Resolution of Local Planning Panel

5 November 2025

Item 4

Development Application: 378 and 380 Cleveland Street, Surry Hills - D/2025/410

The Panel:

(A) determined that based upon the material available to the Panel at the time of determining this application, including the "Clause 4.6 Variation Request", Revision B submitted on 15 August 2025, 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 Local Environmental Plan 2012 is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening this development standard; and

(B) granted consent to Development Application number D/2025/410 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~~):

(1A) DESIGN MODIFICATION – LOADING DOCK DOOR

The proposed loading dock door facing Marlborough Street is not approved. An amended door design, including materials, pattern and finishes of the roller door must have regard to the design of the approved first floor rear kitchen addition, complementing the verticality of the first floor addition. This amended door design must be submitted to and approved by Council's Area Planning Manager prior to the issue of any Construction Certificate.

Reason

To ensure the design of the loading dock door reflects the subject building, heritage item and conservation area.

(1B) SECURITY IN THE ABSENCE OF SECURITY STAFF

The Plan of Management is to be revised to address security tasks to be taken on by staff when security guards are not present.

Reason

To address security issues when security guards are not present.

(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***

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.

(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.

(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 (NPfl).***

External background noise monitoring must be carried out in accordance with the long-term methodology in Fact Sheet B of the NPfl 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.

Remaining conditions to be renumbered accordingly.

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 recommended conditions of consent, 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 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 floor space ratio development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.4 of the Sydney LEP 2012.

(C) The development is permissible with consent in the MU1 Mixed Use Zone and is consistent with the objectives of the zone.

(D) The proposal has been assessed against the aims, objectives and provisions of the relevant planning controls. Where appropriate, conditions of consent have been recommended to ensure ongoing compliance with the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012, and the applicable Environmental Planning Instruments.

(E) The proposal will not unreasonably compromise the amenity of the surrounding area and has been recommended for approval with respect to trading hours in accordance with the Sydney DCP 2012 and relevant Council policies, controls and legislation.

(F) The proposal will not detrimentally impact upon the heritage significance of the heritage item, the Goodlet Street Heritage Conservation Area or the Cleveland Street Special Character Area.

(G) The proposed development demonstrates design excellence in accordance with the relevant provisions and matters for consideration in clause 6.21C of the Sydney Local Environmental Plan 2012.

(H) The proposed reduction of affordable housing has been assessed against relevant planning instruments and policies and is compliant provided a Section 7.32 contribution is payable in accordance with the recommended condition.

(I) The proposal is in the public interest subject to the recommended conditions.

(J) Condition 1(A) was added to ensure the design of the loading dock door reflects the subject building, heritage item and conservation area.

(K) Condition 1(B) was added to address security issues when security guards are not present.

(L) Condition 3 was amended to correct a typographical error in punctuation.

(M) Condition 12 was amended in response to a request from the applicant.

(N) Condition 48 (A) was added as it had been omitted in error.

Carried unanimously.

D/2025/410