

Item 3.**Development Application: Wimbo Park, 560-576 Bourke Street and 3 Olivia Lane Surry Hills**

File No.: D/2018/1479

Summary

Date of Submission:	4 December 2018 Amended plans received 5 February 2019
Applicant:	City of Sydney Council
Architect/Designer:	Sue Barnsley Design
Developer/Owner:	City of Sydney Council, Transport for NSW
Cost of Works:	\$3,157,000
Zoning:	R1 - General Residential RE1 - Public Recreation The proposed works are permissible in the zones.
Proposal Summary:	<p>This is an application made by the City of Sydney Council for the embellishment of Wimbo Park.</p> <p>The proposed works are associated with the construction of the CBD and South East light rail line, which resulted in the demolition of the former Wimbo Park and a former apartment building known as Olivia Gardens. A temporary park has been constructed and forms the basis of the proposed park. The land will be dedicated to the City following the completion of works associated with the light rail line.</p> <p>The works include:</p> <ul style="list-style-type: none">• paving;• landscaping;• drainage;

**Proposal Summary
(continued):**

- park furniture including seating, bins and in-ground trampoline; and
- accessibility ramp.

Changes to the surrounding street network formed part of the Environmental Impact Statement for the CBD and South East light rail line and have been approved by the Roads and Maritime Services and Local Pedestrian, Cycling and Traffic Calming Committee.

Note: a development application is required for the proposed works, rather than an assessment under Part 5 of the Environmental Planning and Assessment Act 1979 (EP&A Act), as part of the land is owned by Transport for NSW (TfNSW). TfNSW was notified of the City's intention to lodge the application to satisfy the requirements of Clause 49 of the EP&A Regulation 2000. The application is presented to the Local Planning Panel for determination in accordance with the schedule of delegations as the City of Sydney Council is the applicant for the proposal.

The application was notified and advertised from 19 December 2018 to 6 February 2019 in accordance with Schedule 1 of the Sydney Development Control Plan 2012. 19 submissions, including one petition with 56 signatures, were received generally regarding the following matters:

- the type of facilities provided/not provided;
- tree removal;
- safety;
- traffic and parking;
- lighting;
- issues regarding the light rail line; and
- mosquitoes.

The matters have either been addressed within the report or are not determinative and have been instead referred to Council's Properties Unit for consideration. Furthermore, it is noted that Council's Properties Unit undertook extensive community consultation in 2015 and 2016 to inform the design of the park.

The proposed works will not adversely impact the character and appearance of the Bourke Street South conservation area (C60), will improve the amenity of the surrounding area with regards to the provision of public open space and is supported.

Summary Recommendation: The development application is recommended for approval, subject to conditions.

- Development Controls:**
- (i) State Environmental Planning Policy No. 55 - Remediation of land
 - (ii) State Environmental Planning Policy (Infrastructure) 2007
 - (iii) Sydney Local Environmental Plan 2012
 - (iv) Sydney Development Control Plan 2012

- Attachments:**
- A. Recommended Conditions of Consent
 - B. Selected Drawings

Recommendation

It is resolved that consent be granted to Development Application No. D/2018/1479 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development is permissible in the RE1 - Public Recreation and R1 - General Residential zones and complies with relevant planning policies.
- (B) The development is considered to demonstrate design excellence in accordance with the provisions of Clause 6.21 of Sydney Local Environmental Plan 2012.
- (C) The development will contribute high quality public open space to the surrounding area.
- (D) Subject to conditions in Attachment A, the development is in the public interest.

Proposal

1. The application proposes public domain and landscaping works for the soon to be embellishment Wimbo Park. The works include:
 - (a) paving;
 - (b) landscaping;
 - (c) drainage;
 - (d) park furniture including seating, bins and in-ground trampoline; and
 - (e) accessibility ramp.
2. The park and a shared cycle/walking path constructed by Transport for NSW will be separated from the light rail line by landscaping and fencing.
3. Plans of the proposed development are provided at Attachment B.

The Site and Surrounding Development

4. A site visit was carried out by staff on 29 January 2019.
5. The overall site being the subject of the light rail construction, new park, public domain and road works is located between Bourke Street and South Dowling Street, taking in Nobbs Lane, Parkham Lane, part of Olivia Lane and Parkham Place and includes the former Wimbo Park and 3 Olivia Lane (a former apartment building, now demolished).



Figure 1: The extent of the site subject to works by Transport for NSW and the City of Sydney.

6. The area of the site shown above being the subject of this application (those works being undertaken by the City of Sydney) is shown in Figure 2 below, in blue. The CBD and South East Light Rail Line will run from Devonshire Street to South Dowling Street, along the proposed park and adjoining Nobbs Lane.

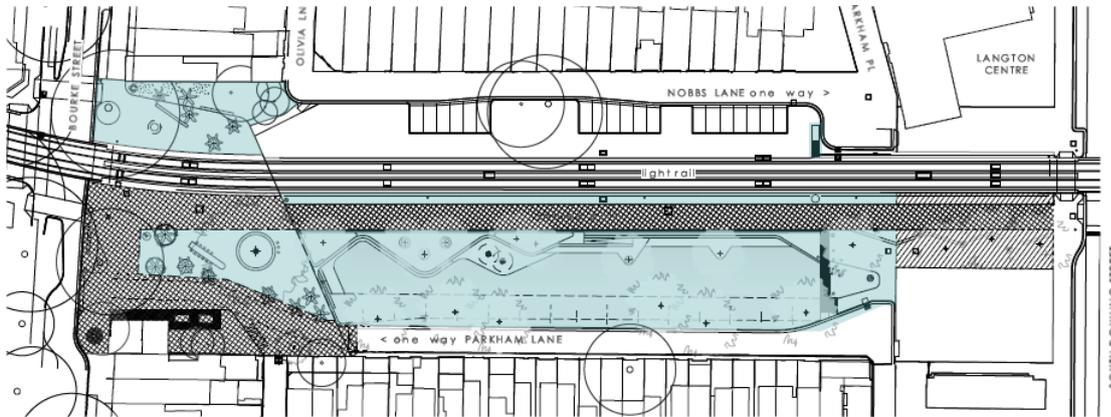


Figure 2: The area of the site identified under Figure 1 to which the works proposed under the subject application are highlighted in blue.

7. The surrounding area is characterised by terrace houses to the north and south. The Langton Centre, a drug and alcohol rehabilitation clinic, is located to the northeast of the site, while a converted warehouse dwelling is to the east at no. 625-629 South Dowling Street. The site is located within the Bourke Street South conservation area (C60) and does not immediately adjoin any heritage items.
8. Photos of the site and surrounds are provided below:



Figure 3: The site of the proposed park, viewed from the corner of Parkham Place and Parkham Lane



Figure 4: Looking east from the intersection of Devonshire and Bourke Streets



Figure 5: Looking east along Parkham Lane with the park to the left and terraces to the right



Figure 6: The west elevation of the converted warehouse at no. 625-629 South Dowling Street adjoining the park

History Relevant to the Development Application

9. The site formerly included Wimbo Park (located at no. 560-576 Bourke Street) and the Olivia Gardens apartment building (3 Olivia Lane) as shown in the figures below. The park and apartment building were demolished in association with the construction of the CBD and South East Light Rail line.



Figure 7: The former Olivia Gardens apartment building



Figure 8: The former Wimbo Park, viewed from the southeast corner of the site

10. Transport for NSW has partly reconstructed and expanded Wimbo Park to coincide with the completion of the CBD and South East Light Rail Line. The City of Sydney has worked with Transport for NSW and the community to improve the standard of the proposed park, which forms the basis of the subject application.
11. As the site formerly known as Olivia Gardens is owned by Transport for NSW, the City of Sydney cannot undertake the proposed works under Part 5 assessment.

12. The City of Sydney undertook significant stakeholder consultation in 2015 and 2016 including the surrounding community and internal and external stakeholders prior to lodging the current application. Further information can be found at the following website:

<https://www.cityofsydney.nsw.gov.au/vision/better-infrastructure/parks-and-playgrounds/current-works/wimbo-park-redesign>

13. The partial closure and changes to parking and traffic restrictions on Olivia Lane, Nobbs Lane, Parkham Lane and Parkham Place formed part of the EIS for the CBD and South East Light Rail Line and were approved by the Roads and Maritime Services. The changes were considered and approved by the Local Pedestrian, Cycling and Traffic Calming Committee at their meeting on 21 February 2019.
14. Revised documentation was provided during the assessment of the application regarding the history of contamination and remediation on the site.

Economic/Social/Environmental Impacts

15. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
 - (a) Environmental Planning Instruments and DCPs.

State Environmental Planning Policy No 55 - Remediation of Land

16. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
17. During the course of the assessment, City staff met with the applicant's environmental management consultants to better understand the history of site remediation undertaken during demolition and reconstruction of the park. A revised contamination assessment report was subsequently submitted which includes a detailed summary of the historical uses of the site (including stonemasonry and a car factory), potential contamination associated with those uses and the investigations and remediation undertaken to date.
18. The report states that the site has been filled and treated appropriately such that the site has been remediated and is suitable for public recreation. Notwithstanding, a Site Contamination Management Plan has been prepared as a precaution for the ongoing operation and management of the park in the event that any contaminated materials are uncovered on site and the properly manage the disposal of any fill removed from the site. The applicant's environmental management consultant advised during the meeting that the actions contained in the plan are passive, therefore not requiring ongoing testing and monitoring.
19. As such, the site is suitable for the proposed development and satisfies the relevant provisions of the SEPP. A condition of consent is recommended requiring compliance with the Site Contamination Management Plan.

State Environmental Planning Policy No 64 - Advertising and Signage

20. The application proposes one pole sign similar to that shown in Figure 10 below. The sign will not be illuminated.

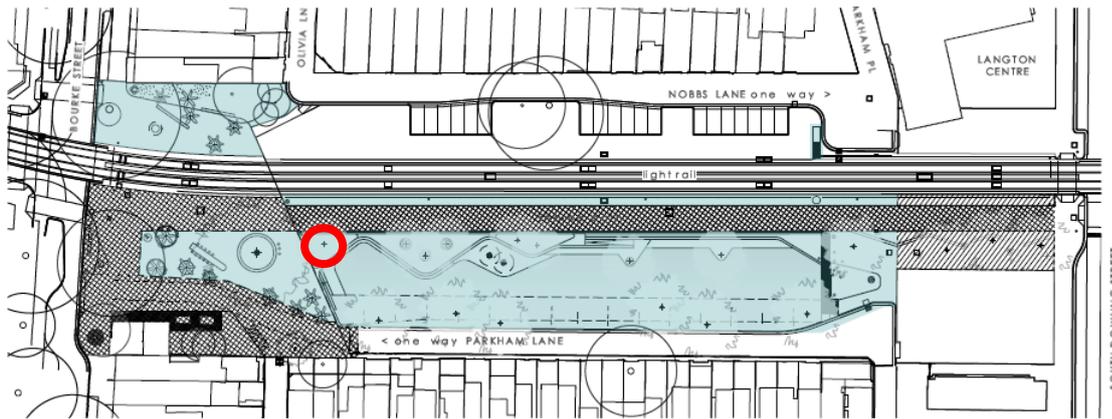


Figure 9: The location of the proposed sign in red



Figure 10: An example of the City of Sydney's park signage

21. SEPP 64 was gazetted on 16 March 2001 and aims to ensure that outdoor signage and advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.
22. Clause 8 of SEPP64 states the following:

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

 - (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and

- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.
23. The proposed sign is consistent with the City of Sydney's Park Signage Manual and will not detract from the character and appearance of the Bourke Street South conservation area. The sign is in an appropriate location for wayfinding and will not adversely impact the safety of park users.
24. The sign is consistent with the assessment criteria and objectives of the Policy and is therefore supported.

State Environmental Planning Policy (Infrastructure) 2007

25. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

Clause 65 - Parks and other public reserves - Development permitted without consent

26. As part of the land being the subject of this application is not owned by the City of Sydney, the provisions of Clause 65 do not apply. Note: as a result this application could not be assessed under Part 5 of the Act.

Clause 85 - Development adjacent to rail corridors

27. The proposed park and works adjoin and traverse the CBD and South East Light Rail line and as such are subject to Clause 85.
28. The application was forwarded to Transport for NSW for comment, as the park adjoins the CBD and South East Light Rail corridor. TfNSW has requested the Council to enter into a Safety Interface Agreement to protect pedestrians crossing the light rail tracks, that TfNSW infrastructure be protected during construction and for a Construction Traffic Management Plan to be prepared. These requirements are reflected in conditions at Schedule 3 of Attachment A.

Sydney Local Environmental Plan 2012

29. The site is located within the R1 - General Residential and RE1 - Public Recreation zones. The proposed works are permissible in the zone with consent.
30. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	The works are contained below the maximum 12 metre height limit.

Development Control	Compliance	Comment
5.3A Development below ground level in Zone RE1	Yes	The works regard the reinstatement of Wimbo Park and relate to the use of the land for public recreation. The extent of below ground works include excavation for drainage and public domain upgrades. The development will not result in adverse impacts on the environment. As such the proposal is acceptable.
5.10 Heritage conservation	Yes	The works are compatible with the character and appearance of the Bourke Street South conservation area (C60). A condition is recommended to require the preparation of a Heritage Interpretation Plan.

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	Yes	The development is consistent with the design excellence provisions in that it will improve the quality and amenity of the public domain and displays excellence and integration of landscape design.

Sydney Development Control Plan 2012

Section 3.1.4 - Public Open Space

31. Public open space is to provide for a variety of both passive and active uses appropriate to the location and can respond to community needs, provide native vegetation to enhance opportunities for flora and fauna species and assist with stormwater management.
32. The park has been designed following extensive stakeholder consultation, including with the local community and Transport for NSW. The design is considered high quality, providing for the various needs of the community, with key criteria including accessibility, visibility and safety.
33. The plan uses native vegetation and addresses stormwater management to the satisfaction of Council's Public Domain team.
34. The park will receive four hours solar access to more than 50% during midwinter.
35. The park will provide a high standard of amenity for the community and satisfies the relevant provisions of the control.

36. The development is compatible with the relevant provisions of the Sydney DCP 2012. In particular, sufficient lighting has been provided in accordance with the City's policies to satisfy CPTED considerations under Section 3.13.1.

Other Impacts of the Development

37. The proposed development is capable of complying with the NCC.
38. The proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

39. The development will reinstate Wimbo Park and provide public open space and amenities for the surrounding area.

Internal Referrals

40. The Council's Tree Management, Environmental Health, Transport and Traffic, Heritage and Public Domain officers reviewed and support the application subject to conditions.

External Referrals

Transport for NSW

41. The application was forwarded to Transport for NSW for comment, as the park adjoins the CBD and South East Light Rail corridor. TfNSW has requested the Council to enter into a Safety Interface Agreement to protect pedestrians crossing the light rail tracks, that TfNSW infrastructure be protected during construction and for a Construction Traffic Management Plan to be prepared. These requirements are included as conditions at Schedule 3 of Attachment A.

Notification, Advertising and Delegation

42. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development was notified and advertised for a period of 28 days between 19 December 2018 and 6 February 2019 (note that the notification period was extended due to the holiday period). As a result of this notification there were 19 submissions received, including one petition with 56 signatures (regarding the provision of a community garden).

- (a) A public tree adjoining no. 580 Bourke Street should be removed as it is dangerous.

Response - The matter has been referred to the relevant internal units for review. The removal of a tree that is determined to pose a risk to human life or property does not require development consent.

- (b) A fence should be provided around the park to better separate park users and traffic, particularly on Parkham Lane.

Response - It is noted that an embankment with meadow planting will separate the park from Parkham Lane, while a fence will separate the shared path from the light rail line. It is noted that the speed limit on Parkham Lane will be 40km/hr and use traffic calming devices such as differentiated paving to minimise speeding.

- (c) Any fencing should be minimised.

Response - The fence separating the shared path from the light rail line will be 900mm high and has been designed in consultation with Transport for NSW.

- (d) Palm trees should not be planted within the park.
- (e) The park should include an outdoor gym.
- (f) Dedicated cycle and walking paths be provided, rather than a shared path.
- (g) Dog poo disposal bags are provided in the park.
- (h) The park should include a community garden.
- (i) A BBQ should be provided.
- (j) The placement of trees should be reconsidered to maintain views to the artwork at no. 625-629 South Dowling Street.

Response - These matters are not considered determinative and have been referred to the City Projects and Properties Division for consideration and action where appropriate.

- (k) The parking restrictions in the surrounding area should be "No Parking" rather than "No Stopping" to permit drop-offs for residents.

Response - The traffic and parking arrangements have been considered separately by Council's Local Pedestrian, Cycling and Traffic Calming Committee and do not form part of this application.

- (l) The lighting for the light rail line should consider the amenity of neighbouring properties.

Response - The lighting for the light rail line does not form part of the application and is managed by Transport for NSW.

- (m) A request has been made for a light rail stop to be provided at Wimbo Park.

Response - This matter is not relevant to the proposed design of the park and is not within the control of Council.

- (n) Concern has been raised regarding the proximity of the park to the Langton Centre and the risk of homeless people occupying the park. The provision of an in-ground trampoline and fixed furniture should be discouraged.

Response - The application includes a lighting plan which will discourage antisocial behaviour at night. The City operates a sharps disposal program whereby containers are provided for people to dispose of needles, and NSW Health operates a hotline for the collection of syringes in public areas. The submission has been referred to the Properties Unit for consideration.

- (o) The proposed rain garden will encourage mosquitoes.

Response - The rain garden will not detain water permanently and is designed to drain stormwater through the garden. Similar gardens are provided within the street network of Victoria Park.

Public Interest

43. The proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

S7.11 Contribution

44. The development is excluded from the need to pay a contribution in accordance with Section 1.3 of the City of Sydney Development Contributions Plan 2015, as the works are being undertaken by the City of Sydney.

Relevant Legislation

45. The Environmental Planning and Assessment Act 1979.

Conclusion

46. The City of Sydney Council seeks permission for works to reinstate Wimbo Park following the completion of the CBD and South East light rail line.
47. The design of the park is consistent with relevant planning policies and subject to conditions will have a positive impact on the community by providing high quality public open space.
48. The application was notified from 19 December 2018 to 6 February 2019 and received 19 submissions, including one petition with 56 signatures. The matters raised have either been addressed within the body of the report or where relevant referred to the Council's Properties Unit for further consideration (for example, where this regards the request for a community garden). Note that the design of the park has been informed by extensive community consultation undertaken in 2015 and 2016.
49. It is recommended that development consent subject to the conditions in Attachment A.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

David Zabell, Senior Planner