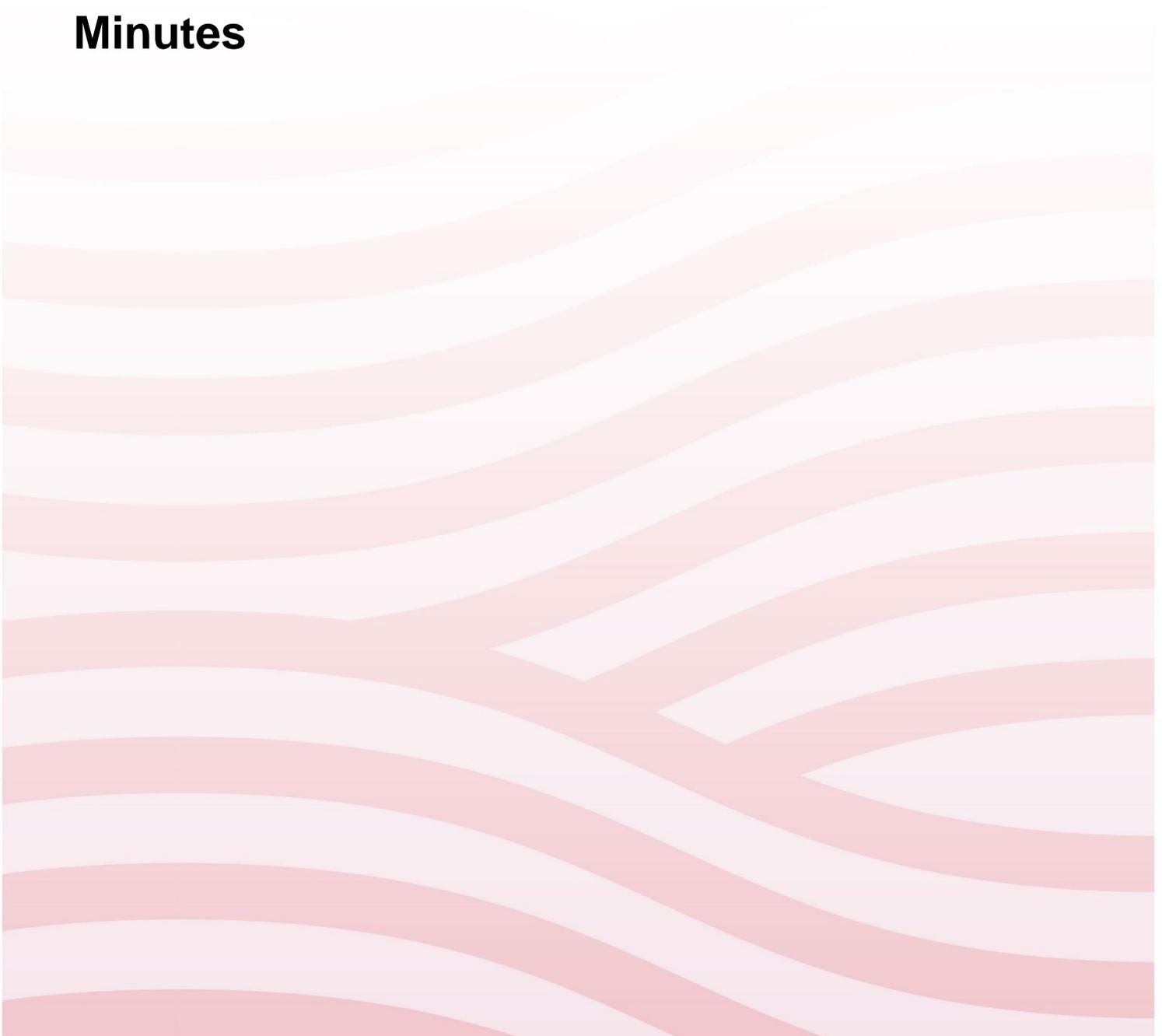




Woollahra Local Planning Panel (Public Meeting)

Thursday 18 April 2024
1.00pm

Minutes



Woollahra Local Planning Panel (Public Meeting) Minutes

Thursday 18 April 2024
Held under clause 25 of Schedule 2
of the Environmental Planning and Assessment Act 1979

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Woollahra Local Planning Panel (Public Meeting) Minutes

**Minutes of the Meeting held on
18 April 2024 at 1.00pm.**

Present: Graham Brown (Chair)
Judith Clark (Expert)
Kim Crestani (Expert)
Ronald Schaffer (Community Representative)

Staff: Eleanor Banaag (Senior Strategic Heritage Officer)
Nick Economou (Manager Development Assessment)
George Fotis (Team Leader)
Carolyn Nurmi (Governance Officer)
Kristy Welfare (Team Leader Heritage)
Thomas Wong (Team Leader)

Also in Attendance: Scott Macarthur - Consultant

Note: The Panel was briefed by council staff on each Item prior to the meeting.

The Panel heard members of the public who registered to address at the commencement of the public meeting. The public meeting was closed at 1.36pm.

The Panel then deliberated and voted on each Item in a confidential meeting.

The decisions are recorded in these Minutes.

Leave of Absence and Apologies

Nil

Late Correspondence

Late correspondence was submitted to the Panel in relation to items **D2**

Declarations of Interest

Graham Brown declared a Non-Significant Non-Pecuniary interest in item D2 (365 Edgecliff Road, Edgecliff – DA372/2023/1) as he knows Sandra Robinson through the Waverley LPP who has submitted a submission. Graham Brown remained in the meeting, participated in the debate and voted on the matter.

Item No: D1
Subject: **PLANNING PROPOSAL TO LIST TWO SCHOOL BUILDINGS IN ROSE BAY**

Authors: Eleanor Banaag, Senior Strategic Heritage Officer
Kristy Welfare, Team Leader Heritage

Approver: Anne White, Manager Strategic Planning & Place

File No: 24/46328

Purpose of the Report: To seek the advice of the Woollahra Local Planning Panel in relation to a planning proposal to list one building in Rose Bay Public School and one building in McAuley Catholic Primary School in Schedule 5 and on the Heritage Map of the Woollahra Local Environmental Plan 2014.

Alignment to Delivery Program: Strategy 4.2: Conserving our rich and diverse heritage.

Note: Councillor Mary-Lou Jarvis addressed the Panel.

Resolved:

THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal to list the following two local heritage items in Schedule 5 and on the Heritage Map of the Woollahra Local Environmental Plan 2014:

- A. 'Rose Bay Public School – Building E, including interiors' at 21 Wilberforce Avenue, Rose Bay (Lot 49-53, DP 4567).

Note: The Panel notes the existence of the palm tree that falls within the curtilage of the Rose Bay Public School Building E and that any future work to the building and its surrounds and settings will need to take into account the significance of the landscape setting.

- B. 'McAuley Catholic Primary School – former Christian Brothers College building, including interiors' at 12 Carlisle Street, Rose Bay (Lots A and B, DP 80580).

Note: *In accordance with the Woollahra Local Planning Panel Operational Procedures the votes are recorded on this planning matter.*

For the Motion

Graham Brown
Judith Clark
Kim Crestani
Ronald Schaffer

Against the Motion

Nil

4/0

ITEM No.	D2
FILE No.	DA372/2023/1
ADDRESS	365 Edgecliff Road, Edgecliff
PROPOSAL	Demolition of the Existing Strata-Titled Residential Flat Building, Construction of a New Residential Flat Building, Landscaping and Strata Subdivision

Note: Graham Brown declared a Non-Significant Non-Pecuniary interest in this item as he knows Sandra Robinson through the Waverley LPP who has submitted a submission. Graham Brown remained in the meeting, participated in the debate and voted on the matter.

Note: Councillor Mary-Lou Jarvis, Tony Moody on behalf of 365A Edgecliff Road, Suzanne Schamschula, Cecilia Spence, Andy Chow, Nicole Hofbauer, Jilian Sneyd, Porus Bharucha and Chris Noonan, Objectors address the Panel

Note: Late correspondence was tabled by Nicole Hofbauer, Suzanne Schamschula and Tony Moody

Reasons for Decision

The Panel has undertaken a site inspection, considered any submissions and late correspondence, 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.

For the reasons generally in the assessment report, the Panel is satisfied that the application can be refused subject to the conditions in the assessment report.

Resolved: Pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979

THAT the Woollahra Local Planning Panel, exercising the functions of Council as the consent authority, is not satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may not be granted to the development application, which contravenes the Height of buildings development standard under Clause 4.3 of the Woollahra Local Environmental Plan 2014.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, refuse development consent to Development Application No. 372/2023/1 for the demolition of the Existing Strata-Titled Residential Flat Building, Construction of a New Residential Flat Building, Landscaping and Strata Subdivision on land at 365 Edgecliff Road EDGECLIFF, for the following reasons:

1. Non-compliance with SEPP 65 – Design Quality of Residential Apartment Development

The proposal is inconsistent with the following design quality principles of the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development:

- a) Schedule 1, Principle 1: Context and Neighbourhood Character - The height of the proposal will be inconsistent with development on the adjacent sites and neighbourhood. The proposal fails to respond to the surrounding context and neighbourhood character.

- b) Schedule 1, Principle 2: Built Form and Scale - The bulk and scale of the proposed new building are excessive. The proposal will not achieve an appropriate built form that fits into its context.
- c) Schedule 1, Principle 5: Landscape – The proposal has not considered design measures which will adequately avoid or minimise adverse impacts on the existing tree canopy which contributes to the desired future character of the locality.
- d) Schedule 1, Principle 6: Amenity - The excessive height, bulk and scale will result in unacceptable adverse amenity impacts on the adjoining and surrounding residents.
- e) Schedule 1, Principle 9: Aesthetics - The proposal does not respond to or reinforce the existing local context and results in a built form which is excessive in bulk and scale.

2. Apartment Design Guide

The amended proposal is inconsistent with the objectives outlined in following Parts of the Apartment Design Guide:

- 2F – Building separation
- 2H – Side setbacks
- 3C – Public domain interface
- 3F – Visual privacy
- 4B – Natural ventilation
- 4M – Facades
- 4O – Landscape design

3. Woollahra Local Environmental Plan 2014, Part 1 – Clause 1.2 Aims of Plan

The amended proposal is inconsistent with the aims in Part 1.2(2) (f), (g), (l) and (m) because:

- a) it does not conserve the built and natural environmental heritage, as required in sub-clause (f);
- b) it does not protect the amenity of and the natural environment (g);
- c) it does not minimise and manage traffic and parking impacts (k);
- d) it does not achieve the desired future character of the area (l);
- e) it does not minimise excavation (m); and
- f) it does not encourage the retention and planting of trees and other vegetation as part of development (n).

4. Woollahra Local Environmental Plan, Part 2, Land Use Table

The proposal is inconsistent with the relevant objective of the R3 Medium Density Residential zone because:

- The proposal is not of a height and scale that achieves the desired future character of the neighbourhood.
- The proposal does not ensure development conserves and enhances tree canopy cover.

5. Woollahra Local Environmental Plan 2014, Part 4 – Clause 4.3 Height of buildings

The proposal does not comply with the Height of buildings development standard prescribed in Clause 4.3 of the Woollahra Local Environmental Plan 2014. The proposal fails to achieve consistency with the Objectives (a) – (e), prescribed in Clause 4.3(1) of the Woollahra Local Environmental Plan 2014.

6. Woollahra Local Environmental Plan 2014, Part 4 – Clause 4.4 Floor Space Ratio

The proposal does not comply with the Floor Space Ratio development standard prescribed in Clause 4.4 of the Woollahra Local Environmental Plan 2014. The applicant has not provided a written request pursuant to Clause 4.6 of WLEP 2014 to justify the contravention of the development standard. The proposal fails to achieve consistency with the Objectives (i-iii) prescribed in Clause 4.4(1)(a) of the Woollahra Local Environmental Plan 2014.

7. Woollahra Local Environmental Plan 2014, Part 4 – Clause 4.6 Exceptions to Development Standards

The consent authority is of the opinion that the submitted written request fails to justify the contravention of the *Height of buildings* development standard under Clause 4.3 in accordance with Clause 4.6(3)(a) and 4.6(3)(b). The submitted written request has not adequately addressed the matters required to be demonstrated by sub-clause (3) in that:

- strict compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- there are sufficient environmental planning grounds to justify contravening the development standards;
- the proposal will be in the public interest; and
- the proposal is consistent with the objectives of the Height of buildings development standard and of the R3 Medium Density Residential zone.

8. Woollahra Local Environmental Plan 2014, Part 6 – Clause 6.2: Earthworks

The excavation required to accommodate the proposal is excessive and will result in adverse amenity impacts on adjoining properties. The proposed development does not achieve the objectives prescribed in Clause 6.2(1).

9. Woollahra Local Environmental Plan 2014 – Clause 6.9 - Tree canopy cover in Zones R2 and R3

The proposed development has not demonstrated that it will avoid, minimise or mitigate adverse impacts on the existing tree canopy therefore it does not comply with Clause 6.9 of WLEP 2014.

10. Woollahra Development Control Plan 2015, Chapter B1: Wallaroy Residential Precinct

a) Part B1.1.3

The proposal fails to achieve consistency with Objectives O1-O7 of the precinct objectives outlined in Part B1.1.3 of the Woollahra DCP 2015 in that the proposal is considered to be excessive in bulk and scale when compared to the existing streetscape character, is inconsistent with the desired future character of the neighbourhood and will result in adverse amenity impacts on adjoining properties with regards to solar access, view loss and visual privacy.

b) Part B1.4.2: Desired future character

The proposal fails to achieve consistency with Objectives O1, O3, O6 and O8 of the desired future character of the Wallaroy Residential precinct outlined in Part B1.4.2 of the Woollahra Development Control Plan 2015, because:

- a) it does not respect and enhance the streetscape character and key elements of the precinct;

- b) it does not minimise cut and fill,
- c) it does not promote view corridors between buildings to significant views, particularly harbour views; and
- d) it does not retain and reinforce the green setting of mature street trees.

11. Woollahra Development Control Plan 2015, Chapter B3 General Development Controls

The proposed development is of a bulk and scale which will not achieve the desired future character of the area, will not retain and reinforce the green setting of mature street trees and will adversely affect the amenity of adjoining and surrounding properties with respect to view loss, overshadowing privacy and excessive excavation. It fails to achieve the following relevant objectives and controls prescribed in Chapter B3 General Development Controls of the Woollahra DCP 2015:

- (a) The relevant precinct objectives as outlined in Part B1.1.3 and the streetscape character and key elements of the precinct as listed in Part B1.4.2 of the Woollahra DCP 2015.
- (b) Objectives O1, O3, O4 & O6 and Control C2 of Part B3.2.3 – Side setbacks of the Woollahra DCP 2015.
- (c) Objectives O5 & O6 and Control C1 of Part B3.2.4 – Rear setback of the Woollahra DCP 2015.
- (d) Objectives O1 c), d), f) and g) and Controls C2, C4a) and C9 of Part B3.4 – Excavation of the Woollahra DCP 2015
- (e) Objectives O1 & O3 and Controls C1, C2, and C4 of Part 3.5.1 – Streetscape and Local Character of the Woollahra DCP 2015
- (f) Objective O1 and Control C1 of Part B3.5.2 – Overshadowing of the Woollahra DCP 2015
- (g) Objective O3 and Controls C5, C6, C7 prescribed in Part B.3.5.3 - Public and private views of the Woollahra DCP 2015.
- (h) Objective O2 and Control C4 prescribed in Part B.3.5.4 – Visual privacy of the Woollahra DCP 2015.
- (i) Objective O1 of Part 3.5.5 – Internal Amenity of the Woollahra DCP 2015
- (j) Objectives O1, O2, O5 and Control C1 prescribed in Part B3.6 - On-site parking of the Woollahra DCP 2015.
- (k) Objectives O1, O2, O7 & O9 and Controls C1 & C14 prescribed in Part B3.7.1 - Landscaped Areas and Private Open Space of the Woollahra DCP 2015.
- (l) Objectives O1 and O2 and Controls C4 prescribed in Part 3.7.2 – Fences of the Woollahra DCP 2015.

12. Woollahra Development Control Plan 2015, Chapter E1: Parking and Access

The proposal includes an overprovision of car parking spaces and inadequate information has been submitted to enable a full and accurate assessment of the proposal against the relevant considerations outlined in Chapter E1 of the Woollahra DCP 2015.

Therefore, it fails to achieve the following:

- (i) Objectives O1, O2, O3, O4 and O5 in Part E1.1.3 - Objectives
- (ii) Table 1 in Part E1.4.2 - Residential generation rates
- (iii) Parking and Access Design Standards in Part E1.10

13. Woollahra Development Control Plan 2015, Chapter E3: Tree Management

The proposed development has not demonstrated that it will avoid, minimise or mitigate adverse impacts on the existing tree canopy as outlined in Chapter E3 of Woollahra DCP 2015.

Therefore, it fails to achieve the following:

- (i) Objectives O3, O4 and O5 in Part E3.1.3 - Objectives

14. Insufficient and Inconsistent Information

Inadequate information has been submitted to enable a full and accurate assessment of the proposal against the relevant considerations pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979.

Particulars

The following information has not been provided:

- a) A *Clause 4.6* written request demonstrating that compliance with the *Floor Space Ratio* development standard is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.
- b) Insufficient information has been provided in relation to the surveyed level of the existing basement so as to confirm "ground level (existing)" for the purpose of accurately determining the maximum building height of the development. The submitted survey plan is inadequate in order to make a full and accurate assessment.
- c) *Shadow diagrams* demonstrating the potential impacts on the communal open space area of 363 Edgecliff Road
- d) A *View Loss Assessment* demonstrating the potential impacts on the views currently afforded adjoining properties. In assessing the reasonableness or otherwise of the degree of view loss, this report must have regard to the case law established by *Tenacity Consulting v Warringah (2004) NSWLEC 140* which has established a four step assessment of view sharing.
- e) Insufficient information has been provided in relation to the potential impacts from excavation and construction on Tree No. 2 *Ficus macrocarpa* var. *hillii* (Hills Weeping Fig).

A *Tree Root Investigation* must be undertaken, and the results included in a report that must be prepared by a qualified Arborist with a minimum Australian Qualification Framework (AQF) of Level 5. The report must include:

- Root investigations must be undertaken along the front boundary (within the footpath) adjacent to tree 2.
 - This shall consist of either hand excavation or 'air knife, along the boundary for the full extent of the TPZs of tree 2, to a minimum depth of 800mm below the existing grade.
 - An assessment and documentation of tree root size, number and condition.
 - Photographs of the completed excavation line including points of reference to determine orientation and location on site.
 - A site plan showing all excavation lines and root locations in relation to the proposed new building and basement.
 - Site specific recommendations based on the findings and discussion. An explanation of why options are recommended or not recommended must be included. This shall include number of roots that will need to be pruned for the works and the likely impact this will have on the longer-term viability of the trees.
- f) Inconsistent/insufficient information has been provided in relation to natural ventilation. The Architectural Plans, prepared by MHN Design Union Pty Ltd and Acoustic Report prepared by Renzo Tonin & Associates, must be consistent with regard to natural ventilation. Clarification and further justification is required to be provided regarding which sections of the proposed development will be requiring supplementary ventilation in accordance with the Development Near Rail Corridors and Busy Roads and BCA criteria.

Details of the means of ventilation for the basement parking must be provided once mechanical plant selections are determined and additional consideration for exhaust emissions and ventilation system noise emissions should be considered for the basement.

- g) *Air conditioning* - The locations of 'A/C Plant' shown in Section A [Dwg DA3100 (Rev A)] are inconsistent with Basement 2 [Dwg DA2003 (Rev A)] and Basement 3 [Dwg DA2002 (Rev A)] which nominate those areas as 'Switch Room', 'Hot Water'. Relevant plans and sections must be amended to show consistent locations of the proposed 'A/C Plant'.
- h) A *3D digital model* must be provided, which accords with Council's DA Guide Attachment 9 – 3D Digital Model Requirements.
- i) *Vehicle access and parking*
 - A revised traffic report must be submitted to incorporate the following:
 - Insufficient information has been provided in relation to the dimensions of the loading zone and its function given the scale and nature of the development. Justification for the provision of an on-site loading bay which is considered redundant given the scale and nature of the development, noting the current proposal already exceeds the maximum requirement of parking for residential developments; and
 - Traffic signal system be incorporated to manage traffic flow among each level of car park and the frontage road, priorities should be given to vehicles entering the car park and waiting bay should be provided accordingly.
 - Insufficient information has been provided in relation to the spatial requirements of the car parking area. Dimensions of all parking spaces, aisle widths, vehicle turntable and driveway widths must be depicted on the plans, with an additional 300mm added to the space if there is a side intrusion.
 - Insufficient information has been provided in relation to the maximum driveway grade and whether it is compliant with AS2890.1 in terms of car scraping and head room. Longitudinal surface profiles along each side/edge for the proposed driveway to the propose car lifts should be submitted to ascertain the proposed vehicular access meets all requirements stipulated in AS 2890.1 in terms of car scraping and head room, noting the gradient for the first 6m into the car lift should not exceed 1 in 20. The driveway profiles along each side/edge of the proposed driveway is to start from the road centreline which includes Council's standard layback and gutter into the proposed basement. Gradients and transitions must be designed in accordance with Clause 2.5.3 of AS 2890.1. Council's standard layback is 450mm wide and back of the layback is 70mm above the gutter invert. Level of the existing footpath must remain unaltered.
 - Insufficient information has been provided in relation to the dimensions of the waiting bay at the entry point to comply with E1.15 of Council's DCP. The minimum length of a waiting bay shall be 6 metres with a maximum grade of 1 in 20.
 - Confirmation is required if the proposed two car lifts are operating independently and are designated for entry and exit only as indicated in the architectural drawings, or a conflict analysis should be provided to demonstrate efficient operation of the two lifts among different basement levels,
 - The plans are unclear as to the location of visitor parking. Clarification is required if it is within the basement then further information is required with regards to the operational elements of the car lift for visitors.
 - Signage, pavement marking and bollard should be provided to the shared area for accessible parking space, as per AS 2890.6 and should be clearly depicted in the architectural drawings.

15. Public Interest

The proposed development is not in the public interest.

Note: In accordance with the Woollahra Local Planning Panel Operational Procedures the votes are recorded on this planning matter.

For the Motion

Against the Motion

Graham Brown
Judith Clark
Kim Crestani
Ronald Schaffer

Nil

4/0

There being no further business the meeting concluded at 2.22pm.

We certify that the pages numbered 1 to 11 inclusive are the Minutes of the Woollahra Local Planning Panel (Public Meeting) Meeting held on 18 April 2024 and confirmed by all Panel members of the Woollahra Local Panel on 2 May 2024 as correct.

Chairperson

Secretary of Committee

Expert

Expert

Community Representative