



## **Planning Assessment Report**

### **Development Application**

**DA 156-6-2004**

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## **1 SUMMARY**

This report is an assessment of the proposed development the subject of Development Application number DA 156-6-2004.

The application seeks consent for the construction of 12 additional residential apartments to the approved residential development marketed as “Napoli”, raising the building from 4 to 6 storeys; reconfiguration of 4 approved apartments from single storey to double storey apartments; strata subdivision of 82 lots and common property; modification of approved basement level car park to include motorbike parking, additional bicycle parking and the relocation of bicycle parking; and site services including water and sewer, power and gas, telecommunications, and storm water drainage.

The Minister for Infrastructure and Planning is consent authority under Clause 10 of *Sydney Regional Environmental Plan No. 24 – Homebush Bay Area* (SREP 24).

It is recommended that the Minister grant consent to the development application subject to conditions.

## **2 BACKGROUND**

### **2.1 Site Context**

The subject site (the site) is located within the Waterfront Development at 3 Stromboli Strait, Homebush Bay in the Auburn local government area and known as Lot 16.

The development application was lodged with the Department on 24 June 2004 in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act), however was re-lodged with the Department on 27 September 2004 having been redesigned according to the requirements of the Department and the Sydney Harbour Design Review Panel.

The site forms part of the Waterfront Development which is bounded by Homebush Bay to the south-east, Bennelong Road to the south-west and Hill Road to the north-west. The subject site is bounded by existing and future residential development to the north, east and west and a community recreational area known as “the Activity Centre site” to the south. The site is currently under construction for a 4-storey residential development approved on 24 September 2002.

### **2.2 Relevant approvals**

The Minister granted consent to the Waterfront Master Plan in DA 114/98 which established lots, apartment numbers, footprints and a development framework of 1256 units on the entire site. The site has since been further subdivided into Lots and this Development Application is the subject of Lot 16 of the Waterfront site (formerly Lots 8 & 9).

DA 214-7-2002 approved on 24 September 2002:

This site is subject to previous development approval for the construction of a part 3 and part 4 storey residential apartment complex comprising 64 residential units, 108 car parking spaces in a basement podium, landscaping and associated site works, and strata subdivision, approved under DA 214-7-2002.

MOD 73-7-2003 approved on 2 October 2003:

The development consent was subsequently modified under MOD 73-7-2003 to modify basement configuration from two levels to one (including an additional 19 car parking spaces and relocating visitor 19 car parking to a secure area), changes to window fixtures, changes to ground floor landscaping, amendments to deep soil zones and the deletion of a high level strip of glazing from level 4.

MOD 68-7-2004 approved on 16 September 2004:

The development consent was subsequently modified under MOD 68-7-2004 to modify a series of features approved under DA 214-7-2002. The modifications extended to reducing the number of ventilation louvres on North-East basement wall, lowering the ventilation louvres on North-East wall behind the wall on the boundary, deleting the planters on level 4, amending window sizes to parts of the building, relocating the entry to selected units from the Lobby instead of the courtyard, deleting the external sliding screen louvres on levels 2 and 3 on the courtyard side, exchanging the hot water plant room with car space 13 in the basement level carpark, redistributing the bicycle parking in the basement level carpark, moving doors inside on units 103 and 114, adding steps between lower and upper basement, adding a Comms. Room added and reducing the main switch room, and redistributing the toilet windows on some elevations

### **3 THE PROPOSED DEVELOPMENT**

The proposed development seeks consent for:

- Construction of 12 additional residential apartments to the approved residential development marketed as “Napoli”;
- Reconfiguration of the approved apartments on Levels 3 and 4: Units 304, 305, 312 and 313;
- Strata subdivision for 82 lots and common property;
- Modification of the approved basement level car park to include motorbike parking, additional bicycle parking and the relocation of the bicycle parking; and
- Site services including water and sewer, power and gas, telecommunications and stormwater drainage.

#### **3.1 Amended Plans**

The development application was lodged with the Department on 24 June 2004 however was re-lodged with the Department on 27 September 2004 having been redesigned according to the requirements of the Department and the Sydney Harbour Design Review Panel.

On 27 September 2004 the Applicant, submitted amended plans and an amended Statement of Environmental Effects for the development application. The amended design proposed an additional 12 apartments, as opposed to 8 previously proposed, to be constructed above the previously approved 3 and 4-storey residential development, together with the reconfiguration of 4 of the previously approved apartments.

These amendments were accepted by the Department as a replacement application in accordance with clauses 55 and 90 of the *Environmental Planning & Assessment Regulation 2000* (the Regulations). In accordance with clause 90 of the Regulations, further notification of the application was undertaken (see Section 5.1 of this report).

The Applicant further amended the development application by submitting strata subdivision plans to be included in the assessment. These amendments were accepted by the Department.

## **4 STATUTORY FRAMEWORK**

### **4.1 Statement of permissibility**

The development is permissible under Clause 11 of SREP 24. The subject land is unzoned under SREP 24 (Homebush Bay Area Map No. 1 of 4).

### **4.2 Instrument of consent and other relevant planning instruments**

Pursuant to Clause 10 of SEPP 56 and Clause 10 of SREP 24, the Minister is the consent authority for development on land within Homebush Bay.

The environmental planning instruments, draft environmental planning instruments, development control plans, and regulations applicable to the land to which the development application relates are as follows:

- *State Environmental Planning Policy No. 32 – Urban Consolidation (Redevelopment of Urban Land)* (SEPP 32);
- *State Environmental Planning Policy No. 56 – Sydney Harbour Foreshores and Tributaries* (SEPP 56);
- *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings* (SEPP 65);
- *Sydney Regional Environmental Plan No. 24 – Homebush Bay Area* (SREP 24);
- *Homebush Bay West Development Control Plan 2004*;
- *'The Waterfront' Master Plan*.

### **4.3 Other statutory provisions**

The site is subject to the following draft documents which form the latest and most relevant detailed planning controls against which the proposal is to be assessed:

- *Homebush Bay West Public Domain Manual (Draft July 2003)*.

As no public domain works are included in this development (by way of condition), the Public Domain Manual is not relevant to this application.

## **5 CONSULTATION**

### **5.1 Public consultation**

The original application was notified, in accordance with the Regulations including:

|                                           |                                                                                                                                                                           |
|-------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Notifications landowners/occupiers</b> | – The occupiers/purchasers of Napoli, Torino, Corfu and Atlas Specialty Metals were notified by letter dated 13 July 2004 and were re-notified by letter dated 5 October. |
| <b>Newspaper advertisements</b>           | Not advertised.                                                                                                                                                           |
| <b>Site notices</b>                       | Site notice placed on site 17 July 2004 and for amended DA on 4 October                                                                                                   |

|                          |                                                                                                                                                                                |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                          | 2004.                                                                                                                                                                          |
| <b>Exhibition dates</b>  | The DA was originally exhibited between:<br>Start: 17 July 2004. End: 14 August 2004.<br>The amended DA was exhibited between:<br>Start: 8 October 2004. End: 6 November 2004. |
| <b>Exhibition venues</b> | <ul style="list-style-type: none"><li>▪ Planning Information Centre, 20 Lee Street, Sydney</li><li>▪ Auburn Council, 1 Susan Street, Auburn.</li></ul>                         |

10 submissions were received regarding the original Application.

For the amended DA, 8 submissions were received. A summary of submissions is at tag "D". Issues are considered in Section 6.2 of this report.

## **5.2 Referrals**

### **5.2.1 Integrated Approval Bodies**

The application was not integrated.

### **5.2.2 Council**

The application was referred to Auburn Council on 5 October 2004 in accordance with the Regulations. Council responded on 18 October 2004 and raised no objections or issues.

### **5.2.3 Sydney Harbour Design Review Panel**

After the lodgement of the development application, the Applicant sought the views of the Sydney Harbour Design Review Panel (SHDRP) on 20 August 2004. The following concerns were raised by SHDRP:

- The incremental changes to the development do not reflect the intent of the Master Plan for this site or the Draft DCP;
- The location of the additional height in the centre of the building does not satisfactorily relate to the existing building nor does it reinforce the primacy of the avenue as prescribed in the Draft DCP with a uniform street wall;
- The additional height is treated as extension of the lower levels rather than a separate roof element;
- The location of the additional floors in the centre of the building exposes unarticulated side walls that have a high visual impact when viewed from along the street; and
- With the additional floors, the separation between buildings across the courtyard may not comply with SEPP 65

The following recommendations were made by SHDRP:

- If additional height is permissible within the relevant planning controls, it would be preferable if the additional apartments were extended along the entire length of the street frontage to reinforce the street wall over one level;
- The corner apartments return around the corners at the ends so there are no side walls exposed;
- The additional floor is treated as a distinct attic storey consistent with the original scheme rather than an extension of the language of the lower floors; and
- The separation between buildings across the courtyard be checked and modified if necessary to ensure compliance with SEPP 65.

These matters were adequately addressed in the modified design of the development application re-submitted with the Department on 27 September 2004.

#### **5.2.4 Sydney Olympic Park Authority**

The application was referred to the Sydney Olympic Park Authority (the Authority) on 5 October 2004. The Authority responded in a letter dated 5 November 2004 and raised no objections to the proposed development. The Authority provided the following comments:

- Water Reclamation and Management Scheme (WRAMS): the development should be designed to enable its connection to WRAMS.
- Height and Density: the development should be designed to be consistent with the Homebush Bay West Development Control Plan, June 2004 with particular attention being raised to Part 3.4.3 'Topography and site integration'.

In response to these comments, it is appropriate to note:

- On the advice of Sydney Water and due to the fact that the remaining 4 storeys of residential units have not been conditioned to enable their connection to WRAMS, conditioning for the connection to WRAMS for the proposed 12 units the subject of this development application was not considered to be feasible or required; and
- The development proposal has been assessed against the Homebush Bay West Development Control Plan 2004 and was considered to be consistent with the principles relating to height and density.

## **6 CONSIDERATION**

### **6.1 The Environmental Planning & Assessment Act**

#### **6.1.1 Section 79C**

The application and the likely impacts of the proposed development have been considered in accordance with Section 79C of the Act. Significant issues are discussed below in Section 6.2.

The subject site is considered suitable for the proposed development. Submissions have been considered and issues raised in submissions are discussed in Section 6.2. On balance, the proposed development is considered to be in the public interest.

### **6.2 Issues**

#### **6.2.1 Low energy appliances**

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Issue:</b>         | Although mentioned in the appendices of the SEE, the inclusion of low energy appliances and water fixtures is not specifically mentioned within the SEE.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Raised by:</b>     | DIPNR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Consideration:</b> | <p>The applicant provides no qualitative measures on the energy rating of products to be installed within the building.</p> <p>Consequently, best practice is to ensure all whitegoods installed within the premises prior to occupancy have an energy star rating or equivalent of 3 stars or more.</p> <p>The only exception to this should be clothes dryers, where there are few clothes dryers able to achieve a 3 star rating. Instead, clotheslines should be available to the majority of units with low energy clothes dryers provided to all units to avoid the future tenants installing energy inefficient systems. As an incentive for this, it would be appropriate to determine the energy rating of clothes dryers on the proportion of units provided with clotheslines.</p> |

- Resolution:** A condition of consent will require:
- all whitegoods installed within the premises are to have an energy star rating of 3 stars or more, and
  - the installation of clotheslines with the proviso that the more clotheslines provided, the energy rating for clothes dryer may be lower.
- Consideration:** Similarly, the applicant provides no qualitative measures on the water rating of water fixtures to be installed within the building.  
Consequently, best practice is to ensure all water fixtures installed within the premises prior to occupancy have a AAA water rating or more.
- Resolution:** A condition of consent will require all water fixtures installed within the premises are to have a AAA water rating or more.

### 6.2.2 *Air-Conditioning*

- Issue:** The application is unclear whether the development will include air conditioning for residential units.
- Raised by:** DIPNR
- Consideration:** In general, air conditioning for residential dwellings is questionable and conflicts with attempts to promote sustainable development within Homebush Bay. The Homebush Bay Area DCP aims are clear in avoiding mechanical ventilation for dwellings by ensuring they are capable of natural ventilation. The plans show that the vast majority of units are capable of natural ventilation.  
The Department is aware from the Energy Rating web site maintained by the Australian Greenhouse Office that single phase air conditioners must carry an energy label and that three phase air conditioners are regulated for Minimum Energy Performance Standards (MEPS). The MEPS will apply to single phase air conditioners starting on 1 October 2004 as well as a revision to MEPS levels for single and three phase systems in 2007.  
In light of this, it would be appropriate for the development to demonstrate that air conditioning units will achieve a 2.5 star rating.
- Resolution:** A condition of consent will require, to the satisfaction of the PCA, that should any air conditioning unit systems be installed prior to the occupation of the building, they shall achieve a minimum 2.5 star energy rating.

### 6.2.3 *Solar Access*

- Issue:** There are several units within the development where the distance between the back wall of the kitchen and a window do not comply with the DCP, therefore not giving these kitchens adequate solar access.
- Raised by:** DIPNR
- Consideration:** An examination of the layout of these units suggests that re-arranging the layout of these units to ensure that this issue is addressed will result in another aspect of the apartment layout not complying with the requirements of the DCP.  
As a result, it is appropriate to condition that where possible, glass doors between the kitchens and balconies and skylights in the roof of kitchens to level 6 be added to maximise solar access to these kitchens.  
Although not all kitchens will subsequently comply with the requirements of the DCP, it is considered that for the 2 kitchens that do not comply, the internal layout of the apartment has been designed to maximise solar access as much as possible. It is considered acceptable this is an acceptable outcome for this issue.
- Resolution:** Conditions of consent will require, for the approval of the PCA:
- The door between the kitchen and balcony on the northern side of Unit 504 to be made of full length glass to maximise solar access to the kitchen of this unit; and
  - Skylights will be added in the roof above the kitchens of Units 602, 603 and 604 to maximise solar access to these kitchens.

### 6.2.4 *Acoustic Issues*

- Issue:** The layout of the proposed development is designed so that the living rooms of

- some apartments are adjacent to bedrooms in adjoining apartments, which does not comply with the requirements of the DCP.
- Raised from:** DIPNR
- Consideration:** After discussions with the Applicant on this issue and in order to comply with the acoustic privacy requirements of the DCP, the Applicant submitted a letter from *Acoustic Logic Consultancy Pty Ltd* dated 25.11.04 stating that the construction walls between the relevant apartments shall achieve a construction rating of  $Rw + Ctr$  of 53.
- Resolution:** In order to comply with the acoustic privacy requirements of the DCP, a condition of consent will require the construction walls between the following apartments to achieve a  $Rw + Ctr$  rating of 53, as per letter from *Acoustic Logic Consultancy Pty Ltd* dated 25.11.04:
- Level 5: Unit 504 (Living Room) / Unit 503 (Bed 1);  
Unit 501 (Living Room) / Unit 502 (Bed 1);
- Level 6: Unit 604 (Living Room) / Unit 603 (Bed 1); and  
Unit 601 (Living Room) / Unit 602 (Bed 1).

### 6.2.5 Wind Study

- Issue:** The DCP requires that all developments in the Homebush Bay area above 4 storeys in height require a Wind Effects Study to be completed. None such study was completed prior to lodgement of the development application.
- Raised by:** DIPNR
- Consideration:** A Wind Effects Study is to be completed to detail the effects created on the surrounding public domain, private open space areas of the development site or the Olympic Archery Centre.
- If it is found that the proposed development creates adverse wind conditions on any of the above areas, ameliorative measures will need to be implemented prior to the issue of a Construction Certificate.
- Resolution:** A condition of consent will require a Wind Effects Study to be prepared and approved by the PCA prior to the issue of the relevant Construction Certificate. If it is found that any adverse wind conditions will be created due to the construction of the development on the surrounding public domain, private open space areas of the development site or the Olympic Archery Centre, plans and reports detailing ameliorative measures shall be submitted by the Applicant for the approval of the Department prior to the issue of the relevant Construction Certificate.

### 6.2.6 Number of car spaces

- Issue:** The number of residential and visitor car spaces previously approved for the development was found to be sufficient for the number required under the DCP for the additional 12 units. The Applicant has submitted amended basement car parking plans however that show the allocation of car spaces for the additional 12 units as 30. Under the DCP, the total maximum number of car spaces allowed for the additional 12 units are 21.
- Raised by:** DIPNR
- Consideration:** After several discussions with the Applicant on this issue, it is decided that the consent will not include an allocation of car parking spaces to the additional 12 units. Instead, the consent will extend to approving an amended basement level plan showing the correct allocation of residential and visitor parking spaces for the entire 76 unit development (64 previously approved and 12 as proposed under this development application) as required by the DCP.
- Resolution:** A condition of consent will require that this consent modifies DA 214-7-2002 and MOD 73-7-2003 in terms of the allocation of car parking on the basement level only. A table will be included in the condition of consent allocating car parking spaces in the basement level of the development as to residential use, visitor use, disabled use and the previously approved car wash bay.

### 6.2.7 Provision - Bicycle parking

- Issue:** The proposed development does not meet the requirement for bicycle spaces set

- out in the Homebush Bay DCP.
- Raised by:** DIPNR
- Consideration:** Additional bicycle parking should be conditioned to comply with the requirements of the DCP.
- Resolution:** A condition of consent will require that additional bicycle spaces be added in the basement level car park in compliance with the requirements of the DCP.

#### **6.2.8 Provision – Motorcycle parking**

- Issue:** The proposed development does not provide any motorcycle parking.
- Raised by:** DIPNR
- Consideration:** This is not consistent with the Homebush Bay DCP and the development should be made to comply.
- Resolution:** A condition of consent will require that 5 motorcycle parking spaces be provided as per the requirement of the DCP.

### **7 CONCLUSION**

The Minister for Infrastructure and Planning is the consent authority.

The application has been considered with regard to the matters raised in section 79C of the Act.

The application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered.

On balance, it is considered that the proposed development is acceptable and should be approved.

### **8 CONSULTATION WITH APPLICANT – DRAFT CONDITIONS**

The applicant was asked to comment on the draft conditions of consent on 6 December 2004. The applicant responded on 15 December 2004. The Applicant generally supported the draft amendments and requested the following matters:

- (1) An error in the Lot number of the development as this has been changed through subdivision after the amended DA was lodged;
- (2) Addition to the table of modifications of consent to include strata subdivision and reconfiguration of the relevant apartments;
- (3) Delete the condition requesting the submission of a survey plan;
- (4) Change the conditions that refer to “prior to the issue of a Construction Certificate” to read “prior to the issue of the relevant Construction Certificate”;
- (5) Delete the condition relating to the NatHERS rating;
- (6) Amend the condition requiring the relevant apartments to achieve a BCA  $R_w + C_{tr}$  construction rating of 53 to 50;
- (7) Delete the reference of Council’s Waste Management Policy;
- (8) Amend the condition relating to stormwater and drainage works design;
- (9) Delete the condition relating to WRAMS;
- (10) Amend the monetary contributions to reflect an agreement made between the Applicant and Auburn Council;

- (11) Delete all conditions relating to the noise and vibration management and construction management;
- (12) Delete the condition relating to the removal of hazardous materials;
- (13) Delete the condition requiring a site audit;
- (14) Delete the condition relating to the need for wheel washers on site during construction;
- (15) Amend the condition relating to vibratory compactors to relate to large industrial scale road compaction equipment;
- (16) Delete conditions relating to the impact of below ground (sub-surface) works;
- (17) Delete conditions relating to access and services prior to strata subdivision;
- (18) Amend car parking restrictions to include visitor;
- (19) Amend the enforcing of restrictions on car parking and common areas and facilities to be through a restriction on use rather than a restrictive covenant;
- (20) Amend the restriction on use to be under Section 39 of the *Strata Schemes (Freehold Development) Act 1973*;
- (21) Delete the condition relating to the remediation of land;
- (22) Delete and amend sections of the condition relating to compliance with the conditions of strata subdivision;
- (23) Delete the condition relating to loading and unloading within the site;
- (24) Delete reference to over-head car bonnets as indicated on approved plans;
- (25) Delete parts of the advisory notes relating to Sydney Water requirements;
- (26) Change the requirement of applicant's to obtain permits and certificates to allow these to be obtained by the contractor/s;
- (27) Delete advisory notes relating to excavation; and
- (28) Delete the advisory note relating to the requirement for a remediation and validation report.

The responses to the matters raised by the Applicant are as follows:

- Items (1), (2), (4), (7), (9), (12), (14), (16), (18)-(23), (27) and (28) are acceptable;
- Items (8), (10) and (24) are acceptable however wording was changed slightly to include the Department's requirements; and
- All remaining items were unchanged in the conditions of consent as the matters raised by the Applicant were not considered persuasive.

A final draft of the conditions of consent was then sent to the Applicant on 21 December 2004 reflecting these changes. The Applicant generally supported the amendments however requested the following matters:

- (1) Include reference to a registered Architect in the condition relating to the survey plan;
- (2) Change the requirement for the average NatHERS rating to be 3.5 stars as opposed to 4 stars;

- (3) Delete the reference to SOPA in the condition relating to stormwater and drainage works design;
- (4) Delete the condition relating to the requirement of a site audit;
- (5) Apply the same changes to the car parking restrictions as requested above which were left unchanged;
- (6) Add the previously deleted part of the condition related to over-head car bonnet storage
- (7) Add the reference to the relevant Construction Certificate; and
- (8) Questioned the conditions relating to contractors as opposed to the Applicant again; and
- (9) Delete the condition requiring to air conditioners.

The responses to the matters raised by the Applicant are as follows:

- Items (1), (4), (5) and (7) are acceptable; and
- All remaining items were unchanged in the conditions of consent as the matters raised by the Applicant were not considered persuasive.

In a final discussion about the conditions of consent on 22 December 2004, the Applicant agreed to these points.

## 9 RECOMMENDATION

It is recommended that the Minister for Infrastructure and Planning, pursuant to Section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and Clause 10 of the *Sydney Regional Environmental Plan No 24 – Homebush Bay Area*:

- (A) grant **consent** to the application subject to conditions (Tagged “A”), and
- (B) authorise the Department to carry out post-determination notification.

For Ministerial Approval:

Prepared by:

Endorsed by

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