

**ITEM 9. REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE -
20 FEBRUARY 2017**

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.

(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

PUBLIC EXHIBITION - PLANNING PROPOSAL – STREET ART AS EXEMPT DEVELOPMENT – AMENDMENTS TO SYDNEY AND SOUTH SYDNEY LOCAL ENVIRONMENTAL PLANS (X007826)

It is resolved that:

- (A) Council approve the Planning Proposal - Street Art as Exempt Development - Amendment to Sydney and South Sydney Local Environmental Plans, 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 the Planning Proposal - Street Art as Exempt Development - Amendment to Sydney and South Sydney Local Environmental Plans for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) Council seek confirmation whether it has the delegation to exercise the plan making functions of the Greater Sydney Commission under section 59 of the Environmental Planning and Assessment Act 1979 to make the amending local environmental plan; and
- (D) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal - Street Art as Exempt Development - Amendment to Sydney and South Sydney Local Environmental Plans following receipt of the Gateway Determination and prior to public exhibition.

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

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

ITEM 9.3

PUBLIC EXHIBITION – 7-15 RANDLE STREET, SURRY HILLS – PLANNING PROPOSAL AND SYDNEY DEVELOPMENT CONTROL PLAN 2012 AMENDMENT (X005366)

It is resolved that:

- (A) Council approve Planning proposal: 7-15 Randle Street, Surry Hills, 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 the Planning proposal: 7-15 Randle Street, Surry Hills 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: 7-15 Randle Street, Surry Hills Amendment, shown at Attachment B to the subject report, for public authority consultation and public exhibition in parallel with the planning proposal;
- (D) Council seek authority from the Greater Sydney Commission to exercise the delegation of the Minister for Planning of all their functions under section 59 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan as amended by Planning proposal: 7-15 Randle Street, Surry Hills;
- (E) authority be delegated to the Chief Executive Officer to make any minor variations to Planning proposal: 7-15 Randle Street, Surry Hills, and Draft Sydney Development Control Plan 2012: 7-15 Randle Street, Surry Hills Amendment following receipt of the gateway determination;
- (F) Council note that, following consideration of any submissions, and refinements as necessary, the planning proposal and draft DCP amendment will be reported back to Council for final approval; and
- (G) Council approve the City of Sydney as the Relevant Planning Authority, should a review process be triggered under Part 3 of the Environmental Planning and Assessment Act 1979, and in line with the recently released Planning Circular PS16-004 Independent reviews of plan making decisions.

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

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

ITEM 9.4

PUBLIC EXHIBITION – 102–106 DUNNING AVENUE, ROSEBERY – PLANNING PROPOSAL, DRAFT DEVELOPMENT CONTROL PLAN AND PLANNING AGREEMENT (S114603)

It is resolved that:

- (A) Council approve Planning Proposal: 102–106 Dunning Avenue, Rosebery, 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: 102–106 Dunning Avenue, Rosebery for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) 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;
- (D) Council approve Draft Sydney Development Control Plan 2012: 102–106 Dunning Avenue, Rosebery amendment, shown at Attachment B to the subject report, for public exhibition with the Planning Proposal and in accordance with the Gateway Determination;
- (E) authority be delegated to the Chief Executive Officer to prepare a draft Planning Agreement between the City and the landowner in accordance with the Environmental Planning and Assessment Act 1979 with the following terms:
 - (i) finished affordable housing dwellings are to be provided on site in accordance with the Guideline to Preparing Site Specific Planning Proposal Requests in the City of Sydney Employment Lands under either:
 - (a) Option 1 (minimum option) – where the amount of affordable housing floor space is calculated based on the amount of gross floor area built on the site and the agreed market value of the affordable housing floor space. The affordable housing floor space is to be built by the landowner and dedicated or sold to a Tier 1 or Tier 2 community housing provider for no more than \$1; or
 - (b) Option 2 (alternative option) – where affordable housing floor space is provided in addition to that required under Option 1. The landowner can sell the affordable housing floor space to a community housing provider for a capped amount. The capped sale amount is based on recouping the forgone value of the additional floor space on offer for affordable housing, plus an incentive amount, to be agreed between the City and the landowner;
 - (ii) dedication to Council of a 1.25 metre deep frontage to Jones Lane (approximately 50 square metres of land) for a footpath, with the value of the land and any associated works-in-kind offset against the amount calculated under the Guideline; and

- (iii) carparking for affordable housing dwellings, number of spaces to be agreed between the City and the landowner;
- (F) Council note the estimated number of affordable housing dwellings resulting from Option 1, described at clause (E)(i)(a) above, is approximately eight dwellings, depending on the amount of total gross floor area built on the site, the market value of the resulting dwellings and the size of the affordable housing;
- (G) the draft Planning Agreement be exhibited in conjunction with Planning Proposal: 102–106 Dunning Avenue, Rosebery and Draft Sydney Development Control Plan 2012: 102–106 Dunning Avenue, Rosebery amendment;
- (H) authority be delegated to the Chief Executive Officer to make any minor variations to the Planning Agreement after its exhibition and to subsequently enter into the Agreement, on behalf of Council, with the landowner;
- (I) authority be delegated to the Chief Executive Officer to make minor changes, and any changes required by the Greater Sydney Commission to Planning Proposal: 102–106 Dunning Avenue, Rosebery and Draft Sydney Development Control Plan 2012: 102–106 Dunning Avenue, Rosebery amendment prior to the public exhibition;
- (J) Council note that, following consideration of any submissions, and any modifications as necessary, Planning Proposal: 102–106 Dunning Avenue, Rosebery, Draft Sydney Development Control Plan 2012: 102–106 Dunning Avenue, Rosebery amendment and the Planning Agreement will be reported back to Council for final approval;
- (K) Council approve the City of Sydney as the Relevant Planning Authority, should a review process be triggered under Part 3 of the Environmental Planning and Assessment Act 1979, and in line with the recently released Planning Circular PS16-004 Independent reviews of plan making decisions;
- (L) Council note the Sydney Development Control Plan 2012 contains objectives and provisions which protect the operational viability of existing employment uses where residential development is introduced; and
- (M) Council note the City is investigating a City-wide response to address the needs of the entertainment industry whilst protecting the amenity of noise sensitive uses.

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

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

ITEM 9.5

POST EXHIBITION – PLANNING PROPOSAL – AMENDMENT TO SYDNEY LOCAL ENVIRONMENTAL PLAN 2013 – GREEN SQUARE TOWN CENTRE - MIRVAC GREEN SQUARE AND URBANGROWTH NSW (X005215)

It is resolved that:

- (A) Council note the matters raised in response to the public exhibition of Planning Proposal: Green Square Town Centre – Sites 355 Botany Road, 377-497 Botany Road and 956-960 Bourke Street, Zetland, in the subject report;
- (B) Council approve Planning Proposal: Green Square Town Centre – Sites 355 Botany Road, 377-497 Botany Road and 956-960 Bourke Street, Zetland, shown at Attachment A 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 changes to Planning Proposal: Green Square Town Centre – Sites 355 Botany Road, 377-497 Botany Road and 956-960 Bourke Street, Zetland, to correct drafting errors prior to finalisation of the local environmental plan.

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

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

ITEM 9.6

PUBLIC EXHIBITION - REVIEW OF LOCAL APPROVALS POLICY FOR MOBILE FOOD VENDING VEHICLES (S127259)

It is resolved that:

- (A) Council approve the draft Mobile Food Vending Vehicles Local Approvals Policy, as shown at attachment A to the subject report, for public exhibition;
- (B) authority be delegated to the Chief Executive Officer to make minor changes to the draft Local Approvals Policy to correct drafting errors prior to public exhibition; and
- (C) Council approve the expansion of the Sydney Food Trucks program from the current maximum of 50 Category Two Vehicles (food trucks) operating at any one time, to a maximum of 100 Category Two Vehicles (food trucks) operating at any one time.

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

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

ITEM 9.7

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 F 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 354-358 Bourke Street, Surry Hills, as detailed in Attachment B;
- (D) 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 20-26 Bayswater Road, Potts Point, as detailed in Attachment C;
- (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 Dixon Street, Sydney, as detailed in Attachment D;
- (F) 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 50 Murray Street, Sydney, as detailed in Attachment E; and
- (G) 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 Murray Street, Sydney, as detailed in Attachment F.

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

ITEM 9.8**DEVELOPMENT APPLICATION: 118A AND 120 DARLINGHURST ROAD
DARLINGHURST (D/2016/476)**

The Major Development Assessment Sub-Committee decided that consideration of this matter be deferred to the meeting of Council on 27 February 2017.

Officer's Recommendation

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

It is recommended that the assessment report prepared by Helena Miller (Consulting Planner, MG Planning), shown at Attachment A to the subject report, be considered by the Planning and Development Committee.

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

It is resolved that:

- (A) the variation sought to 4.3 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; and
- (B) consent be granted to Development Application No. D/2016/476, subject to the conditions as detailed in Attachment A1 to the assessment report prepared by Helena Miller (Consulting Planner, MG Planning), shown at Attachment A to the subject report.

Officer's Report

The officer's report on this matter can be found at Item 8 of the agenda paper for the meeting of the Planning and Development Committee on 20 February 2017 – Volume 3.

Speakers

Mr Ian Cumming, Ms Liz Illingworth, Ms Christina Litchfield, Mr Jonathan Chaitow, Mr Edward Vaughan, Ms Coralee Rough and Mr Ken McPhail addressed the meeting of the Planning and Development Committee (Major Development Assessment Sub-Committee) on Item 9.8.

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

ITEM 9.9

DEVELOPMENT APPLICATION: 746-750A GEORGE STREET HAYMARKET (D/2016/633)

It is resolved that:

- (A) the requirement of Section 51N of the City of Sydney Act 1988 to consult with the Central Sydney Traffic and Transport Committee not apply in this instance, as the proposal does not require the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD;
- (B) the variation sought to clause 4.3 – 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; and
- (C) consent be granted to Development Application No. D/2016/633, 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.)

ITEM 9.10**DEVELOPMENT APPLICATION: 223-225 LIVERPOOL STREET DARLINGHURST (D/2016/809)**

The Development Assessment Sub-Committee decided that consideration of this matter be deferred to the meeting of Council on 27 February 2017.

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) the variation sought to the 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
- (B) consent be granted to Development Application No. D/2016/809, subject to the conditions as detailed in Attachment A to 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 20 February 2017 - Volume 5.

Speakers

Ms Anna Collingwood, Ms Lynne Westman, Mr Craig Stuckey and Mr Tony Whaling addressed the meeting of the Planning and Development Committee (Development Assessment Sub-Committee) on Item 9.10.

ITEM 9.11

SECTION 96 MODIFICATION APPLICATION: 332 VICTORIA STREET DARLINGHURST - BLOODY MARY'S (D/2005/866/D)

The Development Assessment Sub-Committee decided that consideration of this matter be deferred to the meeting of Council on 27 February 2017.

Officer's Recommendation

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

It is resolved that consent be granted to Section 96 Modification Application No. D/2005/866/D, subject to the amendment of the conditions (with modifications shown in ***bold italics*** (additions) and ~~striketrough~~ (deletions), as detailed in **Attachment A** to the subject report to the Planning and Development Committee on 20 February 2017, and subject to the additional modifications to Conditions 4. and 20A. amended to read as follows:-

4. SEATING AND TRIAL PERIOD FOR INCREASED PATRON NUMBERS - REVIEWABLE CONDITION

- (a) ***Subject to the issue of a Construction Certificate, the restaurant/cafe seating shall be limited to a maximum of 50 seats (with only a maximum of 22 in the rear courtyard). in order to comply with the BCA requirements for sanitary facilities. (Refer also to Condition 6)***
- (b) ***However, for a one year trial period the restaurant/café can have the following increased patron numbers as per the table below. The trial period is to operate one year from the date of this Section 96 consent which is 27 February 2017.***

<i>Area</i>	<i>Patron Capacity (Full operation)</i>	<i>Patron Capacity after trading hours for external area cease</i>
<i>Rear Courtyard</i>	<i>22 seats</i>	<i>Nil</i>
<i>Internal Ground Floor</i>	<i>74 seats</i>	<i>74 seats</i>
<i>Total</i>	<i>96 seats</i>	<i>74 seats</i>

- (c) ***A further application may be lodged to continue the increased patron numbers in the table above not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation of the increased patron numbers permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.***

- (d) *The increased patron numbers may be reviewed by Council at any time during the trial period. The operator of the premises will be given 14 days written notice that a review of this condition will take place, and in that time may submit to Council any information they wish to be considered to support the continuation of the increased patron numbers.*
- (e) *The purpose of the reviewable condition is to allow ongoing assessment of the patron numbers in relation to neighbourhood amenity and operational performance, and allow the management to demonstrate successful practices in relation to the above.*
- (f) *Should the Council substantiate a breach of any of conditions (4), (22), (22A), (23) at any time during the trial period and the breach is not resolved to Council's satisfaction following a written request from Council, the operator of the premises may be served notice that Council will be undertaking a review of the increased patron numbers.*
- (g) *The operator of the premises may submit to Council any information they wish to be considered to support the continuation of the increased patron numbers. Council may determine to terminate the increased patron numbers or to allow the operator of the premises to resume the increased patron numbers, with such amendments to the Plan of Management as are considered necessary in the circumstances.*

~~Conditions to be complied with prior to issue of Construction Certificate to the satisfaction of the Certifying Authority~~

(Amended 27 February 2017)

20A. HOURS OF OPERATION - SENSITIVE USES – REVIEWABLE CONDITION

The hours of operation are regulated as follows:

- (a) *The internal hours of operation must be restricted to between 8.00am to 11.00pm Monday to Sunday. The external rear courtyard hours are 10.00am to 8.00pm Monday to Sunday.*
- (b) *Notwithstanding (a) above, the use may operate with internal hours between 11.00pm and 12.00 midnight and external rear courtyard hours between 8.00pm and 10.00pm for a trial period of ~~1 year~~ 2 years **1 year** from the date of this S96 consent (~~D/2005/866/B~~) **D/2005/866/C D/2005/866/D**, which is 27 February 2017. ~~Council's Planning Unit is to be informed in writing of the date of commencing the trial hours.~~*

- (c) *A further application may be lodged to continue the operating hours outlined in (b) above not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.*
- (d) *The extended hours may be reviewed by Council at any time during the trial period. The operator of the premises will be given 14 days written notice that a review of this condition will take place, and in that time may submit to Council any information they wish to be considered to support the continuation of the extended trading hours.*
- (e) *The purpose of the reviewable condition is to allow ongoing assessment of the operating hours in relation to neighbourhood amenity and operational performance, and allow the management to demonstrate successful practices in relation to the above.*
- (f) *Should the Council substantiate a breach of any of conditions (20A), (21), (22A), (23) at any time during the trial period and the breach is not resolved to Council's satisfaction following a written request from Council, the operator of the premises may be served notice that Council will be undertaking a review of the extended trading hours.*
- (g) *The operator of the premises may submit to Council any information they wish to be considered to support the continuation of the extended trading hours. Upon the review Council may determine to terminate the extended trading hours or to allow the operator of the premises to resume the extended trading hours, with such amendments to the Plan of Management as are considered necessary in the circumstances.*

(Inserted 27 September 2012)

(Amended 21 October 2013)

(Amended by D/2005/866/C, dated 21 December 2015)

(Amended 27 February 2017)

Officer's Report

The officer's report on this matter can be found at Item 11 of the agenda paper for the meeting of the Planning and Development Committee on 20 February 2017 - Volume 6.

Speakers

Mr Kristian Karlsen, Mr Duncan McEwen, Mr Jeremy Rockey and Ms Cinta Taylor addressed the meeting of the Planning and Development Committee (Development Assessment Sub-Committee) on Item 9.11.

ITEM 9.12**DEVELOPMENT APPLICATION: 443 GLEBE POINT ROAD GLEBE (D/2016/1609)**

The Development Assessment Sub-Committee decided that consideration of this matter be deferred to the meeting of Council on 27 February 2017.

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) the variation sought to Clause 4.4 'Floor space ratio' development standard 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 4.3 'Height of buildings' 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
- (C) consent be granted to Development Application No. D/2016/1609, subject to the conditions as detailed in Attachment A to the subject report.

Officer's Report

The officer's report on this matter can be found at Item 12 of the agenda paper for the meeting of the Planning and Development Committee on 20 February 2017 - Volume 6.

Speakers

Mr Kieran McInerney addressed the meeting of the Planning and Development Committee (Development Assessment Sub-Committee) on Item 9.12.

The Development Assessment Sub-Committee recommends the following:-

ITEM 9.13

DEVELOPMENT APPLICATION: 30-34 HICKSON ROAD MILLERS POINT (D/2016/1481)

It is resolved that:

- (A) the variation sought to Clause 4.3 '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; and
- (B) consent be granted to Development Application No. D/2016/1481, 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 Thalys, seconded by Councillor Forster, and carried unanimously.)

The Development Assessment Sub-Committee recommends the following:-

ITEM 9.14

DEVELOPMENT APPLICATION: 201-217 KENT STREET SYDNEY - AON BUILDING (D/2016/1545)

It is resolved that:

- (A) the variation sought to the height 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/2016/1545, 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 Thalys, seconded by Councillor Scott, and carried unanimously.)