

Attachment C

**Clause 4.6 variation request –
motorcycle parking**

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: 160B GLEBE POINT 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 proposal relates to 160B Glebe Point Road, Glebe. The site is legally described as lot 1, DP234550. A two-storey Victorian style terrace house with 1920s – 1930s modifications is contained within the site. The original terrace was constructed by 1899 together with adjacent 160 and 160A Glebe Point Road to which it is attached. The terrace building was formerly occupied by a boarding house.

The proposal is for alterations and additions to the existing terrace house to facilitate its use as a 6-room boarding house. 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,*
 - (a) to facilitate the retention and mitigate the loss of existing affordable rental housing,*
 - (b) 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,*
 - (e) 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.

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;
- 4 bicycle parking spaces are proposed to be provided within the front yard area of the proposed boarding house (exceeding requirements by 3 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 the development as it results in improved street frontages on a small site which would

otherwise be required to be partially dedicated to a driveway and ramp;

- The provision of a motorbike parking will require the construction of a new access driveway at the front of the property and as a consequence in the loss of an off-street public car parking space along Glebe Point Road.

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)) is 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 a driveway at street level and an result in an unacceptable streetscape appearance of the property.
- 4 bicycle parking spaces are proposed to be provided (exceeding Councils requirements by 3 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 a motorcycle parking space within the development minimises any adverse impact upon the public domain and existing surrounding residents.

- There are no demonstrable adverse environmental impacts arising from an absence of a motorcycle parking space.
- 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 demolition of part of the dwelling's front yard to enable the construction of the motorbike parking spot and extensive ramping due to the unfavourable topography of the site. The landscaped areas provided within the front setback to Glebe Point Road will be significantly reduced along with the property contribution to the local streetscape.

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,

- g) 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 terrace houses along Glebe Point Road;
- 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 the required space 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 significant streetscape impacts and the provision of a new access driveway along Glebe Point Road. A public off-street car parking space will also need to be removed.

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.