

RELEVANT INFORMATION FOR CSPC

FILE: D/2011/1298 **DATE:** 26 July 2012
TO: Central Sydney Planning Committee Members
FROM: Graham Jahn, Director City Planning, Development and Transport
SUBJECT: Information Relevant To Item 4 - Harold Park - Stage 1 DA - At CSPC 26 July 2012

Recommendation

That the following conditions, as shown at Attachment A to the subject report, be amended, with additional words shown in ***bold italics*** and deletions in ~~strikethrough~~:

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2011/1298 dated 17 August 2011 and Statement of Environmental Effects prepared by JBA planning, dated July 2011 and the following drawings, as amended by the conditions of this consent:

... [plan references]...

- (b) The submitted Engineering Infrastructure and Services plans and Public Domain plans are supported in principle only. The plans are to be amended in accordance with consent conditions and submitted for approval in accordance with the requirements of the Essential Infrastructure and Public Domain Plans conditions of this consent.
- (c) ***Notwithstanding (b) above, site-wide Utility Services (except gas in the future public open space) to facilitate the development of a particular precinct or to deliver VPA obligations as shown on the Engineering Infrastructure and Services plans are approved. The cost of any modifications or refinements of Essential Infrastructure required as a result of Stage 1 consent conditions, future Stage 2 DAs or to meet requirements of the relevant utilities shall be borne by the developer. Any proposed gas connections in the future public open space is subject to Council's approval.***

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(2) STAGE 2 BUILDINGS

- (a) Buildings the subject of Stage 2 DAs shall be wholly contained within the approved building envelopes, as amended by consent conditions.
- (b) The approved building envelopes are inclusive of balconies, bay windows, shading devices and the like and are subject to modification to comply with

the Residential Flat Design Code (RFDC) and other conditions of this consent.

- (c) Variations to RFDC building separation requirements are not approved under this Stage 1 DA.
- (d) Encroachments **and variations to the building envelopes permitted by the applicable planning controls** will **be assessed on merit with Stage 2 DAs**.

(3) MAXIMUM GFA / BASIX BONUS

- (e) The maximum GFA across the site is not to exceed the maximum allowed under the Harold Park LEP.
- (f) Additional GFA of up to 10,630m², being the bonus BASIX GFA allowed under the Harold Park LEP, will only be allocated at the determination of each Precinct DA when it is demonstrated that each building exceeds BASIX targets by at least 25%.
- ~~(g) **Achievement of the maximum GFA is dependent on compliance with applicable built form controls and the requirements of the Stage 1 DA approval.**~~

(4) DETAILS TO BE PROVIDED WITH FUTURE DEVELOPMENT APPLICATIONS

The future Stage 2 Development Applications must address compliance with:

- (a) Stage 1, as amended by consent conditions;**
- (b) SEPP 65 – Design Quality of Residential Flat Development, and the provisions of the Residential Flat Design Code;
- (c) Harold Park LEP and DCP, City of Sydney Access DCP 2004, Policy for Waste Minimisation in New Developments and any other relevant Council policies at the time of lodgement.

(9) PARKSIDE BUILDINGS (2A, 2B & 4B)

The building envelopes are to be modified as follows:

- (a) Mid level setbacks of 3m are to be provided at the north and west of Building 4B and to the south and west of 2A
- (b) Upper level setbacks of 4m are to be provided in the following locations:
 - (i) Building 2A – north and west elevations
 - (ii) Building 2B – north elevation
 - (iii) Building 4B – west elevation
- (c) The upper level setbacks required by (b) at the northern elevations of the buildings 2A and 2B are measured from the predominant building line/street frontage height, not the boundary. This will also require modification to the proposed southern elevations of Buildings 2B and 4B.

- (d) The upper floors of these buildings are to be designed to be recessive to reduce their apparent height in accordance with the DCP.
- (e) ***Encroachments and variations to the building envelopes will be assessed on merit with Stage 2 DAs.***

(10) DESIGN MODIFICATIONS

- (a) The following building envelopes are not approved and are to be modified as follows:
 - (i) Building 1C - The number of storeys is to comply with the DCP. The southwest corner of the site is to be 5 storeys.

Note: Increased storeys may be considered with the Stage 2 DA against the requirements of the planning controls.
 - (ii) Building 1D - The number of storeys is to comply with the DCP.

Note: Increased storeys to the courtyard may be considered with the Stage 2 DA against the requirements of the planning controls.
 - (iii) Building 3D - The number of storeys is to comply with the DCP.
 - (iv) Building 4A - Setbacks are to be provided in accordance with the DCP.

Note: appropriate setbacks to cliff are to be determined at Stage 2.
 - (v) Building 5A - The height in metres is to comply with the DCP.
 - (vi) Building 5B - The street frontage height is to comply with the DCP.
 - (vii) Building 6A - The height in storeys is to comply with the DCP.
 - (viii) Building 6B - The height in storeys and street frontage height (upper level setbacks) is to comply with the DCP.

Note: increased storeys to the courtyard may be considered with the Stage 2 DA against the requirements of the planning controls.
- (b) The envelopes are to be amended to improve their relationship with the public domain as follows:
 - (i) ground levels be as close as possible to the adjacent public domain;
 - (ii) the ground level of the area between the boundary and the building's ground level setback is not to be greater than 1.2m above the ground level of the adjacent public domain;
 - (iii) exposed basements should not be located with the primary building / landscaped setbacks.
- (c) The plans are to be updated to reflect the required design modifications and other relevant conditions ***within 4 months of the date of this consent or the submission of a further (third) Stage 2 DA, whichever is sooner, to Director City Planning, Development & Transport prior to the determination of the first DA for a residential building.***

~~(38) SERVICES~~

- ~~(a) Only services shown on the approved drawings are approved as part of this consent.~~
- ~~(b) No approval is given for gas connections in the future public open space. Any proposed gas connections in the future public open space is subject to Council's approval.~~

(56) ESSENTIAL INFRASTRUCTURE

- (a) In principle support is given for the provision of the Essential Infrastructure as shown on the stamped approved plans.
- (b) The Essential Infrastructure is defined by the Voluntary Planning Agreement (VPA) and includes the Stormwater Works (Surface Drainage, Stormwater Lines and Rain Gardens), Subsoil Drainage, Roads, Public Domain (Footways, Street Tree Planting, Landscaping, Street Furniture and Street Lighting), Road Closure Parks and Utility Services (Water, Gas, Sewer, Electricity and Telecommunications).
- (c) References throughout this consent to Essential Infrastructure refer to the works summarised in (b) above and further defined in the VPA.
- (d) The Essential Infrastructure must be designed and constructed in accordance with the City's technical specification and standard details for civil works current at the time of construction.
- (e) **Where Essential Infrastructure is to be delivered in stages**, staged Public Domain Plans and Civil Documentation for Essential Infrastructure are to be submitted concurrently with each Precinct DA and are to clearly indicate any temporary or sacrificial work (such as temporary vehicle turning areas, stormwater lines, or public footways) required due to the staging.
- (e) All Essential Infrastructure is to be completed prior to the issue of any Occupation Certificate of the relevant Precinct in the stages as defined by the approved plans.

(67) RAIN GARDENS

- (a) The locations of the rain gardens as shown on the stamped approved plans are supported in principle. Final design of the rain gardens is to address:
- (i) pedestrian, cycling and vehicle circulation requirements including pedestrian crossings and driveway entrances;
 - (ii) sight lines
 - (iii) street lighting locations and other services and access points
 - (iv) maximising rainfall harvesting and overall stormwater management; and
 - (v) street tree locations.

- (b) Understorey planting to central raingardens shall be minimum tubestock to an approximate mature height of 500-750mm and include at least the following species selection:
- (i) Dianella caerulea (Blue Flax Lily)
 - (ii) Ficinia nodosa (Knotted Club Rush)
 - (iii) Juncus usitatus (Common Rush)
 - (iv) Lomandra 'Tanika' (Spiny headed Matt-Rush)

Other species may be considered for approval by Council, with a preference for native grasses, sedges or rushes that can withstand periodic inundation.

- (c) The design and construction of the rain gardens shall be undertaken in accordance with the City's current technical specification and standard details for civil works and submitted concurrently with the Public Domain Plans, Road Works Plans and Sub Surface Drainage Plans. Detailed plans and construction specifications for the rain gardens shall be prepared and certified as complying with Council's specifications prior to the issue of the first Construction Certificate for each Precinct. The submission shall include as a minimum the following information:
- (i) Detailed construction plans, drawn to scale, by suitably qualified landscape architect and engineers (as appropriate), prepared and submitted concurrently with the Public Domain and Road Works Plans. These plans shall be approved by Council prior to the issue of a Construction Certificate for the relevant Precinct. The plan must include:
 - a. Location of existing and proposed structures on the site including lighting, storm water and other services (if applicable);
 - b. Details of proposed levels and site grading including temporary surface treatments (if applicable);
 - c. Details of biofiltration and soil material;
 - d. Location, numbers and type of plant species;
 - e. Details of planting procedure and maintenance;
 - f. Details of drainage systems.

~~(b)~~(d) Prior to the issue of a Construction Certificate for each Precinct, a maintenance plan addressing the Council's operational capabilities is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during the specified maintenance and defects liability periods.

~~(e)~~(e) All works in the approved plan is to be completed prior to any Occupation Certificate being issued for the relevant Precinct buildings.

(74) FLOOR LEVELS FOR BUILDINGS AND STRUCTURES

The level difference between any ground floor level and the adjacent public footpath shall not to exceed ~~1000mm~~ **1.2m**. Detailed plans to this effect shall be submitted to Council prior to the issue of a Construction Certificate for each Precinct.

The following performance criteria shall apply to the design of buildings and structures on the site:

- (a) All proposed habitable floor levels, ground floor levels and basement car park entry levels within the site shall be set 500mm above design 1% AEP flood levels; and
- (b) Suitable freeboard protection shall be provided to other basement access points such as stair wells.

A design certification report for floor levels of buildings and structures shall be submitted to the Principal Certifying Authority prior to the issue of a construction certificate for each stage. A copy of supporting reports and calculations shall be submitted to Council prior to the issue of a Construction Certificate for each stage.

(88) UNDERGROUNDING OF ELECTRICAL WIRES

Subject to the consent of the affected property owners, overhead wires along Ross Street are to be placed underground. ***If property owners formally refuse access to meet this condition, the applicant makes evidence supported request for written authorisation from the Director City Planning, Development & Transport to be released from this obligation.***

Note: approval by AusGrid must be sought for undergrounding of any wires.

Background**Submission from Applicant (Mirvac)**

After reviewing the planning report and recommended consent conditions, Mirvac wrote to Council requesting changes to conditions. These are discussed below.

Condition 1 (Approved Development)

Mirvac raise concern that the conditions will limit the extent of essential infrastructure that can be delivered upfront and will only allow infrastructure to be delivered in a piecemeal approach (precinct-by-precinct). Mirvac state that this is not physically possible as the upfront provision of site-wide infrastructure is critical to enable the staged delivery of works to meet VPA obligations. To address their concern, Mirvac request the inclusion of the following condition:

Notwithstanding any other condition, site wide infrastructure that is required to facilitate the development of a particular development precinct or to deliver VPA obligations is approved by this consent consistent with infrastructure detailed in Condition 1.

Comment: The conditions were structured to facilitate, not require, the staged delivery of infrastructure given the proposal is for a staged development: the provision of infrastructure such as roads is proposed to be delivered in stages and the site will be subdivided in stages. To enable the provision of site-wide Utility Services, changes are recommended to

Condition 1. It is not considered appropriate to adopt the suggested term “site wide infrastructure” as this relates to Essential Infrastructure works and includes works such as roads and footpaths. Plans for Essential Infrastructure works are required to be amended in accordance with numerous consent conditions, such as changes required to kerb alignments to achieve traffic requirements. The level of detail in the submitted plans relating to road and footway works, for example, do not enable them to be approved at this stage. While the precise wording suggested by Mirvac has not been adopted, the changes made to Condition 1 will enable the delivery of utility services site-wide.

As a result of the requested changes, subsequent modifications are also recommended to Condition 56. Condition 38 is recommended for deletion as the requirements of this condition are now covered by the modified Condition 1.

Condition 2 (Stage 2 Buildings), Condition 9 (Parkside Buildings [2A, 2B & 4B]) & Condition 10 (Design Modifications)

Mirvac are concerned that Conditions 2, 9 and 10 do not permit scope for the merit assessment of encroachments or variations arising from the detailed design development of future Stage 2 DAs, as anticipated in some circumstances in the planning report. To allow future flexibility, Mirvac propose that the following wording be incorporated into Conditions 2, 9 and 10:

Encroachments and variations to the building envelopes will be considered and can be permitted on their merits subject to the detailed design of buildings submitted with the relevant stage 2 DAs on the basis that encroachments and variations assist in modulating and articulating buildings and are consistent with the objectives of the Harold Park DCP.

Comment: It is agreed that there should be sufficient flexibility in the consent conditions to accommodate minor variations to the Stage 1 building envelopes at the detailed Stage 2 DA stage. However, it is also necessary to preserve the integrity of the Stage 1 DA assessment process and the intent of the conditions. It is therefore recommended that slight rewording of Conditions 2 and 9 be made to provide additional flexibility at Stage 2.

It is noted that the precise wording suggested by Mirvac is not considered appropriate as it prescribes the justification for encroachments and variations – where variations assist in modulating and articulating - for DAs yet to be submitted. This is not supported because modulation and articulation can be provided within the approved building envelopes and would be one matter for consideration in determining whether encroachments or variations would be supported. The recommended modifications to Conditions 2 and 9 are considered to provide a similar outcome.

Amendments to Condition 10 are not supported as provision has already been made where it is considered appropriate to “build-in” flexibility for future Stage 2 DAs. This is reflected in Condition 10(a)(i), (ii), (viii).

Condition 10 (Design Modifications)

Further amendments to Condition 10 are requested, as follows:

- Condition 10(b)(ii) – replace “1m” with “1.2m” to reflect the provisions of Clause 5.10(13) of the Harold Park DCP which permits basements to extend up to 1.2m above ground level (subject to certain requirements).

Comment: Clauses 5.1(4) and (9) of the Harold Park DCP limit the height of the ground floor above the adjacent public domain to 1m. Given that Clause 5.10(13) allows a 1.2m projection, it is acceptable that the condition be modified.

- Condition 10(c) – defer the submission of amended Stage 1 DA plans to enable the determination of Stage 2 DAs currently being assessed by Council.

Comment: As no objection is raised to the requirement to modify the plans, it is acceptable that the plans be amended within 4 months of the date of determination of the Stage 1 DA or prior to the submission of another Stage 2 DA.

Condition 10 has been modified accordingly.

Condition 3 (Maximum GFA / BASIX Bonus)

Mirvac seeks the deletion of Condition 3(c) on the basis that it adds further requirements on top of the LEP requirements for the achievement of the BASIX bonus.

Comment: The intent of 3(c) was not to impose additional requirements on the achievement of the BASIX bonus, but states that the achievement of the *total* maximum GFA allowed under the LEP is also subject to assessment against other relevant matters for consideration. Part (c) of Condition 3 can be deleted as future DAs will be required to be assessed against the applicable planning controls and the requirements of the Stage 1 DA regardless of whether this is articulated in a condition. Condition 3 is recommended to be amended accordingly.

Condition 74 (Floor Levels for Buildings and Structures)

Mirvac seek the amendment of Condition 74 to replace “1000mm” with “1.2m” to reflect the provisions of Clause 5.10(13) of the Harold Park DCP which permits basements to extend up to 1.2m above ground level (subject to certain requirements).

Comment: This is the same modification sought to Condition 10(b)(ii) and for the same reasons is acceptable. The condition is recommended to be amended accordingly.

Condition 88 (Undergrounding of Electrical Wires)

Mirvac seek the deletion of the condition as it requires works on private land, i.e. eight individual Ross St terraces.

Comment: Undergrounding of existing electrical wires is required as Ross St is proposed to be realigned as part of the DA and a park will take the place of the existing portion of the road - a consequence of the proposed development (see **Figure 1**). It is not desirable that existing electrical wires be adjacent to the new public open space which is the southern entry into the future park. The undergrounding of existing electrical wires will ensure the integration of the new and existing development. Given the extent of infrastructure works required to be carried out to service the site, it is considered reasonable that the developer also underground electrical wires on this small portion of Ross St as part of wider site works. It is acknowledged that permission will be required from affected landowners and the Condition 88 has been modified accordingly with a release provision if access is denied.



Figure 1 – Ross St with existing electrical wires shown dotted.

Condition 98 (Roundabout Design)

Mirvac request that the condition be deleted as a roundabout is not required under the DCP or identified in any traffic assessments. The roundabout was proposed in good faith to address Council's concerns about vehicle turning, is consistent with Council's traffic engineer's design and the design requirements for the roundabout cannot be accommodated within the 20m road reserve.

Comment: The site relies wholly on the street for all loading, deliveries, removalist vehicle activities and waste collection. As such, the roads need to be designed to accommodate Council waste and heavy rigid (not articulated) vehicle turning. Truck turning is also required at the end of MC01 to enable trucks to turn around to service the parkside buildings (2A, 2B and 4B).

An indicative roundabout sketch was provided to the applicant by Council on the basis that it would be refined by Mirvac's traffic consultants as required to ensure appropriate vehicle turning could be accommodated.

No changes are supported to Condition 98. Swept paths to show acceptable turning movements or modifications to the end of MC01 to accommodate truck turning will be required. Any change to the end of MC01 will need to ensure that 3.8ha of public open space is still provided.

Formatting

The changes recommended to Conditions 4 and 67 are to correct minor formatting issues. No change to the content of the conditions is proposed.

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Approved

A handwritten signature in black ink, appearing to read 'G. Jahn', positioned above the printed name.

**Graham Jahn, Director City Planning,
Development and Transport**