

## Resolution of Local Planning Panel

**28 June 2023**

### Item 4

#### Development Application: 8 Coneill Place, Forest Lodge - D/2022/846

The Panel:

- (A) upheld the variation requested to the Height of Buildings development standard, in accordance with clause 4.6 exceptions to development standards of the Sydney Local Environmental Plan 2012; and
- (B) granted consent to Development Application No. D/2022/846 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):

#### (2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) ***With the exception of the lift***, the setback from the ~~southern~~ boundary ***between 8 and 9 Coneill Place*** is to be increased to ***generally*** 2.5m for the first floor.
- (b) All first-floor windows on the southern boundary are to be either fixed obscure glazing or with a sill height of at least 1.6m above the finished floor level.

The modifications are to be submitted to and approved by Area Planning Manager prior to the issue of a Construction Certificate.

#### Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

**(3) AFFORDABLE HOUSING CONTRIBUTION – RESIDUAL LAND OR CENTRAL SYDNEY – PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION – PRIOR TO CONSTRUCTION CERTIFICATE**

- (a) In accordance with the City of Sydney Affordable Housing Program and prior to the issue of a Construction Certificate, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid to the City of Sydney Council.
- (b) The contribution is \$213,769.25 (indexed at 26 May 2023). This is calculated by establishing the sum of the equivalent monetary contribution \$10,611.53 multiplied by 1% of the total floor area for non-residential development (0 sqm) and the equivalent monetary contribution \$10,611.53 multiplied by 3% of the total floor area for residential development (671.5sqm).
- (c) If the contribution is paid after the indexation period in which the consent is granted, being 1 March 2023 to 29 February 2024, the above contribution will be adjusted according to the Sydney LGA median strata dwelling price ('MDP') using the following formula.
- (d) Contribution payable at Time of Payment =  $C \times MDP2 / MDP1$ , where:
  - (i) C is the original total contribution amount payable to the City of Sydney as shown above;
  - (ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA taken from the most recent NSW Government Rent and Sales Report at the time of indexation of the equivalent monetary contribution rate; and
  - (iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Report used to establish the current equivalent monetary contribution rate, being 1 March 2023 to 29 February 2024.
- (e) ***This contribution is subject to revision, as specified in condition 2(a), in which event the amount specified in condition 3(b) is to be recalculated and submitted for approval to the Area Planning Manager.***

Contact Council's Planning Assessment Unit at [planningsystemsadmin@cityofsydney.nsw.gov.au](mailto:planningsystemsadmin@cityofsydney.nsw.gov.au) for written confirmation of the amount payable, with indexation as necessary, prior to payment.

**Reason**

To ensure development contributions are paid to contribute to the provision of essential affordable rental housing infrastructure.

**(24) TREE PROTECTION ZONE**

- (a) Before the commencement of works, Tree Protection Zone/s (TPZ) must be established around all trees to be retained not less than the distance indicated in the TPZ schedule below.

- (b) Tree protection must be installed and maintained in accordance with the Australian Standard 4970 Protection of Trees on Development Sites and with the following schedule:

**TPZ Schedule**

| <b>Tree No.</b> | <b>Species Name</b>                                     | <b>Location</b>                        | <b>Radius (m)</b><br><b>From Trunk</b> |
|-----------------|---|--|--|
| 1-2             | <i>Celtis australis</i><br>(Southern Hackberry)         | Street tree – front                    | 10.0                                   |
| 4               | <i>Elaeocarpus reticulatus</i><br>(Blueberry Ash)       | Neighbouring property – South boundary | 2.5                                    |
| 15              | <i>Phoenix canariensis</i><br>(Canary Island Date Palm) | Rear yard – South west corner          | 11.0<br><b>3.5</b>                     |
| 16              | <i>Magnolia grandiflora</i><br>(Southern Magnolia)      | Neighbouring property – South boundary | 6.0                                    |
| 17              | <i>Callistomen viminalis</i><br>(Weeping Bottlebrush)   | Neighbouring property – South boundary | 6.0                                    |

Note: Only applies to the TPZ within the subject development site and the public domain.

- (c) Ground surface protection must be installed if construction access is required through any TPZ of this condition where hard surface / paving is not existing. The ground protection must be:
- (i) Protected with boarding (ie scaffolding board or plywood sheeting or similar material), placed over a layer of mulch to a depth of at least 75mm and geotextile fabric;
  - (ii) The protective boarding must be left in place for the duration of the construction and development.

- (de) The following works must be excluded from within any TPZs:
- (i) Excavation; - except for the localised siting of piers / demolition of the concrete slab
  - (ii) Soil cut or fill including trenching;
  - (iii) Soil cultivation, disturbance or compaction;
  - (iv) Stockpiling, storage or mixing of materials;
  - (v) The parking (except existing on street parking), storing, washing and repairing of tools, equipment and machinery;
  - (vi) The disposal of liquids and refuelling;
  - (vii) The disposal of building materials;
  - (viii) The siting of offices or sheds;
  - (ix) Any action leading to the impact on tree health or structure.
- (ef) Any trenching works for services / hydraulics / drainage etc must not be undertaken within any TPZ. Alternative installation methods for services, such as directional boring/drilling, or redirection of services must be employed.
- (fg) All work undertaken within or above the TPZ must be:
- (i) Carried out in accordance with a work methodology statement prepared by an Arborist (minimum AQF Level 5) and written approval is obtained from Council's Tree Management Officer before its implementation; and
  - (ii) Supervised by a Project Arborist (minimum AQF Level 5).

### **Reason**

To ensure the protection and ongoing health of trees.

### **Reasons for Decision**

The application was approved for the following reasons:

- (A) 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 request adequately addresses the matters required by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Height development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 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 Height of Buildings development standard.

- (B) The proposal is generally consistent with the relevant objectives and controls of the Sydney Local Environmental Plan 2012 (LEP) and Sydney Development Control Plan (2012).
- (C) The proposed development complies with the maximum floor space ratio development standard contained in clause 4.4 of the Sydney Local Environmental Plan 2012
- (D) The proposed development provides an appropriate contribution that is suitable in terms of its context, scale and built form which is consistent with the desired future character of the area, subject to conditions. As such, the proposed development exhibits design excellence in accordance with the requirements contained in clause 6.21C of the Sydney Local Environmental Plan 2012.
- (E) The development is generally consistent with the objectives of the Sydney Development Control Plan 2012.
- (F) Suitable conditions of consent are recommended, and the development is considered to be in the public interest.
- (G) Condition 2(a) was amended to limit the extent of the setback on the first floor to that part of the development adjoining 9 Coneill Place, maintaining the amenity of neighbouring residents.
- (H) Condition 3(e) was added to clarify the potential change to the contribution effected by the amendment to condition 2(a).
- (I) Condition 24 was amended to correct an administrative error.

Carried unanimously.

D/2022/846