

Resolution of Local Planning Panel

30 January 2019

Item 3

Development Application: 39A Elizabeth Bay Road, Elizabeth Bay

Mr Carter left the meeting prior to consideration and determination of this matter as per his declaration of a reasonably perceived conflict of interest in this item.

The Chair adjourned the Panel meeting at 5.58pm to further consider Item 3.

The Chair reconvened the Panel meeting at 6.20pm.

The Panel:

- (A) Upheld the variation sought to Clause 4.3 (Building Height) of the LEP 2012 in accordance with Clause 4.6 'Exceptions to Development Standards' of the Sydney LEP 2012;
- (B) Granted consent to Development Application No. D/2017/1518 subject to the conditions set out in Attachment A to this report, subject to the following amendments (additions shown in ***bold italics*** and deleted text shown in ~~strike through~~):

(2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) Room 3 and Room 8 on each Level 1-3 as shown on Plan DA 07 Rev E are to be redesigned. Room 8 is to be reduced in size with the entry door in line with the entry door of Room 7. The corridor is to be enlarged to allow an entry door to Room 3 adjacent to where the bed is currently shown. The room is to be reconfigured similar to that of typical Room 1 on Levels 1-3 to allow natural light directly to the bedroom.
- (b) The roof plane must be a ballasted slab with any service penetrations carefully designed to minimise visual impact.
- (c) The 'Private Terrace' to the Proposed Roof Terrace ~~Plan~~ is not approved. The door from Room 1 on Plan DA08 Rev E is not approved and is to be replaced with ***an openable awning or casement*** window, which is to have a minimum 750mm depth awning to provide weather protection for the full

~~width of the opening. The 'Private Terrace' is to be incorporated into the 'Community Garden' and must comply with (d) below. The doors to this terrace must also have an awning of minimum depth 750mm for the full width of the opening, to provide adequate weather protection.~~

- (d) The 'Private Terrace' and 'Community Garden' as shown on Plan DA 08 Rev E are not approved to be trafficable. A pebble finish is required. The roof terrace is to be accessed only for maintenance purposes. ~~A window to Room 1 on Plan DA 08 E is not approved and t~~ The doors to this area from Room 1 should **from the Corridor are to be deleted and replaced with one or more *unopenable* windows, which is/are to have a minimum 750mm depth awning to provide weather protection for the full width of the opening.** ~~This area is to be incorporated into the rooftop terrace area.~~
- (e) The proposed metal cladding 'CL1' is too dark. It must be revised in colour to a lighter grey to better complement the existing building.
- (f) The proposed custom feature 'Individual Panel Screen' as shown on Plan DA 32 Rev A to the loft level is to be amended to provide a perforation percentage of at least 50% to achieve adequate ventilation and optimise the relationship between passive sun control and visibility through the screen. Solid edges to the laser cut screens are to be minimised.

Amended plans incorporating modifications (a)-(f) above and an amended physical materials/sample board detailing all proposed finishes and profiling are to be submitted to and approved by Council's Director City Planning, Development and Transport prior to the issue of any Construction Certificate.

The updated materials and samples board must not include generic material or colour descriptions, or use terminology such as 'or similar'.

(5) USE OF THE GUEST LOUNGE AND SERVERY AT BASEMENT LEVEL

- (C) The basement level lounge and servery is to be used for hotel guests only between the hours of 7.00am and ~~8~~**10.00pm** Mondays to Sundays only. It is not to be accessed by the general public at any time.

Reasons for Decision

The Panel approved the application for the following reasons:

- (A) The proposed development is consistent with the objectives of the B4 - Mixed Use zone and the relevant maximum Floor Space Ratio (FSR) development control for the site.
- (B) The non-compliance with the height in storeys control prescribed by the DCP 2012 is acceptable given the two storey addition preserves the street frontage height through the proposed setback of 3.5m, and is not inconsistent with the scale and form of the surrounding buildings and the character of the street.
- (C) The proposal is generally in keeping with the development approved by the Council under D/2009/1985 and the Land and Environment Court proceedings (10747 of 2008) where amenity impacts were established as being acceptable in relation to a proposal of a similar scale.

- (D) The requested variation to the height in metres standard is upheld because the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the height in metres control and the B4 Mixed Use zone.
- (E) The proposal demonstrates compliance with Clause 6.21 of the LEP 2012 subject to conditions and is considered to achieve design excellence.
- (F) The proposal, subject to conditions, will not adversely impact the residential amenity of neighbouring properties or appearance of the surrounding heritage conservation area, and is therefore in the public interest as demonstrated in the above reasons.
- (G) Conditions 2(c) and 2(d) were amended to ensure that the roof top is non-trafficable and cannot be used by hotel occupants as a roof top terrace in order to protect the amenity of neighbouring residents.
- (H) Condition 5 was amended to extend the opening hours of the basement level lounge and servery to 10.00pm. The extension of hours will have minimal impact on neighbouring amenity given the proposed use as a servery for hotel occupants only.

Carried unanimously.

D/2017/1518