

5 October 2020

File No: SSD 7484 MOD 13
Our Ref: R/2014/39/W

Mr Marcus Jennejohn
Key Sites
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2000

By email: Marcus.Jennejohn@planning.nsw.gov.au

Dear Matthew,

State Significant Development SSD 7484 (MOD 13) – 23-33 & 33-35 Bridge Street, Sydney – Amendment to conditions F12 and G4 regarding energy efficiency targets

Thank you inviting the City to comment on the proposed modification, which seeks to amend conditions F12 and G4 regarding energy efficiency standards for the development. The applicant provided amended conditions on 29 September 2021 as per below (amendments are ***bold italicised*** and ~~***struck out***~~):

F12. Prior to the issue of the first Occupation Certificate, the Applicant is to provide to the PCA and Secretary documentation, prepared by a suitably qualified consultant, confirming that the development has been completed and assessed in accordance with the NABERS Energy Commitment Agreement and achieves a minimum 4 Star NABERS rating for hotels (Condition B25) and delivers the water mitigation measures in Condition B25 undertake an energy performance assessment in order to establish an energy target for the precinct in consultation with Council. The energy target is be supported by an Independent Design Review process.

G4. Within 12 to 18 months following the issue of the final of the first Occupation Certificate for each building, the Applicant is to provide to the PCA, and Secretary, and Council documentation, prepared by a suitably qualified consultant, confirming that the development operates in accordance with the NABERS Energy Commitment Agreement and achieves a minimum 4 Star NABERS rating for hotels (Condition B26), and delivers the water mitigation measures in Condition B25 each building:

- 1. operates in accordance the energy target (Condition F12) or documentation (where the target is not being met) that the gap between actual performance and the target is being met through:***
 - a. A Power Purchase Agreement (PPA) for external renewable electricity generation for a period of 5 years; or***
 - b. The purchase and retirement of Large-Scale Generation Certificates (LGC) for a period of 5 years.***
- 2. delivers the water mitigation measures in Condition B25.***

City staff have engaged cooperatively with the applicant's consultants (Stantec) over the past few months to better understand the purpose of the proposed modifications and attempt to create a reasonable and effective pathway to improve the energy efficiency of the development. Below I have copied correspondence from 18 August 2021, which reflects on the discussions up to that time between City staff and Stantec:

I appreciate the uncertainty in understanding what energy intensity target can be set now that the development has progressed so far along.

I reiterate that standard practice is to set a target (either NABERS or in future the energy intensity targets under the City's net zero policy) and design the scheme within the bounds of that target. The conditions of consent were originally designed in accordance with this standard practice by setting a minimum NABERS 4-star rating for the development. It was therefore unreasonable and impractical for the developer to have proceeded with the design and acquisition of plant and equipment without having confirmed that they would be able to achieve this target in modifying the development. By failing to set a target till after the design and acquisition of plant and equipment has occurred, DPIE and the City cannot be assured that the development has maximised energy efficiency. I know this must be frustrating and disappointing for you as well.

*During our meetings City staff raised our concerns with the development to date on this issue and urged the developer to establish a **reasonable** target that could be met (whether NABERS or an energy intensity limit). What we have been trying to understand and seek from you as the applicant's consultant is **how to establish a reasonable target that does not comply with any applicable or relevant policy**. You first did this by providing three options, of which the City recommended option 1. This option was then taken off the table, and the City was asked for advice as to what would be a reasonable target. We put this back on you to demonstrate as the applicant, drawing your attention to our net zero policy. We are now in a position where the applicant does not want to set a target as all relevant decisions regarding design and acquisition of plant and equipment have been made, and it is unclear what target can be achieved.*

I appreciate that you now wish to establish a target through an IDR process, which will be based on the design and acquisition of plant and equipment that have already been secured. My understanding from your correspondence is that there will be limited opportunity to drive further energy efficiency in the project.

The proposed modifications to conditions F12 and G4 confirm that the development to date has been designed without sufficient attention to maximising energy efficiency. No information has been forthcoming demonstrating that the development seeks to exceed minimum energy efficiency requirements under Section J of the NCC.

Condition F12 as redrafted is an unambitious effort to retrofit an energy efficiency target based on the design decisions already made. It is possible that the target agreed upon through the IDR process could be little more than what is achievable under Section J of the NCC. An unambitious target is unlikely to require substantive offsets as proposed under condition G4 as drafted.

The conditions as drafted will not result in substantive energy efficiency measures and, in the opinion of City staff, is not a worthwhile exercise. City staff see no value in being part of this process and ask that we not be consulted if the proposed amendments are adopted. Alternatively, City staff recommend that DPIE require the

applicant to complete the attached Better Building Partnership Section J template to confirm that they have modelled in strict adherence to the NCC modelling rules. This template could then form part of the conditions of consent.

Should you wish to speak with a Council officer about the above, please contact me on 9265 9333 or at arees@cityofsydney.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'A. Rees', written over a horizontal line.

ANDREW REES
Area Planning Manager