

Relevant Information for Local Planning Panel

FILE: D/2022/810 **DATE:** 14 December 2022

TO: Local Planning Panel Members

FROM: Andrew Thomas, Executive Manager Planning and Development

SUBJECT: Information Relevant To Item 5 – Development Application: 110-122 Oxford Street, Darlinghurst – D/2022/810

Alternative Recommendation

It is resolved that:

- (A) ~~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 be upheld;~~
- (B) ~~the variation requested to clause 4.4 'Floor space ratio' development standard in accordance with clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and~~
- (C) consent be granted to Development Application No. D/2022/810 subject to the recommended conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development, subject to conditions, is consistent with the objectives of the B2 Local Centre zone pursuant to 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 B2 Local Centre zone and the height of buildings development standard.~~
- ~~(iii) — 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 Local Environmental Plan 2012; and~~
- ~~(iv) — the proposal is in the public interest because it is consistent with the objectives of the B2 Local Centre zone and the floor space ratio development standard.~~
- (C) The development conserves the heritage significance of the heritage items on site and satisfied clause 5.10 of the Sydney Local Environmental Plan 2012.
- (D) The development exhibits design excellence to satisfy clause 6.21 of the Sydney Local Environmental Plan 2012.
- (E) The development is consistent with the executed planning agreement for the site.
- (F) ***The development promotes land uses that will attract pedestrian traffic along the ground floor street frontage.***

Background

The report prepared in relation to Development Application D/2022/810 at 110-122 Oxford Street, Darlinghurst was prepared with an assessment against the relevant planning instruments and draft planning instruments that were applicable at the time of writing of the report. On 2 December 2022, Amendment No 77 to Sydney Local Environmental Plan (SLEP) 2012 was made under delegation by the Minister for Planning and was published on the NSW legislation website on 13 December 2022. The amendment brings into force the additional height and floor space controls for the Oxford Street Cultural and Creative Precinct as described and assessed within the report as draft controls. There are no savings provisions in relation to the controls.

The proposal complies with the maximum permitted alternative height of buildings standard of 24 metres that applies to the site. The proposal complies with the maximum permitted alternative floor space ratio of 4.5:1 for the site. As outlined within the assessment report, at least 10% of the gross floor area of the building has been identified for use for a cultural or creative purposes in accordance with the provisions. As the development complies with these controls, the request to vary the controls pursuant to clause 4.6 of SLEP 2012 are no longer required, and the recommendation for the application has been updated above.

The SLEP amendments also include further considerations for the consent authority to be satisfied as follows.

6.60D Oxford Street Cultural and Creative Precinct	Comment
<p>(5) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered whether the development promotes land uses that will attract pedestrian traffic along ground floor street frontages in the Oxford Street Cultural and Creative Precinct.</p>	<p>The proposal will continue to include retail tenancies to the Oxford Street elevation, and an entry lobby to the commercial and cultural and creative tenancies located throughout the building. It is considered that these land uses will attract pedestrian traffic along the ground floor street frontage within the Oxford Street Cultural and Creative Precinct.</p>
<p>(6) Development consent must not be granted to the erection or change of use of a building with a standard height and floor space ratio on land to which this clause applies unless the consent authority has considered the impact of the development on—</p> <p>(a) the status of the Oxford Street Cultural and Creative Precinct as a strategic centre encouraging development for cultural or creative purposes, and</p> <p>(b) the availability of floor space to be used for cultural or creative purposes.</p>	<p>The proposal utilises the alternative height and FSR controls, rather than the standard height and FSR controls that apply to the site and therefore the provision does not apply. Nevertheless, the proposal does provide for floor space for cultural and creative purposes that will contribute to the status of the Oxford Street Cultural and Creative Precinct.</p>

An addition to the reasons for the recommendation is included to reflect the above.

The remainder of the assessment contained within the report remains relevant for the consideration of the application.

Prepared by: Shannon Rickersey, Area Coordinator

Approved



ANDREW THOMAS

Executive Manager Planning and Development

