

Resolution of Local Planning Panel

3 April 2019

Item 5

Development Application: 30-42 Lower Fort Street, Dawes Point

Mr Romey left the meeting prior to consideration and determination of this matter as per his declaration of a non-pecuniary conflict of interest in this item.

The Panel:

- (A) upheld the variation sought to the development standard under Clause 4.3 Height of Buildings in accordance with Clause 4.6 'Exceptions to development standards' in Sydney Local Environmental Plan 2012;
- (B) upheld the variation sought to the development standard under Part 4D of the Apartment Design Guide and clause 30 of the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development; and
- (C) granted consent to Development Application No. D/2018/903 subject to the conditions set out in [Attachment A](#) to the subject report, subject to the following amendments (additions shown in **bold italics** and deleted text shown in ~~striketrough~~):

(4) **NEW ENTRY GATES**

The new entry gates to each entry point are to be of an open construction **similar to the existing balustrades** allowing views into the premise. **The gates are to be set back from the boundary as far as practicable.** The gates must not open over Council's footway.

The detailed gate design must be submitted to and approved by Council's Area Planning Manager prior to the issue of any Construction Certificate.

The drawings must also be submitted for assessment and approval by the Heritage Council of NSW (or its delegate) with the s60 application.

(5) PUBLIC DOMAIN PLAN

- (a) A detailed Public Domain Plan must be prepared by a suitably qualified architect, urban designer, landscape architect or engineer and must be lodged with Council's Public Domain Section and be approved by Council prior to a Construction Certificate being issued for public domain work or any above ground building work, whichever is later. The completed Public Domain Plan is to include appropriate cycle parking having regard to the City of Sydney's Public Domain Manual, Sydney Streets Design Code and Sydney Streets Technical Specification, and the Director City Planning, Development and Transport's requirements. All costs related to installation of the cycle parking are to be borne by the developer/applicant.**
- (c) The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.**
- (d) A Public Domain Works Deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual. The Public Domain Works Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.**
- (e) Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Construction Certificate being issued.**
- (f) The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.**

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposal is consistent with the objectives of the R1 - General Residential zone for the reasons set out in the report to the Local Planning Panel.**
- (B) The variation to Clause 4.3 of the Sydney Local Environmental Plan 2012 Height of buildings is consistent with the provisions of Clause 4.6 'Exceptions to development standards' and is in the public interest.**
- (C) The variation to the size of the 1 bedroom apartments in the Design Criteria of Objective 4D-1 of the Apartment Design Guide under SEPP 65, legally considered to be a 'development standard', is consistent with the provisions of Clause 4.6 'Exceptions to development standards' and is in the public interest.**

- (D) Non-compliance with several controls in Sydney DCP 2012 and the SEPP 65 Apartment Design Guide is considered acceptable with regard to the constraints of the site, the existing building and the surrounding area. The development represents a reasonable balance between maintaining the heritage fabric of a State heritage listed item, being the first government built residential flat building, and improving the amenity of an existing substandard residential flat building to a standard compatible with modern requirements.
- (E) The proposal exhibits design excellence as required under Clause 6.21 Design Excellence of Sydney Development Control Plan 2012 as the external appearance of the existing building will generally be retained, and the retention of heritage fabric balanced with reasonable amenity upgrades throughout the rest of the development.
- (F) The adaptive re-use and additions to the building are compatible with and contribute to the character and appearance of the Millers Point Conservation Area (SHR: 00884); the Millers Point and Dawes Point Village Precinct (SHR: 01682); and the Millers Point heritage conservation area (HCA C35) under Sydney LEP 2012.
- (G) As conditioned, it is generally consistent with the objectives of the relevant controls for the site and will not adversely impact the amenity of neighbouring properties and is in the public interest.
- (H) Condition 4 New Entry Gates was amended to ensure that the new entry gates are consistent with the design of the existing balustrades and are appropriately recessed so as to not detract from the design and appearance of the building.
- (I) Condition 5 Public Domain Plan was added to include provision for public domain works in particular the installation of bicycle racks to serve future occupants of the development. This addresses concerns raised about the lack of bicycle parking on site.

Carried unanimously.

D/2018/903