

Central Sydney Planning Committee

Meeting No 474

Thursday 7 April 2022

Notice Date 1 April 2022

minutes

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Present

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

At the commencement of business at 5.04pm, those present were:

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

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

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.

Order of Business

At the commencement of the Central Sydney Planning Committee, the Chair (the Lord Mayor) moved a procedural motion (seconded by Councillor Scully) to alter the Order of Business such that Item 7 be brought forward and dealt with prior to Item 4, for the convenience of the public present. The motion was carried unanimously.

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 17 March 2022, 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 17 March 2022.

Item 4 Development Application: 189-197 Kent Street, Sydney - D/2021/696

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

It is resolved that:

- (A) the variation requested to Clause 4.3 'Height of buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application Number D/2021/696 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 proposal satisfies the objectives of the Environmental Planning and Assessment Act, 1979, in that, subject to the imposition of 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 proposal ensures that the detailed design of the development is consistent with the concept approval, in order to satisfy Section 4.24 of the Environmental Planning and Assessment Act, 1979.
- (C) The proposal satisfies the objectives of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012 for the reasons set out in the report.
- (D) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
 - (a) The applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney Local Environmental Plan 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 Local Environmental Plan 2012; and
 - (b) The proposal is in the public interest because it is consistent with the objectives of the B8 Metropolitan Centre zone and the 'Height of buildings' development standard.
- (E) The concept building envelopes can accommodate a building design which is capable of exhibiting design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (F) The increased height and altered massing and bulk of the building envelopes are in keeping with the desired future character of the area. These variations are reasonable and justified with regard to the concurrent amendments to the detailed design of the development, which are proposed under the concurrent development application D/2021/690.

- (G) The proposed changes to the approved building envelopes are appropriate and are not likely to significantly impact the overall use of the building or the amenity of surrounding sites or locality.
- (H) The proposed amendments to the approved concept development is in the public interest.

Carried unanimously.

D/2021/696

Speakers

Alexis Cella (Ethos Urban) – on behalf of the applicant, and Elizabeth Carpenter (FJMT Studio) – on behalf of the applicant, addressed the meeting of the Central Sydney Planning Committee on Item 4.

Item 5 Development Application: 189-197 Kent Street, Sydney - D/2021/690

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

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer to determine Development Application Number D/2021/690 by way of approval, subject to the recommended conditions set out in Attachment A, and subject to the precondition that a duly signed notice of modification of development consent D/2018/1014 is submitted to the City of Sydney, in accordance with the conditions of consent for D/2021/696, on or before 7 October 2022;

Note: For avoidance of doubt, under this delegation, the Chief Executive Officer may determine Development Application Number D/2021/690 once a duly signed notice of modification of development consent D/2018/1014 is submitted to the City of Sydney in accordance with the conditions of consent for D/2021/696, but only if that notice is received on or before 7 October 2022;

- (B) the Chief Executive Officer be directed to report D/2021/690 to the Central Sydney Planning Committee for further advice or determination if a duly signed notice of modification of development consent to D/2018/1014, submitted in accordance with the conditions of consent for D/2021/696, is not received by the City of Sydney on or before 7 October 2022; and
- (C) the Central Sydney Planning Committee receive and note the recommendation in this report that:
- (i) the variations requested to Clause 4.3 'Height of buildings' and Clause 4.4 'Floor space ratio' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
 - (ii) the requirement under Clause 6.21 of the Sydney Local Environmental Plan 2012 for a competitive design process to be carried out in relation to the proposal is unreasonable and unnecessary in the circumstances of the site and the proposed development; and
 - (iii) consent be granted to Development Application Number D/2021/690 subject to the recommended conditions set out in Attachment A to the subject report.

Reasons for Decision

The authority to determine the application by the granting of development consent to Development Application Number D/2021/690, subject to the recommended conditions set out in Attachment A to the subject report, was delegated to the Chief Executive Officer of the City of Sydney for the following reasons:

- (A) The subject application cannot be determined until a duly signed notice of modification of development consent D/2018/1014 is submitted to the City of Sydney, in accordance with the conditions of consent for D/2021/696, in order to ensure appropriate sequencing and consistency between staged applications, in accordance with Section 4.24 of the Environmental Planning and Assessment Act, 1979.
- (B) The proposal satisfies the objectives of the Environmental Planning and Assessment Act, 1979 in that, subject to the imposition of 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.
- (C) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012, the State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the Apartment Design Guide.
- (D) Based upon the material available to the Committee at the time of considering this application, the Committee is satisfied that:
 - (i) the applicant's written requests have adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney Local Environmental Plan 2012, that compliance with the 'Height of buildings' and 'Floor space ratio' development standards is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 and Clause 4.4 of the Sydney Local Environmental Plan 2012; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B8 Metropolitan Centre zone and the 'Height of buildings' and 'Floor space ratio' development standards.
- (E) The articulation, materiality and architectural contribution of the proposal combine to exhibit design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (F) The requirement under Clause 6.21 of the Sydney Local Environmental Plan 2012 for a competitive design process to be carried out in relation to the proposal is unreasonable and unnecessary in the circumstances of the site and the proposed development.
- (G) The proposed amendments to the approved development are generally consistent with the original design intent of the winning scheme of a competitive design process, as subject to a Design Integrity Assessment Process held in accordance with the City of Sydney Competitive Design Policy.
- (H) The proposed amendments to the approved development will be consistent with the amended concept approval for the site, being D/2018/1014 as amended by a duly signed notice of modification required under the concurrent development application D/2021/696, in accordance with Section 4.24 of the Environmental Planning and Assessment Act, 1979.
- (I) The proposed amendments to the approved development have a height, scale and form suitable for the site and its context, and subject to conditions, satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the broader locality.

- (J) Subject to the recommended conditions of consent, the proposed amendments to the approved development achieve acceptable amenity for the existing and future occupants of the subject and adjoining sites.
- (K) The proposed amendments to the approved development will result in a mix of compatible land uses which will support the vitality of the area and do not result in any significantly adverse environmental or amenity impacts on either the subject or surrounding properties, the public domain or the broader Sydney Central Business District, subject to the recommended conditions.
- (L) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City, subject to recommended conditions imposed relating to the appropriate management of potential environmental impacts associated with the development.

Carried unanimously.

D/2021/690

Item 6 Section 4.55 Application (D/2019/817/B) and Development Application (D/2021/977) - 23-27 Bourke Road and 41-43 Bowden Street, Alexandria

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

It is resolved that:

- (A) consent be granted to Section 4.55 Modification Application No. D/2019/817/B subject to the conditions set out in Attachment A to the subject report;
- (B) subject to consent being granted under (A) above, that consent be granted to Development Application No. D/2021/977 subject to the conditions set out in Attachment B to the subject report; and
- (C) the variation requested under D/2021/977 to Cl. 4.3 - 'Height of Buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 set out in Attachment E to the subject report be upheld.

Reasons for Decision

The applications were approved for the following reasons:

Concept Modification Application 4.55(2) – D/2019/817/B

- (A) The modified development is consistent with the objectives contained in the Sydney Local Environmental Plan (LEP) 2012 and the Sydney Development Control Plan 2012, subject to conditions.
- (B) The modification is considered to be substantially the same as that originally approved and satisfies Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.
- (C) The small section of increased building envelope and the modification of conditions to allow rooftop treatments and services and shade devices on the façade is not considered to have detrimental impact on surrounding properties, the public domain nor the design intent of the winning scheme of the competitive design process. These modifications also meet the requirements of the design excellence provisions in the Sydney LEP.
- (D) For the reasons outlined above and as detailed in the report to Central Sydney Planning Committee, the proposed development is in the public interest subject to conditions.

Detailed Design Development Application -D/2021/977

- (A) Subject to the adoption of Council officer recommendations that amend the concept development consent, the proposed Detailed Design DA satisfies Section 4.24(2) of the Environmental Planning and Assessment Act, 1979. The Detailed Design DA will not be inconsistent with the concept plan as modified under D/2019/817/B.
- (B) The Detailed Design DA delivers community infrastructure commitments made under the associated executed Voluntary Planning Agreement.
- (C) The development is consistent with the objectives contained in the Sydney Local Environmental Plan (LEP) 2012 and the Sydney Development Control Plan 2012, subject to conditions.

- (D) The articulation, materiality and architectural contribution of the detailed design proposal combine to exhibit design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21 of the Sydney Local Environmental Plan 2012, subject to conditions.
- (E) The proposed development is considered to be generally consistent with the design intent of the winning scheme of a competitive design process, held in accordance with the City of Sydney Competitive Design Policy.
- (F) The proposed development has a height, scale and form suitable for the site and its context, and is appropriate in the streetscape context and setting of the broader locality, subject to conditions.
- (G) The proposal is generally consistent with the provisions of the Sydney Development Control Plan (DCP) 2012, particularly the Green Square and Southern Employment Lands provisions that apply to the site, being Sections 5.2 and 5.8; and
- (H) 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; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B6 Enterprise Corridor zone and the Height of Buildings development standard.

Carried unanimously.

D/2019/817/B

D/2021/977

Speakers

Andrew Harvey (Urbis) – on behalf of the applicant, addressed the meeting of the Central Sydney Planning Committee on Item 6.

Item 7 Post Exhibition – Planning Proposal – Oxford Street Creative and Cultural Precinct – Sydney Local Environmental Plan 2012 and Draft Sydney Development Control Plan 2012 - Public Exhibition - Draft LGBTIQ+ Oxford Street Social and Cultural Place Strategy

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

It is resolved that:

- (A) the Central Sydney Planning Committee note matters raised in response to the public exhibition of the Amended Planning Proposal: Oxford Street Cultural and Creative Precinct and draft Sydney Development Control Plan 2012: Oxford Street Cultural and Creative Precinct as described in this report and as shown in Attachment G to the subject report;
- (B) the Central Sydney Planning Committee approve the Planning Proposal: Oxford Street Cultural and Creative Precinct as shown at Attachment A to the subject report and amended in response to submissions, and request that the Department of Planning and Environment make it as a local environmental plan under Section 3.36 of the Environmental Planning and Assessment Act 1979, subject to the following amendments (additions shown in **bold italics**, deletions shown in ~~strikethrough~~):
- (a) **Amendment of AHOB_022 and AFSR_022 maps to include a FSR of 4:1 and HOB of 23m at 265-267 Oxford Street (the Beacham Hotel).**
- (b) Amendment of Explanation of Provisions and Appendix 2 drafting instructions (3)(vi) and Example Clause (10) relating to the ARQ sites to allow the total permitted gross floor area to be distributed across an amalgamated site as follows:
- (vi) Drafting Instructions: Additional height and floor space is ~~not~~ available under this clause to a building on 4-6 Flinders Street, Darlinghurst (Lot 100 DP 746537), 10-16 Flinders Street, Darlinghurst (Lot 1 DP 9347), 18- 26 Flinders Street Darlinghurst (Lot 2 DP 9347). 4-6 Taylor Street, Darlinghurst (Lot 3 DP 9347), 8-10 Taylor Street, Darlinghurst (Lot 4 DP 9347) and 2 Sturt Street, Darlinghurst (Lot 5 DP 9347 and Lot 1 DP 819569), ~~unless the building is on land with a site area of more than 1,500 square metres and do not exceed 3.3:1 FSR.~~ **if the total gross floor area of development does not exceed the combined floor space ratio for the site;**
- Example Clause: (10) Development consent ~~must not be~~ **may** be granted under subsection (3) for development on any of the following sites: 4-6 Flinders Street, Darlinghurst (Lot 100 DP 746537), 10-16 Flinders Street, Darlinghurst (Lot 1 DP 9347), 18- 26 Flinders Street Darlinghurst (Lot 2 DP 9347). 4-6 Taylor Street, Darlinghurst (Lot 3 DP 9347), 8-10 Taylor Street, Darlinghurst (Lot 4 DP 9347) and 2 Sturt Street, Darlinghurst (Lot 5 DP 9347 and Lot 1 DP 819569), ~~unless the building is on land with a site area of more than 1,500 square metres and do not exceed 3.3:1 FSR.~~ **if the total gross floor area of development does not exceed the combined floor space ratio for the site.**
- (c) **Amendment of AFSR_022 map to include a FSR of 3.75:1 at 203-209 Oxford Street (the Bookshop sites).**
- (d) **Amendment of AFSR_015 and AHOB_015 maps to include a FSR of 3.8:1 and HOB of 24 metres at 1-5 Flinders Street (the former T2 building).**
- (e) **Amendment to the AFSR_015 and AHOB_015 maps to include a FSR of 3.75:1 and height of building control of 18 metres at 163-169 Oxford Street.**

- (f) ***Amendment to AHOB_015 maps to include a height of building control of 18 metres at 171 Oxford Street.***
 - (g) ***Amendment of Appendix 2 Drafting Instructions (1) and Example Clause (2) to remove all addresses listed after the National Art School at 156 Forbes Street.***
 - (h) ***Amendment of Appendix 2 Drafting Instruction and Example Clause to clarify that development in the precinct which does not seek use the additional height or FSR under the alternative planning provisions:***
 - (i) ***can continue to utilise LEP clause 4.6 Exceptions to Development Standards, and***
 - (ii) ***can access the provision that allows for up to 0.8:1 FSR for live entertainment and cinema uses in a basement;***
- (C) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage, Environment and Planning Committee on 4 April 2022 that Council approve the draft Sydney Development Control Plan 2012: Oxford Street Cultural and Creative Precinct as shown at Attachment B to the subject report and amended in response to submissions, noting that it will come into effect on the date of publication of the subject local environmental plan, in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):
- (a) ***Amendment of the alternative height in storeys maps 015 and 022 to show 5 storeys at 197-199, 203--215 Oxford Street.***
 - (b) ***Amendment of the alternative height in storeys maps 015 to show 6 storeys at 381 and 379 Bourke Street (Kinselas).***
 - (c) ***Amendment of the alternative height in storeys maps 015 and 022 to show 5 storeys at 1-5 Flinders Street (T2) and insert a control for a required setback at level 3 only.***
 - (d) ***Amendment of the alternative height in storeys map 022 to show 5 storeys at 265-267 Oxford Street (the Beacham Hotel).***
 - (e) ***Amendment of the alternative height in storeys maps 015 to show 4 storeys at 163-169 & 171 Oxford Street and insert a site specific control for a 6.5 metre setback above the existing buildings at 163-169 & 171 Oxford Street.***
- (D) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage, Environment and Planning Committee on 4 April 2022 that Council approve the Draft LGBTIQ+ Social and Cultural Place Strategy as shown at Attachment C to the subject report for public exhibition;
- (E) the Central Sydney Planning Committee note the Transport Study - Oxford Street Cultural and Creative precinct shown at Attachment D to the subject report;
- (F) the Central Sydney Planning Committee note the matters raised in response to the early consultation on options for taller buildings at Taylor Square as detailed in Attachment H to the subject report, and that these proposals will not proceed at this time; and

- (G) authority be delegated to the Chief Executive Officer to make any minor amendments to the Planning Proposal: Oxford Street Cultural and Creative Precinct and draft Sydney Development Control Plan 2012: Oxford Street Cultural and Creative Precinct to correct any minor errors or omissions prior to finalisation.

Carried unanimously.

X026153

Speakers

Mark Crees (Create NSW), Steven Ding (Infin Architects), George Karageorge (Stasia Property), Vince Squillace (Squillace Architects), Joshua Watts (Karbon Property), Dimitrios Franze (I B Property), Luise Elsing (Woollahra Council), Claude Bereny (The Beacham Hotel), Sue Ritchie (Three Saints Square/The Beacham Hotel), Anthony Egizii, Michiel Dolk (Sturt Street Residents Association), Will Mrongovius (The Paddington Society), Ben Mulcahy, Stephen Gouge (Ethos Urban), Brad Hughes, Anthony Kiliias (Urbis), Brendan Hoskins (Ethos Urban), Sarah Lawlor (FJMT Studio), Chris Jolliffe (Kinsellas), Philip Thalys and Daniel Litchfield (Growthbuilt) addressed the meeting of the Central Sydney Planning Committee on Item 7.

Item 8 Post Exhibition - Planning Proposal – Green Square Town Centre: 377 - 495 Botany Road and 960A Bourke Street, Zetland – Sydney Local Environmental Plan (Green Square Town Centre) 2013 and Green Square Town Centre Sydney Development Control Plan 2012 Amendment

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

It is resolved that:

- (A) the Central Sydney Planning Committee note that no matters were raised in response to the public exhibition of Planning Proposal – Green Square Town Centre: 377 - 495 Botany Road and 960A Bourke Street, Zetland and draft Development Control Plan - Green Square Town Centre: 377 - 495 Botany Road and 960A Bourke Street, Zetland;
- (B) the Central Sydney Planning Committee approve Planning Proposal – Green Square Town Centre: 377 - 495 Botany Road and 960A Bourke Street, Zetland shown at Attachment A to the subject report to be made as a local environmental plan under Section 3.36 of the Environmental Planning and Assessment Act 1979;
- (C) the Central Sydney Planning Committee note the recommendation to Council’s Transport, Heritage, Environment and Planning Committee on 4 April 2022 that Council approve draft Development Control Plan - Green Square Town Centre: 377 - 495 Botany Road and 960A Bourke Street, Zetland shown at Attachment B to the subject report, noting that the approved development control plan will come into effect on the date of publication of the subject local environmental plan;
- (D) the Central Sydney Planning Committee approve the Design Excellence Strategy for 377-495 Botany Road, Zetland (also known as site 8A and 8B), version 3.0, prepared by Ethos Urban Pty Ltd and dated 11 March 2022, as shown in Attachment E to the subject report, pursuant to Section 6.1 of the Green Square Town Centre Development Control Plan 2012 and Section 1.2 of the Competitive Design Policy; and
- (E) authority be delegated to the Chief Executive Officer to make minor variations to Planning Proposal – Green Square Town Centre: 377 - 495 Botany Road and 960A Bourke Street, Zetland and draft Development Control Plan - Green Square Town Centre: 377 - 495 Botany Road and 960A Bourke Street, Zetland to correct any minor drafting errors prior to finalisation.

Carried unanimously.

X026151

Thursday 7 April 2022

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The meeting of the Central Sydney Planning Committee concluded at 6.50pm.

CHAIR