

RELEVANT INFORMATION FOR THE CENTRAL SYDNEY PLANNING COMMITTEE

FILE: D/2015/1668 **DATE:** 17 March 2016
TO: Members of the Central Sydney Planning Committee
FROM: Graham Jahn, Director City Planning, Development and Transport
SUBJECT: Information Relevant To Item 4 - 230-238 Sussex Street, Sydney - At Central Sydney Planning Committee - 17 March 2016

Alternative Recommendation

That determination of Development Application D/2016/1668 be delegated to the Chief Executive Officer as detailed in the recommendation of the report to the Central Sydney Planning Committee on 17 March 2016, subject to the draft conditions as detailed in the report, and the amendment of Conditions 3, 16, 22, 27, 28, 41, 45, 52, 55, 57, 58, 61 and 63, such that it reads as follows, (with additions shown in **bold italics underlined text** and deletions in **~~bold italics strikethrough text~~**):

(3) MATTERS NOT APPROVED IN STAGE 1 DEVELOPMENT CONSENT

The following matters are not approved and do not form part of this Stage 1 development consent:

- (a) the quantum, ratio and distribution of hotel accommodation, residential accommodation, retail or commercial floor space;
- (b) the floor layout of the hotel and residential accommodation including the total number of hotel rooms and residential apartments;
- (c) the floor levels of each storey;
- (d) the number, configuration and layout of the basement level/s;
- (e) the vehicular access / crossover location on Druitt Place;
- (f) the number and configuration of car space, bicycle spaces and loading spaces / zones;
- (g) ~~the siting and location of a substation;~~
- (h) the precise quantum of total floor space; and
- (i) any uplift up to 10% of the gross floor area (GFA) of the building.

(16) SANDSTONE RECYCLING (FOR LARGE SCALE DEVELOPMENTS INVOLVING EXCAVATION TO A DEPTH OF AT LEAST ONE BASEMENT LEVEL)

- (a) A Geotechnical Report prepared by a suitably qualified geotechnical engineer is to be submitted **as part of the documentation lodged with the Stage 2 development application to Council's Urban Design and Heritage Manager prior to the issue of the Construction Certificate**. The report is to include an investigation of the nature of the existing subsurface profile using appropriate investigation methodology and borehole testing techniques.
- (b) The Geotechnical Report is to analyse the quality of the material, including contamination, and to assess the suitability of the rock for removal by cutting into quarry blocks for use as high quality building construction material, including for building conservation.
- (c) Subject to confirmation that the rock is of a suitable quality for reuse in other construction, the Geotechnical Report is to include an Excavation Work Method Statement with recommendations as to the depth of the most suitable profile, details excavation methodologies, cutting methods and procedures for the removal of all sandstone material in a useable form and size, noise and dust attenuation measures in addition to recommendations for monitoring, notifications and review.
- (d) In addition, details of any required storage of material off site must be submitted. If the quantity of sandstone material exceeds the needs of the site, or if the approved development does not provide for the use of any sandstone, or if the material is 'Yellow Block' sandstone required for conservation of buildings, the material must be stored in an appropriate location for later reuse. Storage may be able to be facilitated by the Council or the NSW Department of Commerce. Please contact the Manager Centenary Stonework Program at the NSW Department of Finance and Services on 9372 8526 for further enquiries with regard to storage.
- (e) The programming of the works is to take into account, the above process.

(22) ON SITE LOADING AREAS AND OPERATION

Details shall be submitted with the Stage 2 development application to illustrate that all loading and unloading operations associated with servicing the site **must can** be carried out within the confines of the site, at all times, and must not obstruct other properties/units or the public way.

~~At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.~~

(27) VEHICLE ACCESS

The **future Stage 2 development application detailed design site** must be configured to allow all vehicles to be driven onto and off the site in a forward direction.

(28) CAR SHARE SPACES

- (a) **The Stage 2 development application must incorporate** car share parking spaces ~~are to be provided~~ in accordance with the Sydney Development Control Plan 2012.

It is recommended that the Applicant discuss the proposed location of car share parking spaces with car share operators during the detailed design process to ensure that the needs of both the developer and the car share operator can be met. In this regard, the car share spaces are to be provided to meet the following conditions:

- (i) The spaces must 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.
- (ii) The spaces must be made available to car share operators without a fee or charge.
- (iii) The spaces must be sign posted for use only by car share vehicles and well lit.
- (iv) The spaces must be accessible to members of the car share scheme at all times. This should be incorporated into the building design. It is noted that the provision of car share on street would not be supported in this situation.
- (v) The car share spaces are to be available at the same time that the car park commences operation.

(41) PAVING MATERIALS

~~**The surface of any material used or proposed to be used for the paving of colonnades, thoroughfares, plazas, arcades and the like which are used by the public must comply with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".**~~

(45) PROTECTION OF STONE KERBS

- (a) The existing stone kerbs on the Sussex Street frontage of the site are to be retained and properly protected during **demolition excavation and construction** works.
- (b) To avoid damage to stone kerbs during **demolition excavation and construction** works for the development, temporary removal and storage of the stone kerbs may be approved by Council. Removed, serviceable stone kerbs (i.e. those that are in good condition as agreed by Council officers) must be re-installed in accordance with the City of Sydney's standard details and specifications after the construction works have been completed. Note: A temporary concrete kerb will need to be constructed to retain the footpath until the stone kerbs can be reinstalled. The removed stone kerbs are to be reinstalled prior to the issue of an Occupation Certificate. Note: all costs associated with the works are to be at no cost to the Council.

- (c) Damaged kerbs are to be replaced to match existing to Council's satisfaction or as otherwise advised by Council officers.
- (d) Where new crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.
- (e) All new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers. All unused stone kerbs are to be salvaged and returned to the City's store.
- (f) Council approval is required before kerbs are removed.
- (g) Council approval is required prior to the cutting of existing stone kerbs for stormwater kerb outlets.

(52) ~~ANNUAL FIRE SAFETY STATEMENT FORM~~

~~**An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.**~~

(55) ~~STRUCTURAL CERTIFICATION FOR DESIGN — BCA (ALL BUILDING CLASSES)~~

~~**Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to Class 2-9 buildings) and Clause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of Council (where Council is the Certifying Authority).**~~

(57) ~~DEMOLITION EXCAVATION AND CONSTRUCTION MANAGEMENT~~

- (a) Prior to the commencement of demolition ~~and/or excavation work~~, the following details must be submitted to and be approved by the Principal Certifying Authority:
 - (i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of facade retention.
 - (ii) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the WorkCover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted.)
 - (iii) ~~**An Excavation Work Method Statement prepared by an appropriately qualified person.**~~
 - (iv) A Waste Management Plan for the demolition and or excavation of the proposed development.

- (b) Such statements must, where applicable, be in compliance with AS2601-2001 Demolition of Structures, the Work, Health and Safety Act 2011 and Regulation; Council's Policy for Waste Minimisation in New Developments 2005, the Waste Avoidance and Resource Recovery Act 2001, and all other relevant acts and regulations and must include provisions for:
- (i) A Materials Handling Statement for the removal of refuse from the site in accordance with the Waste Avoidance and Resource Recovery Act 2001.
 - (ii) The name and address of the company/contractor undertaking demolition/~~excavation~~ works.
 - (iii) ~~**The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials.**~~
 - (iv) The name and address of the transport contractor.
 - (v) The type and quantity of material to be removed from site.
 - (vi) Location and method of waste disposal and recycling.
 - (vii) Proposed truck routes, in accordance with this development consent.
 - (viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).
 - (ix) Measures to control noise emissions from the site.
 - (x) Measures to suppress odours.
 - (xi) Enclosing and making the site safe.
 - (xii) Induction training for on-site personnel.
 - (xiii) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to WorkCover Authority.
 - (xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the WorkCover Authority.
 - (xv) Disconnection of utilities.
 - (xvi) Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed).

- (xvii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings).
 - (xviii) Waterproofing of any exposed surfaces of adjoining buildings.
 - (xix) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the Protection of the Environmental Operations Act 1997).
 - (xx) Working hours, in accordance with this development consent.
 - (xxi) Any WorkCover Authority requirements.
- (c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.

(58) ~~DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION~~

- ~~(a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of the adjoining Foley Bros Warehouse heritage building including all surrounding buildings which have a common boundary with the subject development site are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of a Construction Certificate.~~

~~UPON COMPLETION OF EXCAVATION/DEMOLITION~~

- ~~(a) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifying Authority and the Council prior to the issue of an Occupation Certificate.~~

~~Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.~~

~~Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.~~

(61) DEMOLITION/SITE RECTIFICATION (if cost is over \$50m)

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 ***any demolition works commencing the 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 \$521,500 dollars as security for the costs of such works provided that:
- a. the maximum liability under the Deed must not exceed \$521,500 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 hoardings to be removed and the ground floor development to be completed to a tenantable 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, Development and Transport 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:
 - (iii) 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.
 - (iv) Stage 2 – Completion of all construction works necessary to complete the structure of the Development to the roof level.
 - (v) 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.

(63) ~~WASTE/RECYCLING COLLECTION~~

- (a) ~~*The collection of waste and recycling must only occur between 7.00am and 8.00pm weekdays and 9.00am and 5.00pm weekends and public holidays, to avoid noise disruption to the surrounding area.*~~
- (b) ~~*Garbage and recycling must not be placed on the street for collection more than half an hour before the scheduled collection time. Bins and containers are to be removed from the street within half an hour of collection.*~~

Background

In correspondence, dated 17 March 2016, the applicant has requested that consideration be given to the modification and/or deletion of a number of the draft conditions of consent (refer to Attachment A).

It is acknowledged that a number of the conditions that have been recommended for imposition would relate to the detailed design stage of the proposal, and it is likely that these will be imposed on any future Stage 2 development application. As such, it is recommended that Conditions 41, 52, 55, 58 and 63 be deleted as these will be addressed in the Stage 2 development application.

With regard to Conditions 3(g), 16, 22, 27, 28, 45, 57 and 61, it is agreed that these conditions may be modified to clarify the intent of each condition.

The deletion of Condition 15 is not concurred with and it is recommended that this condition remain.


The applicant has also requested the deletion of Condition 6 (Detailed Design of the Building), Condition 48 (Acid Sulfate Soils Assessment) and Condition 49 (Compliance with the Acid Sulfate Soils Management Plan). In this instance, it is recommended that these conditions not be modified at this stage to allow staff a greater opportunity to consider and assess the impacts of this request. It is recommended that staff review the content and intent of these conditions prior to the matter being determined by the CEO.

Prepared by: Nicola Reeve, Area Planning Manager

TRIM Document Number: 2016/139720

Attachments

Attachment A: Correspondence, dated 17 March 2016, from applicant

Approved	 Graham Jahn, Director City Planning, Development and Transport
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ATTACHMENT A

**CORRESPONDENCE, DATED
17 MARCH 2016, FROM APPLICANT**

From: Walter Gordon
Sent: Thursday, 17 March 2016 9:23 AM
To:
Cc:
Subject: ITEM 4 - CSPC MEETING 17 MARCH 2016

We have reviewed the draft conditions being recommended for Item 4 – D/2015/1668 applying to 230-238 Sussex Street Sydney and request the CSPC member adopt the following changes to the conditions that are to be referred to the CEO that is part of the recommendation. Many of the conditions relate to a Stage 2DA, cover heritage conditions for a development consent we already have or relate to excavation that is not part of this DA.

Condition 3(g) - The siting and location of the substation is not approved.

Comment – This condition must be **deleted** is the current substation and is not being removed or relocated.

Conditions 6(a),(b), (c) &(d) relates to the Heritage Building next door at 230-232 Sussex Street, which we already have approval from Council.

Comment – These conditions should be deleted as we already have DA approval for the Heritage Building and have all but complied with most of the conditions (D2015/771) to commence renovation works.

Conditions 6(e),(v)(viii) requires services of the heritage building at 230-232 Sussex Street to be located in 234-238 Sussex Street.

Comment – We strongly object to this condition as these works were only being worked out with Council to comply with conditions for the Heritage Building in D2015/771.

Condition 6(e)(x) requires balconies to be provided inboard of the envelope and can be wintergardens.

Comment – We agreed to reduce the height of the building to take into account a future park at the corner of park St and George Street. Since then and over two years of discussions with Council, we have been required to further height reductions to address solar access to adjoining developments. The application of wintergardens should therefore be excluded from GFA in the condition. If we were to revisit this site today, we would go much higher and let the Planning and Assessment Commission or Greater Sydney Commission decide, as the height and mass was acceptable by urban design consultants over two years ago.

Condition 15 requires structural stability of the heritage item

Comment - No objection to the condition. Seek rewording of the first line as follows. "The Stage 2 design is to ensure that ~~sufficient side boundary offsets~~ **input from geotechnical and structural engineers** is

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Condition 16 - Sandstone Recycling

Comment - Delete this condition as it specifically calls up excavation, which is not sought for this application. Geotechnical reporting cannot be done until demolition has been completed because the entire building covers the land.

Condition 22 - On Site Loading Areas and Operation

Comment - This condition is to be deleted, being normally found in conditions for Stage 2 DAs, as it related to ongoing maintenance of completed buildings.

Condition 27 - Vehicle access in a forward direction.

Comment - The DA is for demolition and no vehicles will be entering the site. Normally found with occupation conditions of Stage 2 DAs. The condition must be deleted. Work Zones will be sought when trucks are required to remove demolition material.

Condition 28 - Car Share Spaces

Comment - DA is for demolition and condition only relates to a Stage 2 and at Occupation certification. Condition to be deleted.

Schedule 1B Note relates to BCA compliance prior to a construction certificate

Comment - This note should be deleted or at the very least meant for stage 2. No BCA requirements for demolition.

Condition 41 - Paving Material

Comment - There is no paving proposed with demolition. Delete condition or refer to Stage 2 DA.

Condition 45 - Protection of Stone Kerbs

Comment - Condition to be deleted as it specifically relates to excavation/construction - or refer to a Stage 2DA. The approval is for Excavation.

Condition 48 - Acid Sulfate Soils Assessment

Comment - Acid Sulphate testing of the soil cannot physically take place before excavation where the building covers the whole site. This condition should be deleted and included in a future Stage 2 consent prior to excavation. No excavation is proposed.

Condition 49 - Compliance with Acid Sulfate Soils Management Plan

Comment - The condition is not completed, and relates to condition 48 which cannot physically be done until demolition is complete. Drafting error - condition should be deleted.

Condition 52 - Annual Fire Safety Statement Form

Comment - Not related to demolition. Delete condition or refer to Stage 2 DA.

Condition 55 - Structural Certification for Design

Comment - This conditions be reworded to be *"prior to the issue of the construction certificate to any Stage 2 DA"* as demolition does not apply.

Condition 57 - Demolition, Excavation and Construction Management

Comment - Amend condition (iii) by deleting requirements for excavation. No approval is being sought.

Condition 58 - Dilapidation Report

Comment - Delete reference to the warehouse building requiring a dilapidation report as we will be shortly refurbishing and we own the building. Photographic records have already been provided to Council under D2015/771 approval.

CONDITION 61(A) - RECTIFICATION DEED

COMMENT - THIS CONDITION MUST BE DELETED. THE ENTIRE PURPOSE OF THIS APPROVAL IS TO COMMENCE DEMOLITION EARLY. THE CONSTRUCTION CERTIFICATE FOR THE SUBSTANTIVE BUILDING WILL NOT TAKE PLACE FOR AT LEAST ANOTHER 12 MONTHS BY THE TIME COUNCIL PERMITS THE DESIGN COMPETITION TO START; LODGE A STAGE 2 DA; OBTAIN APPROVAL FROM THE CSPC FOR STAGE 2 AND THEN COMPLY WITH CONDITIONS. THIS CONDITION WILL NOT PERMIT THE EXCAVATION TO COMMENCE EVEN AFTER THE DRAFT LEP IS GAZETTED.

Condition 63 - Waste/Recycling Collection

Comment - Relates to the Stage 2 DA with Occupation conditions. Delete condition or refer to Stage 2 DA.

The above conditions sought to be amended or deleted are based relevance to the development being sought for approval, have been replicated in other consents or that specifically relates to a Stage 2 DA.

Regards

Walter Gordon

Director Planning and Development



Meriton Group

Level 11, Meriton Tower, 528 Kent St, Sydney 2000

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