

# MINUTES

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## Local Planning Panel

Thursday, 21 May 2020

4.00pm

Georges River Civic Centre,  
Hurstville



**Panel Members:**

Mr Paul Vergotis (Chairperson)  
Ms Helen Deegan (Expert Panel Member)  
Mr John Brockhoff (Expert Panel Member)  
Mr George Vardas (Community Representative)

**1. APOLOGIES AND DECLARATIONS OF PECUNIARY INTEREST**

There were no apologies received

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There were no declarations of Pecuniary Interest

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**2. PUBLIC SPEAKERS**

The meeting commenced at 4.20pm 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 5.18pm and the LPP Panel proceeded into Closed Session to deliberate the items listed below.

**3. GEORGES RIVER LOCAL PLANNING PANEL REPORTS**

**LPP021-20      57-59 Trafalgar Street Peakhurst**  
(Report by Senior Development Assessment Officer)

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

**Speakers**

- Connie Han (submitter)
- Chao Ge (submitter)
- William Karavelas (applicant)
- Bernard Moroz (planner)

**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 4.3 Height of Building 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(3) of the *Environmental Planning and Assessment Act 1979*, as amended, Development Application No. DA2018/0285 for the demolition works and construction of four (4) storey residential flat building containing fourteen (14) units, twenty one (21) car parking spaces, site and landscaping works at 57-59 Trafalgar Street, Peakhurst, is determined by **granting deferred commencement consent** to the application subject to the conditions recommended in the report submitted to the LPP meeting of 21 May 2020 except:

1. Deletion of Condition 33.

Insert Deferred Commencement Conditions as follows:

2. The lift overrun to the rooftop of the development is to be lowered by approximately 300mm to the satisfaction of the Manager Development and Building.
3. The location of all air conditioning condensers and associated mechanical plant is to be shown on amended drawings and provided to the satisfaction of the Manager Development and Building.

#### Statement of Reasons

- The amended proposal has resulted in reasonable amenity and conforms with the applicable planning controls subject to recommended conditions.
- The applicant has reasonably demonstrated that the adjoining isolated site at 55 Trafalgar Street, Peakhurst, could be reasonably redeveloped given the owner has categorically stated the allotment cannot be acquired.
- The Panel notes reasonable steps have been made to address site isolation.
- The amended proposal is suitable for the site as this proposal results in a good planning outcome and does not result in any unreasonable planning impacts on the adjoining properties.

#### **LPP022-20      565 King Georges Road Penshurst** (Report by Senior Development Assessment Planner)

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

#### **Speakers**

- Rafaat Gergis (submitter)
- Azzam Yousef (applicant)
- Ahsaan Oussa (owner)

## **Voting of the Panel Members**

The decision of the Panel was as follows:

Paul Vergotis and Helen Deegan voted to refuse the application.

John Brockhoff and George Vardas voted to defer the application.

Casting vote was exercised by the Chair to refuse the granting of development consent.

### Statement of Reasons for Refusal

The Panel Chair and Helen Deegan recognise that boarding house development are crucial and essential in Penshurst and as such are fundamentally in favour of these types of development provided of course that any proposals are designed to a high standard and provide good quality amenity for the occupants. Mere numeric compliance does not equate to the granting of development consent. The subject development application clearly lacks architectural merit and does not present itself worthy of approval in its current form. To defer the application to allow for further amendments would in all likelihood not resolve the potential traffic implications. These traffic implications mean that there needs to be a total rethink and redesign of the ground floor so as to properly and comprehensively address the current shortcomings and likely impacts onto the traffic network on King Georges Road which is a main arterial road in southern Sydney. For the above reasons the Panel Chair and Helen Deegan are unable to offer support to the current proposal.

The Panel members were all in agreement that there is a need for affordable accommodation in the locality and that this could be accommodated in development along King Georges Road in the typology proposed. However it was questionable whether given the numerous outstanding issues in relation to this application where revised plans and further specialist inputs could provide a satisfactory response to the Council, in a timely manner.

Site access from King Georges Road is the first threshold issue and redesign requirements would result in a significant redesign of the built form and car park layout. Bedroom yield would have to decrease.

There is currently no evidence in the application on how issues such as accessibility and waste management will operate, and whether these issues can be achieved again without significant redesign and loss of bedrooms.

The application in its current form, without significant amendment, is unlikely to be able to address the issues of traffic, access, landscaping, solar access and privacy and amenity considerations for both future occupants and neighbours.

The Panel was split on whether the applicant be given the opportunity to defer the Development Application and provide additional information required to respond or that the extent of changes required and time necessary to be able to achieve the concurrence of the RMS warrants a new application.

There is potential that letting this application proceed is likely to create an undesirable precedent especially in terms to the quality of documentation and inputs that are necessary to provide Council with the confidence to determine such applications.

### Statement of Reasons for Deferral

John Brockhoff and George Vardas acknowledged many of the concerns expressed by their fellow panelists as to the ability of the applicant to satisfactorily address issues such as traffic access to and from the site, improved amenity for the boarding house occupants, landscaping,

vehicle manoeuvrability within the site and the appropriate yield to be achieved under the *State Environmental Planning Policy (Affordable Rental Housing) 2009* and the need to obtain peer-reviewed traffic and town planning reports to satisfactorily address these issues.

Notwithstanding that, John Brockhoff and George Vardas were prepared to agree to the applicant's request for deferral of the determination by the Panel to afford the applicant the opportunity to consult with appropriate consultants with a view to amending the architectural plans in order to satisfy the stated concerns of the consent authority and so as to achieve an acceptable development outcome.

The specific reasons that John Brockhoff and George Vardas recommend deferral are:

- In order for the applicant to seek expert peer review to demonstrate that traffic conflicts at King Georges Road can be resolved.
- In order for the applicant to integrate consequent design changes and potentially reduced yield (no. of boarding rooms) into revised plans.
- In order for the applicant to then demonstrate the following issues raised can be satisfactorily addressed in the design and conditioned:
  - vehicle manoeuvring space in parking area
  - accessibility
  - side access and privacy
  - solar access to common room
  - adequate landscaping
  - waste management

## Determination

### Refusal

Pursuant to Section 4.16(1) of the *Environmental Planning and Assessment Act 1979*, as amended, Development Application No. DA2019/0545 for the demolition of existing structures and construction of a 12 room boarding house at 565 King Georges Road, Penshurst, 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 *State Environmental Planning Policy (Affordable Rental Housing) 2009* in terms of the following:
  - (a) Cl.29(2)(b) – the landscape treatment of the front setback is incompatible with the streetscape existing and what is envisaged by the planning controls. The streetscape of the immediate locality is landscaped front yards of dwelling houses, with a single driveway providing vehicular access to each site. The front setback of the proposal contains concrete pathways, ramps, landings and fencing around the Manager's private open space area which is incompatible with the existing and desired streetscape for the locality.
  - (b) Cl.29(2)(c) – where a communal living room is provided, it must receive more than 3 hours sunlight between 9am and 3pm during midwinter. One communal living room is proposed on the ground floor at the rear of the building. The room has one west-facing window that will be overshadowed year round by the overhang of the first floor of the subject development which extends 5m past the western wall of the ground floor.
  - (c) Cl. 29(2)(d)(ii) – the Manager's private open space area must not be located within

the front setback. The Manager's private open space area is located within the front setback which adjoin King Georges Road.

- (d) Cl.30A – the proposed development is not consistent with the existing or desired future character of the locality with respect to the lack of landscaping and extent of hard surfaces and structures located within the front setback, lack of articulation in the built form, poor access arrangements within the development between the building and parking area and communal open space.

2. **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 State Environmental Planning Policy (Infrastructure) 2007 in terms of the following:

- (a) Clause 101 - Transport for NSW (formerly Roads and Maritime Service) has not granted concurrence to the proposed development as it has not been demonstrated that vehicles can simultaneously enter and exit the site safely.

3. **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 of Chapter 3 of the Hurstville Development Control Plan No. 1:

- (a) Chapter 3.3 Access and Mobility - the application fails to demonstrate accessible pedestrian access to the car park.
- (b) Chapter 3.5 Landscaping – the application fails to provide an adequate tree protection zone around the site tree to be retained to ensure its survival.

4. **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 provide an adequate tree protection zone around the site tree nominated to be retained to ensure its survival.

5. **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 built environment:

- (a) The proposal in its current form is incompatible with the existing and desired future character in relation to the extent of hard surfaces in the front setback.
- (b) The proposed boarding house does not provide future residents with adequate solar amenity to the communal room.
- (c) The development proposes very poorly located communal and private open space areas, adjacent to the car park and within the front setback to King Georges Road, which have little to no amenity for the residents or Manager of the boarding house.

6. **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 as:

- (a) Safe vehicular entry and exit to and from the site has not been demonstrated.

- (b) The built form is excessively bulky for the size and dimensions of the site.
- (c) The development fails to achieve suitable levels of amenity for future residents and adjoining allotments as a result of poorly located communal and private open space areas and the access arrangements to the building.
- (d) The excessively long and un-articulated built form is out of character for the locality.
- (e) The information submitted with the application is inconsistent and contains insufficient detail to make a full and proper assessment, including the landscape plan and plan of management.

7. **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.

**LPP023-20      28 Princes Highway Kogarah**  
(Report by Senior Development Assessment Planner)

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

**Speakers**

- Jim Apostolou (applicant)

**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 Kogarah Local Environmental Plan 2012 seeking to justify a contravention of Clause 4.3 Height of Building 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. DA2019/0387 for the construction of a mixed use, shop top housing development comprising of 3 x ground floor retail/commercial tenancies, 12 apartments, two levels of basement parking for 25 vehicles and a roof top communal area of open space and associated site works at 28 Princes Highway, Kogarah, is determined by

**granting consent** to the application subject to the conditions recommended in the report submitted to the LPP meeting of 21 May 2020 except:

1. Deletion of Condition 12.

Statement of Reasons

- The proposed development generally complies with the requirements of the relevant environmental planning instruments and development control plan.
- The proposed development is well considered and sensitively designed so that it will not result in any unreasonable impact on the natural and built environment.
- The building will not adversely affect the amenity of any immediately adjoining properties in terms of unreasonable overlooking, overshadowing or view loss.
- The proposal aims to provide a high-quality, contemporary mixed use development in an accessible location in accordance with the planning and design requirements for development of this nature in this precinct.

**4. CONFIRMATION OF MINUTES**

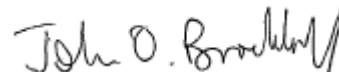
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The meeting concluded at 6.51pm.



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Paul Vergotis  
**Chairperson**



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John Brockhoff  
**Expert Panel Member**



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Helen Deegan  
**Expert Panel Member**



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George Vardas  
**Community Representative**