Resolution of Local Planning Panel

2 July 2025

Item 3

Development Application: 158 Wyndham Street, Alexandria - D/2024/803

The Panel:

(A) upheld the request to vary the height of buildings development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012;

(B) upheld the request to vary the ceiling heights development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and

(C) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, granted a deferred commencement consent to Development Application Number D/2024/803 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~~):

(25) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

(a) The west facing living room glazing on Levels 1-4 are to have a solid spandrel to sill height in masonry or metal cladding. Floor to ceiling glazing or fritted glass is not permitted.

(b) The glass balustrades on the eastern and western elevations are not approved. Solid or metal balustrades with angled blades, or similar, are to be provided to prevent direct viewing to the balconies. Opaque glass is not permitted.

(c) Fixed or operable vertical sun shading is to be provided to the western facade to protect glazing from the summer sun while optimising winter sun.

(d) Additional planters are to be provided on the south-eastern portion of the rooftop level to prevent overlooking to neighbouring private open space to the south of the site. The raised planters are to be 1.1m high, a minimum 1m wide with screen planting and form the balustrade so that they can be maintained from the rooftop.

(e) ***Details of the AC condenser units and screening of those units is to be provided.***

The modifications are to be submitted to and approved by Council's 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.

(108) USE OF COMMON AREAS AND FACILITIES

The communal open space on the ground floor and the rooftop level must be available for the use all residents of the building and must be designated as common property on any strata subdivision of the site, with no exclusive use rights.

A Rooftop Plan of Management is to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate. The rooftop communal open space must not be accessed before 6:00am, and from Sunday to Thursday must close at 10:00pm. On Friday and Saturday nights the rooftop communal space must close at midnight. In addition, no more than 15 people may congregate on the rooftop at any one time.

Signage is to be installed outlining the operating hours and capacity limit.

Reason

To ensure designated areas within the residential development are maintained as common property. ***The Plan of Management for use of the roof top area is to mitigate adverse impacts for adjoining residents by restricting the hours of operation and the maximum number of people on the roof top at any one time.***

Reasons for Decision

The application was approved for the following reasons:

(A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the recommended conditions of consent, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.

(B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that the applicant's written requests have 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 and the ceiling heights development standards is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening the development standards.

(C) The development is permissible with consent in the MU1 - Mixed-Use zone and is consistent with the objectives of the zone.

(D) The proposal has been assessed against the aims and objectives of the relevant planning controls including the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012, and State Environmental Planning Policy (Housing) 2021. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances or are to be resolved by the recommended conditions of consent.

(E) The proposed development demonstrates design excellence in accordance with the relevant provisions and matters for consideration in clause 6.21C of the Sydney Local Environmental Plan 2012.

(F) The proposed development has a form, bulk and massing that is suitable for the site and its context and is appropriate in the setting of the Botany Road Precinct.

(G) Condition 25(e) was added to protect visual and acoustic amenity and avoid any further overshadowing.

(H) Condition 108 was amended to protect residents' and neighbours' acoustic amenity.

Carried unanimously.

D/2024/803