

Attachment C

Clause 4.6 Variation Request

VARIATION APPLICATION PURSUANT TO CLAUSE 4.6 OF CITY OF SYDNEY LEP 2012

VARIATION OF A DEVELOPMENT STANDARD REGARDING THE PROVISION OF MOTORCYCLE PARKING AS DEFINED BY THE AHSEPP AND REQUIRED BY CLAUSE 4.6 OF SYDNEY LEP 2012

FOR: 180-182 ST JOHNS ROAD GLEBE

APPLICANT: GIOVANNI CIRILLO

Introduction

The City of Sydney requires that a Section 4.6 'Exceptions to Development Standards' of the City of Sydney LEP 2012 is made in relation to clause 30 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP 2009). This document seeks an exemption in the development standards of the AHSEPP in regard to the provision of motorcycle parking (clause 30(1)(h)).

Background

The subject site is legally described as Lot 1 in DP 104840, DP 547952 and DP 906442 at 180-182 St Johns Road Glebe. The site is rectangular and was formerly occupied by a restaurant, pub and a boarding house. The site area is 496 square metres with a perimeter of about 93 metres.

The proposed development is for the mixed use 3-storey boarding house with a commercial premise located at 180-182 St Johns Road Glebe. Under the AHSEPP 2009, at least one motorcycle parking space must be provided for every 5 boarding rooms. This proposal, however, provides no motorcycle parking spaces.

The proposal to provide no motorcycle parking spaces does not comply with the standards for boarding houses in the AHSEPP 2009 and a variation of the development standard, as required by the City of Sydney, is sought pursuant to clause 4.6 of Sydney LEP 2012.

Argument

While the proposal does not provide motorcycle parking spaces, the proposed development is consistent with the objective of the AHSEPP and the City of Sydney LEP. Pursuant to the aims of the AHSEPP (Clause 3) the proposal seeks to:

(a) to provide a consistent planning regime for the provision of affordable rental housing,

(c) to facilitate the retention and mitigate the loss of existing affordable rental housing,

(d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,

(f) to support local business centres by providing affordable rental housing for workers close to places of work.

While the proposal does not provide motorcycle parking spaces, the proposed development is consistent with the objectives of the AHSEPP and the City of Sydney LEP 2012. That is, the proposal seeks to improve affordable housing outcomes for the City of Sydney to meet anticipated development needs for the foreseeable future and provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure. The proposed development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

Pursuant to Clause 4.6 of the Sydney LEP 2012, the City of Sydney requested a variation in the development standard is sought regarding the motorcycle parking standard. In response to the proposed non-compliance for motorcycle parking, the following Clause 4.6 Variation Application is provided.

It is submitted that the Variation is well founded and is worthy of the Council approval. The following is an assessment of the proposed variation against the requirements of Clause 4.6.

1. WHAT ARE THE OBJECTIVES OF CLAUSE 4.6 AND IS THE PROPOSAL CONSISTENT WITH THEM?

(1) The objectives of this Clause 4.6 of the Sydney LEP 2012 are:

- 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.*

It is my opinion, as is demonstrated by the responses to the questions below, that the proposed variation is consistent with the objectives of this clause. This variation allows flexibility in the application of the motorcycle parking development standard for the following reasons:

- Under provision of motorcycle parking in this instance provides an appropriate degree of flexibility for this particular development given that there are ample opportunities for parking motorcycles in the local streets should such a need arise,
- 20 bicycle parking spaces are proposed to be provided in the basement of the development (exceeding Councils requirements by 13 spaces) and will adequately compensate for the inability to provide motorcycle parking on the site,
- Under provision of motorcycle parking in this instance achieves a better outcome for and from development by providing improved street frontages on a small site which would otherwise be required to be partially dedicated to driveways and ramps which would have adverse streetscape impacts.

2. IS THE STANDARD TO BE VARIED A DEVELOPMENT STANDARD TO WHICH CLAUSE 4.6 APPLIES?

The City of Sydney Council has advised that Clause 30 of the AHSEPP contains development standards for which Clause 4.6 applies and as such this statement has been prepared.

3. IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THIS CASE?

It is my opinion that strict compliance with the development standards of the AHSEPP in regard to the provision of motorcycle parking (clause 30 (1)(h)) both unreasonable and unnecessary in the circumstances of this case for the following reasons:

- The City of Sydney has a long standing statutory maximum rate of private parking and the under-provision of motorcycle parking is consistent with Council's policy of encouraging public transport use, walking and cycling in inner-city locations which are in close proximity to shops, jobs, services and local amenities.
- The provision of motorcycle parking at grade would necessitate driveways at street level and an unacceptable streetscape appearance of the building. The provision of basement motorcycle parking would necessitate driveways and ramps through the site and the proposed building, which would also have significant detrimental streetscape impacts.
- 20 bicycle parking spaces are proposed to be provided in the basement of the development (exceeding Council's requirements by 13 spaces) and will adequately compensate for the inability to provide motorcycle parking on the site,
- A lack of motorcycle parking will not reduce the opportunities for travel around Sydney as the site is close to public transport connections.

On this basis, it is my opinion that strict compliance with the AHSEPP clause 30(1)(h) is unreasonable and unnecessary in the circumstances of this case.

4. ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?

It is my opinion that a contravention of the development standard is justified on environmental planning grounds given that:

- The absence of motorcycle parking spaces within the development is designed to maximise internal amenity for future residents and to minimise any adverse impact upon the public domain and existing surrounding residents.

- There are no demonstrable adverse environmental impacts arising from an absence of motorcycle parking spaces.
- The proposed development is consistent with the zone and development control objectives by providing an improved boarding house in a location identified by the planning provisions for this form of development. The proposal demonstrates that the standards for boarding houses (Clause 30, AHSEPP) does not hinder the achievement of the aims of the Sydney LEP in controlling land use, bulk, scale and intensity of development.
- Strict compliance with the 'Standards for Boarding Houses' (AHSEPP Division 3) would require the deletion of a proposed boarding room and part of another room which would otherwise satisfy the opportunity for providing affordable housing in a medium density location and would in my opinion, result in the orderly and economic use of the land.

5. IS THE PROPOSED DEVELOPMENT 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?

The proposal is in my opinion consistent with the objectives of the development standard and for development in this zone as required by this sub clause. The proposed development is in my opinion in the public interest because it is compliant with the zone objectives and the objectives of the particular standard.

The objectives for development in Zone B1 'Neighbourhood Centre Zone' are:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To allow appropriate residential uses so as to support the vitality of neighbourhood centres.*

Division 3 of the AHSEPP states that the aims are:

- to provide a consistent planning regime for the provision of affordable rental housing,*
- to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- to facilitate the retention and mitigate the loss of existing affordable rental housing,*
- to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- to support local business centres by providing affordable rental housing for workers close to places of work,*
- to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation*

In my opinion, the objectives are satisfied as set out below:

- a) The proposal optimises the use of scarce urban land by using the site area to meet anticipated accommodation needs for future residents.
- b) Variation in the development standards for boarding houses (clause 30 AHSEPP) enables an optimal boarding house mix outcome for the Glebe area. Indeed, the proposal would support the needs of local residents in providing affordable housing close to the city and neighbourhood shops.
- c) The proposal for a boarding house is entirely consistent with the existing character of the area. The building height is within the specified limits and the built form and scale are congruent with neighbouring shop top housing on St Johns Road and medium density terrace housing on Forest Street.
- d) The proposed boarding house can be entirely serviced by the capacity of existing infrastructure.

On this basis, it is my opinion that the proposal is consistent with the applicable objectives of both the land use zone and the Development Standard.

6. WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING.

It is my opinion that contravention of the standard does not raise any matters of significance for State or Regional environmental planning. Under the AHSEPP 2009, the matter under consideration is Clause 30(1)(h) which states that *'at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.'*

While no motorcycle parking is provided, the site is close to public transport and it is not considered necessary to provide up to 7 spaces in the building. This response to clause 30(1)(h) is acceptable.

7. WHAT IS THE PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD?

It is my opinion that there is no public benefit in maintaining the development standard in this instance. If motorcycle parking was provided, it would result in a reduction in the overall gross floor area of the development that would necessitate a reduction in the total number of boarding rooms.

In my opinion, such an outcome would not be in the public interest given the absence of any detrimental impact attributable to the non-compliance.

CONCLUSION

It is therefore my opinion based upon the content of this submission that a variation of the motorcycle parking control as required by Clause 4.6 of the Sydney LEP 2012 is acceptable and strict adherence to standard as specified in clause 30(1)(h) of the AHSEPP is unreasonable and unnecessary.