

Sydney East Joint Regional Planning Panel (JRPP)
Supplementary Report
Development Application No. DA15/1345 (2015SYE158)

Address: 34 Railway Crescent Jannali

Proposal: Construction of a mixed use development including 88 residential apartments with ground floor hotel and basement car parking.

Zoning: B2- Local Centre

1. Background

The proposal was considered by the JRPP on Wednesday April 6th 2016. At the meeting, the Panel resolved to defer the determination of the application. The Panel Decision is reflected in the “record of deferral”, and reproduced below:

Panel Decision:

The Panel resolves unanimously to defer the determination of the application in order to allow the applicant to lodge amended plans by 20 April 2016.

The amended plans are to increase the setback distance from the adjoining residential building in order to improve its privacy. The resulting loss of floor space may justify an increase of height in part of the development where it does not impact on the adjoining residential building.

The Panel requests the assessment officer to provide it with a supplementary report which informs the Panel whether the amended plans have met the requirement above and whether any variation in building height resulting from it can be justified.

On receipt of the supplementary report, the Panel will communicate by electronic means to determine the application unless the chair or one of the members considers that a further public meeting is necessary.

2. Amended Plan Modifications

In response to the JRPP decision, the applicant has submitted a revised set of Architectural Plans (Issue C- Mojillo International, 19 April 2016), and a clause 4.6 objection in support of the height variation proposed to building A (ABC Planning).

A summary of the plan revisions is provided below:

- All north facing units have been set-back to 9.0m from the boundary for the first four levels & 12.0m for the levels above.
- The main portion of Building B was moved south. Units 2.17, 3.17, 4.17 & 5.16 were reduced in size to maintain the same southern set-back.
- The loss of GFA as a result of the above modifications was relocated to the roof of building A (unit 7.08), resulting in an increase in apartments from 88 to 89.
- The podium planter to units 2.11, 2.12 and 2.13 has been increased, and the trafficable area of the balcony is now no closer than 9m from the northern boundary. The planter has been splayed to allow access to the garden steps. The steps are located so as to avoid a direct line-of-sight from the living rooms to the townhouses.

- Privacy screening to units 2.03, 3.03, 4.03, 5.03 & 6.03 has been indicated to the southern boundary.
- As a result of the increased setbacks to buildings A & B a structural transfer has been introduced. In addition the lower roofs require insulation to prevent heat loss. Building B (including the lift over-run) has been increased in height by 100mm to accommodate this transfer. Building A has been also been increased for the double transfer with the introduction of unit 7.08.
- A passage has been added in front of unit 2.17 to allow multiple paths of access to the COS.

3. Council Response - Amended Plans

In order to achieve a better relationship between the north facing units in Building A and B to the townhouses at No. 28-32 Railway Crescent, Council recommended a deferred commencement condition (Condition 1) to the Panel which required the scheme be amended to improve building separation and privacy. The condition required that the setbacks to the northern boundary be increased, obscure glazing be provided to north facing balcony balustrades, and screening be provided to the southern elevation of the units in Building A adjoining the commercial building.

As a consequence of the amendments, Building B has been shifted to between 0.1-1.4m closer to the southern boundary, and an additional residential unit has been added to the roof of Building A (unit 7.08). The relative change in the proposed setback for Building B to the southern boundary is relatively minor. Given the adjoining development comprises a Council carpark, no amenity issues will result and the amendment is satisfactory.

The revised scheme effectively addresses the items listed in the deferred commencement condition originally recommended by Council, with the exception of the fixing each of the north facing balustrades with obscure glass. The obscure glazing recommendation however can be readily addressed through a standard condition of consent. Council is satisfied a reasonable level of privacy can now be maintained to the adjoining townhouse development. The recommended conditions of consent have been amended to delete deferred commencement condition 1- Building Separation & Privacy and a standard condition of consent has been added to require the fixing of obscure glass to all north facing balconies.

4. Height Variation

The resulting loss in floor space from increasing the northern setback has been used to justify an increase in height for Building A, which now breaches the maximum height limit of 20m permitted under clause 4.3 Sutherland Local Environmental Plan 2015 (LEP15). A clause 4.6 submission has been prepared by ABC Planning and submitted to Council in support of the height variation.

The development proposes a maximum building height of 23.07m which represents a variation of 3.07m, or 15% variation.

Council has reviewed the clause 4.6 objection and a detailed assessment of the submission has been provided at Appendix A of this report.

The conclusion of the assessment is that there are sufficient environmental planning grounds to justify the departure from the LEP standard in this circumstance.

5. Parking Allocation

The amendment has increased the number of units from 88 to 89, and has altered the number of bedrooms proposed in some of the units originally proposed. The original scheme required parking to be allocated on the following basis, consistent with the rates prescribed by Councils Draft DCP:

Car Parking Residential	<u>Residential</u> Min. 1 space per unit=88 spaces Max 2 spaces per unit=176 spaces. No visitor car space requirement.	<u>Residential</u> 129 spaces provided
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Importantly, under the draft DCP, parking is not calculated for the Jannali Centre based on number of bedrooms per unit, therefore alteration of this aspect of the development will not alter the parking requirement. The increase residential apartments from 88 to 89 will also not alter the parking arrangements, given the original proposal allocated parking spaces over and above the minimum prescribed by the draft DCP.

6. Section 94 Contributions

The increase in residential unit umbers from 88 to 89 results in an increased section 94 contribution payable to Council. The recommended consent conditions have been amended to reflect the increased contribution figures.

7. Recommendation

- 7.1 That the written submission in relation to the variation to building height satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the building height development standard be varied to 23.07m for Building A.
- 7.2 That Development Application No. DA15/1345 for the demolition of existing structures and construction of a mixed use building at 34 Railway Crescent Jannali be approved, subject to the amended conditions attached to this report.

APPENDIX A

Clause 4.6 Assessment

The amended scheme fails to comply with the development standard for height contained in LEP15. Clause 4.3(2) of LEP15 stipulates a maximum height of 20m for the site. A written request from the applicant that seeks to justify the contravention has been submitted and reviewed. The heads of consideration contained under clause 4.6 are detailed below, followed by a comment from Council.

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case- clause 4.6(3)(a)

The applicant's written submission demonstrates that compliance with the height development standard is unreasonable or unnecessary in the circumstances of the case for the following reasons:

- a) The proposal complies with the objectives of the building height standard and the zone, and
- b) The proposal is in the public interest (see point 4)

In addition to consistency with the objectives of the development standard and the zone, there are circumstances specific to the site and the proposed development, that reinforce that compliance with the development standard is unreasonable or unnecessary.

The northern boundary shared with No. 28-32 Railway Crescent marks the interface between the "B2- Local Centre" urban zoning of Jannali and lower-density residential land surrounding the centre zoned "R4- High Density Residential". There are proportionate differences in the maximum development standards between the subject site which permits an FSR of 2:1 and height of 20m, and the adjoining site at No. 28-32 Railway Crescent which permits an FSR of 1.2:1 and a height of 16m.

No. 28-32 Railway contains a townhouse/RFB development which is strata subdivided into 42 separate allotments. It is unlikely that this site will be redeveloped in the near future to reflect its full development potential under Councils current LEP. The site planning of the complex is such that six townhouses are positioned with courtyards, living rooms and bedrooms facing the common (northern) boundary. This element is adjacent to the proposed Building B. At No. 28-32 Railway Crescent. Adjacent to Building A, a three storey residential flat building is located which contains two units on each level which face the subject site, the balconies of which extend to within 4m from the shared boundary.

These contextual features require a specific design approach that responds to the sensitive nature of the northern boundary interface conditions.

The original design included a development that had a compliant height of 20m, however had balconies facing the northern boundary which were up to 5m from the site boundary. During the assessment of the application, and subsequent to the advice received from the JRPP, it was agreed that a better, site specific, planning outcome could be achieved by increasing the northern side setback to 9m for the

first four storeys, and 12m thereafter. Accordingly, the proposed design has been amended to result in an increased separation distance between the proposed building and the existing residential development at No 28-32. The floor space lost from the amended design, has been relocated to form the proposed penthouse apartment atop building A, being apartment 7.08.

The proposed penthouse apartment on Building A protrudes beyond the height limit by a maximum of 3.07m. Importantly this level is recessed by 11.25m from the western building edge and 3.5m from the northern building edge, and provides a total separation distance of 15.5m from the northern boundary.

The proposed variation to the LEP maximum height standard is considered reasonable and appropriate given that the building does not give rise to any adverse external amenity impacts beyond that of a building with a compliant height, and that the repositioning of the building bulk toward the street, allows for a more sensitive design response, and higher level of amenity to be maintained to existing development to the north. No additional adverse amenity impacts in terms of overshadowing, privacy, loss of views or outlook would arise as a result of the non-compliant element of building A. Further, the proposed penthouse apartment would not be readily perceptible when viewed from Railway Crescent.

The amended scheme has resulted in a proposal does not comply with the maximum height control, but better responds to the context of the site, particularly the sensitive northern boundary. The absence of environmental impacts associated with the non-compliant element underlies the reasonableness of the height variation. The variation is considered to allow for a better environmental planning outcome than a development with a compliant height. Under these circumstances, strict compliance with the maximum height standard would be unreasonable and unnecessary.

2. There are sufficient environmental planning grounds to justify contravening the development standard- clause 4.6(3)(b)

The proposal demonstrates sufficient environmental planning grounds to justify varying this development standard. The additional height is not responsible for any greater environmental impacts than a proposal with a compliant height.

3. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)- clause 4.6(4)(a)(i)

The applicant has lodged a written request which adequately addresses the requirements of clause 4.6 of SSLEP 2015. See assessment under point 1 and 2 above.

4. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out- clause 4.6(4)(a)(ii)

Consistency with the objectives of the height of buildings standard

The objectives of the height of buildings development standard is set out in clause 4.3 (1) of LEP15, and is reproduced below:

- (a) to ensure that the scale of buildings:*
 - (i) is compatible with adjoining development, and*
 - (ii) is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and*
 - (iii) complements any natural landscape setting of the buildings,*
- (b) to allow reasonable daylight access to all buildings and the public domain,*
- (c) to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,*
- (d) to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,*
- (e) to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings in those zones,*
- (f) to achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.*

In accordance with LEP15, the subject and surrounding sites have been mapped as being suitable for development with an increased height and density to that permitted under the previous planning scheme. The proposed development is one of the more recent applications which have been assessed under the new planning controls. Although the scale of the residential towers is foreign in its current context, the proposal is in keeping with the desired future character established by the LEP built form controls for the B2 local centre and development envisaged under the Jannali Centre DCP.

The proposed height, bulk and scale will not result in any adverse amenity impacts beyond that anticipated by the LEP15 controls. Importantly, there will be no loss of views, privacy or overshadowing to adjoining residential dwellings.

The components relating the non-compliant element of the development are isolated to the additional storey proposed on building A, which comprises a single residential unit. This element is provided with substantial setbacks from the building edge below, and the site boundaries. The non-compliant element is not visually prominent, and will not be visible when viewed from Railway Crescent. The bulk and scale of the development as a whole will therefore be perceived as being consistent with that intended by the applicable development standards.

The proposal demonstrates that the objectives for the building height control are achieved, despite the variation to the maximum numerical height control.

Consistency with the objectives of the zone- B2- Local Centre

The proposed development is located within zone B2- Local Centre. The objectives of this zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To create an attractive, vibrant and safe public domain that has both a high standard of urban design and public amenity that is designed to cater for the needs of all ages and abilities.*
- *To encourage housing suitable for the needs of an ageing population.*
- *To allow for residential dwellings while maintaining active land uses at street level.*
- *To provide a mix of compatible land uses and building forms that act as a transition to the surrounding residential neighbourhood.*

The proposal satisfies the zone objectives in that the proposed mixture of commercial and residential land uses are compatible and consistent with that contemplated by the local centre zoning.

The development, which comprises a commercial ground floor use and 89 residential units is considered to be an appropriate outcome given the sites proximity to the Jannali Railway Station and the sites location within the Jannali Town Centre.

The landscaped entry plaza and commercial use along the western frontage of the site demonstrates that the street will be activated as far as practical despite the constraints inherent with the existence of a drainage easement at this location.

The proposal provides for a mix of compatible land uses and an appropriate built form that acts as a transition between the B2 Local Centre zone to the south, and the R4 High Density Residential zone to the north.

The proposed development is in the public interest as the proposal complies with the objectives for both height and the B2 Local Centre zone.

Conclusion

There are sufficient environmental planning grounds to justify the departure from the LEP standard in this circumstance. The variation to the height development standard satisfies all relevant parts of clause 4.6 and therefore the variation is supported. It is recommended that the provisions of Clause 4.6 be invoked and that the building height development standard be varied to 23.07m for Building A.