

Local Planning Panel

Meeting No 114

Wednesday 30 April 2025

Notice Date 23 April 2025

minutes

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Present

Dr Robert Stokes (Chair), Ms Melonie Bayl-Smith, Mr Brendan Randles and Ms Judy MacGraw.

At the commencement of business at 5:00pm, those present were:

Dr Stokes, Ms Bayl-Smith, Mr Randles and Ms MacGraw.

The 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 16 April 2025, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 160 Rochford Street, Erskineville - D/2024/954

The Panel granted consent to Development Application Number D/2024/954 for change of use of part of the site to an office premises used for a creative purpose and associated signage subject to the conditions set out in Attachment A to the subject report.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposed creative mixed use satisfies the requirements of clause 7.22A of the Sydney Local Environmental Plan 2012 (LEP), and as such the development is permissible with consent within the R1 General Residential Zone despite the general prohibition of commercial and industry land uses within the R1 General Residential Zone.
- (B) The proposal is consistent with the relevant objectives and controls of the LEP and the Sydney Development Control Plan 2012 (DCP).
- (C) The amended proposal presents an appropriate use for the existing non-residential warehouse building, consistent with clause 7.22A of the LEP, and satisfies the objectives within part 3.10.1 of the DCP, to conserve warehouse and industrial buildings older than 50 years, and maintain the legibility of the historic use.
- (D) The amended proposal retains the heritage significance of the Former Macdonalddtown Estate heritage conservation area, subject to standard conditions.
- (E) Subject to standard conditions, the proposal will not detract from the amenity of the surrounding residential area and is in the public interest.

Carried unanimously.

D/2024/954

Speakers

Andrew Dorey and Angela Hoad.

Raphael Pulera (York Property Group) - on behalf of the applicant, and Simon Bitar – on behalf of the applicant.

Item 4 Development Application: 169-173 Victoria Street and 90-98 Brougham Street, Potts Point - D/2024/947

The Panel:

- (A) supported the variations requested to the 'height of buildings' and "FSR" development standards 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/2024/947 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~~):

(19) DESIGN MODIFICATIONS

Amended plans/documentation providing the following details must be provided:

Level 1 rear balcony to former Golden Apple

- (a) The Level 1 balcony at the rear of the former Golden Apple is ***not approved. If a balcony is to be proposed at Level 1, it is to be redesigned to address potential amenity, outlook and acoustic impacts to the adjoining south facing apartments at 165-167 Victoria Street, Potts Point.*** ~~to be reduced in size, to address potential amenity impacts to the adjoining studio apartments at 165-167 Victoria Street, as follows:~~
 - (i) ~~The width of the balcony is to be a maximum of 4m so that it aligns with the inner edge of the northern most glass panel of the sliding door.~~
 - (ii) ~~A portion of the balcony is to be recessed into the building envelope (similar to the Level 2 balcony) and the sliding doors are to be relocated so that they face parallel to the rear boundary.~~

Front verandah to the former Golden Apple

- (b) The existing front filigree cast iron column is to be reinstated to its original position in the centre of the verandah as shown in historical 1930s photography.

Coloured louvres to 90 Brougham Street

- (c) The buildings at 90 Brougham Street are an award-winning development which has been designed by Smart Design Studio. A key feature of the design is the external multi-coloured metal louvres. ***Any replacement louvres are to be redesigned in consultation with Smart Design Studios, in recognition of the original architect's moral rights.*** ~~These louvres are to be retained (or replaced on a like-for-like basis).~~ ***The northern elevation of the proposed new addition to 90 Brougham Street is to be provided with louvres to match the rest of the building.***
- (d) ~~The northern elevation of the proposed new addition to 90 Brougham Street is to be provided with coloured louvres to match the rest of the building.~~ ***Documentation of the consultation in (c) above, including a written response from Smart Design Studios, is to be provided to Council.*** ~~The existing louvres provided to the secondary dwelling could be salvaged and reused in the addition, or alternatively new louvres could be provided.~~

Heritage

- (e) All new floor structures within the principal building form of the terrace group (92-98 Brougham Street) are to be shown as timber framed and lightweight. Concrete slabs are not supported in the attic or the front two rooms.
- (f) The existing front ground floor terrace windows are to be retained, and matching windows are to be reinstated to the new building at 96 Brougham Street. The approved demolition elevation plans are to be updated to show this detail.
- (g) The front lower ground floor verandahs and access path to the Brougham Street terrace group at 92-98 Brougham Street is to have tessellated tiles consistent with Victorian period detailing.
- (h) The rear facade of the Piccadilly Hotel is to be provided with a new metal spandrel panel. The material and finish of this panel is required, with the colour to match the existing red brick.
- (i) The chrome panels above the Piccadilly Hotel entries are to be painted in a compatible colour. Details are to be provided.

Planter boxes

- (j) The planter box to the Level 2 balcony of the Piccadilly Hotel at 171-173 Victoria Street is to continue along the southern edge of the balcony to prevent potential overlooking of 175 or 177-179 Victoria Street.

Privacy

- (k) Obscure etched glazing is to be provided to the rear ground floor windows of the Piccadilly Hotel to prevent future staff/patrons overlooking the Brougham Street terraces private open spaces. The windows are to be fixed to address potential acoustic impacts associated with the future use.

Gate to Hourigan Lane

- (l) The proposed boundary wall interface with Hourigan Lane is to be amended to address vehicle circulation as detailed at Figure 1 in Ason Group's letter of 12 February 2025 (Council TRIM ref: 2025/131941).
- (m) Details of the proposed shared driveway gate are to be provided. The gate is to be a permeable finish to allow passive surveillance and to increase driver safety.

Fencing

- (n) Details of all fencing, including height, finishes and materials of:
 - (i) Proposed new iron palisade and masonry front fences to the Brougham Street terrace.
 - (ii) Pool fencing.

Fire hydrant

- (o) The approved ground floor plan demolition (DA-2020) is to be updated to show the demolition and removal of the existing hydrant booster in front of the former Golden Apple building at 169 Victoria Street.

Photovoltaic system

- (p) Details of the required solar panels, including their proposed location/s and level of projection.

Rooftop plant and equipment

- (q) Details of all rooftop plant and equipment, and the associated screening/enclosure, is limited to the designated rooftop area of the Piccadilly Hotel and must not exceed a maximum height of RL 44.5 to ensure that it is not visible above the building parapet.

Rainwater tank

- (r) Details of the rainwater tank, including its height and location. Any proposal to provide the tank underground must not impact have any structural or heritage impacts.

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.

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 Local Environmental Plan 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 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 'FSR' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.4 of the Sydney Local Environmental Plan 2012.
- (C) Having considered the matters in Clause 6.21C(2) of the Sydney Local Environmental Plan 2012, the development displays design excellence because:
 - (i) subject to appropriate conditions in relation to the materials and finishes, the proposed development provides a high standard of architectural design, materials and detailing appropriate to the building type and its location
 - (ii) the proposal will have a positive impact on the subject site, the original heritage fabric, the heritage conservation area and the streetscape
 - (iii) the proposed development is compatible with the built form and density of surrounding developments; and

- (iv) the proposed development will not result in any detrimental visual privacy, overshadowing, view loss, wind or reflectivity impacts.
- (D) The development is consistent with the objectives of the MU1 Mixed Use and R1 General Residential zones pursuant to the Sydney Local Environmental Plan 2012.
- (E) The development is generally consistent with the objectives of the relevant planning controls.
- (F) Appropriate conditions are recommended to ensure the development does not detrimentally impact on the heritage significance of the site.
- (G) The development will not adversely affect the character of the Kings Cross and Woolloomooloo localities or the Potts Point and Woolloomooloo Heritage Conservation Areas.
- (H) The development will not unreasonably compromise the amenity of nearby properties.
- (I) Suitable conditions of consent are recommended, and the development is in the public interest.
- (J) Condition 19 was amended to address any potential fire safety issues whilst retaining the original design intent for the louvres, and to address potential amenity impacts of the balcony to the adjoining property.

Carried unanimously.

D/2024/947

Speakers

Elmo Keep.

Stephen White (Urbis) – on behalf of the applicant, and Jet Geaghan (Woods Bagot) - on behalf of the applicant.

Item 5 Development Application: 310A Botany Road, Alexandria- D/2025/114

The Panel refused consent for Development Application Number D/2025/114.

Reasons for Decision

The application was refused for the following reasons:

- (A) The proposal is not supported by Transport for New South Wales (TfNSW) based on concerns with pedestrian safety and ongoing servicing of the use adjacent to a signalised intersection of a State Classified road. The proposed garbage collection from the kerb of Bourke Road would compromise traffic flows in proximity to the signalised intersection and as such be contrary to the objectives contained under Clause 2.119 of State Environmental Planning Policy (Transport and Infrastructure) 2021 including "to ensure that new development does not compromise the effective and ongoing and function of classified roads".
- (B) The proposed development is in breach of the Floor Space Ratio (FSR) development standard pursuant to Clause 4.4 of SLEP 2012. A Clause 4.6 variation request to seek approval to vary the standard has not been submitted by the applicant and accordingly the Consent Authority has no authority to grant development consent.
- (C) The proposed development does not meet the required public domain setbacks, undermining pedestrian safety and amenity and street network permeability as required to be considered under Clause 6.21C(2)(ix) of SLEP 2012 and outlined under section 5.2.10 of Sydney Development Control Plan (SDCP) 2012.
- (D) The proposed alterations and additions to the existing building fail to demonstrate a high standard of architectural design and detailing appropriate to the building type and location, and fails to improve the quality and amenity of the public domain contrary to the design excellence considerations under Clause 6.21C(2)(a) and (b) of SLEP 2012.
- (E) The proposal does not satisfy the considerations contained under Clause 5.21(3)c) Flood Planning of SLEP 2012. The Bourke Road basement entry is below the Probable Maximum Flood level posing a flood risk to life and property.
- (F) The proposed hours of operation do not accord with those contained under section 3.15 Late Night Trading Management of Sydney Development Control Plan 2012.
- (G) In light of the above, the proposed use of the site as a pub is not suitable for the site and not in the public interest contrary to section 4.15(1)(c) and (e) of the Environmental Planning and Assessment Act, 1979.

Carried unanimously.

D/2025/114

Item 6 Local Planning Panel Delegations

It is resolved that:

- (A) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegates its functions as a consent authority in relation to legal proceedings arising from a decision of the Local Planning Panel (or a decision that would have ordinarily been required to be dealt with by the Local Planning Panel) to the positions of Manager Planning Assessments, Executive Manager Planning and Development, and Executive Director City Planning, Development and Transport;
- (B) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegates its functions as a consent authority in relation to development where the reason for reporting the matter to the Local Planning Panel is that Council is the applicant or landowner, and the application proposes:
 - (i) internal alterations and additions to a building that is a heritage item or
 - (ii) temporary installation of public art or
 - (iii) a temporary event

to the positions of Area Planning Manager, Manager Planning Assessments, Executive Manager Planning and Development, and Executive Director City Planning, Development and Transport;

- (C) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegates its functions as a consent authority, where there has been no more than one objection received, in relation to development where the reason for reporting the matter to the Local Planning Panel is that Council is the applicant or landowner, and the application proposes:
 - (i) outdoor dining or seating and umbrellas and the like
 - (ii) works within the public domain such as the placement of security bollards, upgrade of the public domain, construction of driveways, landscaping and the like
 - (iii) the placement or relocation of kiosks and other minor structures within the public domain
 - (iv) the installation of shade structures and play equipment
 - (v) the installation of solar panels
 - (vi) small scale alterations and additions to existing facilities and
 - (vii) other small-scale development with a development cost of no more than \$100,000

to the positions of Manager Planning Assessments, Executive Manager Planning and Development, and Executive Director City Planning, Development and Transport;

- (D) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegates its functions as a consent authority regarding development applications that fall into the following categories:

- (i) development applications for the removal of existing pedestrian bridges/overpasses and making good of adjacent buildings, where the sole reason for reporting the application to the Local Planning Panel for determination is that Council is the applicant and/or landowner

to the positions of Manager Planning Assessments, Executive Manager Planning and Development, and Executive Director City Planning, Development and Transport;

- (E) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegates its functions as a consent authority regarding development applications or modification applications, where the reason for reporting the matter to the Local Planning Panel is that the development exceeds a development standard, that fall into the following category:

- (i) variations over 10% of height or floor space associated with additions or works that do not significantly impact on the height, bulk or setbacks of an existing or approved building or structure, where the existing or approved building or structure already exceeds the relevant development standard

to the positions of Manager Planning Assessments, Executive Manager Planning and Development, and Executive Director City Planning, Development and Transport;

- (F) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegates its functions as a consent authority regarding section 4.56 applications for modification of a development consent issued by the Land and Environment Court, in respect of an application determined by the Local Planning Panel (or an application that would have ordinarily been required to be dealt with by the Local Planning Panel) except those that fall into the following categories:

- (i) applications under section 4.56 of the Environmental Planning and Assessment Act 1979 for modification of a development which meets the criteria for development applications set out in the Schedules to the Local Planning Panels Direction - Development Applications and Applications to Modify Development Consents dated 6 March 2024 relating to conflict of interest, contentious development or departure from development standards, excluding modifications captured by the delegation outlined in clause (E) above

to the positions of Manager Planning Assessments, Executive Manager Planning and Development, and Executive Director City Planning, Development and Transport;

- (G) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegates its functions as a consent authority regarding development applications that fall into the following categories:

- (i) development applications for a secondary dwelling development where the sole reason(s) for reporting the application to the Local Planning Panel for determination is the proposal's non-compliance with the minimum site area development standard and/or the car parking standard, contained in Clause 53 (2) (a) and (b) of the State Environmental Planning Policy (Housing) 2021

to the positions of Manager Planning Assessments, Executive Manager Planning and Development, and Executive Director City Planning, Development and Transport;

- (H) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegates its functions as a consent authority regarding development applications that fall into the following categories:

- (i) development applications for boarding house development where the sole reason for the reporting the application to the Local Planning Panel for determination is the proposal's non-compliance with the minimum lot size standard contained in Clause 25(1)(g) of the State Environmental Planning Policy (Housing) 2021;

to the positions of Manager Planning Assessments, Executive Manager Planning and Development, and Executive Director City Planning, Development and Transport;

- (I) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegates its functions as a consent authority regarding development applications that fall into the following categories:

- (i) development applications for co-living housing development where the reason(s) for the reporting the application to the Local Planning Panel for determination is the proposal's non-compliance with the minimum lot size standard contained in Clause 69(1)(b)

to the positions of Manager Planning Assessments, Executive Manager Planning and Development, and Executive Director City Planning, Development and Transport; and

- (J) in accordance with the requirements of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegates its functions as a consent authority regarding development applications that fall into the following categories:

- (i) development applications for integrated development where the integrated consent authority has refused to grant General terms of Approval

to the positions of Manager Planning Assessments, Executive Manager Planning and Development, and Executive Director City Planning, Development and Transport.

Carried unanimously.

X116121

The meeting of the Local Planning Panel concluded at 6:55pm.

CHAIR