

RELEVANT INFORMATION FOR THE CENTRAL SYDNEY PLANNING COMMITTEE

FILE: D/2015/509 **DATE:** 22 October 2015
TO: Members of the Central Sydney Planning Committee
FROM: Graham Jahn, Director City Planning, Development and Transport
SUBJECT: Information Relevant To Item 5 - 58-60 Martin Place, 60 Martin Place and
197 Macquarie Street, Sydney - At CSPC - 22 October 2015

Alternative Recommendation

That the recommendation contained in the subject report to the Central Sydney Planning Committee on 22 October 2015, be adopted, subject to the deletion of clauses (C), (D), (E), and (F), the substitution of a new clause (C), the addition of a new condition, Condition 1A, and the amendment of Conditions (3) and (14) in Schedule 1A, the deletion of Condition (43) and the amendment of Conditions (60), (71), (87) and (91) in Schedule 1B, and the amendment of Conditions (98) and (106) in Schedule 1C, such that the recommendation read as follows (with additions shown in **bold, italics underlined** text and deletions shown in **~~bold, italics strikethrough~~** text):

It is resolved that:

- (A) the requirement of Section 51N of the City of Sydney Act 1988 to consult with the Central Sydney Traffic and Transport Committee not apply in this instance as the proposal does not require, or that might reasonably be expected to require, the carrying out of road works or traffic works that are likely to have a significant impact on traffic and transport in the Sydney CBD;
- (B) pursuant to the provisions of Section 3.9.4(3) of the Sydney Development Control Plan 2012, that the consent authority waive the requirements for the appointment of a heritage committee as it is considered to be unnecessary in this instance; **and**
- ~~(C) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. DF/2015/509, subject to the following conditions:~~

~~PART A~~

~~DEFERRED COMMENCEMENT CONDITIONS~~

~~(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)~~

- ~~• The consent is not to operate until the following conditions are satisfied, within 24 months of the date of this determination:~~

~~(1) DEMOLITION AND EXCAVATION WORKS METHODOLOGY STATEMENT~~

~~Prior to the activation of this consent, the following scope of work must be completed to the written satisfaction of the Director City Planning, Development and Transport:~~

- ~~(a) A professional engineer with suitable tertiary qualifications in civil, structural or other equivalent discipline or a person with adequate industry experience in the specialist demolition of structure via non-percussion hammer methodology, i.e. concrete removal and disposal, is to be appointed (the Demolition Professional).~~
- ~~(b) A suitably qualified acoustic consultant* will be appointed.~~
- ~~(c) Working together the Demolition Professional & Acoustic Consultant will prepare a report (The "Demolition & Excavation Methodology Report" which:~~
- ~~(i) Reviews the construction methodology of the existing building,~~
 - ~~(ii) Identifies and provides alternative demolition works methodologies that must be used in removing the existing structure in a manner which will comply with the CONSTRUCTION NOISE conditions (Conditions 34 to 37, inclusive) in the development consent. Methodologies which are to be considered include:~~
 - ~~a. Section sawing, slab sawing and wall sawing,~~
 - ~~b. Diamond tipped wire sawing,~~
 - ~~c. Bursting, splitting, fracturing using bursting heads or other consistent means,~~
 - ~~d. Portable or excavator assisted crushing methodologies,~~
 - ~~Other means aside from apparatus excluded in part (d).~~
 - ~~(iii) The report may not dismiss the use of any of the above in favour of non-hand held percussion hammer equipment for demolition without:~~
 - ~~a. Identifying the specific floor and section of the building for which non-hand held percussion equipment is proposed to be used. The report is not to generalise areas and sections of the building;~~
 - ~~b. Providing specific written justification as to why each of the methodologies cannot be employed with reference to the specific section of the building in which non-handheld percussion hammers are proposed to be used. If Workplace Health & Safety is to be used as a basis for exclusion of the methodologies in, the Demolition Professional must be able to present risk assessment documentation detailing as to why this is the case; and~~

- ~~c. Providing advice from the Acoustic Consultant as to specific acoustic treatment / mitigation in any circumstances where percussion hammers are proposed to be used and demonstrate that it will comply with the CONSTRUCTION NOISE conditions (Conditions 34 to 37, inclusive) at all surrounding noise sensitive receivers. Generalist reference to AS2346 techniques or otherwise is not permitted, the report must detail the application and location of specific noise control.~~
- ~~(iv) The report must provide a statement prepared by the Developer, Professional and Acoustic Consultant that includes their name, qualifications and a summary of experience that the methodology reported on encapsulates all reasonable and feasible measures to reduce the environmental noise impact of the proposal. The report must support this statement with adequate demonstration that alternative methodologies have been investigated.~~
- ~~(d) For the purpose of this condition, the use of excavator mounted or otherwise non-handheld, power actuated percussion hammers, rock breakers (or otherwise known such/similar equipment) is not permitted for general use on the site. Any exclusion to this will be to a reported work methodology provided to the written satisfaction of the Director City Planning, Development and Transport. The methodologies must be to the satisfaction of the Director City Planning, Development and Transport, to best practicable means, employing all reasonable and feasible alternative methodologies and mitigations.~~
- ~~(e) The City reserves the right to have an independent, appropriately qualified person review any aspect of the report at the expense of the applicant and include further necessary terms and content to the satisfaction of the Director City Planning, Development and Transport.~~
- ~~(f) The final approved report will form part of this consent.~~

~~Note: Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.~~

- ~~(D) Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of determination of this deferred commencement consent, failing which this deferred development consent will lapse pursuant to Section 95(6) of the Environmental Planning and Assessment Act, 1979:~~
- ~~(E) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions as indicated above, have been satisfied.~~
- ~~(F) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent.~~

PART B**CONDITIONS OF CONSENT****(ONCE THE CONSENT IS IN OPERATION)**

(C) consent be granted to Development Application No. D/2015/509, subject to the conditions as detailed in Schedules 1A, 1B, 1C and Schedules 2, 3, 4 and 5 of the subject report to the Central Sydney Planning Committee on 22 October 2015, amended as follows:

SCHEDULE 1A

Approved Development/Design Modifications/Covenants and Contributions, Use and operation

(1A) DEMOLITION AND EXCAVATION WORKS METHODOLOGY STATEMENT

Prior to the issue of a Stage 1 Construction Certificate, the following scope of work must be completed to the written satisfaction of the Director City Planning, Development and Transport:

- (a) A professional engineer with suitable tertiary qualifications in civil, structural or other equivalent discipline or a person with adequate industry experience in the specialised demolition of structure via non-percussion hammer methodology, i.e. concrete removal and disposal, is to be appointed (the Demolition Professional).**
- (b) A suitably qualified acoustic consultant* will be appointed.**
- (c) Working together the Demolition Professional & Acoustic Consultant will prepare a report (The "Demolition & Excavation Methodology Report" which**
- (i) Reviews the construction methodology of the existing building,**
- (ii) Identifies and provides alternative demolition works methodologies that must be used in removing the existing structure in a manner which will comply with the CONSTRUCTION NOISE conditions (Conditions 34 to 37, inclusive) in the development consent. Methodologies which are to be considered include:**
- a. Section sawing, slab sawing and wall sawing,**
- b. Diamond tipped wire sawing,**
- c. Bursting, splitting, fracturing using bursting heads or other consistent means,**
- d. Portable or excavator assisted crushing methodologies,**
- e. Other means aside from apparatus excluded in part (d).**
- (iii) The report may not dismiss the use of any of the above in favour of non-hand held percussive hammer equipment for demolition without:**

- a. Identifying the specific floor and section of the building for which non-hand held percussion equipment is proposed to be used. The report is not to generalise areas and sections of the building;
- b. Providing specific written justification as to why each of the methodologies cannot be employed with reference to the specific section of the building in which non-handheld percussion hammers are proposed to be used. If Workplace Health & Safety is to be used as a basis for exclusion of the methodologies in, the Demolition Professional must be able to present risk assessment documentation detailing as to why this is the case, and
- c. Providing advice from the Acoustic Consultant as to specific acoustic treatment / mitigation in any circumstances where percussion hammers are proposed to be used and demonstrate that it will comply with the CONSTRUCTION NOISE conditions (Conditions 34 to 37, inclusive) at all surrounding noise sensitive receivers. Generalist reference to AS2341 techniques or otherwise is not permitted, the report must detail the application and location of specific noise control.
- (iv) The report must provide a statement prepared by the Demolition Professional and Acoustic Consultant that includes their name, qualifications and summary of experience that the methodology reported on encapsulates all reasonable and feasible measures to reduce the environmental noise impact of the proposal. The report must support this statement with adequate demonstration that alternative methodologies have been investigated.
- (d) The methodologies must be to the satisfaction of the Director City Planning, Development and Transport, to best practicable means, employing all reasonable and feasible alternative methodologies and mitigations.
- (e) The City reserves the right to have an independent, appropriately qualified person review any aspect of the report at the expense of the applicant and include further necessary terms and content to the satisfaction of the Director City Planning, Development and Transport.
- (f) The final approved report will form part of this consent.

Note: Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

(3) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

Macquarie Street Awning

- (a) Amended plans shall be submitted to further refine the height, extent of projection and materiality of the proposed building entry awning on the Macquarie Street frontage of the site (notated on the plans as a canopy). The amendments should:
- (i) better resolve the interface of this awning with St Stephen's Church; and
 - (ii) seek to minimise the obstruction of views of the church along Macquarie Street as a result of the awning.

Internal Podium Stair

- (b) Amended plans shall be submitted to modify the design and materiality of the internal podium stair (connecting the Upper Ground floor to Level 4) in order to improve views from the Lower Ground Level out to Macquarie Street.

Facade Treatment – Plant Level (Level 18)

- (c) Amended plans and further documentation shall be submitted to minimise the visual disruption and break to the facade expression resulting from the Level 18 plant room. Further design refinement should be undertaken to consider the proportioning, materials and openings at this level of the building to ensure the continuity in the facade treatment.

Building Identification Signage Zones

- (d) No consent is given or implied to the four building identification signage zones/building name signs illustrated on the plans (notated as 'sky signage zone').
- (e) Amended plans shall be submitted reducing the number of signage zones/building name signs to a maximum of two elevations. As amended, the development may have a maximum of two (2) building identification/building name signs at the roof-top parapet level of the building.

The modifications are to be submitted to and approved by Council's Director, City Planning, Development and Transport prior to the issue of a Stage ~~2~~ 4 Construction Certificate.

(1) BUILDING HEIGHT

- (a) The height of the buildings must not exceed the following RLs (AHD):

	Maximum RL
Top of parapet of building podium	48.500 <u>48.75</u>
Top of parapet at Level 28	142.275 <u>142.715</u>
Top of the Building	167.100

- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

SCHEDULE 1B

Prior to Construction Certification/Commencement of Work/Health and Building

~~(43) No portion of the proposed structure shall encroach onto the adjoining properties, or onto the Easement for Access 3.77 wide (limited in stratum), located in the south-western corner of the site.~~

(64) LANDSCAPING OF THE SITE

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Stage 6 Construction Certificate for above ground building works. The plan must include:
- (i) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;
 - (ii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers;
 - (iii) Location, numbers, type and supply of plant species, with reference to NATSPEC (if applicable);
 - (iv) Details of planting procedure and maintenance;
 - (v) Details of drainage, waterproofing and watering systems.
- (b) Prior to the issue of a Stage 6 Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.
- (c) All landscaping in the approved plan is to be completed prior to ~~an~~ **a final** Occupation Certificate being issued.

(71) ALIGNMENT LEVELS – MAJOR DEVELOPMENT

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

- (b) Prior to a Stage 3/4 Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work, alignment levels for the building and site frontages must be submitted to and approved by Council. 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) These alignment levels, as approved by Council, are to be incorporated into the plans submitted with the application for a Construction Certificate for any civil, drainage and public domain work as applicable under this consent. 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.

(87) DEMOLITION/SITE RECTIFICATION

The following conditions apply to the development:

- (a) ~~Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.~~
- (b) Prior to the Stage 1 Construction Certificate being issued, documentary evidence must be provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (c) Without limiting the generality of paragraph (b), the Deed must provide for:
 - (i) A bank guarantee to be provided in the sum of \$841,500 dollars as security for the costs of such works provided that:
 - a. the maximum liability under the Deed must not exceed \$841,000 dollars; and
 - b. the Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
 - (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
 - a. demolition of the existing building has commenced but not been completed;
 - b. the existing building has been demolished; or
 - c. the site has been excavated; or

- d. the erection of the structure has commenced;
- (iii) that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the Consent Authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
 - a. make the building safe and of an appearance acceptable to Council at ground level;
 - b. allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - c. for the hole to be covered to allow it to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - d. in the event that the new building is constructed beyond the ground floor, to allow any hoarding to be removed and the ground floor development to be completed to a tenable stage;

AND to call on such bank guarantee to cover the cost thereof.

- (d) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:
 - (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (iii) to take place on the site; and
 - (ii) in the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.
- (e) The Deed may, if the Director City Planning is satisfied, provide for an adjustment of the guarantee amount during the course of construction to reflect that, as the development progresses, the likelihood and nature of the appropriate site rectification works may change. The stages of reduction will be:
 - (i) Stage 1 – Completion of the site excavation and all construction works necessary to complete all parts of the Development to street level, including sealing of the slab at that level.
 - (ii) Stage 2 – Completion of all construction works necessary to complete the structure of the Development to the roof level.
 - (iii) Stage 3 – Issue of the Final Occupation Certificate.
- (f) If a claim for an adjustment is made, the Deed must also provide that any such claim is to be supported by the following:
 - (i) Certification (from an accredited certifier) that the relevant stage is complete;

- (ii) Detailed schedule of completed works carried out in the relevant stage;
- (g) Quantity Surveyors costing of the likely site rectification works required at each remaining stage.

(91) UTILITY SERVICES

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of a Stage ~~1~~ **2** Construction Certificate a survey must be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.
- (b) Prior to the commencement of work the applicant is to obtain written approval from the utility authorities (e.g. Energy Australia, Sydney Water, and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

SCHEDULE 1C

During Construction/Prior to Occupation/Completion

(98) ENCROACHMENTS – PUBLIC WORKS

No portion of the proposed structure (excluding awnings), including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

(106) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) ~~All loading and unloading associated with construction activity must be accommodated on site.~~
- (b) If, ~~during excavation~~, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) The structural design of the building must allow the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.

- (f) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

Background

In correspondence, dated 20 October 2015, the applicant requested the amendment to a number of draft conditions. These amendments seek the following:


- to delete the requirement that the consent be a deferred commencement, instead the applicant is seeking an operable consent that replicates the demolition and excavation works methodology statement condition as a condition to be satisfied prior to the issue of any Construction Certificate;
- to modify and clarify the intent of a number of the acoustic conditions (Conditions 33 to 37, inclusive);
- to clarify and modify the staging of a number of conditions to better reflect the construction stage to which they relate;
- to correct an error in the building height condition (Condition 14) relating to the height of the podium and the height of the top of the building parapet; and
- to clarify the wording and intent of a number of standard conditions.

The majority of those modifications sought by the applicant are minor and the amendments sought have been agreed upon. An alternate recommendation is provided above.

With regard to the modifications sought to the acoustic conditions (Condition 33 to 37, inclusive), it is considered that the scope of an amendment sought is a matter that requires more detailed consideration and assessment. These amendments should be the subject of a future Section 96 application.

Prepared by: Nicola Reeve, A/Area Planning Manager

TRIM Document Number: 2015/546149

Approved	 Graham Jahn, Director City Planning, Development and Transport
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MEMORANDUM