

Resolution of Central Sydney Planning Committee

22 July 2021

Item 5

Development Application: 207-229 Young Street, 881-885 and 887-893 Bourke Street, Waterloo - D/2020/45

Moved by the Chair (the Lord Mayor), seconded by Ms Galvin -

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer to determine Development Application No. D/2020/45, following the conclusion of the public exhibition of the draft Voluntary Planning Agreement and considering any public submissions received in response;
- (B) authority be delegated to the Chief Executive Officer to determine whether the Design Excellence Strategy for 881-887 Bourke Street and 207-231 Young Street, Waterloo prepared by Ethos Urban on behalf of Jeffman Pty Ltd and Red Breast Pty Ltd and dated 19 April 2021, as shown in Attachment F to the subject report, ought to be approved pursuant to Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the Competitive Design Policy; and
- (C) if the Chief Executive Officer determines to approve the application, consideration be given, pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, to granting a deferred commencement consent to Development Application No. D/2020/45 subject to the conditions set out in Attachment A to the subject report, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

(26) EARLY PHYSICAL WORKS AIR QUALITY MANAGEMENT PLAN (AQMP)

Prior to the commencement of any demolition, excavation or remediation works within the subject site, an Early Physical Works Air Quality Management Plan (EPWAQMP) must be prepared by a suitably qualified Environmental Consultant and submitted to and approved by the city's Area Planning Manager.

The EPWAQMP shall be consistent with the requirements of Order 14 of Management Order No. 20111403 issued by the Land and Environment Court of NSW on 26 May 2011 and must address, but is not limited to, the following matters:

- (a) description of the measures that would be implemented on site to ensure:
 - (i) the control of air quality, ***volatile vapours*** and odour impacts of the proposed works;
 - (ii) that these controls remain effective for the duration of the works;
 - (iii) that all reasonable and feasible air quality management practice measures are employed;
 - (iv) the air quality impacts are minimised during adverse meteorological conditions and extraordinary events; and
 - (v) compliance with relevant conditions of consent;
- (b) include performance objectives for monitoring dust and ensuring no off-site air quality impacts to nearby residences and businesses;
- (c) includes an air quality monitoring program that:
 - (i) is capable of evaluating the performance of the demolition, excavation and remediation works;
 - (vi) includes a protocol for determining any exceedances of the relevant conditions of consent and responding to complaints;
 - (vii) adequately supports the air quality performance objectives; and
 - (viii) evaluates and reports on the effectiveness of air quality management for the demolition, excavation and remediation works;
- (d) details on monitoring weather conditions and communicating changing conditions to the workforce; and
- (e) stop work procedures if performance objectives are not being met.

(92) LANDSCAPE STRATEGY

- (a) Prior to the commencement of a competitive design process for a development parcel or parcels, a high-level landscape strategy is to be submitted to and approved by Council's Area Planning Manager / Coordinator for the relevant development parcel or parcels.

- (b) The landscape strategy should incorporate the following:
 - (i) a drawing of the development parcel, in plan. The drawing must:
 - a. illustrate the envelope footprint, as approved by this consent;
 - b. illustrate and note the dimensions of any deep soil zone contained within the development parcel, as approved by this consent;
 - c. illustrate and note the dimensions of any building, landscape and public domain **setbacks** (i.e. footpath widenings on Bourke Street) setbacks;
 - d. illustrate the location and tree number (as per the report approved in accordance with the **ABORICULTURAL IMPACT ASSESSMENT REPORT** [~~TREE MANAGEMENT CONDITION~~] condition of this consent) of trees to be retained or removed in accordance with **the TREES APPROVED FOR REMOVAL and TREES THAT MUST BE RETAINED** [~~TREE MANAGEMENT~~] conditions of this consent;
 - (iii) note that tree canopy cover is to be provided to 15% of the area of the development parcel (in accordance with provision 3.5.2 of the Sydney DCP 2012) and identify opportunities for any additional tree plantings required to achieve this target;
 - (iv) images of the desired character of landscaped areas identified in the landscape strategy;
- (c) The landscape strategy as approved in accordance with (a) above is to be appended to any competitive design process brief for the relevant development parcel.

and subject to the following amendments to Schedule 3 of the Public Benefit Offer and Draft Voluntary Planning Agreement shown at Attachment E to the subject report (additions shown in **bold italics**):

2. TRANSFER LAND

2.3 Obligations on transfer

- (a) The requirement for the developer to transfer the Transfer Land to the City is satisfied where:
 - (i) the City is given:
 - (A) an instrument in registrable form under the *Real Property Act 1900* (NSW) duly executed by the Developer as transferor or that is effective to transfer the title to the Transfer Land to the City when executed by the City as transferee and registered;

- (B) the written consent to the registration of the transfer of any person whose consent is required to that registration; and
 - (C) a written undertaking from any person holding the certificate of title to the production of the certificate of title for the purposes of registration of the transfer.
- (b) The Developer is to do all things reasonably necessary to enable registration of the instrument of transfer to occur.
 - (c) The Developer must ensure that the Transfer Land is free of all encumbrances and affectations **including contamination** (whether registered or unregistered and including without limitation any charge or liability for rates, taxes and charges) except for any encumbrances agreed in writing by the City in its absolute discretion.
 - (d) The Developer must indemnify and agree to keep indemnified the City against all claims made against the City as a result of any Contamination in, over, under or migrating from the whole or any part of the Transfer Land but only in relation to Contamination that existed on or before the date that the Transfer Land is dedicated to the City in accordance with the requirements of this clause.
 - (e) The Developer warrants that as at the date of this deed the Transfer Land is not subject to any Adverse Affectation and warrants as to those matters in Schedule 3 of the *Conveyancing (Sale of Land) Regulation 2010* (NSW), unless otherwise notified to and agreed by the City in writing in its absolute discretion.

Reasons for Decision

The application was approved for the following reasons:

- (A) The concept proposal is for building envelopes for three mixed commercial/ residential buildings and a residential apartment building. The proposal also delivers new public domain elements these being a new east-west street, a through-site link, and public open space. The development is permissible in the B2 Local Centre and B4 Mixed Use zones as stated in the land use table in the Sydney Local Environmental Plan 2012 (the LEP).
- (B) The proposed concept building envelopes comply with the 18m to 30m height of buildings controls pursuant to clause 4.3 and are capable of accommodating development that complies with the floor space ratio controls pursuant to clauses 4.4 and 6.14 of the Sydney Local Environmental Plan 2012.
- (C) The concept proposal is capable of satisfying the relevant objectives of Sydney Development Control Plan 2012 (the DCP).

- (D) The concept proposal and Design Excellence Strategy establish a concept building envelope and suitable parameters for a competitive design process. Subject to the recommended conditions, the proposed envelopes can accommodate a detailed building design of an appropriate bulk and scale, that responds to the character of the area and which is capable of achieving design excellence.
- (E) Condition 26 was amended to address the concerns of surrounding building owners.
- (F) Schedule 3 of the Public Benefit Offer and Draft Voluntary Planning Agreement was amended to ensure the land is dedicated free of contamination.

Carried unanimously.

D/2020/45