

ITEM 9. REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE - 8 DECEMBER 2015**ITEM 9.1****DISCLOSURES OF INTEREST****(a) Section 451 of the Local Government Act 1993**

No Councillors disclosed any pecuniary or non-pecuniary interests in any matter on the agenda for this meeting of the Planning and Development Committee.

At a later stage of the meeting, prior to discussion on Item 9.14 on the agenda, Councillor Robert Kok disclosed a less than significant, non-pecuniary interest in Item 9.14 in that he has acted for the educational institution, a party to the subject development application, in a legal capacity in the past and members of his family have also acted for the staff of the institution.

(b) Local Government and Planning Legislation Amendment (Political Donations) Act 2008

No disclosures were made by any members of the public at this meeting of the Planning and Development Committee.

The Transport, Heritage and Planning Sub-Committee recommends the following:-

ITEM 9.2

GREEN SQUARE UPDATE (S100167)

It is resolved that Council note:

- (A) the minutes of the meeting of the Green Square Advisory Committee held on 17 September 2015, shown at Attachment A to the subject report;
- (B) the minutes of the meeting of the Green Square Advisory Committee held on 26 November 2015, shown at Attachment B to the subject report; and
- (C) that the City's Green Square projects, including the Library and Plaza, Aquatic Centre and Gunyama Park, other community facilities, parks and streetscapes are progressing.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Mant, seconded by Councillor Kemmis, and carried unanimously.)

The Transport, Heritage and Planning Sub-Committee recommends the following:-

ITEM 9.3

DESIGN ADVISORY PANEL - REAPPOINTMENT OF MEMBERS (X002290)

It is resolved that:

- (A) Council reappoint the following members of the Design Advisory Panel for a further term of two years from 21 August 2015: Professor Ken Maher, Maria Atkinson, Kerry Clare, Professor Richard Johnson, Elizabeth-Ann McGregor, Peter Mould, Peter Poulet and Professor James Weirick;
- (B) Council appoint Professor Ken Maher as Chairperson of the Design Advisory Panel and Peter Mould as Deputy Chairperson for a term of two years; and
- (C) authority be delegated to the Chief Executive Officer, in consultation with the Lord Mayor, to appoint any new members of the Design Advisory Panel within the two year term.

Speakers

Mr Andrew Woodhouse and Mr Russell Paine addressed the meeting of the Planning and Development Committee (Transport, Heritage and Planning Sub-Committee) on Item 9.3.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Mant, seconded by Councillor Green, and carried.)

ITEM 9.4**TRAFFIC TREATMENTS – STREETScape IMPROVEMENTS – FOVEAUX STREET
SURRY HILLS (S123147)**

The Transport, Heritage and Planning Sub-Committee decided that consideration of this matter be deferred to the meeting of Council on 14 December 2015.

Officer's Recommendation

The officer's recommendation to the Planning and Development Committee (Transport, Heritage and Planning Sub-Committee) was as follows –

It is resolved that Council endorse the traffic treatments and streetscape improvements proposed for Foveaux Street between Mary and Crown Streets, Surry Hills.

Officer's Report

The officer's report on this matter can be found at Item 4 of the agenda paper for the meeting of the Planning and Development Committee on 8 December 2015 - Volume 1.

The Transport, Heritage and Planning Sub-Committee recommends the following:-

ITEM 9.5

FIRE SAFETY REPORTS (S105001)

It is resolved that Council:

- (A) note the contents of the Fire Safety Summary Sheet, as shown at Attachment A to the subject report;
- (B) note the inspection reports by Fire and Rescue NSW, as shown at Attachments B and C to the subject report;
- (C) exercise its power to issue an Order 6 as recommended by Council's Building Officer to address the identified fire safety deficiencies in 2 Lee Street, Haymarket, as detailed in Attachment B; and
- (D) exercise its power to issue an Order 6 as recommended by Council's Building Officer to address the identified fire safety deficiencies in 422 Sussex Street, Haymarket, as detailed in Attachment C.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Mant, seconded by Councillor Kemmis, and carried.)

The Major Development Assessment Sub-Committee recommends the following:-

ITEM 9.6

DEVELOPMENT APPLICATION: 110-120 KIPPAX STREET SURRY HILLS (D/2014/1615)

It is resolved that:

- (A) Council support the variations sought to Clause 4.3 'Height of buildings' and Clause 4.4 'Floor space ratio in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012;
- (B) Council waive the requirement for a competitive design process under Clause 6.21(5) in accordance with Clause 6.21(6) of the Sydney Local Environmental Plan 2012;
- (C) Council waive the requirement for the preparation of a development control plan under Clause 7.20(2) in accordance with Clause 7.20(3) of the Sydney Local Environmental Plan 2012;
- (D) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2014/1615, subject to the following:

PART A – DEFERRED COMMENCEMENT CONDITIONS

(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

The following deferred commencement conditions must be satisfied prior to the consent becoming operative:

(1) DESIGN MODIFICATIONS

The design of the building in the plans referred to in **Condition (3)** of this development consent must be modified as follows:

- (a) Apartment 3.02 and Apartment 3.03 and Apartment 4.02 and Apartment 4.03 must be amalgamated with a reconfigured layout as two 3 bedroom apartments.
- (b) The architectural expression of the lower ground floor level and ground floor car park level must be amended to improve the activation/visual interest of the building to the surrounding streets and achieve a better integration with the design of the upper levels of the building.
- (c) The commercial waste storage room at level 1 must be shown to be enclosed with a solid door.
- (d) The commercial and residential waste storage rooms at level 1 must be provided with mechanical ventilation either via risers to the roof level or to the Sophia Street facade of the building.

- (e) A waste storage room or cage measuring at least 8m³ for discarded bulky items must be provided in proximity to the commercial and residential waste storage rooms at level 1.
- (f) A storage cupboard must be provided with sufficient space for a 240L recycling receptacle in proximity to each of the waste chute hoppers located on each residential level between levels 2 to 7 inclusive.
- (g) The door swing to the western fire door stair on levels 2-6 inclusive must be reversed to what is shown on the plans.
- (h) The terrace to the apartment to the south-western corner of the building on levels 2-6 inclusive must be deleted. They must be replaced with a slot facing Kippax Street, in order to provide natural daylight and ventilation to the western lobby via a window, which must match the appearance of the slot to the eastern lobby. A replacement 8m² terrace, with a depth of 2 metres, must be provided to the south-western corner of each of the apartments referenced above, with the open plan living room and kitchen redesigned accordingly.
- (i) The studies to apartments 01, 03, 04, 05 must be deleted as they are not provided with natural light and ventilation. These areas may be replaced with study alcoves, which must not be enclosable, so that natural light and ventilation may be borrowed from adjoining rooms.
- (j) Details of the awning over Council's footpath above the Kippax Street entryway to the residential lobby must be shown in elevation and section to match that shown on the Level 1 floor plan.
- (k) The pergolas over the roof top garden must be shown as light-weight open structures and must not be enclosed in any fashion.
- (l) Detail demonstrating that accessible storage facilities (excluding kitchen cupboards and bedroom wardrobes) are provided within each apartment or within allocated areas at the ground floor level car parking facility in the following manner:
 - (i) 6m³ for all 1 bedroom apartments;
 - (ii) 8m³ for all 2 bedroom apartments; and
 - (iii) 10m³ for all 3 bedroom apartments.

The details of the modifications, including precise architectural details, samples, finishes and materials are to be submitted to and approved by Council's Director City Planning, Development and Transport prior to the operation of this development consent.

(2) DESIGN DETAILS, MATERIALS AND SAMPLES BOARD

The alterations and additions to the building are to be constructed of high quality materials. The design details of the proposed building facades, including all external finishes, colours, glazing and a materials sample board, must be submitted to and approved by Council's Director City Planning, Development and Transport prior to the operation of this development consent.

- (E) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council by **24 months** of the date of **determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to Section 95(6) of the Environmental Planning and Assessment Act 1979**;
- (F) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied; and
- (G) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent as detailed in Part B (Conditions of Consent (Once Consent is Operational)) of the subject report, and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

PART B – CONDITIONS OF CONSENT (ONCE CONSENT IS OPERATIONAL)

Upon compliance with the conditions contained in Part A, the consent will become operative, subject to the conditions of consent as detailed in Schedules 1A, 1B, 1C and 2 of Part B of the subject report, as may be amended by such other conditions that may arise as a result of compliance with conditions / information required in Part A.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Kok, seconded by Councillor Kemmis, and carried unanimously.)

The Major Development Assessment Sub-Committee recommends the following:-

ITEM 9.7

DEVELOPMENT APPLICATION: 58 RILEY STREET DARLINGHURST (D/2015/1243)

It is resolved that:

- (A) pursuant to the provisions of Clause 4.6 of the Sydney Local Environmental Plan 2012, the variation sought to Clause 4.4 (Floor Space Ratio) of the Sydney Local Environmental Plan 2012 not be supported by Council in this instance;
- (B) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2015/1243, subject to the following:

PART A – DEFERRED COMMENCEMENT CONDITIONS

(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

The following deferred commencement conditions must be satisfied prior to the consent becoming operative:

(1) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The east and west elevations of the retained building are to be revised to remove detracting elements and contribute to the existing warehouse character of the immediate locality including realigning the ground floor shopfront with the Riley Street boundary, deleting both the level one Riley Street and Crown Lane facing balconies and reinstating appropriately proportioned openings and fenestration on both facades.
- (b) The design is to be modified by reducing the gross floor area of the upper level (Level 5) to demonstrate compliance with the permitted Local Environmental Plan 2012 floor space ratio of 3.0:1. For the purposes of the calculation of FSR, the Gross Floor Area of the business component is 558sqm.
- (c) The detailing of the Riley Street elevation is to be modified to incorporate verticality in the design of the facade of the upper levels and simplify the design of the north-west balcony elevation to complement the design features of the retained building and other contributory buildings in the immediate locality.
- (d) The ground floor level is to be modified so as to provide an on-site waste storage room, accessible for collection from Crown Lane, in accordance with City Policy for Waste Minimisation in New Developments 2005.
- (e) The ground floor level is to be modified so as to provide six (6) bicycle parking facilities in accordance with the Sydney Development Control Plan 2012.

The modifications are to be submitted to and approved by the Director City Planning, Development and Transport.

- (C) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council by **24 months** of the date of **determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 95(6) of the Environmental Planning and Assessment Act 1979**;
- (D) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied; and
- (E) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent as detailed in Part B (Conditions of Consent (Once Consent is Operational)) of the subject report, and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

PART B – CONDITIONS OF CONSENT

(ONCE CONSENT IS OPERATIONAL)

Upon compliance with the conditions contained in Part A, the consent will become operative, subject to the conditions of consent as detailed in Schedules 1A, 1B, 1C and 2 of Part B of the subject report, as may be amended by such other conditions that may arise as a result of compliance with conditions / information required in Part A.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Kok, seconded by Councillor Kemmis, and carried unanimously.)

The Major Development Assessment Sub-Committee recommends the following:-

ITEM 9.8

DEVELOPMENT APPLICATION: 456 KENT STREET SYDNEY - INSTALLATION OF A TRIGENERATION PLANT ON THE ROOF OF TOWN HALL HOUSE (D/2015/1190)

It is resolved that consent be granted to Development Application No. D/2015/1190, subject to the conditions as detailed in the assessment report prepared by Helena Miller, MG Planning, shown at Attachment A to the subject report.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Kemmis, seconded by Councillor Green, and carried on the following show of hands –

Ayes (8) Councillors Doutney, Green, Kemmis, Kok, Mandla, Mant, Scott and Vithoukas

Noes (1) Councillor Forster.)

ITEM 9.9**DEVELOPMENT APPLICATION: 251-255 OXFORD STREET PADDINGTON - PADDINGTON RESERVOIR GARDENS (D/2014/1614)**

The Development Assessment Sub-Committee decided that consideration of this matter be deferred to the meeting of Council on 14 December 2015.

Officer's Recommendation

The officer's recommendation to the Planning and Development Committee (Development Assessment Sub-Committee) was as follows –

It is recommended that the assessment report prepared by Helena Miller, MG Planning, shown at Attachment A to the subject report, be considered by the Planning and Development Committee in its determination of the subject development application.

Note – The recommendation in the assessment report prepared by Helena Miller, MG Planning, was as follows:

It is resolved that

- (A) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2014/1614, subject to the following condition:

(1) PLAN OF MANAGEMENT TO BE SUBMITTED AND APPROVED

- (a) The Venue Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Plan of Management must be prepared to address all operational and management procedures to be employed, to ensure that the premises can operate without disturbance to the surrounding locality. The plan must address the whole of the proposed operations and reflect the matters contained in the Schedule 3 of the Sydney Development Control Plan 2012. The Plan of Management shall address:
 - (i) Hours of Operation
 - (ii) Amenity of neighbourhood
 - (iii) Noise
 - (iv) Behaviour of patrons and responsible service of alcohol
 - (v) Deliveries and waste removal
 - (vi) Maintenance
 - (vii) House Policy
 - (viii) Staffing levels and security management
 - (ix) Capacity of Premises

- (x) Use of areas
 - (xi) Waste and rubbish
 - (c) The plan must include but not be restricted to: compliance with all other operational conditions of this consent; hours of operation; noise; security management; bump in and bump out arrangements, services, traffic management and handling complaints.
- (B) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 12 months of the date of this deferred commencement consent, failing which this deferred commencement consent **will lapse** pursuant to section 95(6) of the Environmental Planning and Assessment Act 1979;
- (C) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied; and
- (D) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent, as detailed in the assessment report prepared by Helena Miller, MG Planning, shown at Attachment A to the subject report, and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

Officer's Report

The officer's report on this matter can be found at Item 9 of the agenda paper for the meeting of the Planning and Development Committee on 8 December 2015 – Volume 3.

Speakers

Mr Nicholas Christian, Ms Diane McQueen, Ms Elizabeth Crundall, Mr Philip Smith, Ms Margaret Deftereos, Ms Vanessa Bennett and Mr John Berg addressed the meeting of the Planning and Development Committee (Development Assessment Sub-Committee) on Item 9.9.

ITEM 9.10**DEVELOPMENT APPLICATION: 50 BRAY STREET ERSKINEVILLE (D/2015/56)**

The Development Assessment Sub-Committee decided that consideration of this matter be deferred to the meeting of Council on 14 December 2015, to enable a site inspection to be undertaken of the subject site.

Officer's Recommendation

The officer's recommendation to the Planning and Development Committee (Development Assessment Sub-Committee) was as follows –

It is resolved that:

- (A) Council support the request to vary the height development standard under Clause 4.6 of the Sydney Local Environmental Plan 2012;
- (B) Council support the request to vary the motorcycle parking standard of the SEPP (Affordable Rental Housing) 2009 under Clause 4.6 of the Sydney Local Environmental Plan 2012; and
- (C) consent be granted to Development Application No. D/2015/56, subject to the conditions as detailed in the subject report.

Officer's Report

The officer's report on this matter can be found at Item 10 of the agenda paper for the meeting of the Planning and Development Committee on 8 December 2015 - Volume 4.

Speakers

Dr Penny Stannard, Ms Helen Nicholson, Mr Matt Foster, Mr Jason Ealey, Mr Jeremy Brennan and Mr Mark Shanahan addressed the meeting of the Planning and Development Committee (Development Assessment Sub-Committee) on Item 9.10.

Extensions of Time

During discussion on this matter, pursuant to the provisions of Clause 250(3) of the Local Government (General) Regulation 2005, it was –

Moved by Councillor Scott, seconded by Councillor Kemmis -

That Dr Stannard be granted an extension of time to speak on this matter.

Carried.

Moved by Councillor Scott, seconded by Councillor Mant -

That Ms Nicholson be granted an extension of time to speak on this matter.

Carried.

Moved by Councillor Mant, seconded by Councillor Kemmis –

That Mr Shanahan be granted an extension of time to speak on this matter.

Carried.

The Development Assessment Sub-Committee recommends the following:-

ITEM 9.11

DEVELOPMENT APPLICATION: 304-310 VICTORIA STREET DARLINGHURST (RD/2014/1971/A)

It is resolved that

- (A) the Clause 4.6 request to vary the height and FSR development standards under Clauses 4.3 and 4.4 of Sydney Local Environmental Plan 2012 be supported; and
- (B) development consent be granted to Development Application No. RD/2014/1971/A following a review of the previous determination in accordance with Section 82A of the Environmental Planning and Assessment Act 1979, subject to the conditions as detailed in the subject report.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Mant, seconded by Councillor Kemmis, and carried unanimously.)

The Development Assessment Sub-Committee recommends the following:-

ITEM 9.12

DEVELOPMENT APPLICATION: 145 REGENT STREET CHIPPENDALE (D/2015/732)

It is resolved that:

- (A) the variation sought to Clause 4.4 (Building Height) of the Sydney Local Environmental Plan 2012 be supported in this instance;
- (B) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2015/732, subject to the following:

(1) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The rear setback of the building shall be increased by 500mm to be in line with the rear of 147-149 Regent Street, Chippendale;
- (b) The waste area must be modified to include a bulking items storage area of at least 8m³; and
- (c) All boarding rooms are to provide a minimum combined kitchen/laundry area of 2.37sqm.

The modifications are to be submitted to and approved by Council's Director City Planning, Development and Transport.

(2) RIGHT OF WAY

- (a) The owner of the subject site must either extinguish the right of way (Bk 34 No. 137) marked 'D' in the Survey Plan prepared by Rygate Surveyors and dated 5 November 2014, or re-configure the rear landscaping and motorcycle parking to provide unimpeded right of way access to all parties who have rights to use it.
 - (b) Any modifications associated with rear setback area on the ground floor, must be submitted to and approved by the Director City Planning, Development and Transport.
- (C) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council by 8 December 2017, otherwise the consent will lapse on 9 December 2017;
 - (D) the consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied; and

- (E) upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent as detailed in the subject report, and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Mant, seconded by Councillor Kemmis, and carried.)

The Development Assessment Sub-Committee recommends the following:-

ITEM 9.13

DEVELOPMENT APPLICATION: 590-614 BOURKE STREET SURRY HILLS (D/2015/800)

It is resolved that:

- (A) Council waive the requirement of Clause 7.20 (Development requiring or authorising preparation of a development control plan) of the Sydney Local Environmental Plan 2012;
- (B) Council waive the requirement of Clause 6.21 (Design Excellence) of the Sydney Local Environmental Plan 2012;
- (C) Council support the variation to Clause 4.3 (Building Height) of the Sydney Local Environmental Plan 2012; and
- (D) in accordance with Section 89(1)(b) of the Environmental Planning and Assessment Act 1979, consent be granted to Development Application No. D/2015/800, subject to the conditions as detailed in the subject report, which have been agreed upon by the Department of Education on 13 November 2015.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Kemmis, seconded by Councillor Scott, and carried unanimously.)

The Development Assessment Sub-Committee recommends the following:-

ITEM 9.14

DEVELOPMENT APPLICATION: 160-166 SUSSEX STREET SYDNEY (D/2015/1274)

It is resolved that consent be granted to Development Application No. D/2015/1274, subject to the conditions as detailed in the subject report.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Kemmis, seconded by Councillor Mant, and carried unanimously.)