

# MINUTES

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## Local Planning Panel

Thursday, 5 March 2020

4.00pm

Georges River Civic Centre,  
Hurstville



**Panel Members:**

Ms Sue Francis (Chairperson)  
Mr Milan Marecic (Expert Panel Member)  
Mr Jason Perica (Expert Panel Member)  
Mr Erin Sellers (Community Representative)

**1. APOLOGIES AND DECLARATIONS OF PECUNIARY INTEREST**

There were no apologies received.

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There were no declarations of Pecuniary Interest

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**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 5.04pm and the LPP Panel proceeded into Closed Session to deliberate the items listed below.

**3. GEORGES RIVER LOCAL PLANNING PANEL REPORTS**

**LPP007-20 977 Forest Road Lugarno**  
(Report by Senior Development Assessment Planner)

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

**Speakers**

- Phil Armessen (submitter)
- John Hatch (draftsman)

**Voting of the Panel Members**

The decision of the Panel was unanimous.

**Determination**Deferral

Review Application No. REV2020/0001 for the fit-out and use of ground floor of existing church building as an early childhood education facility for 34 children, associated landscaping and car parking works at 977 Forest Road, Lugarno, be **deferred** and the Panel invites the applicant to submit the following:

1. Amended plans to delete the proposed new access to Ponderosa Place and redesign of the front car park to allow access and egress to the existing driveway crossing, including a turning bay or the like.
2. A BCA Report to demonstrate the proposed child care area is able to meet health and

- safety standards for use.
3. A detailed Plan of Management to ensure the management of use of the child care centre and church do not cause overlapping parking demand, given the limited parking on site.
  4. Confirmation the proposal complies with key standards and requirements within Educations and Care Services National Regulations and the Child Care Planning Guidelines NSW 2017, including related to staff ratios, and indoor/outdoor space availability for the proposed number of children.
  5. A preliminary site investigation report in accordance with SEPP 55.

Amended plans and documentation addressing the Panel's concerns, above must be submitted to the Council by 1 April 2020 otherwise the application will be determined on the information currently provided. Following receipt of this information, the same Panel (as practicable), will determine the application electronically, unless the Chair determines that a further public meeting is required.

#### Statement of Reasons

While the Panel understood the reasons for the recommended refusal, the use is conceptually suited to the site and may complement the church use, subject to a number of important matters being clarified and resolved. These matters are outlined above.

In terms of traffic and parking it appeared from site observations that appropriate access and egress could occur without additional roadworks close to the roundabout.

#### **LPP008-20      655-659 Princes Highway Blakehurst** (Report by Senior Development Assessment Planner)

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

#### **Speakers**

- Jeff Mead (planner)

#### **Voting of the Panel Members**

The decision of the Panel was unanimous.

#### **Determination**

##### Deferral

Development Application No. DA2017/0408 for the demolition of all structures, site consolidation and construction of shop top housing including 3 retail tenancies and residential flat building containing 50 apartments with basement car parking for 118 vehicles, rooftop communal open space and associated site works at 655-659 Princes Highway, Blakehurst, be **deferred** and the Panel invites the applicant to submit the following:

1. A contamination assessment to enable appropriate consideration of the whole site under SEPP 55 - Remediation of Land.
2. Information requested by Sydney Trains in their email provided to the applicant be provided to Sydney Trains and Council with a view to obtaining concurrence.
3. A revised Clause 4.6 Variation request to accurately reflect any resubmitted plans.
4. Sufficient information regarding acid sulphate soils from a geotechnical engineer to satisfy the requirements of Clause 6.1 of the Kogarah Local Environmental Plan 2012.

Amended plans and documentation addressing the Panel's concerns, above must be submitted to the Council by 30 April 2020 otherwise the application will be determined on the information currently provided. Following receipt of this information, the same Panel (as practicable), will determine the application electronically, unless the Chair determines that a further public meeting is required.

### Statement of Reasons

While the Panel understood the reasons for the recommended refusal, the use is conceptually suited to the site and of a form and scale generally contemplated by the applicable planning controls.

The large trees on the site certainly have landscaping and scenic value but their protection given the applicable planning controls is difficult in the circumstances.

There are a number of important outstanding issues, however, these appear able to be resolved.

The resolution is framed accordingly.

### **LPP009-20      546 Railway Parade Hurstville** (Report by Senior Development Assessment Planner)

The Panel noted this application was withdrawn and therefore legally deemed never to have been made.

### **LPP010-20      16 Peake Parade Peakhurst** (Report by Senior Development Assessment Officer)

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

### **Speakers**

- William Karavelas (architect)
- Bernard Moroz (planner)

### **Voting of the Panel Members**

The decision of the Panel was unanimous.

### **Determination**

#### Refusal

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Review Application No. REV2020/0003 for the Review of Determination of application no DA2017/0627 for demolition of existing structures and construction of 3 levels of residential flat building with 1 level of parking at 16 Peake Parade, Peakhurst, is determined by **refusal** for the following reasons:

1. The Panel was of the view that insufficient environmental planning grounds were provided in support of the contravention building height development standard and

therefore was of the view that the Clause 4.6 variation request was not supported.

2. **Refusal Reason – Environmental Planning Instrument** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the relevant environmental planning instruments in terms of the following:
  - a) The proposal fails to satisfy Part 3 and 4 of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development as it is inconsistent with various design quality principles of State Environmental Planning Policy No 65 with respect to its response to the site’s context and neighbourhood character and its built form and scale, density, landscape and aesthetics, and fails to comply with the corresponding design criteria of the Apartment Design Guide. The proposal does not achieve an acceptable built form with insufficient setbacks and separation to minimise the visual dominance of the building when viewed from both the public domain and adjoining properties.
  - b) The proposal fails to satisfy Part 3 and 4 of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development on the basis that it fails to either achieve or adequately demonstrate compliance with the design criteria of the Apartment Design Guide with respect to internal solar access, cross ventilation and the minimum area of communal open space.
3. **Refusal Reason – Environmental Planning Instrument** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, in that the development fails to meet the objectives of the R3 Medium Residential zone in that the proposed development does not ensure that a high level of residential amenity is achieved and maintained. The lack of separation along both side boundaries will create adverse amenity impacts to adjoining properties and the lack of compliant separation distances in this case will not satisfy the ADG which aim to achieve an “equitable” distribution of separation between properties.
4. **Refusal Reason - Development Control Plan** - Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with Hurstville Development Control Plan No. 1, Chapter 4.1 Residential Flat Buildings, Section DS2.1 Site Frontage or Section DS3.1 Isolated Sites. The site has a frontage of 15.85m, which fails to comply with the minimum 24m required by the Development Control Plan. The site is not deemed to be an isolated site. Together these non-compliances result in the site being unsuitable for the proposed development and has unreasonable adverse impacts on neighbouring properties.
5. **Refusal Reason – Impacts on the Environment** - Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the environment:
  - a) Natural environment – The proposal does not meet the deep soil zones design criteria of the Apartment Design Guide nor provide sufficient front or side setbacks which precludes the planting of canopy trees around the perimeter of the site to provide a landscaped setting for the proposal and ameliorate the scale of the building. Furthermore, no landscaped boundary setback is provided on the north eastern side of the vehicle driveway.
  - b) Built environment – The proposal does not respond to the context of the site nor

the neighbourhood's character on the basis that it exceeds the maximum building height that applies to the site, encroaches on the minimum required side and rear setbacks expected on the site, and fails to demonstrate a suitable level of internal amenity for the proposed apartments.

- c) The car park layout is unsatisfactory and does not provide for appropriate manoeuvrability for vehicles.

6. **Refusal Reason – 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 for the following reasons:

- a) The site cannot adequately accommodate the proposed built form without significant adverse impacts on the amenity of adjacent and nearby properties with respect to built form, visual dominance, bulk and scale.

7. **Refusal Reason – Public interest** - Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent within the locality.

**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.

**LPP011-20      19-23 Empress Street Hurstville**  
(Report by Senior Development Assessment Planner)

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

**Speakers**

- Jim Apostolou (architect)

**Voting of the Panel Members**

The decision of the Panel was unanimous.

**Determination**

Approval

The Panel is satisfied that:

1. The applicants written request under Clause 4.6 of the Kogarah Local Environmental Plan 2012 seeking to justify a contravention of Clause 4.3 Height of Buildings development standard has adequately addressed and demonstrated that:
  - (a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
  - (b) There are sufficient environmental planning grounds to justify the contravention.
2. The proposed development will be in the public interest because it is consistent with the

objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.

Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Development Application No. DA2019/0329 for the construction of a four storey residential flat building containing 28 residential apartments and basement car parking at 19-23 Empress Street, Hurstville, is determined by **granting consent** to the application subject to the conditions recommended in the report submitted to the LPP meeting of 5 March 2020 except;

1. Additional condition Prior to Commencement of Works documentary evidence of agreement with a registered community housing provider engaged to manage the affordable rental units must be provided to the PCA and Council.
2. Additional condition for landscape treatment to be provided on the rooftop open space to the southern elevation of the lift and WC to visually screen the otherwise blank wall to the properties to the southeast. Details to be provided with the Construction Certificate plans and documents.
3. Amend Condition 79 to add the following after the words 5 units.... “(units G2, G3, G4, G6 and 1.1)”.

#### Statement of Reasons

- The proposal is an appropriate response to the “up-zoning” of the site (including increased FSR and height limits) afforded by the Kogarah “New City Plan”. The building is consistent with the desired future character of the R3 Medium Density Residential zone and is commensurate with nearby recent Residential flat building development.
- The proposed variation to the 15m building height limit will allow for the provision of equitable and a high quality area of communal open space on the rooftop and is supported pursuant to Clause 4.6 of the KLEP 2012.
- The proposals bulk and scale is appropriately contained within a generally compliant building envelope that is respectful of the established character of the area in relation to height, street setback and boundary setbacks.
- The proposal has sufficient façade modulation and wall articulation that will serve to provide visual interest and reduce the bulk of the building.
- The proposal achieves full compliance with the Apartment Design Guide.

#### 4. CONFIRMATION OF MINUTES

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The meeting concluded at 6.01pm.



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Sue Francis  
**Chairperson**



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Milan Marecic  
**Expert Panel Member**



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Jason Perica  
**Expert Panel Member**

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Erin Sellers  
**Community Representative**

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