

MINUTES

Local Planning Panel

Thursday, 03 February 2022

4.00pm

**Broadcast from Council Chambers, Civic
Centre, Hurstville**



Panel Members:

Ms Sue Francis (Chairperson)
Mr Michael Leavey (Expert Panel Member)
Mr Anthony Hudson (Expert Panel Member)
Mr Cameron Jones (Community Representative)

1. APOLOGIES AND DECLARATIONS OF PECUNIARY INTEREST

There were no apologies received

2. PUBLIC SPEAKERS

The meeting commenced at 4.03pm 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 4.47pm and the LPP Panel proceeded into Closed Session to deliberate the items listed below.

3. GEORGES RIVER LOCAL PLANNING PANEL REPORTS

LPP001-22 10 Spalding Crescent, Hurstville Grove
(Report by Senior Development Assessment Planner)

Speakers

- Wageeh Ayoubi (applicant)
- Nadia Hasan (owner)

Voting of the Panel Members

The decision of the Panel was unanimous.

DeterminationRefusal

Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, Development Application No. DA2021/0329 for the demolition works and construction of a dual occupancy at Lot 10, DP618937, known as 10 Spalding Crescent Hurstville Grove, is **refuse** Development Consent for the following reasons:

1. The proposed development does not comply with the development standard contained in Clause 4.4A of KLEP 2012. No Clause 4.6 variation was submitted to Council seeking a variation to that development standard. In the absence of a Clause 4.6 variation, the Panel has no power to approve the application.
2. The proposed development does not comply with the following sections of Kogarah Local Environmental Plan 2012:
 - a. Clause 1.2 – Aims of the Plan;

- b. Clause 2.3 – Zone Objectives (R2 Low Density Residential);
 - c. Clause 6.2 – Earthworks;
 - d. Clause 6.3 – Flood planning.
3. The proposed development does not comply with the following sections of Kogarah Development Control Plan 2013:
- a. Control 1.2.1(7) - The proposal extends beyond 60% the depth of the lot (up to 8m past) and contains habitable rooms and balconies.
 - b. Control 1.2.4.3 – Unit 2 breaches the minimum 6m rear setback control.
 - c. Control 1.4(1) – the Development Control Plan requires 1.5 parking spaces per dwelling (3 in total for a dual occupancy). Each dwelling only provides one parking space.
 - d. Control 1.4(8) – basement parking is not encouraged on flat sites. As the slope of the site is 9%, being less than 12.5%, at grade parking is required.
 - e. Control 1.5.1 – the proposed first floor master bedroom balconies will have adverse privacy impacts for neighbours and are not supported.
 - f. Control 4.2.3 – the plans indicate removal of existing retaining walls and construction of a series of new retaining walls in the rear yard of each dwelling. No information is provided on the design or height of the new walls or the finished ground levels in the rear yard. Fill is also indicated (on the northern elevation plan) in the rear yard of Unit 1 between the pool and the side boundary which is not supported.
4. 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 following aspects of the environment:
- a. Built Environment: An adverse impact would result from the proposed development on the amenity of adjoining premises relating to building bulk, scale and form, and overlooking and impacts upon adjoining neighbours. In addition, the proposed stormwater system fails to adequately drain the development and has not been designed to adequately manage flood risk.
5. The proposed development is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 as the proposed development as it would result in the loss of 3 healthy and mature canopy trees. It is not considered to be a suitable response to the constraints of the site or its locality and is likely to set an undesirable precedent and have adverse environmental impacts with regards to the amenity of adjoining properties, stormwater and overland flow impacts and car parking.

Panel Note

The applicant's request for deferral was not considered appropriate by the Panel due to the prior opportunity to submit revised plans and documentation and the fact that the Panel considered the extent of change required to satisfy the concerns would require a new application.

LPP002-22 1034 Forest Road Lugarno
(Report by Senior Development Assessment)

Speakers

- Ray Philpott (objector)
- Suzanne Garcia (objector)

Voting of the Panel Members

The decision of the Panel was unanimous.

Determination

Deferral

The Determination of Development Application No. DA2021/0005 for the demolition works, tree removal and construction of an attached two storey dual occupancy development, detached cabanas, inground swimming pools, landscaping and site works at 1034 Forest Road, Lugarno, is **deferred** and invites the applicant to submit amended details:

1. The Panel was concerned with the impact of the proposal on the overshadowing and privacy of the private open space of townhouse 1 of 1036 Forest Road Lugarno. The Panel appreciates the sites orientation and that development to the north will always shadow to the south, however, with modifications to the front setback the impact of overshadowing can be mitigated.
2. The Panel therefore requests the applicant provide amended plans which allow for improved solar access to the private open space of townhouse 1 by increasing the front setback, particularly at the first floor by a minimum of 2m and increasing the southern setback of the WIR of bedroom 1 by approximately a minimum of 600mm. The design resolution to achieve these amendments will require internal “shuffling” of rooms but not necessarily removal of bedrooms. The Panel understands there may be a minor reduction in the western setback.
3. In so doing, the proposed first floor balcony on the southeast corner of D2 shall be removed to reduce privacy impacts on townhouse 1.
4. The Panel heard from the resident of townhouse 2 and his concerns regarding overlooking of the rear private open space of D2. It was suggested to the Panel that an increase in fence height of 500mm would address his concerns. The Panel is mindful of the potential for increased overshadowing to the south and would therefore request that in preparing amended plans the rear western boundary of D2 and the western end of the southern boundary up until the eastern end of the pool, be enclosed by a boundary fence of 2.1m.
5. The Panel requests amended plans be prepared and submitted to Council for consideration addressing these points within 28 days. The Council to prepare a supplementary report to the Panel addressing the reasons for deferral and that report be considered at an electronic meeting unless otherwise determined by the Chair.

LPP003-22 50 Thurlow Street Riverwood NSW 2210
(Report by Senior Development Assessment Officer)

Speakers

- Andrew Martin (planner)
- Derek O’Cearbhaill (architect)

Voting of the Panel Members

The decision of the Panel was unanimous.

Determination

Deferral

Pursuant to Section 2.20 (8) of the Environmental Planning and Assessment Act 1979 (EPAA), Development Application No. DA2021/0410 for the change of use and alterations and additions to a registered club, is deferred for 2 Littleton Street Riverwood (Lot 101 DP786150) to be included as part of the application given works are associated with this allotment, and that the proposal be re-notified in accordance with Council's neighbour notification requirements. Following notification of the application, and if no submissions are received, delegation be granted to the Manager of Development and Building for final determination.

If submissions are received following neighbour notification, the application will be referred back to the Georges River Local Planning Panel for determination.

LPP004-22 296 Forest Road, Hurstville (Lot 16 DP4799) (Report by Independent Assessment)

Speakers

- Joseph Arnott (applicant/owner/objector)

Voting of the Panel Members

The decision of the Panel was unanimous.

The Panel received and has considered a memo from Council staff dated 3 February 2022 relating to the applicant's request for amendments to conditions in addition to clarification on the proposal's compliance with car parking requirements (attached).

Determination

Approval

Pursuant to Section 4.16 (1)(a) of the Environmental Planning and Assessment Act 1979, Development Application DA2021/00477 for the use of external terrace for outdoor seating, at 296 Forest Road Hurstville, is granted Development Consent subject to:

The Conditions recommended in the report to the Georges River Local Planning Panel meeting of 3 February 2022, subject to the amendments as follows:

(a) Amend Condition 5 to read as follows:

5. **Liquor Licence** - Application shall be made to NSW Office of Liquor and Gaming for a Liquor Licence under the [Liquor Act 2007](#), prior to the issue of any occupation certificate. Evidence that the Licence has been issued shall be provided to the PCA prior to the commencement of trade.

Note: A use which is reliant on the obtaining of a Liquor Licence should refrain from progressing until the Licence is obtained.

(b) Amend Condition 26 to read as follows:

26. The hours of operation approved for the area covered by this consent are to be in accordance the hours of operations for External Areas (including balcony, outdoor dining, outdoor smoking and gaming lounge area) as identified under Condition 42 of DA2021/0291 dated 9 December 2021.

(c) Deletion of Condition 32.

Statement of Reasons

The reasons for this recommendation are that:

- The proposal is associated with and consistent with the development DA2021/0291 approved on 9 December 2021.
- The proposed development will not have unacceptable adverse impacts to the natural and built environment given the scale of the development proposed, and that the building footprint remains unchanged, and the bulk and scale of the development is consistent with the current built form, and future desired character.
- The proposed land use is considered suitable for this site also given its commercial location within the Hurstville Town Centre and is well serviced by public transport, and the local walkable street network.
- The siting, design and bulk and scale of the development is considered suitable for the site.
- The proposal is considered acceptable with regards to CPTED.
- The amended conditions address concerns raised by the applicant and clarify the relationship of this development to DA2021/0291.

4. CONFIRMATION OF MINUTES BY CHAIR

GEORGES RIVER LOCAL PLANNING PANEL (LPP) - 03 FEBRUARY 2022

RECOMMENDATION

That the Minutes of the Georges River Local Planning Panel (LPP) held on 03 February 2022, be confirmed.

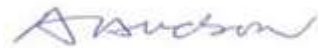
The meeting concluded at 6.01pm.



Sue Francis
Chairperson



Michael Leavey
Expert Panel Member



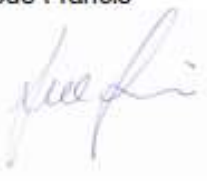
Anthony Hudson
Expert Panel Member



Cameron Jones
Community Representative


Declaration of Interest

Georges River Local Planning Panel

Panel Member Name:	Sue Francis
Meeting Date:	3 February 2022
Item Numbers:	<ul style="list-style-type: none"> • LPP001-22 - 10 Spalding Crescent, Hurstville Grove • LPP002-22 - 1034 Forest Road Lugarno • LPP003-22 - 50 Thurlow Street Riverwood • LPP004-22 - 296 Forest Road, Hurstville
In relation to the matters on this agenda, I declare that I have:	X No known conflict of interest
In relation to item number I have an actual¹ conflict of interest	<input type="checkbox"/> Conflict Details
In relation to item number I have a potential² conflict of interest	<input type="checkbox"/> Conflict Details
In relation to item number I have a reasonably perceived³ conflict of interest	<input type="checkbox"/> Conflict Details
Name of Panel Member	Sue Francis
Signature:	
<p>Key of Terms:</p> <p>¹ An 'actual' conflict of interests is where there is a direct conflict between a member's duties and responsibilities and their private interests or other duties.</p> <p>² A 'potential' conflict of interests is where a panel member has a private interest or other duty that could conflict with their duties as a panel member in the future.</p> <p>³ A 'reasonably perceived' conflict of interests is where a person could reasonably perceive that a panel member's private interests or other duties are likely to improperly influence the performance of their duties as a panel member, whether or not this is in fact the case.</p>	


Declaration of Interest

Georges River Local Planning Panel

Panel Member Name:	Anthony Hudson
Meeting Date:	3 February 2022
Item Numbers:	<ul style="list-style-type: none"> • LPP001-22 - 10 Spalding Crescent, Hurstville Grove • LPP002-22 - 1034 Forest Road Lugarno • LPP003-22 - 50 Thurlow Street Riverwood • LPP004-22 - 296 Forest Road, Hurstville
In relation to the matters on this agenda, I declare that I have:	No known conflict of interest
In relation to item number I have an actual¹ conflict of interest	NA
In relation to item number I have a potential² conflict of interest	NA
In relation to item number I have a reasonably perceived³ conflict of interest	NA
Name of Panel Member	Anthony Hudson
Signature:	
<p>Key of Terms:</p> <p>¹ An 'actual' conflict of interests is where there is a direct conflict between a member's duties and responsibilities and their private interests or other duties.</p> <p>² A 'potential' conflict of interests is where a panel member has a private interest or other duty that could conflict with their duties as a panel member in the future.</p> <p>³ A 'reasonably perceived' conflict of interests is where a person could reasonably perceive that a panel member's private interests or other duties are likely to improperly influence the performance of their duties as a panel member, whether or not this is in fact the case.</p>	


Declaration of Interest

Georges River Local Planning Panel

Panel Member Name:	Cameron Jones
Meeting Date:	3 February 2022
Item Numbers:	<ul style="list-style-type: none"> • LPP001-22 - 10 Spalding Crescent, Hurstville Grove • LPP002-22 - 1034 Forest Road Lugarno • LPP003-22 - 50 Thurlow Street Riverwood • LPP004-22 - 296 Forest Road, Hurstville
In relation to the matters on this agenda, I declare that I have:	<input checked="" type="checkbox"/> No known conflict of interest
In relation to item number I have an actual¹ conflict of interest	<input type="checkbox"/> Conflict Details
In relation to item number I have a potential² conflict of interest	<input type="checkbox"/> Conflict Details
In relation to item number I have a reasonably perceived³ conflict of interest	<input type="checkbox"/> Conflict Details
Name of Panel Member	Cameron Jones
Signature:	
<p>Key of Terms:</p> <p>¹ An 'actual' conflict of interests is where there is a direct conflict between a member's duties and responsibilities and their private interests or other duties.</p> <p>² A 'potential' conflict of interests is where a panel member has a private interest or other duty that could conflict with their duties as a panel member in the future.</p> <p>³ A 'reasonably perceived' conflict of interests is where a person could reasonably perceive that a panel member's private interests or other duties are likely to improperly influence the performance of their duties as a panel member, whether or not this is in fact the case.</p>	

Declaration of Interest

Georges River Local Planning Panel

Panel Member Name:	Michael Leavey
Meeting Date:	3 February 2022
Item Numbers:	<ul style="list-style-type: none"> • LPP001-22 - 10 Spalding Crescent, Hurstville Grove • LPP002-22 - 1034 Forest Road Lugarno • LPP003-22 - 50 Thurlow Street Riverwood • LPP004-22 - 296 Forest Road, Hurstville
In relation to the matters on this agenda, I declare that I have:	X No known conflict of interest
In relation to item number I have an actual¹ conflict of interest	<input type="checkbox"/> Conflict Details
In relation to item number I have a potential² conflict of interest	<input type="checkbox"/> Conflict Details
In relation to item number I have a reasonably perceived³ conflict of interest	<input type="checkbox"/> Conflict Details
Name of Panel Member	Michael Leavey
Signature:	
Key of Terms: ¹ An 'actual' conflict of interests is where there is a direct conflict between a member's duties and responsibilities and their private interests or other duties. ² A 'potential' conflict of interests is where a panel member has a private interest or other duty that could conflict with their duties as a panel member in the future. ³ A 'reasonably perceived' conflict of interests is where a person could reasonably perceive that a panel member's private interests or other duties are likely to improperly influence the performance of their duties as a panel member, whether or not this is in fact the case.	

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MEMORANDUM

TO: Georges River Local Planning Panel Members

FROM: Mr Brad Delapierre – Consultant Planner

CC: Mr. Ryan Cole – Manager Development and Building

DATE: 3 February 2022

REFERENCE: DA2021/0447– 296 Forest Road Hurstville

SUBJECT: Applicant's request for condition changes and response to Panel Enquiries

Dear Panel Members,

This memo provide advice on changes sought by the applicant with regards to the above recommended conditions of consent and additionally provides further information to the Panel with regards to parking, and other suggested amendments to resolve concerns with the conditions of consent.

Applicant's request

The application has requested the following amendments:

- (a) Condition 5 – Amendment of condition 5 to change the word 'construction' to 'occupation/trade' to be consistent with DA2021/091 and to avoid delay to the start of fit out works.

Proposed condition 5 currently reads:

- 5. **Liquor Licence** - Application shall be made to NSW Office of Liquor and Gaming for a Liquor Licence under the [Liquor Act 2007](#), prior to the issue of a construction certificate. Evidence that the Licence has been issued shall be provided to the PCA prior to the commencement of works.

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MEMORANDUM

Note: A use which is reliant on the obtaining of a Liquor Licence should refrain from progressing until the Licence is obtained.

The applicant proposes it to read:

5. **Liquor Licence** - Application shall be made to NSW Office of Liquor and Gaming for a Liquor Licence under the [Liquor Act 2007](#), prior to **occupation/trade**. Evidence that the Licence has been issued shall be provided to the PCA prior to **occupation/trade**.

Note: A use which is reliant on the obtaining of a Liquor Licence should refrain from progressing until the Licence is obtained.

Assessing Planner's comment – No objection is raised to the proposed change.

- (b) Deletion of proposed Condition 32 as there are no bi-fold doors in the area contained in this application.

Proposed Condition 32 currently reads:

32. **Noise - Closure of openings to the outdoor areas** - All bi-fold or other openings to the outside areas at the premises are to be closed by the times given below, to reduce noise impact to neighbouring premises:

- between 12am (midnight) and 8am on any Friday, Saturday or day immediately before a public holiday,
- and between 10pm - 8am on any other day.

Assessing Planner's comment: No objection is raised to deletion of this condition.

Parking Assessment Advice

DA 2021/0291 for the adjoining and associated pub considered parking for the tenancy as well as the terrace the subject of this development application.

The pub tenancy is allocated fourteen (14) parking spaces within Basement Level 02.

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MEMORANDUM

Council's Traffic Engineer provided the following advice as part of the previous DA for the pub on level 1.:

1. *Traffic and parking were assessed as part of the original DA2016/0322. This proposal does not impact upon approved parking and traffic requirements and therefore the Traffic Engineer had no further comment to provide on this proposal.*

DA2016/0322 approved the construction of the mixed use building subject to this application. It is noted that although DA 2016/0322 approved the terrace and first floor tenancies as generic retail uses and the parking requirements for the uses were assessed, and approved on that basis, the conditions of consent required further consent for first use.

It is noted that under the planning controls applying to the site (at that time and now) is the Hurstville DCP No.2 (noting that the Hurstville CBD was excluded from the Georges River Local Environmental Plan and Development Control Plan).

Under the Hurstville DCP NO.2, the parking rate for a pub and retail premises is identical (1 space per 50m²) and accordingly, as the proposal does not alter the parking arrangements and demand as approved under the original application, no further provision is required.

Change to hours of operation condition

As per the Panel's request, the assessing Planner has reviewed recommended Condition 26 which currently states:

26. Hours of operation

A) Standard Trading Hours

The approved **standard trading hours** of operation shall be restricted to the following:

- i) Fronting Hurstville Plaza
 - Sunday to Thursday: 7:00am to 12:00am (midnight)
 - Friday to Saturday: 7:00am to 12:00am (midnight)
- ii) Forest Road Side
 - Monday to Sunday: 7:00am to 12:00am (midnight)

B) Occupation of the site

The premises must not be occupied by staff or contractors until one (1) hour

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MEMORANDUM

prior to commencement of trading on any day, and beyond (one) 1 hour after the cessation of trading on any day.

C) Extended hours of operation

The extended hours of operation are:

- a) External Areas (including balcony, outdoor dining,)
 - i) Fronting Hurstville Plaza
 - Sunday to Thursday: *No extended hours required*
 - Friday to Saturday : 12:00am (midnight) to 2:00am
 - ii) Forest Road Side
 - Monday to Sunday: 12:00am (midnight) to 2:00am

The use may operate over the extended hours of operation for a trial period of **twelve (12)** months from the date of the Occupation Certificate (where one is issued) or the date at which the use commences operation where no Occupation Certificate is required to be issued.

The purpose of the reviewable condition is to allow ongoing assessment of the hours of operation in relation to neighbourhood amenity, public safety and operational performance and allow management to demonstrate successful practices in relation to the above.

Should the applicant intend to continue operating over the extended hours of operation, the consent is to be modified by an application under Section 4.55 of the [Environmental Planning and Assessment Act 1979](http://www.legislation.nsw.gov.au/) [<http://www.legislation.nsw.gov.au/>](http://www.legislation.nsw.gov.au/). The assessment of this application will be based on the operation of the use over the nominated trial period.

Where a Section 4.55 application is not received before the trial period ends, the hours of operation will revert back to the standard hours of operation nominated in (A) **Standard Trading Hours**.

As an alternative to this, to ensure consistency for the hours of operation for now and into the future, the below is recommended:

26. The hours of operation approved for the area covered by this consent are to be in accordance the hours of operations for External Areas (including balcony, outdoor dining, outdoor smoking and gaming lounge area) as identified under Condition 42 of DA2021/0291

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MEMORANDUM

Appendix A – Applicant's Request

From: Joseph Arnott <jarnott@urbis.com.au>

Sent: Tuesday, 1 February 2022 1:06 PM

To: Lisa Pemberton <lpemberton@georgesriver.nsw.gov.au>

Subject: RE: Update on Development Application (PAN-175282): Application has been lodged DA2021/077

Hi Lisa,

For your information, a couple of comments were made to the conditions. I've sent these to the panel as well.

- Condition 5 – change from “construction” to “occupation/trade”. Reason: to be consistent with DA2021/091 avoid delaying the start of fitout works.
- Condition 32 – delete condition. Reason: not applicable to the land as the bifolds are located wholly within the land to which DA2021/0291 applies (ie no bifolds on the council land).

Thanks,

Joe

JOSEPH ARNOTT

SENIOR CONSULTANT

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**SHAPING
CITIES AND
COMMUNITIES**



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