

Resolution of Local Planning Panel

16 March 2022

Item 4

Development Application: 7 Franklyn Street and 49 Greek Street, Glebe - D/2021/729

The Panel:

- (A) upheld the variation requested to the Sydney LEP 2012 building height development standard in accordance with clause 4.6 'exceptions to development standards' of the Sydney LEP 2012;
- (B) upheld the variation requested to the Sydney LEP 2012 floor space ratio development standard in accordance with clause 4.6 'exceptions to development standards' of the Sydney LEP 2012;
- (C) upheld the variation requested to the ARH SEPP motorbike parking development standard in accordance with clause 4.6 'exceptions to development standards' of the Sydney LEP 2012; and
- (D) granted consent to Development Application No. D/2021/729 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~~):

(16) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management, prepared by Mod Urban and dated June 2021 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

The Plan of Management is to be amended prior to the issue of an Occupation certificate to incorporate the conditions of consent relating to capacity and hours of operation of the ground floor communal outdoor space and the communal rooftop terrace.

(48) PUBLIC DOMAIN TREE PLANTING AND MAINTENANCE

(a) A Tree Planting Plan must be submitted and approved by the City's Public Domain Unit prior to the issuing of any Construction Certificate. The plan must include and be consistent with the following requirements:

- (i) Tree species shall be consistent with the City's Street Tree Master Plan (refer to relevant precinct plans) or other relevant guidance document. ***Possible opportunities for new street tree plantings on the Franklyn Street frontage shall be reviewed as part of the Tree Planting Plan.*** Species substitutes will not be accepted.
- (ii) Tree pits must be located and constructed in accordance with the City's Street Tree Master Plan (Technical Guidelines) or other relevant guidance document.
- (iii) The tree pit design must include structural soils or structural cells to support pavements in accordance with the Street Tree Master Plan (Technical Guidelines).
- (iv) Indicate the chosen tree planting arrangement, being a choice of one of two options, being:

Undertake all tree supply, planting, and maintenance requirements to the required standards and to the satisfaction of the City's Tree Management.

OR

Pay a fee for the City to supply, plant, and maintain each required tree on the applicant's behalf. The fee is consistent with the City's Schedule of Fees and Charges.

(b) If opting to undertake all tree supply, planting, and maintenance requirements, the following requirement must be met:

- (i) The trees must be a minimum container size of 100 litres, at the time of planting.
- (ii) All new trees must be grown in accordance with the Australian Standard 2303:2015 'Tree stock for landscape use' and meet the requirements of this standard at the time of planting.
- (iii) Certification from the tree supplier must be submitted to the City's Tree Management Officer and Public Domain Officer, prior to the trees being planted. The certification must confirm the tree(s) have been grown and comply with the requirements of AS2302. Any new trees that do not conform will be rejected by the City.
- (iv) The trees must be planted by a qualified Arborist or Horticulturist (AQF Level 3) and be planted before the issuing of the final Occupation Certificate.
- (v) All new trees must be inspected and approved by the City's Tree Management Officer (or their representative) at the following

milestones: before planting with planting pits excavated; after planting; and at the end of the maintenance period.

- (vi) All trees planted in accordance with the approved Tree Planting Plan must be maintained by a qualified Horticulturist or Arborist (minimum AQF Level 3) for a minimum period of twelve (12) months, commencing from the date of planting. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning, fertilizing, pest and disease control and any other operations to maintain a healthy robust tree.
- (vii) At the end of the twelve (12) month maintenance period, written acceptance of the tree/s must be obtained from the City before release of the public domain bond.
- (viii) If a tree fails to thrive and successfully establish during the maintenance period, then City will request payment for a replacement tree and establishment period according to the City's Schedule of Fees and Charges.

Reasons for Decision

The application was approved for the following reasons:

- (A) The development complies with the objectives of the B2 Local Centre zone pursuant to the Sydney LEP 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 requests have each 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, floor space ratio development standard and motorbike parking development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clauses 4.3 and 4.4 of the Sydney LEP 2012 and clause 30(f) of the ARH SEPP; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B2 Local Centre zone, the objectives of the height of buildings development standard, the floor space ratio development standard and the ARH SEPP development standards.
- (C) The proposal is consistent with the aims and objectives of Division 3 of ARH SEPP.
- (D) Having considered the matters in Clause 6.21(4) of the Sydney LEP 2012, the building displays design excellence because:
 - (i) the materials and detailing are appropriate to the building type and location;
 - (ii) the works will not have any significant impacts on the quality of the public domain; and
 - (iii) the proposed bulk, massing and modulation of the subject building is acceptable.
- (E) The development is consistent with the objectives of the Sydney Development Control Plan 2012 (Sydney DCP 2012).
- (F) Suitable conditions of consent have been applied and the development is considered to be in the public interest.
- (G) Condition 16 was amended to ensure consistency and clarity as to the operation of the Plan of Management and the conditions of consent.
- (H) Condition 48 was amended to incorporate tree planting along Franklyn Street into the public domain plan.

Carried unanimously.

D/2021/729