

## **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 10 September 2019 at 6.03 pm**

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### **Present**

Robert Montgomery, Chairperson and Independent Expert Member  
Ross Bonthorne, Independent Expert Member  
Robert Furolo, Independent Expert Member  
Amber O'Connell, Community Representative

### **Also present**

Luis Melim, Manager Development Services  
Fausto Sut, Manager Governance & Risk  
Busola Martins, Coordinator Governance  
Marta Gonzalez-Valdes, Coordinator Development Assessment  
Christopher Mackay, Coordinator Development Assessment  
Ben Latta, Coordinator Development Assessment  
Fiona Prodromou, Senior Development Assessment Planner  
Patrick Nash, Senior Development Assessment Planner  
Christopher Lazaro, Development Assessment Planner  
Ben Tesoriero, Consultant from CPS Planning  
Suhradam Patel, IT Technical Support Officer  
Anne Suann, Governance Officer

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The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6.03 pm.

### **1 Acknowledgement of Country**

The Chairperson affirmed that Bayside Council respects the traditional custodians of the land, elders past, present and emerging, 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**

Robert Furolo declared a Less than Significant Non-Pecuniary Interest in Item 6.3 on the basis that he has previously worked with one of the consultants on an unrelated project. The Chairperson agreed that it is not necessary for Mr Furolo to be excluded from participating as there is no actual conflict of interest.

## **4 Minutes of Previous Meetings**

### **4.1 Minutes of the Bayside Local Planning Panel Meeting - 15 August 2019**

#### **Decision**

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 15 August 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

### **4.2 Minutes of the Bayside Local Planning Panel Meeting - 27 August 2019**

#### **Decision**

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 27 August 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

## **5 Reports – Planning Proposals**

Nil

## **6 Reports – Development Applications**

### **6.1 DA-2018/293 - 65A Barton Street, Kogarah**

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

The following person spoke:

- Terry Palapanis, applicant, spoke against the officer's recommendation and responded to the Panel's questions.

#### **Determination**

- 1 That the Bayside Local Planning Panel, exercising its functions as the consent authority, REFUSE Development Application DA-2018/293 for the installation of thirty-six (36) x 8 metre high lighting towers at the Scarborough Park Tennis Courts, pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment act 1979* for the following reasons:
  1. Insufficient information has been provided to enable proper assessment of the proposal with respect to Clause 6.8 Biodiversity protection under Rockdale Local Environmental Plan 2011 as a Flora and Fauna Impact Assessment has not been provided the Statement of Environmental Effects is inadequate with respect to the provisions of this clause.

The additional information requested has not been provided, and Council is unable to consider the adverse impact of the proposed development on the following – as required by clause 6.8(3):

- a) native ecological communities,
- b) the habitat of any threatened species, populations or ecological community,
- c) regionally significant species of fauna and flora or habitat,
- d) habitat elements providing connectivity.

2. Insufficient information has been provided to enable proper assessment of the proposal with respect to Clause 2.3 Zone objectives and Land Use Table. The development application does not provide sufficient information to confirm whether the proposal can satisfy the third objective for the RE1 Public Recreation Zone in which the development is proposed to be carried out. That third objective being:

- *To protect and enhance the natural environment for recreational purposes.*

3. The proposed development is unsatisfactory, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the following objectives and controls of Rockdale Development Control Plan 2011:

- a) Part 4.1.8 Biodiversity – Without the provision of a Flora and Fauna Impact Assessment and amended Statement of Environmental Effects, Council cannot be satisfied the proposal complies with the objectives and controls for biodiversity land prescribed under Part 4.1.8 of the *Rockdale Development Control Plan 2011*.

4. Without the provision of a Flora and Fauna Impact Assessment and amended Statement of Environmental Effects, pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the impacts of the proposed development on the natural environment cannot be confirmed.

5. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, it cannot be confirmed the proposed development is suitable for the site.

6. There is a public interest in ensuring development appropriately protects and enhances the natural environment, particularly native flora and fauna, habitats and ecological processes. There is also a public interest in ensuring the provisions of Council's planning controls are upheld. Having regard to the reasons for refusal outlined above, pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development is not in the public interest.

- 2 That the submitters be notified of the decision of the Panel.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<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 assessment of the application.
- The Panel notes that the consent authority is required to consider the impact of the proposal on the flora and fauna present on the site as required by Clause 6.8 Biodiversity Protection under Rockdale LEP 2011. In the absence of an appropriate biodiversity assessment the Panel is not in a position to determine the application other than by refusal.

### 6.2 DA-2019/143 - 24 Albert Street, Botany

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

The following people spoke:

- Huss Chalich, affected neighbour, spoke for the officer's recommendation and responded to the Panel's questions.
- John O'Rourke, owner, spoke against the officer's recommendation and responded to the Panel's questions.
- George Vardas from Champion Homes, applicant, spoke against the officer's recommendation and responded to the Panel's questions.

### Determination

- 1 That the Development Application No. 2019/143 for the demolition of existing structures, Torrens Title subdivision into two (2) lots and construction of two (2) semi-detached dwellings, be DEFERRED to allow the applicant an opportunity to consider an overall redesign of the proposal to address the following matters:
  - Impact on solar access and privacy to the private open space on land adjoining to the south.
  - A more appropriate streetscape presentation which may or may not include the provision of a single driveway but gives consideration to the established residential streetscape, particularly in terms of the balance of hard surfaces and landscaping.

- Consider a revised internal layout to achieve improved amenity for future occupants of the buildings.
- Provide a better urban design outcome considering the site constraints and the adjoining and surrounding residential development.
- Resolution of the stormwater design for the site.
- That the amended plans be notified in accordance with the DCP prior to the matter coming back to the Panel.

2 That the submitter be notified of the Bayside Local Planning Panel's decision.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### Reasons for the Panel's Determination

- In its present form the Panel cannot support the application. The applicant has advised that they are prepared to consider some redesign to address the matters raised in the report and provide an amended application to Council.
- The Panel considers that there is an appropriate design response for a development such as that which is proposed, however further consideration must be given to the matters noted in the Panel's decision.

### 6.3 DA-2018/378 - 13A-17 Swinbourne Street, Botany

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

The following people spoke:

- Patrick Nicholas, Principal Architect from AN+A Architects Nicholas + Associates, spoke for the officer's recommendation and responded to the Panel's questions.
- Alison Davidson, Town Planner from Planning Ingenuity, spoke for the officer's recommendation and responded to the Panel's questions.

#### Determination

- 1 That Development Application No.2018/378 for demolition of existing structures and construction of a three (3) storey shop top housing development comprising one (1) ground floor commercial tenancies, 20 dwellings, basement and ground

floor parking and strata subdivision be DEFERRED to give the applicant the opportunity to address the following matters raised by the Panel:

- Resolution of the roof design over both the private and communal open space areas including access, weatherproofing as necessary and the bulk which is presented by the proposed solid roof.
- Consideration of a light weight structure or structures for weather protection of rooftop courtyard / communal open space.
- Consider incorporating passive communal open space within the deep soil area and providing access to the area for residents.

2 That the submitters be notified of the Bayside Local Planning Panel's decision.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<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 assessment of the proposal and considers that a development such as proposed would be suitable subject to resolving the design matters as noted in the Panel's determination.
- The Panel acknowledges that some of the units are designed to be flexible so as to be occupied as three bedrooms. This flexibility satisfies the Panel's concerns in relation to diversity of housing.
- The provision of some rooftop private open space areas is supported by the Panel subject to resolution of the proposed roof structure, access and also providing passive communal space within the deep soil zone.

#### 6.4 S82-2019/6 - 3-5 Queen Street, Botany

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

The following people spoke:

- Derek Raithby, Principal, from Derek Raithby Architecture, spoke for the officer's recommendation and responded to the Panel's questions.
- John Higgins, My Place Estate Agents, speaking for the applicant, spoke for the officer's recommendation and responded to the Panel's questions.

- Philip Tian, owner, spoke for the officer's recommendation and responded to the Panel's questions.
- Anthony Betros, town planner, from ABC Planning P/L, spoke for the officer's recommendation and responded to the Panel's questions.

### **Determination**

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the Consent Authority, pursuant to Division 8.2, relating to Development Application S82-2019/5 for a review of determination, resolve to change the decision for Refusal of the Development Application DA-2018/1169, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979.
- 2 That the Bayside Local Planning Panel support the variation to the FSR development standard, as contained in Clause 4.4 – FSR of Botany Bay LEP 2013, in accordance with the request under clause 4.6 of BBLEP 2013 submitted by the applicant.
- 3 That development application S82-2019/6 for the demolition of existing structures and construction of four (4) semi-detached dwellings, two (2) swimming pools and Torrens title subdivision into 4 lots at 3-5 Queen Street, Botany is APPROVED pursuant to S4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report, and subject to conditions as amended below:
  - Condition 101 be amended to read:
    - 101 Prior to the issue of any Occupation Certificate, Council requires proof of lodgement of the 88B Instrument with the Land Titles Office that will create reciprocal rights of carriageway easements for proposed lot 02 and 03 (house 2 and house 3) to provide for vehicular access.
  - Condition 103 be amended to read:
    - 103 Prior to the issue of an occupation certificate, certification from a licenced plumber shall be provided certifying the installation of the required minimum capacity 2000L rainwater tank(s) in each lot in accordance with the requirements of Sydney Water and AS/NZS 3500 – National Plumbing and Drainage Code. The rainwater tanks shall be certified as serving the pool (where applicable) and taps on-site. First flush device shall be installed & overflow from the rainwater tank shall connect to the proposed site drainage system.
  - Condition 111 – To be deleted
  - Condition 25(c) – To be deleted
- 4 That the objector be notified of the Bayside Local Planning Panel decision.

<b>Name</b>	<b>For</b>	<b>Against</b>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<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 assessment and recommendation for approval.
- The Panel acknowledges that the application as amended through the Section 8.2 process has addressed the reasons for refusal of the application previously.

The Chairperson closed the meeting at 7.33 pm.

Certified as true and correct.

Robert Montgomery  
**Chairperson**