

RELEVANT INFORMATION FOR CENTRAL SYDNEY PLANNING COMMITTEE

FILE: D/2013/1822 **DATE:** 08 May 2014
TO: Central Sydney Planning Committee
FROM: Graham Jahn, Director City Planning, Development and Transport
SUBJECT: Information Relevant To Item 5 – Development Application: 115-119
Bathurst Street, Sydney – At Central Sydney Planning Committee 8 May
2014

Alternative Recommendation

(Additions shown in ***bold italics*** and deletions in ~~strike through~~)

It is recommended in relation to D/2013/1822 that:

- (A) authority be delegated to the Chief Executive Officer, to determine the application having regard to the content of the subject report and draft conditions, including the recommended conditions of consent, **subject to the amendments detailed in clause (F) below**;
- (B) the Central Sydney Planning Committee supports the variation to Clause 4.4 – Floor Space Ratio - of the Sydney Local Environmental Plan (SLEP) 2012 as permitted under Clause 4.6 of the SLEP;
- (C) the Central Sydney Planning Committee endorses the preparation of a planning proposal and accompanying Development Control Plan amendment to allow the floor area of a balcony to be excluded from the calculation of gross floor area in cases where the outer walls of the balcony exceeds 1.4 metres in height to provide wind protection in circumstances to be outlined in the proposal;
- (D) determination of the application, in accordance with Clause (A) above, shall only occur following:
 - ~~(1) Receipt of advice from the relevant Commonwealth body on the development and its impact on the Limitations of Operations Surface for Sydney Airport;~~
 - (2) Public exhibition and execution of the Voluntary Planning Agreement for the provision of the Creative Hub at levels 2-6 of the development;
 - (3) The receipt of a guarantee to Council in accordance with the Voluntary Planning Agreement; **and**

- (4) Lodgement of the Voluntary Planning Agreement, as executed, with the Office of Land and Property Information which must occur prior to any works commencing on site and registered on the title of the land on which the tower stands prior to any above ground works commencing; ~~and~~
- (E) should the matters in Clause (D) not be completed by 8 November 2014, the Chief Executive Officer may determine the application based on the information submitted to date; **and**
- (F) **the recommended conditions contained in the subject report to the Central Sydney Planning Committee on 8 May 2014 be amended as follows (additions shown in *bold italics* and deletions shown in ~~strikethrough~~):**

(10) FLOOR SPACE RATIO - CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 16.91:1 calculated in accordance with the Sydney Local Environmental Plan 2012. For the purpose of the calculation of FSR, the Floor Space Area of the approved development is 67,168sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Floor Space Areas (by use) in the development, utilising the definition under Sydney Local Environment Plan 2012 applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.
- (c) Council's written verification must be obtained, confirming that the following heritage floor space was allocated (purchased and transferred) to the development being that floorspace in excess of 8:1 as specified in *Sydney Local Environmental Plan 2012*:
- (i) ~~14,542sqm~~ **16,757sqm** prior to a Stage 1 Construction Certificate being issued;
- (ii) a further ~~6,339sqm~~ **3,979sqm** (being that heritage floor space attributed to the balconies ~~and 10% design excellence calculation~~) prior to the first Occupation Certificate (including any Interim Occupation Certificate) being issued.
- (iii) **a further 1,215sqm (being a portion of the heritage floorspace attributed to the 10% design calculation) prior to the first Occupation Certificate (including any Interim Occupation Certificate) being issued.**
- (d) The balcony floorspace which is the subject of the Clause 4.6 variation must not be converted to internal residential floorspace at any time.

(17A) AIRSPACE CONDITIONS

- (a) ***The building must not exceed a maximum height of 260.05 metres AHD, inclusive of the building maintenance unit, all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, roof top garden plantings, etc.***

- (b) ***The building must be obstacle lit at night with medium intensity flashing red obstacle lights, in accordance with the Manual of Standards for Part 139 of the Civil Aviation Safety Regulations 1998 (Part 139 MOS), Chapter 9, Section 9.4. The obstacle lighting must be installed at the highest point of the building and located so that it can be observed in a 360 degree radius.***
- (c) ***Any changes to the proposed height and location of the building must be reassessed by SACL.***
- (d) ***A separate controlled activity application must be submitted to SACL for any equipment/crane to be used on the site that will intrude into prescribed airspace.***
- (e) ***The proponent must arrange for a certified surveyor to notify SACL of the finished height (in metres AHD) and the coordinates of the building.***

(22) CAR PARKING SPACES AND DIMENSIONS

- (a) A maximum of 267 off-street car parking spaces are to be provided. Of these spaces, a maximum of 260 spaces are to be allocated to residents, a maximum of 1 space is to be allocated to the retail use and 3 spaces are to be allocated to the creative hub use. A minimum of 3 car parking spaces are to be allocated as Car Share spaces.
- (b) This maximum provision is inclusive of motorcycle parking. All stacked and tandem spaces account for 2 spaces per parking space.
- (c) An area equivalent to a minimum of 5 car spaces must be provided for motorcycles.
- (d) A minimum of 8 motorcycle parking spaces (equivalent of 2 car parking spaces) are to be provided at Basement Level 1.
- (e) This does not include parking provided as “flexible bays” or for the purpose of “valet holding”.
- (f) ~~No apartment within the development shall be allocated more than one car parking space.~~
- (g) The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council’s Development Control Plan. The details must be submitted to and approved by the Principal Certifying Authority prior to a Stage 3 Construction Certificate being issued.
- (h) Plans showing the car parking spaces shall be submitted to and approved by the Director City Planning, Development & Transport prior to the Stage 3 Construction Certificate being issued.

(33) STACKED PARKING EMPLOYEES OR TENANTS ONLY

Any ~~stacked~~ **tandem** parking spaces (maximum 2 spaces, nose to tail) **that are not located within a car stacker** must be attached to the same strata title comprising a single dwelling unit or commercial/retail tenancy, subject to the maximum parking limit applying. The stacked parking spaces must be designated (with appropriate signage) for employee or tenant parking only (not visitor parking), prior to an Occupation Certificate being issued. The moving of stacked vehicles must occur wholly within the property.

Background

Airspace Operations

The recommendation in the subject report recommended that authority be delegated to the Chief Executive Officer to determine the application following:

- (1) Receipt of advice from the relevant Commonwealth body on the development and its impact on the Limitations or Operations Surface for Sydney Airport;
- (2) Public exhibition and execution of the Voluntary Planning Agreement for the provision of the Creative Hub at levels 2-6 of the development;
- (3) The receipt of a guarantee to Council in accordance with the Voluntary Planning Agreement;
- (4) Lodgement of the Voluntary Planning Agreement, as executed, with the Office of Land and Property Information which must occur prior to any works commencing on site and registered on the title of the land on which the tower stands prior to any above ground works commencing.

Advice from the Federal Department of Infrastructure and Regional Development was received on 2 May 2014 advising approval of the proposal subject to the imposition of the Condition (17A) recommended above. This satisfies part (1) of the recommendation above.

Heritage Floorspace

Clause 6.11 of the Sydney LEP 2012 requires that to be eligible for additional floor space specified, heritage floorspace must be allocated to a building (or 'purchased' by the applicant). A number of criteria enable this amount to be reduced, including where a proposed development is the winner of an architectural design competition carried out in accordance with the City of Sydney Competitive Design Policy when the amount may be reduced by up to 50% or 1,000sqm whichever is the lesser.

The subject application was not the subject of a full architectural design competition and as such, the applicant is not eligible for this deduction. Accordingly, the amount of heritage floorspace detailed in the condition accompanying the original report was miscalculated.

The condition contained within the original report enables the applicant to purchase a quantum of the required Heritage Floorspace prior to the issue of an Occupation Certificate. This was done as the definition of floorspace (and therefore the amount of Heritage Floorspace that will be payable) could change as a result of a recommended change in the way the proposed upper level balconies are counted as floorspace and 'bonuses' calculated for design excellence is calculated consistent with the current LEP amendment.

Car Parking

The recommended Condition 22(f) currently prevents any apartment from being allocated more than one parking space. The applicant is of the view that the maximum number is considered to be a 'pool' of spaces applicable to a site as a whole and that it is unreasonable to apply a maximum per dwelling. This is accepted, and it is recommended that this condition is deleted.

The applicant has also raised concerns that it is not necessary to apply a condition requiring stacked tandem spaces to be attached to the same strata title. This condition was imposed to acknowledge that it is not desirable for cars to be blocked in from time to time. However, the applicant notes that the automated stacking system proposed has been designed to allow any car to be retrieved, regardless of whether it is blocked in by another car. Accordingly, it is accepted that this condition can be changed only to refer to tandem spaces that are not located in stackers.

Attachments

Attachment A – Department of Infrastructure and Regional Development Response

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TRIM Document Number: 2014/190277

Approved



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