

MINUTES

Local Planning Panel

Thursday, 19 May 2022

4.00pm

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



1. APOLOGIES AND DECLARATIONS OF PECUNIARY INTEREST

There were no apologies received

Paul Vergotis declared an interest in item LPP022-22 – 61-65 Kingsway Kingsgrove and took no part in the discussions or deliberations of this application.

2. PUBLIC SPEAKERS

The meeting commenced at 4.00 pm 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 4.16 pm and the LPP Panel proceeded into Closed Session to deliberate the items listed below.

3. GEORGES RIVER LOCAL PLANNING PANEL REPORTS

LPP021-22 40 Algernon Street Oatley NSW 2223
(Report by Senior Development Assessment Officer)

Speakers

- Edward Ward (resident)
- Michael Rice (resident)
- Ross Green (applicant)

Voting of the Panel Members

The decision of the Panel was unanimous.

Determination

Refusal

Pursuant to Section 4.16 (1)(b) of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel, refuses Development Application DA2021/0273 seeking consent for a two lot Torrens title subdivision in addition to driveway and landscaping works at Lot 122 DP547754, known as 40 Algernon Street Oatley, for the following reasons:

The recommended reason for refusal No. 4(b), with the report contained a typographical error by referencing the Georges River Local Environmental Plan 2021 and the Georges River Development Control Plan 2021. Refusal reason No. 4(b) is to be amended to reference the correct documents being the Kogarah Local Environmental Plan 2012 and the Kogarah Development Control Plan 2013 as bolded below.

1. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of the State Environmental Planning Policy (Resilience and Hazards) 2021:
 - a. Clause 2.10 and 2.11 of Chapter 2- Coastal Management.

2. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of the Kogarah Local Environmental Plan 2012:
 - a. 1.2 – Aims of the Plan.
 - b. 2.3 – Zone objectives.
 - c. 6.2 – Earthworks.
3. 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 Kogarah Development Control Plan 2013:
 - a. Part B4 (4) – Design and Layout of Car Parking Areas, in relation to lack of manoeuvring space for lot 2.
 - b. Part B6 (1) – On-site Water Management and Stormwater Controls, in relation to insufficient stormwater plans.
 - c. Part C4 – Oatley Point Reserve to Neverfail Bay – Clause 10.10 (Subdivision).
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. Natural Environment: The development will result in adverse impacts on the natural environment as a result of the extensive earthworks required for the construction of the driveway servicing lot 2. In addition, potential impacts from the future development of lot 2 in relation to earthworks needed for the construction of the dwelling and vehicle manoeuvring area.
 - b. Built Environment: An adverse impact will result from the proposed development on the amenity of adjoining premises due to the elevated nature of the proposed driveway and its structural supports servicing lot 2.

No adequate concept architectural plans have accompanied the application in relation to locating a dwelling on lot 2 taking into consideration the physical site constraints and the provisions of the **Kogarah LEP 2012 and Kogarah DCP 2013** criterion. There is a 30m foreshore building line requirement, no compliant vehicle parking and manoeuvring area nominated, together with the recommendations of the submitted Arborist Report. In light of the level of uncertainty of development on lot 2, the proposal fails to represent an orderly development of the land contrary to section 1.3 (c) of the Environmental Planning and Assessment Act 1979 No 203.
 - c. Social Impacts: An adverse impact will result from the proposed development on the amenity of the locality and adjoining neighbours. Furthermore, the application was not accompanied by documentation which reasonably satisfies Council's assessing officers as to the burden/benefit relationships surrounding the right of carriage way affecting the main driveway onto Algernon Street and the necessary owners consent given the intensification of the use of the carriageway.

5. The proposed development is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the proposed development is not considered to be suitable for the site or its locality and is likely to set an undesirable precedent.

Statement of Reasons

The reasons for this recommendation are that:

- The proposed subdivision is not considered to be an appropriate response for the site and its constraints and the character of the locality.
- The proposal lacks clear detail with regards to the burden/benefit relationships affecting the right of carriageway within the main driveway leading to Algernon Street, which is required in this case due to intensification of the use of the potentially shared right of carriageway.
- The proposed development will have unacceptable adverse impact on the natural and built environments.
- The proposed development will result in unacceptable adverse impacts on the amenity of adjoining residents and the locality and is likely to set an undesirable precedent.
- In consideration of the aforementioned reasons, the proposed development is not suitable for the site.

LPP022-22 61-65 Kingsway, Kingsgrove (Report by Senior Development Assessment Planner)

Paul Vergotis left the deliberation meeting at 4.58 pm and took no part in the discussions or deliberations of this application.

Speakers

There were 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)(b) of the Environmental Planning and Assessment Act, 1979, as amended, the Georges River Local Planning Panel, refuses Development Application DA2021/0175 for demolition works and construction mixed use development containing a commercial tenancy and a boarding house at Lots 30, 31 and 32 in DP11417, known as 61-65 Kingsway, Kingsgrove for the following reasons:

1. **State Environmental Planning Policy (Resilience and Hazards) 2021** – Pursuant to Clause 4.6, it has not been demonstrated that the site in its present condition is, or can be made suitable for the development proposed as the provided detailed site investigation fails to give sufficient consideration to existing site groundwater conditions.
2. **State Environmental Planning Policy (Affordable Rental Housing) 2009** – Pursuant to Clause 30 1(a) of the Policy, no dedicated communal room has been provided of the use of occupants.

3. **Hurstville Local Environmental Plan 2012-** Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with Clause 4.4 Floor space ratio and a Clause 4.6 variation request has not been submitted.
4. **Hurstville Local Environmental Plan 2012-** Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the objectives of the B2 Local Centre zone as the amount of commercial floor space is reduced by the proposed development significantly from that existing, thereby impacting on the generation of employment, and delivery of services in the local area.
5. **Hurstville Local Environmental Plan 2012 -** Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with Clause 4.3 Height of buildings and the Clause 4.6 variation request is not justified.
6. **Hurstville Local Environmental Plan 2012 -** Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with Clause 4.4A Non-residential floor space ratios and the Clause 4.6 variation request is not justified with regards to the objectives of the zone or the standard.
7. **Hurstville Local Environmental Plan 2012 –** Pursuant to Section 4.15(a) (i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 6.7 Essential Services as it has not been demonstrated that sufficient stormwater drainage is available, or that suitable arrangements have been made available to facilitate the drainage of stormwater from the site.
8. **Impacts on the Built Environment -** Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, insufficient information is provided to determine whether the proposed development meets the relevant planning controls in relation to:
 - a) Parking including specifications relating to the car stacker system and plan of management details as to how site users will be inducted into the use of the system;
 - b) Solar access to communal areas;
 - c) Groundwater during excavation;
 - d) Stormwater management;
 - e) Traffic impacts and loading bays; and
 - f) Waste management.
 - g) Internal accessibility to the lower basement from the rear boarding rooms.
9. **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) The development fails to achieve suitable levels of amenity for future residents and adjoining allotments as a result of insufficient building separation, inappropriate privacy treatments and building layout.
 - (b) The site is zoned for the primary purpose of facilitating retail and commercial land uses and the proposal, in resulting in a net loss to existing non-residential gross floor area on the site, and in failing to provide the minimum non-residential gross floor area required in the zone, is unsuitable for a site in this zone.

- 10. Undesirable Precedent** –Approval of the proposal would set an undesirable precedent with regards to the application of key development standards and the integrity of the B2 Local Centre zone.

Appeal Rights - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.

Statement of Reasons

The reasons for this recommendation are:

- The proposed exceedance of the height standard is inconsistent with the objectives of Clause 4.3 of the HLEP 2012 and approval of the variation would set an undesirable precedent;
- The proposed exceedance to the Floor Space Ratio requirement of Clause 4.4 of the HLEP 2012 appears to lack justification and no variation request as required under Clause 4.6 has been submitted;
- The proposed failure to provide the minimum non-residential floor space requirement contained in Clause 4.4A of the HLEP 2012 is inconsistent with the objectives of the zone and the standard and would set an undesirable precedent;
- The application lacks sufficient detail to demonstrate that suitable stormwater drainage is available, or suitable arrangements have been made in this regard as required under Clause 6.7 of the HLEP 2012.
- The proposal fails to provide a dedicated communal living room as required under Clause 30 (1) (a) of State Environmental Planning Policy (Affordable Rental Housing) 2009.
- The provided Detailed Site Investigation lacks sufficient detail with regards to groundwater contamination to enable it to be concluded (as a consent authority) that the site will be suitable for the proposed use as outlined by Clause 4.6 of SEPP (Resilience and Hazards) 2021.
- Insufficient detail has been provided to enable a conclusion as to the traffic impact of the proposal to be assessed.
- Insufficient detail has been provided as to the functionality and practicality of the proposed use of car stackers within the development, with no specifications, dimensions (including depth of excavation required) and details submitted to enable a conclusion on the adequacy, practicality, or functionality, or the scope of works necessary to implement this system to be reached. Further, no detail as to how short-to-medium term occupants of the boarding house will be familiarised with the operation of the stacker and lift system has been provided in the Plan of Management.
- The proposed development will have unacceptable adverse impacts on the built environment due to its breach of the height standard in a location due north of shop-top housing dwellings.
- In consideration of the aforementioned reasons, the proposed development is not a suitable and planned use of the site.

LPP023-22 52 Lansdowne Parade, Oatley
(Report by Senior Development Assessment Planner)

Speakers

There were no speakers registered for this item.

Voting of the Panel Members

The decision of the Panel was unanimous.

Determination

Deferred Commencement Approval

That Georges River Local Planning Panel support the request for variation under Clause 4.6 of Georges River Local Environmental Plan 2021, in relation to the Height of Building (Clause 4.3) development standard, as the variation sought satisfies the objectives of the standard and sufficient environmental planning grounds have been provided in the written request for variation justifying that compliance would be unnecessary and unreasonable in the circumstances of the case. The proposal is also in the public interest and it satisfies the objectives of the zone resulting in no adverse environmental impacts but rather a superior design outcome.

Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, this consent will not operate until the following requirements are satisfied:

This Development Application is a Deferred Commencement Consent under Section 4.16(3) of the Environmental Planning and Assessment Act 1979. Strict compliance is required with **all conditions appearing in Section A** within **thirty six (36) months from the Determination Date of this consent**. Upon confirmation in writing from Georges River Council that the Section A Conditions have been satisfied, the consent shall commence to operate as a Development Consent for a period of five (5) years from the **Determination Date of this consent**.

Section A

- (a) The following design changes are to be made and approved by Council:
 - (i) The outbuilding must be reduced in length and size to be no more than 30sqm in accordance with the Georges River DCP 2021 control in Chapter 6.4.3.4; and in this regard the lower store room window shall be deleted so that the outbuilding appears as a single storey structure. The external faces of the walls to the lower storey shall have a sandstone flagged finish.
 - (ii) An updated schedule of finishes consistent with the approved plans is required to be submitted and approved by Council, with the colour, tone and materiality consistent with those shown in the schedule of finishes submitted to Council as part of the original application package, on the plan titled Elevations 1 and annotated External Finishes Schedule, Drawing 52Lans-21, drawing 4 of 5 dated September 2021.

Subject to the above being satisfied the development is to be carried out accordance with the conditions recommended in the report to the Georges River Local Planning Panel meeting of 19 May 2022, subject to the amendment as follows:

Delete condition 10.

Statement of Reasons

The reasons for this recommendation are:

- The proposal is an appropriate response to the site and the existing dwelling house given the site constraints.
- The proposed design is consistent with the existing and desired future character for development in this area.

4. CONFIRMATION OF MINUTES BY CHAIR**GEORGES RIVER LOCAL PLANNING PANEL (LPP) – 19 MAY 2022****RECOMMENDATION**

That the Minutes of the Georges River Local Planning Panel (LPP) held on 19 May 2022, be confirmed.

The meeting concluded at 5.03 pm



Stephen Davies
Chairperson



Paul Vergotis
Expert Panel Member



Julie Walsh
Expert Panel Member



Erin Sellers
Community Representative



Declaration of Interest Georges River Council Local Planning Panel

Panel Member Name:	Stephen Davies
Meeting Date:	19 May 2022
Item Numbers:	<ul style="list-style-type: none"> • LPP021-22 - 40 Algernon Street Oatley • LPP022-22 - 61-65 Kingsway, Kingsgrove • LPP023-22 - 52 Lansdowne Parade, Oatley
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	
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.	



Declaration of Interest Georges River Council Local Planning Panel

Panel Member Name:	Julie Walsh
Meeting Date:	19 May 2022
Item Numbers:	<ul style="list-style-type: none"> • LPP021-22 - 40 Algernon Street Oatley • LPP022-22 - 61-65 Kingsway, Kingsgrove • LPP023-22 - 52 Lansdowne Parade, Oatley
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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	
Signature:	
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Declaration of Interest Georges River Council Local Planning Panel

Panel Member Name:	Paul Vergotis
Meeting Date:	19 May 2022
Item Numbers:	<ul style="list-style-type: none"> • LPP021-22 - 40 Algernon Street Oatley • LPP022-22 - 61-65 Kingsway, Kingsgrove • LPP023-22 - 52 Lansdowne Parade, Oatley
In relation to the matters on this agenda, I declare that I have:	<input type="checkbox"/> No known conflict of interest
In relation to item number LPP022-22 have an actual¹ conflict of interest	<input checked="" type="checkbox"/> Conflict Details: In relation to development application no. 2021/0175 for the proposed development at Nos 61-65 Kingsway, Kingsgrove I have an actual conflict of interest as I have provided preliminary legal advice to the Applicant's architects CMT Architects in relation to the prospects of a Class 1 Development appeal being upheld in the Land and Environment Court of NSW. As such, I will declare my interest at the LPP meeting and will not take part in the deliberations and decision making with respect to this development application.
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	
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.	



Declaration of Interest Georges River Council Local Planning Panel

Panel Member Name:	Erin Sellers
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