

ITEM 6. SECTION 96(1A) APPLICATION: 18-20 O'DEA AVENUE WATERLOO

FILE NO: D/2013/2030/A

DEVELOPMENT APPLICATION NO: D/2013/2030/A

SUMMARY

Date of Submission: 3 March 2015

Applicant: Crown W1 Pty Ltd

Architect: SJB

Developer: Crown W1 Pty Ltd

Cost of Works: \$109,428,000

Proposal Summary: The subject Section 96 (1A) application seeks to modify an approved Stage 1 DA approval for a mixed use development comprising four residential flat buildings with two ground floor retail premises in the following manner:

- Increase the floor to floor heights of each level to achieve a minimum of 3.1m;
- Amend condition 4 which restricts built form to be constructed on level 20; and
- Amend the timing of providing detailed information.

The necessity to modify the approved building envelope has come from the need to ensure consistency between the staged development applications on the site as required under Section 83D of the Environmental Planning and Assessment Act, 1979.

In accordance with the City of Sydney Notification of Planning and Development Applications Development Control Plan 2005, the application was not notified as the amendments involve minimal environmental impacts.

As modified, the proposed envelope achieves the same design intent as the originally approved building envelope; however, allows the envelope (and detailed design application) to better align with the competitive design alternative winning scheme.

- Summary Recommendation:** The Section 96 (1A) application is recommended for approval, subject to modification of conditions as shown in the attached schedules.
- Development Controls:**
- (i) State Environmental Planning Policy No. 55 – Remediation of Land
 - (ii) State Environmental Planning Policy 65 – Design Quality of Residential Flat Development
 - (a) Draft SEPP65 exhibited on 23 September 2014
 - (iii) State Environmental Planning Policy 70 Affordable Housing (Revised Schemes)
 - (iv) State Environmental Planning Policy (Infrastructure) 2007
 - (v) State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land)
 - (vi) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
 - (vii) South Sydney Local Environmental Plan 1998 (Gazetted 28 April 1998, as amended)
 - (viii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
 - (ix) South Sydney Development Control Plan 1997 – Urban Design (in force on 2 July 1997, as amended)
 - (a) South Sydney DCP 1997: Urban Design – Green Square Part G: Special precinct No. 9 Green Square (in force on 19 December 2006)
 - (b) South Sydney DCP 1997: Urban Design – Green Square Part G: Special precinct No. 9 Green Square (Lachlan Precinct)
 - (x) City of Sydney Notification of Planning and Development Applications Development Control Plan 2005 (date of commencement – 18 May 2005)
 - (xi) City of Sydney Contaminated Land Development Control Plan 2004 (in force on 28 June 2004)
 - (xii) City of Sydney Access Development Control Plan 2004 (in force on 28 June 2004)
 - (xiii) South Sydney Development Control Plan No. 11 – Transport Guidelines for Development 1996 (Adopted 8 May 1996).

Attachments:

- A - Amended envelopes
- B - Stage 1 approved envelopes
- C - Correspondence from Applicant
- D - Notice of Determination D/2013/2030

RECOMMENDATION

It is resolved that consent be granted to Section 96(1A) Application No. D/2013/2030/A, subject to the amendment of the following conditions (with modification shown in ***bold italics*** (additions) and **~~*bold italics strikethrough*~~** (deletions), as follows

(2) APPROVED STAGE 1 DEVELOPMENT

- (a) Any future Stage 2 development must be in accordance with Development Application No. D/2013/2030 dated 24 December 2013 and amended on 11 August 2014 and the Statement of Environmental Effects prepared by JBA Urban Planning Consultants Pty Ltd dated December 2013 and the following drawings:

Drawing Number	Revision	Architect	Date
A-0111	13	SJB Architects	6 August 2014
A-0121	13	SJB Architects	6 August 2014
A-0122	13	SJB Architects	6 August 2014
A-0123	13	SJB Architects	6 August 2014
A-0124	13	SJB Architects	6 August 2014
A-0125	13	SJB Architects	6 August 2014

As amended by D/2013/2030/A and the following drawings:

Drawing Number	Revision	Architect	Date
<i>A-0111</i>	<i>14</i>	<i>SJB Architects</i>	<i>27 February 2015</i>
<i>A-0121</i>	<i>14</i>	<i>SJB Architects</i>	<i>27 February 2015</i>
<i>A-0122</i>	<i>14</i>	<i>SJB Architects</i>	<i>27 February 2015</i>
<i>A-0123</i>	<i>14</i>	<i>SJB Architects</i>	<i>27 February 2015</i>
<i>A-0124</i>	<i>14</i>	<i>SJB Architects</i>	<i>27 February 2015</i>
<i>A-0125</i>	<i>14</i>	<i>SJB Architects</i>	<i>27 February 2015</i>

(Amended 25 June 2015)

and as amended by the conditions of this consent:

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

(4) MATTERS NOT APPROVED IN STAGE 1 DA

The following matters are not approved as part of the Stage 1 consent:

- (a) Any works, including demolition, excavation, construction and public domain improvements;

- (b) Subdivision;
- (c) Layout, mix and number of residential units, car parking spaces and number of basements;
- (d) Precise quantum of floorspace;
- (e) Any additional 10% Design Excellence floor space allowable under control 5.6.3 of *South Sydney DCP 1997: Urban Design - Green Square Part G: Special precinct No. 9 Green Square (Lachlan Precinct)*.
- (f) ~~**Any built form on Level 20 in Building C other than plant, lift over runs (etc.) and green roofs allowable under control 5.6.2 in South Sydney DCP 1997: Urban Design - Green Square Part G: Special precinct No. 9 Green Square (Lachlan Precinct).**~~

(Amended 25 June 2015)

(24) CAR SHARE SPACES

- (a) A minimum of ~~3~~ **2** car parking spaces for the exclusive use of car share scheme vehicles are to be provided. The detailed basement plan provided at Stage 2 should show these spaces.
- (b) The spaces will be required to be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time.
- (c) The spaces will need to be made available to car share operators without a fee or charge.
- (d) The spaces will need to be sign posted for use only by car share vehicles and well lit.
- (e) The spaces will need to be publicly accessible at all times.
- (f) The car share spaces will need to be available at the same time that the car park commences operation.

(Amended 25 June 2015)

(31) ALIGNMENT LEVELS – MAJOR DEVELOPMENT

- (a) Proposed building floor levels, basement levels, basement car park entry levels and ground levels shown on the approved Stage 1 DA plans are indicative only and have not been approved by this consent.

- (b) Alignment levels for the building and site frontages must be submitted **and approved prior to the issue of any construction certificate for above ground works. ~~as part of the Stage 2 DA.~~** The submission must be prepared by a Registered Surveyor, must be in accordance with the City of Sydney's *Public Domain Manual* and must be submitted with a completed Alignment Levels checklist (available in the *Public Domain Manual*) and Footpath Levels and Gradients Approval Application form (available on the City's website).
- (c) If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.

(Amended 25 June 2015)

(38) ROAD NETWORK AND GEOMETRIC ROAD DESIGN

- (a) Preparation of the detailed design documentation for the proposed public road system shall include all necessary liaison with and requirements of all relevant public utility authorities, Roads and Maritime Services, Council, the Local Pedestrian Cycling and Traffic Calming Committee and its nominated consultants in order to achieve design approvals. Written evidence of approval from relevant authorities must be submitted to Council with the road design submission.
- (b) The design of all road works shall be undertaken in accordance with City of Sydney's *Sydney Streets Technical Specification*, *Public Domain Manual* and the *Civil Design Plans for Lachlan Precinct*. Detailed plans for the works shall be prepared and submitted to **prior to the issue of any construction certificate for above ground works ~~Council as part of the Stage 2 Detailed DA.~~** The detailed plans and supporting documentation shall include as a minimum the following information;
 - (i) General subdivision plan with contour details, clearly indicating the extent of work;
 - (ii) Road cross sections showing road and footway widths, existing levels, design levels, cross fall grade pavement configuration, batter slopes, engineered retaining walls, kerb returns, kerb and gutter, vehicle crossovers, pedestrian ramps, traffic calming devices, the location of public utility services and 900mm minimum road restoration to match smoothly into the existing road levels;
 - (iii) Plan drawing and longitudinal section showing gutter invert, kerb and boundary alignments with design grades of the existing and proposed future public road network including public utility services.

(Amended 25 June 2015)

(40) STORMWATER DRAINAGE SYSTEM DESIGN

The design of the stormwater drainage system shall be undertaken in accordance with City of Sydney's *Sydney Streets Technical Specification, Public Domain Manual* and the *Civil Design Plans for Lachlan Precinct*. **A Stormwater Drainage Concept Plan ~~Detailed plans for the works~~** shall be prepared and submitted to Council as part of the Stage 2 Detailed DA **with full detailed plans to be submitted to and approved by Council prior to the issue of any Construction Certificate**. The stormwater drainage design shall include at a minimum plans and longitudinal sections showing drainage pits and pipes locations, invert levels of pits, pipe sizes, hydraulic grade lines for the design storm and other standard features such as flow rates, pipe class, pipe grade and velocity direction of overland flow and connections to the existing piped drainage system.

(Amended 25 June 2015)

(42) STREET AND PEDESTRIAN LIGHTING

The applicant shall design a system of underground street and pedestrian lighting along all roads, footpaths and within the new park in accordance with Council and Ausgrid standards. Detailed lighting plans shall be prepared by a suitably qualified Electrical/Lighting Engineer in accordance with Council's and Ausgrid's specifications and comply with AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting. The lighting plans shall be submitted to Council **prior to the issue of a construction certificate for public domain works ~~as part of the Stage 2 Detailed DA~~**.

The Lighting Plan(s) shall indicate layout, location, connections, conduits, types, luminaries, fixtures and category for street lighting, pedestrian lighting and feature lighting.

The detailed plans and supporting documentation shall conform to the following design criteria:

- (a) Lighting in laneways and pedestrian pathways to comply with AS1158.3.1 Category P2;
- (b) Lighting in all footpaths and the new public roads to comply with AS1158.3.1 Category P2; and
- (c) The through traffic road, O'Dea Avenue, shall be illuminated to comply with AS1158.3.1 Category V3.

(Amended 25 June 2015)

BACKGROUND

The Site and Surrounding Development

1. The site is identified as Lot 21 and Lot 22 DP 862254 and has a street address of No. 18 and 20 O’Dea Avenue, Waterloo. The site is irregular in shape and has a varied ‘dog leg’ boundary to O’Dea Avenue to the south and to the east, a 77.88 metre boundary to the north and a 131 metre boundary to the west.
2. The site is 11,812sqm in area and has a fall of 2.3 metres from the higher north western corner to the lower south eastern corner at O’Dea Avenue.
3. The site is currently occupied by one and two storey brick factory buildings formerly used for light industrial and warehousing purposes and known as the Irwin and Sheehan Site. Along the southern and eastern boundaries addressing O’Dea Avenue are a row of 15 trees, including a Port Jackson Fig which is listed on Council’s significant tree register.
4. A number of rights of carriageway and easements exist within the site for access and utility purposes. A Sydney Water main with a 2.1 metre diameter concrete pipe traverses the south eastern corner of the site.
5. The site is identified as containing contaminated soil, and groundwater levels have been observed at 2.7 metres below existing ground level.
6. The public domain adjacent to the site to the south contains a footpath, grass road reserve, a driveway crossing and 2 street trees.
7. Figures 1-5 below illustrate the site location and existing development.



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site (left hand side) as viewed from the Rope Walk Park. Recently completed Diversity development on right hand side



Figure 3: Site as viewed from the Rope Walk Park, view towards O’Dea Avenue.



Figure 4: Site (right hand side) as viewed from the Rope Walk Park towards the Viking development to the east of the site.



Figure 5: Site as viewed from O'Dea Avenue

Surrounding Development

8. Adjoining the existing building on the site, to the west is a brick warehouse building currently operating as a commercial hire premises known as Kennards Storage at 886 Bourke Street, Waterloo and is a local heritage item.
9. Adjoining the site to the east is a recently completed 7 to 10 storey mixed use building known as the Viking (by Crown) at 30-36 O'Dea Avenue, Waterloo.
10. Adjoining the site to the north is a recently completed development of two 9 to 11 storey buildings used for mixed use commercial and residential purposes known as 'Block C' and 'Block D' of the Divercity Development (formally known as the Sydneygate site). Public domain works associated with the Divercity development required the delivery of part of Dunkerley Place and Rope Walk Park that also adjoin the subject site. The public infrastructure work have recently been completed.
11. Opposite O'Dea Avenue to the south is an 11 storey residential flat building known as the EPIC development at 13 Joynton Avenue and 5 O'Dea Avenue and comprises of retail premises and 98 residential apartments.
12. Opposite O'Dea Avenue to the south east is a 9 storey building known as the Prominence Development at 98 Joynton Avenue and 1 Grandstand Parade and comprises of residential apartments.
13. Further east of the site, on the opposite side of Sam Sing Street, is a recently approved development site at 40A and 40B O'Dea Avenue with one 20 storey and two 4 storey residential flat buildings with a total of 172 residential apartments and 3 retail premises.
14. The broader area around the site is characterised by large sites used for light industrial and warehousing purposes and relatively new 7 to 13 storey mixed use developments.



Figure 6: Kennards Storage heritage item on Bourke Street



Figure 7: Existing portion of Dunkerley Place constructed as part of the Divercity development



Figure 8: Viking development O'Dea Avenue frontage with subject site on left hand side (timber fence)

PROPOSAL

15. The applicant seeks consent to modify the approved Stage 1 DA in the following manner:
16. Condition 2 – Approved development
 - (a) Consent is sought to modify the approved plan numbers to incorporate enlarged building envelopes to accommodate the required 3.1m floor to floor height.
17. Condition 4 – Matters not approved as part of the Stage 1 DA
 - (a) Consent is sought to remove the restriction of condition 4 (f) which prohibits built form on level 20 of the building to allow an additional level of apartments.
18. Condition 24 - Car Share Spaces
 - (a) Consent is sought to remove the requirement to have 3 car share spaces within the basement and to allow the car share spaces to be allocated on the new Dunkerley Place public street.
19. Condition 31 - Alignment levels
 - (a) Consent is sought to delay the submission of this information until a construction certificate is issued for public domain works.
20. Condition 38 – Road Network and geometric road design
 - (a) Consent is sought to delay the submission of this information until a construction certificate is issued for public domain works.
21. Condition 40 - Stormwater drainage system
 - (a) The applicant seeks consent to delay the submission of detailed plans until the issue of a construction certificate and provide concept plans only as part of the Stage 2 application.
22. Condition 42 - Street design and pedestrian lighting
 - (a) The applicant seeks consent to delay the submission of lighting details until the submission of a construction certificate for public domain works.
23. Plans and elevations of the amended Stage 1 DA are provided in **Attachment A**.

History of Development Applications Relevant to this Site

24. The following competitive design process is considered relevant to the proposal:
 - (a) Competitive Design Process – CMP/2013/7
 - (i) In October 2013, a Competitive Design Alternative Process commenced where four invited architects designed schemes for the redevelopment of the site. The selected winner of the process was SJB Architects. Figures 9 to 11 illustrate the winning scheme.



Figure 9: Alternative competitive design process winning scheme
North east tower view from the corner of the Rope Walk Park and Dunkerley Place



Figure 10: Alternative competitive design process winning scheme
Eastern view from the Rope Walk Park at the corner of O'Dea Avenue



Figure 11: Alternative competitive design process winning scheme
O'Dea Avenue frontage

25. The following development applications are considered relevant to the proposed development:
- (a) Stage 1 Development Application – D/2013/2030
 - (i) In December 2013, a Stage 1 Development Application was lodged for the concept approved of demolition of existing structures and approval of four building envelopes for residential flat buildings ranging from 7 to 20 storeys as well as associated basement car parking. The proposal also provided for public domain improvements including a new public park, new shared laneway and new road. Indicative photomontages of the approved Stage 1 DA are provided at Figures 12 to 14.
 - (ii) The application was approved by the Central Sydney Planning Committee on 4 December 2014, subject to a number of conditions including:
 - a. Removing built form on the 21st floor;
 - b. Allocation of car share spaces within the basement;
 - c. Supply of stormwater, flooding, public domain, landscaping and road works information as part of the Stage 2 application;



Figure 12: Photomontage of approved Stage 1 indicative design North east tower view from the corner of the Rope Walk Park and Dunkerley Place



Figure 13: Photomontage of approved Stage 1 indicative design O'Dea Avenue frontage



Figure 14: Photomontage of approved Stage 1 indicative design Eastern view from the Rope Walk Park at the corner of O’Dea Avenue

(b) Stage 2 – D/2014/1837

- (i) In December 2014 prior to the approval of the Stage 1 DA, a detailed Stage 2 application was lodged for redevelopment of the site including four residential flat buildings ranging from 8 to 21 storeys, remediation of the site, basement car parking and landscaping. The proposal also provided for public domain improvements including a new public park, new shared laneway and new road.
- (ii) The application includes envelopes generally consistent with the amended Stage 1 DA, submitted on 3 March 2015 (D/2013/2030/A), the subject of this assessment.
- (iii) The application was notified for a period of 30 days from 11 December 2014 to 21 January 2015. No submissions were received.
- (iv) The Stage 2 application is being assessed concurrently with the subject amendment to the Stage 1 DA submitted on 3 March 2015 (D/2013/2030/A).

(c) Voluntary Planning Agreement

- (i) A Voluntary Planning Agreement (VPA) associated with a public benefit submitted by the developer was exhibited between 21 November 2014 and 20 December 2014. The agreement included the following public benefits:
 - a. Dedication of a portion (277sqm) of the site fronting O’Dea Avenue for road widening;

- b. Construction of the final portion (3094sqm) of the Rope Walk Park and dedication to Council;
- c. Construction of a new stormwater culvert below the Rope Walk required to service the wider Lachlan Precinct / Green Square Catchment;
- d. Construction of the final portion (1380sqm) of Dunkerley Place and dedication to Council; and
- e. Construction of Hatters Lane share way (680sqm) and dedication to Council.

(ii) **The VPA was executed on 26 February 2015.**

THRESHOLD TEST

26. The development as proposed to be modified is considered to be substantially the same as that originally approved.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

27. Besides the matters discussed in this report, the assessment against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979 contained in the report to the Central Sydney Planning Committee at its meeting on 4 December 2014 are still relevant.
28. A copy of the Notice of Determination of D/2013/2030 is provided at **Attachment D**.

Assessment

29. Each condition requested to be modified is considered below:

Condition 2 – Approved Stage 1 Development

30. The proposal seeks to modify the approved building envelopes and as such amended envelope plans are necessary to reflect the desired changes.
31. The amended plans also accommodate the required 3.1m floor to floor to floor height required by the Lachlan DCP and condition 9 (b) of the Stage 1 approval.
32. Specifically the amended envelopes would result in the following changes:

	Approved	Proposed
Building A	51300 RL	51300 RL
Building B	51300 RL	51300 RL
Building C (tower)	93100 RL	94350 RL
Building D	52800 RL	53050 RL

- 33. The application to amend the approved building envelopes has been accompanied by amended shadow diagrams demonstrating that there is no unreasonable additional over shadowing as a result of the amendments. The shadow diagrams are provided at **Attachment A**.
- 34. On the basis of the above the proposed amendments to the building envelope are acceptable and the condition can be amended accordingly.

Condition 4 – Matters Not Approved on Stage 1

- 35. The applicant seeks to delete condition 4(f) which states:

The following matters are not approved as part of the Stage 1 consent:

(f) *Any built form on Level 20 in Building C other than plant, lift over runs (etc.) and green roofs allowable under control 5.6.2 in South Sydney DCP 1997: Urban Design - Green Square Part G: Special precinct No. 9 Green Square (Lachlan Precinct).*

- 36. The applicant seeks consent to modify the approved envelopes to be consistent with the Stage 2 application to include apartments on the 21st floor of the tower (level 20). The additional level of apartments results from including a double height lobby of 7.4m on the ground floor of the proposed tower (Building C). The amendment is supported as:

(a) The lobby space is the equivalent of two storeys, the tower therefore only physically contains 20 storeys as shown in Figure 15 below:

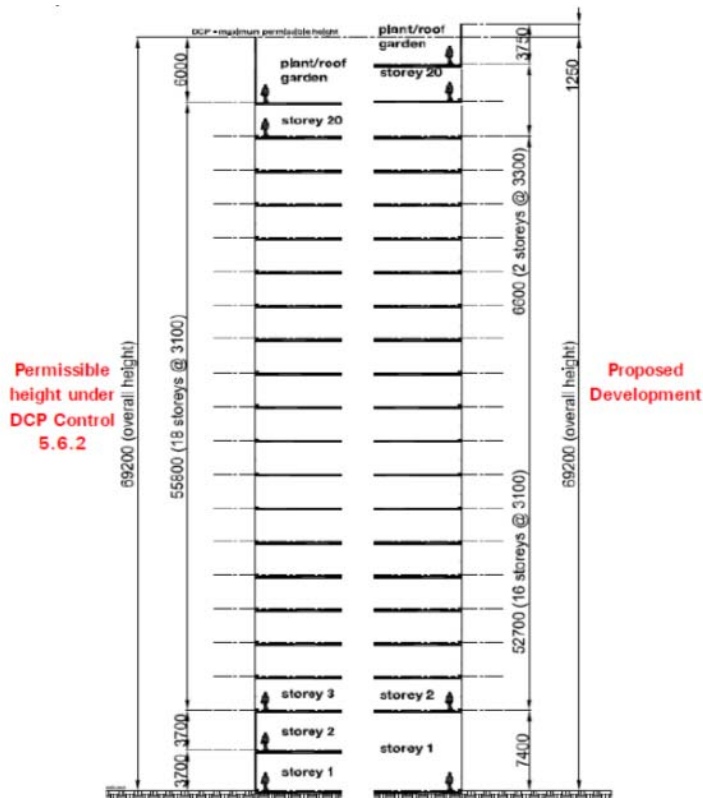


Figure 15: Building height comparison (provided by Applicant)

- (b) The double height lobby is consistent with the original competitive design alternative process winning scheme.
- (c) The double height lobby space and varied roof form add to the architectural form and design of the building.
- (d) The applicant has provided a statement (**Attachment C**) confirming that the double height void space will always remain as a void space and will not be filled in to gain additional floor space in the future.
- (e) The non-compliance is limited to the north west component of the tower only and relates to the double height lobby. There will be no unreasonable additional overshadowing, visual or amenity impacts on the surrounding area.
- (f) The proposed additional height is marginally over the maximum that would be permitted by a compliant building with the Lachlan DCP floor to floor provisions. The remainder of the tower is below that which would be required by the DCP. This information is illustrated in Figure 16 below:

Lachlan Precinct DCP			Proposed north west quadrant		Proposed remainder of tower	
	Height storeys	Height (m)	Height storeys	Height (m)	Height storeys	Height (m)
Ground floor	1	3.7m	1	7.4	1	3.7m
First floor	1	3.7m	1	3.1m	1	3.7m
Residential floor above first floor	16	3.1m	16	3.1m	16	3.1
Storey 19-20			2	3.3m	16	3.1
Plant Green Roof	/	6m		3.75m		5.5m
Height	20+ Plant & Green Roof	69.2m	20+ Plant & Green Roof	70.45m (+1.25m)	20+ Plant & Green Roof	68.7m (-0.5m)

Figure 16: Comparison table identifying non-compliance with Lachlan DCP.

- (g) The proposed development continues to satisfy the built form objectives of the Lachlan Precinct DCP.

37. On the basis of the above, the proposed built form on level 20 of the tower (level 21) is considered acceptable and the condition should be amended accordingly.

Condition 24 – Car Share Spaces

38. The applicant seeks consent to remove the requirement to contain 3 car share spaces within the basement.
39. The proposed amendment is not supported for the following reasons:
- (a) The provision of car share spaces within development sites is a consistent policy applied by Council to reduce the reliance on motor transport and limit the use of on street parking in high traffic areas. The subject site is in a high traffic area with limited on street car parking. The applicant has been consistently advised that this requirement would be applied.
 - (b) As part of the Stage 2 development application the Applicant has requested to provide the car share space within the public domain off the development site. Perceived security threats has been the greatest concern raised by the applicant. A letter from a car share provider GoGet has also been provided stating that the optimum location of car share spaces are on the street in a highly visible space.
 - (c) GoGet as one of several car share corporations was contacted by Council's transport planner who confirmed that on street parking was not the only option for providing car share spaces. Basement car share spaces would be acceptable.
 - (d) It is not considered appropriate to vary the car share requirement by using the limited supply of on street parking. Security concerns would be no greater than non-residents accessing the 72 visitor car parking spaces within the building.
 - (e) The Stage 2 application basement floor plans have been inefficiently laid out with share zones (buffer spaces to provide accessible layouts) adjacent to each accessible space. A more efficient design could reconfigure the basement layout to contain all visitor, retail, car wash bays and car share spaces within the one level. The concierge service within this development could also provide assistance to those accessing car share spaces. These two strategies above could reduce the security concerns raised by the applicant and uphold a consistent policy applied to the site and other similarly scaled developments within proximity to the site.
 - (f) The requirement for 3 basement carshare spaces has been reassessed by Council's Transport Planner as part of the Stage 2 application. It is considered acceptable to reduce the number of carshare spaces within the site from three to two. An amended condition is recommended to reduce the number of onsite carshare spaces accordingly.

Condition 31- Alignment Levels

40. The applicant seeks to vary the submission of alignment levels as part of a Stage 2 application until the issue of a construction certificate for public domain works.

41. It is recommended that the submission of this information be delayed only until a construction certificate is issued for above ground works. An amended condition is recommended accordingly.

Condition 38 – Road Network and Geometric Road Design

42. The applicant seeks consent to vary the submission of detailed design of the proposed road works as part of a Stage 2 application until the issue of a construction certificate for public domain works.
43. It is recommended that the submission of this information be delayed only until a construction certificate is issued for above ground works. An amended condition is recommended accordingly.

Condition 40 – Stormwater and Drainage System

44. The applicant seeks consent to vary the submission time for detailed plans relating to the proposed stormwater drainage system form as part of the Stage 2 application to providing a stormwater drainage concept plan as part of the Stage 2 application followed by detailed information prior to the issue of a construction certificate.
45. No objection is raised to the amended timing. A concept plan for stormwater drainage has been assessed as part of the Stage 2 application and full details will be required prior to the issue of a construction certificate.

Condition 42 – Street and pedestrian lighting

46. The applicant seeks consent to vary the timing of submission of lighting plans as part of the Stage 2 application until the submission of a construction certificate for public domain works.
47. No objection is raised to the amended timing as the lighting plan will need to be developed as part of the public domain plan.

ISSUES

Lachlan Precinct Planning Proposal – amendment to Sydney Local Environmental Plan 2012

48. On 3 April 2014 and 7 April 2014, the Central Sydney Planning Committee and Council respectively resolved to approve the Lachlan Precinct Planning Proposal for Gateway Determination and public exhibition. A draft DCP amendment to the Sydney DCP 2012 was also considered and approved for public exhibition.
49. The Lachlan Precinct Planning proposal and corresponding DCP amendment sought to translate and integrate the South Sydney controls into the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. Specifically, the Planning Proposal sought to make the following amendments to the Sydney Local Environmental Plan 2012:
 - (a) Rezone land from Mixed Use Zones 10(b) and 10(e) under the South Sydney LEP 1998 to B4 Mixed Use;
 - (b) Translation of 1.5:1 FSR from South Sydney LEP 1998;

- (c) Introduction of FSR incentives for community infrastructure and retail development and design excellence;
 - (d) Translation of the height in metres from the South Sydney LEP 1998 to “reduced levels” on indicative building footprints in Sydney LEP 2012;
 - (e) List heritage item 866-882 Bourke Street in schedule 5; and
 - (f) Integration of appropriate controls for the precinct in the following maps: heritage, locality and site identification, acid sulphate soils, special character areas, land reservation, land use and transport integration; and public transport accessibility.
50. The Planning Proposal and draft amendment to Sydney Development Control Plan 2012 were publicly exhibited for 28 days from 22 July 2014 to 18 August 2014. Following public exhibition, the Planning Proposal and draft Sydney DCP 2012 amendment were approved by Council and the Central Sydney Planning Committee on 3 November 2014 and 30 October 2014 respectively.
51. The Sydney Local Environmental Plan 2012 (Amendment No.15) incorporating the above Planning Proposal came into force on 10 April 2015. The accompanying amendment to the Sydney Development Control Plan 2012 came into force at the same time.
52. Savings provisions with the Sydney LEP 2012 (Amendment No.15) and the Sydney DCP 2012 (Green Square – Lachlan Amendment) apply to the subject application. Specifically, Clause 6.27(3) of the Sydney LEP 2012 states:
- “If a development application has been made before the commencement of this clause in relation to Lachlan Precinct land and the application has not been finally determined before that commencement, the application must be determined as if this clause had not commenced”.*
53. Similarly, Section 5.4 of the Sydney DCP 2012 states:
- “If a development application has been made before the commencement of Sydney Development Control Plan 2012 (Green Square – Lachlan Amendment), in relation to Lachlan Precinct land, and the application has not been finally determined before that commencement, the application must be determined as if that Development Control Plan had not commenced”.*
54. As the Section 96(1A) application was submitted on 3 March 2015, it can be determined as if the LEP and DCP had not commenced.

Other impacts of the development

55. The proposed development is capable of complying with the BCA.
56. It is considered that the proposal will have no significant detrimental effect relating to the environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

BCA Matters

57. The development is capable of satisfying the requirements of the BCA without significant modification.

Section 79C (1) (c) Suitability of the site for the development

58. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

Section 79C (1) (e) Public Interest

59. The proposed development is generally consistent with the relevant controls. In this regard, it is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed on any consent.

POLICY IMPLICATIONS

60. Not applicable to this report.

FINANCIAL IMPLICATIONS - SECTION 94 CONTRIBUTIONS**Section 94 Contributions**

61. There are no financial implications as a result of the amended development. Section 94 and Affordable Housing contributions will be calculated as part of the Stage 2 development application.

PUBLIC CONSULTATION**Section 79C(1)(d)****Advertising and notification**

62. The application was not advertised or notified. The amended envelopes are consistent with the Stage 2 application which was notified for a period of 30 days. No submissions were received.
63. In accordance with the City of Sydney Notification of Planning and Development Applications Development Control Plan 2005, the application was not notified as the amendments involve minimal environmental impacts.

INTERNAL REFERRALS

64. The application was discussed with Council's Transport Unit.

RELEVANT LEGISLATION

65. The Environmental Planning and Assessment Act 1979.

CONCLUSION

66. The necessity to modify the approved building envelopes has come from the need to ensure consistency between the staged development applications on the site, as required under Section 83D of the Environmental Planning and Assessment Act, 1979.

67. As modified, the proposed envelope achieves the same design intent as the original Stage 1 DA building envelope; however allows the envelope to better reflect the alternative design competition winning scheme.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Jai Reid, Senior Planner)