

Attachment C

Clause 4.6 Variation Request

REQUEST FOR EXEMPTION
CLAUSE 4.6
EXCEPTIONS TO DEVELOPMENT STANDARDS OF CLAUSE
30(h) of STATE ENVIRONMENTAL PLANNING POLICY
(AFFORDABLE RENTAL HOUSING) 2009

APPLICANT: Coastplan Consulting
PROPOSAL: Change of Use from Dwelling to Boarding House
PROPERTY: 344 Crown Street, Surry Hills
RELEVANT DEVELOPMENT STANDARD: Clause 30(h) - Carparking Spaces for Bicycle and Motorcycle

Introduction

This submission is a request for exemption to the development standard contained in Clause 30(h) of the SEPP (Affordable Rental Housing) 2009 which requires 1 parking space for a bicycle and 1 space for a motorcycle for every 5 boarding rooms. This submission seeks approval for a variation to the Development Standard as it applies to the proposed use of the building as a boarding house.

The Development Standard to which the request relates

Clause 30(h) of SEPP (Affordable Rental Housing) 2009 requires at least 1 parking space will be provided for bicycle and 1 will be provided for a motorcycle, for every 5 boarding rooms.

The Objectives of the Development Standard

There are no objectives listed in the SEPP relating to the provisions of this clause which requires bicycle and motorcycle parking. It appears that the purpose of this clause is to provide suitable parking for alternative forms of transport in an accessible area.

The Nature of the Departure from the Development Standard

The proposed boarding house will contain 6 boarding rooms which will require 2 spaces for a bicycle and 2 spaces for a motorcycle. It is not proposed to provide any spaces for either bicycle or motorcycle on site.

Aims of Clause 4.6

- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

Why Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

Compliance with the parking requirements for bicycles and motorcycles is unreasonable or unnecessary in the circumstances of the case for the following reasons:

- The proposal provides for the conversion of the existing dwelling to a boarding house. The ground floor level of the existing building is elevated approximately 2m above the street level and is accessed by a narrow stair and verandah at the front of the site.
- The building comprises a 3 storey terrace building which is sited up to the common side boundaries of the site which prevents any access to the rear yard other than through the building.
- It is not physically possible to provide any onsite parking for bicycles and motorcycles.
- The subject site is located in Crown Street, near the corner of Oxford Street and there are many opportunities for the residents from the proposed boarding house to access shopping and services within walking distance of the premises or by way of public transport.
- There are a number of private companies that provide affordable bicycle hire within the City of Sydney limits.

Given the above, it is considered that it is unreasonable and unnecessary for the standard to be strictly applied in this instance.

The Environmental Planning Grounds which Justify Contravening the Development Standards in Clause 30(h) of SEPP (Affordable Rental Housing) 2009

Sufficient environmental planning grounds exist to justify departure from the development standard on this occasion in that:

- There is not sufficient room on the site to provide bicycle and motorcycle parking due to the nature of the existing development.
- There is sufficient means of transport available in the locality to cater for the needs of the limited number of people that will be accommodated in the building.

The Public Interest, Consistency within the aims of SEPP (Affordable Rental Housing) 2009

The proposed development is consistent with the aims of SEPP (Affordable Rental Housing) 2009 and the relevant provisions of the SEPP that have been varied.

Conclusion

The proposed development is consistent with the objectives of SEPP (Affordable Rental Housing) 2009 in providing an appropriate degree of flexibility in the application of certain development standards to a particular development.

A review of this proposal in accordance with the requirements of SEPP (Affordable Rental Housing) 2009 indicates that in this instance:

1. Strict compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
2. There are sufficient environmental planning grounds to justify contravening the development standard;
3. The proposed development will be in the public interest; and
4. Departure from the standards on this occasion will achieve a better outcome for and from the proposed development, will not raise any matter of significance for State or Regional environmental planning and no particular public benefit will be served by maintaining the standard.

Therefore, the justification for departure from the development standard in SEPP (Affordable Rental Housing) 2009 is worthy of support.



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