

Attachment D

**Clause 4.6 Variation Request – Motorcycle
Parking**

REQUEST TO VARY 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: 233 and 235 Riley Street, 153-159 Campbell Street, and 8-10 Little Riley Street, Surry Hills

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 is for the adaption of the buildings at the site into a reinvigorated site comprising a refurbished hotel venue and a new 41-room boarding house with a total capacity of 78 lodgers.

The site is located within the inner-city suburb of Surry Hills approximately one kilometre south-east of the Sydney Central Business District and contains 6 adjacent properties, being 233 and 235 Riley Street, 153-157 and 159 Campbell Street, and 8 and 10 Little Riley Street, Surry Hills which are located in the northern portion of the block bound by Campbell Street to the north, Riley Street to the east, Reservoir Street to the south and Little Riley Street to the west. The combined site area is 757 m².

The proposal complies with all development standards in State Environmental Planning Policy (Affordable Rental Housing) 2009 (“AHSEPP 2009”), except for minimum motorcycle parking in Clause 30(1)(h) of the SEPP. Under the AHSEPP 2009, at least one motorcycle parking space must

be provided for every 5 boarding rooms. This equates to a required provision of 8 motorcycle parking spaces. No motorcycle parking spaces are provided at the site.

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 provides no motorcycle parking spaces, the proposed boarding house is consistent with the objective of the AHSEPP 2009 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.*

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.

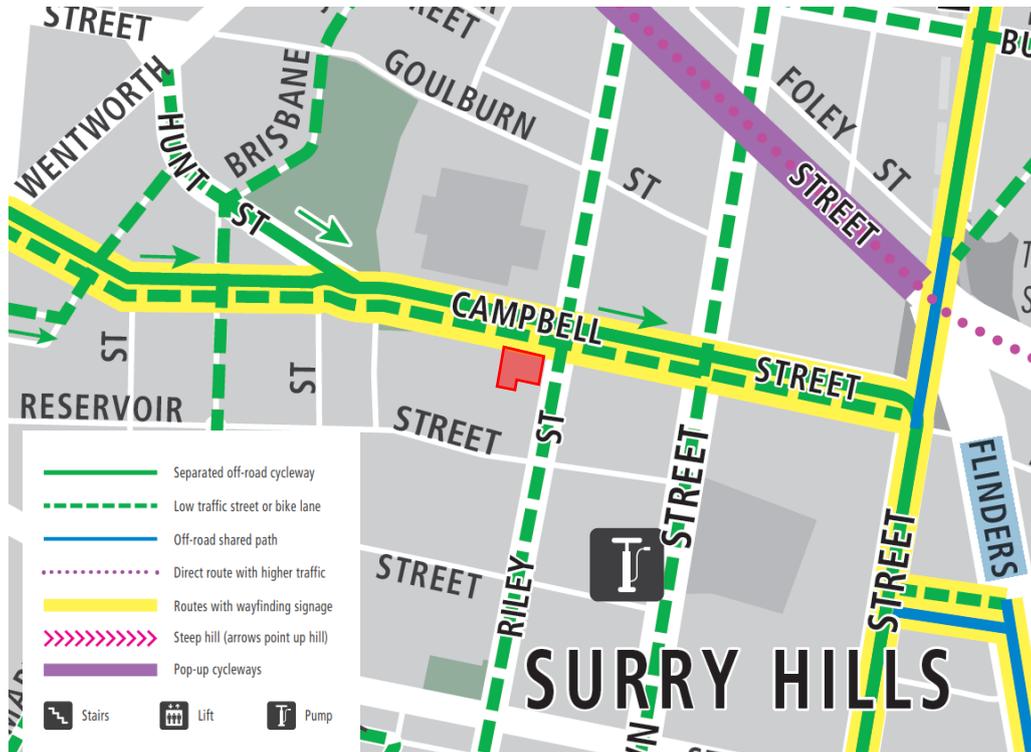
1. WHAT ARE THE OBJECTIVES OF CLAUSE 4.6 AND IS THE PROPOSAL CONSISTENT WITH THEM?

(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:

- An alternative form of parking is provided, being bicycle parking. This is provided at a rate (0.34 spaces / room for a total of 14 parking spaces) that is greater than the parking rate (0.2 spaces / room) within the same AHSEPP development standard in question. This is an appropriate form of travel for the building occupants, especially noting the inner-city location of the site and the proximity to Council’s cycling network (Refer to the below excerpt of the City’s Cycling Map).



Cycling Map (Source: City of Sydney Council)

- It is considered that the 14 bicycle parking spaces proposed to be provided at the site (exceeding Councils bicycle parking rates for residential uses) will adequately compensate for the lack of motorcycle parking.
- In all buildings that provide on-site parking, Council requires 1 motorcycle parking space for every 12 car parking spaces. Based on the nil car spaces provided under the revised scheme, the proposal is not required to provide motorcycle parking spaces to meet Council’s own control.
- The site has very good access to services, jobs and public transport, reducing the need for motorcycle parking, compared to sites further removed from such core assets;
- Strict compliance with the ‘Standards for Boarding Houses’ (AHSEPP Division 3) would require the provision of additional motorcycle parking at grade with likely impacts on residential amenity of surrounding properties and on the local streetscape. The provision of such parking would be contrary to the zone objectives and would result in the development being less compatible with the character of the area.

- The provision of no motorcycle parking would result in a better environmental outcome in terms of streetscape impacts and is therefore relevant to apply the flexibility available under clause 4.6 to vary the standard.
- No 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.
- The site is located within the City of Sydney Local Government Area where the provision of parking rates are maxima and Council often approves development with less than the maximum parking being provided (or none at all) as an effective way of encouraging alternative forms of travel behaviour, such as public transport, cycling and walking. This is appropriate for the most urbanised LGA in the State and a high-density area like Surry Hills;

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 intension to provide no 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.
- 14 bicycle parking spaces are proposed to be provided in the basement of the development and will adequately compensate for the inability to provide motorcycle parking at the rate required by (clause 30 (1)(h)) of the AHSEPP.
- The lack of motorcycle parking at the boarding house 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:

- There are no demonstrable adverse environmental impacts arising from the lack

of motorcycle parking spaces.

- The proposed development is consistent with the zone and development control objectives by providing a modern 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.
- No motorcycle parking spaces within the development is designed to maximise amenity for future residents and to minimise any adverse impact upon the public domain.
- Given the existing site constraints and the character of the locality, strict compliance with the 'Standards for Boarding Houses' (AHSEPP Division 3) would require the provision of additional motorcycle parking at grade with likely impacts on residential amenity and on 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 is in the public interest. In terms of the zone objectives, the site is zoned B4 Mixed Use in SLEP 2012. Boarding houses are specifically permitted with development consent.

It is important to note that in terms of Clause 4.6(4)(a)(ii) the consistency with the objectives of the standard and zone relate to the whole development, not merely the contravention itself.

The objectives for development in the B4 Mixed Use zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To ensure uses support the viability of centres.*

In my opinion the proposal is consistent with these zone objectives, noting:

- The proposal provides an appropriate use for the site and a diversity of housing choice for the wider area, yet complementing the diverse nature of the area.
- The proposal is for permissible uses (i.e Food and Drink premises and Boarding House) on a site that is well-connected to public transport, jobs and services so that the use of public transport, walking and cycling is encouraged.
- The use of the site for a form of residential accommodation, being a boarding house, will support surrounding centres.

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 8 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 need to be accommodate within the ground level of the proposed boarding house resulting in undesirable streetscape impacts and the potential disruption of the amenity of residents of the boarding house and nearby properties.

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.



Giovanni Cirillo

Director