

MINUTES OF A MEETING OF THE CLARENCE CITY COUNCIL PLANNING AUTHORITY HELD AT THE COUNCIL CHAMBERS, BLIGH STREET, ROSNY PARK, ON MONDAY 8 NOVEMBER 2021

HOURL CALLED: 7.00pm

PRESENT: The meeting commenced at 7.01pm with the Mayor (Ald D C Chipman) in the Chair and with Aldermen:

B A Blomeley (via Teams)
H Chong
L Edmunds
D Ewington
R H James
W Kennedy
T Mulder
J Peers
S von Bertouch
J Walker
B Warren; present.

1. APOLOGIES Nil

ORDER OF BUSINESS Items 1 – 3

IN ATTENDANCE

General Manager
(M I Nelson)

Manager City Planning
(Mr R Lovell)

Chief Financial Officer
(Ms M Coleman)

Manager Communication and Strategic Development
(Mr C Paske)

Executive Officer to General Manager
(Ms J Ellis)

Senior Statutory Planner
(Mr B Gibbs)

The Meeting closed at 9.04pm.

Prior to the commencement of the meeting, the Mayor made the following declaration:

“I acknowledge the Tasmanian Aboriginal Community as the traditional custodians of the land on which we meet today, and pay respect to elders, past and present”.

The Mayor also advised the Meeting and members of the public that Council Meetings, not including Closed Meeting, are live-streamed, audio-visually recorded and published to Council’s website.

CLARENCE CITY COUNCIL (PLANNING AUTHORITY) MEETING**MONDAY 8 NOVEMBER 2021****TABLE OF CONTENTS**

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1. ATTENDANCE AND APOLOGIES

Refer to cover page.

2. DECLARATIONS OF INTERESTS OF ALDERMAN OR CLOSE ASSOCIATE

(File No 10-03-09)

In accordance with Regulation 8 of the Local Government (Meeting Procedures) Regulations 2015 and Council's adopted Code of Conduct, the Mayor requests Aldermen to indicate whether they have, or are likely to have a pecuniary interest (any pecuniary benefits or pecuniary detriment) or conflict of interest in any item on the Agenda.

INTEREST DECLARED:

Nil.

3. REPORTS OF OFFICERS**PART A DEPUTATIONS**

- Ms Jenny Scott (representor) which was read out by the General Manager; and
- Ms Denise Hoggan (representor) addressed the Meeting.

PART B – FORMAL PROCEEDINGS

3.1 DEVELOPMENT APPLICATION PDPLANMTD-2020/011070 – 30 KANGAROO BAY DRIVE, ROSNY PARK, 7 PEMBROKE PLACE, 92, 94, 96 AND 98 CAMBRIDGE ROAD, BELLERIVE - DEMOLITION, 86 MULTIPLE DWELLINGS, SHOPS, FOOD SERVICES AND MUSEUM
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EXECUTIVE SUMMARY

PURPOSE

The purpose of this report is to consider the application made for Demolition, 86 Multiple Dwellings, Shops, Food Services and Museum at 30 Kangaroo Bay Drive, Rosny Park, 7 Pembroke Place, 92, 94, 96 and 98 Cambridge Road, Bellerive.

RELATION TO PLANNING PROVISIONS

The land is zoned Particular Purpose Zone 4 - Kangaroo Bay and Inner Residential. It is subject to the Potentially Contaminated Land, Road and Railway Assets, Parking and Access, Stormwater Management, and Public Art Codes under the Clarence Interim Planning Scheme 2015 (the Scheme). In accordance with the Scheme the proposal is a Discretionary development.

LEGISLATIVE REQUIREMENTS

The report on this item details the basis and reasons for the recommendation. Any alternative decision by Council will require a full statement of reasons in order to maintain the integrity of the Planning approval process and to comply with the requirements of the Judicial Review Act and the Local Government (Meeting Procedures) Regulations 2015.

Council is required to exercise a discretion within the statutory 42 day period which expires on 10 November 2021.

CONSULTATION

The proposal was advertised in accordance with statutory requirements and 37 representations (one outside the three week period provided to make representations) were received raising the following issues:

- traffic and parking;
- scale, massing, and density (overdevelopment);
- loss of amenity;
- loss of public land/lack of open space;
- alternative uses;
- construction;
- consultation and notification;
- support;
- disability access and fire safety;
- mechanical services;
- garbage collection;
- fencing;
- noise;
- bicycle spaces;
- footpath along Cambridge Road; and
- does not comply with Inundation, Waterway and Coastal Protection, and Stormwater Codes.

RECOMMENDATION:

- A. That the Development Application for Demolition, 86 Multiple Dwellings, Shops, Food Services and Museum at 30 Kangaroo Bay Drive, Rosny Park, 7 Pembroke Place, 92, 94, 96 and 98 Cambridge Road, Bellerive (CI Ref PDPLANPMTD-2020/011070) be approved subject to the following conditions and advice.
1. GEN AP1 – ENDORSED PLANS.
 2. The Shops approved by this permit must be predominately tourism related or for servicing maritime activities.
 3. Hours of operation for uses located within the Particular Purpose Zone 4 - Kangaroo Bay must be within:
 - (a) 6.00am to 10.00pm Mondays to Saturdays inclusive;
 - (b) 7.00am to 9.00pm Sundays and Public Holidays;except for residential, office and administrative activities.
 4. Noise emissions for uses located within the Particular Purpose Zone 4 - Kangaroo Bay measured at the boundary of a residential zone must not exceed the following:
 - (a) 55dB(A) (LAeq) between the hours of 7.00am to 7.00pm;
 - (b) 5dB(A) above the background (LA90) level or 40dB(A) (LAeq), whichever is the lower, between the hours of 7.00pm to 7.00am;
 - (c) 65dB(A) (LAmax) at any time.Measurement of noise levels must be in accordance with the methods in the Tasmanian Noise Measurement Procedures Manual, issued by the Director of Environmental Management, including adjustment of noise levels for tonality and impulsiveness. Noise levels are to be averaged over a 15-minute time interval.
 5. External amplified loudspeakers or music for non-residential uses located within the Particular Purpose Zone 4 - Kangaroo Bay must not be used within 50m of a residential zone.
 6. External lighting for non-residential uses within 50m of a residential zone outside the site must comply with all of the following:
 - (a) be turned off between 11.00pm and 6.00am, except for security lighting;
 - (b) security lighting must be baffled to ensure they do not cause emission of light outside the zone.
 7. Commercial vehicle movements, (including load and unloading and garbage removal) to or from for uses located within the Particular Purpose Zone 4 - Kangaroo Bay that are within 50m of a residential zone must be within the hours of:
 - (a) 7.00am to 6.00pm Mondays to Fridays inclusive;
 - (b) 9.00am to 5.00pm Saturdays;
 - (c) 10.00am to 12.00 noon Sundays and Public Holidays.

8. GEN C1 – ON-SITE CAR PARKING insert [249] delete final sentence and insert [The basement carpark must be clearly marked and management set in place to ensure the availability of 140 spaces for residential units (to include a minimum allocation of one space assigned to each 1 and 2-bedroom unit, two spaces assigned to each 3-bedroom unit and 22 visitor parking spaces) and 109 spaces for the approved Shops, Food Services and Museum uses.]
9. The layout of car parking spaces, access aisles, circulation roadways and ramps must be designed and constructed to comply with section 2 “Design of Parking Modules, Circulation Roadways and Ramps” of AS/NZS 2890.1:2004 Parking Facilities Part 1: Off-street car parking and must have sufficient headroom to comply with clause 5.3 “Headroom” of the same Standard.
10. The number of on-site motorcycle parking spaces provided must be at a rate of one space to each 20 car parking spaces after the first 19 car parking spaces. The design of motorcycle parking areas must be located, designed and constructed to comply with section 2.4.7 “Provision for Motorcycles” of AS/NZS 2890.1:2004 Parking Facilities Part 1: Off-street car parking and be located within 30m of the main entrance to the building.
11. Parking and vehicle circulation roadways and pedestrian paths must be provided with lighting in accordance with clause 3.1 “Basis of Design” and clause 3.6 “Car Parks” in AS/NZS 1158.3.1:2005 Lighting for roads and public spaces Part 3.1: Pedestrian area (Category P) lighting.
12. The design of bicycle parking spaces must be provided in accordance with the requirements of Table E6.2 of the Scheme; be located within 30m of the main entrance to the building; and be to the class specified in table 1.1 of AS2890.3-1993 Parking facilities Part 3: Bicycle parking facilities in compliance with section 2 “Design of Parking Facilities” and clauses 3.1 “Security” and 3.3 “Ease of Use” of the same Standard. Shower and change room facilities must be provided for the commercial uses.
13. GEN S1 – SIGN CONSENT.
14. Prior to the issue of a Building Permit for the construction of the dwellings, a Remediation and Sampling Plan in accordance with the recommendations of the Preliminary Site Investigation, (GHD October 2020) must be submitted to the satisfaction of Council’s Senior Environmental Health Officer.
15. Prior to the issue of a Building Permit for the construction of the dwellings, an Environmental Construction Management Plan in accordance with the recommendations of the Preliminary Site Investigation, (GHD October 2020) must be submitted to the satisfaction of Council’s Senior Environmental Health Officer.

16. A contribution to public art at a ratio of 1% of the cost of the development, up to a maximum of \$20,000 must be made prior to the commencement of the use. The contribution must be made as a cash payment to the Clarence City Council Public Arts Fund to be allocated to public art on public land.
17. All separate titles of the subject land must be consolidated into one title or strata titled prior to the commencement of the uses.
18. Prior to the issue of a building permit, a plan for the management of construction of the site must be submitted and approved by Council's Group Manager Engineering Services. The plan must outline the proposed construction practices for the site in relation to:
 - proposed hours of work (including volume and timing of heavy vehicles entering and leaving the site, and works undertaken on-site);
 - identification of potentially noisy construction phases, such as operation of rock breakers, explosives or pile drivers, and proposed means to minimise impact on the amenity of neighbouring buildings;
 - control of dust and emissions during working hours;
 - construction parking;
 - construction fencing;
 - proposed screening of the site and vehicular access points during work;
 - procedures for washing down vehicles, to prevent soil and debris being carried along surrounding streets;
 - traffic/pedestrian management.
19. ENG M5 – EROSION CONTROL.
20. ENG A5 – SEALED CAR PARKING.
21. ENG A7 – REDUNDANT CROSSOVER.
22. ENG M1 –DESIGNS DA [access way construction and provision of a 3m wide footpath to the existing kerb edge of Cambridge Road].
23. ENG M3 – GARBAGE FACILITIES.
24. ENG M8 – EASEMENTS.
25. ENG S1 – INFRASTRUCTURE REPAIR.
26. ENG S3A – WATER SENSITIVE URBAN DESIGN PRINCIPLES – PART 5.
27. LAND 1A – LANDSCAPE PLAN.
28. LAND 3 – LANDSCAPE BOND (COMMERCIAL).

29. The development must meet all required Conditions of Approval specified by TasWater notice dated 18 August 2020 (TWDA 2020/01136-CCC).

B. That the details and conclusions included in the Associated Report be recorded as the reasons for Council's decision in respect of this matter.

Decision: **MOVED** Ald Ewington **SECONDED** Ald Blomeley

“That the Recommendation be adopted”.

The **MOTION** was **put** and **LOST**

FOR

Ald Chipman
Ald Blomeley
Ald Chong
Ald Ewington
Ald von Bertouch

AGAINST

Ald Edmunds
Ald James
Ald Kennedy
Ald Mulder
Ald Peers
Ald Warren
Ald Walker (abstained)

MOVED Ald Walker **SECONDED** Ald Edmunds

“A. That the recommendation be adopted subject to the following additional condition being added:

‘A cash contribution of \$420,000 must be provided in-lieu of the 42 car parking spaces which cannot be provided on-site. This contribution must be paid prior to the commencement of the use or the landowner must enter into an agreement in a registrable form with Council under Part 5 of the Land Use Planning Approvals Act 1993, prior to the commencement of the use, which provides for the car parking contribution, its calculation and payment arrangement. The landowner is responsible for the preparation of the agreement and is responsible for all Land Titles Office fees and charges.’

B. That the reasons for Council's decisions in respect of this matter be recorded as follows.

- Residents require on-site parking for convenience and security and their vehicles are generally unused overnight requiring a space. The proximity requirements for commercial users differ and as such generate a parking shortfall once residential requirements under the Clarence Interim Planning Scheme of 2015 are met.

/ Decision contd on Page 9...

DEVELOPMENT APPLICATION PDPLANPMTD-2020/011070 – 30 KANGAROO BAY DRIVE, ROSNY PARK, 7 PEMBROKE PLACE, 92, 94, 96 AND 98 CAMBRIDGE ROAD, BELLERIVE - DEMOLITION, 86 MULTIPLE DWELLINGS, SHOPS, FOOD SERVICES AND MUSEUM /Decision contd...

- Table E6.1 of the 2015 Clarence interim Planning Scheme sets out the requirements for residential and commercial uses which calculates a shortfall of 42 parking spaces. Table E6.3 of the 2015 Clarence Interim Planning Scheme lists the rate for payment of cash-in-lieu for deficient car parking spaces in Bellerive/Kangaroo Bay as \$10,000 per space.
- NSW RMS guidelines used to justify a parking shortfall should also be seen in light of the October 2016 NSW Department of Planning and Environment *Draft Medium Density Design Guide* section 20 “Rates for car parking are nominated by council to ensure that the rates reflect the demand for parking and availability of public transport in an area.”

Ald von Bertouch left the meeting at this stage (8.07pm).

The Mayor asked the Deputy Mayor to **assume** the Chair while he entered the debate as an Alderman (8.15pm).

Ald von Bertouch returned to the meeting at this stage (8.15pm).

The Mayor **resumed** the Chair at 8.17pm.

The **MOTION** was **put** and **LOST**

FOR

Ald Chong
Ald Edmunds
Ald Kennedy
Ald Mulder
Ald Peers
Ald Walker

AGAINST

Ald Chipman
Ald Blomeley
Ald Ewington
Ald James
Ald von Bertouch
Ald Warren

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DEVELOPMENT APPLICATION PDPLANPMTD-2020/011070 – 30 KANGAROO BAY DRIVE, ROSNY PARK, 7 PEMBROKE PLACE, 92, 94, 96 AND 98 CAMBRIDGE ROAD, BELLERIVE - DEMOLITION, 86 MULTIPLE DWELLINGS, SHOPS, FOOD SERVICES AND MUSEUM /Decision contd...

MOVED Ald James **SECONDED** Ald Warren

“A That the Development Application for Demolition, 86 Multiple Dwellings Shops, Food Services and Museum at 30 Kangaroo Bay Drive, Rosny Park, 7 Pembroke Place, 92, 94, 96 and 98 Cambridge Road, Bellerive (CL RefPDPLANPMTD-2020/011070) be refused for the following reasons.

1. The proposal does not satisfy the Clause 35.4.2(P1) (c) of the Scheme as bulk, scale and height of the buildings results in loss of amenity of the surrounding residential properties; and not in keeping with the originally agreed Kangaroo Bay urban Design Strategy and Concept plan for the site, and
2. The proposal does not satisfy the Clause E5.5.1(P1)(b) as the increase in vehicle traffic generation will unreasonably impact on the efficiency of the existing traffic flow and on the road network, and
3. The proposal does not satisfy the Clause 11.4.3(P2) for multiple dwellings as they have an area of private open space less than 24m² and 3m wide and not capable of serving as an extension of the dwelling for outdoor relaxation and,
4. The proposal does not satisfy Clause E6.6.1(P1)(a) as the number of on-site car parking spaces provided is less than the number specified in Table E6, Parking and Access Code. The number of on-site car parking spaces is insufficient to meet the reasonable needs of the users in the Particular Purpose Zone 4 – Kangaroo Bay and Inner Residential Zones.

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DEVELOPMENT APPLICATION PDPLANPMTD-2020/011070 – 30 KANGAROO BAY DRIVE, ROSNY PARK, 7 PEMBROKE PLACE, 92, 94, 96 AND 98 CAMBRIDGE ROAD, BELLERIVE - DEMOLITION, 86 MULTIPLE DWELLINGS, SHOPS, FOOD SERVICES AND MUSEUM /Decision contd...

B. REASONS

The proposal is too big and not in keeping with the streetscape of the surrounding residential properties.

Fewer apartments on the western side would be more in keeping with the originally Kangaroo Bay Urban Design Strategy and Concept Plan for the site. The height of the buildings on Kangaroo Bay Drive will exceed 3 storeys by additional height of 1.2 to 1.6 metres above the escarpment and is inconsistent with Particular Purpose Zone 4-Kangaroo Bay.

The number of on-site parking spaces provided is 42 less than the requirement under the Scheme. The shortfall of on-site parking space will cause car parking demand elsewhere in the area. Availability of on- street car parking along Kangaroo Bay Drive cannot be relied upon as there is high car parking demand for the area.

The increase of traffic generation and congestion will unreasonably impact on the efficiency of the existing network. The current proposal is inappropriately large for the site and the local area and will cause traffic problems in an already congested road network.

The townhouses have an area of private open space less than that required for Inner Residential Zone and an area not capable of serving as an extension of the dwelling for outdoor relaxation, dining and entertaining.”

The **MOTION** was **put** and **LOST**

FOR

Ald Edmunds
Ald James
Ald Kennedy
Ald Mulder
Ald Peers
Ald Warren

AGAINST

Ald Chipman
Ald Blomeley
Ald Chong
Ald Ewington
Ald von Bertouch
Ald Walker

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DEVELOPMENT APPLICATION PDPLANPMTD-2020/011070 – 30 KANGAROO BAY DRIVE, ROSNY PARK, 7 PEMBROKE PLACE, 92, 94, 96 AND 98 CAMBRIDGE ROAD, BELLERIVE - DEMOLITION, 86 MULTIPLE DWELLINGS, SHOPS, FOOD SERVICES AND MUSEUM /Decision contd...

The Mayor permitted Ald Edmunds to reintroduce Ald Walker's Alternative Motion.

MOVED Ald Edmunds SECONDED Ald Walker

“A. That the recommendation be adopted subject to the following additional condition being added:

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B. That the reasons for Council's decisions in respect of this matter be recorded as follows.

- Residents require on-site parking for convenience and security and their vehicles are generally unused overnight requiring a space. The proximity requirements for commercial users differ and as such generate a parking shortfall once residential requirements under the Clarence Interim Planning Scheme of 2015 are met.
- Table E6.1 of the 2015 Clarence interim Planning Scheme sets out the requirements for residential and commercial uses which calculates a shortfall of 42 parking spaces. Table E6.3 of the 2015 Clarence Interim Planning Scheme lists the rate for payment of cash-in-lieu for deficient car parking spaces in Bellerive/Kangaroo Bay as \$10,000 per space.

/ Decision contd on Page 13...

DEVELOPMENT APPLICATION PDPLANPMTD-2020/011070 – 30 KANGAROO BAY DRIVE, ROSNY PARK, 7 PEMBROKE PLACE, 92, 94, 96 AND 98 CAMBRIDGE ROAD, BELLERIVE - DEMOLITION, 86 MULTIPLE DWELLINGS, SHOPS, FOOD SERVICES AND MUSEUM /Decision contd...

- NSW RMS guidelines used to justify a parking shortfall should also be seen in light of the October 2016 NSW Department of Planning and Environment *Draft Medium Density Design Guide* section 2O “Rates for car parking are nominated by council to ensure that the rates reflect the demand for parking and availability of public transport in an area.”

The **MOTION** was **put** and **LOST**

FOR

Ald Chong
Ald Edmunds
Ald Mulder
Ald Peers
Ald Walker

AGAINST

Ald Chipman
Ald Blomeley
Ald Ewington
Ald James
Ald Kennedy
Ald von Bertouch
Ald Warren (abstained)

The Mayor advised that as Council had failed to determine the application for a permit under the Land Use Planning and Approvals Act, 1993, the matter will be dealt with by Council’s Manager City Planning under delegation in accordance with the Act.

The Meeting closed at 9.04pm.