

MEMO



To: Joint Regional Planning Panel cc

From: Pascal van de Walle – Senior Assessment Planner

Date: 14 September 2015 File No 2015SYE022 (DA-2015/279)

Re: **Supplementary Report – 15-21 Willis Street, Wolli Creek**

Introduction

This Supplementary Report addresses the following additional information submitted to Council on 10 September 2015:

- 1) **Cover Letter** – prepared by Lateral Estate, dated 10 September 2015;
- 2) **Clause 4.6 Variation (Amended)** – Floor Space Ratio, prepared by Planning Ingenuity, dated 9 September 2015;
- 3) **Legal Advice** (Re: Clause 4.6 Variation) – prepared by Gadens, dated 9 September 2015; and,
- 4) **Traffic Letter Report** – prepared by Transport and Traffic Planning Associated, dated 9 September 2015.

Based on this additional information, the applicant has requested that Council Officer's agree to the deletion of draft conditions 44(a) and 44(b) which require deletion of 95.3m² of floor space and the reconfiguration of the resulting floor space to improve the scale of the buildings, improve the amenity for future residents, and ensure compliance with the car parking requirements in *Rockdale Development Control Plan 2011* (RDCP 2011).

The additional information submitted by the applicant also identified:

- i. an error with the car parking allocation provided in the "Proposal" section of the planning report; and
- ii. that the draft conditions would not allow construction in four (4) stages as proposed, as well as other minor amendments / issues with a small number of conditions.

The supplementary information is accepted, and has been considered, however the recommendation remains unchanged (with the exception of minor amendments to the draft conditions).

The issues raised in the additional information are addressed in further detail below:

Clause 4.6 Variation (Amended) - FSR

The amended Clause 4.6 does not vary the extent of the FSR variation requested, however provides additional justification for the proposed departure to the maximum permissible FSR of 2.85:1.

The applicant and Council officers continue to disagree on the areas that are to be included as gross floor area (GFA). It is Council officer's opinion that the external access corridors for

Building B2 should be included in the GFA calculations. This position is based on legal advice provided by Michael Astill (Barrister). The applicant disagrees, and their position is based on legal advice provided by Gadens. Therefore, the applicant has included both approaches in their clause 4.6 variation to allow the JRPP to make a determination. The resulting variation to the FSR development standard requested by the applicant is either 2.91:1 or 3:1, depending on the Panel's interpretation of gross floor area (GFA).

The amended clause 4.6 considers that the reduction in GFA of 95m² required by Condition 44(a) would not result in an environmental benefit as detailed in the planning report. Rather, it finds that a reduction in the GFA would result in an environmental cost resulting from a loss of housing for families and a reduction in the number of residents living in proximity to public transport. It is the applicant's position that the objectives of the control and the objectives of the B4 zone would be thwarted by requiring a reduction in the GFA.

The amended clause 4.6 bases some of its rationale on the understanding that Council would not include the external corridors in the GFA calculations if the louvres were removed and the corridors were open form. This is incorrect, and there appears to have been a misunderstanding on this point. The Council's legal advice concludes that the corridors would be included in GFA even if the louvres were removed and the corridors were open (Note: A copy of the Council's legal advice can be made available for the JRPP members to view on the day of the meeting).

On merit, Council Officer's continue to agree that strict compliance with the FSR control is unreasonable and unnecessary in the circumstances of this case, however the extent of the variation is not supported and the position reached in the original planning report remains. That is, that a variation is acceptable however, on balance, further compliance with the FSR standard is both reasonable and necessary in this case to ensure that the objectives of the control are satisfied. For this reason, it is recommended that Conditions 44(a) and 44(b) be retained.

Building Separation

The applicant's supplementary submission does not alter the conclusions reached in the original planning report, being that the narrow (13m) building separation distance results in visual bulk and scale impacts to (future) residents of the site and of adjoining properties when viewed from the podium level communal open space area. The objectives of the requirement are not limited to visual privacy and solar access, but include objectives to ensure that developments are of an appropriate 'massing' and 'scale', and that adequate space is provided between buildings. Therefore, it is recommended that the requirement to increase the building separation distance at upper levels be retained as recommended in the original planning report.

Car Parking

The planning report contains a minor error in the parking allocation identified in the "proposal" section of the report. The assessment section of the report and the conditions (Condition 11) are correct and reflect the parking allocation required by RDCP 2011.

The total parking required by RDCP 2011 is 72 residential parking spaces and 14 visitors' spaces (a total of 86 car spaces). The proposal therefore results in a shortfall of 2 visitors' spaces.

The applicant considers that the shortfall of 2 visitors' parking spaces is acceptable in this case, primarily due to the site's proximity to Wollie Creek Railway Station. The applicant's justification relies on case law that highlights the need to be 'flexible' in the application of DCP provisions. They also contend that the provision of additional parking would result in the proposal being contrary to the objectives from RDCP 2011 and the RFDC. The applicant has also identified that the visitors parking requirements for Discovery Point is 1 space per 20 apartments, and they have also confirmed that the parking allocation would satisfy the new Apartment Design

Guide (ADG) (refer to the Letter Report prepared by Transport and Traffic Planning Associates).

The applicant's rational has some merit, however the proposed conditions do not require the provision of additional parking. Rather, it is recommended that the floor space of the development be reconfigured to ensure compliance with the Council's DCP once the 95m² of GFA has been deleted. Furthermore, all other developments in the area comply with the parking provision of RDCP 2011.

Compliance with the parking requirements in RDCP 2011 is easily achieved as the current basement design contains adequate space for 3 additional parking spaces in stacked formation, and these stacked spaces could be allocated to 3 bedroom units within the development. If these areas which are currently assigned for storage are not allocated for parking then they may result in the provision of 'excess' parking on-site and the proposal would therefore not meet the objectives of RDCP 2011 and RFDC.

It is therefore recommended that draft Conditions 44(a) and 44(b) be retained.

Draft Conditions of Consent and Staging

The applicant has submitted recommended modifications to draft conditions to allow the consent to reflect their intention to construct the building in the following four (4) stages:

- Stage 1 – Site clearing and preparation (including demolition);
- Stage 2 – Excavation, shoring and piling works;
- Stage 3 – Construction of the basement to podium (structure only);
- Stage 4 – construction of structure above podium, fitout and services works all levels and landscape works.

The conditions were intended to allow the staging of construction works, and there is no objection to the amendment of conditions to allow this to occur.

The applicant has also requested that:

- some additional words be added to Condition 12B, 13A, and 56 for clarification purposes,
- Condition 11 be amended to reduce the parking rate, and
- Condition 28(b) be amended to reduce the acoustic requirements between units.

The proposed amendments to Condition 12B, 13A and 28(b) are agreed with, however it is recommended that Conditions 11 and 28(b) be retained.

A draft set of conditions will be prepared and presented to the Panel at the meeting.



Pascal van de Walle
Senior Assessment Planner