

## **RELEVANT INFORMATION FOR COUNCIL**

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**FILE:** D/2015/824 **DATE:** 23 November 2015  
**TO:** Lord Mayor and Councillors  
**FROM:** Graham Jahn, Director City Planning, Development and Transport  
**SUBJECT:** Information Relevant To Item 9.14 – Development Application: 6-8 Crewe Place Rosebery - At Council – 23 November 2015

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### **Alternative Recommendation**

It is resolved that:

- (A) compliance with the requirement for a Stage 1 development application or a site specific development control plan (DCP) requirement for the site is unreasonable or unnecessary in the circumstances;
- (B) pursuant to the provisions of Clause 4.6 of Sydney Local Environmental Plan 2012, the variation sought to Clause 4.3 building height of the Sydney Local Environmental Plan 2012 be supported in this instance;
- ~~(C) Authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2015/824, after:
  - ~~(1) The Planning Agreement is publicly exhibited and any submissions considered.~~~~
- (D) ~~If the CEO determines to approve the application, then consideration be given to granting a deferred commencement consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979 subject to the conditions set out below~~
- (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/2015/824, 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) PLANNING AGREEMENT**

- (a) That a Planning Agreement in accordance with the public benefit offer made by Stable Innovations Rosebery Pty Ltd on 11 June 2015 be executed and submitted to Council.

- (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 this 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; and
- (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 conditions of consent as detailed in Part B – Conditions of Consent – (Once the Consent is in Operation) of the subject report to the Planning and Development Committee on 17 November 2015, **amended as follows**, and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions, (with amendments shown in **bold italics** (additions) and ~~strike through~~ text (deletions)):

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

### **(1) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2015/773 dated 18 June 2015 and the following drawings:

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
A1000 Rev 03	Allen Jack + Cottier	02/06/15
A1100 Rev 02	Allen Jack + Cottier	02/06/15
A1101 Rev 02	Allen Jack + Cottier	02/06/15
A1102 Rev 02	Allen Jack + Cottier	02/06/15
A1103 Rev 02	Allen Jack + Cottier	02/06/15
A1104 Rev 02	Allen Jack + Cottier	02/06/15
A2000 Rev 07	Allen Jack + Cottier	02/06/15
A2100 Rev 06	Allen Jack + Cottier	02/06/15
A2010 Rev 06	Allen Jack + Cottier	02/06/15
A2012 Rev 06	Allen Jack + Cottier	02/06/15
<b>A2010 Rev 09</b>	<b>Allen Jack + Cottier</b>	<b>02/06/15</b>
<b>A2102 Rev 06</b>	<b>Allen Jack + Cottier</b>	<b>02/06/15</b>
A2103 Rev 06	Allen Jack + Cottier	02/06/15
A2104 Rev 06	Allen Jack + Cottier	02/06/15
A2105 Rev 05	Allen Jack + Cottier	02/06/15
A3100 Rev 05	Allen Jack + Cottier	02/06/15
A3101 Rev 05	Allen Jack + Cottier	02/06/15
A3200 Rev 05	Allen Jack + Cottier	02/06/15

Drawing Number	Architect	Date
A3201 Rev 04	Allen Jack + Cottier	02/06/15
A3202 Rev 04	Allen Jack + Cottier	02/06/15
A9120 Rev 04	Allen Jack + Cottier	02/06/15

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.

**(3) BUILDING HEIGHT**

- (a) The height of the roof pavilion structure to building A must not exceed ~~RL~~ 44.6 (AHD).
- (b) The height of building B must not exceed ~~RL~~ 42.05 (AHD) to the top of the building (lift overrun) and ~~RL~~ 41.4 (AHD) to the parapet of the building.
- (c) The height of building C must not exceed ~~RL 42.5~~ **45.2** (AHD) to the top of the building (lift overrun) and ~~RL~~ 37.2 (AHD) to the parapet of the building.
- (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.

**(10) USE - SEPARATE DA REQUIRED**

- (a) A separate development application for the fitout and use of the ground floor retail premises / commercial premises within Building ~~B A and Building D~~ must be submitted to and approved by Council prior to that fitout or use commencing.
- (b) In the event the first use of any ground floor retail premises / commercial premises is approved under a complying development certificate in accordance with the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, for the avoidance of doubt, the hours of operation shall be restricted to 7.00am to 7.00pm Monday to Saturday and 9.00am to 6.00pm on a Sunday or a public holiday.

**(39) TREES THAT MUST BE RETAINED**

Trees numbered 2-~~8~~ **6**, 14-24 and 30 in the Arboricultural Impact Assessment prepared by 'Earthscape Horticultural Services' dated June 2015 must be retained and protected throughout the proposed development.

**Background**

**Planning Agreement**

A draft Planning Agreement to secure a public benefit, agreed to by the Council and applicant, has been drafted.

The nature of the Planning Agreement is to secure a monetary contribution of \$1,288,536.50 for community infrastructure to the Green Square urban renewal area including, but not limited to, roads, drainage systems, utility services, parks, plazas and other public facilities.

The current recommendation is for Council to consider the merits of the proposal and delegate the decision to determine the development application to the Chief Executive Officer (CEO) following the exhibition of the Planning Agreement.

At the time of writing the report, the Planning Agreement had not yet been placed on exhibition. The Planning Agreement has now been placed on public exhibition (from 13 November to 12 December 2015). In light of this, there is no need to delegate the determination of the application to the CEO.

### **Modified Conditions**

In correspondence dated 16 November 2015, the applicant requested the amendment to a number of draft conditions. These amendments seek the following:

- to correct an error in the listing of the plan numbers to include A2101 Rev 9 (Level 1 Plan) and A202 Rev 6 (Level 2 Plan);
- to correct an error in the building height condition (Condition (3)) relating to the height of the lift overrun to Building C;
- to correct an error in Condition (10)(a) which refers to Building A and C instead of Building B; and
- to correct an error in Condition (39), relating to the trees to be retained.

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

Prepared by: Erin Murphy, Specialist Planner

TRIM Document Number: 2015/605985

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Approved



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