

Resolution of Local Planning Panel

14 October 2020

Item 4

Development Application: 135-139 McEvoy Street, Alexandria - D/2018/1581

The Panel:

- (A) upheld in this instance the variation requested to the LEP building height standard in accordance with Clause 4.6 'Exceptions to development standards'; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, granted a deferred commencement consent to Development Application No. D/2018/1581 subject to the conditions set out in Attachment A to the subject report, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

(8) FLOOR SPACE RATIO - ALL OTHER AREAS

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the site must not exceed ***1.49:1*** ~~4:49:1~~; calculated in accordance with the Sydney Local Environmental Plan 2012. For the purposes of the calculation of FSR, the Gross Floor Area of the commercial component is 143sqm, the residential component is 3456sqm, and the total Gross Floor Area is 3599sqm.

(19) STREET *TREE* REMOVAL

The removal of any street tree approved by Council must include complete stump removal and the temporary reinstatement of levels so that no trip or fall hazards exist until suitable replanting occurs. These works must be completed immediately following the trees removal.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposed development is permissible with consent in the B4 Mixed Use zone.

- (B) The proposed development complies with the 22m and 15m building height controls under Clause 4.3 of the LEP, except for the clerestory windows. It also complies with the 1.5:1 floor space ratio control pursuant to Clauses 4.4 and 6.14 of the LEP.
- (C) The applicant's written request to vary the height standard adequately addresses the matters required to be demonstrated by Clause 4.6(3) of the LEP. The Applicant's request demonstrates that compliance with the building height development standard is unreasonable and unnecessary, and that there are sufficient planning grounds to justify the clerestory windows contravening Clause 4.3 of the LEP. The proposal is also in the public interest because it is consistent with the objectives of the B4 Mixed Use zone and the building height development standard.
- (D) The proposed development provides an appropriate architectural outcome that is suitable in terms of its scale, built form and response to the site's context. It is consistent with the desired future character of the area, as expressed in the applicable planning policies. As such, it is considered to satisfy the design excellence provisions under Clause 6.21 of the LEP.
- (E) The proposed development satisfies the relevant objectives and provisions of the DCP.
- (F) The proposed development will not unreasonably impact the amenity of surrounding residential properties.
- (G) Conditions 8 and 19 were amended to correct minor typographical errors.

Carried unanimously.

D/2018/1581