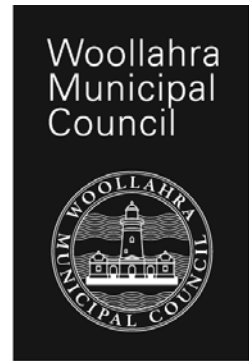


Memorandum

Date 7 July, 2015
File No. DA517/2014/1
To JRPP Sydney East Region
From Ms S Richards
Address **6-8 CRANBROOK ROAD BELLEVUE HILL 2023**



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The purpose of this memorandum is to address a submission dated 2 July 2015 by Brad Roeleven of City Plan Services who acts for the owner of 6-8 Cranbrook Road, Bellevue Hill. The submission raises concerns with conditions recommended by the Assessment Officer and by Council. The conditions recommended by Council (Conditions C.1(j) and I.12) are Council's submission and they do not change the recommendation made to JRPP by the Assessment Officer.

The concerns are considered as follows:

1. Addition of Condition I.12

I.12 Use of Driveways by Service Vehicles

The driveways must not be used for service vehicles other than between the hours of 8 am and 6 pm Monday to Friday and 9 am and 1 pm on Saturdays and Sundays.

The applicant states that Condition I.12 was added by resolution of the Council but the minutes indicate it was added by the Development Control Committee.

Response:

The minutes have been amended to reflect that Condition I.12 was added by the Council.

2. Part A – Condition 1

The applicant requests that the deferred commencement condition below be deleted and replaced with an operational condition prior to issue of any Construction Certificate.

Part A:

1. Deferred Commencement - (s80(3) of the Act, cl.95 of the Regulation)

To ensure the structures on Council land accord with Council's "Policy for Managing Encroachments on Council Road Reserves", development consent is granted subject that this consent is not to operate until the person with the benefit of this consent satisfies the Council in relation to the following:

1. *Complete and lodge Council form "Application to formalise an existing encroachment on Council Land". An Application fee is payable and;*
2. *The encroaching structures must be formalised by:*
 - i. *The Subdivision of the road reserve to excise the area encroached upon, closure of the road parcel and Sale of the land to the owner of 6-8 Cranbrook Road **OR**;*
 - ii. *Enter into an easement agreement with Woollahra Council under Section 181(a) Conveyancing Act 1919 permitting the permanent structures within the road reserve to remain for the life of the building or the redevelopment of the structure or the site, whichever occurs first,*

Notes:

1. *The Applicant is to contact Council's Senior Property Officer to further discuss the encroachment formalising process.*
2. *Sale of Road reserve is subject to Council's Sale of Land policy and resolution to sell the land.*
3. *If formalising the encroachment by easement, the Applicant must enter into a registrable easement agreement with Council (using Council's Template) for the encroaching structures.*
4. *The area occupied for an easement will be independently valued and payment is to be made to Council in compensation for the alienation of public land for private use.*
5. *Granting of the easement is subject to Council resolution, payment of compensation and all Council's costs in the matter; including but not limited to valuation, survey, and legal fees.*

Period within which evidence must be produced

The applicant must produce evidence to Council sufficient enough to enable it to be satisfied as to those matters above within 365 days (1 year) of the date of determination.

Clause 95(4) of the Regulation:

*"The applicant may produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters and, if the consent authority has specified a period for the purpose, the evidence **must be produced within that period.**"*

If the evidence is not produced within 365 days (1 year) of the date of determination this deferred commencement consent is of no effect, the consent does not operate and no construction certificate can be issued. No development can lawfully occur under this consent unless it operates.

Note: *Nothing in the Act prevents a person from doing such things as may be necessary to comply with this condition. (See section 80(3) of the Act)*

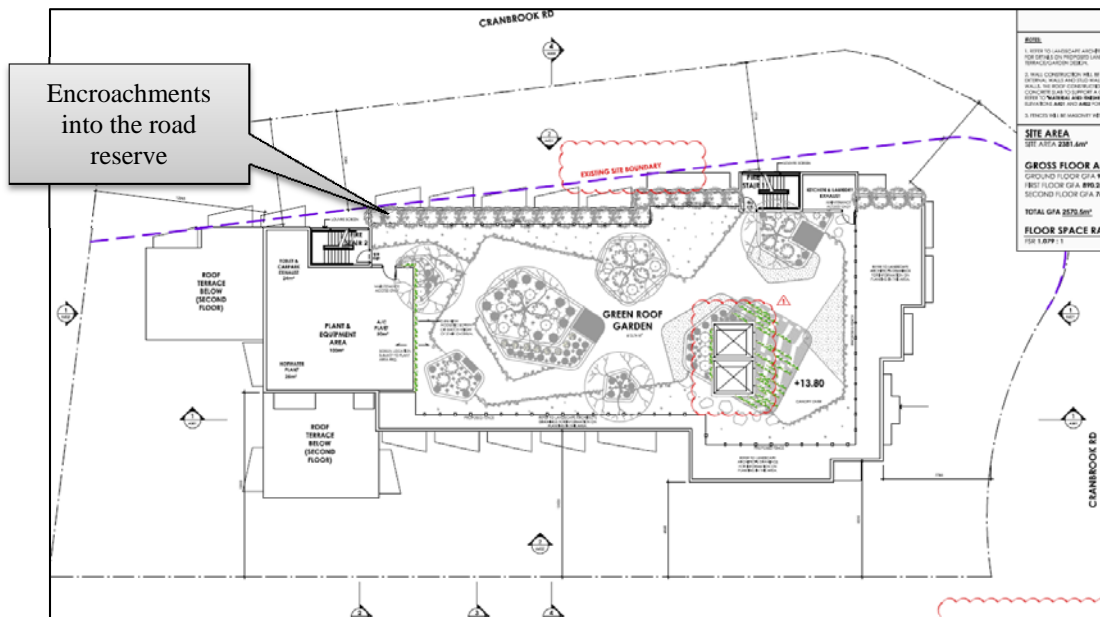
This consent does not operate until Council has acknowledged compliance with this condition in writing.

Note: Implementing the development prior to written confirmation of compliance may result in legal proceedings. If such proceedings are required Council will seek all costs associated with such proceedings as well as any penalty or order that the Court may impose. No Construction Certificate can be issued until all conditions including this condition required to be satisfied prior to the issue of any Construction Certificate have been satisfied.
Standard Condition: A3

Response:

The deferred commencement condition Part A – Condition 1 should be retained for the following reasons:

- The proposal is reliant on the use of the road reserve as part of the development for landscaping character, solar access to ground level rooms, pedestrian access to ground level rooms via a footpath and landscape amenity and outlook from western facing rooms
- Second floor level balconies encroach into the road reserve in addition to landscape works and retaining walls (see below)
- All calculations in the assessment are based on a combined site area including the road reserve. If the road reserve is excised as detailed on page 3 then the proposal may not be acceptable in terms of the requirements of SEPP (Housing for Seniors or People with a Disability) 2004.





For these reasons purchase of the road reserve or formalisation of the encroachments is considered necessary prior to commencement of the consent.

3. Condition C.1(b)

Condition C.1(b) states as follows:

The second level southern and eastern roof terraces/landscaped courtyard areas (Areas 6 on the landscape plan 1 of 2 Issue G and 2 of 2 Issue E dated 15/04/2015 by Outhouse Design) are to be non-trafficable except for maintenance in order to minimise amenity impacts to neighbouring properties to the east and south. Privacy screening to these areas is deleted given that the areas are to be non-trafficable

The applicant requests that this condition should be deleted and that an alternative condition limiting the use of the terraces be imposed instead.

Response

Condition C.1(b) should be retained for the following reasons:

- The deletion of the courtyard areas will remove trafficable terraces located within 9m of the adjoining residences to the east and south which will minimise amenity impacts including noise
- The deletion of the terraces including privacy screens and retention of the landscaping to the roofs will minimise bulk and scale and present a more amenable landscaped outlook from the neighbouring properties to the east and south
- Adequate open space area and solar access is provided for residents at ground floor level, the roof garden and private balconies
- Limiting times when terraces are used is difficult to monitor in residential type developments

4. Condition C.1(c)

Condition C.1(c) states as follows:

Privacy screens to a height of 1.5m above finished floor level are required to be added to all elevations of the second floor level private terraces of bedrooms 53 and 54 in order to maintain privacy of adjoining neighbours to the east and south

The applicant requests that this condition be deleted and that revised plans be approved.

Response

The revised plans seek to retain the roof terraces which were considered to be unsatisfactory in the original report.

Condition C.1(c) should be retained for the following reason:

- The privacy screens to the roof terraces are required to be deleted by Condition C.1(b) therefore there is no privacy screening to the private terraces of bedrooms 53 and 54 unless Condition C.1(c) is retained

5. Condition C.1(d)

Condition C.1(d) states as follows:

*Internal reconfiguration is required to relocate the lounge/dining rooms at ground, first and second floor levels from the western side of the building to the **north-western** corner of the development at each level (**approximately in place of units 2 and 3 at ground floor level, units 23 and 24 at first floor level and units 45 and 46 at second floor level**) in accordance with Section 35(b) of SEPP (Housing for Seniors or People with a disability) 2004*

The applicant requests that this condition be deleted and that the revised plans be approved.

Response

The revised plans have not been submitted by the applicant to Council staff. Notwithstanding this the revised plans do not reflect the design location of Condition C.1(d). The revised proposal has the potential to result in overlooking and is contrary to the advice in the PreDA which required the living areas to be relocated away from the eastern side boundary.

Condition C.1(d) should be retained for the following reasons:

- The relocation of the lounge/dining areas to the north-western corner of the development will ensure that common living areas at each level will receive adequate solar access without significantly impacting on the amenity of adjoining properties
- There is nothing in the DA that specifies that the ground level will only be used by dementia patients or that dementia patients will not benefit from solar access to living areas

6. Condition C.1(f)

Condition C.1(f) states as follows:

The main switch and comms room are to be relocated within the storage areas of the basement to minimise impacts on neighbouring residences

The applicant requests that the condition be deleted.

Response

There is adequate space for the switch and comms room to be relocated within the basement and this will avoid additional excavation and associated amenity impacts to neighbouring properties. Accordingly, it is recommended that Condition C.1(f) be retained.

7. Condition C.1(j)

Condition C.1(j) states as follows:

The south-eastern corner of the building (in the location of rooms 35 and 36) on the first floor level is to be setback a minimum of 10.5m from the eastern boundary and align with the eastern elevation wall of rooms 37-41. The roof terrace on the second floor level is to be setback the corresponding amount (minimum of 10.5m from the eastern boundary). The roof above the ground floor level may contain landscaping but must be non-trafficable and only accessible for maintenance purposes.

The applicant requests that this condition be deleted.

Response

The condition has been recommended by the Development Control Committee contrary to the Assessment Officer's recommendation. The assessment report considers the proposal to be satisfactory and no change is requested to the original recommendation in this regard.

8. Condition I.12

Condition I.12 states as follows:

I.12 Use of Driveways by Service Vehicles

The driveways must not be used for service vehicles other than between the hours of 8 am and 6 pm Monday to Friday and 9 am and 1 pm on Saturdays and Sundays.

The applicant states that they are agreeable to this condition but with revised times.

Response

The condition was recommended by the Council contrary to the Assessment Officer's recommendation. The assessment report considered that adequate amenity would be maintained given that deliveries will occur within the basement level. Further, the acoustic report by Acoustic Logic dated 4/11/2014 document ref 20141197.1/0411A/R1/MF Revision 1 considers noise from the use of the car park and considers that noise goals can be achieved. Notwithstanding this, no objection is raised if the applicant is agreeable to including such a condition with revised hours.

Sarah Richards
Senior Assessment Officer