

## Relevant Information for Local Planning Panel

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**FILE:** D/2023/1179 **DATE:** 14 August 2024

**TO:** Local Planning Panel Members

**FROM:** Andrew Thomas, Executive Manager City Planning and Development

**SUBJECT:** Information Relevant To Item 5 – Development Application: 104 Pitt Street, Redfern - D/2023/1179

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### Alternative Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.4 Floor Space Ratio in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application No.D/2023/1179, subject to the conditions detailed in Attachment A to the subject report to the Local Planning Panel on 14 August 2024, subject to the following amendments to 'Condition 2 Design Modifications' – (additions shown in bold italics, deletions shown in strikethrough):

#### (2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

(a) ~~The southern timber fencing is not permitted for demolition as no landowners consent has been submitted from 98 Pitt Street Redfern, for the demolition of this structure. To ensure structure integrity of the timber fence as a whole, this fence must be retained in full and not demolished.~~ ***The existing timber gate and posts located within the Right of Footway easement are to be retained. Demolition of this gate is not approved.***

(b) ~~No~~ ***The*** new masonry southern side boundary fencing is to be constructed ***on the subject site only and to a maximum height of 1.8m above the existing natural ground level.*** ~~as the existing timber fence is required to be retained by (a) above.~~

(c) No structures or works are permitted to encroach within the Right of Footway easement or over the land of 98 Pitt Street Redfern, as no land owners consent from this property has been submitted with this development application.

(d) The western facade glazing (Window WG.06) of the floor to ceiling sliding doors adjacent to the living area at the ground floor level must be amended to comply with the ***deemed to satisfy provisions within the NCC 2022 Australian Building Codes Board (ABCB) Part 9.1 Scope and Application of Section 9 and Part 9.2 Fire Separation of External Walls*** ~~Volume 2 Part 3.7.2 Fire Separation of External Walls~~. This may require change to the FRL of the glazing, change to solid non-openable masonry wall or alternative fire protection measures as required to comply with the NCC. ***Alternatively, fire protection may be addressed via a performance-based solution that achieves the requirements of the National Construction Code.***

(e) Details of the proposed landscaping species, densities and irrigation measures for the Level 1 garden bed adjacent to Bedroom 3 and the Level 2 terrace garden bed must be submitted to the satisfaction of Council's Area Planning Manager.

The modifications are to be submitted to and approved by Council's 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.

### **Attachments**

Attachment A – Photo of existing timber gate posts to demonstrate the gate is structurally sound and capable of remaining upright independent of the existing timber fencing (Photo provided by applicant on 11 August 2024)

Attachment B – Email on 11 August 2024 from applicant with requested wording changes to condition 2 design modifications

### **Background**

Following discussions with the planner the applicant provided a written request and a site photo to demonstrate retaining the existing timber gate which is located within the adjacent easement would not result in any works outside the boundaries of the subject property. The planner supports the applicant's request and an amendment to condition 2(a) is outlined in the recommendation above.

An amendment to condition 2(b) is recommended to allow the construction of a 1.8m high masonry side boundary fence.

An amendment to condition 2(d) is also recommended to update the reference to the relevant 2022 National Construction Code provision.

Prepared by: Gavin Ho, Senior Planner

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Approved

AJT

**ANDREW THOMAS**

Executive Manager City Planning and  
Development