

**ITEM 9. REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE -  
20 MARCH 2017****ITEM 9.1****DISCLOSURES OF INTEREST****(a) Section 451 of the Local Government Act 1993**

Councillor Craig Chung disclosed a less than significant, non-pecuniary interest in Item 9.8 on the agenda, in that he has an interest in a property in the vicinity of the property, the subject of the development application.

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.

**ITEM 9.2****TRAFFIC TREATMENT - SHARED ZONE WITH ONE-WAY CONTROL - NAVINS LANE  
PORTMAN LANE MERTON STREET ZETLAND (S115558-02)**

The Transport, Heritage and Planning Sub-Committee decided that consideration of this matter be deferred to the meeting of Council on 27 March 2017.

**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 approve:

- (A) conversion of Navins Lane between Portman Lane and Portman Street for one-way eastbound traffic flow, with bicycles excepted;
- (B) conversion of Portman Lane between Merton Street and Navins Lane for one-way northbound traffic flow, with bicycles excepted; and
- (C) conversion of Merton Street between Portman Street and Portman Lane for one-way westbound traffic flow, with bicycles excepted.

**Officer's Report**

The officer's report on this matter can be found at Item 2 of the agenda paper for the meeting of the Planning and Development Committee on 20 March 2017 – Volume 8.

**Speakers**

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

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

**ITEM 9.3**

**PUBLIC EXHIBITION – 397-399 CLEVELAND STREET AND 2-38 BAPTIST STREET, REDFERN, SURRY HILLS SHOPPING VILLAGE – PLANNING PROPOSAL, SYDNEY DEVELOPMENT CONTROL PLAN 2012 AMENDMENT AND PLANNING AGREEMENT (X003324)**

It is resolved that:

- (A) Council approve Planning Proposal: Sydney Local Environmental Plan – 397-399 Cleveland Street and 2-38 Baptist Street, Redfern, 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: Sydney Local Environmental Plan – 397-399 Cleveland Street and 2-38 Baptist Street, Redfern, for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) Council approve Sydney Development Control Plan 2012 – 397-399 Cleveland Street and 2-38 Baptist Street, Redfern, shown at Attachment B to the subject report, for public authority consultation and public exhibition with the Planning Proposal and Planning Agreement;
- (D) Council seek authority from the Greater Sydney Commission to exercise the delegation of the Greater Sydney Commission of all the functions under section 59 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan to put into effect Planning Proposal: Sydney Local Environmental Plan – 397-399 Cleveland Street and 2-38 Baptist Street, Redfern;
- (E) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal: Sydney Local Environmental Plan – 397-399 Cleveland Street and 2-38 Baptist Street, Redfern and Sydney Development Control Plan 2012: 397-399 Cleveland Street and 2-38 Baptist Street, Redfern, as required by the Greater Sydney Commission's Gateway Determination or to correct minor drafting errors;
- (F) authority be delegated to the Chief Executive Officer to prepare a Planning Agreement in accordance with the Environmental Planning and Assessment Act 1979 with the following terms:
  - (i) construction and dedication of new open space area in the south-western corner;
  - (ii) construction and dedication of new laneway towards the southern boundary;
  - (iii) construction and dedication of a public footpath along Marriott Street;
  - (iv) sustainability measures where BASIX affected development is rated at least 5 points above the minimum State-mandated BASIX points target for energy and water, 4 star Green Star for the supermarket and exceeding Section J of the National Construction Code for other commercial and retail uses; and
  - (v) community bus service for the duration of construction;

- (G) the Planning Agreement be exhibited in conjunction with the Planning Proposal and the development control plan amendment for the site; and
- (H) authority be delegated to the Chief Executive Officer to make any minor variations to the voluntary planning agreement after its exhibition and to subsequently enter into the Agreement, on behalf of Council, with the landowner.

(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**

**HERITAGE FLOOR SPACE: AMENDMENTS TO SYDNEY LOCAL ENVIRONMENTAL PLAN 2012, SYDNEY DEVELOPMENT CONTROL PLAN 2012 AND THE ALTERNATIVE HERITAGE FLOOR SPACE ALLOCATION SCHEME (X008656)**

It is resolved that:

- (A) Council approve Planning Proposal: Heritage Floor Space – Amendments to Sydney Local Environmental Plan 2012, 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: Heritage Floor Space – Amendments to Sydney Local Environmental Plan 2012, 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 – Heritage Floor Space Amendments, shown at Attachment B to the subject report, for public exhibition in parallel with the Planning Proposal;
- (D) Council approve the amended Alternative Heritage Floor Space Allocation Scheme, shown at Attachment C to the subject report, for public exhibition in parallel with the Planning Proposal;
- (E) 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;
- (F) authority be delegated to the Chief Executive Officer to make any minor changes, and any changes required by the Greater Sydney Commission, to the Planning Proposal, the draft Development Control Plan amendment and the amended Alternative Heritage Floor Space Allocation Scheme prior to the public exhibition; and
- (G) Council note that, following consideration of any submissions, and any modifications as necessary, the Planning Proposal, the draft Development Control Plan amendment and the amended Alternative Heritage Floor Space Allocation Scheme will be reported back to Council for final approval.

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

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

**ITEM 9.5**

**AFFORDABLE RENTAL HOUSING REVIEW – PUBLIC EXHIBITION – PLANNING PROPOSAL AND AFFORDABLE HOUSING PROGRAM (X008764)**

It is resolved that:

- (A) Council approve Planning Proposal: Affordable Housing Review, 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: Affordable Housing Review for public authority consultation and public exhibition in accordance with any conditions required in 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 City of Sydney Affordable Housing Program, shown at Appendix A of Attachment A 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 make minor changes, including any changes required by the Greater Sydney Commission as a condition of the Gateway Determination to the Planning Proposal: Affordable Housing Review and Draft City of Sydney Affordable Housing Program to prepare them for public exhibition; and
- (F) Council note that, following consideration of any submissions, and any modifications as necessary, Planning Proposal: Affordable Housing Review and Draft City of Sydney Affordable Housing Program will be reported back to Council for final approval.

**Speakers**

Mr Chris Johnson addressed the meeting of the Planning and Development Committee (Transport, Heritage and Planning Sub-Committee) on Item 9.5.

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

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

**ITEM 9.6**

**REPORT OF THE OPERATIONS OF THE SECTION 82A AND SECTION 96AB REVIEW  
PANEL - 2016 (S111724)**

It is resolved that the subject report be received and noted.

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

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 G 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 725-731 George Street, Haymarket, 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 730-742 George Street, Haymarket, 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 344 Bulwara Road, Ultimo, 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 49-55 Dixon Street, Haymarket, as detailed in Attachment E;
- (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 309-315 George Street, Sydney, as detailed in Attachment F; and
- (H) exercise its power to issue an Order 6 as recommended by Council's Building Officer to address the identified fire safety deficiencies in 12-20 Rosebank Street, Darlinghurst, as detailed in Attachment G;

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



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

**ITEM 9.8**

**DEVELOPMENT APPLICATION: 165-167 RILEY STREET DARLINGHURST (D/2016/1699)**

It is resolved that:

- (A) the request to vary the development standard for height in the Sydney Local Environmental Plan 2012, pursuant to Clause 4.6, not be supported; and
- (B) development consent be refused for Development Application No. D/2016/1699 for the following reasons:
  - (1) The development proposes primary windows on the north elevation and west elevation. Without any easement for light and air, the development fails to provide secure internal residential amenity. In this regard, it fails to satisfy:
    - (a) State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development.
    - (b) Clause 6.4 Design excellence of *Sydney Local Environmental Plan 2012*.
    - (c) Clause 4.2.3 Amenity of *Sydney Development Control Plan 2012*.
  - (2) The proposed development is excessive in height, bulk and scale. In this regard, it fails to satisfy:
    - (a) Clause 4.3 Height of buildings of *Sydney Local Environmental Plan 2012*.
    - (b) Clause 4.6 Exceptions to development standards of *Sydney Local Environmental Plan 2012*.
    - (c) Clause 5.10 Heritage conservation of *Sydney Local Environmental Plan 2012*.
    - (d) Clause 6.4 Design excellence of *Sydney Local Environmental Plan 2012*.
    - (e) Clause 3.2.2 Address the street and public domain of *Sydney Development Control Plan 2012*.
    - (f) Clause 3.9 Heritage of *Sydney Development Control Plan 2012*.
    - (g) Clause 3.13 Social and Environmental Responsibilities of *Sydney Development Control Plan 2012*.
    - (h) Clause 4.2.1 Building height of *Sydney Development Control Plan 2012*.
    - (i) Clause 4.2.2 Building setbacks of *Sydney Development Control Plan 2012*.

- (3) The proposal will result in adverse heritage impacts and fails to satisfy:
- (a) Clause 5.10 Heritage conservation of *Sydney Local Environmental Plan 2012*.
  - (b) Clause 3.9 Heritage of *Sydney Development Control Plan 2012*.

In particular, the proposal does not maximise conservation of original fabric of 'Oxford Hall' heritage item. The proposed development will substantially appear as a new building and fails to conserve the significant original fabric. The proposed form detracts from the Victorian Free classical style of the item.

- (4) The proposed development does not provide adequate space for waste and recycling receptacles. In this regard it fails to satisfy:
- (a) Clause 3.14 Waste of *Sydney Development Control Plan 2012*.
  - (b) Clause 4.2.6 Waste minimisation of *Sydney Development Control Plan 2012*.
  - (c) City of Sydney Code for Waste Minimisation in New Developments 2005.

### **Speakers**

Mr Bernard Pollak and Mr Chris Adams addressed the meeting of the Planning and Development Committee (Major Development Assessment Sub-Committee) on Item 9.8.

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

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

**ITEM 9.9**

**DEVELOPMENT APPLICATION: 17 ROSS STREET FOREST LODGE (D/2016/751)**

It is resolved that consent be refused for Development Application No. D/2016/751 for the following reasons:

- (1) The proposal is an overdevelopment of the site and is not in the public interest contrary to Section 79C(e) of the Environmental Planning and Assessment Act 1979.
- (2) The proposal fails to demonstrate compliance with the controls and standards for boarding houses specified in the SEPP (Affordable Rental Housing) 2009 and Section 4.4.1 of the Sydney Development Control Plan 2012 (Sydney DCP 2012) and has insufficient information in regard to flooding and surveying requirements.
- (3) The proposal does not provide for bicycle parking as per the requirements in the SEPP (Affordable Rental Housing) 2009 and Sydney DCP 2012.
- (4) No BASIX certificate has been submitted as per SEPP (Building Sustainability Index: BASIX) 2004 as part of the application nor sufficient information required to satisfy State Environmental Planning Policy 55 - Remediation of Land.
- (5) The proposal fails to exhibit design excellence, as it does not achieve a high standard of architectural design, material and detailing appropriate to the site and surrounding area. The proposal does not result in good internal amenity and design and, as such, does not comply with Clause 6.21 of Sydney Local Environmental Plan 2012.
- (6) The proposal exceeds the maximum floor space ratio under Clause 4.4 of Sydney Local Environmental Plan 2012 and SEPP (Affordable Rental Housing) 2009, resulting in an overdevelopment of the site, and an inappropriate scale and intensity of development. The proposal has not demonstrated that compliance with the floor space ratio development standard is unreasonable or unnecessary or that there are sufficient environmental planning grounds to justify contravening the development standards. The proposal fails to achieve a better outcome by contravening the floor space ratio development standard and therefore fails to satisfy Clause 4.6 of Sydney Local Environmental Plan 2012.
- (7) The proposal exceeds the height in storeys control under section 4.2.1 and does not comply with the internal floor to ceiling heights and floor to floor heights of Section 4.2.1.2 of the Sydney DCP 2012.
- (8) The proposal does not satisfy the requirements for amenity, building setbacks, waste minimisation, as well as heating and cooling infrastructure, as stipulated in Section 4.2 of the Sydney DCP 2012 for mixed use developments.

- (9) The proposal does not exhibit integration with the surrounds and will result in detrimental privacy and noise impacts to the residential property located to the rear of the site at 181 St Johns Road.

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

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

**ITEM 9.10**

**DEVELOPMENT APPLICATION: 422-424 KENT STREET AND 275-277 CLARENCE STREET SYDNEY (D/2016/853)**

It is resolved that, pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2016/853, 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 Phelps, seconded by Councillor Thalys, and carried – as part of an in globo motion with Items 9.11 and 9.12.)

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

**ITEM 9.11**

**DEVELOPMENT APPLICATION: 17 RALPH STREET ALEXANDRIA (D/2016/198)**

It is resolved that a deferred commencement consent be granted to Development Application No. D/2016/198, pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, 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 Phelps, seconded by Councillor Thalys, and carried – as part of an in globo motion with Items 9.10 and 9.12).

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

**ITEM 9.12**

**DEVELOPMENT APPLICATION: 501-509 BOTANY ROAD ZETLAND AND 511-515 BOTANY ROAD ZETLAND (D/2014/1757)**

It is resolved that:

- (A) authority be delegated to the Central Sydney Planning Committee (CSPC) to determine Development Application No. D/2014/1757; and
- (B) if the CSPC determines to approve Development Application No. D/2014/1757, then pursuant to Sections 80(1)(b) and 80(3) of the Environmental Planning and Assessment Act, the CSPC consider a deferred commencement condition which requires the modification of D/2013/1947 to remove Building 11C from that consent, the draft conditions of consent, as detailed in the report to the Planning and Development Committee on 4 August 2015 in relation to D/2014/1757, as shown at Attachment A to the subject report, and any other relevant updated or revised conditions.

(Note – At the meeting of the Planning and Development Committee, this recommendation was moved by Councillor Phelps, seconded by Councillor Thalys, and carried – as part of an in globo motion with Items 9.10 and 9.11).

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

**ITEM 9.13**

**DEVELOPMENT APPLICATION: 15-31 PARKER STREET HAYMARKET (D/2016/417)**

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, or that might reasonably be expected to 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 requirement under Clause 6.21 of the Sydney Local Environmental Plan 2012 requiring a competitive design process is unreasonable or unnecessary in this instance;
- (C) the requirement under Clause 7.20 of the Sydney Local Environmental Plan 2012 requiring the preparation of a development control plan is unreasonable or unnecessary in this instance; and
- (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/2016/417, 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 Phelps, seconded by Councillor Chung, and carried.)