

## Resolution of Local Planning Panel

**6 September 2023**

### Item 5

**Development Application: 9A Rosebery Avenue, Rosebery - D/2022/306**

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/2022/306 subject to the conditions set out in Attachment A to the subject report, subject to the following amendments (additions shown in ***bold italics***):

#### ***(2) DESIGN MODIFICATION***

- (a) The advertising panel facing the park is not approved.***
- (b) The design of the APT is to be modified to include a green wall on the elevation facing the park.***
- (c) The finalised plan and details are to be submitted to Council's Area Planning Manager for review and approval prior to the issue of a Construction Certificate.***

#### ***(3) DECOMMISSIONING STRATEGY FOR APT GREEN WALL***

***A detailed green wall decommissioning report (including plans, sections and details drawn to scale, and technical specification) prepared by a qualified landscape architect, landscape designer or green wall specialist, is to be submitted to and approved by the Area Planning Manager / Area Planning Coordinator prior to the issue of a Construction Certificate. This shall include the following:***

- (a) details of the green wall construction, including proposed materials, planter dimensions, fixings and structures;**
- (b) resolution of the appearance of the APT, should the APT green wall elements fail en masse. Submit a plan and section details to demonstrate the appearance of the APT without the green wall and/or green roof, if this outcome eventuates; and**
- (c) a plan outlining the intended strategy for decommissioning and rectification if APT planting works fail. This is to ensure the green wall is maintained throughout its life and for the duration of the ten year contract.**

*Remaining conditions to be renumbered accordingly.*

### **Reasons for Decision**

The application was approved for the following reasons:

- (A) The development, subject to conditions, serves the public interest as it will provide an essential community facility serving an outdoor recreation area and will enhance the amenity of the local area.
- (B) The proposal satisfies the objectives of the Environmental Planning and Assessment Act, 1979, in that, subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site.
- (C) The development complies with the objectives of the MU1 Mixed Use zone pursuant to Sydney Local Environmental Plan 2012.
- (D) 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 has 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 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 MU1 Mixed Use zone and the 'height of buildings' development standard.
- (E) Appropriate conditions are recommended to ensure the proposed development will be effectively maintained and kept clean.
- (F) The development accords with objectives of relevant planning controls.
- (G) Conditions 2 and 3 were added to improve the amenity of the park.

Carried unanimously.

D/2022/306