

Resolution of Local Planning Panel

27 November 2024

Item 3

Development Application: 28-36 Bayswater Road, Potts Point - D/2023/71

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 Number D/2023/71 subject to the conditions set out in Attachment A to the subject report, subject to the following amendments (additions shown in ***bold italics***):

(147) USE OF COMMUNAL OPEN SPACE

Use of the Level 3 and Level 4 communal open space areas ***must be available for the use by all residents of the building and must be designated as common property on any strata subdivision of the site, with no exclusive rights. Use of the communal open space*** is limited to between the hours of 6:00am and 10.00pm daily.

All external lighting associated with the communal open spaces must comply with AS/NZS 4282:2019 'Control of the obtrusive effects of outdoor lighting' and must be mounted, screened and directed in a way that does not create a nuisance or light spill on to buildings on adjoining properties.

Reason

To ensure that the use of the communal open space areas does not adversely impact on the amenity of the area.

Reasons for Decision

The application was approved for the following reasons:

- (A) The development complies with the objectives of the E1 Local Centre zone pursuant to the Sydney Local Environmental Plan 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 request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney Local Environmental Plan 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 Local Environmental Plan 2012 and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the E1 Local Centre zone and the 'height of buildings' development standard.
- (C) Having considered the matters in Clause 6.21C(2) of the Sydney Local Environmental Plan 2012, the building displays design excellence because:
- (i) the proposed development provides a high standard of architectural design, materials and detailing appropriate to the building type and its location
 - (ii) the proposal will have a positive impact on the subject site, the original heritage fabric, the heritage conservation area and the streetscape
 - (iii) the proposed development is compatible with the built form and density of surrounding developments and
 - (iv) the proposed development will not result in any detrimental visual privacy, overshadowing, view loss, wind or reflectivity impacts.
- (D) The development is generally consistent with the objectives of the relevant planning controls.
- (E) Appropriate conditions are recommended to ensure the development does not detrimentally impact on the heritage significance of the site.
- (F) The development will not adversely affect the character of the Kings Cross locality or the Potts Point Heritage Conservation Area.
- (G) The development will not unreasonably compromise the amenity of nearby properties.
- (H) Suitable conditions of consent are recommended and the development is in the public interest.
- (I) Condition 147 was amended to further clarify the use of the communal open space.

Carried unanimously.

D/2023/71