

RELEVANT INFORMATION FOR COUNCIL

FILE: D/2016/1604 **DATE:** 9 November 2017
TO: Lord Mayor and Councillors
FROM: Graham Jahn, Director City Planning, Development and Transport
SUBJECT: Information Relevant To Item 9.4 – Development Application: 437-443
Wattle Street Ultimo - At Council - 13 November 2017

Alternative Recommendation

It is resolved that:-

- (A) Council support the variation sought to Clause 4.3 Height of Buildings development standard, pursuant to Clause 4.6 of Sydney Local Environmental Plan 2012;
- (B) Council support the variation sought to Clause 30(1)(g) of State Environmental Planning Policy (Affordable Rental Housing) 2009 (motorcycle parking), pursuant to Clause 4.6 of Sydney Local Environmental Plan 2012; 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/2016/1604 subject to the conditions as detailed in **Attachment A** to the planning report to the Planning and Development Committee on 6 November 2017, and subject to the following amendments to conditions shown below, with deletions shown in ~~strike through~~ and additions shown in ***bold italics***.

Amend Deferred Commencement Condition (2)(a) in Part A as follows:

- (a) Pursuant to the provisions of the Sydney Development Control Plan 2012 that require 15% of all new dwellings to be provided as adaptable dwellings, the drawings must be revised to provide 11 adaptable rooms within the development. ***These drawings are to clearly identify and demonstrate how the affected rooms meet the relevant Australian Standard/s with regard to accessibility and room/corridor dimensions, including providing certification of compliance from a suitably qualified consultant.***

Insert New Deferred Commencement Condition (2)(f) in Part A as follows:

- (f) ***Rooms numbered 104, 204, 304, 404 and 504 and 109, 209, 309, 409 and 509 must be provided with bathroom windows.***

Insert New Deferred Commencement Condition (2)(g) in Part A as follows:

- (g) ***All windows on the western elevation of the building facing Blackwattle Lane must be provided with sun shading devices in the form of accentuated external window frames.***

Amend Condition (16) in Part B as follows:

(16) LANDSCAPING OF THE SITE

- (a) The landscape plans prepared by Site Image for this application are not approved. Detailed landscape plans, 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 Construction Certificate for above ground building works. The plan must include:
- (i) Resolution of detailed design issues raised by the DA drawings, including fall protection from the roof terrace and any fences or landscape walls to the ground level landscape space facing Blackwattle Lane. The seating area facing Blackwattle Lane must be removed and replaced with planting.
 - (ii) 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;
 - (iii) 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;
 - (iv) Location, numbers, type and supply of plant species, with reference to NATSPEC (if applicable);
 - (v) Details of planting procedure and maintenance;
 - (vi) Details of drainage, waterproofing and watering systems.
- (b) Prior to the issue of a 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 Occupation Certificate being issued.
- (d) *Particular attention must be given to redesigning the landscaped area at ground floor to the rear of the site, facing Blackwattle Lane, so as to improve the amenity and usability of this area for future occupiers.***

Background

At the meeting of the Planning and Development Committee on 6 November 2017, issues were raised in relation to the location of the roof level communal open space, the design of the rear landscaped area, dimensions of adaptable rooms, and questions about windows and sun shading devices, and whether the proposed boarding house would require registration on the Department of Fair Trading Boarding House Register.

This memo provides further advice on these issues.

Roof level communal open space

In response to concerns raised by the Design Advisory Panel, the plans were amended to include a communal roof terrace at the (rear) western end of the building. The Planning and Development Committee wish to consider whether this open space should be relocated to the (front) eastern side of the building, facing Wattle Street, so as to further separate it from the Fusion apartment building to the rear. This would then mean swapping the air-conditioning/plant enclosure and the open space area.

Currently, the communal open space would be located 9.8m from the rear site boundary and 18m from the Fusion apartments. Relocating the open space could benefit the occupants of the Fusion building, as the separation distance would increase to 37m. Relocating the open space could also benefit the future occupants of the boarding house by providing a more expansive outlook towards the CBD skyline.

However, relocating the air-conditioning/plant enclosure to the rear, western end of the development would increase building bulk where it is closest to the Fusion Building, because the plant enclosure contains screening. This would add to loss of outlook and bring a noise source closer to the neighbouring apartments.

It is noted that conditions are recommended to restrict the use of the roof terrace to between 7.00am and 10.00pm (Conditions (10) and (11)), and the edges of the terrace contain vegetation in planter boxes to improve privacy and separation.

For these reasons, planning staff recommend the retention of the current roof terrace arrangement. However, should Council be of the opinion that the roof terrace should be relocated to the Wattle Street end, the following deferred commencement condition could be inserted as Condition (2)(h) of Part A:

Condition (2)(h) in Part A:

- (h) The communal open space at roof level must be relocated to the eastern end of the development close to the Wattle Street frontage. The western end of the development at roof level shall contain only the air-conditioning/plant enclosure and screening.

Rear landscaped area

Concerns were raised that the rear landscaped area could be improved to make it more usable. This area currently shows a landscaped deep soil planting area, but also contains a space for an external waste bin storage area. The waste bin storage area will only be used to store waste bins on the day of collection. At other times, waste bins will be stored within an internal waste storage room at ground floor level.

The landscaped area at the rear of the site is at RL 4.5m, whereas the ground level of the premises is at RL 6.2m to address flooding issues. The change in levels makes accessing the rear landscaped area difficult from the ground level of the premises; the area is only accessible via a fire escape at the southern end of the site or via Blackwattle Lane itself.

However, it is acknowledged that this space could be improved to make it an alternative option for occupants. Seating and further screening or greening of the waste room could be provided. Consideration was also given as to whether the driveway could be narrowed so as to improve this space. However, the City's Transport Officer has confirmed that the driveway width is required so as to allow a car to wait in the driveway should the driveway be in use by another vehicle.

An amendment to Condition (16) is recommended to address improvements to this rear landscaped area.

Adaptable rooms

Concerns were also raised that some of the adaptable units did not look like they would comply, such as narrow corridors and circulation space. This memo recommends that deferred commencement Condition (2)(a) in Part A be amended to include further details and proof of compliance with the relevant Australian Standard.

Changes to rooms

Other general issues regarding improving the amenity of the rooms were raised, in particular, providing additional sun shading devices to the western facade, and additional windows to bathrooms.

Currently, some windows on the western facade have articulated external window frames to provide shading. It appears that the drawings only show this for the rooms at the northern end of the elevation. Therefore, this memo recommends a condition to provide shading devices to all windows on the western facade.

In addition, there are some bathrooms that do not contain windows, but could easily do so. This would improve their amenity. The affected rooms are numbered 104, 109, 204, 209, 304, 309, 404, 409, 504 and 509.

Registration of Boarding House

A question was asked at Committee about whether the proposed boarding house (student accommodation) would be required to be registered on the Department of Fair Trading's Boarding Houses Register. Section 5 of the Boarding Houses Act 2012 (the Act) defines what type of boarding houses are '*registrable boarding houses*' and defines them to be:

- (a) general boarding house; or
- (b) an assisted boarding house that is required to be authorised under Part 4 for it to be lawfully used as such under that Part (a regulated assisted boarding house).

Despite the above definition, part 3 of section 5 says that a general boarding house does not include any of the following:

- (a) a regulated assisted boarding house,
- (b) premises that are used as a hotel, motel or bed and breakfast accommodation,
- (c) premises that are used as a backpackers hostel,
- (d) a serviced apartment (being a building or part of a building that is used to provide self-contained tourist or visitor accommodation that is regularly cleaned by or on behalf of the proprietor or manager),
- (e) premises that are used to provide accommodation for workers or employees in connection with their work or employment,
- (f) a government school or registered non-government school within the meaning of the Education Act 1990 or any other premises that are used by an educational body to provide accommodation for its students,**
- (g) a private health facility licensed under the Private Health Facilities Act 2007,
- (h) a nursing home within the meaning of the Public Health Act 2010,
- (i) a mental health facility within the meaning of the Mental Health Act 2007,
- (j) a public hospital within the meaning of the Health Services Act 1997,
- (k) a residential care facility under the Aged Care Act 1997 of the Commonwealth operated by an approved provider under that Act,
- (l) a retirement village under the Retirement Villages Act 1999,
- (m) premises that are the subject of a site agreement to which the Residential (Land Lease) Communities Act 2013 applies,
- (n) premises that are the subject of an occupation agreement to which the Holiday Parks (Long-term Casual Occupation) Act 2002 applies,
- (o) social housing premises within the meaning of Part 7 of the Residential Tenancies Act 2010,

- (p) premises used for refuge or crisis accommodation, or accommodation for persons with additional needs, that is provided by a public authority, council or any other body or organisation and that is wholly or partly funded by the Commonwealth or the State (or an agency of the Commonwealth or the State),
- (p1) without limiting paragraph (p), premises used for accommodation that is provided by a registered provider of specialist disability accommodation for the purposes of the National Disability Insurance Scheme Act 2013 of the Commonwealth,
- (q) premises (or premises of a kind) prescribed by the regulations.

In the context of the current proposal, if the proposed boarding house (student accommodation) is used by an educational body to provide accommodation for its students, it would not be a 'registrable boarding house'. If the student accommodation is not used by an educational establishment then the boarding house would be required to be registered on the Department of Fair Trading's Boarding House register.

It is noted that student accommodation uses are registered on the City of Sydney's Boarding House register.

Prepared by: Adrian McKeown

TRIM Document Number: 2017/558350

Approved



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