

## Relevant Information for Central Sydney Planning Committee

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**FILE:** D/2023/842 **DATE:** 15 August 2024

**TO:** The Central Sydney Planning Committee

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

**SUBJECT:** Information Relevant To Item 6 - Development Application: 155 Mitchell Road, Erskineville – D/2023/842

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### Alternative Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.3 'Height of buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan (LEP) 2012 be upheld; and
- (B) consent be granted to Development Application No D/2023/842, subject to the conditions detailed in Attachment A to the subject report, and subject to the following amendments (additions shown in **bold italics**, deletions shown in ~~strikethrough~~):

#### **(1A) STAGED APPROVAL – D/2023/842 AND D/2023/850**

- (a) ***This development consent is the detailed design development consent D/2023/842.***
- (b) ***The following shall be provided to Council's Area Planning Manager/Area Coordinator Planning Assessments prior to any construction certificate being issued for this consent D/2023/842.***
  - (i) ***Confirmation, in the form of a letter of interim advice or Section B site audit statement from a NSW EPA accredited site auditor, that all remediation approved under the early works consent D/2023/850 that does not rely on the construction of the basement has been undertaken.***

## **Reason**

***To ensure that the site is appropriately remediated before construction can occur under this consent.***

## **Background**

### Deferred commencement recommendation

In response to the recommended conditions of consent at Attachment A to Item 6 - Development Application: 155 Mitchell Road, Erskineville – D/2023/842. the applicant has requested that the deferred commencement recommendation be amended to an approval recommendation.

The applicant has noted that the reference to public domain works development application D/2023/962 being determined prior to the development consent D/2023/842 commencing is not warranted. The Voluntary Planning Agreement for 155 Mitchell Road, Erskineville requires the delivery of public domain works and dedication prior to any Occupation Certificate being issued for Block E (the subject of this development application), and as such, sufficient measures are in place to ensure the public domain works are completed.

The applicant proposes the following condition to address the public domain works development application, and this condition is to be moved to Part B – Conditions of Consent:

Applicant's proposed new condition:

### ***(1A) STAGED APPROVAL – D/2023/850 & D/2023/962***

- (a) This development consent is the detailed design development consent D/2023/842.***
- (b) The following development application is to be determined prior to the commencement of this consent:***
  - (i) Early works development application D/2023/850;***
- (c) The following development application is to be determined prior to the issue of the Stage 3 Construction Certificate:***
  - (i) Public domain works development application D/203/962.***

### City comment

The request to amend the deferred commencement approval recommendation to an approval recommendation is supported. As advised by the applicant, there are sufficient measures in place to ensure the public domain works contained in the Voluntary Planning Agreement as it relates to Block E can be completed prior to occupation of the development.

Since the completion of the assessment report, consent has been granted under delegated authority for the early works development application D/2023/850, on 8 August 2024. Instead of the wording proposed by the applicant, a new condition is recommended, requiring remediation that does not rely on the construction of the basement to be completed before any construction certificate is issued for the subject development application D/2023/842.

Should the Central Sydney Planning Committee be of a mind to support the amendment, it is recommended that a new condition be inserted as 'Condition 1A' as follows:

**(1A) STAGED APPROVAL – D/2023/842 AND D/2023/850**

- (a) This development consent is the detailed design development consent D/2023/842.**
- (b) The following shall be provided to Council's Area Planning Manager/Area Coordinator Planning Assessments prior to any construction certificate being issued for this consent D/2023/842.**
  - (i) Confirmation, in the form of a letter of interim advice or Section B site audit statement from a NSW EPA accredited site auditor, that all remediation approved under the early works consent D/2023/850 that does not rely on the construction of the basement has been undertaken.**

**Reason**

**To ensure that the site is appropriately remediated before construction can occur under this consent.**

Alternative staging of construction certificates

The applicant originally proposed three stages of construction, which are specified in Condition 2 – Staged Construction:

**(2) STAGED CONSTRUCTION**

The works may be carried out in stages, with relevant conditions being satisfied prior to the issue of a relevant Construction Certificate, where specified in the conditions of consent, for each stage as detailed in the table below.

Construction Certificate Stage	Description
Stage 1	Substructure and basement level 1 slab and fit-out
Stage 2	Structure
Stage 3	Facade and fit-out

**Reason**

To set out the staging of works for this consent.

In response to the recommended conditions of consent at Attachment A to Item 6 - Development Application: 155 Mitchell Road, Erskineville – D/2023/842. the applicant has requested that four additional stages of construction be included in Condition 2 – Staged Construction, proposing seven stages of construction in total.

Applicant's proposed amendment:

The three original stages are to be re-worded as follows:

## (2) STAGED CONSTRUCTION

The works may be carried out in stages, with relevant conditions being satisfied prior to the issue of a relevant Construction Certificate, where specified in the conditions of consent, for each stage as detailed in the table below.

Construction Certificate Stage	Description
Stage 1	<del>Substructure and basement level 1 slab and fit-out</del> <b>Detailed Excavation, Inground Services, Foundations and Structure (B2 – Ground)</b>
Stage 2	Structure ( <b>Level 1 – Roof</b> )
Stage 3	Facade and fit-out
<b>Stage 4</b>	<b>Fit-out and Services (Ground – Roof)</b>
<b>Stage 5</b>	<b>Fit-out and Services (Basements)</b>
<b>Stage 6</b>	<b>Landscaping</b>
<b>Stage 7</b>	<b>Public Domain</b>

### Reason

To set out the staging of works for this consent.

The applicant has also requested that 28 conditions be amended to accord with the alternative staged construction certificates as proposed above.

### City comment

The proposed alternative staging of construction certificates is not supported. The proposed staging is not consistent with the agreed staging of similar development and there is a lack of information relating to what each stage is to entail. The short timeframe leading to the Central Sydney Planning Committee meeting does not allow for a considered assessment of the amendment nor the consultation with the relevant internal units to establish a supportable alternative staging, if any.

Prepared by: Jessica Symons, Senior Planner

### Attachments

**Attachment A.** Correspondence from the Applicant

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Approved



**Graham Jahn AM**

Director City Planning, Development and  
Transport

# **Attachment A**

**Correspondence from the Applicant**

**From:** [REDACTED]  
**To:** [Jessica Symons](#); [Christopher Corradi](#)  
**Cc:** [REDACTED]  
**Subject:** D/2023/842 -155 Mitchell Road, Erskineville - Applicant Condition Review  
**Date:** Tuesday, 13 August 2024 5:58:46 PM  
**Attachments:** [image095158.png](#)  
[image542581.png](#)  
[image199011.png](#)  
[image584833.png](#)  
[image104730.png](#)  
[image052861.png](#)  
[Erksineville Condition Register \(002\).docx](#)  
**Importance:** High

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Hi Jessica,

Thank you for your call earlier.

Firstly, thank you for your efforts to put both D/2015/966/G and D/2023/842 up to the CSPC this Thursday.

Coronation has taken the opportunity to review the conditions for D/2023/842.

We would like Council to review two minor refinements ahead of the CSPC to get the conditions structured in the best manner possible. These are minor and relate to construction staging and are administrative elements only.

## 1. Staged Construction Certificates

Upon further review by our construction team, we require the construction certificate into be split across seven stages, as follows:

Construction Certificate Stage	Description
Stage 1	Detailed Excavation, Inground Services, Foundations and Structure (B2 – Ground)
Stage 2	Structure (Level 1 – Roof)
Stage 3	Façade
Stage 4	Fit-out & Services (Ground – Roof)
Stage 5	Fit-out & Services (Basements)
Stage 6	Landscaping
Stage 7	Public Domain

To assist Council, we have provided a table that outlines the relevant conditions that would be tied to the various stages (attached). This request is purely procedural but provides greater clarity from a construction standpoint.

## 2. Deferred Commencement

The recommendation proposes D/2023/852 (Early Works Block E) and D/2023/962 (Public Domain) to be determined prior to commencement.

D/2023/852 has been granted development consent, leaving D/2023/962 outstanding.

We do not believe a deferred commencement is warranted and we are unable to reconcile the interdependencies between the application and D/2023/962. The VPA is in place to deliver public domain and dedication prior to occupation of Building E. In short, sufficient measures are in place.

As you indicated in our conversation, you would be open to moving this into the body of the consent. We would propose:

*The following development application is to be determined prior to the issue Stage 3 Construction Certificate.*

*(i) public domain works development application D/2023/962*

We do not believe the changes requested fundamentally alters the assessment of the application in any way, but allows us to rectify elements of the consent to ensure we can commence works in a timely manner.

We look forward to your review and discussion internally. If we could please touch base tomorrow midday with an update that would be appreciated.

Any questions do not hesitate to give me a ring.

Regards

**JORDAN FAEGHI**  
**PLANNING MANAGER**



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Proposed Construction Staging

Construction Certificate Stage	Description
Stage 1	Detailed Excavation, Inground Services, Foundations and Structure (B2 – Ground
Stage 2	Structure (Level 1 – Roof)
Stage 3	Façade
Stage 4	Fit-out & Services (Ground – Roof)
Stage 5	Fit-out & Services (Basements)
Stage 6	Landscaping
Stage 7	Public Domain

Proposed Modification to relevant construction staging

Condition Number	Condition Title	Proposed Construction Stage
8	Materials and Finishes	Stage 3 and Stage 4
10	Through Site Link Design	Stage 6
11	Landscaping	Stage 6
37	Public Art	Stage 6
41	Signage	Stage 6
43	Telecommunications Provisions	Stage 4
48	Adaptable Housing	Stage 4
50	Allocation of Parking	Stage 5
51	Bicycle Parking and End of Trip Facilities	Stage 5
53	Parking Design	Stage 5
56	Reflectivity	Stage 3
57	Compliance with the acoustic report prior to construction and or occupation certificates	Stage 3 and 4
59	Floor to Ceiling Height	Stage 4
60	Ventilation Security and Weather Protection	Stage 3
61	Design for Environmental Performance	Stage 3
63	Landscaping of the Site (Trees)	Stage 6
64	Public Domain Tree Planting and Maintenance	Stage 7
65	Electricity Turret and Substation Locations – Prior to Construction Certificate	Stage 4
66	Telecommunications in New Developments	Stage 4
68	Waste and Recycling Management	Stage 4
69	Certification of Piering Depth – Prior to Construction Certificate	Stage 1



70	Registration of plan of subdivision dedication part of MacDonald Street – Prior to Construction Certificate	Occupation Certificate
72	Flood Planning Levels	Stage 2
73	Public Domain Concept Plan	Stage 7
74	Public Domain Levels and Gradients	Stage 7
75	Stormwater Drainage Design	Stage 6
76	Stormwater On Site Detention	Stage 1
77	Stormwater Quality Assessment	Occupation Certificate