

RELEVANT INFORMATION FOR COUNCIL

FILE: D/2016/853 **DATE:** 23 March 2017
TO: Lord Mayor and Councillors
FROM: Graham Jahn, Director City Planning, Development and Transport
SUBJECT: Information Relevant To Item 9.10 – Development Application: 422-424 Kent Street and 275-277 Clarence Street, Sydney - At Council - 27 March 2017

Alternative Recommendation

It is resolved that, pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2016/853, subject to the conditions as detailed in Attachment A to the subject report to the Planning and Development Committee on 20 March 2017, subject to the amendment of the period of time nominated to satisfy the Deferred Commencement Conditions (Part A) with the Deferred Commencement Conditions (Part A) amended to read as follows (with additions shown in ***bold italics*** and deletions in ***strikethrough***):

PART A – DEFERRED COMMENCEMENT CONDITIONS

(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

The consent is not to operate until the following conditions ***is are*** satisfied, within ~~12~~ **24** months of the date of this determination:

(1) DESIGN MODIFICATIONS

The design of the basement and ground level of the building must be modified to address the following:

Car parking

- (a) Amended plans shall be submitted to illustrate the deletion of all residential and the hotel car parking shown on drawings 1101 Rev E, 1102 Rev E and 1103 E dated 16/06/2016 prepared by Crone.

Servicing

- (b) Amended plans and additional information shall be submitted showing all commercial (hotel and retail) servicing to be undertaken wholly on site.

A revised basement level loading dock design shall be submitted which incorporates an area for vehicles to turn around. The area to be provided shall be designed to meet the requirements of the Australian Standards and be in accordance with Sections 3.11.6 and 3.11.13 of the Sydney DCP 2012. A swept path analysis is to be undertaken to show how the largest vehicle (maximum dimensions 6.4m with a minimum clearance of 3.5m) can turn around within the site and enter and exit the subject site.

Waste collection

- (c) Amended plans shall be submitted demonstrating residential waste collection shall be from Clarence Street. A residential waste storage room shall be provided on the Clarence Street frontage and shall be located within a 10m travel distance from the waste collection point. The revised design shall not impact on the activation of the Clarence Street frontage.
- (d) An amended plan shall be submitted showing a non-residential waste storage room provided in the basement.

Flood levels

- (e) The recommendations of the Flood Impact Study prepared by Calibre Consulting dated 24 February 2017 shall be incorporated into the final design modifications required to address the parking, servicing and waste issues as detailed in parts (a) to (c) above.

The recommendation of the Flood Impact Study requires a 50mm increase in the Clarence Street frontage to a 100 Year Flood Level of 17.85m AHD. No further height shall be added to the building as a result of the modification.

Heritage interpretation devices

- (f) An amended plan shall be submitted showing the following:

An interpretation device, a selection of structural elements and materials are to be retained and utilised as an interpretive measure within the new building. The components retained should include at least one of the king post trusses at 422 Kent Street and the supporting stone plinth blocks, cast iron and timber posts and beams from 277 Clarence Street. Timber flooring and pressed metal ceilings should be retained and reused as exposed finishes.

Amended plans to address the above shall be submitted to and approved by Council's Director of City Planning, Development and Transport.

(2) SYDNEY TRAINS

Sydney Trains has provided the following concurrence conditions under the provisions of Clause 88 of *State Environmental Planning Policy (Infrastructure) 2007*:

- (a) The owners of the site of the approved development must enter into a Deed of Agreement with TfNSW prior to issue of any Construction Certificate to address the adverse effects of the approved development on the CBDRL identified in State Environmental Planning Policy (Infrastructure) 2007. The Agreement must provide for the following:

- (i) the design, construction and maintenance of the approved development so as to satisfy the requirements in conditions (c) to (m) below;
 - (ii) allowances for the future construction of railway tunnels in the vicinity of the approved development;
 - (iii) allowances in the design, construction and maintenance of the approved development for the future operation of railway tunnels in the vicinity of the approved development, especially in relation to noise, vibration, stray currents, electromagnetic fields and fire safety and the like to and from railway operations;
 - (iv) consultation with TfNSW;
 - (v) access by representatives of TfNSW and Sydney Trains to the site of the approved development and all structures on that site;
 - (vi) provision to TfNSW and Sydney Trains of drawings, reports and other information related to the design, construction and maintenance of the approved development;
 - (vii) creation of a restrictive covenant on each of the titles which comprise the approved project so as to satisfy condition (j) below;
 - (viii) such other matters which TfNSW and Sydney Trains considers are appropriate to give effect to a) to g) above; and
 - (ix) such other matters as the owners and TfNSW and Sydney Trains may agree.
- (b) All structures which are proposed for construction or installation, or which are constructed or installed, in connection with the approved development which have a potential impact on the CBDRL must be designed, constructed and maintained in accordance with design criteria specified by TfNSW.
- (c) The design and construction of the basement levels, foundations and ground anchors for the approved development are to be completed to the satisfaction of TfNSW. The developer shall develop their foundation design, and any encroachment into the Exclusion Zones as indicated in drawing 482749-261 Rev 2. Cross Sectional drawings showing the proposed basement excavation and structural design of sub ground support adjacent to the rail corridor should be included for the proposed foundations. All ground anchors and rockbolts within the CBDRL protection zone adjacent to the bulk excavation face shall be temporary anchors, or removable type or fibreglass type, to avoid obstruction of any future CBDRL construction.
- (d) Prior to issue of any construction certificate the developer must undertake detailed geotechnical analysis to the satisfaction of TfNSW to demonstrate likely movements of the ground due to the future CBDRL.
- (e) No modifications may be made to that the approved design without the consent of TfNSW.

- (f) A detailed regime is to be prepared for consultation with, and approval by, TfNSW for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by TfNSW.
 - (g) TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.
 - (h) All requirements contained in the Agreement between TfNSW and the owners of the site must be satisfied during construction and, where appropriate, the operation of the approved development.
 - (i) Copies of any certificates, drawings or approvals given to or issued by TfNSW must be delivered to Council for its records.
 - (j) Prior to the commencement of any excavation below existing ground level, a restrictive covenant is to be created upon each of the titles which comprise the approved development pursuant to Section 88E of the Conveyancing Act 1919, restricting any alterations or additions to any part of the approved development which are reasonably likely to adversely affect, or which otherwise are likely to interfere with the design, construction and operation of the proposed Sydney Metro the prior written consent of TfNSW.
 - (k) All structures must be designed, constructed and maintained so as to avoid any damage or other interference, which may occur as a result of noise and vibration from (future) railway operations. The Applicant is to submit a report to Sydney Trains for review demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guideline". The assessment must consider noise and vibration from future underground rail; tunnel construction and operation. The Proponent must incorporate in the development all the measures recommended in the report.
 - (l) Prior to the issue of a Construction Certificate the applicant is to engage an Electrolysis Expert to submit a report to Sydney Trains on Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk.
 - (m) Any contamination issues encountered during the development of the site are to be resolved taking cognizance of the future railway.
- 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 **12 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.

- 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.
- 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), and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions:

Background

In correspondence dated 17 March 2017, the applicant has requested that the timeframe provided to satisfy the Deferred Commencement Conditions of Part A of D/2016/853 be extended from 12 months to 24 months.

The request has been made to extend the timeframe to 24 months as a result of the anticipated time that the applicant and their consultants believe it will take to adequately address all of the Sydney Trains/Transport for NSW concurrence condition requirements. The applicant has based this request on other similar CBD projects where there have been protracted periods to collate all necessary information to satisfy Sydney Trains/Transport for NSW and to then enter into a Deed of Agreement with Transport for NSW.

No objection is raised to the applicant's request to extend the timeframe to satisfy the deferred commencement conditions. An alternative recommendation has been provided above to amend Part A – Deferred Commencement Conditions to extend this period to 24 months.

Prepared by: Anne-Marie Young, Senior Planner

TRIM Document Number: 2017/141331

Approved



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