

## Relevant Information for Local Planning Panel

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**FILE:** D/2023/790 **DATE:** 28 February 2024

**TO:** Local Planning Panel Members

**FROM:** Andrew Thomas, Executive Manager Planning & Development

**SUBJECT:** Information Relevant To Item 5 – Development Application: 56A Allen Street, Glebe – D/2023/790

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### For Noting

That the Local Planning Panel note the information contained in this memo.

### Background

The applicant prepared a late submission to the Panel requesting deferment of determination of the development application. The applicant states this will allow the submission of amended plans and supporting information within 4 weeks. As stated in their submission this is on the basis they “*have not been given an opportunity to see and understand concerns nor the ability to respond by amendment to the application*”. Also, their late submission asserts these concerns can be addressed and reasonably resolved. The applicant proposes an alternative proposal by incorporating 1 or 2 of the units as affordable housing.

The issues raised by the applicant are discussed below.

#### 1. Opportunity to respond to issues.

The applicant states they have not been given an opportunity to see and understand council officers’ concerns, nor the ability to respond by amending the application.

### Council response

Pre lodgement advice was sought by the applicant on 2 December 2022 (PDA/2022/264).

The proposed development involved the demolition of the existing garage and storeroom, and the construction of one two bedroom unit on the ground floor and one studio apartment on the first floor. The pre-DA development proposal was similar to the development proposed under the current development proposal. The plans are submitted in **Attachment C**.

Officers provided feedback on the proposal on 14 February 2023 (**Attachment D**). The applicant was advised that there were amenity impacts as a result of the development which related to solar impacts, private open space, overlooking, heritage, waste storage, and height and floor space ratio exceedance. Further discussion of the issues and Council Officer's response are discussed below.

### Solar impacts

Officers advised the development would need to comply with Sydney Development Control Plan 2012 Provision 4.2.3.1 which requires proposed apartments and neighbouring dwellings must achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and a minimum 50% of the required minimum area of private open space area. New development must not create any additional overshadowing onto a neighbouring dwelling where that dwelling currently receives less than 2 hours direct sunlight to habitable rooms and 50% of the private open space between 9am and 3pm on 21 June.

Shadow diagrams in elevation were submitted with the applicant's request, showing the shadow impacts between 9.00am and 12.00pm. However, 3.00pm shadow diagrams were not submitted. The shadow diagrams submitted with the request did not distinguish between the existing and proposed shadows, although it appeared that there would be an impact to the private open space of number 56 Allen Street to the south.

As discussed in the report the shadow diagrams are insufficient and do not clearly demonstrate solar access to the areas of private and common open space or living room windows for the subject site or neighbouring dwelling.

### Private Open Space

The applicant was advised the proposal did not provide adequate private open space for the ground floor unit and the terrace on the first-floor unit was accessible from the shared stairway. Council officers also advised the proposal reduced the area of open space for the existing units, and the plans would need to address private and common open space areas for the existing dwellings in addition to the new dwellings.

As discussed in the report the proposed development contains insufficient private open space to the proposed ground floor unit or common open space. This issue has not been adequately addressed.

### Overlooking

The original proposal included a first floor terrace and external staircase. Council officers advised that these elements resulted in overlooking of adjoining developments and was not supported.

The applicant has adequately addressed this matter in the amended design by locating the stairway within the new building.

## Heritage

A request was made that Council provide feedback in regard to the refurbishment of the existing building and external facade. Insufficient information was provided to comment as the drawings lacked detail, and it was advised that it must be demonstrated that the alterations are sympathetic to the existing building and surrounding heritage conservation area. It was requested that a heritage impact statement and a detailed materials schedule be submitted.

The applicant has partially addressed the matter under the subject application as they have submitted a heritage impact statement and a schedule of colours and materials. However, as discussed in the report, the proposed building is not sympathetic to the existing building or heritage conservation area.

## Waste Storage

The pre lodgement plan shows waste bins at both the Allen Street frontage and at the ground floor.

Council advised the waste storage area was inadequate and required further waste management details be provided. The waste storage area would only provide space for one bin between the ground floor unit and courtyard and blocked access to the ground floor unit.

Under the current proposal, this matter has been partially addressed. The waste storage area at Allen Street has been deleted, and a slightly larger waste storage area with separate access is proposed. The applicant noted in the waste management plan that the bins would be managed by a building caretaker, although further detail of the arrangement has not been provided. In addition insufficient space for bulky items has been provided.

## Floor Space Ratio and Height Exceedance

A request was made for Council to comment on the planning merit of variations to Floor Space Ratio (FSR) and Height development standards.

Council officers stated that the FSR exceedance was significant, and the proposal results in amenity impacts to the existing units, proposed units, and neighbouring dwellings.

The applicant was advised that in this context, it was unlikely that the proposed variation would be supported.

## Further information

The applicant was advised that further information was required including detailed drawings, amended shadow diagrams, a landscape plan, a waste management plan, and that plans demonstrating a minimum deep soil area of 10% with a minimum dimension of 3m.

## **2. The subject application**

Given that the development proposed does not adequately address all of the issues previously raised, Council officers did not send a further request for information and amendments.

A letter was sent to the applicant on 22 January 2024 advising that the application was not supported due to fundamental issues with the design and noncompliance with various development standards and planning controls. The letter noted the issues raised related to height and floor space ratio exceedance, design excellence, residential amenity (solar access, private open space, common open space), stormwater, landscaping (deep soil, canopy coverage), and that Ausgrid had objected to the development noting that the property may not have sufficient clearance to the proposed construction and may encroach the statutory clearances of nearby powerlines.

### **3. Amended Proposal**

In response to the matters raised in Council's letter and the planning report, the applicant has submitted amended plans prepared by Antonio Caminiti, dated 22 February 2024 addressing gross floor area, private open space, deep soil and waste management.

The applicant advises that the matters raised by Council can be resolved by proposing 1 or 2 units as affordable housing, that the revised proposal will comply with the 6m height standard, that flood planning will be addressed, and that they can comply with deep soil, canopy coverage, and bicycle parking requirements.

The applicant requests that the Panel defer determination of the DA to allow amended plans and supporting information to be submitted within a period of around 4 weeks.

#### **Council Response**

Height: The plans submitted do not provide elevations and do not show the proposal complies with the 6 metre height limit .

Flooding: The applicant states the proposal will include upstand edge beams at the base of permitter walls and be supported by hydraulic/flood advice. Stormwater plans have not been submitted to assess whether this addresses the concerns raised by Council's Public Domain Unit.

The applicant has not submitted sufficient evidence to support the statement that the issues raised are able to be adequately addressed.

#### **Landscaping and Bicycle Parking**

The Sydney Landscape Code Volume 2 defines 'deep soil zones' as areas of natural ground with no obstructions above or below and relatively natural soil profiles.

The applicant states that deep soil is expected to comply. The amended plans show an additional deep soil area of 10sqm. However, it appears that there may be structures above and below the new proposed area. This includes a structure (likely a pergola as previously proposed) above the area within the Unit 5 courtyard, though this is not clearly indicated on the plans. This is unsatisfactory as it does not demonstrate compliance or that compliance could be achieved with sufficient certainty

The applicant also states that an additional tree and bicycle parking can be provided. This is not shown on the amended plans, and it is unclear how the location of these would relate to the area of common open space which is currently insufficient. This is unsatisfactory as it does not demonstrate compliance or that compliance could be achieved with sufficient certainty.

### Private Open Space

The applicant has increased the area of private open space for the ground floor unit to show a minimum dimension of 4 metres.

The applicant has not addressed how the development can provide the minimum required common open space. This is unsatisfactory as it does not demonstrate compliance or that compliance could be achieved with sufficient certainty.

### Solar Access

The applicant states additional solar access plans/elevations will be provided, and the form/setbacks revised to reasonably reduce overshadowing with a likely change in impact by around half.

This cannot be assessed as the applicant has not submitted sufficient information to support the proposal. It is also unclear how the applicant can achieve this outcome given that elevation and section drawings of the development have not been submitted in the amended plans. This is unsatisfactory as it does not demonstrate compliance or that compliance could be achieved with sufficient certainty.

### Ausgrid

The applicant advises that the proposal will be revised to 1500mm clearance, confirmed in detail including advice from a Level 2 electrician with amended plans.

It is unclear if a 1500mm clearance would comply with Ausgrid's requirements. In the letter prepared by Ausgrid, dated 6 December 2023, it was requested that an accredited Service Provider Level 2 (ASP) Electrician to ensure that the installation will comply with the Service Rules, and an accredited Service Provider Level 3 (ASP3) to confirm that the development does maintain the statutory clearances to powerlines.

Given that many of the above issues have been raised previously and have not been addressed, it is unclear if they are able to reasonably resolved.

## **4. Affordable Housing**

Affordable Housing was not part of the original proposal. The applicant's late submission advises the proposed amended proposal will include an element of affordable housing (1 or 2 apartments) run by a community housing provider for at least 15 years. As a result of FSR bonus for affordable housing this will help address the extent of FSR noncompliance.

### **Council Response**

It is unclear in the applicant's letter if they propose 1 apartment or 2 apartments to be made available to a registered Community Housing Provider for rent for at least 15 years. The applicant's late submission provides no evidence or supporting material to demonstrate a suitable arrangement, interest or commitment from an affordable housing provider confirming their willingness to manage these proposed units.

Notwithstanding the provision of affordable housing there are a number of amenity issues that remain unresolved and need to be addressed.

The provisions of Chapter 2, Division 1 'Infill affordable housing' of the State Environmental Planning Policy (Housing) are relevant.

Section 21(1)(b) requires that development consent must not be granted to development under this Division unless the consent authority is satisfied that for a period of at least 15 years, the affordable housing component will be managed by a registered community housing provider (CHP).

The applicant states that the unit will be made available to a registered CHP for at least 15 years ("like St George Community Housing") but has provided no further information or evidence in respect of the engagement of a community housing provider. Given the application has not been made by or on behalf of a CHP, further evidence should be provided that there are arrangements in place with a CHP to manage the unit/s if the application were to be supported.

Should the panel defer the matter to a future meeting to allow for the applicant to demonstrate that they can resolve the matters raised in the recommended reasons for refusal, the amended proposal will require notification in accordance with Council's Community Participation Plan, 2019. A new application addressing Council's concerns will also require notification. In that context, there is likely to be limited time savings afforded to the applicant via a deferral in lieu of a determination and the submission of a new application.

Prepared by: Chelsea Thompson, Planner

### **Attachments**

- Attachment A.** Letter from Applicant
- Attachment B.** Amended Plans Submitted by Applicant
- Attachment C.** Submitted Drawings from PDA/2022/264
- Attachment D.** Pre Lodgement Advice Letter for PDA/2022/264

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Approved



**ANDREW THOMAS**

Executive Manager Planning & Development