

<b>DATE OF DETERMINATION</b>	15 March 2018
<b>PANEL MEMBERS</b>	Sue Francis (Chair), John Roseth, Clare Brown, Victor Macri, and Sam Iskander
<b>APOLOGIES</b>	Carl Scully
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Christie Conference Centre on 15 March 2018, opened at 9:40am and closed at 11:00am.

#### **MATTER DETERMINED**

2017SCL039 – Inner West – DA201700310 at 4-12 McGill Street, Lewisham (AS DESCRIBED IN SCHEDULE 1)

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The decision to approve the development application was unanimous.

#### **REASONS FOR THE DECISION**

The reasons for the decision of the Panel were:

The Panel previously deferred determination of the matter on 7 December 2017 to address 4 matters; access and easement for light and air to 2 McGill, the size of balconies, removal of embedded studies and the need for a reviewed Clause 4.6 Variation request.

Those matters have been considered by Council in their supplementary report. Council raised concern in relation to the size of the proposed balconies and the applicant provided amended sketches in relation to typical apartments A27, A37, A45, A57 and B11, B21, B31, B41, B51 and B61. The amended sketches handed to the Panel 15/3/18 appear to address these concerns and should form a condition of consent.

The easement for access and light and air has been addressed through amended plans and conditions of consent.

The embedded studies have been removed, and an amended cl 4.6 variation request has been submitted. Council does not accept the amended cl 4.6 variation which seeks to exceed the permissible Floor Space Ratio (FSR) by 17%. However, the Panel considers that the cl 4.6 variation is well founded.

The Panel notes the inconsistency with the development standards of height and FSR in the Local Environment Plan (LEP) to those anticipated built forms in the Development Control Plan (DCP). The Panel notes that decisions of Council, the Court and the Panel have varied the FSR of developments in the precinct by up to 80%. Likewise, whilst not exceeding the heights in the LEP, height envelopes in the DCP have been increased. Further, the Desired Future Character (DFC) objectives of the DCP under section 9.45 do not identify building mass, scale and form as identified in the DCP to be elements to satisfy the DFC.

The Panel considers that the proposal will be consistent with the built form character established by the developments built, pursuant to the current controls, and is therefore acceptable on merit.

Lastly, the Panel notes the previous approval on the site and considers that the subject proposal will deliver a preferred built form and a better planning solution.

### CONDITIONS

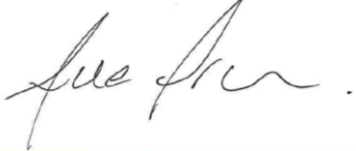




The development application was approved subject to the conditions in the Supplementary Council Assessment Report, with the following amendments.

An additional condition to read:

‘An easement for light and air in favour of no 2 McGill St as shown on drawing DA9006A to be registered on the certificate of title before the issue of any Occupation Certificate.’

An additional condition to read:

‘The balconies to apartments A27, A37, A45, A57 and B11, B21, B31, B41, B51, and B61 to be amended consistent with sketches handed to the Panel on 15/3/18. Details to be provided on amended plans prior to the issue of the relevant construction certificate.’

PANEL MEMBERS	
 Sue Francis (Chair)	 John Roseth
 Clare Brown	 Victor Macri
 Sam Iskander	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017SCL039 – Inner West – DA201700310
2	PROPOSED DEVELOPMENT	To demolish the existing improvements and construct a mixed use development consisting of a 6 storey building (Building A) with roof terrace fronting McGill Street and a 8 storey building (Building B) fronting the light rail line containing a total of 88 dwellings and 1 commercial tenancy within Building A for use as art gallery and café space with 2 basement car parking levels and associated landscape works
3	STREET ADDRESS	4-12 McGill Street, Lewisham
4	APPLICANT/OWNER	McGill Advance Management P/L
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments:</li> <li>• State Environmental Planning Policy No 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)</li> <li>• State Environmental Planning Policy (State and Regional Development 2011)</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• Marrickville Section 94/94A Contributions Plan 2014</li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: Nil</li> <li>• Planning agreements: Nil</li> <li>• Provisions of the Environmental Planning and Assessment Regulation 2000: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the Environmental Planning and Assessment Act 1979 or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Amended Clause 4.6 Request</li> <li>• Supplementary Council assessment report: 28 February 2018</li> <li>• Council Assessment Report: 23 November 2017</li> <li>• Clause 4.6 Request</li> <li>• Written submissions during public exhibition: Three (3)</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ On behalf of the applicant – Ben Craig, Simon Parsons, Rohan Graham</li> </ul> </li> </ul>
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Site inspection and briefing meeting 28 September 2018</li> <li>• Briefing and public meeting (deferred): 7 December 2017</li> <li>• Final briefing meeting to discuss council's recommendation, 15 March 2018. Attendees: <ul style="list-style-type: none"> <li>○ Panel members: Sue Francis (Chair), John Roseth, Clare Brown, Sam Iskander, Victor Macri.</li> <li>○ Council assessment staff: Jamie Erkin, Asher Richardson</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report