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| DATE OF DETERMINATION | 15 November 2018 |
| PANEL MEMBERS | Paul Mitchell (Acting Chair), Mary-Lynne Taylor, Peter Brennan, Paul Moulds and Brian McDonald |
| APOLOGIES | None |
| DECLARATIONS OF INTEREST | None |

Public meeting held at Cumberland Council on 15 November 2018, opened at 4.15pm and closed at 5:00 pm.

MATTER DETERMINED

2017SWC143 – Cumberland – DA/285/2017 at 32 Joseph Street and 1 Vaughan Street, Lidcombe (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel received a written request to vary the applicable height of buildings standard. It decided that the written request was satisfactory because compliance with the standard was unnecessary in this instance and sufficient environmental planning justification was provided to justify the variation.

The Panel decided that approval of the request was in the public interest because the variation would be consistent with the objectives of the standard notwithstanding the non-compliance and it would enable development consistent with the zone objectives.

For the above reasons the Panel upheld the request to vary the standard.

The Panel determined to approve the development application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979 (EPA Act)*.

The decision was unanimous.

REASONS FOR THE DECISION

- The proposal is appropriate for the site in question and the B4 Mixed Use zone.
- The proposal is generally consistent with the standards and guidelines applying to it, and any non-compliances are minor and inconsequential.
- The proposed development will have a satisfactory relationship with the surrounding environment and no material adverse impacts on neighbouring properties.
- Overall, the proposal is satisfactory with respect to all relevant matters in Section 4.15 of the EPA Act.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments:

Condition 1. A:

1. A) The following “Deferred Commencement” conditions are applied and must be satisfied before the consent can operate:-
Consent is granted subject to the following “deferred commencement” conditions. In accordance with Section 4.16(3) of the Environmental Planning and Assessment Act ~~(as amended)~~ **1979**, this development consent will not operate until ~~you~~ **the applicant** satisfy the Council as to the matters set out in these “deferred commencement” conditions.






Condition DC3

DC3 – Amendment to the overall design

Amended architectural plans addressing the following shall be submitted to and approved by Cumberland Council:

- a) Deletion of a two bedroom unit on Level 10, which is referred to as unit 10:01 on the architectural plans. This area shall be converted as a communal open space.
- b) Architectural plans are to be amended to incorporate recommendations of Pedestrian Wind Environment Statement prepared by Windtech, dated 26 October 2017.
- c) Landscape plans are to be amended to incorporate changes to the overall design.
- d) Provide an accessible toilet at the Level 10 communal room.**

Reason:- to ensure that the density of the development complies with the maximum FSR permitted on site, appropriate size and amenity of communal open space area are to be provided for the future occupants of the development, sufficient car parking spaces are to be accommodated on site, visual privacy is maintained, consistency of architectural plans with wind report, and landscape plans with the overall design of the proposed development.

| PANEL MEMBERS | |
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|  Paul Mitchell OAM (Acting Chair) |  Mary-Lynne Taylor |
|  Peter Brennan |  Paul Moulds AM |
|  Brian McDonald | |

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DA NO. | 2017SWC143 – Cumberland – DA/285/2017 |
| 2 | PROPOSED DEVELOPMENT | Demolition of existing buildings and construction of a mixed-use development containing 2 ground floor commercial tenancies, 93 residential units, 4 basement level parking, reconfiguration/relocation of storm water culvert and easement including strata subdivision. |
| 3 | STREET ADDRESS | 32 Joseph Street and 1 Vaughan Street, Lidcombe |
| 4 | APPLICANT/OWNER | Applicant – 32 Joseph Street Pty Ltd Owner – Mr S Maamary and Mrs I Maamary and Mrs Y Mikhiel and Mr L C Savage |
| 5 | TYPE OF REGIONAL DEVELOPMENT | Capital Investment Value of more than \$20million at the time of lodgment |
| 6 | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 55 (Remediation) State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) & Apartment Design Guide State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Sydney Harbour Catchment) 2005 Auburn Local Environmental Plan 2010 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Auburn Development Control Plan 2010 Planning agreements: Nil Provisions of the Environmental Planning and Assessment Regulation 2000 Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development |
| 7 | MATERIAL CONSIDERED BY THE PANEL | <ul style="list-style-type: none"> Council assessment report: 15 November 2018 Written submissions during public exhibition: 0 Verbal submissions at the public meeting: <ul style="list-style-type: none"> On behalf of the applicant – Trevor De Waal and Martin Cork On behalf of Council - Michael Lawani |

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| 8 | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> • Final briefing to discuss council's recommendation, 17 November 2018, 4:05pm to 4.15pm. • Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Acting Chair), Mary Lynne Taylor, Peter Brennan, Paul Moulds and Brian McDonald ○ <u>Council assessment staff</u>: Olivia Yana, Michael Lawani, Sohail Faridy, Glenn Apps, Stephen Chow, Ashur Toma and Bala Sudarson |
| 9 | COUNCIL RECOMMENDATION | Approval |
| 10 | DRAFT CONDITIONS | Attached to the council assessment report |