

RELEVANT INFORMATION FOR THE CENTRAL SYDNEY PLANNING COMMITTEE

FILE: D/2016/989 **DATE:** 22 June 2017
TO: Members of the Central Sydney Planning Committee
FROM: Graham Jahn, Director City Planning, Development and Transport
SUBJECT: Information Relevant To Item 4 - Development Application - 205-225
Euston Road, Alexandria - At CSPC - 22 June 2017

Alternative Recommendation

It is resolved that:

- (A) the variation sought to Clause 4.3 Height of Buildings in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 be supported;
- (B) the Design Excellence Strategy prepared by JBA Urban Planning Consultants on behalf of Maxida International Alexandria Property Australia, as shown in **Attachment D** to the subject report, be endorsed pursuant to Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the Competitive Design Policy; 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. D/2016/989, subject to the conditions as detailed in **Attachment A** to the subject report, subject to the addition of new conditions, Conditions (2) and (16) in Part B - Conditions of Consent (Once the Consent is in Operation), with the modifications shown in ***bold italics*** (additions), as follows, and the subsequent renumbering of existing conditions:

(to be inserted after existing Condition (1)) -

(2) STAGING OF THE DEVELOPMENT

Separate Stage 2 DAs must be lodged as follows:

<i>First Stage 2 DA</i>	<i>Demolition of existing buildings and early works.</i>
<i>Second Stage 2 DA</i>	<i>Construction of Buildings A, B and C fronting Euston Road and surrounding public domain.</i>
<i>Third Stage 2 DA</i>	<i>Construction of Buildings D, E, F, G & H and surrounding public domain.</i>

(to be inserted after existing Condition (15)) -

(16) CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLANS

- (a) Detailed Construction Environmental Management Plans are to be lodged with the Stage 2 Development Applications.**
- (b) The following details must be included:**
 - (i) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the Work Cover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted.)**
 - (ii) An Excavation Work Method Statement prepared by an appropriately qualified person.**
 - (iii) An Construction Work Method Statement prepared by an appropriately qualified person.**
 - (iv) A Waste Management Plan for the demolition, excavation and construction of the proposed development.**
- (c) 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 type and quantity of material to be removed from site.**
 - (iii) Location and method of waste disposal and recycling.**
 - (iv) Proposed truck routes.**
 - (v) 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).**
 - (vi) Measures to control noise emissions from the site.**
 - (vii) Measures to suppress odours.**
 - (viii) Enclosing and making the site safe.**

- (ix) Induction training for on-site personnel.*
- (x) 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 Work Cover Authority.*
- (xi) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the Work Cover Authority.*
- (xii) Disconnection of utilities.*
- (xiii) 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).*
- (xiv) 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).*
- (xv) 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).*
- (xvi) Working hours, in accordance with Council's standard hours.*
- (xvii) Any Work Cover Authority requirements.*
- (d) The work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.*

Background

On 15 June 2017, the NSW Court of Appeal handed down a decision in relation to a Stage 1 DA that affects the proposed development in two ways:

- (a) the sequencing of subsequent Stage 2 DAs, should the Stage 1 DA be approved as recommended; and
- (b) the assessment of construction impacts at the Stage 1 DA phase.

Each matter is discussed in detail below.

Staging of Stage 1 and Stage 2 DAs

The Court of Appeal has held that Stage 1 DAs should not be followed by a single subsequent Stage 2 DA. Rather, the Court's interpretation is that there must be at least two Stage 2 DAs for separate parts of the site.

DA D/2016/989 was originally lodged on the basis that there would be a single subsequent Stage 2 DA for the construction of the development, if the Stage 1 DA were to be approved.

The Applicant has subsequently proposed to stage the lodgement of Stage 2 DAs. The proposed staging is as follows:

- (a) an initial Stage 2 DA for demolition and early works.
- (b) a second Stage 2 DA for the construction of the “barrier” buildings along Euston Road.
- (c) a third Stage 2 DA for the construction of the “finger” buildings behind the Euston Road buildings.

The Alternative Recommendation of this Memo seeks an additional condition that reflects the proposed staging of the Stage 2 DAs.

Construction Impacts

The Court of Appeal has held that a consent authority, when considering a Stage 1 DA, must consider the effects of the construction of the development. It has been common until now for the construction impacts of the development to be addressed in detail at the Stage 2 DA phase. This is because a typical Stage 1 DA is for a concept only, a Stage 1 generally does not grant consent for any physical works to take place and the details of the construction methodologies, contractors and relevant issues is usually better known at Stage 2 DA phase.

Nevertheless, the Assessment Report for DA D/2016/989 contains some discussion in relation to construction impacts that may arise from the development, primarily in relation to impacts on trees within Sydney Park and construction traffic impacts.

However, for abundant caution, a more comprehensive assessment of a fuller range of construction impacts is contained below.

Initial construction impacts will arise from demolition, site preparation, remediation and other early works. Construction impacts will then shift as the proposed buildings are erected.

The Applicant will be required to prepare and lodge a detailed Construction Environmental Management Plan (CEMP) at the Stage 2 DA phases. The Applicant says that the CEMP will contain:

- site specific measures to address issues of noise, dust, vibration, waste, water management, soils and contamination and other issues.
- specific roles to supervise the implementation of the CEMP and to monitor and manage impacts.
- reporting processes to enable the community to raise issues of concern and those concerns to be examined and addressed.
- detailed mitigation measures to ensure construction impacts are reduced as much as practical.

Council Officers consider that the above approach to the CEMP will assist in identifying and managing construction impacts to a high degree. However, Council Officers would add to this:

- in this instance there are no existing sensitive residential receivers near the site, there are industrial uses nearby that have relatively lower noise and vibration thresholds, and there is a sensitivity to this site with its proximity to users of Sydney Park. Construction impact mitigation measures are to be approached based on the identification of the receivers and the setting of reasonable control measures accordingly;

- construction impacts are temporary in duration and change throughout the project. It follows that impact mitigation must be approached from a practical perspective and adjust with the programme. For instance, a CEMP or conditions of consent would generally need to apply the highest order of mitigation measures during the demolition and excavation phases where high impact equipment is used. The City’s approach to this is to apply conditions which require separate Work Method Statements for the demolition, excavation and construction phases,
- aside from the requirement for a CEMP for each Stage 2 DA, the City has a suite of other conditions that it applies to consents in relation to the management of construction impacts such as noise and vibration, traffic management, air quality management, tree management, erosion and sediment control and waste management. These conditions will be applied to subsequent Stage 2 DAs to minimise construction impacts.

Construction impacts are able to be suitably mitigated and managed with the implementation of a CEMP and other appropriate conditions of consent. The Alternative Recommendation of this Memo seeks an additional condition requiring detailed CEMPs with each Stage 2 DA, with the condition outlining the range of matters to be addressed.

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TRIM Document Number: 2017/307961

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