

## Resolution of Local Planning Panel

**14 December 2022**

### Item 3

#### **Development Application: 169-173 Victoria Street and 92-98 Brougham Street, Potts Point - D/2021/927**

The Panel:

- (A) supported the variations requested to Clause 4.3 'Height of buildings' and Clause 4.4 'Floor space ratio' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act, 1979, granted a deferred commencement consent to Development Application No. D/2021/927, subject to the conditions set out in Attachment A to the subject report, subject to the following amendments (additions shown in **bold italics**, deletions shown in ~~strikethrough~~):

#### **(2) PRELIMINARY PUBLIC ART PLAN**

Prior to the operation of consent, a preliminary public art plan, prepared ***in compliance with Clause 7.26(2) of the Sydney Local Environmental Plan 2012, and*** in accordance with the relevant requirements of the Sydney Development Control Plan 2012, the City of Sydney Public Art Policy, and the City of Sydney Interim Guidelines: Public art in private developments must be provided to the satisfaction of Council's Area Planning Manager.

#### **Reason**

To ensure public art is incorporated into the development.

#### **(3) FIRE HYDRANT DESIGN MODIFICATION AND DETAILS – VICTORIA STREET**

No consent is granted or implied for the proposed hydrant booster arrangement in front of the former Golden Apple building at 169 Victoria Street, Potts Point.

The design and details of fire hydrant booster arrangement in the front yard of that property must be amended to ~~delete the proposed hydrant cupboard and~~ provide a revised design, which is sympathetic to the heritage fabric and character of the adjoining buildings.

The amended design and details must be submitted to the satisfaction of Council's Area Planning Manager.

**Reason**

To ensure an appropriate heritage outcome.

**(27) PUBLIC ART**

- (a) A Detailed Public Art Plan with final details of the proposed public artwork must be submitted to and approved by Council's Area Planning Manager prior to issue of any Construction Certificate for above ground works.

The public artwork must be in **compliance with Clause 7.26(2) of the Sydney Local Environmental Plan 2012, and in** accordance with the Preliminary Public Art Plan referred to in deferred commencement condition (2) and approved by Council, the *Sydney Development Control Plan 2012*, the *Public Art Policy*, and the *Interim Guidelines: Public art in private developments*.

- (b) Public artwork must be installed to the City's satisfaction, inspected and approved and the Final Public Art Report submitted and approved by Council's Area Planning Manager prior to the issue of any Occupation Certificate.

Note: Public Art must be reviewed and endorsed by the City's Public Art Team and/or the Public Art Advisory Panel prior to submission for Council approval. Further information is available online at the following website:

<http://www.cityofsydney.nsw.gov.au/explore/arts-and-culture/public-art>

Please contact the Public Art Team for further information at the following email address:

[publicartreferrals@cityofsydney.nsw.gov.au](mailto:publicartreferrals@cityofsydney.nsw.gov.au)

**Reason**

To ensure public artwork is installed to the City's satisfaction.

**(51) ACOUSTIC UPGRADE OF EXISTING ORIGINAL DOORS AND WINDOWS OF PICCADILLY HOTEL AND THE TERRACES**

No consent is granted or implied for the replacement of existing glazing within retained original windows and doors within the Piccadilly Hotel at 171-173 Victoria Street, Potts Point.

Detailed drawings and specifications for **any** alternative acoustic options for those doors and windows that does not involve replacement of original fabric must be **included with a report detailing the appropriateness of any replacement glazing or alternatives which must be** prepared and submitted to and approved by Council's Area Coordinator Planning Assessments or Area Planning Manager prior to a Construction Certificate being issued.

#### **Reason**

To ensure an appropriate heritage outcome.

### **(122) SITE AUDIT STATEMENT**

~~Prior to the issue of a construction certificate associated with the built form of the development (excluding building work directly related to remediation), a Section A Site Audit Statement must be obtained from a NSW Environment Protection Authority accredited Site Auditor and submitted to the Council's Area Planning Manager at email address:~~

~~[hbapplications@cityofsydney.nsw.gov.au](mailto:hbapplications@cityofsydney.nsw.gov.au)~~

***In the event that further contamination investigation requires a Section A Site Audit Statement from a NSW Environmental Protection Authority accredited Site Auditor, it must be submitted to the Council's Area Planning Manager at email address [hbapplications@cityofsydney.nsw.gov.au](mailto:hbapplications@cityofsydney.nsw.gov.au) prior to the issue of a construction certificate associated with the built form of the development (excluding building work directly related to remediation).***

The Site Audit Statement must confirm that the site has been remediated in accordance with **any subsequently** the approved Remedial Action Plan and clearly state that site is suitable for the proposed use.

- (a) In circumstances where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council, these must be reviewed and must be approved by the Council's Health and Building Unit in writing through the Area Planning Manager before the Site Audit Statement is issued.
- (b) In circumstances where the Site Audit Statement conditions (if applicable) are not consistent with the consent, the development must not proceed until the inconsistency has been resolved to the satisfaction of Council (such as via a Section 4.55 modification of the consent pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*).
- (c) No Occupation Certificate is to be issued by the Principal Certifier unless a Site Audit Statement has been submitted to and approved by Council in accordance with this condition.

#### **Reason**

To ensure that the site is appropriately remediated.

## Reasons for Decision

The application was granted deferred commencement consent for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act, 1979, in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.
- (B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney Local Environmental Plan 2012, that compliance with the 'Height of buildings' and 'Floor space ratio' development standards is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 and Clause 4.4 of the Sydney Local Environmental Plan 2012; and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 Mixed Use and R1 General Residential zones and the 'Height of buildings' and 'Floor space ratio' development standards.
- (C) The proposal otherwise generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012.
- (D) The proposal is consistent with the objectives of the B4 Mixed Use and R1 General Residential zones.
- (E) The proposal will conserve the heritage significance of the Piccadilly Hotel building and the surrounding Potts Point and Woolloomooloo heritage conservation areas, in accordance with Clause 5.10 of the Sydney Local Environmental Plan 2012.
- (F) The articulation, materiality and architectural contribution of the proposal combine to exhibit design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (G) The proposed development will have a height, scale and form suitable for the site and its context, and subject to conditions, satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the broader locality.
- (H) The proposed development will result in a mix of compatible land uses which will support the vitality of the area and will not result in any significantly adverse environmental or amenity impacts on either the subject or surrounding properties, the public domain or the broader Potts Point locality, subject to the recommended conditions.
- (I) Subject to the recommended conditions of consent, the proposed development achieves an acceptable level of amenity for the existing and future occupants of the subject and adjoining sites.

- (J) The public interest is served by the approval of the proposal, as amendments to the proposed development have generally addressed the matters raised by the City and the community, subject to recommended conditions imposed relating to the appropriate management of the potential environmental impacts associated with the development.
- (K) Conditions 2 and 27 were amended to provide more certainty with regard to compliance with Clause 7.26(2) of the Sydney Local Environmental Plan 2012.
- (L) Conditions 3 and 51 were amended at the request of the applicant, to permit a degree of flexibility whilst retaining the original intent in relation to addressing the potential for heritage impacts in an appropriate manner.
- (M) Condition 122 was amended to ensure it aligns with the requirements of condition 121.

Carried unanimously.

D/2021/927