

## Relevant Information for the Central Sydney Planning Committee

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**FILE:** D/2017/1750 **DATE:** 21 June 2018

**TO:** Central Sydney Planning Committee Members

**FROM:** Graham Jahn, Director City Planning, Development and Transport

**SUBJECT:** Information Relevant To Item 5 – Development Application: 210-214 and 218-232 George Street, Sydney

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### Alternative Recommendation

(additions shown in ***bold italics*** and deleted text shown in ~~strikethrough~~):

~~Upon confirmation from the Director City Planning, Development and Transport that written concurrence has been received from Sydney Metro, it is resolved that consent be granted to Development Application No. D/2017/1750, subject to the conditions set out in Attachment A to the subject report.~~

***It is resolved that:***

- (A) ***authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2017/1750, subject to concurrence from Sydney Metro pursuant to the provisions of Clause 86 of the State Environmental Planning Policy (Infrastructure) 2007 being received in respect of the application; and***
- (B) ***if the CEO determines to approve the application, then consideration be given to granting development consent, pursuant to Section 4.16 (1)(a) of the Environmental Planning and Assessment Act 1979, subject to the conditions as detailed in Attachment A to the subject report, and the following two additional conditions detailed below:***

### **(118) RIGHT OF PUBLIC ACCESS**

- (a) *Prior to the issue of any Occupation Certificate for the development, a documentary Right of Public Access is to be created and registered on the Title of the site. The Easement, limited in stratum, is to be defined over that strip of land of variable width lying between the main façade of the building at ground level and the alignments of George Street and Dalley Street. The Easement may be limited in depth to include the paved surface of the Easement area and in height to exclude the awning above the pavement. The Easement is to be created appurtenant to Council in terms granting unrestricted rights for public pedestrian access, to Council's satisfaction.*
- (b) *Prior to the issue of any Occupation Certificate for the development, a documentary Positive Covenant is to be created and registered on the Title of the site, appurtenant to Council. The Positive Covenant is to be created in terms indemnifying Council against any claims and damages arising from the use of the Right of Public Access, and is to require the maintenance of a \$20,000,000 public indemnity insurance policy and is to require the maintenance, upkeep, repair and lighting of the Right of Public Access in accordance with Council's requirements and to the satisfaction of Council.*

### **(119) GROUNDWATER DEWATERING LICENCE**

- (a) *If parts of the development intercept or extract groundwater, authorisation may be required under Section 91 (3) of the Water Management Act 2000 and may need a dewatering licence from Water NSW.*
- (b) *If any dewatering is proposed that requires a dewatering licence from Water NSW then a copy of the licence must be submitted to the Certifying Authority prior to the issue of the Stage 1 Construction Certificate.*
- (c) *Should the dewatering result in any amendments to the approved development specified by Condition No.1 a separate development application to Council to modify the approved development shall be submitted.*

## **Background**

### *Sydney Metro - concurrence provisions*

The proposed development adjoins the Chatswood to Sydenham section of the Sydney Metro City and Southwest corridor. Pursuant to the provisions of Clause 86 of the State Environmental Planning Policy (Infrastructure) 2007, the application was referred to Transport for New South Wales (TfNSW) for concurrence. Draft conditions of consent have been provided to staff by the Metro Product and Integration Branch Sydney Metro Project Delivery Office ('Sydney Metro') via TfNSW in an email dated 23 May 2018.

City staff have been advised by Sydney Metro staff that the required concurrence will not be granted before the development application is reported to the Central Sydney Planning Committee on 21 June 2018. Development consent cannot be issued in the absence of the concurrence, as a result it is recommended that the CSPC delegate authority to the Chief Executive Officer (CEO) to determine the subject development application, once the concurrence from Sydney Metro has been received, and having regard to the conditions detailed in Attachment A to the subject report, and the additional conditions recommended below.

### *George Street footway*

At the CSPC briefing of 14 June 2018 a question was asked about ownership and rights of access to the portion of land that is located under the proposed awning along George Street, which is located wholly within the site boundary but will be able to be used as part of the public footway. It is noted that the proposed basement extends to the site boundary.

A review of the development consent for the adjacent property (200 George Street) which also has an awning that extends to the site boundary but enables public access and acts like an extension of the public footway shows that a condition was imposed on the development consent that required a Right of Public Access to be created in favour of Council which grants unrestricted rights for public pedestrian access, and is registered on the Title of the site.

For consistency, it is recommended that a similar condition is imposed on the approval for the development at 210 George Street, which will also include part of the footway that extends beyond the building façade on Dalley Street that is within the property boundary but will be used by pedestrians.

The recommended condition is as follows:

#### **(118) RIGHT OF PUBLIC ACCESS**

- (a) *Prior to the issue of any Occupation Certificate for the development, a documentary Right of Public Access is to be created and registered on the Title of the site. The Easement, limited in stratum, is to be defined over that strip of land of variable width lying between the main façade of the building at ground level and the alignments of George Street and Dalley Street. The Easement may be limited in depth to include the paved surface of the Easement area and in height to exclude the awning above the pavement. The Easement is to be created appurtenant to Council in terms granting unrestricted rights for public pedestrian access, to Council's satisfaction.*
- (b) *Prior to the issue of any Occupation Certificate for the development, a documentary Positive Covenant is to be created and registered on the Title of the site, appurtenant to Council. The Positive Covenant is to be created in terms indemnifying Council against any claims and damages arising from the use of the Right of Public Access, and is to require the maintenance of a \$20,000,000 public indemnity insurance policy and is to require the maintenance, upkeep, repair and lighting of the Right of Public Access in accordance with Council's requirements and to the satisfaction of Council.*

#### *Government agency submission*

The development application has not been submitted as an Integrated Development and staff in assessing the application have not become aware of any approval that may be required as outlined in section 4.46 of the *Environmental Planning and Assessment Act 1979* which would cause the application to be assessed as an Integrated Development Application. Notwithstanding this, Council received a letter on 20 June 2018 from the Natural Resources Access Regulator (Lands and Water Division at the Department of Industries). The letter stated that no objection is made to the proposed development however, advice was received that a dewatering licence may be required to be issued by WaterNSW.

The applicant has been advised of this late advice and they have confirmed that they will consult with WaterNSW post the consent being issued to obtain the necessary licence, if required. For the avoidance of doubt, it is recommended that the following condition be included in any consent issued.

The recommended condition is as follows:

**(119) GROUNDWATER DEWATERING LICENCE**

- (a) *If parts of the development intercept or extract groundwater, authorisation may be required under Section 91 (3) of the Water Management Act 2000 and may need a dewatering licence from Water NSW.*
- (b) *If any dewatering is proposed that requires a dewatering licence from Water NSW then a copy of the licence must be submitted to the Certifying Authority prior to the issue of the Stage 1 Construction Certificate.*
- (c) *Should the dewatering result in any amendments to the approved development specified by Condition No.1 a separate development application to Council to modify the approved development shall be submitted.*

Prepared by: Maria O'Donnell, Specialist Planner

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Approved



**Graham Jahn AM, Director City Planning,  
Development and Transport**