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Your Ref: SSD-10384

Emily Dickson
Senior Planning Officer – Key Sites Assessments
Department of Planning, Industry and Environment

By Planning Portal

Dear Emily

Request for Advice – Sirius Redevelopment – 2-60 Cumberland Street, The Rocks (SSD 10384)

Thank you for your correspondence dated 19 November 2020 requesting for the City of Sydney Council (“the City”) to comment of the State Significant Development (SSD) application for the adaptive reuse, alterations and additions to the Sirius building.

It is acknowledged that the proposed detailed design is a product of an invited single-stage design excellence competition. The Design Jury selected the scheme presented by BVN to be the winner and the most capable of achieving design excellence through design development. The Jury recommended that aspects relating to the architectural language of the Cumberland Street commercial building, access to the development’s pool and gym, use of the Phillip Room and overall architectural detailing required further refinement.

The City has reviewed the supporting information provided with the SSD, which generally adopts the recommendations of the Design Jury arising from the design competition process. Accordingly, **the proposal is generally supported**, subject to further consideration of the following matters:

1. Affordable Housing

Sustainable Sydney 2030 sets out core goals for housing within the LGA. These include providing an adequate supply of housing to cater for the needs of the growing and diverse population, including the needs of very low to low income households.

It is envisioned that in order to achieve the housing objectives, at least 138,000 dwellings are to be provided in the city, including 48,000 additional dwellings as well as at least 7.5 percent of all city housing is to be provided as affordable rental housing delivered by not-for profit or other providers.

The proposed development does not provide affordable housing. It is disappointing that no greater effort is made to retain the historical provision of affordable housing on the site.

The submitted Social Impact Assessment, prepared by Cred Consulting, dismisses the NSW Government's historical decision to divest the Sirius site and its former use for social housing. The Assessment does not highlight the support expressed by the community to retain social and affordable housing on the site.

Community insights and feedback from previous engagements for the site highlighted a number of key concerns including loss of social history and stories through the relocation of residents. Should no affordable housing be provided on the site, the City strongly encourages that the social significance of the Sirius building be reflected throughout various aspects of the development.

The retention of Phillip Room as a communal space and the conservation of the Rosier relief sculptures is a positive social benefit allowing for past social and cultural histories to be reflected within the development. The proposal presents an opportunity to revive the past important local stories and history of the site in the public domain and future public art. It is important to ensure the recommendations of the future public art strategy be implemented to allow for engagement with those residents who were relocated and who may still come back to the local area for a sense of place, connection or local services. Moreover, this would also allow future generations to converse with the history and place of the Sirius building.

2. Diversity

The City is committed to be an inclusive and accessible city for everyone, now and in the future. The City seeks to meet its legislative obligations under the *NSW Disability Inclusion Act 2014*, *Disability Discrimination Act 1992* and the *NSW Carers (Recognition) Act 2010* and create a truly inclusive city by providing equitable opportunities for participation for people who live, work and visit the city.

The submitted Access Impact Report, prepared by Morris Goding Access Consulting, makes an argument for “unjustifiable hardship” as per the provisions of the Disability Access to Premises Standards 2010 having regard to the existing condition of the building. The Guideline on the Application of the Premises Standard (GAPS) from the Australian Human Rights Commission, explains the following:

- If a developer and anyone else associated with a project (including a certifier) considers that full application of the Deemed-to-Satisfy Provisions of the Access Code would result in unjustifiable hardship and that there was no suitable Alternative Solution available they could proceed with a project while not fully complying with the Access Code.
- If they did proceed with a project without fully complying with the Access Code, they may be subject to a DDA complaint if a person with a disability experienced discrimination as a result of the decision to proceed without full compliance. Retaining the provision for unjustifiable hardship as an exception under Section 4.1 of the Premises Standards provides a legal means of defending such a decision if subject to a complaint.
- There is no mechanism in the DDA or the Premises Standards for anyone to give prior approval for non-compliance with any part of the Premises Standards on the ground of unjustifiable hardship. Unjustifiable hardship cannot be determined without reference to the particular facts of an individual case. It is only a court that can

conclusively determine whether or not a defence of unjustifiable hardship is made out in the context of specific complaints.

The GAPS explains that in NSW, a certifying authority must *under clause 187 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)* seek the approval and concurrence of the Director-General of the Department of Planning and Infrastructure to proceed with issuing a Construction Certificate for a proposal that involves a non-compliance with a specified provision of the BCA.

A certifying authority may apply to the Access Advisory Committee, established by the NSW Building Professionals Board, for its advice as to whether compliance with the Premises Standards would, in the particular circumstances of a proposed development, involve unjustifiable hardship.

Where the Committee makes a recommendation that unjustifiable hardship has been made out, under delegation from the Director-General the Committee may give its concurrence to the relevant requirements of the BCA not having to be complied with when assessing the Construction Certificate. It should be noted that amendments to the EP&A Regulation are being sought to extend these provisions to complying development certificates and to make the referral of applications involving unjustifiable hardship to a committee such as the Access Advisory Committee a mandatory requirement.

In light of the above, the issue of unjustifiable hardship must be adequately considered and assessed by the appropriate Access Panel.

3. Design of Adaptable Units

The Access Impact Statement, prepared by Morris Goding Access Consulting, notes that the concept of adaptable housing is to design units with provisions in place from the outset, or pre-adaption, so they can be easily adapted to meet changing needs of residents in the future (post-adaption) in accordance with the Australian Standard As4299-1995 Adaptable Housing.

The extent of changes required in the adaptable apartments between pre to post adaptation is extensive and could not be considered as 'easy' adaptation as the report outlines. It would require an extensive budget as the adaptations include demolition and rebuilding of the large kitchen island, demolition and relocation or rebuilding of the laundry, including non-structural wall removal, complete modification of the bathroom, including removal of all bathroom elements inclusive of non-structural walls as well as removal of bedroom joinery, thus removing half the robe storage area, which is not relocated elsewhere.

It is critical that modifications to adaptable housing are relatively easy to do with minimum inconvenience and minimum cost. The changes required in the proposed adaptable apartments are extensive and will be at great cost. Accordingly, the adaptable apartments should be reconfigured pre-adaptation to include easy, lower cost modifications post-adaptation.

4. Heritage

Whilst there has been much consideration given to the additions and adaptive reuse of the Sirius Building, heritage aspects related to the building itself are lacking and require further information.

It is acknowledged that the site is not individually listed. However, the building does have significance in its own right, which has been recognised by the National Trust and by NSW Heritage Council as a place of heritage value. The Heritage Impact Statement, prepared by Urbis, is silent on heritage interpretation. This is a major omission. The Public Art Strategy submitted with the application, suggests that there are likely to be some cross over with heritage. With a site of such significance, there should be a heritage interpretation plan, which is integrated in the design of the development. It should be prepared by a suitably qualified and experienced heritage consultant and historian and should address the historical, social and aesthetic significance of the place, the significant physical elements such as four wooden sculptures, the community rooms, the red carpeting, foyer timber slatted waving ceiling, community room wall paper and the like.

Apart from some mention that the external off-form concrete is to be conserved as well as the Phillip Room, there are no details of what this entails or of any conservation works to the building. Significant elements should be conserved including its off form concrete and render, the slatted waving ceilings in the foyer, the four wooden sculptures designed by Penny Rosier, and the Philip Room including the fabric to be retained within it, its spatial volume and how it is to relate to the proposed through site link.

A schedule of conservation works, keyed to drawings, prepared by a suitably qualified architect that is experienced in heritage conservation works should be required to be prepared. The recommendations detailed in the historical archaeological assessment for the site and public domain works should be made as conditions of conditions.

5. Urban Design

a. Undersized 1-bedroom apartments

The submitted ADG Compliance Table, prepared by BVN, specifies that the proposal complies with the minimum apartment sizes stipulated under Section 4D of the Apartment Design Guide (ADG).

However, the architectural plans illustrate that the proposed studio apartments, such as 12.13.05, are not studios but undersized 1-bedroom apartments with an area of approximately 44sqm. The proposed layout does not reflect the definition of a studio apartment, which relies on the sharing of spaces to make up for the small apartment size and as such, does not comply with the minimum 50sqm requirements of the ADG.

It is noted that the Design Guidance for this Section of the ADG outlines that where minimum areas or room dimensions are not met, apartments need to demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas. These circumstances would be assessed on their merits.

Having regard to the above, clarification is sought as to whether the studios are 1-bedroom units. It must be acknowledged and demonstrated that the numerical departure to the minimum internal area prescribed by the ADG would enable the usability and functionality of the space and provide adequate amenity within the dwelling.

b. Materials and Finishes

The materials and finishes information are inadequately detailed to understand the proposed appearance of the building beyond 'general'. For instance, the glass balustrades, identified as GL-02 to the balconies have no information about the colour and finish of the glazing. More information is required on the beige brick mix proposed.

6. Public Domain

It is acknowledged that the public domain areas fronting this proposal along Cumberland Street and Gloucester Walk are in the ownership of Place Management NSW (PMNSW). Each frontage consists of varying materials and treatments that are typical of the area. Cumberland Street includes asphalt footways and stone kerbs adjacent to the brick frontage of the development. It is noted that it is proposed to replace the asphalt with bluestone paving, a material endorsed by PMNSW, which is being implemented across the heritage precinct.

Gloucester Walk includes clay brick paving, a stone edge topped by an ornamental balustrade, with some planting and trees in pockets. Overall the quality of the public domain is generally aged and in need of some upgrades to remove some areas of disrepair.

It is understood that Property NSW is driving the bluestone paving upgrade in this area. Traditionally, the character material has been brick paving for heritage areas of The Rocks, however, a contrast is welcomed. The City does not have a bluestone specification for paving. As such, the annotations on the drawings should be clarified to refer to paving patterns. Care should be taken to respect the heritage of The Rocks as well as the Sirius building in selecting materials that are sympathetic to the character of the building. Surfaces should ideally include matt finishes, particularly along property boundaries on Cumberland St.

There are some gradients across Gloucester Walk that direct stormwater towards the internal lifts in the development, which are below the footway level. Details have not been provided to illustrate how this water is intercepted. The levels for vehicle access from the southern end from Cumberland Street are unclear. Further details are requested to identify any access and stormwater issues.

The relationship between the motorcycle parking at the north end of Cumberland Street has some trip hazards. It is neither road nor footway and could be better integrated the development. Further, the terrace and open space at the north end of Cumberland Street seems unclear as to its connection to adjacent spaces. The proposed ramp could have a more open frontage to the street rather than being concealed behind a wall.

The City has adopted MUSIC-link for assessing Water Sensitive Urban Design (WSUD) compliance for developments. A stormwater quality assessment for the proposed development must comply with the City's specific modelling

parameters as adopted in MUSIC-link. A certificate or report from MUSIC-link and the electronic copy of the MUSIC Model must be submitted for review and approval with the stormwater quality assessment report.

7. Traffic and Transport

Given the proposed development involves a residential land use, the loading and service vehicle arrangements should be designed to accommodate Council's waste vehicle in accordance with the provisions of Sydney DCP 2012.

The 70 residential vehicle parking spaces is in excess to the maximum of 50 spaces permitted under the Sydney LEP 2012. Vehicle parking should be constrained so as to be aligned with the City's sustainable transport objectives and having regard the highly accessible location of the site to walking, cycling and public transport. The development should provide parking for car share as per the Sydney DCP 2012 rates.

The proposed bicycle parking arrangements are unclear. Residential bicycle parking should be provided as Class A/1 or Class B/2 at the appropriate security level. Should bicycle rails be provided for residential bicycle parking, they need to be in a secure room as per Class B facility requirements and be easily accessible. Visitor parking should be provided at an easily accessible at grade locations close to major entrances. The arrangements for bicycle parking for the commercial land uses and associated end of trip facilities are unclear. The good design of end of trip facilities should not be underestimated.

8. Landscaping and Tree Management

The submitted Arborist Report, prepared by Landscape Matrix, recommends the removal of 12 moderate value trees, 23 low value trees and 10 very low value trees to facilitate the development.

It is acknowledged that trees within the public domain surrounding the site are owned and managed by PMNSW. The City does not object to the removal and replacement of trees, subject to a future high-quality canopy coverage being provided for the site.

The proposed development would substantially reduce the existing 25% canopy cover of the site. Significant replanting must occur to ensure the canopy coverage is maintained.

The minimum 15% canopy cover requirement under the Sydney DCP 2012 typically applies to sites within The Rocks. However, the development should strive to provide 30% canopy cover, similar to other SSD applications such as the Waterloo Metro Station. 30% canopy cover is recognised as the coverage required to provide community health benefits and to mitigate urban heat. The architectural and landscape plans should be altered to achieve this canopy target.

It is likely that the proposed works to the eastern façade will require the pruning of the two substantial Plane Trees, being trees numbers. 50 and 51. A pruning specification, prepared by an AQF5 Arborist, should be submitted prior to the issuing of a Construction Certificate.

The proposed awning on Cumberland Street should be amended to be a minimum of 1800mm from the face of the kerb to allow for potential future street tree planting. Street tree planting should be undertaken on the Cumberland Street frontage. Similar to the proposed installation of the City specified smart poles, the tree planting should be undertaken in accordance with the City's Street Tree Masterplan specifications.

9. Environmentally Sustainable Design (ESD)

The ESD Report, prepared by Flux Consultants, specifies the proposal can accommodate approximately 200sqm of photovoltaics for solar energy on the roof of the development. It is anticipated that 53,143kWh of electricity would be generated as a result and meet 10% of the development's annual energy demands. The City strongly supports this renewable energy commitment.

However, it should be noted that the figure specified above relates to the 6 new dwellings created by the development and not the dwellings contained within the shell of the existing building. This results in a Basix score that is artificially inflated for the entire development. It would be more appropriate for the Basix Certificate to claim only a portion of the total photovoltaic value of the 53,143kWh system, being 6 out of the 76 dwellings. In this way, the Basix score for the new dwellings would accurately reflect the green house performance of the new additions in isolation to the performance of the existing building.

Should you wish to speak with a Council officer about the above, please contact Reinah Urqueza, Specialist Planner, on 9265 9333 or at rurqueza@cityofsydney.nsw.gov.au

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A-T', enclosed within a thin black rectangular border.

Andrew Thomas
Acting Director
City Planning | Development | Transport