

## Resolution of Local Planning Panel

28 June 2023

### Item 7

#### Section 4.55(2) Modification Application: 38-44 Mountain Street, Ultimo - D/2020/1288/A

The Panel granted consent to Section 4.55 Application No. D/2020/1288/A subject to the amendment of the conditions in Attachment A to the assessment report (with modifications shown in ***bold italics*** (additions) and ~~strikethrough~~ (deletions):

#### (68A) SITE SUPERVISION AND REPORTING

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone of ~~any tree~~ ***the two street trees along Smail Street which are located adjacent to the building's carpark entrance and listed for retention***. The Arborist must certify compliance with each key milestone detailed below:
- ~~(i) The installation of tree protection measures prior to the commencement of any construction works;~~
  - ~~(ii) During demolition of any ground surface materials (pavers, concrete, grass etc.) within the Tree Protection Zone (TPZ) of any tree to be retained;~~
  - ~~(iii) During any excavation and trenching for services located within the Tree Protection Zone (TPZ);~~
  - ~~(iv) During any Landscape works within the TPZ which has been approved by Council.~~
- (b) An Arboricultural Compliance Report which includes photographic evidence and provides details on the health and structure of tree/s must be submitted to and acknowledged by Council's Area Planning Coordinator or Area Planning Manager at each hold-point listed below:

~~(i) Certification that tree protection measures have been installed in accordance with these consent conditions;~~

~~(ii) Certification of compliance with **the** each key milestone listed above within 48 hours of completion;~~

~~(iii) Monthly reporting for the duration of construction and development works within the site;~~

~~(iv) Details of any other works undertaken on the **specified** trees to be retained or any works within the TPZ. which has been approved by Council.~~

- (c) A final compliance report must be submitted to and approved by Council's Area Planning Coordinator or Area Planning Manager prior to the issue of any Occupation Certificate.

Reason

To ensure the protection and ongoing health of trees on the site.

(Condition Added – D/2020/1288/A – 28 June 2023)

#### **(74A) ON SITE LOADING AREAS AND OPERATION**

All loading and unloading operations associated with servicing the site, **aside from bin collection**, must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

Reason

To maintain the orderly operation of vehicle parking areas and to ensure the public domain is kept free from physical obstructions.

(Condition Added – D/2020/1288/A – 28 June 2023)

## **Reasons for Decision**

The application was approved for the following reasons:

- (A) The development, as modified, is substantially the same development as that originally approved and is consistent with Section 4.55(2)(a) of the Environmental Planning and Assessment Act, 1979.
- (B) The proposal is consistent with the aims, objectives and relevant provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 for the reasons set out in the report.
- (C) The development, as modified, is in the public interest.
- (D) Condition 68A was amended to reduce the requirements of the condition to specifically relate to the two trees on Smail Street.
- (E) Condition 74A was amended to remove conflict with condition 73.

Carried unanimously.

D/2020/1288/A