

RELEVANT INFORMATION FOR COUNCIL

FILE: D/2016/1330 **DATE:** 15 September 2017
TO: Lord Mayor and Councillors
FROM: Louise Kerr, Acting Director City Planning, Development and Transport
SUBJECT: Information Relevant To Item 8.5 - Development Application D/2016/1330:
75–81 Darlinghurst Road Potts Point - At Council - 18 September 2017

Alternative Recommendation

It is resolved that:

- (A) the variation sought to Clause 4.3 building height in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 be supported;
- (B) the variation sought to Clause 4.4 Floor Space Ratio in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 be supported; and
- (C) consent be granted to Development Application No. D/2016/1330, subject to the conditions as detailed in **Attachment A** to the Planner's report to the Planning and Development Committee on 11 September 2017, subject to the addition of Conditions (1A), (1B) and (1C) and the amendment of Condition (7) as follows (with additions shown in ***bold italics*** and deletions shown in ~~strikethrough~~):

(1A) 'PORKY'S' NEON SIGNAGE

The under awning facade 'Porky's' sign, under awning "Porky's nite spot" sign and strip lighting to the underside of the awning are to be retained in-situ.

The three existing "Porky's" wall signs located on the facade at first/second floor level are to be retained and one or more of these signs should be re-interpreted on the site.

Details of the re-interpretation plan, including the location and fixing of signage retained on site and photographic details of any signs not retained on site, must be submitted to and approved by Council's Director City Planning, Development and Transport prior to any Construction Certificate being issued.

(1B) BALCONY TO LEVEL 1 TO BE DELETED

The glass block / translucent outdoor balcony/courtyard to level 1 is to be deleted from the plans.

Amended drawings must be submitted to and approved by Council's Director City Planning, Development and Transport prior to any Construction Certificate being issued.

(1C) AIR CONDITIONING TO BAY WINDOWS

Any air conditioning provided within the bay window areas must be fully concealed both internally (via an integrated bay window seat/bench) and externally. The air conditioning units must not be visible from the street externally or through the glazing of the bay windows.

(7) FLOOR SPACE RATIO - ALL OTHER AREAS

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the building must not exceed ~~3.25~~ **3.02:1** and for the calculated in accordance with Sydney LEP 2012. For the purposes of the calculation of FSR, the total Gross Floor Area is ~~881.92~~ **949.52sqm**.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total Gross Floor Areas in the development, utilising the definition under Sydney LEP 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

Notes:

~~The ground floor courtyard area that is covered by built form above (either floor of outdoor meeting area at Level 1 or Level 3 floor) has been included in this calculation of GFA.~~

The ground floor courtyard area is excluded from GFA.

The 'end of journey' floorspace including lockers, bike parking and shower facilities within the basement has been included in this calculation of GFA.

~~The open outdoor meeting area on level 1 has been excluded from the GFA calculation.~~

Background***Design Advisory Panel***

At the meeting of the Planning and Development Committee on 11 September 2017, Councillors wanted to know the comments raised by the Design Advisory Panel. The application was presented to the Design Advisory Panel on 14 September 2017. The Design Advisory Panel were generally supportive of the proposal and made the following specific comments:

- Concern was raised in regard to the courtyard at ground floor being covered by the level 1 balcony. The Panel suggested that the balcony on the first floor over the courtyard be deleted so as to improve the amenity of the ground floor courtyard.

Response: Condition 1B requiring the deletion of the level 1 balcony is recommended in this memo to be added.

- The curved facade may create an awkward junction at the boundary when the adjoining site develops and this will have to be carefully dealt with.

Response: Noted.

- Concern was raised over the placement of plant (air conditioning units) in the bay windows and that plant should be provided in a consolidated area on the roof.

Response: The applicant has provided further information and explained that the air conditioning unit in the bay windows would be fully concealed both internally and externally and form a bay window seat/shelf internally. Condition (1C) to require this is recommended in this memo.

The applicant also confirmed that there is adequate space within the stair overrun to provide plant requirements for the new floors. It is noted that Condition (8) (Approved Design – Roof top Plan) and Condition (11) (No Air Conditioning Units to Facade to Balconies of Building) require all plant to be housed within approved building envelope and prohibits any individual units to the facade or balconies.

- Structural issues were mentioned, however panel members noted that the building span of approximately 10m would not cause any major issues.

Response: Noted. Conditions (41) (Structural Integrity of Retained Building Element) and Condition (2) (Structural Certification for existing Buildings – Alterations and Additions) require appropriate structural certification.

- Supportive of planner's recommendation on height and FSR non-compliance

Response: Noted.

Neon Signs

Councillors asked that the applicant and architect give consideration to the retention of existing neon signage.

The project architect confirmed the existing under awning facade "Porky's" sign, under awning "Porky's nite spot" sign and strip lighting to the underside of the awning are able to be retained in-situ. The suggested condition above requires this.

The three existing "Porky's" wall signs located on the facade at first/second floor level could not remain in-situ, given the reinstatement of the oriel bay windows. However, the project architect and applicant confirmed they would be open to investigating re-interpretation of one or more of these signs on site. The suggested condition above requires this with approval required from the Director City Planning, Development and Transport prior to the issue of any construction certificate.

Potential locations discussed included on top of the awning, behind the bay windows or within the ground floor reception area. The project architect also suggested a location of the south west, side elevation, of the new extension. However, given this wall may be covered if the neighbouring site is redeveloped in a similar way, it would only be an interim solution and signage at this level may be inappropriate, given the disconnection from the streetscape.

Speaker's Concerns

Councillors also asked that issues raised by a speaker be addressed. Each of the issues and a response are included below:

- DA Conditions (2) and (33) do not absolutely prohibit flammable cladding. They only require paperwork about it. Public safety is paramount.

Response: Flammability of materials is dealt with by the National Construction Code. Condition 33 is a standard condition that the City of Sydney includes on all development consents that makes it clear that the development *must* comply with the National Construction Code (NCC) with particular regard to material flammability. The condition raises awareness of the flammability issue of materials at an early stage and makes it clear that appropriate documentation must be submitted to a PCA during the assessment of the construction certificate and prior to the occupation of the building. The condition is appropriate.

- DA Condition (12) (Signage Strategy) does not require retention of heritage neon signage. The speaker has stated that the neon signs should be retained.

Response: Condition (12) (Signage Strategy) requires a signage strategy for any future signs.

The new condition recommended in this memo will require the retention of the awning facade “Porky’s” sign, under awning “Porky’s nite spot” sign and strip lighting to the underside of the awning. The condition also requires the reinterpretation of one or more of the larger “Porky’s” wall signs on site.

- DA Condition (38)(a) (General Heritage) only proposes that “works are to be carried out in a manner that *minimises* [not prohibits] demolition, alterations and new penetrations/fixings to the significant fabric of the existing building which is a contributory building located within a heritage conservation area”. This does not ensure protection or conservation of such heritage items.

Response: The development must comply with the plans, as approved, which include the retention and significant refurbishment of the building. It is not reasonable to prohibit any alterations to the existing fabric which are required for the approved works, as this would not allow restoration, maintenance and general works which may be required to be carried out.

- DA Condition (28) (Demolition, Excavation and Construction Noise and Vibration Management Plan) should be amended to ensure the plan is publically disclosed and provided to neighbours on-line and at Councils Kings Cross Neighbourhood shop so they can monitor and report breaches of their residential amenity.

Response: This document is required to be reviewed and approved by Council’s Health and Building staff. The document can be made available to any person upon request being made to Council. Any concerns or complaints during the construction process can be forwarded to the City for further investigation.

- There is no known shadow impact report justifying overshadowing of the eastern side of Darlinghurst Road, where locals enjoy cafes in the winter months.

Response: Shadow diagrams were provided with the application. At 12 noon the additional overshadowing is limited to Darlinghurst Road only. Some additional overshadowing to the footpath adjacent to the properties from 56-62 Darlinghurst Road is evident between 1-3pm. There are no approvals for footway dining at any of the affected properties from 56-62 Darlinghurst Road. The only footway dining within the area is at 46 Darlinghurst Road which is located north of the subject site and will not be affected by the proposal.

It is noted that the Sydney DCP 2012 includes controls to protect sunlight to publicly accessible open spaces, but not to footpaths or commercial premises.

- The proposed metal screen is an anathema and does not speak to the same architectural languages as other buildings in Darlinghurst Road in terms of material size, bulk or design, It is otiose.

Response: The extension is contemporary in nature and materials and is setback 4m from Darlinghurst Road which will ensure the proposed extension does not visually dominate the existing building, streetscapes or conservation area. It is also of a contemporary design which is suitable and sympathetic to the retained building.

- 11 page heritage report submitted was essentially ignored.

Response: All submissions were considered in the assessment of the proposal including the 11 page objection referred to. A response to submissions is contained in the Planner's report to the Committee.

- The DA is to demolish the exiting three storey building, including all heritage and non-heritage neon signage, convert a licensed adult entertainment premises into a ground floor bar/restaurant and retail with a new four-storey podium on top consisting of a three level office block with metal facade and a roof-top entertainment area with lift overrun. Total storeys, including basement, is 8 storeys/levels. The height of storeys control limit is 6 storeys.

Response: The application proposes the *retention and refurbishment* of the existing 3 storey plus basement contributory building. Retention of signage has been discussed above. A 3 storey extension is proposed. The basement is not considered a storey in terms of the height of building control and the building is 6 storeys.

- No view loss report is provided but losses will affect residents in the Altair building, for example, Figure 25 at point 63 is misleading. It only applies to one apartment. A view from a neighbouring apartment would show the full extent of significant losses of the Sydney Harbour Bridge and world heritage-listed Sydney Opera House.

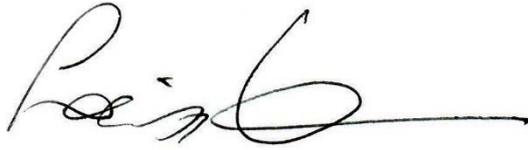
Response: Figure 25 provided in the assessment report was provided by objectors and a response is made to this particular objection and image. The majority of objections were received from the Altair building and this was the only image/photograph provided to support these objections. The Altair apartments are located at 3 Kings Cross Road, approximately 220m away to the south east.

It is clear from the images provided by the resident that the impacts were incorrectly understood and the 'mock up' was not accurate. Figures 25-27 of the assessment report seek to explain this and the proposal, by comparison, is significantly below adjacent buildings and would not impact upon water, Harbour Bridge or Opera House views.

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Approved

A handwritten signature in black ink, appearing to read 'Louise Kerr', written over a thin horizontal line.

**Louise Kerr, Acting Director City Planning,
Development and Transport**