

## Resolution of Local Planning Panel

**1 May 2024**

### Item 3

#### Development Application: 61-63 Macleay Street, Potts Point - D/2022/1363

The Panel:

- (A) upheld the variation requested to Clause 4.3 'Height of buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (B) granted consent to Development Application Number D/2022/1363 subject to the conditions set out in Attachment A to the subject assessment report, subject to the following amendments (additions shown in ***bold italics***):

#### **(8) DESIGN MODIFICATIONS**

The following amendments must be made to the architectural and landscape drawings referred to in condition (1) of this development consent:

- (a) The eastern portion of the new basement level labelled 'Garbage Store' shown located beyond the blue dashed line labelled 'Original Line of Heritage Building Over' must be deleted. A new basement wall to the 'Garbage Store' space must be shown within the blue dashed line labelled 'Original Line of Heritage Building Over' and the green hatched area labelled '600mm Zone of Basement Wall Construction' must be shown to be extended adjacent to this new wall.
- (b) The doors to, and internal walls between the rooms labelled 'Garbage Store' and 'Bulky Waste' must be deleted and the two rooms and the space labelled 'BOH Passage' must be amalgamated as a 'Garbage and Bulky Waste Store', with at least a minimum 4 square metre area designated to accommodate bulky waste, and new locations designated for a glass crusher, baler machine, cardboard bale, 2 120L glass bins, 2 120L FOGO bins, 1 660L Landfill bin and 1 660L Recycling bin. A new door to the amalgamated space must be provided at the junction of the wall to the adjacent space labelled 'Store' and adjacent space labelled 'Kitchen Prep'.

- (c) The green hatched area labelled '600mm Zone of Basement Wall Construction' must be shown to be extended along the full length of the new northern basement wall of both of the spaces labelled 'Kitchen Prep' and 'Store'.
- (d) A note 'to reinstate open balcony' must be added to the note 'Windows to be removed' on the drawing titled 'Demolition Plan - Level 1', numbered DA-0102, revision 15 and dated 12 October 2023, and a note 'to reinstate open balcony' must be added to the note 'Reinstated original railing details' on the drawing titled 'Floor Plan - Level 1', numbered DA-0203, revision 19 and dated 27 February 2024.
- (e) The windows within the ground level walls of the existing turret must match the original timber double hung design and have equal sash sizes.
- (f) The portion of the green wall located within 900mm of operable hotel room windows at level 1, level 2 and level 3 must be deleted.
- (g) The space labelled 'Terrace' at level 4, including the two adjacent spaces labelled 'Planter', and the glazed sliding doors to the adjacent space labelled 'Lounge' must be deleted. The existing roof must be depicted as being retained for the full extent of the deleted 'Terrace' and 'Planters', with operable glazed windows shown to the eastern elevation of the 'Lounge' and box gutter provided adjacent.
- (h) The pelmet between level 2 and level 3 must be deleted and the existing level 2 ceiling to wall junction must be retained. The new ceiling below the existing level 2 ceiling must be set a minimum 1 metre away from the inside face of the external wall, with a pelmet width of 1 metre.
- (i) Lead or zinc capping must be shown to be applied to the top surfaces of all parapets and ledges of the existing building to protect the building facades from water ingress, and noted as such on all relevant elevation drawings.
- (j) Individual, secure, lockable storage facilities must have a minimum capacity of 0.6 cubic metres per person in each room.
- (k) The new western wall of the basement level must be clearly located within the allotment boundary of the site.
- (l) The new northern wall of the rear ground floor level addition must be clearly located within the allotment boundary of the site.
- (m) The new northern wall to the bathroom of the hotel room at the first floor level noted as being 30.7 square metres in area must be clearly located within the allotment boundary of the site.
- (n) The new northern wall to the hotel room at level 3 noted as being 26.2 square metres in area must be clearly located within the allotment boundary of the site.

- (o) ***The new glazed addition to Macleay Street must be deleted and the replacement fenestration design must not extend beyond the original front wall of the building. The fenestration must be compatible with the historic joinery above and same characteristic setback of the glazing line from the main wall plane. The paving design must be extended into the area along the entire Macleay Street frontage.***
- (p) ***The kitchenette to the level 4 hotel suite must be deleted.***

A consolidated set of architectural drawings and demolition drawings (including elevation demolition drawings) must be submitted, which address all of the design modification and other relevant conditions of this development consent.

The consolidated drawing set must be submitted to and approved by Council's Area Coordinator Planning Assessments or Area Planning Manager prior to the issue of a Construction Certificate, or commencement of any demolition works on the site, whichever is the earlier.

### **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 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 LEP 2012, that compliance with the 'Height of buildings' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 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 MU1 Mixed Use zone and the 'Height of buildings' development standard.
- (C) The proposal otherwise generally satisfies the relevant objectives and provisions of 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.
- (E) The proposal will conserve the heritage significance of the local heritage item known as 'Flat building "Wirrawa" including interior', the adjacent and nearby heritage items, and the surrounding Potts Point heritage conservation area, 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 in this 'late night trading area' and will not result in significant 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, noting the amendments to the proposed development through the process have generally addressed the matters raised by the City and the community, including deletion of the rooftop terrace to maintain amenity of the area, and a reduction in the extent of the basement excavation to minimise impacts on building fabric. Approval is warranted subject to the imposition of the recommended conditions and two additional conditions imposed by the Panel for the reasons below:
  - (i) Condition 8 (o) was added for the reason the design of the glass enclosure is not sympathetic for the heritage item and the conservation area.
  - (ii) Condition 8 (p) was added for the reason to maintain amenity in response to concerns from nearby residents about the intensity of use.

Carried unanimously.

D/2022/1363