

ITEM 9. REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE - 5 DECEMBER 2016**ITEM 9.1****DISCLOSURES OF INTEREST****(a) Section 451 of the Local Government Act 1993**

Councillor Robert Kok disclosed a less than significant, non-pecuniary interest in Item 9.6 on the agenda, in that the author of a submission circulated to Councillors in relation to Item 9.6, Mr James Lidis, made a non-reportable donation to the Clover Moore Team.

Councillor Kerryn Phelps disclosed a less than significant, non-pecuniary interest in Item 9.6 on the agenda, in that the author of a submission circulated to Councillors in relation to Item 9.6, Mr James Lidis, made a non-reportable donation to the Clover Moore Team.

Councillor Philip Thalis disclosed a less than significant, non-pecuniary interest in Item 9.6 on the agenda, in that the author of a submission circulated to Councillors in relation to Item 9.6, Mr James Lidis, made a non-reportable donation to the Clover Moore Team.

Councillor Jess Scully disclosed a less than significant, non-pecuniary interest in Item 9.6 on the agenda, in that the author of a submission circulated to Councillors in relation to Item 9.6, Mr James Lidis, made a non-reportable donation to the Clover Moore Team.

Councillor Jess Miller disclosed a less than significant, non-pecuniary interest in Item 9.6 on the agenda, in that the author of a submission circulated to Councillors in relation to Item 9.6, Mr James Lidis, made a non-reportable donation to the Clover Moore Team.

At a later stage of the meeting, at the commencement of the Major Development Assessment Sub-Committee, Councillor Craig Chung disclosed a less than significant, non-pecuniary interest in Item 9.5 on the agenda, in that he was broadly familiar with some of the parties to the matter, the subject of Item 9.5.

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

(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

POST EXHIBITION – PLANNING PROPOSAL – HOUSEKEEPING AND MINOR POLICY AMENDMENTS TO SYDNEY LOCAL ENVIRONMENTAL PLAN 2012 (X006012)

It is resolved that:

- (A) Council note matters raised in response to the public exhibition of Planning Proposal – Housekeeping and Minor Policy Amendments to Sydney Local Environmental Plan 2012, as shown at Attachment A to the subject report;
- (B) Council approve the Planning Proposal – Housekeeping and Minor Policy Amendments to Sydney Local Environmental Plan 2012, as shown at Attachment B to the subject report, to be made as a local environmental plan under section 59 of the Environmental Planning and Assessment Act 1979; and
- (C) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal – Housekeeping and Minor Policy Amendments to Sydney Local Environmental Plan 2012 to correct drafting errors prior to finalisation of the local environmental plan.

Speakers

Mr John Freeman addressed the meeting of the Planning and Development Committee (Transport, Heritage and Planning Sub-Committee) on Item 9.2.

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

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

ITEM 9.3

PUBLIC EXHIBITION - DANKS STREET SOUTH PRECINCT - PLANNING PROPOSAL AND DRAFT AMENDMENT TO SYDNEY DEVELOPMENT CONTROL PLAN 2012 (S114074)

It is resolved that:

- (A) Council approve Planning Proposal – Danks Street South Precinct shown at Attachment A to the subject report, for submission to the Greater Sydney Commission with a request for a Gateway Determination;
- (B) Council approve Planning Proposal – Danks Street South Precinct for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) Council approve Draft Sydney Development Control Plan 2012 – Danks Street South Precinct Amendment, shown at Attachment B to the subject report, for public exhibition in parallel with the Planning Proposal and in accordance with the Gateway Determination;
- (D) Council seek authority from the Greater Sydney Commission to exercise its delegation under section 59 of the Environmental Planning and Assessment Act 1979 to make the amending local environmental plan;
- (E) authority be delegated to the Chief Executive Officer to make any minor changes and any changes required by the Greater Sydney Commission to Planning Proposal – Danks Street South Precinct and Draft Sydney Development Control Plan 2012 – Danks Street South Precinct Amendment prior to the public exhibition; and
- (F) Council note that Planning Proposal – 824 Bourke Street, Waterloo was withdrawn by the applicant.

Speakers

Mr James Harrison and Ms Jane Freeman 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 Thalis, seconded by Councillor Miller, and carried.)

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

ITEM 9.4

FIRE SAFETY REPORTS (S105001)

It is resolved that Council:

- (A) note the contents of the Fire Safety Report 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 to D to the subject report;
- (C) not exercise its power to issue an Order 6 at this time but note the compliance action taken and as recommended by Council's Building Officer in 70-70A Darlinghurst Road, Potts Point, as detailed in Attachment B;
- (D) exercise its power to issue an Order 6 as recommended by Council's Building Officer to address the identified fire safety deficiencies in 105-113 Kippax Street, Surry Hills, as detailed in Attachment C; and
- (E) exercise its power to issue an Order 6 as recommended by Council's Building Officer to address the identified fire safety deficiencies in 1 Driver Avenue, Moore Park, as detailed in Attachment D.

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

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

ITEM 9.5

DEVELOPMENT APPLICATION: 35-37 ERSKINEVILLE ROAD ERSKINEVILLE (D/2016/669)

It is resolved that:

- (A) the variation sought to Clause 4.3 regarding the maximum height of buildings in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance;
- (B) the variation sought to Clause 4.4 regarding the maximum floor space ratio in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance; and
- (C) pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2016/669, subject to the conditions as detailed in **Attachment A** to the subject report to the Planning and Development Committee on 5 December 2016, subject to the amendment of Condition (4) such that it read as follows (with amendments shown in ***bold italics*** (additions) and ~~strikethrough~~ (deletions)):

(4) HOURS OF OPERATION

- (a) The base hours of operation for the premises shall be as follows:
 - (i) Basement Level – 10.00am-10.00pm Monday to Sunday
 - (ii) Ground Floor– 10.00am-10.00pm Monday to Sunday
 - a. Bifold doors to Erskineville Road must close at 10.00pm Monday to Sunday and not open until 10.00am the following day.
 - (iii) Ground Floor outdoor terrace at the rear – 10.00am-8.00pm Monday to Sunday
 - a. Bifold doors to close at 8.00pm Mondays to Sunday.
 - (iv) First Floor internal lounge and dining areas – 10.00am- 10.00pm Monday to Sunday
 - a. Bifold doors to the outdoor terrace must close at 10.00pm Monday to Sunday and not open until 10.00am the following day.
 - (v) First Floor outdoor terrace and bar area - 10.00am-8.00pm Monday to Sunday
 - a. The retractable roof must be closed at 8.00pm Monday to Sunday

- (vi) First Floor outdoor smokers' courtyard – 10.00am – 8.00pm
8.00am- 11.00pm Monday to Sunday
- (b) A trial period of five (5) years for the hours of operation for the premises is permitted commencing from the date which an Occupation Certificate is issued. After that time, the hours of operation must revert back to the hours of operation outlined in (a) above.
- (i) Basement Level – 24 hours except between Sunday midnight and 5.00am Monday
- (ii) Ground Floor internal areas – 8.00am-10.00am Monday to Sunday. 10.00pm- 4.00am 7 days a week except between Sunday midnight and 8.00am Monday
- a. Bifold windows opening to Erskineville Road must close at 10.00pm Monday to Sunday and not open until 10.00am the following day.
- (iii) Ground Floor outdoor terrace at the rear -8.00am till - 10.00am and 8.00pm- midnight Monday to Sunday
- a. Bifold doors must close at midnight Monday to Sunday and not open until 8.00am the following day.
- (iv) First Floor internal lounge and dining areas – 10.00pm- midnight 7 days a week except between Sunday midnight and 10.00am Monday
- a. Bifold doors to the outdoor terrace must close at 10.00pm Monday to Sunday and not open until 10.00am the following day.
- (v) First Floor outdoor terrace and bar area - 8.00pm-10.00pm Monday to Sunday
- a. The retractable roof must be closed at 8.00pm Monday to Sunday
- (vi) First Floor outdoor smokers' courtyard – 8.00am – 10.00am and 8.00pm-11.00pm Monday to Sunday **24 hours except between Sunday midnight and 5.00am Monday**
- (c) Notwithstanding (b) above, a further development application may be lodged before the expiration date of this consent for Council's consideration of the continuation of the trial hours of operation. Council's consideration of this further application will take into account the compliance of the operation in terms of conditions of consent, the number and nature of substantiated complaints regarding the operation of the premises and any views expressed by the NSW Police Service.
- (d) If an application to continue the hours of operation approved under the trial period has not been determined prior to the final day of the trial period, the trial period will be extended until the application has been determined.

Speakers

Ms Julie Moffat, Mr Fraser Short, Mr Scott Leach, Ms Prada Clutch and Mr Jeremy Bull addressed the meeting of the Planning and Development Committee (Major Development Assessment Sub-Committee) on Item 9.5.

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

ITEM 9.6**DEVELOPMENT APPLICATION: 108-114 MILLER STREET PYRMONT (D/2016/562)**

The Major Development Assessment Sub-Committee decided that consideration of this matter be deferred to the meeting of Council on 12 December 2016, 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 (Major Development Assessment Sub-Committee) was as follows –

It is resolved that:

- (A) the variation sought to the height development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance; and
- (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/2016/562, subject to the conditions as detailed in Attachment A to the subject report.

Note – A memo dated 1 December 2016 from the Director City Planning, Development and Transport containing the following Alternative Recommendation was circulated prior to the meeting of the Planning and Development Committee:

Alternative Recommendation

It is resolved that:

- (A) the variation sought to the height development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance; and
- (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/2016/562, subject to the conditions as detailed in Attachment A to the subject report, subject to the addition of Condition (35A) as follows:

(35A) SANDSTONE RECYCLING

- (a) *A Geotechnical Report prepared by a suitably qualified geotechnical engineer is to be submitted to Council's Urban Design and Heritage Manager prior to the issue of the Construction Certificate. The report is to include an investigation of the nature of the existing subsurface profile using appropriate investigation methodology and borehole testing techniques.*
- (b) *The Geotechnical Report is to analyse the quality of the material, including contamination, and to assess the suitability of the rock for removal by cutting into quarry blocks for use as high quality building construction material, including for building conservation.*

- (c) *Subject to confirmation that the rock is of a suitable quality for reuse in other construction, the Geotechnical Report is to include an Excavation Work Method Statement with recommendations as to the depth of the most suitable profile, details excavation methodologies, cutting methods and procedures for the removal of all sandstone material in a useable form and size, noise and dust attenuation measures in addition to recommendations for monitoring, notifications and review.*
- (d) *In addition, details of any required storage of material off site must be submitted. If the quantity of sandstone material exceeds the needs of the site, or if the approved development does not provide for the use of any sandstone, or if the material is 'Yellow Block' sandstone required for conservation of buildings, the material must be stored in an appropriate location for later reuse. Storage may be able to be facilitated by the Council or the NSW Department of Commerce. Please contact the Manager Centenary Stonework Program at the NSW Department of Finance and Services on 9372 8526 for further enquiries with regard to storage.*
- (e) *The programming of the works is to take into account, the above process.*

Officer's Report

The officer's report on this matter can be found at Item 6 of the agenda paper for the meeting of the Planning and Development Committee on 5 December 2016 - Volume 3.

Speakers

Mr Anthony Boskovitz, Mr David Rippingill, Mr John Fidler, Mr Robert Ricov, Mr Scott Barwick and Mr Adam Haddow addressed the meeting of the Planning and Development Committee (Major Development Assessment Sub-Committee) on Item 9.6.

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

ITEM 9.7

**DEVELOPMENT APPLICATION: 169-179 THOMAS STREET HAYMARKET
(D/2016/342)**

It is resolved that:

- (A) the variation sought to Clause 4.3 building height in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 be supported;
- (B) Stage 1 development consent be granted to Development Application No. D/2016/342, subject to the conditions as detailed in Attachment A to the subject report; and
- (C) a competitive design process is not required for a future Stage 2 Development Application.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Kok, seconded by Councillor Forster, and carried unanimously, as part of an in globo motion.)

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

ITEM 9.8

**DEVELOPMENT APPLICATION: 252-256 CLEVELAND STREET SURRY HILLS
(D/2016/898)**

It is resolved that:

- (A) the variation to Clause 4.3 Height of Buildings in accordance with Clause 4.6 of Sydney Local Environmental 2012 be supported; and
- (B) consent be granted to Development Application No. D/2016/898, subject to the conditions as detailed in Attachment A to the subject report.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Kok, seconded by Councillor Forster, and carried unanimously, as part of an in globo motion.)

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

ITEM 9.9

**DEVELOPMENT APPLICATION: 140-144 PARRAMATTA ROAD CAMPERDOWN
(D/2016/642)**

It is resolved that:

- (A) the variation sought to Clause 4.3 building height in accordance with Clause 4.6 of Sydney Local Environmental Plan 2012 be supported; and
- (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/2016/642, subject to the conditions as detailed in Attachment A to the subject report.

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

The Development Assessment Sub-Committee recommends the following:-

ITEM 9.10

**DEVELOPMENT APPLICATION: 88-108 WILLIAM STREET WOOLLOOMOOLOO
(D/2016/1240)**

It is resolved that:

- (A) the variation sought to the height development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance; and
- (B) consent be granted to Development Application No. D/2016/1240, subject to the conditions as detailed in Attachment A to the subject report.

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