

# M E M O

Folder Number: DA/863/2016

<b>To</b>	Sydney West Central Planning Panel	<b>Date</b>	1 August 2017
<b>From</b>	Matthew Hedges - SJB Planning	<b>Through</b>	Claire Stephens - Service Manager Development Assessment
<b>Subject</b>	Response to applicant's letter		

We have reviewed the submission made by the applicant's agent Ethos Urban (Formerly JBA) and the expert opinion by Mr King. We make the following responses:

- We disagree that the Applicant has not been given sufficient opportunity to respond to the issues raised. Many of the reason for refusal were raised as issues by Hornsby Council in their first request for further information on the 1<sup>st</sup> August 2016. Numerous reassessments have been undertaken on resubmitted documentation which has failed to respond to the issues raised. The concerns of solar access to the dwellings and the communal open space have been consistent concerns with the application.

The assessment has been undertaken on the basis of the information provided by the Applicant. The Applicant highlighting at this late stage that the solar access analysis has been provided on incorrect alignments is not an outcome caused by Council or the assessing consultant.

- Table 1 of the submitted letter dated 28<sup>th</sup> July 2017 responds to the assessment undertaken on the basis of the information lodged with the application. We respond as follows:

## Hornsby LEP

- **Zone Objectives** – the review undertaken by Mr King has not satisfied us that the solar access and cross ventilation has been achieved as set out in the following sections. Therefore, we consider that the development as submitted does not meet the objectives of the zone.
- **Height of Buildings** – A minor exceedance of the building height was identified as part of the original issues letter from Hornsby Council. The lift overrun and part of the roof exceeded the height of buildings development standard of 17.5 metres and had not been included in the applicant's height calculations. Furthermore, the floor to floor heights were identified as being below the required 3.1m and subsequently the application was amended to provide the required floor to floor height of 3.1m to all floors. The application as amended was supported by a clause 4.6 variation request. There is a numerical non-compliance to the Height of Building development standard in clause 4.3 of the Hornsby LEP 2013.

- **Preservation of trees** – When this issue was originally raised the opinion of both Hornsby Council, City of Parramatta Council and The Joint Regional Planning Panel was that the scheme should be amended to facilitate the retention of trees 20 and 21. A smaller compliant development of an alternative design, could potentially facilitate the retention of these trees. The development as proposed seeks removal of trees 20 and 21

#### Hornsby DCP

- **Setback** – Throughout the process the issue of setbacks has been raised. At the initial meeting with Hornsby Council, City of Parramatta, SJB and the Applicant, the Applicant was informed that no variation from the ADG building separation guidelines and the DCP setbacks would be accepted.
- **Floorplates** – The reduction in floorplates to a compliant length would go some way to addressing the building setback and separation issues identified.

#### Apartment Design Guide

- **Communal Open Space** – The Applicants proposition is that the landscaped setbacks to Carlingford Road should be counted as communal open space. Including these areas as communal open spaces assists in a numerical achievement of solar access to 50% of the provided area. The ADG design criteria at Objective 3D-1 however seeks a minimum of 50% direct sunlight to 50% of the principal useable part of the open space. The front setback to Carlingford Road is identified on the landscaping plan as being heavily planted and therefore unsuitable as the primary focus of recreational activity. Furthermore, the hostile environment of Carlingford Road makes it an undesirable location for residents to congregate. Therefore, we consider, consistent with the areas identified on the submitted drawings, that the principal communal open space is located to the centre and rear of the two RFBs. Therefore, it should be designed to achieve the required amount of solar access to these principal useable areas. The plans forming Appendix A of Mr King's expert opinion in our opinion only show the principal communal open space as receiving solar access to 50% of the area between midday and 1:30pm in mid-winter, or 1.5 hours.
- **Visual Privacy** – Whilst it is recognised and accepted that privacy measures have been included to the non-complying internal separation distances it is not accepted that these measures should be utilised to justify non-compliances with substandard separation distances to rear and side boundaries.
- **Solar Access** – The assessment now undertaken by the Applicant has identified a different solar access pattern to that of the submitted application drawings. A number of apartments previously identified as receiving the required solar access no longer do, whilst others are now identified as receiving the required 2 hours. The apartments with differing results are:
  - A104,
  - A204,
  - A205,
  - A304,
  - A305,
  - B207,
  - B307,
  - B403, and
  - B404.

The additional analysis appears to demonstrate that the required amount of solar access is achievable. It has however not been demonstrated that the access to the internal areas is achieved given that a number of apartments now identified as

compliant have fixed privacy screens permanently attached to the outside of the windows. These apartments are:

- A104,
- A204,
- A205,
- A304, and
- A305

The Applicant has identified 44 of 63 apartments meet the required solar access. This is 69.8% of the total apartments. This analysis has not addressed the apparent conflict between solar access compliance and external privacy screening.

- **Natural ventilation:** - The Applicant now relies on Mr King's assessment which states that to achieve the number of required cross ventilation apartments he has had to include additional openings (typically to a bedroom). As these opening are not provided on the assessment drawings and have not been assessed for privacy or other conflicts our assessment stands that the proposed development does not meet the required percentage of cross ventilated apartments. The addition of further openings would require Council's agreement to accept further amendments to the application.
- **Apartment size** – It is accepted that the deficient master bedrooms could be amended to comply and if this was the only reason for refusal a condition could be proposed to achieve this outcome.
- **Common circulation spaces** – If the corridor length of 12m was complied with it is likely that the development would be naturally smaller and would therefore comply with the required setbacks.
- **Storage** – Whilst the Applicants maintain that the scheme can be amended to provide the required amount of storage and this was done on a submission rejected by Council, we are unable to confirm if this is so as details of that submission have not been assessed. As the application stands and as assessed several apartments are deficient in storage space. We also understand that the rejected submission also had a reduction in apartments on the site to enable compliance.

We trust this response is of assistance to you and clarifies the basis of our assessment and the conclusions reached in informing the Recommendation to the Panel.

Matthew Hedges

Senior Planner



SJB Planning