

Resolution of Local Planning Panel

29 June 2022

Item 3

Development Application: 13-17 Ithaca Road, Elizabeth Bay - D/2021/1253

The Panel:

- (A) determined that the applicant's written request dated 22 April 2022 to contravene the floor to ceiling height development standard of the Sydney Local Environmental Plan 2012 has adequately addressed the matters required to be demonstrated by subclause 4.6(3) of the Sydney Local Environmental Plan 2012 and the proposed development will be in the public interest; and
- (B) granted consent to Development Application No. D/2021/1253 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~~):

(23) PARKING WAYFINDING PLAN

- (a) Signage directing users to the bicycle parking facilities, loading dock, service bays, car share and any visitor parking provided are to be installed from the street level, between the entry point/s at the site boundary and the entry point to the above facilities, including directions to lifts and illuminated signage, where appropriate.
- (b) The wayfinding plan must be submitted to and approved by Council's Area Planning Manager prior to ~~any~~ ***a*** Construction Certificate for the site being issued. Signage must be installed to the satisfaction of the Principal Certifier before the issue of any Occupation Certificate.

(35) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

A site-specific noise management plan shall be submitted to the Council's Area Planning Manager for comment and approval prior to issue of any Construction Certificate.

The Plan must be prepared by a suitably qualified person who possesses the qualifications to render them eligible for membership of the Australian Acoustic

Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants. The plan must include but not be limited to the following:-

- (a) identification of noise sensitive receivers near to the site;
- (b) a prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property;
- (c) a representative background noise measurement ($L_{A90, 15 \text{ minute}}$) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997;
- (d) confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases;
- (e) confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code;
- (f) what course of action will be undertaken following receipt of a complaint concerning offensive noise;
- (g) details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum;
- (h) what plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available; **and**
- (i) ***a mechanism for consultation and liaison with neighbours during construction, and a complaints procedure.***

(39) PUBLIC ART

- (a) Public art must be installed to Council's satisfaction prior to the issue of any Occupation Certificate.

- (b) The public artwork must be in accordance with the Sydney DCP 2012, the Public Art Policy, and the Interim Guidelines: Public art in private developments.
- (c) A Detailed Public Art Plan with final details of the proposed public artwork must be submitted to and approved by Council's Director City Planning, Development and Transport prior to the issue of ~~any~~ a Construction Certificate.
- (d) Public art must be inspected and approved and the Final Public Art Report submitted and approved by Council's Area Planning Manager prior to the issue of any Occupation Certificate.
- (e) Note: Public Art locations, budget and shortlisted artists must be reviewed and endorsed by the City's Public Art Team prior to preparation of the Detailed Public Art Plan and submission for Council approval. Further information is available online at <http://www.cityofsydney.nsw.gov.au/explore/arts-and-culture/public-art>

Please contact the Public Art Team at publicartreferrals@cityofsydney.nsw.gov.au for further information.

(81) PUBLIC DOMAIN LIGHTING UPGRADE

Prior to issue of any Construction Certificate for ~~excavation~~, civil construction, drainage or building work (whichever is earlier), a concept Public Domain Lighting Upgrade Plan for pedestrian and street lighting in the public domain must be submitted to and approved by City's Public Domain Unit. The Lighting Plan must be prepared in accordance with the *Sydney Streets Technical Specifications A5-Street Lighting Design* and *B8- Street Lighting Construction*, *Sydney Lights: Public Domain Design Code* and *Public Domain Manual*. This information is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

The lighting upgrade plan must cover all adjacent street frontages, being Ithaca Road and Billyard Avenue and shall be designed to include the following requirements;

- (a) Upgrade existing Ausgrid street lighting using network standard LED luminaires.
- (b) Lighting standards compliance of AS1158.3.1:2020 Category PR2 must be achieved.
- (c) Lighting designs certified by an appropriately qualified practicing lighting engineer.

Advice on site specific lighting requirements must be obtained from the City's Public Domain Unit before proceeding with the preparation of any final lighting design proposals.

Reasons for Decision

The application was approved for the following reasons:

- (A) Based on the material available to the Panel at the time of determining this application, the Panel is satisfied that:
 - (i) the applicant's written request has adequately addresses the matters required to be demonstrated by clause 4.6(3) of the Sydney Local Environmental Plan, that compliance with the floor to ceiling height development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney Local Environmental Plan 2012; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the 'floor to ceiling height' development standard established by Clause 30(1)(c) of the State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development;
- (B) The development, subject to conditions, is consistent with the objectives of the R1 - General Residential zone.
- (C) The development exhibits design excellence.
- (D) The design of the development responds appropriately to the scale of surrounding buildings.
- (E) The development will not adversely affect the character of The Bays locality or the Elizabeth and Rushcutters Bays Heritage Conservation Area.
- (F) The development accords with objectives of relevant planning controls.
- (G) The development will not significantly increase bulk and massing beyond the existing approved development.
- (H) Conditions 23 and 39 were amended at the request of the applicant, to provide flexibility in circumstances where there are staggered construction certificates.
- (I) Condition 35(i) was added to ensure that the noise management plan includes a means by which consultation with neighbours can occur.
- (J) Condition 81 was amended to be consistent with Condition 76.

Carried unanimously.

D/2021/1253