

MINUTES

Local Planning Panel

Thursday, 15 July 2021

4.00pm

Georges River Civic Centre,
Hurstville



GEORGES RIVER COUNCIL

Panel Members:

Ms Sue Francis (Chairperson)
Mr John Brockhoff (Expert Panel Member)
Mr Michael Leavey (Expert Panel Member)
Ms Annette Ruhotas (Community Representative)

1. APOLOGIES AND DECLARATIONS OF PECUNIARY INTEREST

There were no apologies received

There were no declarations of Pecuniary Interest

2. PUBLIC SPEAKERS

The meeting commenced at 4.00pm 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 4.46pm and the LPP Panel proceeded into Closed Session to deliberate the items listed below.

3. GEORGES RIVER LOCAL PLANNING PANEL REPORTS

LPP029-21 165 Penshurst Street Beverly Hills
(Report by Senior Development Assessment Planner)

The Panel carried out an inspection of the site and nearby locality.

Speakers

- Adam Condon (submitter)
- Nic Najar (applicant)
- Pierre Le Bas (applicant)
- Edward Thirwall (owner)

Voting of the Panel Members

The decision of the Panel was unanimous

Determination**Deferral**

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Development Application No. DA2021/0078 for the alterations and additions to an industrial building and use of the premises as a self-storage facility at 165 Penshurst Street, Beverly Hills, be **deferred** and invites the applicant to submit the following;

1. Written confirmation from a suitably qualified and experienced Land Contamination consultant that the proposed development meets the requirements of Clause 7 of State Environmental Planning Policy 55 – Contamination of Land in that the use and works are suitable for the site in its existing condition as identified in the Preliminary Site Investigation.

2. A Car Parking Management Plan for the 7 parking spaces shown on the plan outlining how and by who these spaces will be available to for use throughout the hours of operation, including distinction between staff, service vehicles, and visitors/customers to the site.
3. A schedule of materials and finishes and photomontage of the proposed building, particularly the façade facing Penshurst Street and the adjoining public access way.
4. Stormwater management information to demonstrate that the system to cater for the proposed works can be adequately and lawfully be discharged to the existing stormwater system or to the street in accordance Council's Stormwater Management System adequately.
5. A Waste Management Plan prepared by a suitably qualified professional in accordance with Appendix 1 of the Hurstville Development Control Plan No. 1.
6. That amended plans to show lighting on the building adjacent to the public access way to maintain casual surveillance and safety. Any lighting proposed should not spill on any adjacent residential uses.

The matter is to be referred back to the same Panel for electronic determination within 60 days.

LPP030-21 120 and 120A Railway Parade Mortdale
(Report by Development Assessment Planner)

The Panel carried out an inspection of the site and nearby locality.

Speakers

- Eli Gescheit (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, Modification Application No. MOD2020/0234 for the modification to DA2017/0468 being an approved attached dual occupancy - the modifications seek consent for works already undertaken including enclosing the BBQ area, converting one car space to a study room and the addition of a rear balcony along the first floor of each dwelling at 120 and 120A Railway Parade, Mortdale, is determined by **refusal** for the following reasons:

1. The proposed modifications are not considered to be substantially the same development as the development for which the consent was originally granted as a result of the works being retrospective in nature, and the layout of the approved dual occupancy being substantially different than that approved under DA2017/0468.
2. The enclosure of the lower ground level BBQ areas is contrary to Section 4.55 (3) of the Environmental Planning and Assessment Act 1979 specifically: "*The consent authority must also take into consideration the reasons given by the consent authority for the grant of the*

consent that is sought to be modified", whereby the consent authority as part of the original approval under DA2017/0468 imposed Condition 40 which is inconsistent with the intent of the original determination (use of the lower ground levels as habitable rooms).

3. Although not explicitly stated on the plans, the proposed modifications to the BBQ areas are contrary to Condition 39 as they appear to be capable of being used as two (2) separate dwellings.
4. The intensification of use on this site from a dual occupancy to a built form with the FSR of 0.62:1 per dwelling is inconsistent with the objectives of clause 4.4A of Kogarah Local Environmental Plan 2012 and the intent of the control.
5. The unauthorised works has resulted in the inability to satisfy the consent authority that the works have been completed to an appropriate building standard.

LPP031-21 32-38 Montgomery Street Kogarah
(Report by Senior Development Assessment Planner)

The Panel carried out an inspection of the site and nearby locality.

Speakers

- Benjy Levy (applicant)
- Ben Black (planner)

Voting of the Panel Members

The decision of the Panel was unanimous

Determination

Approval

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Development Application No. DA2021/0110 for the Alterations to the approved mixed-use development by converting the first floor commercial level to four (4) residential apartments new apartments comprising of 3 x 2 bedroom ('dual-key' apartments) and 1 x 1 bedroom apartment at 32-38 Montgomery Street, Kogarah, is determined by **granting consent** to the application subject to the conditions recommended in the report submitted to the LPP meeting of 15 July 2021 except;

1. Amend Condition 1 as follows:

1. **Approved Plans** - The development must be implemented in accordance with the approved plans and supporting documentation listed below, except as amended by conditions of this consent:

Reference Number	Description	Date	Revision	Prepared by
DA009	Site Plan	10 March 2021	A	Stanisic Architects
DA010	Montgomery Street Elevation	10 March 2021	A	Stanisic Architects

DA100	Basement 3 Plan	10 March 2021	A	Stanisic Architects
DA101	Basement 2 Plan	10 March 2021	A	Stanisic Architects
DA102	Basement 1 Plan	10 March 2021 27 May 2021	A B	Stanisic Architects
DA103	Level 0 (LG) Plan	10 March 2021 27 May 2021	A B	Stanisic Architects
DA104	Level 1 (G) Plan	10 March 2021	A	Stanisic Architects
DA105	Level 2 Plan	10 March 2021	A	Stanisic Architects
DA201	South West Elevation	10 March 2021	A	Stanisic Architects
DA205	Section AA	10 March 2021	A	Stanisic Architects
DA207	Section CC	10 March 2021	A	Stanisic Architects
DA208	Section DD	10 March 2021	A	Stanisic Architects
DA209	Section EE	10 March 2021	A	Stanisic Architects
913143M_12	BASIX Certificate	18 February 2021	-	Efficient Living Pty Ltd

Documents Relied Upon

Reference Number	Description	Date	Revision	Prepared By
N/A	Statement of Environmental Effects	11 March 2021	A	Planning Ingenuity
N/A	Legal Advice	1 March 2021	A	Mills Oakley
N/A	Commercial Market Appraisal	March 2021	A	Atlas Economics
N/A	Design Verification Statement	10 March 2021	A	Stanisic Architects
N/A	Heritage Impact Statement	11 March 2021	A	GBA Heritage
N/A	Basix Certificate and NATHERS assessment	18 February 2021	G	Efficient Living
N/A	Traffic and Parking Assessment	27 May 2021	N/A	Transport and Traffic Planning and Associates

2. Condition 1(a) be inserted after Condition 1 to read as follows:

1(a) Notwithstanding Condition 1, the RL of the level 2 slab shall be at RL30.45 in order to achieve the required floor to ceiling heights. This is to be reflected in the relevant Construction Certificate plans.

3. Amend Condition 11 with the following amounts

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
DEVELOPMENT CONTRIBUTIONS	
Kogarah Section 94 Development Contributions Plan No 8 – Local Open Space, Landscaping, Public Domain	\$42,533.30
Kogarah Section 94 Development Contributions Plan No 8 – Kogarah Town Centre – Traffic Management	Nil
Kogarah Section 94 Development Contributions Plan No 8 – Kogarah Town Centre – Community Facilities	\$1,458.73
Kogarah Section 94 Development Contributions Plan No 9 – Kogarah Libraries – Buildings	\$1,359.61
Kogarah Section 94 Development Contributions Plan No 9 – Kogarah Libraries - Books	\$969.36
Total S94 Contributions	\$46,321.00

4. Amend Condition 50 as follows:

50. **Allocation of car parking spaces** – Car parking associated with the development is to be allocated as follows:

- a) Residential dwellings: ~~69~~ **73** car parking spaces
- b) Commercial/Retail: 12 car parking spaces
- c) Visitors Spaces: ~~44~~ **9** car parking spaces (includes visitor/car wash bay)
- d) Visitor/Car wash bay: 1 car parking space.

Statement of Reasons

- The Panel notes the loss of employment floor space but understands that there is no minimum requirement for employment floor space under the current controls and the objectives of the mixed use zone, as they relate to the context in Kogarah Town Centre, can still be achieved.
- The proposed development generally complies with the requirements of the relevant environmental planning instruments and development control plan.
- The proposal to amend the layout of the approved mixed use building is considered to meet the objectives of the B4 zone.
- The proposal provides a mixed use development that responds to community needs and demands.
- The proposed changes are largely internal and will not alter the bulk, scale and built form as approved in accordance with Development consent DA2018/0149 and will remain consistent with the character of development the locality.
- The proposed development generally satisfies the provisions and controls stipulated as part of the KDCP.
- The development is in the public interest as it provides smaller, flexible apartments that

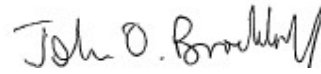
could be more affordable and the proposal is suitable for the site.

4. CONFIRMATION OF MINUTES

The meeting concluded at 5.35pm



Sue Francis
Chairperson



John Brockhoff
Expert Panel Member



Michael Leavey
Expert Panel Member



Annette Ruhotas
Community Representative