

MINUTES

Local Planning Panel

Thursday, 19 March 2020

4.00pm

**Georges River Civic Centre,
Hurstville**



Panel Members:

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

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 4.00pm 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 5.56pm and the LPP Panel proceeded into Closed Session to deliberate the items listed below.

3. GEORGES RIVER LOCAL PLANNING PANEL REPORTS

LPP012-20 57-59 Clarke Street Peakhurst
(Report by Senior Development Assessment Officer)

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

Speakers

- Peter Little (submitter)
- Steve Nikolaros (submitter)
- Alexia Tedmanson (submitter) - email submission
- Bruce Naghten (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. DA2019/0433 for the demolition, lot consolidation and construction of a multi dwelling housing development, swimming pool over a car park and use of the completed dwellings as group homes at 57-59 Clarke Street, Peakhurst, is determined by **refusal** for the following reasons:

1. No Clause 4.6 Exception to Development Standard to Clause 4.1 Minimum Lot Minimum lot sizes for dual occupancies and multi dwelling housing of the Hurstville Local Environmental Plan 2012 has been provided for consideration.
2. No Clause 4.6 Exception to Development Standard to Clause 4.3 Height of Building of the Hurstville Local Environmental Plan 2012 has been provided for consideration.
3. No Clause 4.6 Exception to Development Standard to Clause 4.4 Floor Space Ratio of the Hurstville Local Environmental Plan 2012 has been provided for consideration.
4. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 as the proposal has not satisfied Division 7 Group Homes Clause 43(1) of the Affordable Rental Housing SEPP where by the proposal has not demonstrated reasonable grounds for the need for a group home to the Consent Authority.
5. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 as proposal has provided an insufficient arborist report in relation to and assessment of all impacted trees on the site and on the neighbouring properties therefore not satisfying State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
6. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 as the proposal has not provided a valid BASIX Certificate consistent with the plans submitted for assessment and therefore does not satisfy State Environmental Planning Policy BASIX:2004
7. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 as the proposal has provided an insufficient arborist report in relation to and assessment of all trees on the site and on the neighbouring properties which are likely affected and therefore does not the therefore not satisfying Draft Environment State Environmental Planning Policy.
8. 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 provide for the housing needs of the community within a low density residential environment.*
 - *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.*
9. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 as the proposal does not satisfy Clause 4.4 Floor Space of Hurstville Local Environmental Plan 2012. A Clause 4.6 Exception to Development Standard has not been submitted for the floor space sought.
10. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 as the proposal does not satisfy Clause 6.4 Scenic Foreshore Protection Area of the Hurstville Local Environmental Plan 2012.

11. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 as the proposal does not satisfy Clause 6.7 – Essential Services of the Hurstville Local Environmental Plan 2012.
12. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal fails to comply with the Hurstville Development Control Plan No. 1 in respect to; car parking and vehicular maneuverability, subdivision, access and mobility, crime prevention through environmental design, landscape, drainage, number of storeys, side and rear setbacks, landscape area, private open space, swimming pool and setbacks.
13. 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 natural environment with respect the impact on trees on site and adjoining properties and disposal of stormwater.
14. 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 the impact upon the amenity for future occupants and to adjoining properties.
15. The proposed development is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 in that the proposed development in its current form is not suitable for the site.
16. 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.
17. The application has not provided owners consent for relocation of sewer line works on adjoining property at 61 Clarke Street, Peakhurst which is contrary to Schedule 1 Forms (1)(e) of the Environmental Planning and Regulation 2000.
18. The proposal is not complete and therefore a thorough detailed and informed comprehensive assessment of impacts cannot be undertaken.

LPP013-20 5/25 Kyle Parade Kyle Bay
(Report by Development Assessment Planner)

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

Speakers

- John A Kavanagh (submitter)
- Matthew Oxenham (applicant)
- Stavros Karitikos (supporter)
- George Kollias (supporter)
- Russel Pomery (supporter)

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, Modification Application No. MOD2019/0208 for the modification to DA61/2014 for change of use to café including fit-out - the modification includes change to Condition 7 regarding operating hours (proposed hours of operation are 6:30am to 11:00pm, Monday to Sunday) at 5/25 Kyle Parade, Kyle Bay, is determined by **granting consent** to the application subject to the conditions recommended in the report submitted to the LPP meeting of 19 March 2020 except:

(7) Hours of Operation

The hours of operation shall be limited to the following:

Monday to Sunday 6:30am to 10:00pm

No trading on Christmas Day.

There is to be no outdoor seating prior to 7:00am and the maximum number of patrons at any one time shall not exceed ten (10) prior to 7:00am.

The premise is to only operate within the allocated business hours 6:30am – 10:00pm and ensure when the patrons leave the premise they do so in a quiet and orderly manner.

(This condition is amended as part of MOD2019/0208 (DA61/2014))

(8) No Offensive Noise

To minimise the noise impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings, garbage/waste collection and any maintenance work shall not give rise to an “offensive noise” as defined under the provisions of the Protection of the Environment Operations Act 1997.

(This condition is amended as part of MOD2019/0208 (DA61/2014))

(25) Deliveries

All deliveries, garbage collection and any maintenance work (including but not limited to grease trap removal, filters associated with any mechanical ventilation system) shall not be carried out outside the hours of 7.00am and 6.00pm, Monday to Saturday, with deliveries or collection outside these times not permitted.

(This condition is amended as part of MOD2019/0208 (DA61/2014))

Statement of Reasons

- The proposal, subject to the recommended modified conditions, is considered to be an appropriate scale and form for the site and character of the locality.
- The proposed development, subject to the recommended modified conditions, will have no unreasonable impacts upon the natural or built environments and amenity of the neighbourhood.

- In consideration of the aforementioned reasons, the proposed development, subject to the recommended modified conditions, is suitable planned use of the site and its approval is in the public interest.

LPP014-20 39 Waitara Parade Hurstville Grove
(Report by Senior Development Assessment Planner)

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

Speakers

- Fabio Zarantonello (submitter)
- Nicholas Stathopoulos (submitter)
- Charles Chu (submitter)
- Cyrus Yuen (submitter)

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, Review Application No. REV2020/0004 for the review of DA2019/0356 for demolition works, tree removal and construction of a two storey attached dual occupancy at 39 Waitara Parade, Hurstville Grove, is determined by **refusal** for the following reasons:

1. **Environmental Planning Instrument** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant environmental planning instruments in terms of the following:
 - (a) The proposal fails to satisfy the aims and objectives of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 as the ground floor will encroach into the structural root zone of the Oak tree required to be retained and compromise its survival. The design submitted with this Review application does not adequately address the reason for refusal of the DA in relation to tree impacts.
2. **Development Control Plan** - Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections Chapter C1 of the Kogarah Development Control Plan 2013:
 - (a) Section 1.2.3 – Rhythm of the Built Elements in the Streetscape: the front façade of the proposal is excessively bulky and out of character with the immediate locality due to the dark coloured first floor balconies exceeding the maximum width permitted by the DCP and encroaching the minimum setback of 3m by 2.1m, the front doors being recessed behind the garage doors and balconies and lack of visible glazing from the street to encourage casual surveillance and activation of the façade.

3. **Impacts on the Environment** - 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 natural environment:
 - (a) The proposal fails to satisfy the aims and objectives of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 as the ground floor will encroach into the structural root zone of the Oak tree required to be retained and compromise its survival. The design submitted with this Review application does not adequately address the reason for refusal of the DA in relation to tree impacts.
4. **Suitability of Site** - 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 dwelling without significant adverse impacts on the tree proposed to be retained in the rear of the property, and without structural design changes to the proposal to reduce the bulk and scale of the dwellings through an increased setback of the ground floor to the tree to be retained and changes to the front façade of the dwellings to improve the visual appearance when viewed from neighbouring properties and the street.
5. **Public interest** - 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.

LPP015-20 71-73 Jubilee Avenue Carlton
(Report by Senior Development Assessment Officer)

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

Refusal

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Development Application No. DA2018/0277 for the demolition of existing buildings and construction of five (5) storey shop top housing development containing twenty three (23) residential apartments, ground level commercial/retail space and basement parking at 71-73 Jubilee Avenue, Carlton, is determined by **refusal** for the following reasons:

1. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, in that the proposal fails to meet the controls and objectives of Clause 6.9 (3) Development in Zone B6 of the Kogarah Local Environmental Plan 2012 which restricts the amount of gross floor area for shop top housing to a maximum of 65%. The proposed development provides 87.4% of residential

gross floor area being a 22.4% breach.

2. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(i) in that the proposal fails to satisfy the control and objectives of Clause 6.9 (4) Development in Zone B6 of the Kogarah Local Environmental Plan 2012 requiring that a land use other than shop top housing be a minimum of 500sqm. The proposal development only provides for the other land use an area of 270sqm.
3. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the location of the ground floor loading bay does not permit vehicles to enter, manoeuvre and exit the site in a forward direction which fails to satisfy the provisions of Part B4 of KDCP 2013.
4. The proposed development fails to satisfy the provisions of Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the proposal does not satisfy the provisions of Part B2 of the Kogarah Development Control Plan as the proposed building design and siting, in particular the extent of excavation for the basement car park will adversely affect the Tree Protection Zone and canopy spread of the Broad Leaved Paperback and its longevity, hydrology and integrity will be severely impacted.
5. The proposed development fails to satisfy the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, in that the proposed Clause 4.6 variations in respect to the Development in Zone B6 controls contained within Clause 6.9 of KLEP 2012 are not considered to be well founded in this case as the design of the development fails to satisfy the objectives of the planning controls therefore failing to satisfy the provisions of Clause 4.6.
6. The proposal fails to satisfy the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, in that the additional residential floor space and lack of commercial floor space does not represent the desired future character for development in the street and the B6 Enterprise Corridor Zone and will adversely affect the nature of proposed development.
7. The proposed development fails to satisfy the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, in that the development in its current form will establish an undesirable precedent for development in that the proposed development has failed to meet the minimum commercial/retail floor space requirements for the new B6 zoning and will not be in the public interest.
8. The proposal fails to satisfy the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, in that the proposed development fails to provide the minimum floor space or appropriate service areas for the non-residential component of the development, which will have an adverse impact upon the future economic viability of the zone. The scale and size of the commercial space provided is restricted and limited on its functionality and use. The proposal does not satisfy the objectives of the B6 zone which focus on the ability of the Enterprise Corridor zone to encourage appropriate businesses and offer a range of employment opportunities.
9. The proposal fails to satisfy the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, in that the orientation of the north western facing balconies will have the potential to overlook the adjoining property which is considered to be inappropriate.

LPP016-20 66 Mulga Road Oatley
(Report by Senior Development Assessment Planner)

Speakers

- Germaine Braun (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, Modification Application No. MOD2020/0017 for the modification of DA2016/0035 to modify consent Condition 59 by increasing staff numbers from eleven (11) to fourteen (14) at 66 Mulga Road, Oatley, is determined by **granting consent** to the application subject to the conditions recommended in the report submitted to the LPP meeting of 19 March 2020.

Statement of Reasons

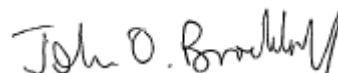
- The proposed development generally complies with the requirements of the relevant environmental planning instruments and development control plan.
- The proposed modification to increase staffing numbers to 14 does not result in any unreasonable impact on the natural and built environment.
- The proposal aims to provide a quality child care service that responds to community needs and demands and satisfies the minimal requirements of the SEPP and National Regulations for Child Care Centres.
- The modification remains consistent with the character of the locality.

4. CONFIRMATION OF MINUTES

The meeting concluded at 6.47pm



Paul Vergotis
Chairperson



John Brockhoff
Expert Panel Member



Michael Leavey
Expert Panel Member



Cameron Jones
Community Representative