

Memorandum

To: Sydney Eastern City Planning Panel
 From: Glen Hugo, Executive Officer, Development Assessment, Inner West Council
 Date: 1 September 2020
 Subject: Email from the panel secretariat dated 31 August 2020 6:34pm

Heritage

The applicant has updated their heritage reports to include the latest amendments to the proposal. The relevant reports are:

- Ann Walsh Revised Heritage Impact Statement – 15.06.20
- Catholic Healthcare Revised Heritage Impact Statement 15.06.20
- Novitiate Revised Heritage Impact Statement 15.06.20

Your attention is also drawn to the following plans that are relevant in considering the Heritage impacts of the proposal.

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
SK-210 – REV F	AW – Level 1 Heritage Gradings of Significance	11/06/20	Jackson Teece
SK-211 – REV F	AW – Level 2 Heritage Gradings of Significance	11/06/20	Jackson Teece
SK-311 – REV F	NV – Ground Level Heritage Gradings of Significance	11/06/20	Jackson Teece
SK-312 – REV F	NV – Level 1 Heritage Grading of Significance	11/06/20	Jackson Teece

The development is an adaptive reuse of the existing buildings. The works to the internal and external fabric of the building are articulated in section 8.5 of the Ann Walsh Revised Heritage Impact Statement and the Novitiate Heritage Impact Statement.

The Revised Heritage Impact Statement summarise how the proposed development seeks to conserve the heritage values of the site:

“The Proposal:

- *Maintains the two major heritage buildings on the site and proposes an appropriate adaptive reuse*
- *Maintains the major landscape components with limited change*
- *Limits the scale of buildings along West Street to maintain the visual setting and views to the retained heritage buildings*
- *Places the higher development to the rear of the site along the railway corridor*
- *Allows good separation between the higher elements and the Novitiate*

- *Limits the impact of the development on the heritage items in the vicinity*

Council's Heritage officer has reviewed the information submitted by the applicant and advised the following:

"The commentary from the previous heritage referral remain relevant.

The revised plans incorporate some positive amendments to the plans, including:

- *Retention of the north wing to the Ann Walsh building*
- *Deletion of proposed access road adjoining the Ann Walsh building*
- *Retention of stone paths, steps and retaining walls to north garden and reconstruction of pergola*
- *Retention of windows to Chapel*
- *Amendments to east elevation of cloister to Novitiate building.*

Two additional issues are noted:

- *The proposed location of the substation fronting the West Street elevation of the Novitiate building is intrusive*
- *The proposed alignment of the fence within the North Garden subdivides the garden and alters its formal layout and is intrusive*

Council's heritage officer in their previous referral recommended approval subject to conditions. These conditions have been included within the recommendation with the exception of one that required the deletion of a signage on level 5 of the Novate building as this has already been deleted by the applicant on the latest amended plans and as such omitted.

The proposal therefore satisfies the considerations within clause 5.10 of the *MLEP 2011*, as the applicant had provided a heritage assessment and heritage conservation management plan and the consent authority has considered the effect of the proposed development on the heritage significance of the item or area concerned and found them acceptable subject to the recommended conditions. The impacts on the heritage values of the site are not a matter that is an impediment to the approval of the application.

Landscape Area

In relation to landscaped area and its correlation to clauses 48 and 50 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the SEPP states:

"48 Standards that cannot be used to refuse development consent for residential care facilities

A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds...

(c) **landscaped area:** *if a minimum of 25 square metres of landscaped area per residential care facility bed is provided...*

Note—

The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent."

"50 Standards that cannot be used to refuse development consent for self-contained dwellings

A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds...

(c) landscaped area: if—

(i) in the case of a development application made by a social housing provider—a minimum 35 square metres of landscaped area per dwelling is provided...

Note—

The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent."

In this instance the proposal does not achieve the "cannot refuse" levels set out in Clauses 48 and 50 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

However, the assessment provided to the Panel is that, although the development does not achieve the "cannot refuse" levels of landscaped area, it does not warrant refusal on landscaped grounds as the locally-relevant landscaped controls and objectives are satisfactorily addressed.

The SEPP would only override the DCP if the controls were in the same terms. In this instance the SEPP is not inconsistent with the local provisions and the SEPP landscape area requirements do not contain objectives to assess the development against (rather, the clause expresses "no limitation" on the ability, otherwise, to grant consent. However, the following factors are relevant when considering the amount and standard of landscaping proposed:

- The development is in an urban setting, located adjacent to a train line and at the intersection of two major roads. It is capable of accommodating high density buildings which can take advantage of the visual and recreation amenity of one of the Inner West's largest open parks immediately across the street.
- The landscaping provided creates an appropriate setting for the residential buildings on the land, including the aged care and independent living components of the development, as well as the retained heritage items.
- The level of landscaped area is appropriate for its setting and provides connectivity to the adjoining site.
- The arrangement of landscaped areas is well thought-out, providing communal spaces of various sizes for the different users of the site as well as landscaped private open space and visually permeable setting for the street setbacks and heritage items.
- The landscape plan provides for significant landscaping and retention of the landscaped garden that is of heritage significance.
- The quantity and quality of landscaping addresses the local controls and in doing so, sits harmoniously with the desired future character for the area.
- Insisting on compliance with the standards that cannot be used to refuse development consent for landscaped area on this site would be unreasonable as the site contains two buildings of heritage significance and a heritage garden that is required to be retained.

- In issuing the site compatibility certificate the Sydney Eastern City Planning Panel the documents supporting the SCC indicated a landscaped area similar to that proposed.

The local landscape area control is contained within C15 of Part 2.18.11.3 of the MDCP 2011:

"C15 Landscaped area

- i. *The entire front setback must be of a pervious landscape with the exception of driveways and pathways.*
- ii. *The greater of 4 metres or a prevailing rear setback must be kept as pervious landscaped area."*

The relevant objectives to assess a variation against are the contained within 2.18.1 of the MDCP 2011 and an assessment against those objectives is contained in the supplementary report and the proposal is consistent with those objectives.

The provision of landscaped area and clauses 48 and 50 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* are not a matter that is an impediment to the approval of the application.

