

Memorandum



To: Sydney North Planning Panel

Ref: PPSSNH-183 – 29-57 Christie Street, St Leonards

From: Philippa Frecklington

Date: 7 July 2021

Subject: Revised Annexure 1 – Draft Conditions (v.3)
SEPP 55 – Site suitability

Purpose

The purpose of this Memorandum is to address late correspondence from Douglas Partners regarding site suitability and amendments to Annexure 1 – Draft Conditions.

SEPP 55 – Site Suitability

An addendum Statement – *Site Suitability Advice* has been prepared by Douglas Partners, dated 6 July 2021, confirming that in accordance with the provisions of Clause 7 of SEPP 55, the consent authority can be satisfied that the land can be made suitable for the purpose for which the development is proposed to be carried out:

- A detailed site investigation for contamination (DSI), including an intrusive soil and groundwater and/or soil vapour investigation (following demolition of the existing buildings); and
- Remediation of contamination and subsequent validation (if required based on the findings of the DSI).

Condition 10.1 of the draft conditions at Annexure 1 addresses the above.

Annexure 1 – Draft Conditions

A summary of the Applicant's requested amendments to the Draft Conditions and Council's response is provided below:

Condition	Applicant's Comment	Council response
Part B		
2.5 Positive Covenant	Request to delete condition. <u>Reason:</u> Section 4.24(2) of the EP&A Act acts to ensure that any determination of any further DA in respect of the site is not inconsistent with the concept approval. Therefore, the need for a positive covenant	Panel to review

	is neither reasonable nor necessary. Condition 2.4 establishes the maximum FSR for the development and that for Building C.	
Part C		
3.2 Completion of Works in Kind under the VPA	<p>Request to amend wording of condition as follows: <i>“Works in Kind listed in Column 1 of clause 1 of Schedule 5 of the Executed VPA shall be completed in full in accordance with the timeframes outlined in Column 3 of clause 1 of Schedule 5”.</i> <u>Reason:</u> The timing proposed in this condition is inconsistent with the timing proposed in the VPA.</p>	<p>Agreed.</p> <p>Condition amended.</p>
3.5 Section 7.11 Contribution	<p>Request to amend wording of condition to reflect the current position on the timing of the payment of monetary contributions. <u>Reason:</u> The current wording of the condition requires the payment of monetary contributions prior to CC. Currently the payment of monetary contributions for development consents approved pre-March 2022 has been deferred to OC (regardless of what the condition of consent states) as a consequence of the temporary deferral of payments that were put in place as a consequence of Covid-19.</p>	<p>Not Agreed – COVID legislation would override this condition in any event so there is no need to change it.</p>
6.7 Occupation Certificate	<p>Request to amend wording of condition as follows (additional text): <i>An Occupation Certificate being obtained from the Principal Certifying Authority before the occupation of Building A and Building B. of the building. This is exclusive of premises shown as ‘Existing Shop’ on the Approved Plans</i></p>	<p>Agreed.</p> <p>Condition amended.</p>
6.9 Hours of Construction	<p>Request clarity of the wording of the condition to provide clarity as to the nature of activity and the hours of construction permitted on Saturday.</p>	<p>Not Agreed – standard condition.</p>
7.3 Tree Preservation	<p>Request to amend wording of condition to reflect Condition 7.1 (Tree Conditions - Amended Plans) which permits removal of certain trees under the approved plans and Arborist Report.</p>	<p>Not Agreed – standard condition.</p>
7.4 Security Deposit – Trees	<p>Request to amend wording of condition such that there is an express obligation to return any part of the security deposit that has not be called upon to rectify damage. This could be linked to the grant of the Occupation Certificate for Building A or Building B, whichever is the latter.</p>	<p>Not Agreed – standard condition.</p> <p>Reference to Act updated.</p>
7.5 Trees Permitted to be Removed	<p>Request to amend wording of condition as follows (additional text): <i>All other trees are to be retained and protected for the life of the development except where a further permit(s) is obtained for the removal of any other tree(s).</i></p>	<p>Not Agreed – standard condition.</p>
9.12 Council Infrastructure Damage Bond	<p>Request to amend wording of condition such that only that part of the Council Infrastructure Damage Bond required to rectify the works is retained with the balance returned upon issue of the Occupation Certificate.</p>	<p>Not Agreed – standard condition.</p>

9.24 Positive Covenant Bond	Request to amend wording of condition such that the bond is released within 14 days of the registration of the positive covenant relating to onsite detention.	Not Agreed – standard condition.
9.27 Proposed Vehicular Crossing	Request to amend wording of condition such that the driveway opening width along at the face of kerb is to be no wider than 6.5 metres. <u>Reason:</u> A 6.5 metre driveway opening width would permit two-way vehicular movement and avoid queuing and traffic congestion. The access width will need to be designed in accordance to AS2890 and allow for two way vehicle flow at the site access.	Awaiting advice from Council's Traffic Engineer. No objections from a planning perspective.

A 'tracked changes' version of Annexure 1 is attached to this memorandum for the Panel's consideration.

Kind regards,

Philippa Frecklington
Assessment Officer

Attachments

- **Annexure 1 - Draft Conditions – Applicant Amendments – 7 July 2021 – v.3**