

## RELEVANT INFORMATION FOR COUNCIL

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**FILE:** D/2017/591 **DATE:** 19 February 2018  
**TO:** Lord Mayor and Councillors  
**FROM:** Graham Jahn, Director City Planning, Development and Transport  
**SUBJECT:** Information Relevant To Item 9.13 – Development Application: 63 - 65  
Eveleigh Street, Redfern - At Council - 19 February 2018

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### Alternative Recommendation

It is resolved that:

- (A) the variation sought to Clause 21 - Floor to Space Ratio of Schedule 5 of State Environmental Planning Policy (State Significant Precincts) 2005 pursuant to State Environmental Planning Policy No.1 – Development Standards be supported in this instance; and
- (B) ~~deferred commencement~~ consent be granted to Development Application No. D/2017/591, subject to the conditions as detailed in **Attachment A** to the subject report to the Planning and Development Committee on 12 February 2018, amended as follows (with any additions shown in ***bold italics*** and any deletions in ~~strikethrough~~):
- the deletion of the following:

#### ~~SCHEDULE 1 – DEFERRED COMMENCEMENT CONDITIONS (CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)~~

~~The following deferred commencement conditions must be satisfied prior to the consent becoming operative:~~

- (C) ~~PART A – DEFERRED COMMENCEMENT CONDITIONS (CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)~~

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

#### ~~(1) DESIGN MODIFICATIONS~~

- (a) ~~The southern boundary wall of No.65 Eveleigh Street shall be set back a minimum of 500mm from the southern property boundary shared with No.67 Eveleigh Street. No new windows are to be provided on this elevation.~~

~~Amended plans illustrating compliance with the above shall be submitted to and approved by Council's Area Planning Manager.~~

- ~~(2) 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 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.~~
- ~~(3) 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.~~
- ~~(4) 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 Operation) of the subject report.~~
- the deletion of Conditions (5) and (6):

**(5) ~~RWA1 REDFERN WATERLOO AUTHORITY CONTRIBUTIONS PLAN 2006~~**

~~To meet the demand for additional public facilities and infrastructure generated by the development on the site, contributions will be as required based on the *Redfern-Waterloo Authority Contributions Plan 2006*.~~

~~The levy is to be calculated as 2% of the proposed capital investment value, indexed between the date of determination and the date the levy is required to be paid in accordance with clause 25J(4) of the *Environmental Planning and Assessment Regulation 2000* and clause 10 of *Redfern-Waterloo Authority Contributions Plan 2006*.~~

~~Pursuant to the *Redfern-Waterloo Authority Contributions Plan 2006*, a contribution in the amount of \$11,672 plus indexation between the date of approval and date of payment, in accordance with Consumer Price Index (All Groups Index) for Sydney, is to be paid to Urban Growth NSW Development Corporation (UGDC) for deposit into the Redfern-Waterloo Fund towards the cost of one or more of the public facilities set out in the Works Schedule to that Plan.~~

~~Proof of payment of this contribution to the UGDC shall be provided to the Certifying Authority prior to the issue of a Construction Certificate (or other timing in accordance with the Contributions Plan). If the amount is not to be paid prior to the issue of a Construction Certificate, written verification of this should be provided by UrbanGrowth NSW Development Corporation and provided to the Principal Certifying Authority. No deferred or periodic payments are permitted.~~

~~Phone 02 9202 4220 to confirm indexed amount of the contribution, prior to preparation of a bank cheque made out to the UrbanGrowth NSW Development Corporation.~~

~~A copy of *Redfern-Waterloo Authority Contributions Plan 2006* is available for inspection at the offices of UGDC, (see website for details), or from the website [www.ugdc.nsw.gov.au](http://www.ugdc.nsw.gov.au).~~

**(6) ~~RWA2 REDFERN WATERLOO AUTHORITY AFFORDABLE HOUSING CONTRIBUTIONS PLAN 2006~~**

~~To contribute to the provision or refurbishment of affordable housing within the Redfern Waterloo Operational Area, contributions are required in accordance with the *Redfern Waterloo Authority Affordable Housing Contributions Plan 2006*.~~

~~In accordance with *Redfern Waterloo Authority Affordable Housing Contributions Plan 2006* the levy is 1.25% of the additional total gross area of the proposed development and is calculated at \$84.60 per square metre being the rate at 1 July 2017 to 30 June 2018. Between the date of determination and the date the levy is required to be paid, the levy is indexed in accordance with the Building Price Index, Sydney as published in Rawlinson's Australian Construction Handbook. This is in accordance with clause 25J(4) of the Environmental Planning and Assessment Regulation 2000 and clause 9 of the *Redfern Waterloo Authority Affordable Housing Contributions Plan 2006*.~~

~~Pursuant to the *Redfern Waterloo Affordable Contributions Plan 2006*, a contribution in the amount of \$28,848.60 plus indexation in accordance with the Building Price Index is to be paid via bank cheque for deposit into the Redfern Waterloo Fund towards the provision of affordable housing within the Redfern Waterloo area.~~

~~Proof of payment of this contribution and calculation of any indexing shall be provided to the Certifying Authority prior to the issue of a Construction Certificate. No deferred or periodic payments are permitted.~~

~~Phone 02 9209 4220 to confirm indexed amount of the contribution, prior to preparation of a bank cheque made out to the UrbanGrowth NSW Development Corporation.~~

~~A copy of *Redfern Waterloo Affordable Housing Contributions Plan 2006* is available for inspection at the Redfern Waterloo Authority office, (see website for details), or from the website [www.ugdc.nsw.gov.au](http://www.ugdc.nsw.gov.au)~~

## **Background**

At the meeting of the Planning and Development Committee on 12 February 2018, Councillors requested further information in regard to Development Application D/2017/591 for the site at 63 and 65 Eveleigh Street, Redfern. The following was requested:

- that City staff contact the applicant to discuss land use categorisation and permissibility under the State Environmental Planning Policy (State Significant Precincts) 2005;
- that City staff clarify with the applicant why developer contributions have been levied under the Redfern-Waterloo Authority Contributions Plan 2006 and Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006 with the applicant; and
- that further information be provided regarding whether the floor to ceiling clearance heights in the attic level comply with the Building Code of Australia.

## **Permissibility**

Following the presentation of the application at the Planning and Development Committee meeting on 12 February 2018, the applicant was contacted to explain the permissibility matter.

As part of these conversations, the applicant has identified that they are also the property owner for the site at No. 67 Eveleigh Street, Redfern. Formal land owner's consent to allow the development to attach to No. 67 was submitted on 15 February 2018.

As a result of the submission of this land owner's consent, there is no objection to the physical attachment of the proposed southern wall of No. 65 to the adjacent property at No. 67.

In terms of land use categorisation and permissibility, with the submission of the land owner's consent, the proposal can be defined as an 'attached dwelling'.

The definition of attached dwelling *'means a building containing 3 or more dwellings, where:*

- (a) each dwelling is attached to another dwelling by a common wall, and*
- (b) each of the dwellings is on its own lot of land, and*
- (c) none of the dwellings is located above any part of another dwelling.'*

Attached dwellings are a permissible land use in the 'Business Zone – Mixed Use' under the State Environmental Planning Policy (State Significant Precincts) 2005.

This now permits the development to be defined as '2 attached dwellings' with No. 67. As a result, the deferred commencement condition to set the southern wall off the shared boundary with the adjacent property at No. 67 is no longer required. The application is no longer required to be a deferred commencement determination, and an alternative recommendation is provided above.

### ***Developer contributions***

Both the Redfern-Waterloo Authority Contributions Plan 2006 and Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006 include specific exemptions from the levying of developer contributions where the proposal involves *'the erection of a new single dwelling on an existing single allotment'*. However, both of these plans only allow the exemptions to apply where there is *'notice in writing given by the Minister (or delegate)'*.

At the time of drafting the assessment report, no such written notice of exemption was in place.

On 15 February 2018, correspondence from Urban Growth NSW was provided as a delegate of the Minister to agree that the exemptions in both contribution plans were applicable to this development.

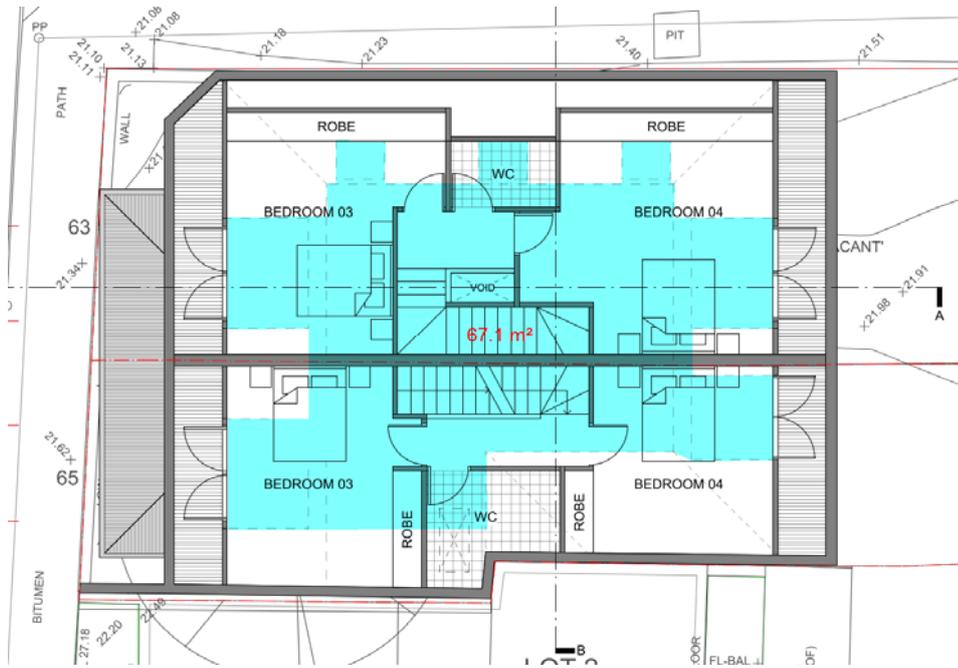
As a result of this, it is recommended that Conditions (5) and (6) that imposed developer contributions be deleted. The deletion of these conditions is included above in the alternative recommendation.

### ***Compliance with the Building Code of Australia***

Pursuant to Section of 3.8.2.2 of the Building Code of Australia, ceiling heights for habitable rooms within an attic must have:

*"a height of not less than 2.2m over two-thirds (66%) of the floor area of the room or space"*

While BCA compliance is a matter for the principle certifier, it is considered that the proposal has the ability to comply with the above definition as a total of 67% of the floor space achieves the required head heights. **Figure 1**, below, illustrates those areas of the attic floor plate where the internal clearance height exceeds 2.4 metres.



**Figure 1: Attic floor space with an area of 2.4m or above.**

Prepared by: Jemima Royall, Planner

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Approved

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