

Local Planning Panel

Meeting No 103

Wednesday 4 September 2024

Notice Date 28 August 2024

minutes

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Present

Mr Graham Brown (Chair), Ms Elizabeth Kinkade, Mr Marcus Trimble and Mr Jayden Bregu.

At the commencement of business at 5.02pm, those present were:

Mr Brown, Ms Kinkade, Mr Trimble and Mr Bregu.

The Acting Executive Manager Planning and Development was also present.

The Chair opened the meeting with introductory comments about the purpose and format of the meeting and an acknowledgement of country.

Item 1 Disclosures of Interest

In accordance with section 4.9 of the Code of Conduct for Local Planning Panel Members, all panel members have signed a declaration of interest in relation to each matter on the agenda.

No members disclosed any pecuniary or non-pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

Item 2 Confirmation of Minutes

The Panel noted the minutes of the Local Planning Panel of 14 August 2024, which have been endorsed by the Chair of the meeting.

Item 3 Development Application: 375-387 Cleveland Street, Redfern - D/2023/682

The Panel:

- (A) upheld the variation requested to Clause 4.3 'Height of Buildings' development standard 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/2023/682 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~~):

(6) SECTION 7.11 CONTRIBUTIONS PAYABLE - CONTRIBUTION TOWARDS PUBLIC AMENITIES – CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2015 – PRECINCT

Council has identified the development will increase demand for public amenities and facilities. Pursuant to Section 7.11 of the Environmental Planning and Assessment Act, 1979 (as amended), and the City of Sydney Development Contributions Plan 2015 the following monetary contributions are required towards the cost of public amenities.

<u>Contribution Category</u>	<u>Amount</u>
Open Space	\$75,855.46 \$60,288.59
Community Facilities	\$71,474.36 \$56,806.57
Traffic and Transport	\$11,891.53 \$9,451.18
Stormwater Drainage	\$0.00
Total	\$159,221.35 \$126,546.34

The City of Sydney will index the above contribution for inflation at the time of payment using the following formula.

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

C_{payment} = Is the contribution at time of payment;

C_{consent} = Is the contribution at the time of consent, as shown above;

CPI_{payment} = Is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment; and

CPI_{consent} = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 139.1 for the June 2024 quarter.

The contribution must be paid prior to the issue of any Construction Certificate in relation to this development.

Please contact Council's Planning Administration staff at planningsystemsadmin@cityofsydney.nsw.gov.au to request a letter confirming the indexed contribution amount payable.

Once the letter confirming the indexed contribution is obtained, payment may be made at any of the City's Neighbourhood Service Centres or the One Stop Shop at Town Hall House. Acceptable payment methods are EFTPOS (debit card only), cash (up to 10K only), Credit Card (up to 50K only) or a bank cheque made payable to the City of Sydney. Personal or company cheques will not be accepted.

Reason

To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.

(12A)PHOTOGRAPHIC ARCHIVAL DOCUMENTATION

Prior to a Construction Certificate being issued, an archival photographic recording of the existing development at the site (375-387 Cleveland Street Redfern) including existing artworks is to be prepared to Council's satisfaction. In particular the recording must include a record of the Fintan Magee artwork located on the Marriott Street frontage and street art on the southern elevation. The recording is to be in digital form, and submitted to Council, for filing in Council's Archives.

The form of recording is to be a photographic documentation of the site and its context, the building exteriors and existing artworks(s) photographed, where appropriate, using a camera/lens capable of 'perspective correction'.

The digital form of the recording is to be as follows:

- (i) The Development Application number and the Condition of Consent number must be noted.***
- (ii) Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.***
- (iii) The electronic images are to be taken with a minimum 8 megapixel camera, saved as JPEG TIFF or PDF files with a size of approximately 4-6MB, and cross referenced to the digital catalogue sheets and base plans. Choose only images that are necessary to document the process and avoid duplicate images.***
- (iv) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive licence to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.***
- (v) The report can be submitted on a USB, or digital file transfer in PDF/A format (created directly from the digital original), with a digital catalogue of images with the following data for each location, image subject/description and date.***

Reason

To ensure appropriate archival documentation of the existing Fintan Magee artwork and existing street art on the southern elevation.

Reasons for Decision

The application was approved for the following reasons:

- (A) The development is consistent with the objectives of the MU1 Mixed Use zone of the Sydney Local Environmental Plan 2012.
- (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 proposed development complies with the maximum Floor Space Ratio development standard contained in Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (D) The proposed development exhibits design excellence in accordance with the requirements contained in Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (E) The proposed development, as amended, has a height, scale and form suitable for the site and its context, and is appropriate in the streetscape context and setting of the Waterloo and Redfern (Cleveland Street) Special Character Area.
- (F) The development provides an appropriate response to the significance and character of the Baptist Street heritage conservation area and does not result in any detrimental impacts on the heritage significance of contributory buildings or nearby local heritage items.
- (G) The development maintains an acceptable level of direct sunlight to the James Street Reserve Community Garden does not result in any significant adverse environmental or amenity impacts on the subject or surrounding properties, the public domain, and broader locality, subject to recommended conditions.
- (H) The proposal is generally consistent with the relevant objectives and controls of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (I) Condition 6 was amended to reflect credits for existing worker population on the site.
- (J) Condition 12(A) was added to ensure appropriate archival documentation of existing street art.

Carried unanimously.

D/2023/682

Speaker

Aaron Sutherland (Sutherland and Associates) – on behalf of the applicant.

Item 4 Development Application: 42 Darlinghurst Road, Potts Point - D/2023/987

The Panel granted consent to Development Application Number D/2023/987 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~~):

(5) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) Internal **screening is** ~~fixed screens such as blinds or shutter curtains are to be~~ installed to the glazing fronting Darlinghurst Road to prevent looking into the premises/into the entertainment area from public domain. **The screening should use materials sympathetic to the contributory building and the streetscape of the heritage conservation area.**
- (b) The proposed waste area is to be enlarged to accommodate two days storage of waste and recycling based on the proposed development floor space and waste generation rates for pub/clubs as per Council's Guidelines for Waste Management in New Developments 2018.

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

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

(36) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management, prepared by *Hotel 42/ Asteri Holdings Pty Ltd* and dated 16 July 2024 (Council Record: 2024/448155) that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

Changes to the approved Plan of Management must be submitted to and approved by Council's Area Planning Manager.

Reason

To ensure all parties are aware of the approved supporting documentation that applies to the development.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposed restricted use (adult entertainment premises) is permissible within the E1 - Local Centre zone. The proposal, subject to conditions, is consistent with the objectives of the E1 zone.
- (B) The amended Plan of Management has adequately addressed the provisions of Section 3.15.5 (Plan of Management Requirements) and Section 4.4.6.6 (Management of Operations) of the Sydney DCP 2012.

- (C) The amended proposal generally complies with the City of Sydney Sex Industry and Adult Entertainment Premises Development Guidelines (October 2013).
- (D) The proposed hours of operation, subject to the imposition of a one-year trial period, are consistent with the objectives and in accordance with the permitted hours for a Category A premises in Late Night Management area as identified in the Sydney DCP 2012.
- (E) The proposed use as an adult entertainment premises is in keeping with the unique character of the area.
- (F) The development, subject to conditions, will not unreasonably compromise the amenity of nearby properties.
- (G) The proposal, subject to conditions, is in the public interest.
- (H) Condition 5 was amended to provide more detail regarding screening.
- (I) Condition 36 was amended to require that changes to the Plan of Management be approved by Council.

Carried unanimously.

D/2023/987

Speaker

Lenox Tweneboa (Local Approvals) – on behalf of the applicant.

Item 5 Development Application: 231 Chalmers Street, Redfern - D/2024/477

The Panel:

- (A) upheld the variation requested to the car parking spaces non-discretionary development standard 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/2024/477 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~~):

6(A) DESIGN MODIFICATION

The proposed northern and eastern elevation windows are to be modified to be clear glazing with privacy to be managed via internal blinds

Reason

To ensure adequate internal amenity.

(7) FLOOD PLANNING LEVELS

The development must be constructed to comply with the recommended flood planning levels indicated in Section 4.5 of the report titled Flood Study prepared by MBC Engineering dated 2 December 2023.

Details must be submitted to the Registered Certifier prior to the issue of any Construction Certificate demonstrating that the development will comply with the recommended flood planning levels (***33.25 mAHD***).

Reason

To ensure the development complies with the recommended flood planning levels.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposed development is permitted with consent in the R1 General Residential zone.
- (B) The development exhibits design excellence under Clause 6.21C of Sydney Local Environmental Plan 2012.
- (C) The development responds appropriately to the scale of surrounding buildings and is compatible with the character of the Prince Alfred Park South locality and the Redfern Estate heritage conservation area.
- (D) The development will not unreasonably compromise the amenity of neighbouring properties, including demand for on-street car parking.
- (E) The development is generally consistent with the objectives of Chapter 3 Part 1 of State Environmental Planning Policy (Housing) 2021, Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

- (F) 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 'car parking spaces' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening section 53(2)(b) of State Environmental Planning Policy (Housing) 2021.
- (G) Condition 6A was added to ensure adequate internal amenity.
- (H) Condition 7 was modified to specify the flood planning level.

Carried unanimously.

D/2024/477

Speaker

Jennie Askin (aSquare Planning) – on behalf of the applicant.

Item 6 Proposed Schedule of Local Planning Panel Meetings for 2025

The Panel adopted the draft Schedule of Local Planning Panel Meetings for 2025, as shown at Attachment A to the subject report.

Carried unanimously.

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The meeting of the Local Planning Panel concluded at 5.20pm.

CHAIR