

Local Planning Panel

Meeting No 116

Wednesday 21 May 2025

Notice Date 14 May 2025

minutes

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Present

Mr Graham Brown (Chair), Ms Jocelyn Jackson, Ms Megan Jones and Ms Judy MacGraw.

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

Mr Brown, Ms Jackson, Ms Jones and Ms MacGraw.

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 May 2025, which have been endorsed by the Chair of that meeting.

Item 3 Development Application: 89 Macleay Street, Potts Point - D/2024/1237

The Panel refused consent for Development Application Number D/2024/1237.

Reasons for Decision

The application was refused for the following reasons:

- (A) The proposal is contrary to and fails to adequately satisfy the matters for consideration set out in section 47(2) of Part 3: 'Retention of existing affordable rental housing' of the State Environmental Planning Policy (Housing) 2021 and the Guidelines for Retention of Existing Affordable Rental Housing.
- (B) The application fails to satisfactorily address clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, as the application has not demonstrated additional testing or remediation measures for the site which is likely to be contaminated.
- (C) The proposed development is in breach of the 'floor space ratio' development standard pursuant to clause 4.4 of the Sydney LEP 2012. A clause 4.6 variation request to seek approval to vary the standard has not been submitted by the applicant.
- (D) The application is inconsistent with Clause 1.2(2)(e) aim of the Sydney LEP as it fails to encourage the growth and diversity of the residential population of the City of Sydney by providing for a range of appropriately located housing, including affordable housing.
- (E) The proposed development fails to exhibit 'design excellence' pursuant to clause 6.21C of the Sydney LEP 2012 for the following reasons:
 - (i) The application fails to demonstrate a high standard of architectural design and detailing appropriate to the building type and location, pursuant to clause 6.21C(2)(a),
 - (ii) The application fails to appropriately address heritage issues, pursuant to clause 6.21C(2)(d)(iii),
 - (iii) The application fails to adequately address environmental impacts of overshadowing, solar access, and views, pursuant to clause 6.21C(2)(d)(vii),
 - (iv) The proposed development does not adequately demonstrate an appropriate interface at ground level between the building and the public domain, pursuant to clause 6.21C(2)(d)(xii).
- (F) The proposed development provides inadequate amenity to apartments within the development and is non-compliant with Objective 4A - Solar and Daylight Access of the ADG.
- (G) The proposal fails to respect the heritage significance of the contributory building and will have an unsympathetic impact upon the surrounding heritage conservation area and retained component of the existing contributory building, in breach of the provisions outlined within Section 3.9.7 of the Sydney DCP 2012.
- (H) The application fails to demonstrate 15% tree canopy coverage within 10 years of completion, pursuant to Section 3.5.2 of the Sydney DCP 2012.

- (I) The proposal fails to provide adequate bicycle storage in the building, and as such is inconsistent with the requirements of Section 3.11 of the Sydney DCP 2012.
- (J) The development is unsatisfactory when assessed pursuant to the matters for consideration at section 4.15(1) of the EP&A Act and is therefore not in the public interest pursuant to section 4.15(1)(e) of the Act.

Carried unanimously.

D/2024/1237

Speaker

Giovanni Cirillo (Planning Lab).

Item 4 Development Application: 37-41 Oxford Street, Surry Hills – D/2024/1027

The Panel granted consent to Development Application Number D/2024/1027 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~~):

(20) HERITAGE CONSERVATION WORKS – HERITAGE ITEM

- (a) ***Prior to the issue of the Construction Certificate, a detailed construction methodology demonstrating compliance with Condition 20 is to be submitted for review by and the approval of Council's Area Planning Manager.***
- ~~(a)~~(b) Prior to the issue of the Construction Certificate, a schedule of conservation works to be undertaken concurrent with the works is to be submitted to Council's Urban Design and Heritage Manager for approval.
- ~~(b)~~(c) The schedule is to detail the conservation of all fabric identified as having a heritage significance including but not limited to the following: door and window joinery, glazing, hardware, street awning, roofing and painting.
- ~~(c)~~(d) The schedule is to be supported by outline specifications, methodologies and detailed architectural sections, elevations and plans at 1:20 and 1:5 scales. The details should incorporate any structural and/or building services design for the building.
- ~~(d)~~(e) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building. Any departure from approved plans requiring additional demolition/chasing of significant fabric is to be ~~discussed with City of Sydney Heritage Specialists for acceptance.~~ ***submitted to Council's Area Planning Manager for approval.***
- ~~(e)~~(f) A schedule of site inspections at key points during construction (like after demolition, before covering significant fabric with new ceilings and floors and/or when design changes impacting significant fabric need to be implemented and required to be discussed with Council) is required to be submitted to City of Sydney for approval.
- ~~(f)~~(g) All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 2013. Appropriately qualified contractors and tradespersons are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works within the heritage building.

Reason

To ensure the carrying out of appropriate heritage conservation works.

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.
- (B) The design of the second storey addition and Oxford Street interface appropriately respond to the scale of surrounding buildings with acceptable impacts on amenity.
- (C) The development will safeguard neighbourhood amenity and will promote the orderly operation of the premises.
- (D) The development will not adversely impact upon the building which is listed as a heritage item under the Sydney LEP 2012 and is a contributing building to a heritage conservation area.
- (E) The proposal exhibits design excellence in accordance with the requirements contained in Clause 6.21C of Sydney Local Environmental Plan 2012.
- (F) The development accords with the objectives of relevant planning instruments and controls.
- (G) Condition 20 was amended to protect heritage fabric during construction.

Carried unanimously.

D/2024/1027

Speakers

Giovanni Cirillo (Planning Lab) – on behalf of the applicant, and Lex Yuan (SRH Architecture) – on behalf of the applicant.

Item 5 Modification Application: 256 Crown Street, Darlinghurst - D/2023/265/B

The Panel granted consent to Section 4.55(2) Application Number D/2023/265/B to allow for trading on Sunday and that Conditions 8 and 9 of the consent be amended, with modifications shown in ***bold italics*** (additions) and ~~strikethrough~~ (deletions), as follows:

(8) INTERNAL HOURS OF OPERATION

The internal hours of operation are regulated as follows:

- (a) The base internal hours of operation must be restricted to between 10.00am and 10.00pm Monday to ***Saturday Sunday*** inclusive.
- (b) Notwithstanding (a) above, the use may operate between 7.00am and 10.00am and 10.00pm and 12 midnight for a trial period of 1 year from the date of issue of Occupation Certificate. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to liquor@cityofsydney.nsw.gov.au. No alcohol is to be served prior to 10.00am.
- (c) Should the operator seek to continue the extended operating hours outlined in (b) above, an application must be lodged with Council not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

Reason

To ensure the premises operates within the approved hours of operation.

(9) EXTERNAL HOURS OF OPERATION - ROOFTOP

The external hours of operation are regulated as follows:

- (a) The base internal hours of operation must be restricted to between 10.00am and 8.00pm Monday to ***Saturday Sunday*** inclusive.
- (b) Notwithstanding (a) above, the use may operate between 8.00am and 10am and 8.00pm and 10.00pm for a trial period of 1 year from the date of issue of Occupation Certificate. No alcohol is to be served prior to 10.00am.
- (c) Should the operator seek to continue the extended operating hours outlined in (b) above, an application must be lodged with Council not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

Reason

To ensure the premises operates within the approved hours of operation.

Reasons for Decision

The application was approved for the following reasons:

- (A) The development, as modified, is substantially the same development as that originally approved and is consistent with Section 4.55(2) of the Environmental Planning and Assessment Act 1979.
- (B) The proposal, subject to conditions, is consistent with the objectives of the MU1 Mixed Use zone.
- (C) The proposal continues to be consistent with the aims, objectives and relevant provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (D) The development, subject to conditions, will facilitate the orderly operation of the venue and will not unreasonably compromise the amenity of the locality.
- (E) The development, as modified and conditioned, is in the public interest.

Carried unanimously.

D/2023/265/B

Speakers

Henry Wilson.

Kristy Hodgkinson (Hamptons) – on behalf of the applicant.

Item 6 Development Application: 723 Botany Road, Rosebery - D/2024/1201

Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, the Panel granted a deferred commencement consent to Development Application Number D/2024 /1201 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 deferred commencement condition is recommended to ensure that the VPA is executed and registered on title prior to an active development consent being issued.
- (B) The development complies with the objectives of the MU1 Mixed Used zone within the Sydney Local Environmental Plan 2012.
- (C) The development complies with the relevant objectives and provisions contained within the Sydney Development Control Plan 2012.
- (D) The development subject to the recommended conditions and the registration of the VPA on title, satisfies the provisions of the Sydney Local Environmental Plan 2012 Section 6.14 Community Infrastructure floor space at Green Square.
- (E) The development exhibits design excellence in accordance with the Sydney Local Environmental Plan 2012 Section 6.21C.
- (F) The development is in the public interest.

Carried unanimously.

D/2024/1201

The meeting of the Local Planning Panel concluded at 5:36pm.

CHAIR