

# A D D E N D U M

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## ADDENDUM TO REPORT OF LARA HUCKSTEPP, EXECUTIVE PLANNER

**SUBJECT:** 7-19 ALBANY STREET, ST LEONARDS  
**APPLICATION NO.** 2014SYE067 – DA167/14  
**AUTHOR:** LARA HUCKSTEPP, EXECUTIVE PLANNER  
**DATE:** 5/11/2014

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### SUMMARY

This addendum addresses two issues. One is an additional submission that has been received. The other issue is a response to the request to the applicant for amendment to a number of conditions.

#### 1. ADDITIONAL OBJECTION

A submission was received by Council on 26 June 2014 regarding the proposed development application. This submission has been **previously** forwarded to the JRPP in full. However, the submitter has raised concerns that their concerns were not fully outlined within the report, including a typographical error regarding the apartment level, and outlines that *'While we understand that this will not affect the Council's recommendation on this proposed development, we would appreciate that the submission details be corrected prior to this week's meeting on the 6<sup>th</sup> of November'*.

For clarity, the objection is outlined in full below:

*We are writing to object to the proposed development at 11-19 Albany Street, St Leonards (DA 167/2014).*

*We are owner occupiers of an apartment at 34 Oxley Street, St Leonards. Our apartment is on the fifth floor of the building and has a single north facing aspect across Pole Lane to the proposed development.*

#### **Height of Building and Reduced Solar Access**

*The proposed development building height of 40 meters exceeds the relevant height control as per the North Sydney LEP. The North Sydney Council's mapping system provides for a height control for the proposed development of 26 metres.*

*The specific objectives of the building height control are set out in Part 4, Clause 4.3 of the North Sydney LEP 2013;*

*"(c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development"*

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*With reference to the shadow diagrams provided by the applicant, the height of the proposed development appears to significantly reduce solar access to our apartment to less than two hours during the winter solstice.*

*Approval and construction of this development will result in a significant reduction in our amenity and the enjoyment of our apartment. Therefore we strongly believe that this Development Application should not be approved.*

The main issues raised are addressed below:-

**Issue:** The proposed building height of 40m exceeds the relevant height control as per the NSLEP, where Council's mapping provides for a building height of 26m.

**Response:** Since the lodgement of the subject Development Application, LEP Amendment No.4 was gazetted on 11 July 2014 which amends the maximum height control on the subject site from 26 – 40m. It is noted that Council's maps have been amended accordingly.

**Issue:** The objectives of the Building Height Control are set out in Part 4, Clause 4.3 NSLEP 2013 which requires (c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development*. The height appears to significantly reduce solar access to our apartment to less than two hours during the winter solstice.

**Response:** As can be seen on the shadow diagrams, a number of apartments will be overshadowed by the proposed development to less than 2 hours including the subject apartment, which will be reduced to approximately 1 hour of sunlight during the midwinter solstice (after 2pm). During the equinox, the subject apartment will receive solar access up until approximately 9.30am, and then from 1.30pm onwards.

It is acknowledged that this overshadowing impact is an unfortunate impact for the property owners and occupiers. As set out within the report, the impacts are caused by building elements which comply with the Building Height Control of 40m and on balance, is supported despite the non-compliance with solar access provisions.

It is noted that the tower design was developed in part to improve amenity and privacy to the north-facing apartments within No.34 Oxley Street. Whilst the overshadowing impacts are unfortunate, they are considered to be a generally expected outcome of development on the site, particularly given the density of the locality and the non-complying SEPP65 setbacks that are provided on the adjoining site at No.34 Oxley Street.

## **2. RESPONSE TO SUBMISSIONS**

A meeting has been held between the Council Officer and the applicant to discuss a number of issues with the conditions of consent. The request and outcome is briefly discussed below and an amended draft condition set is attached.

**Condition Changes Recommended**

2.1. **CONSTRUCTION CERTIFICATE REQUIREMENT** - The applicant has requested that the wording in a number of conditions be amended to request that the conditions be satisfied prior to a construction certificate, rather than prior to **any** construction, to allow flexibility in the commencement of early works. The conditions the subject of the request include:

- C16 – Waste Management Plan
- C19 – Reflectivity index of glazing
- C20 – Roofing materials
- C21 – No external service ducts
- C24 – Parking Meter relocation
- C25 – Bicycle storage and parking
- C26 – Accessible parking spaces to be provided
- C36 – Awnings, footpaths, entries and fire exit details
- C38 – Garbage and recycling facilities
- C40 – Location of Plant
- C44 – Acoustic privacy (residential)
- C47 – Provision of accessible paths of travel
- C49 – Adaptable housing
- C53 – BASIX Certificate
- C54 – Under awning lighting
- C55 – Outdoor lighting

No objection is raised to the amendment of the wording to the above conditions in this instance.

2.2. **CONDITION C26 – ACCESSIBLE CAR PARKING SPACES** – This condition requires that 18 accessible car parking spaces are provided to align with the 18 accessible apartments that are proposed. The applicant advises they only seek to provide 11 accessible car parking spaces and have provided justification from an access consultant that this aligns with relevant access requirements. No objection is raised to the amendment of this condition to instead require 11 accessible car parking spaces.

2.3. **CONDITION G25 – SIGNAL SYSTEM** – The applicant raised concern that there is no single lane ramp proposed within the development. It is confirmed with Council's Development Engineer that the intent of this condition is to require an external signal system to alert pedestrians that a car is exiting the premises. This is necessary for safety reasons due to the lack of sight lines, and the gradient of the ramp. It is recommended this condition be amended to accurately reflect the requirement.

2.4. **CONDITION C48 – UNDERGROUND ELECTRICITY AND OTHER SERVICES** – The applicant advises that there are no overhead wires requiring removal and requests paragraph 2 be deleted. This is considered to be reasonable in this instance and the condition is recommended to be deleted. It is noted that the existing electricity power pole on the corner of

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Oxley and Albany Streets provides a street light. Any removal or replacement of this infrastructure should be pursued through Ausgrid and Council as a separate issue.

**2.5. CONDITION C40 – LOCATION OF PLANT** – The applicant seeks an amendment to provide air conditioning units on two rows of balconies and advises the alternative would be to provide the plant on the rooftop wherein additional height would be required. The applicant advises these structures will be below balustrade height, and given their relative distance from adjoining properties, it is considered the placement of air conditioning units in this location is reasonable. It is recommended the condition be amended.

**Condition Changes Not Recommended**

**2.6. CONDITION C1 – ALL WORKS WITHIN THE SUBJECT SITE** – The applicant proposes some architectural features to protrude over the boundary on Albany Street on all levels below the podium. The features will protrude approximately 450mm. No owner's consent has been sought from Council nor granted for these features and they therefore cannot be approved in any case. Notwithstanding owner's consent, there is considered to be no reasonable justification as to why the works cannot be contained within the subject site. No amendment to this condition is supported. In addition, this raises another concern that the architectural detailing will be deleted which is not supported. An additional condition is therefore recommended to reinforce this requirement.

**2.7. CONDITION C5 – DETAILS AND DESIGN OF 3M SETBACK ON OXLEY STREET** – The applicant advises that protrusions of approximately 200mm are proposed on the Oxley Street façade, predominantly at the door ends at ground and first floor level into this 3m setback. Whilst this is considered to be minor, this encroachment would be contrary to the VPA and a formal amendment would be required to the VPA. Given this would obstruct the 3m public access, such an encroachment would be inconsistent with the intent of the requirement. No amendment to this condition can be supported.

**2.8. CONDITION C27 – PROVISION OF A CAR WASH BAY** – The applicant requests the deletion of this condition, outlining that this is an unnecessary requirement. Section 10 NSDCP requires that residential development containing 4 or more dwellings should provide a car wash bay within a visitors parking area. It is considered that there is adequate space in which to provide a car wash in the basement, and that it would be of utility to residents in the building. The removal of this condition is not supported.

**2.9. CONDITION 29 – REQUIRED INFRASTRUCTURE WORKS (DELETION OF THROUGH SETBACK)** – This condition requires a 1.5m through setback to Pole Lane extending down vertically to a minimum of 1.5m below the invert of the gutter or surface of the Laneway. The applicant seeks to amend this condition to provide the setback only through a portion of the setback. Council's Development Engineers have been consulted and do not support this amendment. The setback is required in mixed use areas in all Laneways to accommodate any future laying of services or the like, and must be provided. The amendment to this condition is not supported.

**2.10. DELETION OF GO GET CARS** – the applicant requested the deletion of the go-get car system from the basement. This requirement was one carried through from the previous approval on the site, and has been proposed by the applicant. This initiative is one that is supported by

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Council and the deletion of this provision is not supported at this stage.

**2.11. CONDITION 4 – LAND LEVELS NOT APPROVED** – The applicant has submitted additional civil drawings to detail the proposed footpath levels, however Council's Development Engineer has reviewed these plans and advises the levels continue to be non-compliant. As such, it is recommended this condition remains in place, and can be satisfied subject to further amendments prior to the issue of a construction certificate.

**RECOMMENDATION:**

1. That the submission in its entirety be noted by the Panel.
2. That the conditions of consent be amended only in so far as outlined above.

SIGNED

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[Author's signature]

