

Relevant Information for Central Sydney Planning Committee

FILE: D/2023/842 **DATE:** 15 August 2024

TO: The Central Sydney Planning Committee

FROM: Graham Jahn AM, Director City Planning, Development and Transport

SUBJECT: Information Relevant To Item 6 - Development Application: 155 Mitchell Road, Erskineville – D/2023/842

Alternative Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.3 'Height of buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan (LEP) 2012 be upheld; and
- (B) consent be granted to Development Application No D/2023/842, subject to the conditions detailed in Attachment A to the subject report, and subject to the following amendments (additions shown in **bold italics**, deletions shown in ~~strikethrough~~):

(1A) STAGED APPROVAL – D/2023/842 AND D/2023/850

- (a) This development consent is the detailed design development consent D/2023/842.**
- (b) The following shall be provided to Council's Area Planning Manager/Area Coordinator Planning Assessments prior to any construction certificate being issued for this consent D/2023/842.**
 - (i) Confirmation, in the form of a letter of interim advice or Section B site audit statement from a NSW EPA accredited site auditor, that all remediation approved under the early works consent D/2023/850 that does not rely on the construction of the basement has been undertaken.**

Reason

To ensure that the site is appropriately remediated before construction can occur under this consent.

Background

Deferred commencement recommendation

In response to the recommended conditions of consent at Attachment A to Item 6 - Development Application: 155 Mitchell Road, Erskineville – D/2023/842. the applicant has requested that the deferred commencement recommendation be amended to an approval recommendation.

The applicant has noted that the reference to public domain works development application D/2023/962 being determined prior to the development consent D/2023/842 commencing is not warranted. The Voluntary Planning Agreement for 155 Mitchell Road, Erskineville requires the delivery of public domain works and dedication prior to any Occupation Certificate being issued for Block E (the subject of this development application), and as such, sufficient measures are in place to ensure the public domain works are completed.

The applicant proposes the following condition to address the public domain works development application, and this condition is to be moved to Part B – Conditions of Consent:

Applicant's proposed new condition:

(1A) STAGED APPROVAL – D/2023/850 & D/2023/962

- (a) This development consent is the detailed design development consent D/2023/842.***
- (b) The following development application is to be determined prior to the commencement of this consent:***
 - (i) Early works development application D/2023/850;***
- (c) The following development application is to be determined prior to the issue of the Stage 3 Construction Certificate:***
 - (i) Public domain works development application D/203/962.***

City comment

The request to amend the deferred commencement approval recommendation to an approval recommendation is supported. As advised by the applicant, there are sufficient measures in place to ensure the public domain works contained in the Voluntary Planning Agreement as it relates to Block E can be completed prior to occupation of the development.

Since the completion of the assessment report, consent has been granted under delegated authority for the early works development application D/2023/850, on 8 August 2024. Instead of the wording proposed by the applicant, a new condition is recommended, requiring remediation that does not rely on the construction of the basement to be completed before any construction certificate is issued for the subject development application D/2023/842.

Should the Central Sydney Planning Committee be of a mind to support the amendment, it is recommended that a new condition be inserted as 'Condition 1A' as follows:

(1A) STAGED APPROVAL – D/2023/842 AND D/2023/850

- (a) This development consent is the detailed design development consent D/2023/842.**
- (b) The following shall be provided to Council's Area Planning Manager/Area Coordinator Planning Assessments prior to any construction certificate being issued for this consent D/2023/842.**
 - (i) Confirmation, in the form of a letter of interim advice or Section B site audit statement from a NSW EPA accredited site auditor, that all remediation approved under the early works consent D/2023/850 that does not rely on the construction of the basement has been undertaken.**

Reason

To ensure that the site is appropriately remediated before construction can occur under this consent.

Alternative staging of construction certificates

The applicant originally proposed three stages of construction, which are specified in Condition 2 – Staged Construction:

(2) STAGED CONSTRUCTION

The works may be carried out in stages, with relevant conditions being satisfied prior to the issue of a relevant Construction Certificate, where specified in the conditions of consent, for each stage as detailed in the table below.

Construction Certificate Stage	Description
Stage 1	Substructure and basement level 1 slab and fit-out
Stage 2	Structure
Stage 3	Facade and fit-out

Reason

To set out the staging of works for this consent.

In response to the recommended conditions of consent at Attachment A to Item 6 - Development Application: 155 Mitchell Road, Erskineville – D/2023/842. the applicant has requested that four additional stages of construction be included in Condition 2 – Staged Construction, proposing seven stages of construction in total.

Applicant's proposed amendment:

The three original stages are to be re-worded as follows:

(2) STAGED CONSTRUCTION

The works may be carried out in stages, with relevant conditions being satisfied prior to the issue of a relevant Construction Certificate, where specified in the conditions of consent, for each stage as detailed in the table below.

Construction Certificate Stage	Description
Stage 1	Substructure and basement level 1 slab and fit-out Detailed Excavation, Inground Services, Foundations and Structure (B2 – Ground)
Stage 2	Structure (Level 1 – Roof)
Stage 3	Facade and fit-out
Stage 4	Fit-out and Services (Ground – Roof)
Stage 5	Fit-out and Services (Basements)
Stage 6	Landscaping
Stage 7	Public Domain

Reason

To set out the staging of works for this consent.

The applicant has also requested that 28 conditions be amended to accord with the alternative staged construction certificates as proposed above.

City comment

The proposed alternative staging of construction certificates is not supported. The proposed staging is not consistent with the agreed staging of similar development and there is a lack of information relating to what each stage is to entail. The short timeframe leading to the Central Sydney Planning Committee meeting does not allow for a considered assessment of the amendment nor the consultation with the relevant internal units to establish a supportable alternative staging, if any.

Prepared by: Jessica Symons, Senior Planner

Attachments

Attachment A. Correspondence from the Applicant

Approved

A handwritten signature in black ink, appearing to read 'GJahn', positioned to the left of the name 'Graham Jahn AM'.

Graham Jahn AM

Director City Planning, Development and
Transport