

## Item 6.

### Local Planning Panel - Delegations

**File No: X079022**

#### Summary

This report recommends that the Local Planning Panel delegate its consent authority functions in relation to the following:

- (a) Development applications for the removal of pedestrian bridges/overpasses in King Street, Pitt Street and Castlereagh Street; and
- (b) Development applications for certain boarding house developments;

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

#### Recommendation

It is resolved that the Local Planning Panel, in accordance with the requirements of the Environmental Planning and Assessment Act 1979, delegate its functions as a consent authority, regarding development applications that fall into the following categories:

- (A) Development applications for the removal of existing pedestrian bridges/overpasses in King Street, Pitt Street and Castlereagh Street 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; and
- (B) Development applications for a boarding house development where the sole reason for reporting the application to the Local Planning Panel for determination is the proposals non-compliance with the motorcycle parking standard contained in Clause 30 Standards for Boarding Houses (1) (h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009,

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

#### Attachments

- Attachment A.** Boarding House Applications Previously Reported to the Local Planning Panel for determination where the sole reason for reporting the application to the panel was the proposals non-compliance with the motorcycle parking standard contained in Clause 30 Standards for Boarding Houses (1) (h) of the State Environmental Planning Policy (Affordable Rental Housing)

## Background

1. The City of Sydney Local Planning Panel was established by resolution of Council on 19 February 2018.
2. The Minister for Planning and Public Spaces issued a Direction under section 9.1 of the Environmental Planning and Assessment Act 1979 (the Act) on 23 February 2018 prescribing the development applications that are to be determined by Local Planning Panels on behalf of Councils in the Greater Sydney Region and Wollongong. The referral criteria for the City of Sydney are identified in Schedule 3 of the Direction.
3. The Ministerial Direction requires that development falling within the following categories are required to be reported to the Local Planning Panel for determination;
  - (a) Conflict of interest
  - (b) Contentious development
  - (c) Departure from development standards; and
  - (d) Sensitive development.
4. Section 2.20(8) of the Environmental Planning and Assessment Act 1979 enables a Local Planning Panel to delegate any function of the Panel (other than the power of delegation) to the general manager or other staff of the council.
5. At its meeting of 23 May 2018, the Local Planning Panel resolved to delegate its functions as a consent authority in relation to:
  - (a) legal proceedings;
  - (b) modification applications under section 4.55 and 4.56 of the Act; and
  - (c) development for which 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.
6. At its meeting of 15 April 2020, the Local Planning Panel resolved to delegate its functions as a consent authority, where no more than one objection has been received, in relation to development for which Council is the applicant or landowner and the application proposes:
  - (a) outdoor seating;
  - (b) works within the public domain such as the placement of security bollards, upgrade of the public domain, construction of driveways, landscaping and the like;
  - (c) the placement or relocation of kiosks and other minor structures within the public domain;

- (d) the installation of shade structures and play equipment;
- (e) the installation of solar panels;
- (f) small scale alterations and additions to existing facilities;
- (g) other small-scale development with a development cost of no more than \$100,000;

### **Conflict of Interest - Removal of Pedestrian Bridges/Overpasses**

7. Amongst other matters the category '*Conflict of Interest*' contained in the section 9.1 Ministerial Direction requires that developments for which the applicant or landowner is the council are to be reported to the Local Planning Panel for determination, except for the following:
  - (a) Internal alterations and additions to any building that is not a heritage item;
  - (b) Advertising signage;
  - (c) Maintenance and restoration of a heritage item;
  - (d) development for the purpose of end of journey facilities; or
  - (e) Minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).
8. This section has been supplemented by the delegations of 23 May 2018 and 15 April 2020 referred to above.
9. The above exceptions and the matters subject of the delegations of 23 May 2018 and 15 April 2020 are generally restricted to relatively small-scale development / development with a low development cost.
10. There are currently three unused pedestrian bridges/overpasses in the CBD. These bridges/overpasses are located on King Street, Pitt Street and Castlereagh Street. Refer to Figures 1, 2 and 3 below.



Figure 1: King Street looking east

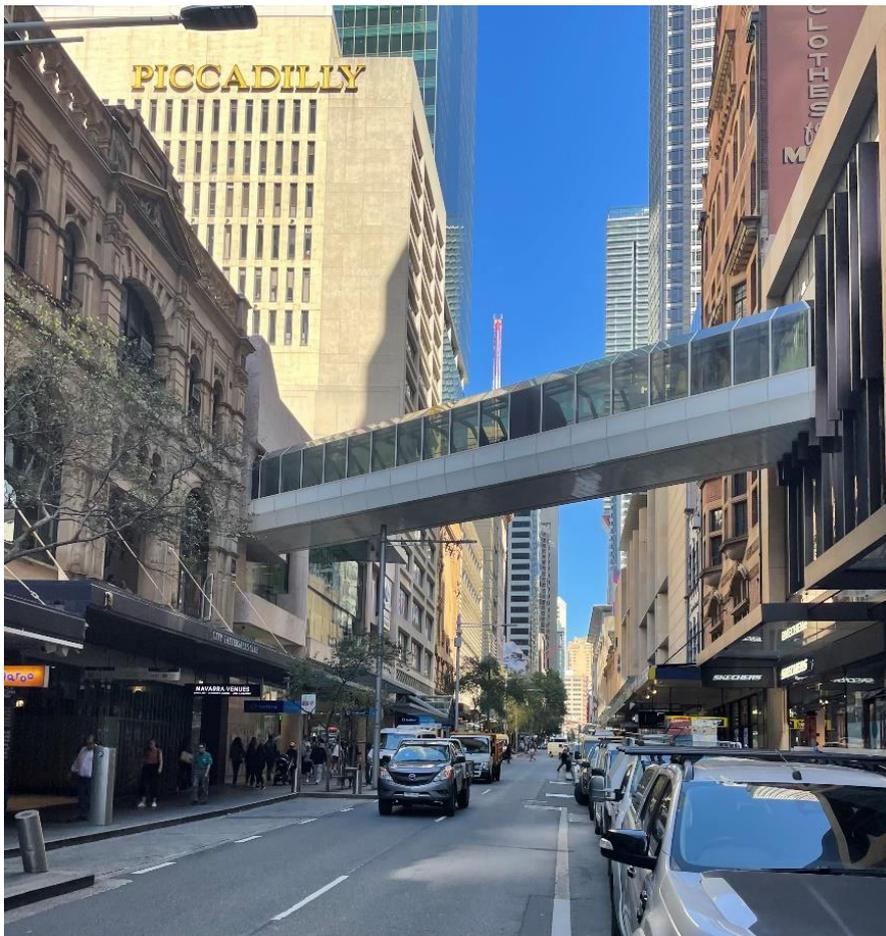


Figure 2: Pitt Street looking south



Figure 3: Castlereagh Street looking south

11. The structures, which span the roadway, are owned by Council and connect to private land. The bridges are subject to lease arrangements with the properties that they connect (note that the northern part of the King Street Bridge is on private land).
12. The King Street bridge/overpass connects the MLC site, at 19 to 29 Martin Place, on the north side of King Street with the Glasshouse development, at 135 King Street, on the south side of King Street.
13. The Pitt Street bridge/overpass connects the Stockland Piccadilly Shopping Centre, at 133-145 Castlereagh Street, on the east side of Pitt Street to the Citycentre development, at 55 Market Street, on the west side of Pitt Street.
14. The Castlereagh Street bridge/overpass connects the Stockland Piccadilly Shopping Centre, at 133-145 Castlereagh Street, on the west side of Castlereagh Street to the Sheraton Hotel, at 161 Elizabeth Street, on the east side of Castlereagh Street.
15. Section 3.1.3 of the Sydney Development Control Plan provides that:

"Pedestrian overpasses are discouraged because they enclose public space and affect views along streets".
16. All three pedestrian bridges/overpass are currently not in use.

17. An opportunity has arisen for the King Street bridge/overpass to be removed in the short term as part of the work program currently being undertaken at the MLC site. The bridge would need to be removed prior to the reopening of the Theatre Royal which is scheduled for later in 2021.
18. The Stockland Piccadilly Shopping Centre site at 133-145 Castlereagh Street is currently subject of a planning proposal. This proposal includes the removal of the Pitt Street and Castlereagh Street pedestrian bridges/overpass. Development consent has previously been granted for the removal of the Castlereagh Street structure in 2011 (D/2011/802). This consent lapsed in 2016.
19. Removal of the structures involves numerous approvals being obtained under the Environmental Planning and Assessment Act 1979, the Local Government Act 1993 and the Roads Act 1993. This includes the following:
  - (a) a development consent;
  - (b) construction certificate(s);
  - (c) hoarding approval(s);
  - (d) approval to use a crane/hoist goods or materials over roadway; and
  - (e) a road closure approval.
20. In order to assist in streamlining this approval process it is requested that development applications for the removal of existing structures in King Street, Pitt Street and Castlereagh Street 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 land owner, be delegated to council officers.
21. The proposed delegation does not affect the requirement for development applications for the removal of these structures that are captured by the other categories contained within the section 9.1 Ministerial Direction, such as the proposal being contentious development due to the receipt of more than 25 unique submissions, from being referred to the Local Planning Panel for determination.

### **Departure from Development Standards - Boarding Houses**

22. The category '*Departure from development standard*' contained in the section 9.1 Ministerial Direction requires that developments that contravene a development standard imposed by an environmental planning instrument are, subject to certain criteria, to be reported to the Local Planning Panel for determination.
23. Except for development for the purposes of dwelling houses, dual occupancies and attached dwellings all other development that contravenes a development standard by more than 10% is required to be reported to the Local Planning Panel for determination.
24. Outside of the contravention of a development standard by more than 10% or as a result of the proposal being contentious development due to the receipt of more than 25 unique submissions, boarding houses are generally not required to be reported to the Local Planning Panel for determination under the terms of the section 9.1 Ministerial Direction.

25. State Environmental Planning Policy (Affordable Rental Housing) 2009 contains provisions relating to boarding houses.
26. Clause 30 Standards for Boarding Houses (1) (h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 contains the following development standard:

*"(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms."*
27. Non-compliance with this standard requires the submission of a Clause 4.6 variation request. A development that does not comply by more than 10% is required to be reported to the Local Planning Panel under the terms of the section 9.1 Ministerial Direction.
28. Since the commencement of the Local Planning Panel:
  - (a) 28 applications for boarding house developments have been reported to the panel for determination;
  - (b) 25 of the 28 applications have included a Clause 4.6 variation request relating to non-compliance with the motorcycle parking standard;
  - (c) 23 of the 28 applications (61.5%) have been referred to the panel for the sole reason of non-compliance with the motorcycle parking standard.
29. With regard to (c) above, in all but three instances the Clause 4.6 variation requests were supported by council officers and the applications were recommended for approval. In three instances applications were recommended for refusal. These applications were recommended for refusal for numerous reasons and not just non-compliance with the motorcycle parking standard. In all instances the Local Planning Panel concurred with council officers' recommendations.
30. Clause 4.6 variation requests relating to the non-compliance with the motorcycle parking standard have been generally supported on the basis that:
  - (a) the development satisfies the aims of Clause 30 Standards for Boarding Houses (1) (h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 notwithstanding the non-compliance;
  - (b) the development is consistent with the objectives of the zone;
  - (c) the development is located in an accessible area in close proximity to public transport; and
  - (d) provision of no motorcycle parking results in a more desirable ground level streetscape presentation.
31. In addition, most applications have generally provided more than the minimum bicycle parking spaces required under Clause 30 Standards for Boarding Houses (1) (h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009.
32. A list of the applications reported to the Local Planning Panel for a boarding house development, where the sole reason for reporting the application to the Local Planning Panel for determination was the proposals non-compliance with the motorcycle parking standard, is provided in Attachment A.

33. Delegating determination of this category of development applications will help reduce the determination times for these applications.
34. The proposed delegation does not affect the requirement for development applications for boarding house development that are captured by the other categories contained within the section 9.1 Ministerial Direction, such as the contravention of a development standard by more than 10% or as a result of the proposal being contentious development due to the receipt of more than 25 unique submissions, from being referred to the Local Planning Panel for determination.

**Relevant Legislation**

35. Environmental Planning and Assessment Act 1979.

**ANDREW THOMAS**

Executive Manager Planning and Development

Bill Mackay, Manager Planning Assessments