



AFFIDAVIT OF MATT SONTER

21 NOVEMBER 2017

COURT DETAILS

Court Land and Environment Court of New South Wales

Class

1

Case number

2017
8047/85735

TITLE OF PROCEEDINGS

Applicant

 Platinum Property Advisors Pty Ltd

Respondent

Minister for Planning

FILING DETAILS

Filed for

Platinum Property Advisors Pty Ltd, Applicant

Legal representative

Anthony Whealy
Mills Oakley
Level 12
400 George Street
Sydney NSW 2000

Legal representative reference

MDSS/CLMS/3249899

Contact name and telephone

Caitlin McJannett 8035 5849

Contact email

cmcjannett@millsoakley.com.au

AFFIDAVIT

Name Matt Sonter
Address Level 12, 400 George St, Sydney NSW 2000
Occupation Solicitor
Date 21 November 2017

I, Matt Sonter, affirm:

1. I am the solicitor employed by the solicitor on the record for the applicant and I have the day to day carriage of this matter.
2. In preparing this affidavit, I have had discussions with the applicant and its consultants, and to the best of my knowledge, information and belief, the contents of this affidavit are true and correct.

Background

3. The proceedings relate to State Significant development application no. SSD 7064 for a mixed used development involving demolition of existing structures, construction of a part 5 and part 6 storey building comprising 72 hotel rooms, 19 residential units, 2 retail/commercial tenancies, 2 levels of basement car parking and stratum subdivision at 175-177 Cleveland Street and 1-5 Woodburn Street, Redfern (**the Development Application**).
4. On 20 March 2017, the Applicant filed these Class 1 proceedings appealing against the refusal of the Development Application by the Planning Assessment Commission.
5. On 12 April 2017, the respondent filed its statement of facts and contentions.
6. On 22 August 2017, a section 34 conference was held and subsequently terminated after the parties failed to reach an agreement.
7. On 22 September 2017, a timetable was allocated by the Court for the matter to proceed to a hearing.
8. The timetable allocated was agreed between the parties so as to be capable of accommodating further without prejudice negotiations and the amendment of plans, if required.

Council's contentions

9. The contentions filed by the respondent in the proceedings include the following matters:
 - a. Exceedance of the FSR control and the SEPP 1 objection supporting the non compliance is not well founded;



- b. Exceedance of the height control and the SEPP 1 objection supporting the non compliance is not well founded;
- c. Adverse impacts on the streetscape and public domain;
- d. Inadequate amenity for the residential apartments;
- e. Insufficient information, including:
 - i. Consistency of floor plans with elevations;
 - ii. Solar access for apartments; and

The circumstances giving rise to the need for amendments to the architectural plans

- 10. The applicant has made amendments to the development application in response to feedback received from the respondent during the parties' 'without prejudice' discussions, including at the section 34 conciliation conference, as well as the issues raised in the Respondent's statement of facts and contentions.
- 11. Specifically, the applicant has sought to accommodate matters raised in relation to presentation, layout and impacts of the proposed buildings on the streetscape and adjoining properties.

Proposed amendments

- 12. Annexed to this affidavit and marked "A" is a schedule of amendments prepared by the applicant's planner, Mr Aaron Sutherland, which detail the proposed changes.
- 13. I am instructed by Mr Sutherland, that the proposed amendments include the following:

Reduction in bulk and scale

- a. Reduction in overall FSR from 3.7:1 to 3.25:1, comprising of
 - i. Residential FSR reduced from 1.36:1 to 1.197; and
 - ii. Non-residential FSR reduced from 2.33:1 to 2.053:1
- b. Reduction in number of hotel rooms (from 76 to 45) and provision of an additional apartment (from 19 to 20).
- c. Reduction in height of parapet level visible from Cleveland Street.
- d. Reduction in the height of the street wall to only 4 storeys along the Woodburn and upper Cleveland Street frontages, achieved through:
 - i. Substantial reduction in the top level (level 5 and 6) with the introduction of a setback to upper level;
 - ii. Introduction of a setback from southern boundary for Level 5 along Woodburn Street;



- iii. Introduction of a setback from southern boundary for Levels 5 and 6 along Eveleigh Street;

Reconfiguration of uses

- e. Relocation of the residential apartment to the western side of the site and partially along Cleveland Street with the residential lobby accessed from Eveleigh Street to address amenity concerns associated with the railway;
- f. Relocation of the hotel component along the eastern part of the site and partially along Cleveland Street with the hotel lobby accessed from Cleveland Street;
- g. Relocation of retail tenancy to the north-western corner of the site on the lower ground level;
- h. Relocation of retail tenancy at the north-eastern corner of the site on the upper ground level;
- i. Introduction of a partially-underground tenancy along eastern side of the development to improve activation and make use of the lower level space;
- j. Increase in width of the central light court from 7.19m to 9m;
- k. Provision of communal open space for residents above the apartments on the western side of the site and for hotel patrons above eastern side of the height
- l. Resultant reconfiguration of lift core, fire stairs and waste areas;

Redesign of apartments

- m. Apartments reorientated to provide a single aspect facing Eveleigh Street;
- n. Provision of opaque fixed glass louvres along eastern side of the gallery walkway;

Basement car parking

- o. Provision of additional 3 levels of basement car parking to provide an increase in car parking (from 13 to 59 cars).

14. Annexed to this affidavit and marked "B" is a copy of the amended architectural plans which reflect the proposed amendments detailed in paragraph 12.
15. The applicant also seeks to rely on additional information in support of the amended proposal, specifically:
 - a. Amended SEPP 1 objection – FSR. Annexed to this affidavit and marked "C" is a copy of this document.



- b. Amended SEPP 1 objection – height. Annexed to this affidavit and marked “D” is a copy of this document.
- c. Updated traffic report. This document will be provided separately to the respondent and the Court by COB on 22 November 2017.

Reduction in environmental impact and improved community outcome

16. I am informed by Mr Sutherland that the amendments will reduce the environmental impacts of the proposed development and lead to an improved community outcome by:
 - a. Improved streetscape resulting from the reduction in bulk and scale, setback upper levels and improved presentation and activation of street frontages;
 - b. Improved interface with the public domain and facade design;
 - c. Increased setback to adjoining properties at upper levels;
 - d. Improved solar access for adjacent development, open space and the public domain when compared to the original scheme and also the approved scheme for the site;
 - e. Improved internal amenity for residential apartments in terms of solar access, privacy and car parking; and
 - f. Improved quality of communal open space;
 - g. Increased parking to accommodate uses propose don the site;
 - h. Improved internal acoustic amenity and compliance with ADG requirements.

Hearing dates

17. The matter has been allocated hearing dates on 15 and 16 March 2018.
18. Any notification required as a result of the amended plans can be accommodated in the timetable to a hearing.

Just, quick and cheap resolution of the proceedings

19. The amendments are directly responsive to the issues raised by the Respondent in its contentions.
20. If leave is granted for the Applicant to rely on the amended plans and documents, the number of issues in dispute between the parties will likely be reduced. The reduction of issues in dispute and resolution of Respondent’s concerns ought to promote the just, quick and cheap resolution of the proceedings.



Costs

21. I am instructed that although the scope of the amendments is not considered to be minor, many aspects of the Respondent's original assessment still remain relevant.
22. I am instructed that the applicant is willing to pay the Respondent's reasonable costs thrown away for the purposes of section 97B of the *Environmental Planning and Assessment Act 1979* as a result of these amendments.



SWORN/AFFIRMED at SYDNEY

Signature of deponent



Name of witness

Catherine Margison

Address of witness

Level 12
400 George Street,
Sydney NSW 2000

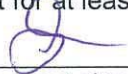
Capacity of witness

Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

1. I saw the face of the deponent.
2. I have known the deponent for at least 12 months.

Signature of witness



Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

15 November 2017

Matt Sonter
Mills Oakley
Level 12, 400 George Street
SYDNEY NSW 2000

This and the following 1 page(s) comprise the
Annexure marked "A" referred to in the Affidavit of

Matt Sonter
sworn/affirmed before me on 21/11/2017

Solicitor/Justice of the Peace

Dear Matt,

[Platinum Property Advisors v Minister for Planning – Case Number 85735 of 2017](#)

We refer to NSW Land and Environment Court Proceedings No. 85735 of 2015 Platinum Property Advisors v Minister for Planning and in particular your request for a summary of amendments to the proposed mixed use development at 175-177 Cleveland Street and 1-5 Woodburn Street, Redfern.

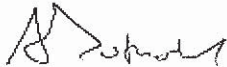
Below is a summary of the primary amendments which have been undertaken in relation to the proposal, as illustrated in the architectural package prepared by JPR Architects dated November 2017:

- The massing of the proposal has been amended as follows:
 - the top level (Level 6) substantially reduced and constrained to the eastern and northern parts of the site with a street setback introduced
 - a setback from the southern boundary has been introduced for Level 5 along Woodburn Street
 - a setback from the southern boundary has been introduced for Levels 4 and 5 along Eveleigh Street
 - the setbacks result in a 4 storey street wall along the majority of street frontages, with the exception of the north-western corner due to the fall of the site.
- The configuration of uses across the site has been amended with:
 - the residential apartments relocated to the western side of the site and partially along Cleveland Street with the residential lobby accessed from Eveleigh Street
 - the hotel component relocated along the eastern part of the site and partially along Cleveland Street with the hotel lobby accessed from Cleveland Street
 - a retail tenancy is located at the north-western corner of the site on a lower ground level (Ground/Level 1 on the architectural plans)
 - another retail tenancy is located at the north-eastern corner of the site on the upper ground level (Level 2 on the architectural plans)
 - a partially underground wine bar has been introduced along the eastern side of the development with an outdoor terrace which faces towards the light well
 - the width of the central light court has been increased from 7.19 metres to 9 metres.
 - communal open space is provided for residents above the apartments on the western side of the site with this rooftop reduced from RL 38.4 down to RL 36. A rooftop area is also provided for hotel patrons above the eastern side of the site with this rooftop reduced from RL 40.25 down to RL 39.2.
 - various other changes to the location of lift cores, fire stairs and waste areas has occurred as a result of the reconfiguration of uses across the site.

- The residential apartments have been redesigned so that they are all single aspect apartments facing Eveleigh Street and opaque fixed glass louvres are located along the eastern side of the gallery walkway to provide privacy for the residential apartments from the hotel use across the central light court to the east.
- The number of hotel rooms has reduced from 76 rooms to 45 rooms
- The number of residential apartments has increased from 19 apartments to 20 apartments
- An increase from 2 basement levels for 13 cars to 5 basement levels for 59 cars
- A decrease in overall FSR from 3.7:1 to 3.25:1 (decrease in residential FSR from 1.36:1 to 1.197, and decrease in non-residential FSR from 2.33:1 to 2.053:1)

Should you have any questions concerning the above, please contact Aaron Sutherland on either (02) 9894 2474 or 0410 452 371, or alternatively at aaron@sutherlandplanning.com.au.

Yours faithfully



Aaron Sutherland
Sutherland & Associates Planning Pty Ltd