



## MINUTES OF RANDWICK LOCAL PLANNING PANEL (ELECTRONIC) MEETING HELD ON THURSDAY, 28 JULY 2022

### Present:

**Chairperson:** Annelise Tuor

**Expert Members:** Heather Warton & Kevin Hoffmann

**Community Representatives:** Michelle Finegan (West Ward)

### Council Officers present:

Manager Development Assessment Mr F Ko

### Declarations of Pecuniary and Non-Pecuniary Interests

A) Nil

The Panel deliberated and voted on each matter via an electronic meeting.

The resolutions, reasons and voting outcomes for each item on the agenda are detailed below:

### General Reports

#### Item 1: Delegation of Development Application - DA/318/2022, 3 Quail Street, Coogee

The RLPP delegate pursuant to Section 2.20(8) of the EP&A Act, the function of determining the Development Application No. DA/318/2022 for the installation of new skylights and air-conditioning unit at No. 3 Quail Street, Coogee, to Council's Manager Development Assessment.

#### REASON:

Given the minor nature of the works proposed to a heritage item, the Panel considers appropriate to delegate the determining function of the subject application to Council's Manager Development Assessment.

**CARRIED UNANIMOUSLY.**

### Development Application Reports

#### D43/22 Development Application Report - 6-10 Bowral Street, Kensington (DA/172/2022)

#### RESOLUTION:

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/172/2022 for the demolition of the existing structures and the construction of a part six, part nine storey residential flat building with shared-way, basement parking and landscaping, at No. 6-10 Bowral Street, Kensington, for the following reasons:

1. The proposal does not comply with the provisions of State Environmental Planning Policy 65 - Design Quality of Residential Apartment Developments (SEPP 65) and associated Apartment Design Guide (ADG); in particular:

- a. Pursuant to Part 3B-1 and 3B-2 of ADG, the proposed height non-compliance and excessive number of storeys does not minimise overshadowing and reduces amenity to the neighbouring properties.
  - b. Pursuant to Part 3D-1 of ADG, the proposal needs to offer a minimum area of 25% (316m<sup>2</sup>) as communal open space and 23.7% is proposed. This area should not be limited to the roof top space or contribute to the height non-compliance.
  - c. Pursuant to Part 3E-1 of ADG, the proposal needs to offer a minimum area of 7% (88.5m<sup>2</sup>) for deep soil with minimum dimensions of 3m. The proposal offers 6.1% and should be amended to comply given the residential use.
  - d. Pursuant to Part 3F-1 of ADG, the proposal does not provide adequate visual privacy to the units adjacent to the laneway/shared zone and communal roof top open space.
  - e. Pursuant to Part 4C of ADG, it has not been demonstrated that the 2.7m floor to ceiling height can be achieved in only 3.075m floor to floor heights. This is based on current fire and services requirements, and interfaces from balconies to internal living areas. This is also inconsistent with Part 12.1 of the Kensington to Kingsford RDCP.
2. The proposal does not comply with the provisions of the Randwick Local Environmental Plan 2012 (RLEP) in particular:
- a. The proposal is inconsistent with all objectives of B2 Local Centre zone pursuant to Clause 2.3 of RLEP 2012.
  - b. The proposal does not satisfy the requirements under Clause 4.6 of the RLEP 2012 to vary the height of buildings (Clauses 4.3 and 6.17) and active street frontages (Clause 6.20) development standards.
  - c. Pursuant to Clause 6.14(3)(a) of the RLEP, the development cannot be approved as the proposed form of development is not permissible within the B2 zone. There are no existing residential flat buildings at the site when the RLEP commenced.
  - d. Pursuant to Clause 5.10, the height, bulk and scale of the development will detrimentally impact the significance of the heritage listed Kensington Public School, its setting, and views from the public domain. The proposal fails to provide sufficient transition to the School and the surrounding and intervening residential area to the east which is contrary to the desired future character of the area.
  - e. Pursuant to Clause 6.11(4), the proposal does not exhibit design excellence and consequently consent cannot be granted under Clause 6.11(3).
3. The proposal does not comply with the provision of Randwick Comprehensive Development Control Plan 2013 (RDCP 2013) in particular:
- a. Pursuant to Part 4 in the K2K RDCP, the proposal does not uphold the provisions relating to design excellence and results in adverse impacts to the strategic node to the south, the Todman Avenue Square Precinct.
  - b. Pursuant to Part 6 in the K2K RDCP, the proposal does not comply with the objectives and controls as shown in Block Diagrams 28B and 28C (i.e. lot consolidation, laneway/shared zones, building heights, and building setbacks).
  - c. Pursuant to Part 8 in the K2K RDCP, the proposal does not provide a laneway/shared zone in accordance with Block Diagrams 28B and 28C, in particular, the laneway/shared zone is relocated.
  - d. Pursuant to Part 9 in the K2K RDCP, the proposal results in adverse heritage impacts to the neighbouring item at Kensington Public School.
  - e. Pursuant to Part 10.2 in the K2K RDCP, the proposal does not comply with the desired future character and built form controls for Blocks 28B and 28C.
  - f. Pursuant to Part 13 in the K2K RDCP, the proposal height non-compliance and excessive number of storeys does not minimise overshadowing and reduces amenity to the neighbouring properties.
  - g. Pursuant to Part 14 in the K2K RDCP, the proposal results in unacceptable acoustic impacts to the future residents in the units adjacent to the enclosed laneway/shared zone and roof top communal open space.
  - h. Pursuant to Part 15 in the K2K RDCP, the proposal does not provide adequate cross ventilation through the operable windows the shared way and communal open space at the roof top level.

- i. Pursuant to Part 16 in the K2K RDCP, the proposed elevations of the building and presentation of a blank wall façade to the western elevation do not provide satisfactory articulation and modulation.
  - j. Pursuant to Part 18 in the K2K RDCP, the proposal does not provide a continuous pedestrian shelter to the Bowral Street Frontage or uphold the relevant objectives.
  - k. Pursuant to Part 19 in the K2K RDCP, the proposal does not provide an active street frontage or contribute to the retail activation of the commercial core and the future Bowral Street Plaza.
  - l. Pursuant to Part 20 in the K2K RDCP, the proposal provides 90% of the site as landscaped area which does not comply with the 100% requirement. The landscape treatment to the laneway is considered poor quality and, the small pocked of deep soil at the rear does not allow for landscaping buffering alongside boundaries, is not accessible for communal use, maintenance and is compromised by the driveway. Further, no passive surveillance is provided to the area and concerns are raised in relation to the future occupants of Unit G04.
  - m. Pursuant to Part 21 in the K2K RDCP, the proposal does not provide adequate safety to the pedestrians from the configuration of the laneway design, which may result in safety impacts to the neighbouring approved driveway at 4 Bowral Street, future users of the Bowral Street Plaza, and the Kensington Public School drop-off and pick-up times.
  - n. Pursuant to Part 31 in the K2K RDCP, the alternative floor space ratio and building height permitted under Clause 6.17 of the RLEP and planning agreement has not been agreed by Council.
4. Insufficient information – assessment of the proposal cannot be completed as there are a number of deficiencies and lack of detail in the information submitted with the development application including:
- a. Pursuant to Part 4D of ADG, it has not been demonstrated on the architectural floor plans that all habitable room depths are within the maximum 8m limit as measured in open plan layouts from a window. It appears that the majority of units do not comply, with the exception of Units G.01, 1.01, 4.05, 6.02, and 6.03.
  - b. The Heritage Impact Statement does not address the specific controls for Heritage Conservation in the K2K RDCP, including the impacts of the proposal on the significance of the heritage listed Kensington Public School, its setting as well as the impact on views to the heritage item from the public domain.
  - c. Pursuant to Part 6 of the K2K RDCP, the Applicant's letter of offer to amalgamate with 12-16 Bowral Street is refuted by its owners as no information was provided regarding purchase price, timing of payments or details of any special conditions attached to any offer. No independent valuations have been provided to Council. Furthermore, given the approval for 160-164 Anzac Parade and 4 Bowral Street, Kensington will lapse on 22 September 2022, the applicant should demonstrate that the proposal will not limit it being redeveloped in accordance with the K2K DCP requirements.
  - d. The provision of effective landscaping at all levels of the Bowral Street façade is not reflected on the submitted documentation or section details, for example, the soil depths and irrigation measures. This includes the extensive landscaping at Level 4.
  - e. Pursuant to Parts 22 and 23 of the K2K RDCP, a site-wide sustainability strategy that includes provisions relating to water sensitive urban design has not been submitted for assessment.
  - f. Pursuant to Part 22 of the K2K RDCP, an Automated Waste Collection System (AWCS) including FOGO bins have not been provided.
  - g. Pursuant to Part 29 in the K2K RDCP, an Arts Statement has not been submitted for assessment.

**REASON:**

The Panel has visited or is familiar with the site, considered the submissions and reviewed the assessment report prepared by Council officers that addresses the relevant matters detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended. The Panel refuses the application for the reasons given in the resolution above.

**CARRIED UNANIMOUSLY.**

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**D44/22      Development Application Report - 203-207 Anzac Parade, Kensington  
(DA/630/2021)**

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**RESOLUTION:**

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/630/2021 for demolition of existing structures and construction of an eight-storey mixed-use development comprising ground floor retail with seven (7) levels above containing 51 boarding rooms and one (1) manager's room, communal areas, four (4) ground floor car parking spaces including 2 carshare spaces, landscaping and associated works (variation to height of buildings of the RLEP 2012), at Nos. 203-207 Anzac Parade, Kensington, for the following reasons:

1. The proposed development is inconsistent with the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009* with regards to the following:
  - a. The proposed development does not comply with the minimum number of motorcycle parking spaces pursuant to clause 30(1)(h) of the *State Environmental Planning Policy (Affordable Rental Housing) 2009*. A written request pursuant to Clause 4.6 of the RLEP 2012 to vary the development standard for motorcycle parking has not been submitted. In the absence of a written request to vary the development standard, the development application cannot be approved.
  - b. The proposed development provides a boarding room for the Manager in excess of 25m<sup>2</sup> and does not comply with the maximum GFA standard for boarding rooms pursuant to clause 30(1)(b) of the *State Environmental Planning Policy (Affordable Rental Housing) 2009*. A written request pursuant to Clause 4.6 of the RLEP 2012 to vary the development standard for accommodation size has not been submitted. In the absence of a written request to vary the development standard, the development application cannot be approved.
  - c. The proposed does not provide 26 car spaces to satisfy Clause 29(2)(e) of SEPP ARH. The provision of 4 car spaces is inadequate to meet the parking needs of the development.
  - d. The proposed development is not compatible with the existing or desired future character of the local area, particularly having regard to its excessive height, bulk and scale and poor design in contradiction to Clause 30A of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.
2. Concurrence has not been granted by Transport for NSW pursuant to Section 138 of the Roads Act 1993 and Clause 2.119 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*. The location of the vehicular access shall adversely impact upon road safety and the proposal does not provide sufficient parking provisions to accommodate the proposed development.
3. The proposed development does not provide adequate residential amenity for occupants due to the following:
  - a. A significant number of the proposed boarding rooms are undersized and do not comply with the minimum provisions specified in Clause 29 of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* in relation to accommodation size. The combination of the undersized boarding rooms, low ceiling heights and poor configuration of rooms combined with the inadequate communal spaces results in the development not meeting the objectives of Section 20 of Part C of Part E6: Kensington and Kingsford Town Centres DCP.
  - b. The communal indoor space is significantly undersized and does not comply with the minimum area required under section 26 of Part C of Part E6: Kensington and Kingsford Town Centres DCP;
  - c. The Acoustic report is based on a maximum occupancy level of twelve (12) persons for the outdoor communal space. Given that the boarding house shall accommodate a total of 102 residents, the outdoor communal space is not considered to be adequate, shall result in poor amenity for occupants, and would result in adverse privacy impacts upon adjoining properties.

- d. The residential amenity of the occupants will be compromised due to poor cross ventilation in the boarding rooms.
  - e. The proposed boarding rooms provide screening on the upper level windows creating a sense of enclosure and compromising the internal amenity of the rooms.
  - f. The entry and circulation space of the boarding house is constrained, providing minimal widths and no formal Lobby or Entrance, resulting in poor internal amenity.
4. The proposed development is inconsistent with the provisions of Randwick Local Environmental Plan 2012 with regards to the following:
  - a. The proposed development is inconsistent with the objectives of B2 Local Centre zone pursuant to Clause 2.3 of RLEP 2012.
  - b. The proposal does not satisfy the requirements under Clause 4.6 of the RLEP 2012 to vary the height of building (Clause 4.3) development standard. The proposed variation would result in an excessive level of bulk and scale and detrimental impacts upon the amenity of the adjoining properties and the heritage significance of the area.
  - c. The proposal is inconsistent with Clause 5.10 of the RLEP 2012, as it shall detrimentally impact the significance of the nearby heritage items and heritage conservation area, due to its height, bulk and scale. The proposal fails to provide sufficient transition to the Masonic Temple to the north-west and the surrounding residential area to the south and east, resulting in a visually dominating building.
  - d. The proposed development fails to exhibit design excellence pursuant to clause 6.11 of RLEP 2012.
  - e. The proposal does not provide commercial premises at the Ground Floor level fronting Doncaster Avenue in contradiction to Clause 6.20 of RLEP 2012 in relation to active street frontages. A written request pursuant to Clause 4.6 of the RLEP 2012 to vary the development standard for an active street frontage on Doncaster Avenue has not been submitted. In the absence of a written request to vary the development standard, the development application cannot be approved.
5. The proposed development is inconsistent with the provisions of Part E6: Kensington and Kingsford Town Centres DCP with regards to the following:
  - a. The proposed built form is considered to be inconsistent with the guiding principles of Section 2.1 of Part A of Part E6: Kensington and Kingsford Town Centres DCP.
  - b. The proposed built form does not comply with the building envelope and built form controls specified in section 6.1 of Part A of Part E6: Kensington and Kingsford Town Centres DCP 2020 and section 10.3 of Part B of Part E6: Kensington and Kingsford Town Centres DCP 2020.
  - c. The proposed development does not provide sufficient landscape area or deep soil zones, and results in a significant shortfall of landscaping to that required under section 20 of Part C of Part E6: Kensington and Kingsford Town Centres DCP.
  - d. The design of the proposed development is unacceptable and will not provide adequate articulation and modulation in accordance with Sections 16 and 17 of the K2K RDCP 2020.
  - e. The proposed development and waste management plan does not comply with the relevant controls in Section 22 of Part C of Part E6: Kensington and Kingsford Town Centres DCP including how the building will achieve the future provision of an Automated Waste Collection System (AWCS).
  - f. The proposed development is in contradiction to the objectives of section 26 of Part C of Part E6: Kensington and Kingsford Town Centres DCP which aim to provide a high level of amenity for occupants of boarding houses.
6. The proposed development is excessive in its bulk and scale as a result of the excessive height, number of storeys, excessive gross floor area and inadequate setbacks, resulting in unacceptable building mass and a development is inconsistent with the desired future character for the location.
7. The proposed development shall result in adverse privacy impacts upon the adjoining properties as a result of the roof top terrace and windows to the circulation areas on the southern elevation which shall have the capacity to overlook the adjoining properties to the south.

8. The proposed development will result in adverse overshadowing of the southern adjoining property at 113 Doncaster Avenue. These impacts arise from a development that is non-compliant with the relevant built form controls for the site under RLEP 2012 and RDCP.
9. The application does not provide sufficient information to allow the full and proper assessment of the proposed development, with regards to the following:
  - a. Pursuant to Clause 7 of State Environmental Planning Policy 55 – Remediation of Land, it has not been demonstrated that the site is suitable for the proposed development. Specifically, a Detailed Site Contamination Investigation should be undertaken.
  - b. In accordance with section 34 of RDCP Part E6 Kensington and Kingsford Town Centres Part D, an Air Quality report prepared by a suitably qualified air consultant has not been provided.
  - c. In accordance with section 22 of RDCP Part E6 Kensington and Kingsford Town Centres Part C, it has not been demonstrated that the proposal shall achieve a minimum green star rating of 5 stars or equivalent.
  - d. The Building Code of Australia assessment report states that insufficient detail has been provided to determine if compliance is achieved in relation to Sections C1.1, C2, C3, D1, D2, E, E2, E3, E4, F1, F4, F5, and J6. Insufficient information has been provided to determine how the development shall achieve the deemed to satisfy provisions of the relevant sections.
10. In view of the reasons above, the proposed development is not in the public interest and will set an undesirable precedent for similar inappropriate development in the locality.

**REASON:**

The Panel has visited or is familiar with the site, considered the submissions and reviewed the assessment report prepared by Council officers that addresses the relevant matters detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

The Panel refuses the application for the reasons given in the resolution above.

**CARRIED UNANIMOUSLY.****D45/22      Development Application Report - 71 Darley Road, Randwick (DA/179/2022)  
(DA/179/2022)**

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**RESOLUTION:**

That the RLPP grant consent under Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, as amended, to Development Application No. DA/179/2022 for alterations and additions to the existing dwelling house including changes to the window openings on southern elevation and internal works, at No. 71 Darley Road, Randwick NSW 2031, subject to the development consent conditions attached to the assessment report.

**REASON:**

The Panel has visited or is familiar with the site and reviewed the assessment report prepared by Council officers that addresses the relevant matters detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

The Panel supports the application for the reasons given in the assessment report.

**CARRIED UNANIMOUSLY.**

The meeting closed at 4:15pm.

<b>CONFIRMATION OF MINUTES BY PANEL MEMBERS</b>	
Annelise Tuor (Chairperson)	Heather Warton
Kevin Hoffmann	Michelle Finegan