



**17 SEPTEMBER 2001**

**Meeting No 1340**

**MINUTES** of a Meeting of the Council of the City of Sydney held in the Council Chamber at the Sydney Town Hall, commencing at 5.35pm on 17 September 2001 pursuant to Notice 18/1340 dated 13 September 2001.

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## **PRESENT**

The Deputy Lord Mayor Councillor Lucy Turnbull  
(Chairman)

Councillors - Dixie Coulton, Kathryn Greiner, Robert Ho and Fabian Marsden.

At the commencement of business at 5.35pm those present were:-

The Deputy Lord Mayor, Councillors Coulton, Greiner and Marsden.

Councillor Robert Ho arrived at the meeting at 5.58 pm during discussion on Item 7.

The Acting General Manager, Deputy General Manager, Director Corporate and Legal Services, Acting Director City Development, Acting Director City Projects and Director Living City Services were also present.

### Opening Prayer

The Deputy Lord Mayor opened the meeting with prayer.

### **Apologies**

The Lord Mayor, Councillor Frank Sartor, extended his apologies for his inability to attend the meeting as he was overseas.

Councillor Nick Farr-Jones extended his apologies for his inability to attend the meeting due to an unexpected business commitment arising that afternoon.

Moved by the Chairman (the Deputy Lord Mayor), seconded by Councillor Greiner -

That the apologies from the Lord Mayor and Councillor Farr-Jones be accepted and leave of absence be granted.

Carried.

## **ITEM 1. CONFIRMATION OF MINUTES**

Note - The minutes of the extraordinary meeting of Council held on 3 September 2001 will be submitted for confirmation to the meeting of Council to be held on 22 October 2001.

## **ITEM 2. A MESSAGE OF SYMPATHY FROM SYDNEY TO NEW YORK AND WASHINGTON D.C.**

FILE NO:

DATE: 14/9/01

### **MINUTE BY THE LORD MAYOR**

#### To Council:

The people of Australia and the United States long have held shared beliefs in freedom, democracy, human rights, and the rule of law. These beliefs form the basis of each nation's core values.

Today, the people of Sydney are shocked by the tragic events of September 11<sup>th</sup> 2001 in New York City and Washington DC. Our cities are bonded by shared grief.

We have witnessed acts of great evil, perpetrated upon innocents on a scale unprecedented in peacetime memory. The loss of so many citizens and emergency workers, has left all of us deeply saddened and concerned that such acts can occur in our modern world.

It is important that the people of New York City and Washington DC know that our City shares their grief and anger. On behalf of my fellow councillors and the people of Sydney I already have written letters of sympathy and support to Mayor Giuliani and Mayor Williams.

Condolence books have been open at Sydney Town Hall and Customs House and thousands of Sydneysiders have taken the opportunity to express personal messages to the people of New York City and Washington DC. The books will be bound and sent to the Mayors of those cities.

Sydney's thoughts and our prayers are with those cities, and with the thousands of people throughout the world, including so many Australians affected by this tragedy.

RECOMMENDATION:

- (A) That Council notes actions taken so far to express the sympathy and support of the people of Sydney to the people of New York City and Washington D.C.
- (B) That Council observe a minute's silence as a mark of respect to the victims of the events of September 11<sup>th</sup> in New York City, Washington D.C. and Pennsylvania.

(SGD) COUNCILLOR FRANK SARTOR

Lord Mayor

Note - The Chairman (the Deputy Lord Mayor) advised Council of the death, on one of the hijacked flights on 11 September 2001, of a former Council employee, Mrs Yvonne Kennedy.

Moved by the Chairman (the Deputy Lord Mayor), seconded by Councillor Greiner -

That arising from consideration of a Minute by the Lord Mayor to Council on 17 September 2001 on A Message of Sympathy from Sydney to New York and Washington D.C., it be resolved that -

- (A) Council note actions taken so far to express the sympathy and support of the people of Sydney to the people of New York City and Washington D.C.
- (B) Council observe a minute's silence as a mark of respect to the victims of the events of September 11<sup>th</sup> in New York City, Washington D.C. and Pennsylvania.

Carried unanimously.

Councillors and staff observed a minute of silence as a mark of respect to the victims of the events of September 11<sup>th</sup> in New York City, Washington D.C. and Pennsylvania.

**ITEM 3. MEMORANDA BY THE GENERAL MANAGER**

There were no Memoranda by the General Manager for this meeting of Council.

**ITEM 4. MATTERS FOR TABLING**

Disclosure of Interest Returns that had been lodged in accordance with Sections 449(1) and 449(3) of the Local Government Act were laid on the table.

Moved by the Chairman (the Deputy Lord Mayor), seconded by Councillor Coulton -

That the Disclosure of Pecuniary Interests returns be received and noted.

Carried.

**PETITION**

The Chairman (the Deputy Lord Mayor) tabled a petition signed by 324 people representing 247 companies being stakeholders in The Rocks and Circular Quay Precinct, calling for the NSW Government to review its decision to prohibit Sydney Harbour cruise operators from disembarking or embarking coach group passengers at Sydney Cove wharves.

Moved by Councillor Marsden, seconded by Councillor Greiner -

That the petition be received and noted.

Carried.

**ITEM 5. REPORT OF THE PLANNING DEVELOPMENT AND TRANSPORT COMMITTEE - 10 SEPTEMBER 2001**

PRESENT

Councillor Lucy Turnbull  
(Chairman)

Councillors Dixie Coulton, Kathryn Greiner, Robert Ho, and Fabian Marsden.

At the commencement of business at 6.13pm those present were:-

Councillors Coulton, Greiner, Ho, Marsden, and Turnbull.

**Apology**

Councillor Nick Farr-Jones extended his apologies for his inability to attend the meeting of the Planning Development and Transport Committee owing to a prior business commitment.

Moved by Councillor Turnbull, seconded by Councillor Greiner -

That the apology from Councillor Farr-Jones be accepted and leave of absence from the meeting be granted.

Carried.

The meeting of the Planning Development and Transport Committee concluded at 8.20pm.

Report of the Committee

Moved by the Chairman (the Deputy Lord Mayor), seconded by Councillor Coulton -

That the Report of the Planning Development and Transport Committee of its meeting of 10 September 2001 be received, and the recommendations set out below for Items 5.1 and 5.3 be adopted, with Item 5.2 being noted.

Carried.

The Committee recommended the following:-

**PART "A" - DETERMINED BY COUNCIL**

**DEVELOPMENT APPLICATIONS: 849 - 855 GEORGE STREET AND 732 HARRIS STREET BROADWAY (D2001/00456, D2001/00352)**

**5.1**

That consideration of this matter be deferred to the meeting of Council on 17 September 2001.

Carried.

Note - Mr Geoff Gilbert and Mr Steven Page addressed the meeting of the Planning Development and Transport Committee on Item 5.1.

Note - This matter was dealt with by Council as Item 7 on the Business Paper.

**PART "B" - DETERMINED BY PLANNING DEVELOPMENT AND TRANSPORT COMMITTEE UNDER DELEGATED AUTHORITY**

The Planning Development and Transport Committee recommended that Council note that Item 5.2 was determined by the Planning Development and Transport Committee under delegated authority.

Carried.

**STAGE 1 DEVELOPMENT APPLICATION: 137-139 BATHURST STREET SYDNEY (D2001/00101)**

**5.2**

Moved by Councillor Turnbull, seconded by Councillor Greiner -

That arising from consideration of a report by the Acting Area Manager to the Planning Development and Transport Committee on 10 September 2001 in relation to stage 1 Development Application D2001/00101 made by De La Vega Architects Pty Ltd for the erection of a 16 storey mixed use building providing for ground level retail, 4 lower levels of commercial office space and the remaining upper levels providing for 22 residential units and associated basement levels including 26 car parking spaces and a gym at 137-139 Bathurst Street Sydney, it be resolved that consideration of this matter be deferred to a Special Meeting of the Planning Development and Transport Committee to be held on 17 September 2001.

Carried.

Note - Mrs Judith Sperling, Mr Owen Sperling, Ms Eleanor Healy and Mr Alex de la Vega addressed the meeting of the Planning Development and Transport Committee on Item 5.2.

**PART "A" - DETERMINED BY COUNCIL (CONTINUED)**

**DEVELOPMENT APPLICATION: GEORGE PATTERSON HOUSE & TANK  
STREAM BUILDING, 248-252 GEORGE STREET, SYDNEY KNOWN AS THE  
ESTABLISHMENT (D/2001/00437)**

**5.3**

That consideration of this matter be deferred to the meeting of Council on 17 September 2001.

Carried.

Note - Ms Margot McKenzie, Mr Bill Parker, Mr George Smith and Mr Justin Hemmes addressed the meeting of the Planning Development and Transport Committee on Item 5.3.

Note - This matter was dealt with by Council as Item 8 on the Business Paper.

**REPORT OF THE SPECIAL MEETING OF THE PLANNING DEVELOPMENT  
AND TRANSPORT COMMITTEE - 17 SEPTEMBER 2001**

FILE NO:

DATE: 18/9/01

PRESENT

Councillor Lucy Turnbull  
(Chairman)

Councillors - Dixie Coulton, Kathryn Greiner and Fabian Marsden.

At the commencement of business at 4.40 pm those present were -

Councillors Coulton, Greiner, Marsden and Turnbull.

**Apologies**

Councillor Nick Farr-Jones extended his apologies for his inability to attend the Special Meeting of the Planning Development and Transport Committee due to an unexpected business commitment arising that afternoon.

Councillor Robert Ho extended his apologies for his inability to attend the Special Meeting of the Planning Development and Transport Committee due to an unavoidable delay.

Moved by Councillor Turnbull, seconded by Councillor Greiner -

That the apologies from Councillor Farr-Jones and Councillor Ho be accepted and leave of absence from the meeting be granted.

Carried.

The Special Meeting of the Planning Development and Transport Committee concluded at 5.00 pm.

Moved by the Chairman (the Deputy Lord Mayor), seconded by Councillor Coulton -

That the Report of the Planning Development and Transport Committee of its Special Meeting of 17 September 2001 be received, and the recommendation set out below for Item 6.1 be adopted.

Carried.

The Committee recommended the following:-

**PART "A" - DETERMINED BY COUNCIL****STAGE 1 DEVELOPMENT APPLICATION: 137-139 BATHURST STREET SYDNEY (D2001/00101)****6.1**

That arising from consideration of a report by the Acting Director City Development to the Special Meeting of the Planning Development and Transport Committee on 17 September 2001, in relation to stage 1 Development Application D2001/00101 made by De La Vega Architects Pty Ltd for the erection of a 16 storey mixed use building providing for ground level retail, 4 lower levels of commercial office space and the remaining upper levels providing for 22 residential units and associated basement levels including 26 car parking spaces and a gym at 137-139 Bathurst Street Sydney, it be resolved that consent be granted under Section 80(4) of the Environmental Planning and Assessment Act 1979 for Stage 1 development for the building envelope, building bulk, building height, building setbacks, site footprint, basement car parking and vehicle access/egress arrangements subject to the following conditions:

**Conditions to be complied with prior to lodgement of a Stage 2 Development Application****APPROVED DEVELOPMENT**

- (1) The Stage 2 development application must be in accordance with Stage 1 Development Application No. D2001/00101 dated 19 February 2001 and amended Statement of Environmental Effects prepared by De La Vega Architects Pty Ltd received 5 September 2001 and the following drawings identified as:-

Floor plans – basement

Floor plans g/f to level 10

Floor plans level 11 to roof

DA008 – elevation – Bathurst Street

DA009 – elevation – Castlereagh Street

DA010– elevation – rear

DA011 – elevation – west

prepared by De La Vega Architects Pty Ltd dated received 5 September 2001 and as amended by the following conditions:

- (2) This approval will be valid for a period of two years from the date of the approval.

**CARPARK BASEMENT LEVELS**

- (3) The car park basement levels and car lift are not approved and the final configuration of the site's basement levels and vehicular access to that basement shall be determined within the stage 2 application, provided that Council has been satisfied that there will be no substantial negative impacts on traffic movements in Bathurst Street. If a basement level car park is

proposed, the following information shall be provided with the stage 2 application:-

- (a) NSW Fire Brigades' written confirmation that all access to the vehicular easement is acceptable in respect to the operational requirements of the adjacent Fire Station.
- (b) Details on the capacity and functioning of the proposed mechanical car lift.
- (c) A traffic report justifying the access arrangements to the site and car parking provision proposed.

#### **NO WORKS PRIOR TO STAGE 2 DEVELOPMENT APPLICATION**

- (4) No excavation or construction shall commence in relation to this Stage 1 development application until a Stage 2 development application is approved and a construction certificate issued in respect of the substantive building.

#### **DESIGN EXCELLENCE**

- (5) As part of the Stage 2 development application preparation, the applicant shall satisfy the design excellence requirements in accordance with the provisions of Clause 28D of the Central Sydney Local Environmental Plan 1996.

#### **MATERIALS AND FINISHES**

- (6) The design details of the proposed building's facade treatments including all external finishes and colours, including glazing must be submitted with the stage 2 development application.

#### **FLOOR SPACE RATIO**

- (7) The following applies to Floor Space Ratio:-
  - (a) The Floor Space Ratio of the proposal must not exceed 8.5:1 calculated in accordance with the Central Sydney Local Environmental Plan 1996. For the purpose of the calculation of FSR, the Floor Space Area of the development is 3,270 sqm.
  - (b) Prior to issue of an Occupation Certificate under the Environmental Planning and Assessment Act 1979, a Registered Surveyor shall provide certification of the total and component Floor Space Areas (by use) in the development, to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier).

## **BUILDING HEIGHT**

(8)

- (a) The height of the building (as defined in the Dictionary in the Central Sydney Local Environmental Plan 1996) must not exceed RL 69 (AHD).
- (b) Prior to issue of an Occupation Certificate under Environmental Planning and Assessment Act 1979, a Registered Surveyor shall provide certification of the height of the building, to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier).

## **BUILDING ENVELOPE**

- (9) The building envelope is only approved on the basis that the ultimate building design will be wholly contained within the envelope and provide an appropriate relationship with neighbouring buildings. In this regard the Stage 2 development application should demonstrate a consistency with the objectives and provisions of the Central Sydney LEP and DCP 1996.

## **MATTERS TO BE ADDRESSED IN THE STAGE 2 APPLICATION**

- (10) The following matters must be provided or, where demonstrated in the stage 1 proposal, retained for in the design of the stage 2 application of the subject building to the satisfaction of the Council:
- (a) The provision of adequate fire egress and fire control facilities in respect to the Building Code of Australia.
  - (b) The provision of waste storage facilities (for both the residential and commercial uses) in accordance with Council's Code.
  - (c) The provision of loading facilities provided in accordance with clause 5.4 of Central Sydney Development Control Plan 1996.
  - (d) Details of the passive and active measures proposed in the building to address Council's energy efficiency requirements in accordance with clause 4.3 of Central Sydney Development Control Plan 1996.
  - (e) A Heritage Impact Statement from an appropriately qualified professional in respect to the proposal's impact on adjoining heritage items.
  - (f) The embellishment and articulation of the proposed building's blank side elevations

## **EASEMENT FOR LIGHT AND AIR**

- (11) Prior to issue of a stage 2 development consent under the Environmental Planning and Assessment Act 1979 a 9 metre easement for light and air

(unlimited in height) shall be obtained for all rear windows and balconies that face the adjoining fire station site known as 213-217 Castlereagh Street Sydney to benefit the lot contained within the site (known as 137-139 Bathurst Street Sydney, Lot 1 DP 218604) and registered with the NSW Land Titles Department. Proof of such registration shall be provided to Council prior to release of the stage 2 development application.

#### **ARCHITECTURAL ROOF FEATURE**

- (12) An architectural roof feature is not necessarily required by the consent authority, but if one is proposed it shall comply with all the requirements of the Central Sydney LEP 1996 and in particular, be an integral part of the overall building design.

#### **RESIDENTIAL AMENITY**

- (13) The Stage 2 development application must provide the final design of the residential units and satisfy the objectives of the Central Sydney DCP 1996 relating to residential amenity, particularly in relation to ventilation, unit size, unit mix, storage and acoustic privacy.

**Note:** A diminishing of the approved amenity of the residential units, particularly in respect to unit mix and reduction in unit size, will be considered grounds for refusal of a stage 2 development application.

#### **ARCHAEOLOGICAL INVESTIGATION**

- (14)
- (a) The applicant must apply to the Heritage Office for an excavation permit under Section 140 of the Heritage Act 1977, if a suitable investigation has not already been undertaken on the site.
  - (b) Should any potential archaeological deposit likely to contain Aboriginal artefacts be identified during the planning or historical assessment stage, application be made by a suitably qualified archaeologist to the National Parks and Wildlife Service (NPWS) for an excavation permit for Aboriginal relics.
  - (c) The applicant shall comply with the conditions and requirements of any excavation permit required, and are to ensure that allowance for compliance with these conditions and requirements into the development program.
  - (d) General bulk excavation of the site is not to commence prior to compliance with the conditions and requirements of any excavation permit required.
  - (e) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council

of NSW should be informed in accordance with section 146 of the Heritage Act 1977.

- (f) Should any Aboriginal relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance of the area is to stop immediately and the (NPWS) is to be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.

**Note:**

In some circumstances, conditions imposed by the Heritage Office or NPWS could delay and/or affect how the DA is to proceed.

**PUBLIC DOMAIN PLAN**

(15) The following requirements apply:-

- (a) Three copies of a detailed Public Domain Plan shall be prepared by an architect, urban designer or landscape architect and shall be approved by Council with the Stage 2 development application.
- (b) The Public Domain Plan shall be as follows:-
  - (i) Drawn at 1:100 scale.
  - (ii) Show the entire layout of flagstone paving where this paving is required.
  - (iii) Nominate the location, type and material of all existing and proposed public pavement elements including trees, paving, kerbs and gutters, pedestrian ramps, vehicle crossings, street furniture, utility poles, parking meters, pedestrian and traffic signals, service pits and stormwater pits.
  - (iv) Include a longitudinal section of the pavement showing existing and proposed levels at 10 metre intervals at the building alignment, the kerb and the gutter on a common datum line. This longitudinal section is to be drawn at 1:100 horizontal scale and 1:10 (exaggerated) vertical scale. This section is to ensure that any significant longitudinal gradient change, such as flattening for vehicle entries, occurs within the building line and not at the public pavement.
  - (v) Include 1:50 scale cross sections through pedestrian ramps and vehicle crossings.
  - (vi) Include specifications of the proposed works.
- (c) The Public Domain Plan shall comply with the specifications and details of the Central Sydney Paving Design Policy 1996 and Council's Specifications and the Central Sydney Street Tree Policy 1994.

- (d) The Public Domain Plan shall provide details of:-
- (i) The paving treatment of the proposed vehicle easement and provide for the integration of this space into the public domain of Bathurst Street consistent with the heritage significance of the adjoining Metropolitan Fire Station site.
  - (ii) Details of the public art to be provided within the proposed development.
- (e) The Public Domain Plan shall incorporate the standard specifications and detail of the Central Sydney Paving Design Policy 1996 and Council's Specifications adapted to suit the specific site requirements as advised by the Public Domain Officer and may include:-
- (i) Adjustment to paving grades to provide a maximum crossfall of 2.5% from building line to top of kerb.
  - (ii) Repaving in accordance with Central Sydney Paving Design Policy 1996 and Council's Specifications. All granite paving (where applicable) is to be sealed in accordance with Council's specifications.
  - (iii) The relocation or provision of new vehicle crossovers and pedestrian ramps including the consequent relocation of existing service pits, traffic signals, kerb corner radii, signs, street furniture and street trees.
  - (iv) The retention of existing street trees and the provision of new street trees to comply with the Central Sydney Street Tree Policy 1994.
  - (v) The repair and where required the resetting of all stone kerbing to 150mm above the gutter height and the replacement of concrete kerbing with stone kerbing. Where adjustments require substantial kerb and gutter demolition, the carriageway shall be reconstructed to the centre line of the carriageway.
  - (vi) The retention and repair of any existing pavement lights.
  - (vii) The retention and repair of any existing serviceable stone gutters.
  - (viii) The realignment and level adjustment of service pit lids to correspond to new kerb ramps and paving. New service pit lids in flagstone paving to be infill type, with stone infill to match stone paving surrounds. New service pit lids in asphalt paving to be infill type, with cement mortar infill coloured to match adjoining asphalt.

### **ELECTRICITY SUBSTATION**

- (16) An electricity substation may be required within the development. The owner must liaise with Energy Australia and the size, design and location of the substation shall be included in the Stage 2 development application to the satisfaction of Energy Australia.

### **DETAILS OF ACCESS FOR PEOPLE WITH DISABILITIES**

- (17) The Stage 2 development application must demonstrate access and facilities for people with disabilities in accordance with Part D3 of the Building Code of Australia and Council's Access Policy.

### **SIGNAGE STRATEGY**

- (18) A signage strategy shall be provided with the Stage 2 development application that identifies the number, type, size and locations of signs required to ensure appropriate wayfinding and naming of buildings and tenancies within the development.

### **EXTERNAL LIGHTING**

- (19) Details shall be provided with the Stage 2 development application which identifies the number, type, size, design luminosity and location of lighting in relation to the exterior of the building and public spaces.

### **TRAFFIC AND ACCESS REQUIREMENTS**

- (20) Should on-site car parking be provided in the stage 2 application the following requirements shall apply:-
- (a) No more than a maximum of 26 car parking spaces shall be provided within the stage 2 application and the spaces shall be allocated as follows:
    - (i) 3 commercial tenant spaces.
    - (ii) 23 residential owner/occupier space
    - (iii) The equivalent of 1 car space for cycle racks or an equivalent cycle storage area and a room containing a shower and change area must be provided close to the cycle racks.

Note: The car parking provision in the stage 2 application can be reduced in order to comply with other conditions of consent, design requirements or to avoid excessive excavation of the site.

- (b) The Stage 2 development application shall provide easy access including adequate turning areas for the largest vehicle (such as garbage trucks and delivery trucks) likely to enter the site.

- (c) The Stage 2 development application shall ensure that all vehicles using the site must be able to enter and leave the site in a forward direction.
  - (d) The Stage 2 development application must demonstrate that the layout of the car park and service vehicle parking area conform with AS 2890.1-1993 and AS 2890.2-1989.
  - (e) The Stage 2 development application shall ensure that the design of the building and the method of storage and handling of waste and recyclable material comply with Council's Code for Waste Handling in Buildings (adopted 17 October 1994). The Code requires the submission of a Waste Management Plan.
  - (f) All costs of traffic management measures associated with the development shall be borne by the developer.
- (21) Residents of the properties shall not be entitled to participate in the City's On-street Resident Parking Schemes. The exclusion from the parking schemes shall appear on the Section 149 Certificates that are issued under the Environmental Planning and Assessment Act 1979.

#### **SECTION 61 CONTRIBUTION**

- (22) A contribution under Section 61 of the City of Sydney Act 1988 shall be paid in accordance with the following (after the approval of a stage 2 development application):
- (a) **Cash Contribution Required**
    - (i) In accordance with the adopted "*Central Sydney Contributions Plan 1997*" a cash contribution must be paid to Council in accordance with this condition.
    - (ii) Payment shall be by bank cheque made payable to the City of Sydney.
  - (b) **Amount of Contribution**
    - (i) The amount of the contribution will be equivalent to 1% of the development cost, at the Construction Certificate stage, as determined in accordance with the "*Central Sydney Contributions Plan 1997*".
  - (c) Certification of the calculation of the contribution in accordance with the "*Central Sydney Contribution Plan 1997*" shall be submitted for the approval of Council prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.
    - (i) If the Construction Certificate is to be issued by a private accredited certifier, they must seek Council's endorsement of the calculation prior to the issue of the Construction Certificate.

- (ii) For developments over \$2 million in cost, the certification of the building costs must be prepared by a Registered Quantity Surveyor.

(d) **Timing of Payment**

- (i) The contribution must be paid prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

**Schedule 2**

**The prescribed conditions in accordance with Clause 78 of the Environmental Planning and Assessment Regulation 1998 apply to the development.**

Carried.

Note - Mr Alex de la Vega and Mr Bill Gale addressed the Special Meeting of the Planning Development and Transport Committee on Item 6.1.

## **Order of Business**

In accordance with Clause 12(2) of the Local Government (Meetings) Regulation 1999, the Council resolved that the order of business be altered such that Item 8 on the Business Paper be dealt with prior to Item 7.

### **ITEM 8. DEVELOPMENT APPLICATION: GEORGE PATTERSON HOUSE & TANK STREAM BUILDING, 248-252 GEORGE STREET, SYDNEY KNOWN AS THE ESTABLISHMENT (D/2001/00437)**

Moved by the Councillor Coulton, seconded by Councillor Greiner -

That arising from consideration of a report by the Specialist Planner to Council on 17 September 2001 in relation to Development Application D/2001/00437 made by Merivale Group for the site at 248-252 George Street Sydney, to continue on a permanent basis, extended trading hours for the Establishment Hotel, it be resolved that authority be delegated to the Acting General Manager, in consultation with the Chair of the Planning Development and Transport Committee, to determine the subject Development Application, having regard to -

- (A) the proposed conditions of consent listed in the subject report;
- (B) the discussion at the meeting of Council on amenity issues, noise measurements, sound pressure levels, and the proposed Neighbourhood Committee.

Carried.

### **ITEM 7. DEVELOPMENT APPLICATIONS: 849 - 855 GEORGE STREET AND 732 HARRIS STREET, BROADWAY (D2001/00456, D2001/00352)**

Moved by the Chairman (the Deputy Lord Mayor), seconded by Councillor Coulton -

That arising from consideration of reports by the Specialist Planner to the Planning Development and Transport Committee on 10 September 2001 and to Council on 17 September 2001 in relation to -

- (A) Development Application D2001/00456 made by Cronos for the site at 849-855 George and 732 Harris Street, Sydney to subdivide the site into three lots, it be resolved that the development application be refused for the following reasons:
  - (1) The proposed development does not comply with the provisions of the Part 3A Urban Form and Design Excellence of LEP1996 namely Clause 28B(1)(b) requiring any development on a site exceeding 1500 square metres in area to be subject to a development plan in force. In this regard the applicant has failed to justify reasons why the need for a Development Plan should be waived under Clause 28B(4)(e). As such, under the provisions of Clause 28B (2) development consent must not be granted.

- (2) The proposed development is inconsistent with the aims, objectives and provisions of the Central Sydney Heritage Local Environmental Plan 2000 in particular inadequate information has been provided to provide a thorough assessment of the impact of the subdivision on the significance of the heritage item;
  - (3) The relationship of the proposed subdivision with that of the proposed development (D2001/00352) is not entirely clear with the rationale for the proposed subdivision not clearly articulated in the submitted development application
  - (4) The proposal is not in the public interest as the proposed subdivision disregards provisions of Part 3A Urban Form and Design Excellence of LEP1996.
- (B) Development Application D2001/00352 made by Cronos for the site at 849-855 George and 732 Harris Street, Sydney to demolish the existing Harris Street building and the rear of George Street buildings (Heritage Items) to subdivide and construct a fifteen level residential building comprising 104 residential apartments (13 x 1 bedroom, 72 x 2 bedroom, 19 x 3 bedroom) with 6 basement levels with parking for 134 vehicles and a new driveway entry/exit from Harris Street, it be resolved that the development application be refused for the following reasons:
- (1) The proposal fails to comply with the aims, objectives and provisions of the Central Sydney Local Environmental Plan 1996, Central Sydney Heritage Local Environmental Plan 2000, Central Sydney Development Control Plan 1996.
  - (2) The proposed development does not comply with the provisions of the Part 3A Urban Form and Design Excellence namely Clause 28B of LEP 1996 in that the total site area exceeds 1500 square metres and the site is not subject of an approved development plan. In this regard:
    - (a) the combined areas of the proposed residential building and adjacent heritage building is 1735 m<sup>2</sup>.
    - (b) the construction of the proposed residential building is dependant upon the subdivision of the site which contains the heritage building;
    - (c) the proposed residential building and the heritage building are physically interrelated in that:
      - (i) the heritage building relies on the new residential building for access to the upper levels and egress to the right of way;
      - (ii) the new residential building relies on the heritage building for easements of light and air and egress across the right of way.

The applicant has failed to justify reasons why the need for a Development Plan should be waived under Clause 28B(4)(e). As such, under the provisions of Clause 28B (2) development consent must not be granted.

- (3) Notwithstanding the failure to lodge a development plan, the proposed development is considered unacceptable by virtue of its bulk, scale, form, architectural detailing and relationship with adjoining development. In this regard the development will constitute a dominant and intrusive element in the streetscape which adversely impacts on important vistas of the nearby heritage listed buildings and heritage streetscapes;
- (4) The proposed development fails to satisfy the provisions of Clause 10 of LEP2000 which restricts the maximum FSR of a development to the FSR of the heritage building on the site unless the development is considered not to have adverse heritage impacts as referred to in clause 11 of LEP2000. In this regard the development, which significantly increases the FSR of the existing building on the site of the heritage item at 849-855 George Street, adversely impacts on the heritage significance of the item by way of its height, bulk, scale and detailed design.
- (5) The proposed vertical clearance of the loading dock is deficient and will have an adverse impact on the access requirements of loading/unloading trucks and garbage collection vehicles.
- (6) The proposal is not in the public interest as the proposed development disregards provisions of Part 3A Urban Form and Design Excellence of LEP1996 and is also not sympathetic to the context of the surrounding area and results in poor design excellence.
- (7) The proposal fails to comply with the aims, objectives and provisions of the Central Sydney Development Control Plan 1996 including clauses 2.7 Building exteriors, 2.8 Views, 2.9 Extensions to heritage items, 5.4 Delivery & service vehicles, 6.1.3 Lightwells and internal courtyards, 6.1.17/18 Design of roof top areas.

The motion was carried on the following show of hands -

Ayes (3) - The Chairman (the Deputy Lord Mayor), Councillors Coulton and Marsden

Noes (2) - Councillors Greiner and Ho.

Motion carried.

(Note - Councillor Ho indicated a wish to abstain from voting on this matter. Pursuant to the provisions of clause 24(1) of the Local Government (Meetings) Regulation 1999, Councillor Ho is taken to have voted against the motion.)

**ITEM 9. WYNYARD LANE, SYDNEY ADJOINING 289-307 GEORGE STREET  
- PROPOSED LEASE OF STRATUM OVER (S017222)**

Moved by the Chairman (the Deputy Lord Mayor), seconded by Councillor Greiner -

That arising from consideration of a report by the Senior Property Manager to Council on 17 September 2001 on Wynyard Lane, Sydney adjoining 289-307 George Street – Proposed Lease of Stratum Over, it be resolved that -

- (A) Council approve the granting of a lease pursuant to Section 149 of the Roads Act 1993 to the adjoining lessee of 289-307 George Street, currently Sovereign Property Funds Pty Limited for a term of five years commencing on 28 September 2001, of the stratum over Wynyard Lane as shown on the plan shown at Attachment A to the subject report, in accordance with the Schedule of Conditions shown at Attachment B to the subject report;
- (B) the terms of the lease shall require:
  - (1) the lessee to remove the air supply ducts which occupy the proposed leased area, prior to expiry or termination of the lease; and
  - (2) the lessee to provide a bond to Council (for an amount to be determined by the General Manager) which may be applied to remove the ducts if the lessee does not do so prior to the end of the lease term;
- (C) Authority be delegated to the General Manager to determine the initial rent;
- (D) Council's Attorney be authorised to execute all necessary documentation.

Carried unanimously.

**ITEM 10. QUESTIONS ON NOTICE****RETAIL STRATEGY (S014453)**

1. By Councillor Greiner -

**Question**

Lord Mayor, at the Extraordinary Council Meeting of 3 September 2001 you moved to abolish the Retail Advisory Committee upon adoption by Council of a Retail Strategy with regular retail forums and an implementation task force.

Unfortunately, the dollar spend for male and female fashion has dropped alarmingly, as reported by the industry to me, as a consequence of the impact of the GST and spin-out over the Olympics.

As a result of this drop in the retail spend, which seriously impacts on the CBD smaller owner-operated retail outlets, would you implement immediately a task force to develop a Retail Masterplan for the City of Sydney?

By way of explanation this Masterplan, with advice from the Retail Industry, could provide an audit of existing retailers; focus groups consisting of residents and commuters who shop in the city as to their needs and wants; and a database which would be commercially available to those who were intending to establish a retail outlet in the city, inter alia.

**Answer by the Deputy Lord Mayor**

The Acting General Manager has advised that -

“A draft Retail Strategy is currently being developed by staff. The matters referred to in your question, and issues raised at meetings of the Retail Advisory Committee, will be addressed in the draft Strategy.

In essence it is proposed that the Strategy will consist of four parts.

1. Research
2. Information management  
Including finalisation and regular updating of a retail database.
3. Stakeholder communication  
Including retail forums and newsletters.
4. Retail Marketing / Events

The Retail Advisory Committee, and Council, will have the opportunity to consider and discuss the draft Strategy prior to its implementation.”

I have asked the Acting General Manager to ensure that the draft Strategy is submitted to Council for comment in the near future.

**KENT STREET UNDERPASS (S014453)**

2. By Councillor Greiner -

**Question**

Lord Mayor, I am grateful to the advice of Council staff following complaints by residents and pedestrians using the Kent Street Underpass concerning cleanliness and a nasty odour.

The ultimate solution is an urban design issue; but in the short term would you please write to the Management Committee of "The Station" located at the corner of Erskine and York Street, and request them not to provide a breakfast program within the Kent Street Underpass for the homeless who sleep there, and investigate with the Management Committee of "The Station" appropriate premises which could be utilised for the breakfast program, encouraging those who are sleeping out in the Kent Street Underpass to come to that facility each day?

**Answer by the Deputy Lord Mayor**

The Acting Director City Projects has advised that -

“It is understood that “The Station” provides a meal service from their premises only, not a mobile service.

Staff understand that the only mobile food service that had previously been operating in the Kent Street Underpass area was one operated by the St Vincent de Paul Society. Enquiries are being made to ascertain if that service has recommenced.

A more complete report will be prepared for the Councillors’ Information Service in the near future.”

**QUESTIONS WITHOUT NOTICE**

There were no Questions Without Notice at this meeting of Council.

**ITEM 11. NOTICES OF MOTION**

There were no Notices of Motion for this meeting of Council.

At 6.05pm the meeting concluded.

Chairman of a meeting of the Council of the City  
of Sydney held on 22 October 2001 at which  
meeting the signature herein was subscribed.