

Relevant Information for Local Planning Panel

FILE: D/2025/410 **DATE:** 5 November 2025

TO: The Local Planning Panel

FROM: Andrew Thomas, Executive Manager Planning and Development

SUBJECT: Information Relevant To Item 4 – Development Application: 378-380 Cleveland Street, Surry Hills – D/2025/410

Alternative Recommendation

It is resolved that:

- (A) based upon the material available to the Panel at the time of determining this application, including a “Clause 4.6 Variation Request” submitted pursuant to Regulation 35B of the Environmental Planning and Assessment Regulation 2021, the Panel is satisfied that the applicant has demonstrated that compliance with the floor space ratio development standard in clause 4.4 of the Sydney LEP 2012 is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening this development standard.
- (B) consent be granted for Development Application D/2025/410 subject to the conditions set out in Attachment A to the subject report and subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~ and Condition 48A has been inserted):

(3) HOUSING AND PRODUCTIVITY CONTRIBUTION

Before the issue of any Construction Certificate the housing and productivity contribution (HPC) set out in the table below is required to be made.

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$11,566.49
Transport project component	Nil

Total housing and productivity contribution	\$11,566.49 \$11,566.49
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The HPC (indexed at March 2025) must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).

At the time of payment, the amount of the HPC is to be adjusted in accordance with the Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the Environmental Planning and Assessment Act, 1979 agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act, 1979 to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2026.

Reason

To require contributions towards the provision of regional infrastructure.

(12) BICYCLE PARKING AND END OF TRIP FACILITIES

- (a) The minimum number of bicycle parking spaces and end of trip facilities to be provided within the site boundary for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Staff / Employee	2	Spaces must be Class 2 bicycle facilities
End of Trip Facility Type	Number	
Showers with change area	2	-
Personal lockers	3 2	

- (b) All bicycle parking spaces and end of trip facilities must be provided on private land. The public domain cannot be used to satisfy this condition.

- (c) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Registered Certifier confirming prior to and form part of the Construction Certificate being issued.

Reason

To ensure the allocation of bicycle parking onsite that is in accordance with the Australian Standards and the Council's DCP.

(48A) NOISE FROM COMMERCIAL AND INDUSTRIAL ACTIVITIES

- (a) ***Cumulative noise must not exceed either a project noise trigger level or maximum noise level in accordance with relevant requirements of the NSW EPA Noise Policy for Industry 2017 (NPfI).
External background noise monitoring must be carried out in accordance with the long-term methodology in Fact Sheet B of the NPfI unless otherwise agreed by the City.***
- (b) ***Cumulative noise from the use must comply with the following requirements when assessed inside an occupiable room of a separate premises that is residential accommodation, tourist and visitor accommodation, or a sensitive commercial premises at any time:***
 - (i) ***An LAeq, 15 minute measured with external windows and doors closed must not exceed the lesser of either an internal LA90 + 0 dB measured with external doors and windows closed, or 30 dB(A) for a sleeping area, or else 40 dB(A) in any other habitable room.***
 - (ii) ***An LAeq, 15 minute measured with external windows and doors open must not exceed the internal LA90 + 0 dB when measured with external windows and doors open. This is not applicable if the room has an alternative source of ducted ventilation.***
 - (iii) ***An Internal LA90 must represent the receiver in a quiet state. It may be derived from the median of multiple LA90, 15 minute measurements at the same location.***
 - (iv) ***Internal background noise measurements must not include noise from the land subject to development but may include noise from necessary alternative passive or mechanical ventilation at the affected premises.***
 - (v) ***Corrections in Fact Sheet C of the NPfI are applicable to relevant noise from the use measured in accordance with the above, however duration corrections are excluded from commercial noise. A correction for impulsive noise must be made in accordance with section 6.6.4 of Australian Standard 1055.1-***

1997.

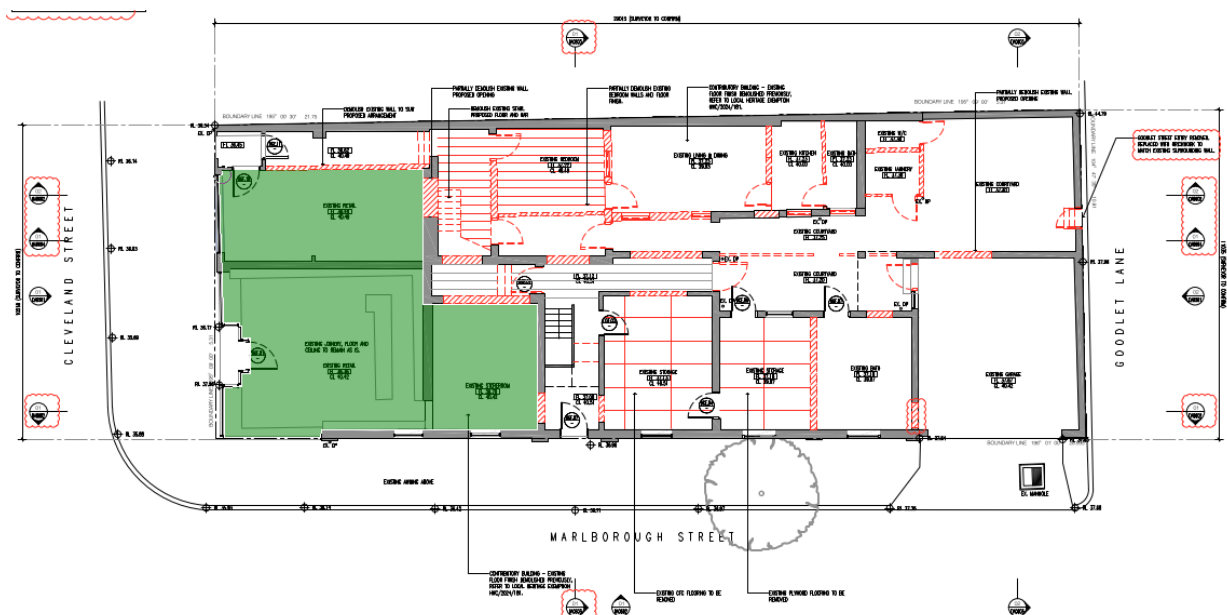
- (vi) *This requirement does not apply to an entertainment activity as defined by S202A of the NSW Local Government Act. Noise sources outlined in S1.5 of the NPfI with the exception of sporting facilities, are excluded from this requirement unless advised.*

Background

The applicant through email correspondence requested several changes be considered to the recommended conditions of consent, which are summarised below.

Amend Condition 3 – Housing and Productivity Contribution to decrease the amount payable as the existing ground floor in its entirety is alleged to be commercial.

Not supported: This requested amendment is not supported by Council staff as our records and the plans submitted show the majority of the ground floor area constitutes residential uses. Only the two ground floor tenancies fronting Cleveland Street including one adjoining storeroom are identified as commercial on early development approvals and the submitted plans. The area exempted from the new commercial floor space calculation as per the recommendation is shaded in green below:



Additionally, the total housing and productivity contribution payable under Condition 3 is recommended to be amended from \$11,566.49 to \$11,566.49, the change being a minor typographical correction to replace the full stop with a comma.

Amend Condition 12 – Bicycle Parking and End of Trip Facilities to remove the requirement for two showers with change areas.

Supported: The City Access and Transport Team (CAT) supports deleting the requirement for two showers with change areas. CAT also supports the reduction of personal locker requirements from three to two. The reasons outlined in the applicant's memo are accepted.

Remove Condition 48 – Noise from Entertainment Activities to be removed as no live music or performance is proposed.

Not supported: Deletion of the condition is not supported as live music and performances in restaurants are sometimes exempt. When there are no entertainment activities, this condition is advisory.

Council staff has recommended the following condition be inserted which was omitted in error. This condition was not requested in the applicant's email.

Insert Condition 48A – Noise from Commercial and Industrial Activities is recommended by Council staff to manage noise from the commercial uses including mechanical ventilation.

Prepared by: Costa Dantos, Planner

Attachment A. Applicant's letter to Council dated 31 October 2025

Approved



ANDREW THOMAS

Executive Manager

Planning and Development

Attachment A

**Applicant's Letter to Council dated 31
October 2025**

To: Sydney Local Planning Panel

CC: Costa Dantos – City of Sydney Council

From: Simon Smith – Associate Director, SJB Planning

Date: 31 October 2025

Subject: D/2025/410 – 378 and 380 Cleveland St, Surry Hills (SJB0047)

Attention: Panel Chair

I am writing with regard to the assessment report identified as Item 4 – Development Application: 378 and 380 Cleveland Street, Surry Hills, D/2025/410.

On behalf of the project team, I am writing to confirm that we are supportive of the Council Officer's recommendation but are seeking minor amendments and clarifications to the recommended conditions of consent.

Details as per below.

1. Condition 3 – Housing and Productivity Contribution

Condition 3 specifies a housing and productivity contribution of \$11,566.49 (rate of \$32.44 per sqm).

We understand that the contribution applies to non-commercial floor areas and additional floor space.

On this basis, we note the following:

Existing Floor Space (i.e. credits)

- 378 Cleveland St – Ground floor incorporating hairdresser and ancillary office (i.e. entire ground floor) = 81m²
- 380 Cleveland St – Ground floor pharmacy and offices (i.e. entire ground floor) = 111m²

Proposed Floor Space (i.e. change of use and new areas)

- First floor change of use – 185m²
- Additional floor space – Ground & First – 40m²
- Total – 225m²

On this basis we are of the view that the applicable contribution is \$7,299.00 (i.e. 225 x \$32.44 = \$7,299.00).

2. Condition 12 – Bicycle Parking and End of Trip Facilities

The proposed plans identify the provision of 2 onsite bicycle parking spaces. This has been reflected in the requirements of Condition 12.

The condition also identifies that 2 showers and associated change areas are provided.

Part 3.11(8) of the SDCP identifies that 1 shower is to be provided for every 10 bike spaces. On this basis, the requirement of 2 shower change areas for 2 bicycle spaces would be inconsistent with Part 3.11(8) of the SDCP.

However, we are of the view that showers and change areas are not deemed required on merit as noted below:

- The site is located in close proximity to a variety of public transport modes including:
 - Buses servicing Cleveland Street
 - Light rail serving Devonshire Street
 - Central station
- The site is physically constrained due existing heritage fabric and significance.
- It is not considered reasonable to provide showers onsite given the minimal number of required bicycle spaces.

As such, it is requested the condition is modified as per below:

Bicycle Parking Type	Number	Requirements
Staff / Employee	2	Spaces must be Class 2 bicycle facilities
End of trip	Number	
Showers with change area	2	
Personal lockers	3	

3. Condition 48 – Noise from Entertainment Activities

We note that Condition 48 is a standard condition regarding noise from entertainment activities.

Whilst the proposed use relates to a restaurant, no consent is sought for live music or performances.

Accordingly, we request that the Condition 48 is deleted as it relates to the ongoing use of the premises for entertainment purposes.