

Central Sydney Planning Committee

Meeting No 469

Thursday 22 July 2021

Notice Date 16 July 2021

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 Alex O'Mara, Ms Abbie Galvin, Mr Dick Persson AM and Mr Richard Horne.

At the commencement of business at 5.02pm, those present were:

The Lord Mayor, Councillor Scully, Councillor Thalys, Ms O'Mara, Ms Galvin, Mr Persson and Mr Horne.

The Director City Planning Development and Transport was also present.

Councillor Scully departed the meeting at 8.38pm, prior to the consideration and discussion of Item 7, and did not return.

Remote Meeting

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

Acknowledgement of Country

The Chair (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.

Item 1 Disclosures of Interest

No 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 24 June 2021, 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 24 June 2021.

Item 4 Development Application: 18-32A Darlinghurst Road, Potts Point - D/2020/916

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

It is resolved that:

- (A) the variation requested to height of buildings development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; 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/2020/916 subject to the conditions set out in Attachment A to the subject report.

Reasons for Decision

The application was approved for the following reasons:

- (A) The development complies with the objectives of the B2 Local Centre zone pursuant to the Sydney Local Environment Plan 2012.
- (B) The development is consistent with the permitted floor space ratio pursuant to clauses 4.4 and 6.21 of Sydney Local Environmental Plan 2012.
- (C) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required under clause 4.6(3) of the Sydney LEP 2012, that compliance with the height of buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B2 Local Centre zone and the height of buildings development standard.
- (C) The development demonstrates design excellence pursuant to clause 6.21 of Sydney Local Environmental Plan 2012.
- (D) The development is generally consistent with the Design Quality Principles and the objectives of the Apartment Design Guide as per the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.
- (E) The development is consistent with the objectives of the Sydney Development Control Plan 2012.

Carried unanimously.

D/2020/916

Speakers

Martin Denny (Kinsley Hall Strata Committee), Kerry Needs (2011 Residents' Association), Carole Ferrier (2011 Residents' Association), and Patrick McGrath (2011 Residents' Association) addressed the meeting of the Central Sydney Planning Committee on Item 4.

Kristy Hodgkinson (Hamptons Property Services), Tim Greer (TZG), Warwick Bowyer (Iris Capital), Ksenia Totoeva (TZG), Anital Panov (panovscott Architects) and Andrew Scott (panovscott Architects) – on behalf of the applicant, addressed the meeting of the Central Sydney Planning Committee on Item 4.

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;
 - (ii) includes a protocol for determining any exceedances of the relevant conditions of consent and responding to complaints;
 - (iii) adequately supports the air quality performance objectives; and
 - (iv) 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 transfer 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

Speakers

Cameron Douglas, Simon Meilak, Tim Beattie (City West Housing), Matthew Parkinson (JBS&G for City West Housing), Damien Eames (1 Danks Street), Marc Wilson (1 Danks Street) and Kith Clark (Dahua Group) addressed the meeting of the Central Sydney Planning Committee on Item 5.

Tom Goode (Ethos Urban) and Jason Clay (Senversa) – on behalf of the applicant, addressed the meeting of the Central Sydney Planning Committee on Item 5.

**Item 6 Development Application: 413-415 Sussex Street and 82-84 Dixon Street,
Haymarket - D/2020/1386**

Moved by the Chair (the Lord Mayor), seconded by Mr Persson -

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, nor 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 variation requested to the height of buildings standard and motorcycle parking standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (C) the requirement under Clause 6.21 of the Sydney Local Environmental Plan 2012 requiring a competitive design process is considered unreasonable or unnecessary in the circumstances;
- (D) the requirement under Clause 7.20 of the Sydney Local Environmental Plan 2012 requiring a preparation of a development control plan is considered unreasonable or unnecessary in the circumstances; and
- (E) 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/2020/1386 subject to the conditions set out in Attachment A to the subject report, subject to the following amendment (additions shown in ***bold italics***):

(21) LOADING DOCK MANAGEMENT PLAN

Prior to the issue of a construction certificate, a loading dock management plan is to be prepared, including consideration of the future adjoining development being served by the loading dock. The Loading Dock Management Plan is to be submitted to the Director City Planning, Development and Transport for approval.

(Remaining conditions to be renumbered accordingly)

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposal is consistent with the objectives of the B8 Metropolitan Zone.
- (B) The proposal generally satisfies the relevant controls relating to student accommodation and boarding house uses.
- (C) The development conserves two traditional shops and conserves in perpetuity an existing space and chattels of historic significance, with public access, held in high regard by the Chinese community.
- (D) The proposal, subject to conditions, satisfies the provisions of clause 6.21 of the Sydney LEP 2012.
- (E) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height of buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012;
 - (ii) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 29 of the ARHSEPP, that compliance with motorcycle provision standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify no motorcycle provision: and
 - (iii) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 29 of the ARHSEPP, that floor space bonus applies to the site; and
 - (iv) the proposal is in the public interest because it is consistent with the objectives of the B8 Metropolitan zone.
- (F) Condition 21 was added to enable the consideration of access to another loading dock through the driveway.

Carried unanimously.

D/2020/1386

Speakers

Michael Williams (Australia-China Institute for Arts and Culture), Daphne Lowe Kelly (Museum of Sydney), Ann Toy (objector), Malcolm Oakes (Chinese Australian Historical Society), David Burdon (National Trust of Australia), Hector Abrahams (Hector Abrahams Architects), Tristan Ryan (Hector Abrahams Architects) and Giovanni Cirillo (Planning Lab) addressed the meeting of the Central Sydney Planning Committee on Item 6.

James Philips (Weir Philips Heritage and Planning) and Ian Cady (Mecone) – on behalf of the applicant, addressed the meeting of the Central Sydney Planning Committee on Item 6.

Item 7 Public Exhibition - Planning Proposal – Botany Road Precinct – Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

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

It is resolved that:

- (A) the Central Sydney Planning Committee approve Planning Proposal – Botany Road Precinct, 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;
- (B) the Central Sydney Planning Committee approve Planning Proposal – Botany Road Precinct, 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 19 July 2021 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 under Section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and put into effect the Planning Proposal – Botany Road Precinct;
- (D) the Central Sydney Planning Committee note the recommendation to Council’s Transport, Heritage and Planning Committee on 19 July 2021 that Council approve draft Development Control Plan - Botany Road Precinct, shown at Attachment B to the subject report, for public authority consultation and public exhibition together with the planning proposal; and
- (E) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal – Botany Road Precinct and draft Development Control Plan – Botany Road Precinct, to correct any drafting errors or to ensure consistency with the Gateway Determination.

Carried unanimously.

X031159

Note – Ms O’Mara abstained from voting on Item 7 as she will potentially be expected to exercise statutory decision making as a delegate of the Minister for Planning and Public Spaces in the issue of a Gateway Determination.

Item 8 Public Exhibition - Planning Proposal - Enterprise Area Review - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

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

It is resolved that:

- (A) the Central Sydney Planning Committee approve Planning Proposal - Enterprise Area Review, 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;
- (B) the Central Sydney Planning Committee approve Planning Proposal - Enterprise Area Review, 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 19 July 2021 that Council approve draft Sydney Development Control Plan 2012: Southern Enterprise Area Amendment, shown at Attachment B to the subject report, for public exhibition concurrent with the planning proposal;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage and Planning Committee on 19 July 2021 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; and
- (E) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal - Enterprise Area Review and draft Sydney Development Control Plan 2012: Southern Enterprise Area Amendment 2021 to correct any drafting errors or inconsistencies, or to ensure consistency with any condition of the Gateway Determination.

Carried unanimously.

X025568

Note – Ms O'Mara abstained from voting on Item 8 as she will potentially be expected to exercise statutory decision making as a delegate of the Minister for Planning and Public Spaces in the issue of a Gateway Determination.

The meeting of the Central Sydney Planning Committee concluded at 8.47 pm.

CHAIR