

# Central Sydney Planning Committee

Meeting No 458

Thursday 25 June 2020

Notice Date 19 June 2020

*minutes*

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**Present**

The Right Hon The Lord Mayor - Councillor Clover Moore (Chair), Deputy Lord Mayor - Councillor Jess Scully, Councillor Professor Philip Thalys, Ms Abbie Galvin, Mr Brett Whitworth, Mr Dick Persson AM and Mr Richard Horne.

At the commencement of business at 5.06pm, those present were:-

The Lord Mayor, Councillor Scully, Councillor Thalys, Ms Galvin, Mr Whitworth, Mr Persson and Mr Horne.

Mr Whitworth departed the meeting at 5.20pm, prior to the consideration and determination of Item 5 and did not vote on this matter. Mr Whitworth returned to the meeting at 5.22pm prior to the consideration and determination of Item 6.

The Director City Planning, Development and Transport was also present.

**Remote Meeting**

The Chair (the Lord Mayor) advised that the meeting of Central Sydney Planning Committee was being held by audio-visual links, with members (and relevant staff) attending the meeting remotely.

**Acknowledgement of Country**

The Lord Mayor opened the meeting with an acknowledgement of country.

**Webcasting Statement**

The Chair (the Lord Mayor) advised that in accordance with the City of Sydney Code of Meeting Practice, Central Sydney Planning Committee meetings are audio-visually recorded and webcast live on the City of Sydney website. The Chair (the Lord Mayor) asked that courtesy and respect be observed throughout the meeting and advised those in attendance to refrain from making defamatory statements.

Due to unforeseen circumstances, the Central Sydney Planning Committee meeting is able only to be audio recorded and webcast while the Committee is unable to meet in person.

## **Item 1      Disclosures of Interest**

The Lord Mayor, Councillor Clover Moore disclosed a less than significant, non-pecuniary interest in Item 13 – Section 4.55 Application: 205-213 and 215-225 Euston Road, Alexandria - D/2016/989/B and Item 14 – Development Application: 205-213 and 215-225 Euston Road, Alexandria - D/2018/907 in that a person associated with a prospective future tenancy made a non-reportable donation to the Clover Moore Independent Team prior to the 2016 Council election.

Mr Dick Persson disclosed a less than significant, non-pecuniary interest in Item 5 – Public Exhibition - Planning Proposal - 600-660 Elizabeth Street, Redfern - Sydney Local Environmental Plan 2012 Amendment and Draft Design Guide in that he is a board member of Bridge Housing, a community housing organisation, and the item deals with the provision of affordable housing as part of the development.

Councillor Philip Thalys disclosed a less than significant, non-pecuniary interest in Item 13 – Section 4.55 Application: 205-213 and 215-225 Euston Road, Alexandria - D/2016/989/B and Item 14 – Development Application: 205-213 and 215-225 Euston Road, Alexandria - D/2018/907 in that a person associated with a prospective future tenancy made a non-reportable donation to the Clover Moore Independent Team prior to the 2016 Council election.

Councillor Jess Scully disclosed a less than significant, non-pecuniary interest in Item 13 – Section 4.55 Application: 205-213 and 215-225 Euston Road, Alexandria - D/2016/989/B and Item 14 – Development Application: 205-213 and 215-225 Euston Road, Alexandria - D/2018/907 in that a person associated with a prospective future tenancy made a non-reportable donation to the Clover Moore Independent Team prior to the 2016 Council election.

Mr Brett Whitworth disclosed significant, non-pecuniary interest in Item 5 – Public Exhibition - Planning Proposal - 600-660 Elizabeth Street, Redfern - Sydney Local Environmental Plan 2012 Amendment and Draft Design Guide in that he will be expected to potentially exercise statutory decision making as a delegate of the Minister for Planning in the issue of a Gateway Determination for the item. Mr Whitworth advised that he would not participate in the debate or vote for Item 5.

No other members disclosed any pecuniary or non-pecuniary interests in any matter on the agenda for this meeting of the Central Sydney Planning Committee.

## **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 Central Sydney Planning Committee.

**Item 2 Confirmation of Minutes**

Moved by the Chair (the Lord Mayor), seconded by Councillor Scully –

That the minutes of the meeting of the Central Sydney Planning Committee of 14 May 2020, as circulated to Members, be confirmed.

Carried unanimously.

**Item 3 Matters Arising from the Minutes**

There were no matters arising from the minutes of the Central Sydney Planning Committee of 14 May 2020.

**Item 4 Public Exhibition - Planning Proposal - Open and Creative Planning Reforms and Draft Sydney Development Control Plan - Open and Creative Planning Reform**

Moved by the Chair (the Lord Mayor), seconded by Councillor Scully –

It is resolved that:

- (A) the Central Sydney Planning Committee approve the Planning Proposal - Open and Creative Planning Reforms, shown at Attachment A to the Information Relevant To Item 4 Memorandum – Public Exhibition - Planning Proposal - Open and Creative Planning Reforms, for submission to the Department of Planning, Industry and Environment with a request for a Gateway Determination;
- (B) the Central Sydney Planning Committee approve the Planning Proposal - Open and Creative Planning Reforms for public exhibition in accordance with any conditions required in the Gateway Determination;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage and Planning Committee on 22 June 2020 that Council approve the Draft Sydney Development Control Plan: Open and Creative Planning Reforms, shown at Attachment B of the subject report, for public exhibition with the Planning Proposal;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage and Planning Committee on 22 June 2020 that Council approve the Draft Technical Guidelines - Small Scale Cultural Activities in Spaces less than 500 square metres, shown at Attachment C to the subject report, for public exhibition with the Planning Proposal;
- (E) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage and Planning Committee on 22 June 2020 that Council seek authority from the Department of Planning, Industry and Environment to exercise its delegation under section 3.36 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 minor changes, including any changes required by the Department of Planning, Industry and Environment as a condition of the Gateway Determination to the Planning Proposal: Open and Creative Planning Reforms, and minor changes to the Draft Sydney Development Control Plan: Open and Creative Planning Reforms and Draft Technical Guidelines Small Scale Cultural Activities in Spaces less than 500 square metres to prepare them for public exhibition; and
- (G) the Central Sydney Planning Committee note a comprehensive review is being undertaken by staff separate to the subject report, of the land use zoning and permitted uses required to support the desired future uses of other town halls and Council-owned facilities.

Carried unanimously.

X009155

**Speaker**

Mr John Wardle (Live Music Office) addressed the meeting of the Central Sydney Planning Committee on Item 4.

**Item 5 Public Exhibition - Planning Proposal - 600-660 Elizabeth Street, Redfern - Sydney Local Environmental Plan 2012 Amendment and Draft Design Guide**

Mr Whitworth left the meeting prior to the consideration and determination of this matter as per his disclosure of a significant non-pecuniary conflict of interest in this item.

Moved by the Chair (the Lord Mayor), seconded by Councillor Thalís -

It is resolved that:

- (A) the Central Sydney Planning Committee approve the Planning Proposal – 600-660 Elizabeth Street, Redfern, shown at Attachment A to the subject report, for submission to the Department of Planning, Industry and Environment with a request for a Gateway Determination, subject to the following amendments: (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

In the Planning Proposal –

Section 2.5 on page 18, amend the following text:

The revised reference scheme allocates 3,500 square metres of land on the corner of Elizabeth Street and Kettle Street for community facilities. Demolition of the existing PCYC on the site is not to commence until after ~~the new PCYC has received a full occupation certificate or~~ arrangements have been made for the community facilities to be secured ***on site or*** elsewhere in the locality.

Section 3 on page 19, amend the following text (along with associated relevant changes throughout the Planning Proposal):

Insert a site-specific local clause for community facilities, affordable ***and social*** housing, BASIX, and overshadowing. The proposed site-specific provision will facilitate:

- a. A bonus FSR is available if land for community facilities is provided in the development or if arrangements are made by the land owner to provide community facilities elsewhere in the locality.
  - b. A bonus FSR is available if the development exceeds BASIX commitments for water and energy.
  - c. Any development must include at least 10% of total floor area, used for the purposes of residential development, being used for the purposes of affordable housing.
- d1. Any development must include at least 30% of total floor area, used for the purposes of residential development, being used for the purposes as social housing premises.***
- d2. In this clause, social housing premises has the same meaning as in the Residential Tenancies Act 2010.***

- ~~d.e.~~ Any development on the site must not overshadow Redfern Park and Oval between 9.00-15.00.
  - e.f. The consent authority must not consent to development of the site unless it is satisfied the redevelopment has taken into consideration any guidelines adopted by the City of Sydney (Note– clause only required if Department does not confirm that the development will be assessed as local development).
- (B) the Central Sydney Planning Committee approve the Planning Proposal – 600-660 Elizabeth Street, Redfern, shown at Attachment A to the subject report for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;
- (C) the Central Sydney Planning Committee note the recommendation to Council’s Transport, Heritage and Planning Committee on 22 June 2020 that Council seek authority from the Department of Planning, Industry and Environment to exercise the delegation of all functions under the relevant local plan making authority of all functions under Section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan to put into effect the Planning Proposal – 600-660 Elizabeth Street, Redfern;
- (D) the Central Sydney Planning Committee note the recommendation to Council’s Transport, Heritage and Planning Committee on 22 June 2020 that Council approve the draft Design Guide – 600-660 Elizabeth Street, Redfern shown at Attachment B to the subject report for public authority consultation and public exhibition together with the Planning Proposal, **subject to the following amendments: (additions shown in bold italics, deletions shown in strikethrough):**

In the draft Design Guide (or draft DCP) Section 2.1 Desired Future Character Statement on page 4, amend the following text:

Objective

The primary objective of the Guideline is to create development consistent with the following desired future character statement.

The future development has:

- (a) substantial social and affordable housing occupying the land
- (b) a ~~3,500sqm~~ **PCYC or similar** community facility on site, or has facilitated the delivery of a ~~minimum 3500sqm~~ **PCYC or similar** community facility in the locality
- (c) very high levels of environmental performance....[continues as per the draft]

(D) In the draft Design Guide (or draft DCP) Section 3.3 Uses and Flooding

Objectives

[as per draft]



## Guidance

(1) A ~~3500sqm~~ **PCYC or similar** community facility is to be provided predominately located with Development Section 1A, as shown in blue in Figure 4: Community Facility Predominant Location with frontages to Elizabeth and Kettle Streets and ~~may making make~~ use of the pedestrian part of Kettle Street. Alternatively, the community facility may be provided on land not subject to the Guide. The consent authority **or delegate must be satisfied that suitable arrangements have been made for the replacement of the PCYC or similar community facility on site or in the locality prior to approval for its demolition. not grant development consent until a site, development consent and funding are committed for the community facility that will replace the PCYC on site. Demolition of the existing PCYC on the site is not to commence until after the new PCYC has been built and received any occupation certificate.**

(2) The functional brief for the community facility must be ~~agreed by~~ **developed with** the City of Sydney in consultation with the PCYC.

- (E) authority be delegated to the Chief Executive Officer to translate the draft Design Guide – 600-660 Elizabeth Street, Redfern shown at Attachment B to the subject report to a draft Development Control Plan and approve for public authority consultation and public exhibition together with the Planning Proposal (should future development application(s) for the site be delegated to the City); and
- (F) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal – 600-660 Elizabeth Street, Redfern and the draft Design Guide (or site-specific Development Control Plan) – 600-660 Elizabeth Street, Redfern, to correct any drafting errors or to ensure it is consistent with the Planning Proposal following the Gateway Determination.

Carried unanimously.

X011236

**Item 6 Post Exhibition - Planning Proposal – Heritage Listing - 46 Chisholm Street, Darlinghurst - Sydney Local Environmental Plan 2012**

Moved by the Chair (the Lord Mayor), seconded by Councillor Thalís -

It is resolved that the Planning Proposal – Heritage Listing – 46 Chisholm Street, Darlinghurst – Sydney Local Environmental Plan 2012 be deferred until the next meeting of the Central Sydney Planning Committee.

Carried unanimously.

X020345

**Item 7      Post Exhibition - Planning Proposal - Modern Movement Heritage Items -  
Sydney Local Environmental Plan 2012 Amendment**

Moved by the Chair (the Lord Mayor), seconded by Councillor Scully -

It is resolved that:

- (A) the Central Sydney Planning Committee note the submissions received to the public exhibition of the planning proposal, shown at Attachment B to the subject report;
- (B) the Central Sydney Planning Committee approve the revised planning proposal, shown at Attachment A to the subject report, for finalisation and making as a local environmental plan under Section 3.36 of the Environmental Planning and Assessment Act 1979; and
- (C) authority be delegated to the Chief Executive Officer to make any minor amendments to the planning proposal, to correct any minor drafting errors prior to finalisation and making of the Local Environmental Plan.

Carried unanimously.

X017182

**Speakers**

Mr Anthony Pistolese (William Bland Centre), Ms Jane Pistolese (William Bland Centre), Mr David Burdon (National Trust), and Ms Amanda Pieriboni (Dexus), addressed the meeting of the Central Sydney Planning Committee on Item 7.

**Item 8 Section 4.55 Application: 890-898 Bourke Street, Zetland - D/2015/98/B**

Moved by the Chair (the Lord Mayor), seconded by Councillor Thalís -

It is resolved that consent be granted to Section 4.55 Application No. D/2015/98/B, and that the following conditions of consent be amended (with amendments shown in ***bold italics*** and deletions shown in ~~strikethrough~~) as follows -

Amend Condition 2 (a) to insert following revised plans

Drawing Number	Architect	Date
DA – 2101 – Issue <del>B</del> <b><i>P2</i></b> Basement Plan Envelope	<del>Candalepas Associates + Wendy Lewin</del> <b><i>WMK Architecture</i></b>	<del>23 June 2015</del> <b><i>7/03/2018</i></b>
DA – 2102 – Issue <del>B</del> <b><i>P2</i></b> Ground Floor Plan Envelope	<del>Candalepas Associates + Wendy Lewin</del> <b><i>WMK Architecture</i></b>	<del>23 June 2015</del> <b><i>7/03/2018</i></b>
DA – 2103 – Issue <del>B</del> <b><i>P2</i></b> Typical Floor Plan Envelope	<del>Candalepas Associates + Wendy Lewin</del> <b><i>WMK Architecture</i></b>	<del>23 June 2015</del> <b><i>7/03/2018</i></b>
DA – 2104 – Issue <del>B</del> <b><i>P2</i></b> Top Level Floor Plan Envelope	<del>Candalepas Associates + Wendy Lewin</del> <b><i>WMK Architecture</i></b>	<del>23 June 2015</del> <b><i>7/03/2018</i></b>
DA – 2201 – Issue <del>B</del> <b><i>P2</i></b> Section AA Envelope	<del>Candalepas Associates + Wendy Lewin</del> <b><i>WMK Architecture</i></b>	<del>23 June 2015</del> <b><i>7/03/2018</i></b>
DA – 2202 – Issue <del>B</del> <b><i>P2</i></b> Section BB Envelope	<del>Candalepas Associates + Wendy Lewin</del> <b><i>WMK Architecture</i></b>	<del>23 June 2015</del> <b><i>7/03/2018</i></b>

Drawing Number	Architect	Date
DA – 2301 – Issue <b>B P2</b> Elevations North and East Proposed Envelope	<b>Candalepas Associates + Wendy Lewin</b>	<del>23 June 2015</del> <b>7/03/2018</b>
DA – 2302 – Issue <b>B P2</b> Elevations South and West Proposed Envelope	<b>Candalepas Associates + Wendy Lewin</b>  <b>WMK Architecture</b>	<del>23 June 2015</del> <b>7/03/2018</b>

Amend Condition 4 to refer to the amendment to the VPA as proposed in the Deed of Variation as follows:

**(4) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT**

The terms of the Planning Agreement entered into in accordance with Deferred Commencement Condition (1) Voluntary Planning Agreement **and as amended** must be complied with.

Amend parts (a), (b) and (o) of Condition 11 as follows -

**(11) STAGE 2 DEVELOPMENT APPLICATION TO COMPLY WITH RELEVANT PLANNING CONTROLS**

*(a) The building separation distances specified within the ADG relating to visual privacy **unless appropriate privacy screening devices are approved under any future detailed development consent.***

*(b) The minimum floor to floor and floor to ceiling heights within the ADG and Sydney DCP 2012 **unless a reduced floor to ceiling height is approved under any future detailed development consent.***

*(o) The requirements of Section 3.1.6 of the Sydney DCP 2012 relating to sites greater than 5,000 sqm, which ask for a range of complimentary uses and housing types, including single storey apartments **and garden apartments. and maisonette apartments or terrace houses be provided; and at least 5% of the total dwellings on the site are to be terrace houses or maisonette apartments;***

See Attachment A to the subject report for the conditions of consent.

### **Reasons for Decision**

The application was approved for the following reasons:

- (A) The development as modified is substantially the same as was originally approved and is consistent with the requirements of Section 4.55(2) of the Environmental Planning and Assessment Act 1979.
- (B) The proposed building envelopes are capable of accommodating a future building which exhibit design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (C) The proposed envelopes are capable of being consistent with the provisions of the State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the Apartment Design Guide.

Carried unanimously.

D/2015/98/B

### **Speakers**

Mr Murray Donaldson (Urbis) – on behalf of the applicant, and Mr John Andreas (WMK Architecture) – on behalf of the applicant, addressed the meeting of the Central Sydney Planning Committee on Item 8.

**Item 9 Development Application: 890-898 Bourke Street, Zetland - D/2017/1672**

Moved by the Chair (the Lord Mayor), seconded by Councillor Thalys -

It is resolved that:

- (A) the variation requested to the floor to ceiling heights in accordance with Clause 4.6 Exceptions to development standards of the Sydney Local Environmental Plan be supported; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2017/1672 subject to the conditions set out in Attachment A to the subject report.

**Reasons for Decision**

The application was granted deferred commencement approval for the following reasons:

- (A) The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that, subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposed development complies with the permitted height and floor space ratio under the Sydney Local Environmental Plan 2012 and has a height and form which is considered to be generally suitable for the condition of the site and its context.
- (C) The proposed development exhibits design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (D) The proposed development is consistent with the provisions of the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and the Apartment Design Guide.
- (E) The Clause 4.6 written request to vary the floor to ceiling height is acceptable.

Carried unanimously.

D/2017/1672

**Speakers**

Mr Murray Donaldson (Urbis) – on behalf of the applicant, and Mr John Andreas (WMK Architecture – on behalf of the applicant, addressed the meeting of the Central Sydney Planning Committee on Item 9.

**Item 10 Development Application: 94-104 Epsom Road, Zetland - D/2019/976**

Moved by the Chair (the Lord Mayor), seconded by Councillor Thalys -

It is resolved that:

- (A) the variations requested to Clauses 4.3 'Height of Building' and 4.4 'Floor Space Ratio' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (B) 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 the circumstances; and
- (C) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2019/976 subject to the conditions detailed in Attachment B to the subject report to the Central Sydney Planning Committee on 25 June 2020, subject to the amendments shown at Attachment A to the Information Relevant To Item 10 Memorandum (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~).

**Reasons for Decision**

The application was granted deferred commencement approval for the following reasons:

- (A) The applicant's written requests have adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the 'Height of Building' and 'Floor Space Ratio' development standards is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clauses 4.3 and 4.4 of the Sydney LEP 2012; and
- (B) The proposal is in the public interest because it is consistent with the objectives of the B4 - Mixed Use zone and the 'Height of Building' and 'Floor Space Ratio' development standards.
- (C) The proposal has been assessed against the aims and objectives of the relevant planning controls including SEPP 65, the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. Where non-compliances exist, they have been demonstrated to be acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent.
- (D) The development is consistent with the design intent of the winning scheme of a competitive design process. The scale, form, articulation, materiality and architectural contribution of the proposed development is consistent with the Sydney DCP 2012 provisions for the Epsom Road precinct and the proposed development is consistent with the desired future character of the locality. The development satisfies design excellence provisions pursuant to Clause 6.21 of Sydney LEP 2012.



- (E) The proposed development is considered to be appropriate within its setting and is a mixed-use development comprising compatible uses that will support the vitality of the Epsom Park precinct, consistent with the desired future character for the locality.
- (F) Several recommended conditions of consent shown at Attachment B of the subject report were modified to facilitate the commencement of works upon determination of the application.

Carried unanimously.

D/2019/976

**Speaker**

Mr Walter Gordon (Meriton) – on behalf of the applicant, addressed the meeting of the Central Sydney Planning Committee on Item 10.

**Item 11 Development Application: 14-26 Wattle Street, Pyrmont - D/2019/649**

Moved by the Chair (the Lord Mayor), seconded by Councillor Scully -

It is resolved that consent be refused for Development Application No. D2019/649 for the following reasons:

- (A) Contrary to clause 4.6 of Sydney Local Environmental Plan 2012 (SLEP 2012), the applicant's clause 4.6 written request to vary the clause 4.3 Height of buildings standard does not demonstrate:
- (i) that compliance with the height of buildings standard is unnecessary or unreasonable in the circumstance of the case, as per clause 4.6(4)(a)(i) of SLEP 2012;
  - (ii) that there are sufficient environmental planning grounds to justify contravening the development standard, as per clause 4.6(4)(a)(ii) of SLEP 2012;
  - (iii) that the objectives of the height of buildings standard at clause 4.3(1) of SLEP 2012 are achieved or that the objectives of the standard would be thwarted by compliance (and as a consequence the proposed development is not considered to be in the public interest); and
  - (iv) that the development presents a better outcome for and from the development as required by the objective at clause 4.6(1)(b) of SLEP 2012.
- (B) The Concept Development Application (DA) does not satisfy section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposed development does not satisfy State Environmental Planning Policy 65 - Design Quality of Residential Flat Development (SEPP 65), particularly the following provisions:
- (i) SEPP 65 Design Quality: Principle 1: Context and Neighbourhood Character, Principle 2: Built Form and Scale, Principle 3: Density, Principle 5: Landscape and Principle 6: Amenity; and
  - (ii) Solar access, natural cross ventilation, noise, deep soil, communal open space and building separation design criterion in the Apartment Design Guide (ADG).
  - (iii) Given the above, the Concept Envelope Plans and Indicative Reference Scheme do not adequately address residential amenity, have not demonstrated that the proposed mix of uses can be supported on the site and provide insufficient guidance for the competitive design process and Detailed Design DA.
- (C) The Concept DA does not satisfy section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposed development is inconsistent with SLEP 2012, particularly the following provisions:
- (i) Clause 4.3 Height of buildings as the proposed development exceeds the 27m height of buildings standard;
  - (ii) Clause 4.6 Exceptions to development standards (see (A) above);

- (iii) Clause 5.10 Heritage conservation as the height of the Jones Block is not consistent with the immediate context of the site comprising the heritage listed terrace houses at 282 – 318 Jones Street, the Winchcombe Carson Wool store at 28-48 Wattle Street and the Harbour Mill Apartments at 280 Jones Street (which provides a deliberate reduction in height adjoining the lower scale heritage listed terraces);
  - (iv) Clause 6.21 Design excellence as the proposed development does not adequately address the matters under clause 6.21(4) of SLEP 2012;
  - (v) Clause 7.15 Flooding planning as the Concept Envelope Plans do not show flood planning levels; and
  - (vi) Clause 7.20 Development requiring a site specific DCP as the proposed development does not adequately address the matters under clause 7.20(4) of SLEP 2012.
- (D) The Concept DA does not satisfy section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with Sydney Development Control Plan 2012 (SDCP 2012), particularly the following provisions:
- (i) The Locality Statement at section 2.12.2 Pyrmont as the proposed development does not respond to the detail and character of heritage items near the site, provide a high quality public domain along Jones Street, provide easily identifiable building entrances, show the location of driveway entries, respond to and complement heritage items and maintain views and vistas from the public domain;
  - (ii) Sections 3.1 and 3.2 in relation to the Public Domain as the proposed development does not provide appropriate public domain improvements. In particular, inadequate public domain improvements are proposed to Jones Street, extensive civil works are required to achieve the proposed Jones Street tree planting and the cantilevered footway, public views from Fig Lane Park will be obstructed and the scale of development does not relate to neighbouring buildings in Jones Street;
  - (iii) Section 3.5 - Urban Ecology as the proposed development does not retain the existing cliff face on the site as a habitat feature, contrary to SDCP 2012, s. 3.5.1(2);
  - (iv) Section 3.7 Water and Flood Management as inadequate information is shown on the Concept Envelope Plans to demonstrate compliance with the City's Interim Floodplain Management Policy;
  - (v) Section 3.9 Heritage (see (A) above);
  - (vi) Section 3.11 Transport and Parking as the Concept Envelope Plans do not show the location of driveways;
  - (vii) Section 3.13 Social and Environmental Responsibilities as increased activation of the through site link(s) on the site is required to adequately address safety concerns;
  - (viii) Sections 3.14 Waste and 4.2.6 Waste and Recycling Management as the Concept Envelope Plans do not nominate the location and space allocated to waste and recycling management systems;
  - (ix) Section 4.2.1 Building height as the Concept Envelope Plans exceeds the 7 storey height control and 6 storey Fig Street street frontage height control;
  - (x) Section 4.2.3.1 Solar access as the Concept DA includes inadequate information to assess solar access to the proposed apartments and communal open spaces;

- (xi) Section 4.2.3.6 Deep soil as a deep soil area of 5% of the site area is proposed when SDCP 2012 requires a minimum of 10%;
  - (xii) Section 4.2.3.8 Common open space as a common open space area of 21% of the site area is proposed when SDCP 2012 requires a minimum of 25%. Inadequate information is provided to assess solar access to the communal open space at the ground level. The distribution of communal open space is also inequitable;
  - (xiii) Section 4.2.4 Fine grain, architectural diversity and articulation as the proposed street frontage lengths to Jones Street (131m), Wattle Street (105m) and Fig Street (95m) are excessive. The proposed design principles are insufficiently detailed to overcome the non-compliance. The "articulation zone" extends to the Jones Street site boundary, encroaching into the cliff face. It is not clearly defined, there is no guidance as to what can occur within the articulation zone, how much of the zone can be filled and in part overlaps with the "Potential Jones Street Footpath Zone"; and
  - (xiv) Section 4.2.5.3 Development on busy roads and active frontages as no information on acoustic treatments has been provided in the Concept DA to inform the Competitive Design Process or Detailed Design DA.
- (E) The Concept DA does not satisfy section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 as the site is not suitable for the mix of proposed uses or the scale of the proposed development.
- (F) The proposed development is not in the public interest, contrary to clause 4.15(1)(e) of Environmental Planning and Assessment Act 1979 as:
- (i) The proposed development will have a detrimental impact on the heritage context of the site;
  - (ii) The proposed development will result in a 29.4% breach of the height development standard and the envelopes are not appropriate to the conditions of the site and its context;
  - (iii) The development will set an undesirable precedent and allow the use of a clause 4.6 to seek a substantial variation to a development standard, thereby eroding certainty in development standards and the development control process; and
  - (iv) Submissions have been received which raise legitimate concerns about the proposed development.
- (G) The Concept DA provides insufficient information as detailed below:
- (i) Concept plans: The uses within the concept envelope are insufficiently described and should be denoted in plan, section and elevation (including the recreation centre and the childcare centre), all drawings should remove the dashed theoretical "LEP envelope" on the neighbouring building, and the Jones Street footpath requires more consideration. Deep soil areas should be increased and reference to 'constructed deep soil' should be deleted and areas that do not meet the ADG / DCP definition of deep soil zone should be removed. Flooding levels and vehicular and service driveways should be shown on the Concept Envelope Plans. Reference to LEP Envelope to Neighbouring Sites should be deleted;
  - (ii) Design Principles: The design principles provide insufficient certainty to overcome the inadequacies of the Concept Envelopes;

- (iii) Indicative Reference scheme: The Indicative Reference Scheme should demonstrate compliance with the objectives and minimum requirements in the ADG. Compliance has not been demonstrated in relation to solar access and noise and non-compliance has been demonstrated in relation to common open space, deep soil, building separation and cross ventilation. The plans should include the Concept Envelope outline on all plans, sections and elevations. Reference to LEP Envelope to Neighbouring Sites should be deleted;
- (iv) Through site link: The Concept Envelopes and principles depict the through site link as having a clear width of 9m, however the Design Excellence Strategy states that the through site link is to be 6m in width. The Design Excellence Strategy should be amended;
- (v) Cliff: A structural assessment of the cliff is required; and
- (vi) Land owner's consent: Landowner's consent is required from Transport for NSW to confirm that the through site link to the Wentworth Park Light Rail Station and associated tree removal can be achieved.

Carried unanimously.

D/2019/649

### **Speakers**

Mr Mark Girgis (Landream) – on behalf of the applicant, and Ms Kate Bartlett (Mecone) – on behalf of the applicant, addressed the meeting of the Central Sydney Planning Committee on Item 11.

**Item 12 Development Application: 22 O'Riordan Street, Alexandria - D/2019/686**

Moved by the Chair (the Lord Mayor), seconded by Councillor Thalís -

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer to determine the development application upon completion of the Voluntary Planning Agreement exhibition process and after the consideration of any submissions received;
- (B) if the Chief Executive Officer determines to approve the application, pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2019/686 subject to the conditions set out in Attachment A to the subject report; and
- (C) the Design Excellence Strategy for 22 O'Riordan Street, Alexandria, prepared by Mecone, be endorsed in accordance with Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the City of Sydney Competitive Design Policy.

**Reasons for Decision**

The application was granted deferred commencement approval for the following reasons:

- (A) The concept development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site and does not result in any unreasonable environmental impacts as outlined in the report to the Central Sydney Planning Committee.
- (B) The development is consistent with the objectives contained in the Sydney Local Environmental Plan (LEP) 2012 and the Sydney Development Control Plan (DCP) 2012.
- (C) The proposal is consistent with the objectives of the B7 - Business Park zone.
- (D) The concept development complies with the maximum permitted height under Clause 4.3 of the Sydney LEP 2012. The subsequent detailed development application (DA) is capable of complying with the maximum permitted floor space ratio within the parameters of the building envelope, pursuant to Clauses 4.4 and 6.14 of the Sydney LEP 2012. A subsequent DA is also capable of achieving up to 10% additional floor space pursuant to compliance with Clause 6.21 of the Sydney LEP 2012 and the recommended conditions of consent.
- (E) Subject to conditions, the proposal satisfies the relevant provisions contained in Clause 6.21(4) of the Sydney LEP 2012 as the proposed land use is suitable for the site, the proposal sets out ecologically sustainable development targets for the development, the building envelope does not detrimentally impact on view corridors or result in unacceptable overshadowing, and the massing and setbacks of the building envelope are compatible with the character of the area.

- (F) The proposal is generally consistent with the provisions of the Sydney DCP 2012, particularly the Green Square and Southern Employment Lands provisions that apply to the site, being Sections 5.2 and 5.8.
- (G) The proposed Design Excellence Strategy complies with Section 3.3 of the Sydney DCP 2012 and the City of Sydney Competitive Design Policy.
- (H) The proposal will improve the quality of the public domain through dedication of land for footpath widening along O'Riordan Street, and a landscape setback to Johnson Street. Deferred commencement approval is therefore recommended to enable the Voluntary Planning Agreement (VPA) to be executed and registered on title.
- (I) For the reasons outlined above and as detailed in the report to the Central Sydney Planning Committee, the proposed development is in the public interest subject to conditions.

Carried unanimously.

D/2019/686

### **Speakers**

Ms Kate Bartlett (Mecone) – on behalf of the applicant, addressed the meeting of the Central Sydney Planning Committee on Item 12.

**Item 13 Section 4.55 Application: 205-213 and 215-225 Euston Road, Alexandria - D/2016/989/B**

Moved by the Chair (the Lord Mayor), seconded by Councillor Scully -

It is resolved that consent be refused for Section 4.55 Application number D/2016/989/B for the following reasons:

- (A) The proposed amendment results in a development which is not substantially the same as that which was originally approved. As such, the development does not comply with section 4.55(2)(a) of the *Environmental Planning and Assessment Act 1979*.
- (B) The proposed amendment will adversely impact on Sydney Park. The proposed change to the height of the buildings and the decrease in setbacks from the boundaries means that the development will be more visible from the Park and cause additional overshadowing. This is not in the public interest. As such, the development does not comply with section 4.55(3) and 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.
- (C) The loss of trees within Sydney Park is contrary to aims of the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, and section 3.5.1 of the Sydney Development Control Plan 2012. It is also prohibited under sections 35, 36G and 36L of the Local Government Act 1993 and Sydney Park Plan of Management.
- (D) The proposed increase in height means that the development further exceeds the permitted 18 metre height limit across the site. This height is not appropriate for the site or the surrounding context, and therefore fails to meet objective (a) under clause 4.3 of the Sydney Local Environmental Plan 2012.
- (E) The proposed setbacks to the southern and western boundaries do not meet the minimum separation and setback requirements under parts 2F and 3F of the Apartment Design Guide. Further, the internal separation distances between the eastern end of the Parkside buildings, and the Euston Road buildings, do not meet the requirements under parts 2F and 3F of the Apartment Design Guide.
- (F) The modification cannot be considered to demonstrate good design, as per the Design Quality Principles in Schedule 1 of the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development. The modified development does not respond appropriately to its context. The built form and scale of the modified development will cause adverse impacts on Sydney Park and it will result in sub-optimal residential amenity.
- (G) The modification does not demonstrate design excellence as per clause 6.21 of the Sydney Local Environmental Plan. The modified envelopes will result in a building that is over the permitted height control, is too close to Sydney Park boundaries and does not meet the minimum required separation distances as established by the Apartment Design Guide. The proposal will impact on trees located in Sydney Park and will be more perceptible for users of Sydney Park.

Carried unanimously.

D/2016/989/B

**Speakers**

Ms Penny Fuller (Sylvester Fuller) – on behalf of the applicant, and Ms Clare Swan (Ethos Urban) – on behalf of the applicant, addressed the meeting of the Central Sydney Planning Committee on Item 13.



**Item 14 Development Application: 205-213 and 215-225 Euston Road, Alexandria - D/2018/907**

Moved by the Chair (the Lord Mayor), seconded by Councillor Thalís -

It is resolved that consent be refused for Development Application No. D/2018/907 for the following reasons:

- (A) The development is not consistent with the concept consent D/2018/989/A for the site. As such, the proposal does not comply with clause 4.24(2) of *the Environmental Planning and Assessment Act 1979*.
- (B) The proposed height exceeds the maximum permitted height development standard by up to 44%. The additional height and bulk of the building means that the development will overshadow and be more imposing on Sydney Park. As such, the development does not comply with:
  - (i) Clause 4.3 of *Sydney Local Environmental Plan 2012*, including objective (a)
  - (ii) Clause 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*
  - (iii) Clause 6.21 of *Sydney Local Environmental Plan 2012*
  - (iv) Section 4.2.1 of the *Sydney Development Control Plan 2012*.
- (C) The proposed setbacks to the south and west boundaries are inadequate. The setbacks do not comply with the concept consent or parts 2F and 3F of the Apartment Design Guide (ADG). The development will detract from the quality and amenity of the Sydney Park. The development will also result in the removal of three (3) trees within Sydney Park, the pruning of one (1) tree and encroachment into the tree protection zone of 28 trees. In this regard, the development does not comply with:
  - (i) Clause 6.21 of the *Sydney Local Environmental Plan 2012*
  - (ii) Clause 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*
  - (iii) Clause 1.2(l) of the *Sydney Local Environmental Plan 2012*
  - (iv) Schedule 1 of the *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development*
  - (v) Parts 2F and 3F of the *Apartment Design Guide*
  - (vi) *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
  - (vii) Section 3.5.1 of the *Sydney Development Control Plan 2012*
  - (viii) Sections 35, 36G and 36L of the *Local Government Act 1993*
  - (ix) *Sydney Park Plan of Management*.

- (D) The proposal has not demonstrated how the flood risk on the site will be managed, or how the site will be drained. In this regard, the development does not comply with:
- (i) Clause 7.15 of the Sydney Local Environmental Plan 2012
  - (ii) City's Interim Floodplain Management Policy
  - (iii) Section 3.7 of the Sydney Development Control Plan 2012.
- (E) The proposal has not demonstrated how access from Euston Road will be provided to the site. It is not clear where the deceleration lane will go, how the footpath will be realigned, how this land will be dedicated and what the setback of the building will be relative to the new property boundary. These are fundamental components of the development, and in the absence of clarity, mean the development cannot be approved. In this regard, the development does not comply with:
- (i) Clause 4.15(1)(c) of the Environmental Planning and Assessment Act 1979
  - (ii) Clause 101 of the State Environmental Planning Policy (Infrastructure) 2007
  - (iii) Section 3.11 of Sydney Development Control Plan 2012.
- (F) The proposed remediation approach does not properly consider the works required to Sydney Park, the impact on trees or the impact on future residents. It also does not adequately demonstrate how the site can be made suitable for the proposed uses. In the absence of clarity of these issues, the development has not demonstrated that the site can be made suitable for the proposed use. In this regard, the development does not comply with:
- (i) Clause 7(1)(b) of State Environmental Planning Policy No 55 - Remediation of Land
  - (ii) Clause 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*
  - (iii) Clause 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*
  - (iv) Clause 6.21 of *Sydney Local Environmental Plan 2012*.
- (G) The proposed development will likely require works to be undertaken on Sydney Park. This has not been sufficiently detailed. No land owners consent has been sought or is provided for the works required to be undertaken in Sydney Park. Tree removal and development works for the purposes of a private development is contrary to the objectives of management of Sydney Park. In this regard, the development does not comply with:
- (i) Clause 78A of the Environmental Planning and Assessment Act 1979
  - (ii) Clauses 49 and 50, and Schedule 1 of the Environmental Planning and Assessment Regulations 2000
  - (iii) Sections 35, 36G and 36L of the Local Government Act 1993
  - (iv) Sydney Park Plan of Management.

- (H) The site is impacted by road noise, aircraft noise and noise from nearby industrial land uses, including three (3) concrete batching plants. The proposal has not properly considered this acoustic condition, and has not demonstrated how the development can achieve the required internal noise levels and receive natural ventilation. In this regard, the development does not comply with:
- (i) Clause 7.18 of Sydney Local Environmental Plan 2012
  - (ii) Clause 102 of the State Environmental Planning Policy (Infrastructure) 2007
  - (iii) Department of Planning and Industry Development near rail corridors and busy roads-interim guidelines
  - (iv) Schedule 1 of the State *Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development*
  - (v) Part 4B of the Apartment Design Guide
  - (vi) Clause 6.21 of *Sydney Local Environmental Plan 2012*.
- (I) The development does not comply with the minimum separation distances between habitable openings, as required by parts 2F and 3F of the ADG. The apartments will have compromised visual and acoustic privacy, and the internal plaza will feel narrow and more enclosed. In this regard, the development does not meet the objectives of the following:
- (i) Schedule 1 of the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development
  - (ii) Parts 2F and 3F of the Apartment Design Guide
  - (iii) Clause 6.21 of *Sydney Local Environmental Plan 2012*.
- (J) The development does not provide a compliant ramp into the basement to allow Council's waste vehicles to adequately service the development. In this regard, the development fails to comply with section 3.14 of the Sydney Development Control Plan 2012.
- (K) The development in its current form does not demonstrate design excellence. The form and external appearance of the proposed development will detract from the quality and amenity of the public domain. The flood risk on the site has not been mitigated. The internal amenity of a majority of apartments is compromised. The development does not demonstrate whether the ecologically sustainable development targets have been implemented within the development. The access to the site does not demonstrate how pedestrian amenity will be prioritised. In this regard, the development does not meet clause 6.21 of Sydney Local Environmental Plan 2012.

Carried unanimously.

D/2018/907

### Speakers

Ms Penny Fuller (Sylvester Fuller) – on behalf of the applicant, and Ms Clare Swan (Ethos Urban) – on behalf of the applicant, addressed the meeting of the Central Sydney Planning Committee on Item 14.

**Item 15 Summary of Applications to be Reported to the Central Sydney Planning Committee**

Moved by the Chair (the Lord Mayor), seconded by Councillor Scully –

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

Carried unanimously.

S042755

**Item 16 Determinations Delegated by the Central Sydney Planning Committee to the City of Sydney**

Moved by the Chair (the Lord Mayor), seconded by Councillor Thalís –

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

Carried unanimously.

S040864

The meeting of the Central Sydney Planning Committee concluded at 6.45 pm.

CHAIR