

Resolution of Local Planning Panel

20 September 2023

Item 4

Development Application: 502-514 Elizabeth Street and 272-276 Cleveland Street, Surry Hills - D/2022/600

The Panel:

- (A) upheld the variation requested to the height of buildings development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012;
- (B) upheld the variation requested to the floor space ratio development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (C) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, granted a deferred commencement consent to Development Application Number D/2022/600 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) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The basement carpark must be setback 5.5 metres from the northern property boundary (Goodlet Street) to allow for the retention of the existing paperbark street trees.
- (b) The signage zone shown on the corner of Goodlet and Elizabeth Street is not approved and is to be deleted from the plans.
- (c) The letterboxes are to be relocated to a secure location.
- (d) The design of the footpath awning on Cleveland Street is to be amended so that the clearance height between the footpath and the kerb is no less than 3.2m at any given point.

- (e) The architectural plans are to be amended to include markups and additional annotations regarding requirements and output capacity for PV systems. To maintain consistency with sustainability reporting in the development application; annotations are required to clearly identify a photovoltaic system, totalling a peak capacity in line with previously reported 45 kWp.
- (f) ***On the ground floor of the Elizabeth Street frontage, the second bay from the corner of Goodlet Street and Elizabeth Street within Tenancy 6 is to be provided with an 'in-go' in the form of a recessed doorway, as per the other shopfronts further to the south.***

The modifications are to be submitted to and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager Planning prior to the issue of a construction certificate.

(33) ALLOCATION OF PARKING

The number of car parking spaces to be provided for the development, ***with the exception of the small rigid vehicle loading dock***, must ~~comply with~~ ***not exceed*** the table below. Details confirming the parking numbers must be submitted to the satisfaction of the Registered Certifier prior to the issue of a Construction Certificate.

Car Parking Type	Number
Office and business parking	16
Accessible office and business parking	2
Retail parking	8
Subtotal	26
Motorcycle parking	3
Small Rigid Vehicle loading dock(s)	1
Total	30

(94) TREE ROOT INVESTIGATION

Prior to determining the final location of the underground car park and the design of the footing along the boundary:

- (a) Exploratory root investigation must be undertaken by a qualified Arborist (minimum AQF Level 5) along the north alignment. This shall consist of carefully removing the asphalt and hand digging a trench along the boundary to expose tree roots to a minimum depth of 800mm below the existing grade. An assessment of tree root size, number and condition must be provided (including photos) in a report and submitted to Council's Area Planning Manager for approval prior to installation of the driveway and crossover.
- (b) In the event any large structural roots (greater than 40mm diameter) are identified as a result of the exploratory root investigation, the underground carpark is likely to require ~~five~~ **5.5** metres' setback from the boundary to ensure the street tree is not compromised as a result of the works.
- (c) In the event any large structural roots (greater than 40mm diameter) are identified as a result of the exploratory root investigation. the design of the northern footing must be constructed without the use of a continuous strip footing. The construction method shall include pier and beam footing or other root sensitive methods, to ensure tree roots greater than 40mm in diameter are not damaged, pruned or removed during construction of the wall.
- (d) Any root pruning approved by Council must be undertaken by a qualified Arborist with a minimum AQF level 3.

Reasons for Decision

The application was approved 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 the recommended conditions of consent, it is generally consistent with the planning controls applicable to the site, and where variances are proposed these are acceptable 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 LEP 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 clauses 4.3 'Height of buildings and 4.4 'Floor space ratio' of the Sydney LEP 2012; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the MU1 'Mixed Use' zone and the height of buildings and floor space ratio development standards.
- (C) The proposal otherwise satisfies the objectives and provisions of State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, the Sydney Local Environmental Plan 2012, and the Sydney Development Control Plan 2012.
- (D) The proposal is consistent with the objectives of the MU1 'Mixed Use' zone and the SP2 'Infrastructure' zone.

- (E) The proposal will contribute to the conservation of the Goodlet Street heritage conservation area (C63) through the retention and enhancement of part of 502-508 Elizabeth Street.
- (F) The proposed development appropriately responds to the site and its context, with a building that is appropriate in terms of its height, floorspace and architectural expression, and achieves design excellence.
- (G) The proposed land uses are permissible within the zone and will support the vitality of the area. Subject to the recommended conditions of consent, the proposed land uses will positively contribute to the amenity of the locality and will not result in adverse impacts.
- (H) The public interest is served by the approval of the development, as amendments to the design have generally addressed the concerns of Council staff and the community, and the recommended conditions of consent will mitigate any environmental impacts that could potentially arise from the construction and operation of the proposed development.
- (I) Condition 2 was amended to more genuinely reflect the original shopfronts.
- (J) Condition 33 was amended, except as it relates to the loading dock, to allow for fewer car parking spaces without the need to modify the development consent.
- (K) Condition 94 was amended to correct a typographical error, ensuring consistency with Condition 2 and aligning with the recommendations of the City's Tree Management Unit.

Note: The Panel drew the attention of Council and the Director of City Planning Development and Transport to the continuing heritage impact of 1950's road widening reservations along Cleveland Street.

Carried unanimously.

D/2022/600