



14124
23 April 2014

Mr Michael File
Director Urban Renewal
NSW Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Mr File

**CARTER STREET URBAN ACTIVATION PRECINCT
12-14 BIRNIE AVENUE, LIDCOMBE**

Thank you for providing us with an opportunity to comment on the Planning Proposal (PP) for the Carter Street Urban Activation Precinct (the Precinct). We write to you on behalf of Swire Cold Storage (Swire) in relation to their property at 12-14 Birnie Avenue, Lidcombe (the Site).

In summary Swire is generally supportive of the vision for the Precinct however they do have some concerns in relation to the proposed planning controls as they apply to the Site. The proposed setbacks and land use provisions are onerous given the proposed controls for all other Sites in the Precinct and have a significant impact on the development potential of the Site. In light of this it is requested that:

- The permitted uses in the R4 Zone be expanded to allow for business premises below shoptop housing;
- An increase in height be permitted on the Site up to 20 storeys to better delineate the Birnie Avenue 'gateway' into the Precinct.
- An increase in height up to 8 storeys be permitted on the Southern portion of the Site recognising the constraints the infrastructure easement places on that part of the Site.
- An increase in the overall Site's FSR be permitted to effect the increased building height – increase from 1.64:1 up to 2.23:1.
- The 40m setback for residential development along the southern boundary be deleted as this is not required for acoustic or air quality reasons thereby maintaining a 20m setback for any use proposed on the Site; and
- The 20m setback along Birnie Avenue be reduced down to a minimum of 10m along the street frontage consistent with the setback requirements for other major streets within the Precinct.

Our justification for the above modifications is set out in the following sections of this submission.

1.0 THE SITE

The Site is located at 12 – 14 Birnie Avenue, Lidcombe and is legally described as Lot 1 in DP802749. It is bounded by Birnie Avenue to the west, Edwin Flack Avenue to the north and the M4 Motorway to the south (see **Figure 1**). To the east of the Site is the Sydney Olympic Park Place Management Centre. An electricity substation is located on the opposite side of Birnie Avenue to the west. The boundary for Sydney Olympic Park aligns with the eastern and northern boundaries of the Site.

Located on the Site are three warehouse buildings which are currently occupied by Swire Cold Storage as shown in the aerial photo in **Figure 2**. The Site has an area of 3,166ha.

A 40m wide services easement that houses high pressure gas and oil pipelines and electricity infrastructure affects the Site. The easement cannot be built upon and there is an obligation under State Environmental Planning Policy (Infrastructure) 2007 to undertake a risk assessment for development adjacent to the corridor. A copy of the land title showing the extent of the easement is provided at **Attachment A**.



Figure 1 – Site Location Plan

Source: SIX Viewer



Figure 2 – Aerial photo of the Site

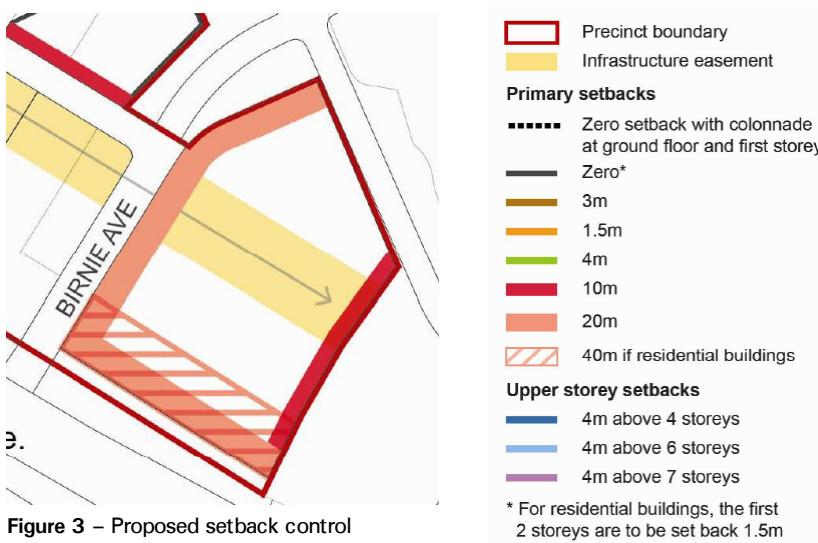
Source: SIX Viewer

2.0 PERMITTED LAND USES

The Site is proposed to be zoned R4 High Density Residential. Within the R4 zone residential flat buildings, shop top housing and neighbourhood shops are listed as permissible uses. All other commercial premises are listed as prohibited development. This means that if a shoptop development is proposed, only a neighbourhood shop can be proposed on the ground level. In order to increase the likelihood of shoptop housing occurring in the Precinct, it is requested that Business Premises be listed as an additional permitted use in the zone. The benefit of this amendment would be the increased activation and surveillance achievable at the ground level and the increased employment opportunities that would be generated within the Precinct.

3.0 SETBACK CONTROLS

The Site is subject to various setback controls as shown in **Figure 3**.



3.1 Birnie Avenue 20m setback

A 20m setback is proposed along the western boundary of the Site towards Birnie Avenue. We understand that this setback is proposed for two reasons:

- To provide suitable building separation distances to the proposed Sydney Olympic Park development site at the corner of Birnie Avenue and Edwin Flack Avenue (See **Figure 4**). Due to the small area of the development site any development would be built to the boundaries with a nil setback as such separation distances will need to be provided wholly on the Swire Site; and
- To maintain a green space to Birnie Avenue.

Whilst the requirement for the 20m setback to the northern SOPA development site is understood, although considered inequitable, we can see no valid reason for the retention of a 20m setback along Birnie Avenue. We note that:

- The existing vegetation line along Birnie Avenue and Shane Gould Avenue West will be interrupted by the construction of a building with zero setbacks on the SOPA development site;
- The 20m setback is not required on the SOPA development Site and thus the resultant outcome would be an interrupted building line along Birnie Avenue;
- The setback is onerous given that there is no other local or arterial road within the Precinct that require such a large setback, all other roads are provided with a maximum 10m setback;
- Such a wide setback cannot be replicated on the other side of Birnie Road due to the existing location of the substation; and

- Such a large setback unnecessarily further constrains the southern portion of the site when considering the existing easements and other boundary setback controls affecting the Site.

It is therefore requested that the Department reduce the setback along the Birnie Avenue frontage to 10m consistent with all other road setbacks in the Precinct. A 20m setback to the SOPA development site would be retained as illustrated in the alternative scheme at **Attachment B**.

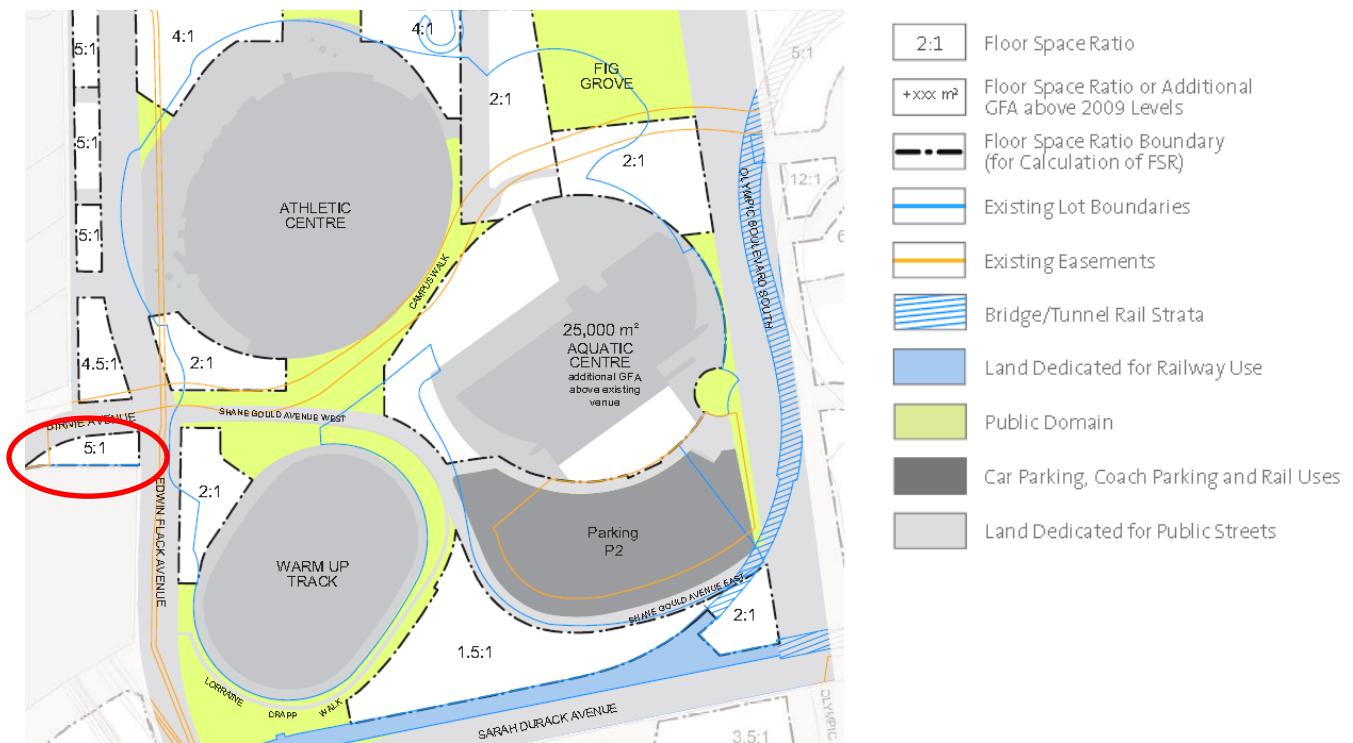


Figure 4 – FSR Controls for Sydney Olympic Park for the Sports and Education Precinct
Source: Sydney Olympic Park Masterplan2030

3.2 M4 Setback 20m-40m

The proposed setback controls from the southern boundary are 20m for a non-residential development and 40m for a residential development. We understand that the 40m setback control has been proposed primarily for air quality purposes and estimate that the 40m has been proposed as a result of the recommendations contained within Section 4.4 of the NSW Planning and Infrastructure Interim Guideline for Development near Rail Corridors and Busy Roads. An extract of the relevant section of the document is provided in **Figure 5**. The Site would fall in the category of the second dot point, due to its proximity to the M4 motorway.

The southern boundary of the Site is located approximately 20m-25m north of the M4 motorway. This setback combined with a 20m setback on the Site would provide a minimum separation distance of 40m from the major road (M4). This is more than twice the distance noted in the interim guidelines where air quality should be a design consideration.

We have also had the proposed setback distance reviewed by Acoustic Logic Pty Ltd who have advised that a 40m setback from the southern boundary of the Site is not required for acoustic reasons. As noted in their letter at **Attachment C**, provided suitable façade acoustic treatments are included in the building's design the resulting acoustic amenity of future residential premises within a 40m setback will be acoustically acceptable.

In light of this it is requested that the setback from the southern boundary be reduced to 20m no matter what use is proposed. In order to give the department comfort that the issue of air quality is dealt with in a development application, an additional provision could be included in Section 6 of the DCP requiring an air quality assessment for any development proposal with a frontage to the M4 motorway.

When air quality should be a design consideration:

- Within 10 metres of a congested collector road (traffic speeds of less than 40 km/hr at peak hour) or a road grade $> 4\%$ or heavy vehicle percentage flows $> 5\%$,
- Within 20 metres of a freeway or main road (with more than 2500 vehicles per hour, moderate congestions levels of less than 5% idle time and average speeds of greater than 40 km/hr),
- Within 60 metres of an area significantly impacted by existing sources of air pollution (road tunnel portals, major intersection / roundabouts, overpasses or adjacent major industrial sources), or
- As considered necessary by the approval authority based on consideration of site constraints, and associated air quality issues.

Figure 5 – Air Quality Design Considerations

Source: Development near Rail Corridors and Busy Roads – Interim Guidelines

4.0 HEIGHT AND FSR CONTROLS FOR NORTHERN PORTION OF THE SITE

JBA has tested the planning controls proposed for the Site to ensure that the development potential as proposed in the Planning Proposal is achievable on the Site. We have used the land title as the basis of the analysis which is provided at **Attachment A** and showed the extent of the easements affecting the Site. These extend beyond further than that shown in the Planning Proposal. More specifically, the South East portion of the Site is significantly affected by the easement.

The complying scheme shown in the building envelope at **Attachment B** illustrates a development outcome that complies with the building setback and height controls proposed by the Planning Proposal. It also respects the building floor plate sizes and building separation distances recommended in the Residential Flat Design Code (RFDC) and Precinct DCP.

As is illustrated clearly, the southern portion of the Site is significantly impacted by the setbacks and easement affectations and consequently the complying scheme only achieves an FSR of 0.75:1 which is significantly less than the proposed maximum FSR of 1.5:1.

In the northern portion of the Site where an FSR of 2:1 is prescribed and a maximum height of 12 storeys, our analysis shows that the building heights envisaged cannot be achieved because the FSR control is too low. A proposal achieving an FSR of 2:1 would deliver buildings with ranging heights between 5 – 8 storeys.

The overall FSR the complying scheme generates for the Site is 1.09:1 whereas the Planning Proposal for the Precinct envisages an overall FSR of 1.64:1.

In light of the above discrepancies we have investigated what might be more appropriate controls for the Site such that the proposed maximum FSR for the Site might be achieved. This is presented as an alternative proposal at **Attachment B**. The principles behind the alternative scheme are discussed below.

Building Height

The relevant height principles noted in the Planning Proposal for the Precinct are:

- *medium rise buildings of 7-8 storeys where taller elements are counter balanced with lower buildings of 4-6 storeys;*
- *medium rise buildings along the motorway edge and at the interface with Sydney Olympic Park to act as noise buffers for residential development within the precinct; and*
- *high rise buildings up to 20 storeys reinforcing gateways, key streets and open spaces.*

Both Hill Road and Birnie Avenue are noted as the main 'gateways' into the Precinct. The proposed heights along Hill Road range between 6, 8 and 20 storeys reflecting and reinforcing the 'gateway'. However the heights along Birnie Avenue range between 6 and 12 storeys and as such do not as strongly re-enforce the 'gateway' into the southern part of the Precinct.

The alternative proposal put forward in this submission includes a range of heights at the northern portion of the Site that vary between 16 and 20 storeys so as to strongly reinforce the south-eastern gateway to the Precinct, being Birnie Avenue, without detracting from the taller 30 storey buildings in the Sydney Olympic Park Centre. The additional height along this frontage is also consistent with that proposed further north along the western side of Edwin Flack Avenue.

Providing higher density development in this part of the Site also makes sense due to the better amenity that will be afforded due to the greater distance away from the M4. There are also minimal overshadowing impacts due to the location of the easement through the middle of the Site.

The maximum heights of buildings in the southern portion of the Site have also been increased by two storeys up to a maximum of 8 storeys. The height is proposed in response to the additional constraint the infrastructure easement has on this part of the Site. The height has been positioned along the south-eastern part of the Site where it will have the least impact in terms of overshadowing and will not disrupt the continuation of 6 storey buildings further north along the M4 corridor.

Building Setbacks

The alternative scheme also introduces the lesser setbacks to the Southern and Birnie Avenue setbacks as proposed earlier in the submission being 20m and 10m respectively. A 20m setback is however maintained to the common boundary between the Site and the SOPA development site.

Floor Space Ratios

The resultant FSRs of the alternative scheme are 1.36:1 in the southern portion of the Site and 4.47:1 in the northern portion of the Site or an overall FSR of 2.23:1.

We believe the alternative scheme represents an improved development outcome for the Site whilst still maintaining the principles established for the Precinct. The proposed amendments would ensure the Site is developed to its true potential without generating any adverse impacts on any neighbouring property. The revised heights and FSR's also:

- recognise the constraints imposed on the Site by the easement;
- provide an FSR in the northern part of the Site consistent with those applied to the other SOPA development site's along the western side of Edwin Flack Avenue; and
- provide an equitable outcome given the disadvantage of having to provide 100% of the building separation distance from the SOPA development site on the Site.

In light of the above it is requested that the Building heights be increased to a maximum of 8 storeys in the southern portion of the Site and 20 storeys in the northern portion of the Site. It is also requested that the FSR controls be amended to either:

- 1.4:1 in the southern portion of the Site and 4.5:1 in the northern part of the Site; or
- That the whole of the Site have an FSR of 2.23:1 applied to it.

Once again we thank you for the opportunity to comment on the draft controls for the Carter Street Urban Activation Precinct. Should you have any queries about this matter, please do not hesitate to contact me on 9409 4944 or jbuchanan@jbaplanning.com.au

Yours faithfully



Jennie Buchanan

Associate