

MINUTES

Bayside Local Planning Panel - Other Applications

held in the Committee Room, Botany Town Hall
Corner of Edward Street and Botany Road, Botany
on **Tuesday 12 November 2024** at **4.00pm**

Decisions outside the public meeting
in accordance with the Operational Procedures

Present

Grant Christmas, Chairperson
Kerry Kyriacou, Independent Expert Member
Peter Brennan, Independent Expert Member
Carine Elias, Community Representative

Also present

Luis Melim, Manager Development Services
Angela Lazaridis, Coordinator Development Administration and Advisory
Chris Mackey, Coordinator Development Assessment
Ivy Zhang, Development Assessment Planner
Reanne Salame, Development Assessment Planner
Dawson Heperi, Customer Relationship Analyst

Deliberations commenced at 6:01 pm.

1 Acknowledgement of Country

Bayside Council acknowledges the traditional custodians: the Gadigal and Bidjigal people of the Eora nation, and pays respects to Elders past, present and emerging. The people of the Eora nation, their spirits and ancestors will always remain with our waterways and the land, our Mother Earth.

2 Apologies

There were no apologies received.

3 Disclosures of Interest

There were no declarations of interest – refer to the attached declarations.

4 Reports – Planning Proposals

Nil

5 Reports – Development Applications

[5.1 S82-2024/3 - 1015-1019 Botany Road Mascot - Section 8.2 Review](#)

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

The following people spoke at the meeting:

- Mr Allan Francis Micallef, an applicant, spoke against the officer's recommendation and responded to the Panel's questions.
- Mr Chris Katris, an applicant representative, spoke against the officer's recommendation and responded to the Panel's questions.
- Mr James Phillips, an applicant representative, spoke against the officer's recommendation and responded to the Panel's questions.
- Lisa Trueman, Council's representative, joined online and spoke for the officer's recommendation and responded to the Panel's questions.

Determination

1. That the previous decision for refusal of the development application DA-2023/45 be UPHeld with modified reasons, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979.
2. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application S82-2024/3 for Review of Determination of DA-2023/45 for the alterations and additions to the existing heritage listed buildings to create a mixed-use development containing three (3) commercial tenancies each with apartment above and three (3) detached outbuildings each containing a single garage and media room above at 1015 & 1019 Botany Road, MASCOT by REFUSING CONSENT, for the following reasons:
 - A. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the Division 17 / Subdivision 2 – Subsection 2.120 - Impact of road noise or vibration on non-road development of State Environmental Planning Policy (Transport and Infrastructure) 2021 in that the applicant failed to demonstrate that relevant acoustic requirements will be met.

- B. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the following aim of the Bayside Local Environmental Plan 2021:
- To protect, conserve and enhance Aboriginal cultural heritage and the environmental, cultural, scenic, built and landscape heritage of Bayside.
- C. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the objectives of the following sections of the Bayside Local Environmental Plan 2021:
- i. E1 Local Centre - The proposal is not compatible with the existing streetscape and has adverse amenity impacts on residential amenity including visual bulk, solar access and visual privacy.
 - ii. Section 5.10 Heritage conservation – The proposal will result in adverse impacts on the heritage significance of the group item.
 - iii. Section 6.8 Development in areas subject to aircraft noise – The applicant failed to demonstrate that the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015 for development.
 - iv. Section 6.9 Active Street Frontages - Design modifications are required to incorporate ramps at the shop entrances, which will result in additional recessed areas along the street frontage, potentially adversely impacting the overall shopfront interface.
- D. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy the relevant requirements and objectives of the following parts of the Botany Bay Development Control Plan 2013:
- i. Part 3A – Parking and Access due to impracticable and unsafe parking arrangements;
 - ii. Part 3B (Heritage) due to adverse impacts on the significance of the heritage item;
 - iii. Part 3C – Access and Mobility due to the inaccessible shop entrances for individuals with disabilities;
 - iv. Part 5.2.2.6 (Rosebery Neighbourhood Centre) due to the adverse heritage impacts, incompatible streetscape, bulk and scale and amenity impacts;
 - v. Part 5.3.1.5 (Built Form and Streetscape) due to adverse impacts on the heritage item, incompatible streetscape and bulk and scale;
 - vi. Part 5.3.2.2 (Building Design) due to lack of a BCA report and structural adequacy certificate;

- vii. 5.3.2.5 Public Domain Interface at Ground Level due to the confusing street presentation;
- viii. Part 5.3.2.6 (Active Street Frontages) due to the potential adverse impact on the shopfront interface;
- ix. Part 5.3.2.7 (Heritage) due to adverse impacts on the heritage item;
- x. Part 5.3.2.11 (Materials and Finishes) due to unacceptable impacts on heritage significance;
- xi. 5.3.3.2 Visual Privacy due to potential overlooking into adjoining rear yards;
- xii. 5.3.3.3 Solar Access and Shadow due to overshadowing impacts;
- xiii. Part 8 (Mascot Character Precinct) due to the adverse heritage impacts,
- xiv. incompatible streetscape and bulk and scale and adverse amenity impacts.

- E. 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, including the acoustic report, DSI report, access report, BCA report and structural adequacy certificate.
- F. Pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not suitable for the proposed development, given the extent of demolition proposed and its adverse impacts on the heritage significance of the item.
- G. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 and for the reasons set out above and, in the submissions, received, the proposed development is not in the public interest.

3. That the submitters are to be notified of the Panel's decision.

Name	For	Against
Grant Christmas	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kerry Kyriacou	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Peter Brennan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Carine Elias	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Panel’s Determination:

The Panel adopts the reasons outlined in the Council Officer’s Assessment Report.

5.2 DA-2024/52 - 228 The Grand Parade, Monterey - Development Application

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

There was no registered speaker for this item.

Determination

1. That the Bayside Local Planning Panel is satisfied that the applicant's written request to contravene Section 4.3 Height of Building Development Standard of the Bayside Local Environmental Plan 2021 has adequately addressed the matters required to be demonstrated by Section 4.6 of that Plan.
2. That the Bayside Local Planning Panel, exercising the functions of Council as the consent authority pursuant to s4.16 and s4.17 of the *Environmental Planning and Assessment Act 1979*, determine Development Application DA-2024/52 for the demolition of existing dwelling and construction of two storey dwelling house including basement garage and rooftop terrace with swimming pool at 228 The Grand Parade, MONTEREY NSW 2217 by GRANTING CONSENT subject to the recommended conditions of consent attached to this report.
3. The following condition is to be amended in the Notice of Determination:
 - a) Amend Condition No. 12 as follows:

12. Design Amendment

Before the issue of a Construction Certificate, the Construction Certificate plans and specifications are to detail the following required amendments to the approved plans and documents, to the satisfaction of the Manager, Development Services:

1. No part of the trafficable enclosed area shall be roofed or enclosed.
2. Minimum side setback of 1.5m from the building edge
3. Trafficable area shall not exceed 24sqm and the remainder of the roof area (terrace/deck) to be designed and constructed so that it is non-accessible (other than for maintenance purposes) and finished with materials that are non-trafficable.

Reason: *To require minor amendments to the plans endorsed by the consent authority following assessment of the development.*

- b) Add Condition No. 30 as follows:

30. Payment of Section 7.12 Contributions

Before the issue of a construction certificate, the applicant must pay a total contribution of \$13,935.405 as calculated at the date of this consent to Council under section 7.12 of the EP&A Act in accordance with the Rockdale Section 94A Contributions Plan 2008. The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the Contributions Plan.

A copy of the development contributions plan is available on Council's website.

Reason: To address the increased demand for regional infrastructure resulting from the approved development.

4. That the submitter is to be notified of the Panel's decision.

Name	For	Against
Grant Christmas	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kerry Kyriacou	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Peter Brennan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Carine Elias	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Panel's Determination:

The Panel adopts the reasons outlined in the Council Officer's Assessment Report.

Panel's Comments:

The Panel recommends the following changes to conditions:

- Amend Condition No. 12 to add 'and the remainder of the roof area (terrace/deck) to be designed and constructed so that it is non-accessible (other than for maintenance purposes) and finished with materials that are non-trafficable' and 'to the satisfaction of the Manager, Development Services'.
- Add Condition No. 30 relating to Development Contributions.


The Chairperson closed the meeting at 6:36 pm.


Certified as true and correct.


Grant Christmas
Chairperson



Declaration of Interest - Bayside Local Planning Panel Meeting 12/11/2024

Item	Description	Declaration of Interest
Other Applications (Non-Public Meeting)		
5.1	S82-2024/3 – 1015-1019 Botany Road, Mascot	In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document.
5.2	DA-2024/52 – 228 The Grand Parade, Monterey	In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document.
Grant Christmas		31 / 10 /24
Name (please print)	Signature	Date

Item	Description	Declaration of Interest
Other Applications (Non-Public Meeting)		
5.1	S82-2024/3 – 1015-1019 Botany Road, Mascot	In relation to this matter, I declare that I have: no known conflict of interest x or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document.
5.2	DA-2024/52 – 228 The Grand Parade, Monterey	In relation to this matter, I declare that I have: no known conflict of interest X or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document.
Kerry Kyriacou		1/11/2024 / /
Name (please print)	Signature	Date



Declaration of Interest - Bayside Local Planning Panel Meeting 12/11/2024

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PETER BRENNAN. Name (please print)		[Redacted Signature] Signature
		11/11/24 Date

Please enter the details of any conflict of interest on the back of this page.

N/A

Item	Description	Declaration of Interest
Other Applications (Non-Public Meeting)		
5.1	S82-2024/3 – 1015-1019 Botany Road, Mascot	In relation to this matter, I declare that I have: no known conflict of interest <input checked="" type="checkbox"/> or an actual ¹ <input type="checkbox"/> , potential ² <input type="checkbox"/> or reasonably perceived ³ <input type="checkbox"/> conflict of interest as detailed in the attached document.
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Canne Elias Name (please print)		[Redacted Signature] Signature
		8, 11, 2024 Date