

ITEM 8. DEVELOPMENT APPLICATION: 11 SMAIL STREET ULTIMO

FILE NO: D/2009/2200

SUMMARY

Date of Submission: 23 December 2009. Amended plans received 11 June 2010

Applicant: Smail Street Developments

Architect: Turner and Associates

Developer: Smail Street Developments

Proposal Summary: Alterations and additions to existing 3 storey warehouse building to create new 5 storey residential building behind retained facades containing 32 Affordable Housing units.

The original application breached the height control for the site. The proposal was subsequently amended at the request of Council Staff to comply with the 18 m height control and improve the proposal in terms of bulk and scale. This resulted in the deletion of the top floor and the loss of 2 units.

Two submissions were received regarding amenity and number of apartments. The proposal was subsequently amended to reduce the number of apartments from 34 to 32.

The amended proposal is below the height limit of 18m. The maximum FSR for the site is 3:1. With the application of the Affordable Rental Housing SEPP an increase of 20% of floor space is permissible. The proposal reflects an FSR of 3.3:1 which is 115 sqm below the additional 20% that can be applied to the site under the SEPP. Therefore the proposal complies with the achievable maximum FSR for the site.

The subject application was subject to extensive negotiation and amendment which has led to the current design which is considered to be acceptable.

The proposal is recommended as a deferred commencement owing to potential issues regarding contamination and any subsequent remediation reports.

Summary Recommendation: The development is recommended for approval subject to conditions.

Attachments: A - Selected Plans

RECOMMENDATION

It is resolved that:

- (A) a deferred commencement consent be granted pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, subject to the satisfaction of the following condition:

(1) SITE AUDIT STATEMENT

- (a) A Detailed Environmental Site Assessment will be required to be carried out in accordance with the NSW EPA Contaminated Sites guidelines, certifying that the site is suitable for the proposed use.
- (b) Where the Detailed Environmental Site Assessment states the site is suitable for the proposed use it is to be peer reviewed by a NSW EPA accredited site auditor and a Site Audit Statement submitted to the satisfaction of the Certifying Authority. A copy of the documentation is to be lodged with Council.
- (B) evidence that will sufficiently enable Council to be satisfied as to those matters identified in the deferred commencement consent Condition (1) above must be submitted to Council within 3 months of the deferred commencement. Upon compliance with the conditions contained in clause (A), the consent will become operative subject to the following conditions, as may be amended by such other conditions that may arise as a result of compliance with conditions/information required in clause (A):

SCHEDULE 1A

Approved Development/Design Modifications/Covenants and Contributions/Use and Operation

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2009/220 dated 23 December 2009 and the following drawings:

Drawing Number	Architect	Date
DA 02 Rev E	Turner and Associates	9 June 2010
DA 03 Rev G	Turner and Associates	9 June 2010
DA 04 Rev G	Turner and Associates	9 June 2010
DA 05 Rev G	Turner and Associates	9 June 2010
DA 10 Rev F	Turner and Associates	9 June 2010

Drawing Number	Architect	Date
DA 11 Rev F	Turner and Associates	10 June 2010
DA 15 Rev G	Turner and Associates	9 June 2010
DA 16 Rev E	Turner and Associates	9 June 2010

and as amended by the conditions of this consent:

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(2) DESIGN QUALITY EXCELLENCE

(3) FLOOR SPACE RATIO - ALL OTHER AREAS

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the use must not exceed 3.3:1; calculated in accordance with South Sydney Local Environmental Plan 1998. For the purposes of the calculation of FSR, the Gross Floor Area of the business component is 1412 sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total Gross Floor Area in the development, utilising the definition under the South Sydney Local Environmental Plan 1998, applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

(4) DESIGN DETAILS

(5) AFFORDABLE HOUSING

- (a) All of the approved units/ dwellings of the subject site must be used for Affordable Housing for a minimum of 10 years from the date of the issue of any Occupation Certificate:
- (b) The units/dwellings are to be managed by a registered community housing provider.
- (c) A restriction is to be registered on the title of the property in accordance with Section 88E of the Conveyancing Act 1919, that will ensure that the requirements of this condition are met before the date of issue of any Occupation Certificate.
- (d) Documentary evidence of this restriction is to be submitted to Council prior to the issue of any Occupation Certificate.

(6) NO STRATA SUBDIVISION

No approval is given for the strata subdivision of the property.

- (7) BICYCLE PARKING**
- (8) PROHIBITION ON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME APPLICATION OF CITY OF SYDNEY PERMIT PARKING POLICY - INELIGIBILITY FOR RESIDENT PARKING PERMITS**
- (9) REMOVAL VEHICLES**

All developments either partly or wholly residential must provide a removal truck management plan. The owner of the dwelling must distribute a copy of the approved plan to all intending owners, tenants and occupiers of the dwelling and provide a copy, or access to a copy, at the time of entering into a purchase / lease / occupancy agreement.
- (10) SIGNAGE TO INDICATE NON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME**
- (11) VEHICLE FOOTWAY CROSSING**
- (12) REMOVAL OF GRAFFITI**
- (13) REFLECTIVITY**

SCHEDULE 1B

Prior to Construction Certification/Commencement of Work/Health and Building

Note: Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

- (14) HERITAGE INTERPRETATION**
 - (a) A heritage interpretation panel or other device to show the history and internal structural system of the warehouse building is to be erected in the communal area of the building;
 - (b) Prior to occupation certificate being issued, the interpretation device must be implemented to the satisfaction of Council.
- (15) STRUCTURAL INTEGRITY OF RETAINED FACADE**
- (16) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION (MINOR WORKS)**

Prior to a Construction Certificate being issued, an archival photographic recording of the existing warehouse is to be prepared to Council's satisfaction. The recording may be in either digital or film-based form, or a combination of both, prepared in accordance with the NSW Heritage Office guidelines titled "Photographic Recording of Heritage Items using Film or Digital Capture". One copy of the record is to be submitted to Council to be lodged with Council's Archives. The form of the recording is to be as follows:

- (a) In A4 format, placed in archival plastic sleeves in an appropriate archival folder.
- (b) The Development Application number must be noted on the front of the folder and in the report.
- (c) Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.
- (d) Each negative, slide or digital image is to be cross referenced to a photographic catalogue and photographic base plans.
- (e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive licence to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

A digital based recording is to include:

- (f) CD or DVD containing the report in PDF format and the electronic images saved as JPEG, TIFF or PDF files and cross referenced to the digital catalogue sheets and base plans.

A film based recording is to include:

- (g) 35mm film images submitted as contact sheets with equivalent negatives, a selection of black and white prints 200 x 250mm, and 35mm colour transparencies, all labelled and cross-referenced to the catalogue sheets and base plans.

(17) EXTERNAL COLOUR SCHEME

The external colour scheme is to be sympathetic to the architectural style and period of the warehouse building and Heritage Conservation Area. A schedule of colours is to be submitted to and approved by Council prior to the issue of the Construction Certificate.

(18) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION

(19) SALVAGE STRUCTURAL TIMBER

- (a) Timber structural components, including the posts, brackets, beams, joists and floorboards of the warehouse building, are to be salvaged;
- (b) Salvaged materials are to be reused in the project or properly stored on-site whenever possible. The material surplus to the project may be transferred to other warehouse buildings for reuse in their repair work or an established second building material dealer.

(20) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

(21) ADAPTABLE HOUSING

(22) PHYSICAL MODELS

**(23) SUBMISSION OF ELECTRONIC MODELS PRIOR TO CONSTRUCTION
CERTIFICATE AND PRIOR TO OCCUPATION CERTIFICATE**

(24) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT

- (a) Prior to the commencement of demolition and/or excavation work the following details must be submitted to and be approved by the Principal Certifying Authority:
- (i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of facade retention.
 - (ii) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the Work Cover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted.)
 - (iii) An Excavation Work Method Statement prepared by an appropriately qualified person.
 - (iv) A Waste Management Plan for the demolition and or excavation of the proposed development.
- (b) Such statements must, where applicable, be in compliance with AS2601-1991 Demolition of Structures, the Occupational Health and Safety Act 2000 and Regulation; Council's Policy for Waste Minimisation in New Developments 2005, the Waste Minimisation and Management Act 1995, and all other relevant acts and regulations and must include provisions for:
- (i) A Materials Handling Statement for the removal of refuse from the site in accordance with the *Waste Minimisation and Management Act 1995*.
 - (ii) The name and address of the company/contractor undertaking demolition/excavation works.
 - (iii) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials.
 - (iv) The name and address of the transport contractor.
 - (v) The type and quantity of material to be removed from site.
 - (vi) Location and method of waste disposal and recycling.
 - (vii) Proposed truck routes, in accordance with this development consent.

- (viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).
 - (ix) Measures to control noise emissions from the site.
 - (x) Measures to suppress odours.
 - (xi) Enclosing and making the site safe.
 - (xii) A certified copy of the Public Liability Insurance indemnifying Council for \$10,000,000 against public prosecution for the duration of the demolition works.
 - (xiii) Induction training for on-site personnel.
 - (xiv) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to Work Cover Authority.
 - (xv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the Work Cover Authority.
 - (xvi) Disconnection of utilities.
 - (xvii) Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed).
 - (xviii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings).
 - (xix) Waterproofing of any exposed surfaces of adjoining buildings.
 - (xx) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the *Protection of the Environmental Operations Act 1997*).
 - (xxi) Working hours, in accordance with this development consent.
 - (xxii) Any Work Cover Authority requirements.
- (c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.

- (25) DILAPIDATION REPORT – MINOR**
- (26) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE**
- (27) GLAZING - COMPLIANCE WITH AUSTRALIAN STANDARD**
- (28) STORMWATER AND DRAINAGE - MINOR DEVELOPMENT**
- (29) BARRICADE PERMIT**
- (30) APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE**
- (31) FOOTPATH DAMAGE BANK GUARANTEE**
- (32) ELECTRICITY SUBSTATION**
- (33) SYDNEY WATER CERTIFICATE (QUICK CHECK)**
- (34) TELECOMMUNICATIONS PROVISIONS**
- (35) UTILITY SERVICES**
- (36) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL**

- (a) A Waste Management Plan is to be submitted to and approved by Council prior to a Construction Certificate being issued. The plan must comply with the Council's Policy for Waste Minimisation in New Developments 2005. All requirements of the approved Waste Management Plan must be implemented during construction of the development.
- (b) The building must incorporate designated areas or separate garbage rooms constructed in accordance with Council's Policy for Waste Minimisation in New Developments 2005, to facilitate the separation of commercial waste and recycling from residential waste and recycling.

UPON COMPLETION OF THE DEVELOPMENT

- (c) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

(37) STRUCTURAL CERTIFICATION FOR DESIGN – BCA (ALL BUILDING CLASSES)

Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design in accordance with Clause A2.2(a)(iii) of the Building Code of Australia (applicable to class 2-9 building) and Cause 1.2.2(iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of the Certifying Authority (Council or a private accredited certifier). A copy of the certificate must be submitted to Council if Council is not the CA.

(38) BCA - NEW BUILDINGS WORKS - CLASS 2-9 BUILDINGS

- (a) Pursuant to Clauses 94 and 98 of the Environmental Planning and Assessment Regulation 2000, the proposed building work must comply with the Building Code of Australia (BCA) including:
- (i) Structural provisions - Part B1; including earthquake loads;
 - (ii) Fire resistance and stability - Part C1;
 - (iii) Compartmentation and separation - Part C2; including C2.10 Separation of lift shafts;
 - (iv) Protection of openings - Part C3; including windows exposed to the side boundary fire source feature which are not shown as protected;
 - (v) Provision for escape (access and egress) - Part D1; including D1.7 Travel via fire-isolated exits and D1.4 Exit travel distances;
 - (vi) Construction of exits - Part D2;
 - (vii) Fire fighting equipment - Part E1;
 - (viii) Smoke hazard management - Part E2;
 - (ix) Lift installation - Part E3;
 - (x) Emergency lighting, exit signs and warning systems - Part E4;
 - (xi) Damp and weatherproofing - Part F1;
 - (xii) Sanitary and other facilities - Part F2;
 - (xiii) Room sizes - Part F3;
 - (xiv) Light and ventilation - Part F4;
 - (xv) Sound transmission and insulation - Part F5;
 - (xvi) Energy Efficiency – Section J (as required by NSW Variation);
- (b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (1) above cannot be achieved, an alternate solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.

- (c) The BCA matters identified in this condition are not an exhaustive list of non-compliances with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 96 of the Act to be lodged with Council to amend the development approved in this consent.

Note: The provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of the proposed development.

(39) ANNUAL FIRE SAFETY STATEMENT FORM

An **annual Fire Safety Statement** must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued.

(40) FIRE SAFETY CERTIFICATE TO BE SUBMITTED

A Fire Safety Certificate must be submitted to the Principal Certifying Authority for all of the items listed in the Fire Safety Schedule prior to an Occupation Certificate being issued.

(41) EXIT DOORS OPEN OUTWARD

Exit doors must be altered so they open in the direction of travel and must be recessed so they do not open over the footway. They must at all time be easily opened without the use of keys.

(42) FLASHINGS TO BOUNDARY WALLS

(43) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

- (a) The Construction Traffic Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Construction Traffic Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.

(44) CONTAMINATION

(45) NOISE - MECHANICAL PLANT AND EQUIPMENT

(46) AIR CONDITIONERS IN RESIDENTIAL BUILDINGS

(47) ASBESTOS REMOVAL

(48) ASBESTOS REMOVAL SIGNAGE

(49) CLASSIFICATION OF WASTE

(50) DISPOSAL OF ASBESTOS

(51) NOTIFICATION OF ASBESTOS REMOVAL

(52) PROHIBITION OF ASBESTOS RE-USE

(53) SIGNAGE LOCATION AND DETAILS

(54) SKIPS AND BINS

(55) RAINWATER TANKS AND REUSE OF RAINWATER

- (a) The applicant shall provide confirmation to the approving authority from a satisfactory qualified person that the rainwater tank design, the installation of the water collection tank and pipe work that comply with recommendations outlined in *AUSTRALIAN GUIDELINES 23 FOR WATER RECYCLING:MANAGING HEALTH AND ENVIRONMENTAL RISKS (PHASE 2)-Stormwater harvesting and reuse-July 2009-National water Quality Management Strategy*. Rainwater tanks shall be designed to include, but not be limited to the following:-
- (i) Shall be fixed to structurally adequate bases or walls in accordance with manufactures specifications or engineers details.
 - (ii) Shall not be fixed to, or otherwise supported by a bounding common fence, wall or the like, without prior approval be adjacent land owners.
 - (iii) Shall be fitted with a first flush device
 - (iv) Openings being suitably sealed to prevent access by children and being fitted with a fine mesh to prevent penetration of contaminants and insects such as mosquitoes.
 - (v) Shall have an overflow device being fitted to the rainwater tank which directs water into an existing stormwater drainage system, and shall have a suitable drainage plug/tap fitted and positioned in a manner that facilitates flushing and cleaning.
 - (vi) Shall have all taps and outlets marked “ non potable-not for drinking” on a permanent sign and all pipes are to be coloured ‘mauve’ in accordance with AS 1345.
 - (vii) That all rainwater pipes must be separated from any parallel drinking water service. Above ground pipes must be 100mm away and below ground 300mm away from any drinking water pipe.
 - (viii) That an authorised backflow prevention device sized to suit the potable water service shall be fitted at the meter location on the potable water supply. This device must meet the requirements of Sydney Water.
- (b) A maintenance plan that addresses the control and mitigation of risks to human health resulting from operation of the system and the end usage shall be provided for approval to the approving authority prior to installation of any system.

- (c) The rainwater collection system shall be constantly maintained in accordance to the Manufacturers instructions and in line with any approved maintenance plan so as to prevent risk of pathogenic microbial contamination including legionella and organisms from wildlife including birds.
- (d) The use of any rainwater storage and re-use system shall not commence until all required details have been received by the City's Planning Department and agreed in writing.
- (e) Water pumps are to be located so as not causing an "offensive noise" as defined by the *Protection of the Environment Operations Act 1997* to any affected receiver.
- (f) **Where end-use is irrigation :**
 - (i) Soils in the irrigation area shall be monitored after 10 years and then after every 5 years to test whether copper and zinc levels have reached potentially hazardous levels as outlined in Appendix 4 of *AUSTRALIAN GUIDELINES 23 FOR WATER RECYCLING:MANAGING HEALTH AND ENVIRONMENTAL RISKS (PHASE 2)-Stormwater harvesting and reuse-July 2009*
 - (ii) Where roofwater from copper or zinc-coated roofs is used, roofwater quality monitoring shall be carried out in accordance with *AUSTRALIAN GUIDELINES 23 FOR WATER RECYCLING:MANAGING HEALTH AND ENVIRONMENTAL RISKS (PHASE 2)-Stormwater harvesting and reuse-July 2009* before use of such rainwater.

(56) INSTALLATION OF DUAL-FLUSH TOILETS

(57) INSTALLATION OF WATER EFFICIENT TAPS

(58) APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE

(59) DEMOLITION/SITE RECTIFICATION (if cost is under \$50m)

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.
- (b) Prior to the Construction Certificate being issued, documentary evidence must be provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (c) Without limiting the generality of paragraph (b), the Deed must provide for:

- (i) a bank guarantee to be provided in the sum of \$94,160 dollars as security for the costs of such works provided that:
 - a. the maximum liability under the Deed must not exceed \$94,160 ; and
 - b. the Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
- (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
 - a. demolition of the existing building has commenced but not been completed;
 - b. the existing building has been demolished; or
 - c. the site has been excavated; or
 - d. the erection of the structure has commenced;

that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the consent authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:

- e. make the building safe and of an appearance acceptable to Council at ground level;
- f. allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
- g. for the hole to be covered to allow it to be landscaped and made attractive from any public vantage-point; or
- h. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenable stage;

AND to call on such bank guarantee to cover the cost thereof.

- (d) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:
 - (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (ii) e – h to take place on the site; and

- (ii) in the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.

- (e) The Deed may provide for the release of the Bank Guarantee at such time that the Final Occupation Certificate for the approved development is issued. If the approved development also relates to works to existing buildings, the relevant Final Occupation Certificate is the one that relates to that part of the approved development which involves the demolition and new construction.

(60) FOOTPATH DAMAGE BANK GUARANTEE

(61) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS

(62) ACOUSTIC PRIVACY BETWEEN UNITS

SCHEDULE 1C

During Construction/Prior to Occupation/Completion

(63) HOURS OF WORK AND NOISE – OUTSIDE CBD

(64) ACCESS DRIVEWAYS TO BE CONSTRUCTED

(65) LOADING AND UNLOADING DURING CONSTRUCTION

(66) NO OBSTRUCTION OF PUBLIC WAY

(67) USE OF MOBILE CRANES

(68) BASIX

(69) ENCROACHMENTS – NEIGHBOURING PROPERTIES

(70) ENCROACHMENTS – PUBLIC WAY

(71) SURVEY

(72) SURVEY CERTIFICATE AT COMPLETION

(73) CONNECTION TO SEWERS OF SYDNEY WATER CORPORATION

(74) COVERING OF LOADS

(75) EROSION AND SEDIMENT CONTROL

(76) PROTECTION OF STREET TREES DURING CONSTRUCTION

(77) VEHICLE CLEANSING

(78) STREET NUMBERING – MAJOR DEVELOPMENT

(79) SYDNEY WATER CERTIFICATE

(80) OCCUPATION CERTIFICATE TO BE SUBMITTED

SCHEDULE 2

The prescribed conditions in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000 apply to the development.

BACKGROUND

The Site and Surrounding Development

1. The subject site has an area of 428.1 sqm. Situated on the land is a 3 storey warehouse. The site has a frontage to Smail Street and rear frontage to Smail Lane.
2. The building is not a heritage listed item, but is a contributory building in a conservation area. It is a Federation building typical in the conservation area. The building was constructed in 1913 – 1915 and additional levels were added in 1928.
3. The building is currently vacant but was previously used as a Graphics College.
4. The surrounding area contains a mix of uses with convenient access to public transport. Existing development in Smail Street comprises a mix of commercial, warehousing and residential uses as follows:
 - (a) to the east adjoining the site is a 3-4 storey brick commercial/ warehouse building;
 - (b) to the west adjoining the site is a 3-4 storey brick commercial building;
 - (c) to the North opposite the site on Smail Street is a 5-7 storey commercial and residential building known as 'Fusion'; and
 - (d) to the south opposite on Smail Lane is a 5-10 storey commercial and residential building.
5. A site location plan is provided below.



Figure 1 – Site Plan

6. Photographs of the site are provided below.



Figure 2 - Site viewed from Smail Street (front)



Figure 3 - Rear of site Smail Lane



Figure 4 -Subject site looking east down Smail Street



Figure 5 - Opposite side of street looking east down Smail Street



Figure 6 - Subject site looking west up Smail Street

History of Development Applications Relevant to this Site

7. No recent relevant development applications apply to the site.

PROPOSAL

8. The proposal seeks consent for the internal demolition of the building and construction of a new 5 storey building behind the retained facade to accommodate 32 Affordable Housing units. The two floors which protrude above the existing facade are within a lightweight metal clad mansard roof form.
9. The original application breached the height control for the site. The proposal was subsequently amended at the request of Council to comply with the height control and improve the proposal in terms of bulk and scale resulting in the deletion of the top storey.
10. The amended proposal at 17.47 metres complies with the height control for the site of 18 metres.
11. The maximum FSR for the site under the South Sydney DCP 1997 is 3:1. However using the Affordable Rental Housing SEPP (discussed below) an increase of 20% FSR can be applied to the site for infill development. The proposal reflects an FSR of 3.3:1 (below the 3.6:1, 20% achievable).
12. Photomontages of the proposal are shown below:



Figure 6: Photomontage of the proposal from Smail Street



Figure 7: Photomontage of the proposal from Smail Lane

13. Plans and elevations of the development are provided at **Attachment A**.

IMPLICATIONS OF THE PROPOSAL

Section 79C Evaluation

14. An assessment of the proposal under Section 79C of the Environmental Planning and Assessment Act 1979 has been made, including the following:

Section 79C(1)(a) Environmental Planning Instruments, DCPs and Draft Instruments

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

15. The following State Environmental Planning Policy/Policies are relevant to the proposed development:

SEPP 55 – Remediation of Land

16. Council's Health Unit has reviewed the preliminary site assessment prepared by Environmental Monitoring Services Pty Ltd, which reveals that the site is suitable for the intended use.
17. There are, however, no details of any authorised site report audit statement to verify these conclusions and recommendations. The proposal is therefore unsatisfactory to the Health Unit until a Site Audit Statement to peer review the findings of the preliminary site assessment is provided. Any such site audit statement must be prepared by a New South Wales Environmental Protection Authority accredited author certifying that the site is suitable for the intended use.
18. As such the application is recommended to be a deferred commencement subject to the satisfaction of the conditions:
- (a) A Detailed Environmental Site Assessment will be required to be carried out in accordance with the NSW EPA Contaminated Sites guidelines, certifying that the site is suitable for the proposed use.
 - (b) Where the Detailed Environmental Site Assessment states the site is suitable for the proposed use it is to be peer reviewed by a NSW EPA accredited site auditor and a Site Audit Statement submitted to the satisfaction of the Certifying Authority. A copy of the documentation is to be lodged with Council.

SEPP 65 - Design Quality of Residential Flat Development

19. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 10 design quality principles, being:
- (a) **Principle 1:** Context
 - (b) **Principle 2:** Scale
 - (c) **Principle 3:** Built Form
 - (d) **Principle 4:** Density
 - (e) **Principle 5:** Resource, energy and water efficiency
 - (f) **Principle 6:** Landscape
 - (g) **Principle 7:** Amenity
 - (h) **Principle 8:** Safety and Security

- (i) **Principle 9:** Social Dimensions
 - (j) **Principle 10:** Aesthetics
20. The development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council's planning controls and are discussed in more detail below.

Affordable Rental Housing SEPP

21. The proposal was assessed against the Affordable Rental Housing SEPP. The proposal meets the requirements of the SEPP and relies upon the provisions of Clause 13(2) (b) of the SEPP to achieve the maximum floor space ratio of 3.3:1. The proposal is considered acceptable as assessed against the SEPP. Recommended conditions of consent specify that the site is to be used for affordable housing for a minimum of ten years, managed by a registered housing provider and may not be strata subdivided.

LEPs AND DCPs

22. The following Local Environmental Plans are relevant to the proposal:

South Sydney Local Environmental Plan 1998

23. Compliance of the proposal with the LEP controls is summarised below:

Development Controls	Permissible under South Sydney LEP 1998	Proposal as assessed under South Sydney LEP 1998
Planning Principles (Part 2)	Development is to be considered having regard to the goals and objectives within the Strategy for a Sustainable City of South Sydney.	The proposed development application satisfies the Strategy.
Zoning Controls (Part 3)	Mixed Uses 10	The development is permissible
Heritage Conservation (CI 22 to 27)	Development is to satisfy certain heritage requirements.	The development satisfies these provisions. This is discussed further below.
Urban Design Principles (CI 28)	Development is to satisfy urban design requirements.	The development satisfies these provisions. Refer to issues section of report.

Development Controls	Permissible under South Sydney LEP 1998	Proposal as assessed under South Sydney LEP 1998
Flood Liable Land (CI 38)	Council is to consider the likely impacts of flooding in determining an application for the erection of a building or the carrying out of works on land.	The development satisfies these provisions.
Contaminated Land (CI 39)	Council is to consider the issue of contamination in determining an application for a residential, child care centre or commercial use on land previously occupied by an industrial use.	This has been discussed above.

Strategy for a Sustainable City of South Sydney

24. One of the principal objectives of the LEP as stated in Clause 7 is to implement the goals and objectives contained in the Strategy for a Sustainable City of South Sydney. Clause 8 also provides that in assessing any development application that the Council must take into consideration the goals and objectives of the Strategy as they relate to the proposed development.
25. In order to realise the main goal of the strategy, a number of detailed strategies were developed and are grouped under sub-goals of Environment, Land Use and Transport, Character and Identity, Community Well-Being and City Management. An assessment of the development application reveals that it meets the goals of the above strategies.

South Sydney DCP 1997

26. Compliance of the proposal with the DCP controls is summarised below:

Matter to be Considered	Compliance	Comment
PART B: URBAN DESIGN PRINCIPLES		
Urban Form Section 2	✓	Complies
Urban Villages, Public Spaces and Pedestrian Networks Section 3	✓	Complies
Sustainable, Healthy Environment Section 4	✓	Complies – All units will be BASIX compliant and 100% will be cross ventilated

Matter to be Considered	Compliance	Comment
PART C: PUBLIC DOMAIN		
Public Domain Improvement Section 2	✓	Complies
PART D: SOCIAL PLANNING		
Access Section 2	✓	Complies
Social Housing and Mix Section 3	✘	Does not comply See issues section below
PART E: ENVIRONMENTAL DESIGN CRITERIA		
Site Analysis/Layout Section 1.1 and 1.2	✓	Complies
Public/Private Open Space Section 1.3 and 1.4	✘	Does not comply - The site does not strictly comply with the private open space numerical controls for the site. Communal open space of 58sqm is provided on the roof accessed via the lift. As the proposal is for Affordable Housing and constricted by the desire to retain the warehouse facades the proposal is considered acceptable. The internal amenity of the apartments is considered to be of a generally good standard.
Parking, Access and Servicing Section 1.6	✓	Complies – No car parking is proposed. Bicycle parking is proposed.
Storm water Drainage Section 1.7	✓	Complies
Site Contamination Section 1.8	✘	Able to comply – See discussion above.
Site Facilities Section 1.9	✓	Complies
Building Envelope Section 2.1	✓	Complies

Matter to be Considered	Compliance	Comment
Floor Space Ratio Section 2.2	✘	Does not comply - See issues section below.
Height and Scale Section 2.3	✓	Complies
Facade Treatment Section 2.5	✓	Complies
Visual and Acoustic Privacy Section 4.1	✓	Complies
Safety and Security Section 4.2	✓	Complies
Access and Mobility Section 4.4	✓	Complies
Flexible Housing Design Section 4.5	✓	Complies
Fire Regulations Section 4.6	✓	Complies
Energy Efficiency Section 5.1 to 5.3	✓	Complies
Operational Controls Section 6	✓	Complies
PART F: DESIGN CRITERIA FOR SPECIFIC TYPES		
Residential Flat Buildings Dwelling Houses Section 2 to 2.4.4	✓	Complies
PART G: SPECIAL PRECINCTS		
Ultimo Section 3 and 3.1	✓	Complies – The proposal reflects the main characteristics of the existing buildings and the facades. The simple mansard style addition to the roof top is considered sympathetic to the warehouse style building and is below the height controls for the site.

South Sydney DCP 11: Transport Guidelines for Development

27. DCP 11 sets out maximum car parking levels in order to reduce traffic congestion and reduce reliance on private vehicles in the city. No car parking is proposed for the site. Bicycle parking is proposed for the site to encourage this form of transport which is considered satisfactory. The proposal is in close proximity to public transport options.

ISSUES

28. The issues identified in the above instruments/policies as non-complying or requiring further discussion in the abovementioned tables are discussed in detail below:

Heritage and Urban Design

29. The subject site is not a heritage item but is located within a heritage conservation area. As part of the proposal the internal structure and roof is proposed to be demolished with the facades retained. The proposed conversion of the warehouse into a residential building is considered acceptable from a heritage perspective and the loss of some fabric is acceptable as the facades are maintained.
30. The original proposal breached the height control for the site and was considered excessive in terms of bulk and scale resulting in a poor urban design outcome. The proposal was subsequently amended to the current simple mansard roof addition which is considered sympathetic to the building and in keeping with the overall character of the conservation area and streetscape.



Figure 7 – Original proposal prior to amendment



Figure 8 – Amended proposal

31. The bulk, height, scale and character of the amended proposal is sympathetic to the existing development. The proposal is now below the height control for the site and below the FSR which is achievable under the Affordable Rental Housing SEPP. The proposal is also considered to be generally compliant with SEPP 65.

ESD

32. The principles and technologies identified for the proposed development are as follows:
- (a) the development has been designed and the floor plans have been configured to maximise the receipt of natural light and ventilation to the living rooms and bedrooms of the proposed apartments, an internal atrium to the building has been created in order to achieve this;
 - (b) the floor plan layout employs the principles of cross ventilation to provide natural ventilation to the internal spaces of the apartments;
 - (c) bicycle storage facilities are located within the basement of the proposal to encourage the use of the bicycle as a preferred form of transport; and
 - (d) conditions of consent recommend energy efficient lighting to all areas, water efficient fixtures and a BASIX Certificate is required.

Floor Space Ratio

33. The proposal relies upon requirements of the Affordable Rental Housing SEPP Clause 13(2) (b) which allows a 20% increase over the existing control for the site for infill development, therefore under the SEPP the FSR possible for the site is 3.6:1.

34. The proposal is marginally above the South Sydney DCP control set for the site. The DCP control for the site is 3:1 and the proposal is 3:3:1 (falling below the 20% or 3.6:1 possible). The proposal is considered appropriate in regard to bulk and scale and falls within the height control for the site. No significant amenity impacts are created as a result of the development. The non compliance equates to 128.73 sqm.
35. The proposed development is suitable for the subject site and does not constitute an overdevelopment of the site in the context of the surrounding built form. The subject site is of a size that is reasonably capable of accommodating development of this scale in this location.
36. Council resolved on 19 April 2004 to apply numerical limits as the absolute maximum however the proposal improves the development, does not result in environmental impacts and provides affordable housing.

Unit Mix

37. Although the proposal still provides a unit mix the mix does not meet the unit mix as required by the DCP. The unit mix requirement was based on the 1991 Census which is 18 years old. The DCP requirement is 25% 0-1 bedrooms, 33% 2 bedrooms, 29% 3 bedrooms and 13% 4 bedrooms. Of the 32 units proposed, 23 are studio apartments, 5 are 1 bedroom and 4 are 2 bedroom. The proposed mix of units provides suitable affordable housing options close to the city. The amenity of the units is considered acceptable.
38. The site is located in a mixed use zone in close proximity to public transport and the Universities in the area. The development will increase the diversity of housing choice and socio economic diversity in the area. The proposal is also consistent with the Sustainable Sydney 2030 vision in relation to the provision of affordable housing.

Section 79C(1)(b) Other Impacts of the Development

39. The proposed development will not result in any significant additional impacts other than those already identified and discussed above.

BCA Matters

40. The BCA Classification of the building is Class 2.
41. The development is capable of satisfying the requirements of the BCA without significant modification.

Section 79C (1) (c) Suitability of the site for the development

42. The site is suitable for the proposed development.

Section 79C (1) (e) Public Interest

43. The proposed development is generally consistent with the relevant controls. In this regard it is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed on any consent.

POLICY IMPLICATIONS

44. Not applicable to this report.

FINANCIAL IMPLICATIONS - SECTION 94 CONTRIBUTIONS

Section 94 Contributions

45. A contribution is not required in accordance with the City of Sydney Development Contribution Plan 2006 as the proposal provides Affordable Housing.

PUBLIC CONSULTATION

Section 79C(1)(d)

Advertising and notification

46. Adjoining and nearby owners and occupiers of buildings were notified of the original proposal and invited to comment. In addition, notices were placed on the site and the proposal was advertised in the daily press in accordance with the provisions of the City of Sydney Notification of Planning and Development Applications Development Control Plan 2005.

47. Two submissions were received. The grounds for objection are summarised as follows:

- (a) Privacy will be affected as the building is near 16 – 20 Smail Street (opposite site)

Comment: The proposal meets the minimum separation distances between residential buildings and is located 20 metres across the street.

- (b) Cigarette smoke will blow down the street into 16 – 20 Smail Street

Comment: The proposal meets the minimum separation distances between residential buildings and this would not be an overriding reason to refuse the application.

- (c) Noise from possible tenants and construction

Comment: the proposal meets the minimum separation distances between residential buildings and is located across the street. Residential dwellings are permitted within the zone. Construction hours are subject to conditions of consent and will be limited to those hours outside of the CBD location.

- (d) The number of units will affect the security and peace of the neighbourhood

Comment: The proposal is not considered an overdevelopment of the site. The proposal is permitted within the zone and consistent with the zone objectives. Although the unit mix does not strictly comply, the provision of Affordable Housing Units is in the public interest.

- (e) The number of units and size will decrease property values

Comment: This is not a planning consideration.

Integrated Development

48. The proposal is not Integrated Development.

INTERNAL REFERRALS

49. The application was referred to Council's:

- (a) Heritage Architect;
- (b) Urban Designer;
- (c) Building Services Unit;
- (d) Health Unit;
- (e) Social Planner; and
- (f) Transport Management Unit.

50. No objection to the proposed development was raised, subject to the imposition of appropriate conditions. Appropriate conditions have been included in the recommendation of this report.

RELEVANT LEGISLATION

51. The Environmental Planning and Assessment Act 1979, Heritage Act 1977.

CONCLUSION

- 52. The original proposal breached the height control for the site and was considered excessive in terms of bulk and scale resulting in a poor urban design outcome. The proposal was subsequently amended to the current simple mansard roof addition which is considered sympathetic to the building and in keeping with the overall character of the conservation area and streetscape.
- 53. The proposal is compliant with the Height and FSR controls for the site.
- 54. The proposal meets the aims and objectives of the zone and is consistent with the Affordable Housing SEPP.
- 55. The bulk, height, scale and character of the proposal is sympathetic to the existing locality and streetscape.
- 56. The proposal adapts and reuses an existing building to provide a mix of affordable housing dwellings designed with cross ventilation and good access to sunlight and communal open space.
- 57. The proposed development will not result in any significant adverse impacts to neighbouring or surrounding properties.

58. The proposal will increase Affordable Housing in the City of Sydney which is considered to be in the public interest.

GRAHAM JAHN

Director City Planning and Regulatory Services

(Chris Corradi, Senior Planner)