

## **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 17 September 2019 at 6.14 pm**

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### **Present**

Jan Murrell, Chairperson  
Robert Montgomery, Independent Expert Member  
Marcia Doheny, Independent Expert Member  
Patrick Ryan, Community Representative

### **Also present**

Luis Melim, Manager Development Services  
Fausto Sut, Manager Governance & Risk  
Marta Gonzalez-Valdes, Coordinator Development Assessment  
Ben Latta, Coordinator Development Assessment  
Pascal Van de Walle, Coordinator Development Assessment  
Michael Maloof, Senior Development Assessment Planner  
Eric Alessi, Development Assessment Planner  
Gary Choice, Development Assessment Planner  
Carol Vito Sula, Development Assessment Planner  
Wolfgang Gill, 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 6.14 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**

There were no disclosures of interest.

## **4 Minutes of Previous Meetings**

### **4.1 Minutes of the Bayside Local Planning Panel Meeting - 10 September 2019**

#### **Decision**

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 10 September 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 S82-2019/10 - 47 Farr Street, Rockdale**

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

The Panel has considered the Officer's Assessment Report and also notes the further submission made by the applicant in making its determination.

#### **Determination**

That the Bayside Local Planning Panel, pursuant to Division 8.2 relating to development application S82-2019/10 for a review of determination for the conversion of the existing outbuilding to a secondary dwelling at 47 Farr Street Rockdale, resolve to confirm the previous decision for refusal of the development application DA-2018/296, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979, with modified reasons as follows:

- i 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 proposed development.
- ii Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with SEPP (Building Sustainability Index: Basix 2004) in that a BASIX certificate was not provided for the amended proposal.
- iii Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the applicant's request for variation to Cl4.4 Floor Space Ratio of the Rockdale Local Environmental Plan 2011 fails because the incorrect plans are referred to and not the amended plans the subject of this review.

- iv Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the objectives and requirements of cl.6.3 – *Development in areas subject to aircraft noise* of the Rockdale Local Environmental Plan 2011. The documentation submitted with the plans has not identified the necessary works required to be carried out to satisfy that the existing building can comply with the Australian Standard for Aircraft Noise.

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

#### Reasons for the Panel's Determination

- The Panel confirms the refusal of the review application as the applicant has not provided the necessary information to demonstrate that the existing structure can be made capable for use as a secondary dwelling. This includes a report to identify works that would need to be carried out to enable the structure to be used as a dwelling to comply with: the Building Code of Australia; and the AS for Aircraft Noise, as the property is within the 25 to 30 ANEF. The plans referred to in the application must also be accompanied by a current BASIX Certificate because the structure is proposed for use as a dwelling and a revised Cl.4.6 request to vary the applicable FSR is necessary that refers to the relevant plans.
- By way of comment the applicant is advised that if he wishes to submit a new development application for a secondary dwelling then the plans must be accompanied by the information above to demonstrate the building is capable of being adapted to comply with the necessary standards for use as a dwelling.

## 6.2 DA-2018/326 - 96-102 Princes Highway, Arncliffe

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

The following people spoke:

- Stephen Kerr, town planning consultant from City Plan, spoke for the officer's recommendation and responded to the Panel's questions.
- Michael Grassi, on behalf of the applicant, Aidop No 1 Pty Limited, 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 s4.16 of the Environmental Planning and Assessment Act 1979 approves a variation to the building height prescribed by cl.4.3 Height of Buildings of the Rockdale Local Environmental Plan 2011, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated in cl.4.6, and the proposed development would be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone.
- 2 The Panel grants a DEFERRED COMMENCEMENT consent to development application DA-2018/326 for the demolition of the existing structures and construction of a nine (9) storey mixed-use development comprising eighty one (81) dwellings, ground floor commercial space, two (2) basement levels of car parking and roof-top communal open space at 96-102 Princes Highway Arncliffe, pursuant to s4.16(3) of the Environmental Planning and Assessment Act 1979.

**PART A – DEFERRED COMMENCEMENT CONDITIONS**

- a A bin / waste collection area / loading bay shall be provided on the site, accessible from Kyle Street with the bin room being redesigned, including deletion or adjustment of apartment 1G if necessary. The new waste collection area / loading bay shall be designed to accommodate a Small Rigid Vehicle (SRV) for furniture delivery / removal and waste collection by a private waste contractor. The truck is permitted to reverse into the loading bay and exit in a forward direction. A minimum height clearance / headroom clearance of 3.5 m is required.
- b The existing proposed driveway shall be widened along Kyle Street to service the redesigned waste collection area, as necessary, and shall be incorporated with it to minimise impacts on on-street parking within Kyle Street.
- c The commercial / retail gross floor area (GFA) shall be increased in size by a minimum of 50 m<sup>2</sup>. This may require the deletion of some car parking spaces provided the minimum required number of spaces are provided. Some relaxation of the 6.7 m floor to ceiling height may be given at the rear of the premises which may be used for back of house and office functions. However the depth of the area must be a minimum of 10 m from the face of the glass.

The applicant is to submit amended plans within 30 days to the Council for the approval of the General Manager, or her nominee, to satisfy the above deferred commencement conditions. The consent will then become operational subject to the operational conditions in Part B.

**PART B – OPERATIONAL CONDITIONS**

The Operational Conditions of consent are as recommended in the Council Officer's report with the addition of the two following conditions to be inserted:

- a A continuous pedestrian path shall be provided within the Princes Highway frontage of the site. In this regard, stairs shall be provided within the site linking the paved pedestrian path in front of the northern commercial tenancy (RL 16.3) with the upper level pedestrian area within the open forecourt area at the corner of Princes Highway and Kyle Street (RL 19.3). This is to satisfy the objectives and requirements of Part 7.7 RDCP 2011. (Note: the addition of glazing may be possible within the western elevation of the office for the northern commercial tenancy when stairs are provided)
- b An attached awning shall be erected over the footpath located in front of the northern commercial tenancy along the Princes Highway providing weather protection for pedestrians along the paved area adjacent to the glazed front elevation.
- 3 That 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"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### Reasons for the Panel's Determination

- The Panel has considered the planning framework, documentation, assessment reports and submissions made on behalf of the applicant and considers that the development application warrants approval on its merits. The architecture addresses the corner and provides an active street frontage and residential accommodation with appropriate amenity.
- The Panel notes the subject site is not in the designated road frontage area shown on the map accompanying the LEP. Nonetheless the design provides for activation of the street frontage with appropriate setbacks and landscaping as envisaged for this precinct.

### 6.3 DA-2019/147 - 6 Culver Street, Monterey

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

The Panel has considered the submissions, both aural and written, and the Council officer's report.

The following people spoke:

- Brenton Romeo, architect from ArtMade Architects, spoke against the officer's recommendation and responded to the Panel's questions.

- Sherif Saad, architect from ArtMade Architects, spoke against the officer's recommendation and responded to the Panel's questions.

### Determination

The Panel has decided that this matter be deferred to allow amended plans to be submitted to Council to: reduce the size of the rooftop terrace area to a maximum of 24 m<sup>2</sup>; and reduce the footprint and height of the lift overrun and stair access. Access to the reduced roof top terrace is to be designed to present as a minimalist element and the area of the roof outside the 24m sq area is to be finished with a non trafficable material.

The amended plans must be accompanied by a new cl.4.6 written request to vary the height.

The necessary documentation is to be submitted to Council within four weeks to allow assessment and timely reporting back to the Panel.

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

### Reasons for the Panel's Determination

To allow the applicant the opportunity to submit amended plans to address the concerns raised in the Officer's report before the matter is determined.

## 6.4 DA-2018/346 - 29 Kurnell Street, Botany

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

The panel has considered the Officer's Report and submissions made both aural and written.

The following people spoke:

- Simon Hanson, architect from Bureau SRH Pty Limited, spoke for the officer's recommendation and responded to the Panel's questions.
- Eugene Kirkwood, architect from Bureau SRH Pty Limited, spoke for the officer's recommendation and responded to the Panel's questions.
- Chris Jarrett, owner, 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 cl.4.4 Floor Space Ratio of the Botany Bay Local Environmental Plan 2013, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by cl.4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone.
- 2 The development application DA-2018/346 for Demolition of existing structures, Torrens title subdivision into two lots, construction of two semi-detached dwellings, and associated garaging and landscaping at 29 Kurnell Street, Botany is APPROVED subject to a Deferred Commencement condition below and the conditions of consent attached to the Council officer's report as amended below.

**PART A – DEFERRED COMMENCEMENT CONDITION**

1. The applicant is to submit amended plans within 30 days for the approval of the General Manager, or her nominee, to satisfy the following:
  - The deletion of the second storey studio with an appropriately designed roof to minimize overshadowing of the rear open space area for Lot 1.

On approval of plans to satisfy the above the consent then becomes operational subject to the following conditions.

**PART B – OPERATIONAL CONDITIONS**

The officer's recommended conditions with the following changes:

- replacing Condition 7 with the following:  
The pergola is to remain open at all times.
- deleting Condition 9

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

<b>Name</b>	<b>For</b>	<b>Against</b>
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Reasons for the Panel's Determination**

- The panel considers on a merits assessment the second storey loft element over the garage should be deleted because of the unnecessary overshadowing impact on the private rear open space for Lot 1. On balance the deletion of the loft improves the amenity for the adjoining dwelling and will provide for an improved streetscape.
- The panel considers with the deletion of the loft the development is worthy of approval and generally consistent with the planning framework.

The Chairperson closed the meeting at 8.35 pm.

Certified as true and correct.

Jan Murrell  
**Chairperson**