

MINUTES

of a meeting of the
Bayside Local Planning Panel
held in the Committee Room, Botany Town Hall
Corner of Edward Street and Botany Road, Botany
on **Tuesday 23 July 2019 at 6.10 pm**

Present

Jan Murrell, Chairperson
Robert Montgomery, Independent Expert Member
Helen Deegan, Independent Expert Member
Amber O'Connell, Community Representative

Also present

Luis Melim, Manager Development Services
Fausto Sut, Manager Governance & Risk
Christopher Mackay, Coordinator Development Assessment
Pascal Van De Walle, Coordinator Development Assessment
Ben Latta, Coordinator Development Assessment
Clare Harley, Manager Strategic Planning
Charlotte Lowe, Senior Urban Planner
Angela Lazaridis, Senior Development Assessment Planner
Fiona Prodromou, Senior Development Assessment Planner
Ana Trifunovska, Development Assessment Planner
Helen Lai, Development Assessment Planner
Suhradam Patel – IT Technical Support Officer
Anne Suann, Governance Officer

The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6.10 pm.

1 Acknowledgement of Traditional Owners

The Chairperson affirmed that Bayside Council respects the traditional custodians of the land, elders past and present and future leaders, on which this meeting takes place, and acknowledges the Gadigal and Bidjigal Clans of the Eora Nation.

2 Apologies

There were no apologies received.

3 Disclosures of Interest

There were no disclosures of interest.

4 Minutes of Previous Meetings

4.1 Minutes of the Bayside Local Planning Panel Meeting - 9 July 2019

Decision

The Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 9 July 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

5 Reports – Planning Proposals

5.1 Post-Exhibition Report: Planning Proposal to Reclassify Public Land at Lot 3 DP1247416 (No. 9) Bidjigal Road, Arncliffe

The following person spoke:

- Michael Gheorghiu from Tudor Planning and Design, representing the adjoining landowner, spoke for the officer's recommendation and responded to the Panel's questions.

Recommendation to Council

- The Bayside Local Planning Panel recommends that Council writes to the NSW Department of Planning, Industry and Environment to request notification of the Local Environmental Plan amendment, as exhibited, for Lot 3, DP 1247416, known as 9 Bidjigal Road, Arncliffe, in accordance with Section 3.36 of the Environmental Planning and Assessment Act 1979.
- The Bayside Local Planning Panel recommends to Council to request the NSW Department of Planning, Industry and Environment recommend to the Governor of NSW that the public reserve status be discharged from the land, in accordance with Section 30 of the Local Government Act 1993.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for the Panel's Recommendation

- The reclassification to Operational Land is appropriate to allow a land exchange to achieve open space for the community.

- The Panel has considered the submission in support of the reclassification and is satisfied the proposal is in the public interest.

6 Reports – Development Applications

6.1 DA-2017/224/E - 152-200 & 206 Rocky Point Road, Kogarah

An on-site inspection took place at the property earlier in the day.

The following person spoke:

- Chris Ferreira from Ethos Urban, representing the applicant, spoke for the officer's recommendation and responded to the Panel's questions.

The applicant's representative indicated that the modification with respect to the staging of the subdivision be considered only and, as such, the modification application is formally amended to delete the proposed amendments to Conditions 3 and 96.

Determination

- 1 The Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to s4.55(1A) of the Environmental Planning and Assessment Act 1979, is satisfied that the proposed modification as amended above:
 - i is of minimal environmental impact;
 - ii is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - iii has not been notified as this is not required; and
 - iv has been assessed having regard to the relevant matters in s4.15(1A) of the Environmental Planning and Assessment Act 1979.
- 2 The Bayside Local Planning Panel has considered the reasons of the consent authority when consent was originally granted and is satisfied the conditions sought to be modified are appropriate in the circumstances..
- 3 The Modification Application No. DA-2017/224/E, being a Section 4.55(1A) application to amend Development Consent No. DA-2017/224, to permit subdivision into two (2) stages at 152-200 & 206 Rocky Point Road, Rockdale, is **APPROVED** pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 and subject to the modifications of conditions of consent attached to the Council officer's report.
 - i By amending the Proposal description to include reference to twenty-one (21) townhouses;
 - ii By amending condition 2, 14, 52, 105, 106, 125, 126, 127 and 128; and
 - iii By deleting condition 124 and condition (d)(ii) under Development Consent Advice.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for the Panel's Determination

- The Panel is satisfied that the staging of the subdivision does not create any environmental impacts and the modification is consistent with the original approval.
- **Note:** By way of comment, the Panel raised concerns about the process for amending conditions 3 and 96 and is of the opinion further consideration and information is required to allow an informed decision in accordance with the Environmental Planning and Assessment Act.

6.2 DA-2018/318 - 72 Banksia Street, Botany

The site was viewed by the Panel earlier in the day.

The following person spoke:

- Huff Chalich, architect, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 The Bayside Local Planning Panel, exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, approves a variation to the floor space ratio prescribed by Clause 4.4 Floor Space Ratio of the Botany Bay Local Environmental Plan 2013, as it is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives of the zone.
- 2 The development application, DA-2018/318 for the Torrens Title subdivision lot into two (2) lots and construction of two (2) x two (2) storey semi-detached dwellings at 72 Banksia Street, is **APPROVED**, pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979, subject to the conditions of consent attached to the Council officer's report.
- 3 The submitter be notified of the Bayside Local Planning Panel's decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel is satisfied that the amended plans address the concerns raised by the Panel on a previous occasion. Furthermore, it is noted that the streetscape presentation and the extent of deep soil landscaping and canopy trees is now well provided for to make a positive contribution to the streetscape.

6.3 SF19/3611 - 5 Highgate Street, Bexley

An on-site inspection took place at the property earlier in the day.

Determination

- 1 The proposed variation to the building height and floor space ratio prescribed by cl 4.3 Height of Buildings and cl 4.4 Floor Space Ratio of the Rockdale Local Environmental Plan 2011, NOT BE SUPPORTED as the applicant's written request has not adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would not be in the public interest because it is not consistent with the objectives of that particular standards and the objectives for development within the zone.
- 2 The development application DA-2019/141 for the demolition of existing structures and construction of a two storey dwelling with basement level, secondary dwelling and garage at 5 Highgate Street, Bexley is **REFUSED** pursuant to s4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
 1. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.
 2. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with SEPP (Affordable Rental Housing) 2009 with respect to the maximum gross floor area and floor space ratio allowable.
 3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed

development does not satisfy Clause 4.3 of the Rockdale Local Environmental Plan 2011 with respect to height of buildings.

4. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.4 of the Rockdale Local Environmental Plan 2011 with respect to floor space ratio.
5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 6.6 and Clause 6.7 of the Rockdale Local Environmental Plan 2011 with respect to stormwater management and flood planning.
6. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the following sections of the Rockdale Development Control Plan 2011 with respect to the following:
 - a Part 4.1.3 - Water Management
 - b Part 4.2 - Streetscape and Site Context
 - c Part 4.4.2 - Solar Access
 - d Part 4.4.5 - Visual Privacy
 - e Part 4.6 - Car Park Location and Design
 - f Part 5.1 - Building Design
7. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, results in an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.
8. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in terms of bulk, scale, size, and height, and would adversely impact upon the amenity of the locality.
9. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory as it fails to demonstrate acceptable disposal of stormwater from the subject land.
10. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

3 The submitters be notified of the Panel's decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for the Panel's Determination

- The Panel agrees with the officer's report and recommendations and considers the proposal is an overdevelopment of the site and out of character with the area.
- The Clause 4.6 written request to vary the development standards of height and floor space ratio as contained in the Rockdale LEP are not well founded and do not justify variation in the circumstances of this application.

6.4 DA-2016/47/B - 7-9 Gertrude Street, Wolli Creek

An on-site inspection took place at the property earlier in the day.

The following person spoke:

- Richard Darvill, Senior Associate, Marchese Partners Architects, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

The modification application DA-2016/47/B seeking to modify development consent DA-2016/47 to add three (3) car stacker units and relocate two (2) accessible car parking spaces within the basement at 7-9 Gertrude Street, Wolli Creek is **REFUSED consent**, pursuant to s4.16(1)(b) of the Environmental Planning and Assessment Act 1979, for the following reasons:

- 1 The proposal does not provide sufficient head height clearance in accordance with AS-2890.1
- 2 The proposal as modified is unsatisfactory in that the proposed car stackers will restrict the nature and type of vehicles which are capable of utilising these car spaces.
- 3 The width of the platform lift is insufficient and the proposal does not incorporate a wheel stop as required by AS-2890.1.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for the Panel's Determination

- The car parking currently provided within the basement levels is in accordance with the development consent and no additional parking is required to satisfy the conditions of consent.
- The proposal will result in the conversion of three unrestricted car parking spaces to six stacked spaces which are limited in height and width, therefore restricting the type and size of vehicles.
- The Panel considers that having considered the reasons for the original approval, there is no justification for the proposed modification.

6.5 DA-2014/10214/D - 5 Myrtle Street, Botany

An on-site inspection took place at the property earlier in the day.

Determination

- 1 The Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 is satisfied that the proposed modification:
 - i is of minimal environmental impact;
 - ii is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - iii the application was not notified because not required; and
 - iv has been assessed having regard to the relevant matters in s4.15 of the Environmental Planning and Assessment Act 1979.
- 2 The Bayside Local Planning Panel has considered submissions made concerning the proposed modification and taken into account the reasons of the consent authority that granted the consent that is sought to be modified.
- 3 The modification application DA-2014/214/D seeking to modify Development Consent No. 2014/214 to amend Condition Nos. 37 and 106 relating to the stormwater system on the site at 5 Myrtle Street, Botany, is **APPROVED**. The proposal is modified in the following manner:
 - i By amending Condition No. 37 relating to stormwater system noting that the wording for this consent condition needs to be as per Condition No 37 within the Council officer's report on page 561 of the Agenda, as follows:

Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority (PCA) for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and

Drainage Code, Sydney Water regulations and the BCA. All drawings shall correspond with the approved architectural plans.) The plans shall incorporate but not be limited to the following:

- a) ~~The provisions made in the Stormwater Management Plans by ACOR, dated 18 July 2014 (DA-14/214/04)~~
 - b) ~~**The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100-year ARI storm.**~~
 - c) Any stormwater discharge to Council's Kerb and Gutter is limited to 10L/s. If higher discharge is proposed, provision must be made to connect to Council's pit and pipe system. ~~**Maximum permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the State of Nature condition (i.e. the site is totally grassed/turfed), rather than pre-development condition.**~~
 - d) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
 - e) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
 - f) ~~**The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system,**~~
 - g) The water originating from the pump put system in the basement car park shall NOT be directed to the Rainwater Re-use Tank and must not be used as grey water under any circumstance.
 - h) ~~**All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Council's drainage systems. As such, details of the pollution control device shall be shown on stormwater management plan and submitted to the PCA for approval prior to the issue of any construction certificate, and**~~
 - i) Detail calculations including computer modelling (electronic and paper) shall be submitted demonstrating the adequacy of the stormwater management plan in fulfilling all requirements of Council's SMTG.
- ii By amending Condition No. 106 relating to stormwater system as follows:
- ~~**Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under**~~

~~Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:~~

~~a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and~~

~~Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.~~

~~The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.~~

Prior to the issue of the Occupation Certificate, an appropriate instrument in accordance with Council Specification must be registered on the title of the property, concerning the presence and ongoing operation of the stormwater system. A Works-as Executed plan must be submitted to Council at the completion of the works. The plan must clearly illustrate dimensions and details of the site drainage and the stormwater system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The terms of the 88E instruments are to be submitted to Council for review and approval and proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation

- iii By amending Condition No. 118 relating to the subject application as follows:

The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 14(214) dated as 12 September 2014 and as further amended by Section 96(1A) Application No. 14(214).02 dated 2 October 2015 14(214).03 dated 22 January 2016 and as further amended by Section 4.55(2) Application No. 14/214/04 dated 20 April 2018 **and as further amended by Section 4.55(1A) Application No. 2014/214/D dated 30 May 2019** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council. (DA-14/214/02) (DA-14/214/03) (DA-14/214/04)(**DA-2014/214/D**)

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel is satisfied that the modification does not give rise to adverse environmental impacts and is consistent with the original approval.

6.6 DA-18/1172 - 106 Wilson Street, Botany

An on-site inspection took place at the property earlier in the day.

The following people spoke:

- Simon Hanson, BureauSRH Architects, speaking on behalf of the applicant, spoke against the officer's recommendation and responded to the Panel's questions.
- Philip Bull from Dickson Rothschild, urban planner, spoke against the officer's recommendation and responded to the Panel's questions.

Determination

- 1 The development application DA-2018/1172 for the demolition of existing structures and construction of a three (3) storey shop top housing development comprising four (4) residential units, one commercial tenancy and two (2) car parking spaces at 106 Wilson Street Botany is **DEFERRED** to allow the applicant the opportunity to submit amended plans within four weeks for Council's assessment and the matter to be referred back to the Panel for determination. The amended plans are to reduce the number of residential units and the amount of floor space to provide car parking that does not dominate the site or the public domain. Public domain issues should also be addressed in the context of the adjacent approved development.
- 2 The submitters be notified of the Bayside Local Planning Panel's decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The Panel considers that given the constraints of the site, in particular its narrow width, that the amount of floor space proposed cannot be suitably accommodated having regard to both the public domain and other requirements including car parking.
- The applicant is prepared to submit amended plans with a lower residential FSR and number of units.

The Chairperson closed the meeting at 7.45 pm.

Certified as true and correct.

Jan Murrell
Chairperson