trenches) and full amended stormwater plans must be submitted to Council.

Statement of Reasons

- The proposal is an appropriate response to the “upzoning” of the site (including increased FSR and height limits) afforded by the Kogarah “New City Plan”. The predominantly four (4) storey building will provide an effective transition between future seven (7) storey development facing the Princes Highway and two (2) storey low density residential on the opposite side of Vaughan Street.
- The proposal is fully compliant with the maximum FSR and height limits that apply to the site under KLEP 2012.
- The proposal's bulk and scale is appropriately contained within a generally compliant building envelope that is respectful of the established character of the area in relation to height, street setback and boundary setbacks.
- The proposal has effective façade modulation and wall articulation that will serve to provide visual interest and reduce the bulk of the building.
- The proposal exceeds the minimum deep soil zone requirements of the ADG and provides three (3) deep soil areas in particular that are at least 6m x 6m which will allow for generous new tree planting to ameliorate the scale of the building.
- The proposal generally achieves compliance with the Apartment Design Guide with respect to both internal and external amenity. Building separation requirements in particular are for the most part compliant and, where numerically non-compliant, visual

privacy impacts will be mitigated by the use of screening and other appropriate measures.

- The proposal is also commensurate with the approved RFB on the adjoining site at 1–5 James Street and with the desired future character of the locality.

LPP029-19 105 Victoria Avenue and 2A Cook Street Mortdale
(Report by Senior Development Assessment Planner)

The Panel carried out an inspection of the site and nearby locality.

Speakers

No speakers registered for this item.

Voting of the Panel Members

The decision of the Panel was unanimous.

Determination

Approval

The Panel is satisfied that:

1. The applicants written request under Clause 4.6 of the Hurstville Local Environmental Plan 2012 seeking to justify a contravention of Clause 4.1 Minimum Lot Size development standard has adequately addressed and demonstrated that:
 - (a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
 - (b) There are sufficient environmental planning grounds to justify the contravention.
2. The proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Development Application No. DA2019/0213 for boundary adjustment at 105 Victoria Avenue and 2A Cook Street, Mortdale, is determined by **granting consent** to the application subject to the conditions recommended in the report submitted to the LPP meeting of 15 August 2019.

Statement of Reasons

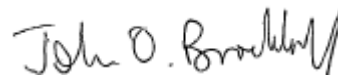
- The request to vary the development standard in relation to the minimum subdivision lot size is well founded and worthy of support.
- The proposed development is considered to be appropriate for the site and the character of the locality. Subject to the implementation of the recommended conditions, the development will have no unacceptable adverse impacts upon the natural or built environment.
- In consideration of the aforementioned reasons, the proposed development is a suitable and planned use of the site and its approval is not inconsistent with the public interest.

4. CONFIRMATION OF MINUTES

The meeting concluded at 6.45pm



Paul Vergotis
Chairperson



John Brockhoff
Expert Panel Member



Michael Leavey
Expert Panel Member



Cameron Jones
Community Representative
