

MINUTES OF THE LOCAL PLANNING PANEL HELD IN THE LEVEL 10 BOARDROOM, 126 CHURCH STREET, PARRAMATTA ON WEDNESDAY, 16 JUNE 2021 AT 3:30PM

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PRESENT

Mary-Lynne Taylor (Chair), Paul Berkemeier, Richard Thorp, Ian Gilbertson

ACKNOWLEDGEMENT TO TRADITIONAL LAND OWNERS

The Chairperson, acknowledged the Burramattagal Clan of The Darug, the traditional land owners of Parramatta and paid respect to the elders both past and present.

WEBCASTING ANNOUNCEMENT

The Chairperson advised that this public meeting is being recorded. The recording will be archived and made available on Council's website.

APOLOGIES

There were no apologies made to this Local Planning Panel.

DECLARATIONS OF INTEREST

There were no declarations of interest made to this Local Planning Panel.

REPORTS - DEVELOPMENT APPLICATIONS

5.1	SUBJECT	73 Kent Street, Epping (Lot 31 DP 31307)
	DESCRIPTION	Demolition of existing structures and construction of a two-storey boarding house containing 12 boarding rooms with at-grade car parking and associated landscaping works.
	REFERENCE	DA/180/2021 - D08067119
	APPLICANT/S	Top Tree Pty Ltd
	OWNERS	Mr W M Kwok & Mrs D Wu
	REPORT OF	Group Manager Development and Traffic Services
	RECOMMENDED	Refusal
	The Panel considered the matter listed at Item 5.1 and attachments to Item 5.1.	
	PUBLIC FORUM	

- Isaac Spencer, on behalf of the Hon. Dominic Perrottet MP, Member for Epping, spoke in support of the recommendation at Item 5.1
- Janet McGarry, President of the Epping Civic Trust, spoke in support of the recommendation at Item 5.1
- Jillian Fisher spoke in support of the recommendation at Item 5.1
- Hugh Fisher spoke in support of the recommendation at Item 5.1
- Peter Evans spoke in support of the recommendation at Item 5.1
- Philip Scott spoke in support of the recommendation at Item 5.1
- Joyce Lobo spoke in support of the recommendation at Item 5.1
- Steve Tree spoke in support of the recommendation at Item 5.1
- Su Yang spoke in support of the recommendation at Item 5.1
- Weiru Zhao spoke in support of the recommendation at Item 5.1

## **DETERMINATION**

- (a) **That** the Parramatta Local Planning Panel supports the findings in the assessment report for DA/180/2021 and endorses the reasons for **refusal** contained in that report:

### ***State Environmental Planning Policy (Affordable Rental Housing) 2009***

1. The proposed development has not adequately shown compliance with the following provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009:
  - i. *Clause 29(2)(e)(iia) – in the case of development not carried out by or on behalf of a social housing provider – at least 0.5 parking spaces are provided for each boarding room.*
    - *Although compliant with the numerical requirement of parking spaces, additional information is required to ensure that the driveway and parking layout complies with Australian Standards.*

### ***Hornsby Development Control Plan 2013***

2. The proposed development is inconsistent with the following provisions of Hornsby Development Control Plan 2013:
  - i. *Part 1C.1.2 – Stormwater Management*
    - *Final stormwater plans were not provided in accordance with Council's request for additional information. In that regard, a complete assessment was unable to be undertaken.*
  - ii. *Part 3.1 – Dwelling Houses - Floor Area – Maximum 380m<sup>2</sup>*
    - *Final amended architectural plans were not provided in accordance with Council's request for additional information. In that regard, a complete assessment was unable to be undertaken.*

### ***Environmental Planning and Assessment Act 1979***

3. As highlighted above, the proposal has not adequately shown compliance with the State Environmental Planning Policy

(Affordable Rental Housing) 2009. Accordingly, the proposal fails to satisfy the matters of consideration prescribed under Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.

4. As highlighted above, the proposal has non-compliances with Hornsby Development Control Plan 2013. Accordingly, the proposal fails to satisfy the matters of consideration prescribed under Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.
5. As the proposed development is not consistent with the above, the proposal is not considered to be in the public interest and also fails to satisfy Section 4.15(1)(b) and (e) of the Environmental Planning and Assessment Act 1979.

(b) **Further, that** submitters are advised of the Panel's decision.

The Panel decision was unanimous.

Additional commentary provided by the Panel was as follows:

The 114 submissions to the application were made by local and adjoining residents together with residents across the wider suburb and including the Epping Civic Trust. The written submissions and the presentations to the Panel Meeting raised multiple concerns including failure to meet the character test, insufficient accessibility, noise, overlooking, and uncharacteristic bulk and scale. Whilst all residents who spoke at the meeting supported the Council's recommended refusal, they all expressed strong opinions in addition to Council's reasons for refusal.

The Panel was concerned at the alleged manner in which the Social Impact Assessment was carried out, apparently over a short period of time in a holiday period.

The Panel noted it was unclear whether the number of lodgers was to be 17 as stated in the report or 19 as shown in the drawings. The Panel shares the concern of the residents that the plan of management may be ineffective without the presence of an onsite manager.

The Panel is aware that the application was not amended as recommended by Council and it remains unsatisfactory.

5.2	SUBJECT	5 Buller Street, North Parramatta (Lot 1 DP 178742)
	DESCRIPTION	Demolition of existing structures, removal of six (6) trees and construction of a three-storey boarding house with 18 single occupancy rooms pursuant to the SEPP (Affordable Rental Housing) 2009 with modified at-grade car parking for eight (8) vehicles and associated earthworks and landscaping.

REFERENCE	DA/100/2021 - D08078475
APPLICANT/S	Mr R P Huxley
OWNERS	Electric Pty Ltd
REPORT OF	Group Manager Development and Traffic Services
RECOMMENDED	Refusal

The Panel considered the matter listed at Item 5.2 and attachments to Item 5.2.

#### PUBLIC FORUM

There were no speakers during the public forum for Item 5.2.

#### DETERMINATION

The Panel supports the findings in the assessment report and endorses the reasons for refusal contained in that report.

- (a) **That** the Parramatta Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, **refuses development consent** to DA/100/2021 for demolition of existing structures, removal of six (6) trees and construction of a three-storey boarding house with 18 single occupancy rooms pursuant to the SEPP (Affordable Rental Housing) 2009 with modified at-grade car parking for eight (8) vehicles and associated earthworks and landscaping on land at Lot 1 in DP 178742, 5 Buller Street, NORTH PARRAMATTA NSW 2151 for the following reasons:

#### Environmental Impacts Under Parramatta Local Environmental Plan 2011 (PLEP 2011)

1. The proposal is inconsistent with the stated objectives (1)(a), (b) and (c) of Clause 6.3 'Flood Planning' of the PLEP 2011 in that the proposed intensification of a flood-affected site that is affected by a medium hazard flooding as a result of a 1% and 5% AEP flood event unnecessarily elevates the risk to life within the site. Furthermore, the proposed development will increase flooding risk on the adjoining properties by proposing fill and a proposed building footprint that will block and divert floodwater elsewhere within the catchment. The locality surrounding the site will become isolated to some extent and the duration of the isolation is unknown.
2. The proposal is inconsistent with the stated objective (1)(a) of Clause 6.2 'Earthworks' of PLEP 2011 in that the proposal is likely

to have a detrimental impact on the existing drainage patterns of the locality.

Accordingly, the proposal fails to satisfy Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.

Incompatibility with State Environmental Planning Policy (Affordable Rental Housing) 2009

3. The proposed development does not exhibit a satisfactory building form and massing, in that it is inconsistent with the following provisions prescribed within State Environmental Planning Policy (Affordable Rental Housing) 2009:
  - i. Clause 29(1)(a) – the proposal will result in a Floor Space Ratio of 0.65:1 in which exceeds the maximum FSR on site of 0.6:1;
  - ii. Clause 29(2)(c) – the proposal will result in the first-floor communal area space and second floor balcony area not receiving a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter;
  - iii. Clause 29(2)(f) – All eighteen (18) boarding rooms do not comply with the minimum 12m<sup>2</sup> gross floor accommodation sizes (excluding areas used for the purposes of private kitchen and bathroom facilities) resulting in poor internal amenity for the occupants of the boarding rooms.
  - iv. Clause 30(1)(d) – Although all rooms have access to private ensuite-style bathroom and kitchenette facilities (2-burner stovetop, fridge/freezer space, single-sink with dish drainer space, under bench cabinetry and food preparation space), the proposed kitchenettes appear to be inadequate for use as they lack appropriate facilities. No dishwashers or ovens are provided and there is no communal kitchen where full kitchen facilities are available for use to each lodger.
  - v. Clause 30A – The design is not compatible with the character of the local area. The proposed 3-storey form and density is akin to a residential flat building style of development, which is a prohibited land use in the medium density zone.

Accordingly, the proposal fails to satisfy Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979.

Inconsistency with the Aims of the Parramatta Local Environmental Plan 2011

4. The proposal is inconsistent with Parramatta Local Environmental Plan 2011, Clauses 1.2(2)(e) and (h) 'Aims of Plan' as it does not contribute towards the orderly and sustainable development of Parramatta and the increase in density does not minimise risk to the community in areas subject to environmental hazards (i.e. flooding), by restricting development in sensitive areas.

Inconsistency with the R3 Zone objectives of Parramatta Local Environmental Plan 2011

5. The proposal is inconsistent with the stated objectives of the R3 Zone of PLEP 2011 in that the proposed built form appears more like a residential flat building and that the anticipated number of occupants would result in unsympathetic intensification of the use of the flood-affected land when compared with the average occupancy rate for a typical multi dwelling housing development. In this regard, the proposal is considered an overdevelopment of the site and is inconsistent with the objectives (bullet points 2 & 4) of the R3 Medium Density Residential zone.

#### Excessive Floor Space

6. The proposal does not comply with Clause 4.4 'Floor Space Ratio' of PLEP 2011 as the proposal will result in a gross floor area of 431m<sup>2</sup>, resulting in a FSR of 0.65:1, which exceeds the maximum GFA by approximately 35.4m<sup>2</sup> (or 9%).

#### Inconsistency with the Parramatta Development Control Plan 2011

7. The proposed development does not exhibit a satisfactory building form and massing, in that it is inconsistent with the following provisions prescribed within Parramatta Development Control Plan 2011:
- Section 2.12.2 – Water Management – The site is identified in Council's database as being flood prone and the application proposes significant fill across the building footprint to accommodate modified at-grade car park for the boarding house
  - Section 2.12.6 – Development on Sloping Land – The proposal does not respond sensitively to natural topography and adversely disturbs the natural landform. The ground floor level seeks fill of approximately up to 550mm above the existing natural ground level and therefore not acceptable, as this will create opportunities for overlooking and adverse visual and acoustic impacts upon the adjoining properties.
  - Section 3.1.3 – Preliminary Building Envelopes – excessive floor space ratio, insufficient site frontage, inadequate front and side setbacks, insufficient deep soil zones and inadequate landscaped areas.
  - Section 3.2.1 – Building Form and Massing
  - Section 3.2.2 – Building Facades and Articulation
  - Section 3.2.3 – Roof Design
  - Section 3.2.5 – Streetscape
  - Section 3.3.1 – Landscaping
  - Section 3.3.2 – Privacy and Communal Open Space
  - Section 3.3.3 – Visual and Acoustic Privacy
  - Section 3.3.5 – Solar Access and Cross Ventilation
  - Section 3.3.6 – Water Sensitive Urban Design
  - Section 3.4.2 – Access for persons with Disabilities
  - Section 5.1 – Boarding Houses

Accordingly, the proposal fails to satisfy Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.

8. Insufficient Information
    - a) Clause 4.6 'Exceptions to Development Standards' of PLEP 2011 in the absence of a written request seeking justification of the floor space ratio development standard.
    - b) The public domain details provided by the applicant do not provide adequate street tree planting and footpath details as required under Section 2.12.8 of the PDGP 2011.
  9. The development fails to provide high quality affordable rental housing in the form of a boarding house that ensures that its operation would not adversely impact upon amenity of the site and surrounding land. Accordingly, the proposal fails to satisfy Section 4.15(1)(a)(i), (b), (c), (d) and (e) of the Environmental Planning and Assessment Act 1979.
  10. The development fails to ensure the privacy and amenity of the adjoining neighbouring properties, and therefore fails to satisfy Section 4.15(a)(iii), (b), (d) and (e) of the Environmental Planning and Assessment Act 1979.
- (b) **Further, that** the objectors are advised on PLPP's decision.

The Panel decision was unanimous.

5.3	SUBJECT	28 Norfolk Road, Epping (Lot 3 DP 20649)
	DESCRIPTION	Section 8.3 Review of a determination for DA/125/2020 for demolition of an existing swimming pool, cabana/outbuilding & tennis court; undertake alterations to an existing dwelling; and Torrens title subdivision of a single lot into 2 lots.
	REFERENCE	DA/125/2020 - D08064739
	APPLICANT/S	Mr N White
	OWNERS	Mr P A Azize & Mrs J M Azize
	REPORT OF	Group Manager Development and Traffic Services
	RECOMMENDED	Approval

The Panel considered the matter listed at Item 5.3 and attachments to Item 5.3.

#### PUBLIC FORUM

There were no speakers during the public forum for Item 5.3.

#### DETERMINATION

The Panel supports the findings found in the assessment report and endorses the reasons for approval contained in that report.

**That** the Parramatta Local Planning Panel (PLPP), exercising the functions of Council, pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, **grants development consent** to DA/125/2020 for a period of five (5) years within which physical commencement is to occur from the date on the Notice of Determination, subject to conditions of consent.

The reasons for approval are:

1. The development is acceptable in the East Epping Heritage Conservation Area and satisfies the requirements of all the applicable planning controls.
2. The Proposed Subdivision in the East Epping Heritage Conservation Area is acceptable due to the existing subdivision pattern in the local area.
3. The development will be compatible with the emerging and planned future character of the area.
4. For the reasons given above, approval of the application is in the public interest.

The Panel decision was unanimous.

5.4	SUBJECT	27-29 Tennyson Street, Parramatta (Lot 20 & 21 DP 7941)
	DESCRIPTION	Demolition of existing structures and construction of a 3-storey building comprising a ground floor child care centre and two storeys of residential apartments over 2 levels of basement parking.
	REFERENCE	DA/412/2020 - D08078468
	APPLICANT/S	Designcorp Architects
	OWNERS	Tennyson 888 Ptd Ltd
	REPORT OF	Group Manager Development and Traffic Services
	RECOMMENDED	Approval - Deferred Commencement

The Panel considered the matter listed at Item 5.4 and attachments to Item 5.4.

#### PUBLIC FORUM

There were no speakers during the public forum for Item 5.4.

#### DETERMINATION



The Panel supports the findings found in the assessment report and endorses the reasons for approval contained in that report.

- (a) **That** the Parramatta Local Planning Panel (PLPP) **supports** the variation to Clause 4.3 Height of Building of the Parramatta Local Environmental Plan 2011 under the provisions of Clause 4.6.
- (b) **That** the Parramatta Local Planning Panel (PLPP), exercising the functions of Council, pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, **grants development consent** to DA/412/2020 for a period of five (5) years within which physical commencement is to occur from the date on the Notice of Determination, subject to the attached conditions of consent and three amendments to the conditions as follows:

Condition 1(b): To be replaced with, “A Stage 1 – Preliminary Site Investigation (PSI) for the site shall be submitted and approved by Council. The PSI must include soil sampling as per Regulation 25 of the Education and Care Services Regulation (2011).”

Condition 13: New condition added being, “All conditions issued by WaterNSW (reference: IDAS1136900 dated 10 June 2021) shall be complied with.”

Condition 42(d): Addition of new clause being, “All foundations of the OSD / WSUD tank at the front property boundary and the side boundary shall be kept within the property, without encroaching over the boundary. In this regard a 200 mm setback shall be provided between the outer edge of the tank foundation and the true property boundary. The final drainage plans prepared for approval with the Construction Certificate application shall reflect the requested details.”

The Panel decision was unanimous.

## INNOVATIVE

6.1	SUBJECT	Gateway Request: Planning Proposal for land at 24 Parkes Street, 26 – 30 Parkes Street and 114 – 116 Harris Street, Harris Park
	REFERENCE	RZ/5/2016 - D07559679
	REPORT OF	Project Officer Land Use

The Panel considered the matter listed at Item 6.1 and attachments to Item 6.1.

## PUBLIC FORUM

- Adam Byrnes, on behalf of Think Planners, spoke in support of the recommendation at Item 6.1.

## DETERMINATION

The Parramatta Local Planning Panel recommends the following to Council:

- (a) **That** Council endorse for the purposes of seeking a Gateway Determination under the *Environmental Planning and Assessment Act 1979* from the Department of Planning, Industry and Environment (DPIE), a Planning Proposal for land at 24 Parkes Street, 26 – 30 Parkes Street and 114 – 116 Harris Street, Harris Park which seeks an exemption from the FSR sliding scale requirements of *Parramatta Local Environmental Plan 2011* in relation to the subject sites.
- (b) **That** the Planning Proposal at **Attachment 1** be forwarded to the DPIE to request the issuing of a Gateway Determination, after being amended as follows:
  - i. Remove references pertaining to an exemption from the site size requirements for High Performing Buildings.
  - ii. Reformat and re-edit to reflect Council's assessment into Council's Planning Proposal template.
- (c) **That** a draft site-specific Development Control Plan (DCP) for the subject sites be prepared and reported back to Council prior to its public exhibition. The draft DCP should address, at a minimum:
  - i. Built form and massing;
  - ii. Building setbacks;
  - iii. Flooding;
  - iv. Traffic and parking issues; and
  - v. Road widening.
- (e) **That** the Planning Proposal and DCP are concurrently exhibited.
- (f) **That** Council advises the DPIE that the Chief Executive Officer (CEO) will be exercising the plan-making delegations for this Planning Proposal as authorised by Council.
- (g) **That** Council write to DPIE to advise that Council no longer supports the progression of the existing site-specific Planning Proposal for 114-118 Harris Street (which has already received a Gateway determination).
- (h) **Further, that** Council delegate authority to the Chief Executive Officer to correct any minor anomalies of a non-policy and administrative nature that may arise during the Planning Proposal and/or DCP processes.

The Panel decision was unanimous.

The meeting terminated at 5:17 pm.

A handwritten signature in black ink, appearing to be 'Mr. H. H. H.' or similar, written in a cursive style.

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Chairperson