

Relevant Information for Local Planning Panel

FILE: D/2022/1343 **DATE:** 21 November 2023

TO: Local Planning Panel Members

FROM: Andrew Thomas, Executive Manager City Planning, Development and Transport

SUBJECT: Information Relevant To Item 4 – Development Application: 5-19 Mary Street, Surry Hills – D/2022/1343

Alternative Recommendation

It is resolved that consent be granted to Development Application No D/2022/1343, subject to the conditions detailed in Attachment A to the subject report to the Local Planning Panel on 22 November 2023 subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

- (9) AFFORDABLE HOUSING CONTRIBUTION – RESIDUAL LAND OR CENTRAL SYDNEY – PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION – PRIOR TO CONSTRUCTION CERTIFICATE, 17-19 MARY STREET SURRY HILLS - STAGE 3B**
- (a) In accordance with the City of Sydney Affordable Housing Program and prior to the issue of any Construction Certificate ***relating to stage 3B***, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid to the City of Sydney Council.
 - (b) The contribution is \$381,292.9 (indexed in accordance with (c)). This is calculated by establishing the sum of the equivalent monetary contribution \$10,611.53 multiplied by 1% of the total floor area for non-residential development (696.7sqm) and the equivalent monetary contribution \$10,611.53 multiplied by 3% of the total floor area for residential development (965.5sqm).
 - (c) If the contribution is paid after the indexation period in which the consent is granted, being March 2023 to February 2024, the above contribution will be adjusted according to the Sydney LGA median strata dwelling price ('MDP') using the following formula.
 - (d) Contribution payable at Time of Payment = $C \times \text{MDP2} / \text{MDP1}$, where:

- (i) C is the original total contribution amount payable to the City of Sydney as shown above;
- (ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA taken from the most recent NSW Government Rent and Sales Report at the time of indexation of the equivalent monetary contribution rate; and
- (iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Report used to establish the current equivalent monetary contribution rate, being 1 March 2023 to 29 February 2024. Contact Council's Planning Assessment Unit at planningsystemsadmin@cityofsydney.nsw.gov.au for written confirmation of the amount payable, with indexation as necessary, prior to payment.

Reason

To ensure development contributions are paid to contribute to the provision of essential affordable rental housing infrastructure.

(10) SECTION 7.12 CONTRIBUTIONS PAYABLE – SUBMITTED AND VERIFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE, 17-19 MARY STREET SURRY HILLS - STAGE 3B

A monetary contribution is payable to the City of Sydney pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979* and the *Central Sydney Development Contributions Plan 2020*.

The Section 7.12 levy is determined by the development cost, as per the following table:

Development cost *	Levy
* Refer to Section 2.3 of the <i>Central Sydney Development Contributions Plan 2020</i> for information on determining the development cost.	
Up to and including \$250,000	NIL
More than \$250,000, up to and including \$500,000	1%
More than \$500,000, up to and including \$1,000,000	2%
More than \$1,000,000	3%

The Section 7.12 levy is payable to the City of Sydney in accordance with the following:

- (a) Prior to any Construction Certificate **relating to stage 3B** being issued, evidence must be provided of Council's written verification of the amount of the contribution as required in (b) below, and that the levy has been paid to the Council in accordance with this condition. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the City of Sydney. Direct debit, personal or company cheques will not be accepted.
- (b) The contribution must not be paid to the City of Sydney until it is accompanied by separate written verification by the City of Sydney of the specific amount payable. In order to obtain such verification, one of the following must be submitted:
 - (i) **For development between \$250,000 and \$3,000,000** – the City of Sydney *Cost Summary Report* must be completed by a suitably qualified person such as the Project Architect or Project Manager and submitted to the City of Sydney together with the copies of the plans the subject of the application for the Construction Certificate. An electronic copy of the *Cost Summary Report* is available from the City's website at www.cityofsydney.nsw.gov.au; or
 - (ii) **For development more than \$3,000,000** – The City of Sydney *Registered Quantity Surveyor's Detailed Cost Report* must be completed by a Quantity Surveyor registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate an equivalent qualification and submitted to the City of Sydney together with the copies of the plans the subject of the application for the Construction Certificate. An electronic copy of the *Registered Quantity Surveyor's Detailed Cost Report* is available from the City's website at www.cityofsydney.nsw.gov.au.
- (c) The Council will consider the documentation submitted under subclause (b) and determine the cost of the proposed development having regard to the information submitted and to such other matters as it considers appropriate and will notify the Registered Certifier accordingly.
- (d) The development cost is to be determined in accordance with Section 2.3 of the Central Sydney Development Contributions Plan 2020, located in the version in force at the date of the grant of this consent.

Please contact Council's Planning Administration staff at Planningsystemsadmin@cityofsydney.nsw.gov.au to request a written Statement of Contributions Owing, prior to payment.

Reason

To ensure development contributions are paid to address the increased demand for public facilities, amenities, and services in Central Sydney by a growing residential and workforce population.

(40) BICYCLE PARKING AND END OF TRIP FACILITIES

- (a) The minimum number of bicycle parking spaces and end of trip facilities to be provided within the site boundary for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Residential	50 for 5-15 Mary Street	Spaces must be 50/50 class 1 and 2 bicycle locker Spaces must be a class 1 bicycle locker
	10 for 17-19 Mary Street	Spaces must be a class 1 bicycle locker
Residential visitor	1 for 17-19 Mary Street	Spaces must be Class 3 bicycle rails
Retail / Commercial staff	3 for 5-15 Mary Street 4 for 17-19 Mary Street	Spaces must be Class 2 bicycle facilities
Non-residential visitor	1 for 5-15 Mary Street 1 for 17-19 Mary Street	Spaces must be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	1 for 5-15 Mary Street	
	1 for 17-19 Mary Street	
Personal lockers	3 for 5-15 Mary Street	
	5 for 17-19 Mary Street	

- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Registered Certifier confirming prior to and form part of the relevant Construction Certificate being issued.

Reason

To ensure the allocation of bicycle parking onsite that is in accordance with Australian Standards and the Council's DCP.

(55) PUBLIC DOMAIN LIGHTING UPGRADE

Prior to issue of the Stage 1 Construction Certificate, a concept Public Domain Lighting Upgrade Plan for pedestrian and street lighting in the public domain must be submitted to and approved by City's Public Domain Unit. The Lighting Plan must be prepared in accordance with the *Sydney Streets Technical Specifications A5 and B8*, *Sydney Lights Design Code* and *Public Domain Manual*. This information is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

The lighting upgrade plan must cover all adjacent street frontages, being Mary Street and Hands Lane and shall be designed to include the following requirements:

Mary Street (in front of development site to Reservoir Street)

1. Provide lighting design complying with requirements of AS1158 under Category PR3 on the roadway and footways.
2. Supply and install City standard steel poles and LED luminaires.
3. Propose glare shields to prevent glare in residential properties.

Hands Lane (along development site)

1. Provide lighting design complying with requirements of AS1158 Category PR 3.
2. Decommission existing City wall mount lights on the property.
3. Supply and install new City standard LED wall mount lights. Installation must be accessible for maintenance and upgrade by City-authorized technicians and contractors along the entire length. All cabling must be installed on the building surface within galvanised steel conduits, MMS cabling or similar approved method. Establish an access easement in favour of the City for ongoing maintenance and upgrade of wall mounted City lighting, if applicable.
4. Supply and install a new 3Phase City MSB.
5. Propose glare shields to prevent glare in residential properties.
6. Decommission Ausgrid's redundant PUMS supplies that currently feed the wall mount lights on Blackburn Street and Hands Lane.
7. New City wall mount lights along Hands Lane and existing wall mount lights in Blackburn Street (across Foster Street) must be fed from the new City MSB.
8. Provide temporary lighting complying with City public domain lighting specifications prior to removal of existing public lights.

Advice on site specific lighting requirements must be obtained from City's Public Domain Unit before proceeding with the preparation of any final lighting design proposals.

Reason

To ensure pedestrian and street lighting in the public domain complies with Council's requirements.

(124) HOURS OF USE – COMMON ROOF TERRACE

The common roof terrace for 5-15 Mary Street (Foster House) **and 17-19 Mary Street (Mixed Use Site)** is restricted to between 7am and 10pm Monday to Sunday.

Reason

To achieve appropriate residential amenity outcomes

Background

1. On 20 November 2023, the city received correspondence from the applicant seeking amendments to the proposed conditions of consent. The applicant's correspondence is attached as Attachment A.

Conditions 9 and 10 – Development Contributions

2. Condition 9 – Affordable Housing Contribution, has been calculated based on total floor area, which by definition, excludes the area of 'public housing', being the Foster House site. The contribution therefore relates to the Mixed-Use site only.
3. Condition 10 – Section 7.12 Contribution, also only relates to the Mixed-Use site, as the Foster House site is considered exempt in accordance with Section 2.2b of the Central Sydney Development Contributions Plan 2020. This is because the Salvation Army is a registered community housing provider in NSW.
4. It is considered reasonable that the contribution conditions are reworded as requested to make it clear that the contributions apply only to the 17-19 Mary Street component of the development. In addition it is reasonable that the contributions are paid prior to the release of a construction certificate for Stage 3B relating to the 17-19 Mary Street component of the development.

Condition 40 – Bicycle Parking

5. Condition 40 requires all residential bicycle parking to be Class 1 bicycle parking, being lockers or racks in enclosed areas (providing greater protection from theft). Class 2 bicycle parking includes racks or stands in areas not in enclosed areas. The applicant has requested that the Foster House component of the development be amended to a 50/50 Class 1 and class 2 arrangement having regard to the nature of the residential use (generally short stay). The request to amend to a 50/50 balance is considered reasonable in the circumstances.

Condition 55 – Public Domain Lighting

6. The applicant's correspondence requests that:

“the City of Sydney and the Local Planning Panel consider whether this condition is absolutely required and if so, if Council could fund the works. We ask the City consider either deleting this condition or at least removing the areas that are not directly adjacent the site as per the amendments below”.

7. The proposal represents a substantial redevelopment of the site and as such the upgrade of the public domain is considered reasonable. Funding of the works by Council is not a matter for this development application and is something that the applicant would have to pursue separately. Removing the areas that are not directly adjacent the site is however considered reasonable – refer below.
8. The condition requires public domain lighting upgrade along the Mary Street frontage in front of the development site to Reservoir Street, located to the south. Requiring works to extend down to Reservoir Street is onerous in this instance. Amendment of the condition to require an upgrade only in front of the development site is considered reasonable.
9. The condition also requires works to existing wall mount lights on Blackburn Street, located north-west of the site. Requiring works to extend to Blackburn Street is onerous in this instance. Amendment of the condition to require an upgrade only in Hands Lane is considered reasonable.

Condition 124 – Hours of Use

10. As the development consists of two buildings both containing a roof terrace it is considered reasonable that the condition be amended to also cover 17-19 Mary Street.

Prepared by: Christina Robinson, Specialist Planner

Attachments

Attachment A. Applicant's correspondence

Approved



ANDREW THOMAS

Executive Manager City Planning,
Development and Transport

Attachment A

Applicant's Correspondence

20th November 2023

Secretariat
City of Sydney – Local Planning Panel

Via email: secretariat@cityofsydney.nsw.gov.au

Dear Secretariat

**Development Application, D/2022/1343 - 5 – 19 Mary Street Surry Hills
Local Planning Panel Agenda, Wednesday 22nd November 2023**

Thank you for your recommendation for approval and draft Conditions of Consent for our Development Application at 5 – 19 Mary Street Surry Hills. Foster House is an important homelessness service for The Salvation Army and the many clients we serve.

We have reviewed the draft Conditions of Consent and ask the following proposed amendments be considered.

Conditions 9 and 10 – Development Contributions

We understand from discussions with Council’s Planner and a review of the assessment report that the development contributions are only intended to relate to the Mixed Use site (17 – 19 Mary St) however we request this be clarified in both conditions.

In terms of the timing of payment, we wish to also clarify the development contributions should be paid prior to issuing of a Construction Certificate for Stage 3b. The current drafting of the condition requires that the contributions be paid at the issuing of “**any** Construction Certificate” which would place an unnecessary additional financial burden on The Salvation Army should the Construction Certificate for the Foster House redevelopment come prior to the development of the Mixed Use Site.

Stage 3b is not currently intended to be developed by The Salvation Army, so allocating the payment timing to that Construction Certificate which creates the obligations seems appropriate and in line with the intent of the conditions, as noted within the Council Assessment Report. Noting the balance of the Conditions of Consent are also proposed to be allocated to different stages, being either Stage 3a or 3b, the proposed approach to the conditions relating to the contributions would be consistent.

Proposed Changes

(9) AFFORDABLE HOUSING CONTRIBUTION – RESIDUAL LAND OR CENTRAL SYDNEY – PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION – PRIOR TO CONSTRUCTION CERTIFICATE, 17 – 19 MARY STREET SURRY HILLS (STAGE 3B)

(a) In accordance with the City of Sydney Affordable Housing Program and prior

to the issue of any Construction Certificate **relating to Stage 3b**, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid to the City of Sydney Council.

(10) SECTION 7.12 CONTRIBUTIONS PAYABLE – SUBMITTED AND VERIFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE, 17 – 19 MARY STREET SURRY HILLS (STAGE 3B)

A monetary contribution is payable to the City of Sydney pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979* and the *Central Sydney Development Contributions Plan 2020*.

...

The Section 7.12 levy is payable to the City of Sydney in accordance with the following:

(a) Prior to **any Construction Certificate relating to Stage 3b** ~~Construction Certificate~~ being issued, evidence must be provided of Council’s written verification of the amount of the contribution as required in (b) below, and that the levy has been paid to the Council in accordance with this condition. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the City of Sydney. Direct debit, personal or company cheques will not be accepted.

Condition 40 – Bike Storage

Given Foster House services homelessness clients, who typically reside at the service for less than 12 months and come to The Salvation Army with limited financial means, most clients tend to use public transport or readily available Bike Share services. We request the City of Sydney consider a request to reduce the large and costly Class 1 bicycle storage cubicles to only 50%, with the balance provided as Class 2 storage in a lockable room only accessed by residents.

Proposed Changes

Bicycle Parking Type	Number	Requirements
Residential	50 for 5-15 Mary Street 10 for 17-19 Mary Street	Spaces must be 50/50 Class 1 and 2 bicycle facilities Spaces must be a Class 1 bicycle facilities
Residential visitor	1 for 17-19 Mary Street	Spaces must be Class 3 bicycle rails

Condition 55 – Public Domain

The redevelopment of Foster House is not fully funded. Adding further costs exacerbates the challenge of raising funds to achieve the redevelopment of the site.

The Salvation Army requests the City of Sydney and the Local Planning Panel consider whether this condition is absolutely required and if so, if Council could fund the works. We ask the City consider either deleting this condition or at least removing the areas that are not directly adjacent the site as per the amendments below.

Proposed Changes

(55) PUBLIC DOMAIN LIGHTING UPGRADE

Prior to issue of the Stage 3a and 3b Construction Certificate, a concept Public Domain Lighting Upgrade Plan for pedestrian and street lighting in the public domain must be submitted to and approved by City's Public Domain Unit. The Lighting Plan must be prepared in accordance with the *Sydney Streets Technical Specifications A5 and B8*, *Sydney Lights Design Code* and *Public Domain Manual*.

This information is available for download from the City's website at

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The lighting upgrade plan must cover all adjacent street frontages, being Mary Street and Hands Lane and shall be designed to include the following requirements:

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Hands Lane (along development site)

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4. Supply and install a new 3Phase City MSB.
5. Propose glare shields to prevent glare in residential properties.
6. Decommission Ausgrid's redundant PUMS supplies that currently feed the wall mount lights on Blackburn Street and Hands Lane.
7. New City wall mount lights along Hands Lane ~~and existing wall mount lights in Blackburn Street (across Foster Street)~~ must be fed from the new City MSB.

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8. Provide temporary lighting complying with City public domain lighting specific ations prior to removal of existing public lights.



Condition 124 – Rooftop Use

We note and accept the proposed restriction of use to the Foster House rooftop terrace and ask the same be applied with the Mixed Use component of the development (17-19 Mary Street) as per the recommendations of the submitted Acoustic Report, to ensure after hours activity does not disturb Foster House or other neighbours.

Proposed Change

(124) HOURS OF USE – COMMON ROOF TERRACE

The common roof terrace for 5-15 Mary Street (Foster House) and 17 – 19 Mary Street (Mixed Use) is restricted to between 7am and 10pm Monday to Sunday.

We look forward to your consideration of these requests.

Yours Sincerely

A handwritten signature in blue ink, appearing to read "Matthew Fisher".

Matthew Fisher

National Property Group – Sydney Inner City Project Director