

Appendix G

SEPP I Objection – Motorcycle Spaces

Student Accommodation, 157-163 Cleveland Street, Redfern

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SEPP I Objection

This *State Environmental Planning Policy No 1 (SEPP 1)* objection is lodged pursuant to clause 6 of SEPP 1 in regard to a development standard contained in *State Environmental Planning Policy (Affordable Housing) 2009*.

The development application is seeking approval for a proposal which does not include the provision of onsite motorcycle spaces required for boarding houses under this clause.

It is proposed to vary clause 30(1)(h) of the *State Environmental Planning Policy (Affordable Housing) 2009*. Clause 30(1)(h), which states:

- h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.*

Under the clause, the 404 bed proposal is required to provide 81 motorcycle and 81 bicycle parking spaces. The proposal includes 135 bicycle parking spaces with no provision of on-site motorbike parking spaces.

The reasons for this objection, which are outlined below, show that in the circumstances of this case strict application of the standard is unreasonable and unnecessary.

The reason for the proposed variation relates to the nature of the development being one that encourages sustainability and discourages the reliance on motor vehicles. This is in line with Council objectives of reducing car congestion and is further supported by transportation mode and usage surveys. The progressive design and sustainability approach of no car parking means that the building does not require a basement level. Therefore, there is a limitation to possible on-site motorcycle parking.

1. Is the planning control in question a development standard?

The planning control is a parking provision standard set out in Clause 30(1) of the Affordable Housing SEPP. Clause 30(1) sets a number of standards that need to be satisfied to the consent authority prior to the granting of consent. As this is a numerical development standard, it is capable of being varied under the provision of SEPP 1.

2. If so, what is the underlying objective or purpose of the standard?

There are no stated objectives or purpose associated with the control or Clause 30 in general. It can be assumed that the overall purpose of clause 30 of the SEPP is to ensure that development for boarding houses is compatible with the local area within which it is proposed, provides adequate services/facilities for future residents and does not result in any adverse impacts (including traffic) on the surrounding area.

3. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in s.5(a)(i) and (ii) of the EP&A Act?

The objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979 are:

- a) *to encourage:*
- i. *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages*

for the purpose of promoting the social and economic welfare of the community and a better environment,

ii. the promotion and co-ordination of the orderly and economic use and development of land,

The planning control seeks the provision of car parking for motorbikes, a motor vehicle. Motor vehicles require the use of unsustainable fuels whose emissions are harmful to the environment. They also add to motor vehicle traffic congestion. The lack of motor vehicle parking spaces seeks to encourage walking whilst the provision of high quality bicycling facilities seeks to encourage cycling. These activities offer a better alternative than motor vehicle reliance, encouraging healthy lifestyles through sustainable practises.

4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? This must look at whether a development which complies with the development standard is unreasonable and unnecessary.

Compliance with the development standard is unnecessary.

In *Wehbe v Pittwater Council [2007] NSWLEC 827* Preston CJ expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

It is considered that the objectives of the standard are achieved notwithstanding non-compliance with the standard. As established, the underlying objective of the control seeks to ensure the development has adequate and appropriate parking facilities. It is considered that the provision of extra bicycle parking spaces in lieu of the provision of motorbike parking facilities maintains that the underlying objective is achieved whilst meeting preferences of students and encouraging healthy and sustainable practise.

The results of a travel survey are set out in the Transport Assessment at Appendix C of Volume 2. They demonstrate that compliance with the standard is unnecessary. The report estimates motorcycle demand, based on the results of a survey regarding motorcycle ownership and travel patterns of students at Urbanest's nearby student accommodation facility in Quay Street. Based on the low proportion of students that choose this mode of transport, an actual demand for motorcycle/scooter spaces is predicted to be in the order of 7-8 space which is roughly equivalent to one kerbside space. There is ample space in the surrounding streets for the provision of a single space for motorcycles, equivalent in area to approximately one car space. Alternatively, this low demand can be absorbed in the existing on-street parking availability.

5. Is the objection well founded?

The travel characteristics survey carried out for Urbanest's Quay Street facility has findings that support the provision of bicycle parking spaces instead of motorbike parking spaces.

The objection is well founded as it is consistent with council objectives, meets target demands, achieves the objective of the standard notwithstanding the variation and achieves an overall better outcome for the development.