



Department of Planning & Infrastructure
23-33 Bridge Street
Sydney NSW 2000

Attn: Ben Lusher / Amy Watson

14 April 2014

Re: 1 Lawson Square, Redfern – SSD 549-2012

Dear Ben and Amy,

Further to the recent discussions with the applicant and yourself, please find attached the final amended submission for assessment and determination. The revised package includes:

- Revised architectural design package;
- View impact assessment addendum;
- Architectural Design Statement; and
- Revised SEPP 1 objection to FSR development standards.

A description of the proposed amendments to the design is provided in the following section.

Proposed Design Changes

An outstanding issue of concern has been the impact of the proposed development on views from units 1802 and 1803 at 157 Redfern Street, Redfern.

Arising from the meeting held on 20 February 2014, the applicant undertook to explore amendments to the design of the building to provide a level of view impact commensurate with the view impacts of the building height controls which apply to the site and which retain the design integrity of the proposal.

To achieve the desired outcome of minimising or avoiding view impacts, the western tower has been redesigned from levels 15 to 17.

The westernmost units in Tower 1 have been deleted from levels 15, 16 and 17. The deletion of the dwellings from Tower 1 has occurred west of the void in the façade providing a logical transition point. The impact is the reduction in total dwellings by six (6) comprising three (3) studio apartments, and 3 x 2 bedroom dwellings. At level 15, a communal roof terrace is now provided.

As a result of the proposed modification, the development now comprises 156 units (reduced from 162) and the total gross floor area is 12,741m² (reduced from 13,156m²), resulting in a floor space ratio (FSR) of 7.51:1 (reduced from 7.75:1).

Below Level 15, the design of the proposal does not alter.

The design integrity of the amended proposal is addressed in the architect's design statement, which is included in this submission package.

Residential Amenity

The deletion of the dwellings from the western tower above level 15 has introduced the opportunity for communal open space. The previous scheme did not accommodate communal open space areas. The design refinement now provides this amenity opportunity which is considered to be a positive additional outcome.

View Impacts

The substantive issue to be resolved related to mitigating impacts upon views from units 1802 and 1803 at 157 Redfern Street, Redfern. A detailed view impact assessment has been prepared by the project architect based upon existing views from within these two (2) dwellings.

The approach has been to compare the existing views with the view that would result from the application of the relevant height controls and the proposed building as amended for dwellings 1802 and 1803. This has been tested for all available views. The detailed view analysis prepared by Candalepas Associates assesses all views available in both dwellings.

For apartment 1802, the proposed development either has no impact upon views or outlooks, or has less impact than the envelope established by the height controls. The impact upon views to dwelling 1802 is considered to be negligible to minor, in accordance with the Tenacity Planning Principle.

In considering the impacts upon the views and outlooks available from unit 1803, it is noted that the proposal has no impact upon views 1, 2, 3, 6, 12, 13, 14, 19 and 20.

The remainder of the views and outlooks are impacted upon by the proposal. In all instances, the impact of the proposal is less or substantially less than the impacts that would arise from a development which strictly complied with the building height controls that apply to the site.

The view impacts for dwelling 1803 are considered to be moderate, but considered in the context of the height controls applying to the subject site are acceptable, and of an extent that would reasonably be expected for any development occurring at 1 Lawson Square, Redfern.

Conclusion

The proposal has been revised to respond to the view impact concerns raised by adjoining property owners, while also maintaining the design integrity and excellence of the proposal. The view impacts have been mitigated to a level substantially less than would arise from the applicable height controls. The revisions have also facilitated the incorporation of communal open space not previously proposed. The form of the building is considered to be acceptable and suitable for support of the SEPP 1 variation to the floor space ratio development standard that applies to the site.

The Department's support and approval of the proposal is now sought.

Should you wish to discuss any of the above matters, please do not hesitate to contact me on (02) 9380 9911 or by email at sbarwick@sjb.com.au.

Yours sincerely



Scott Barwick
Associate Director

Encl.

· SEPP 1 Variation to FSR Statement



SEPP 1 Objection –
Clause 21(2) – Floor
Space Ratio

1 Lawson Square
Redfern

April 2013

Table of Contents



1.	Introduction	4
2.	Proposed Development	4
3.	Principles for SEPP 1 Objections	4
3.1	Is the planning control in question a development standard?	5
3.2	What is the underlying purpose of the standard?	5
3.3	Is compliance with the development standard consistent with the aims of the Policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the <i>EP&A Act 1979</i> ?	5
3.4	Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?	6
3.5	Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case?	6
3.6	Is the objection well founded?	7
3.7	Would non-compliance raise any matter of significance for State or Regional Planning?	7
3.8	Is there a public benefit of maintaining the planning standard?	7
4.	Conclusion	7

State Environmental Planning Policy No.1 Development Standards – Objection to Clause 21(2) of Schedule 3, Part 5 of SEPP (Major Development) 2005

1. Introduction

This is a SEPP No. 1 Objection to clause 21(2) of Schedule 3, Part 5 of SEPP (Major Development) 2005 that provides standards for the floor space ratio (FSR) for sites within the former Redfern-Waterloo Authority area.

Clause 21(2) restricts development on the subject site to a maximum FSR of 7:1.

The wording of clause 21(2) states:

“The floor space ratio of a building on any land that is the subject of the Floor Space Ratio Map is not to exceed the floor space ratio shown for the land on that map.”

2. Proposed Development

The site is zoned E-Business Zone – Commercial Core under the provisions of SEPP (Major Development) 2005. The development proposes alterations and additions to the existing commercial towers to convert them to a mixed use development incorporating, retail, commercial and residential uses. The works propose additions to the existing towers to extend them to a height of 18 Storeys.

The Floor Space Ratio map identifies that the site is subject to a maximum FSR of 7:1. The proposed development results in a total FSR of 7.51:1.

3. Principles for SEPP 1 Objections

This SEPP 1 objection seeks a variation to the ‘subdivision’ development standard applying to the site. The decision of Justice Lloyd in *Winten v North Sydney Council* identifies the principles against which a SEPP 1 objection must be considered. These are:

- Is the planning control in question a development standard;
- What is the underlying object or purpose of the standard;
- 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 section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979*;
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case;
- Is a development which complies with the development standard unreasonable or unnecessary; and
- Is the objection well founded.

In addition, the decision of Justice Preston in *Wehbe V Pittwater [2007] NSW LEC 827* detailed that in considering granting concurrence to a variation, the requirements of clause 8 (a) and 8(b) of the SEPP should be considered, being:

- (a) *whether non-compliance with the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

The above principles are addressed in detail below.

3.1 Is the planning control in question a development standard?

The planning control in question is a development standard for the floor space ratio achieved by a proposed development.

Clause 21(2) requires development to not exceed the floor space ratio nominated on the Floor Space Ratio Map.

The control is a numerical development standard and therefore is capable of being varied under the provisions of State Environmental Planning Policy No.1 – Development Standards.

3.2 What is the underlying purpose of the standard?

The floor space ratio control does not include specific objectives. An understanding of the intent of the control can be derived from the Redfern-Waterloo Built Environment Plan (Stage 1) which includes objectives for the area to:

- Reinforce Redfern as a major employment node;
- Create an active hub for the centre at the station;
- Achieve a consistent block edge to reinforce the main street character of the centre; and
- Achieve a transition in urban scale to residential areas.

The proposed development is considered to be consistent with the intent of the control for the following reasons:

- The proposed building is comparable with the bulk and scale of the anticipated and adjoining existing development;
- No substantive adverse impacts arise from the non-compliant FSR proposed;
- The maximum building height achieved is consistent with the height control that applies to the site;
- The proposed FSR maximises the utilisation of the site in a well serviced location for transport that can contribute to reducing reliance upon travel by private vehicles;
- The proposal reinforces the status of the area with a prominent well designed building; and
- The proposal reinforces the activation of the precinct in the vicinity of Redfern Station.

3.3 Is compliance with the development standard consistent with the aims of the Policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the *EP&A Act 1979*?

The aims and objectives of State Environmental Planning Policy No.1 – Development Standards are as follows:

“To provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or necessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.”

The objectives set down in Section 5(a)(i) and (ii) are as follows:

“(a) to encourage

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural area, forest, mineral, 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...”*

Compliance with the Policy would not hinder the attainment of the objectives of section 5(a)(i) and (ii) of the Act, which are to encourage development that promotes the social and economic welfare of the community and a better environment, and to promote and coordinate orderly and economic use and development of land.

Strict compliance with the development standard would not result in any discernible benefits to the community given that no material disadvantage arises and no hindrance to the development potential of adjoining sites results.

Further, the proposal satisfies the zone objectives, therefore strict compliance with the standard is not required in order to achieve compliance with the intent of the Floor Space Ratio control.

Strict compliance would result in an inflexible application of policy. It does not serve any purpose that is outweighed by the positive outcomes of the development.

The development as proposed is consistent with the provisions of orderly and economic development.

3.4 Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?

Yes. In the circumstances of the case, the provision of strict numerical compliance would be unnecessary and unreasonable on the basis that:

- The floor space proposed is accommodated in a built form that is consistent with the height of buildings contemplated for the area;
- The bulk and scale of development is consistent with the intended outcome of the controls applying to the site;
- The additional floor space does not result in excessive bulk and scale;
- The additional floor space does not result in any significant detrimental impacts to surrounding development; and
- The development is consistent with the objectives of the zone.

Given the circumstances of the case, the provision of strict numerical compliance would be unnecessary and unreasonable on the basis that the proposed development achieves compliance with the objectives of the standard.

3.5 Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case?

The development is for the retention and re-use of the existing towers. The footprint of the existing towers has been extended to the height limit applying to the majority of the site in a uniform manner. The consistent profile this presents is a clear marker for the northern end of the Redfern Town Centre which is considered to be an important element of the design. Imposing a strict numerical compliance would lead to a loss of the symmetry of the two (2) towers and the consistent uniform profile presented.

In addition, the floor plate has been resolved to be functional and efficient utilising and extending the existing cores. Reductions would lead to smaller and tighter floor plates.

Importantly, the non-complying FSR does not result in meaningful adverse impacts upon the development potential of nearby land or upon the amenity of surrounding development.

A development which complied with the development standard would therefore be unreasonable and unnecessary for the following reasons:

- It is unnecessary to require the development to comply with the numerical development standard in this instance as the resulting building is of a high architectural standard that is consistent with the bulk and scale anticipated for the site;
- It is unnecessary to require the development to comply with the numerical development standard in this instance as no substantial adverse impacts arise;
- It is unreasonable to require compliance as the opportunity to maximise the development potential of a well located and serviced site would be diminished for no discernible benefit or purpose;
- It is unnecessary to achieve strict numerical purpose as no discernible planning purpose is served by such a requirement; and
- It is unnecessary to require the development to comply in this instance in order to achieve compliance with the underlying development standard as the objectives for the development of the locality have been achieved.

3.6 Is the objection well founded?

Yes. It is concluded that the objection is well founded as compliance with the standard is both unnecessary and unreasonable. Notwithstanding strict numerical compliance, the development is well founded for the following reasons:

- The scale of the proposed development is comparable with existing and proposed development in the locality; and
- Compliance with the floor space ratio would not achieve a better planning outcome.

3.7 Would non-compliance raise any matter of significance for State or Regional Planning?

The non-compliance will not raise any matter of State or Regional Significance. The variation relates to a 10% increase in floor space.

Support of the variation will not impact upon State or Regional Planning considerations.

3.8 Is there a public benefit of maintaining the planning standard?

There is no desirable public benefit in seeking to strictly apply the standard in this instance.

4. Conclusion

The proposed variation is based on the reasons contained within this submission.

The objection is well founded as compliance with the standard is both unnecessary and unreasonable for the following reasons:

- The scale of the proposed development is comparable with development anticipated by the controls and existing adjoining development;

- Compliance with the floor space ratio control would not achieve a better outcome with the proposed design and site treatment appropriate in this immediate context; and
- The proposed building will be a marker in the skyline that presents an elegant symmetry that would be diminished if the upper levels were required to be reduced.

Variation of clause 21(2) of Schedule 3, Part 5 of SEPP (Major Development) 2005 is sought.

A development strictly complying with the numerical standard would not serve any planning purpose or outcome nor significantly improve the relationship of the development to surrounding land uses. In the context of the locality, it would be unreasonable for strict compliance to be enforced, given the approach to adapt and re-use the existing buildings on the site.

It is concluded that the objection is well founded as compliance with the standard is both unnecessary and unreasonable.