

Attachment E

Summary of Matters Raised in Submissions

1-11 Oxford Street, Paddington

23 submissions were received from nearby landowners, residents and a local society. Two submissions were received from public authorities. Woollahra Council submitted that they had no comments at this stage. Of the submissions making comment, five entirely object to the proposal, nine fully support the proposal and ten raise a mixture of supporting comments and issues requiring consideration.

Note: bold text highlights where a change has been made to the draft DCP or if the issue is already dealt with the draft DCP or by other specific existing controls or measures to address submission issues.

SUBMISSIONS FULLY IN SUPPORT OF THE PROPOSAL

Ten submissions fully support the height, with one submission believing that the higher height as lodged would even be acceptable and that higher height should be allowed in other surrounding areas that are located on the City Fringe, to increase density so there are more people to support urban life.

Two submissions raised that revitalisation and increased density was appropriate given the location has good access to public and active transport.

Eight submissions raised that they were very supportive of revitalisation of building given the current depressed situation of Oxford Street, with 60% of shops closed. They raised that the area needs significant investment to get the retail performing, attracting more residents, visitors and businesses.

Three submissions raised in particular that the area needs world class hotels, hospitality, architecture and retail. The area desperately needs revitalisation of high-quality landmark developments such as this type of venue, which offers hotel accommodation, entertainment and hospitality.

One submission raised that while heritage is good, sites must evolve so they can support revitalisation, allowing development to greater height and density to attract investment, such as this site, which has been underutilised for many years.

SUBMISSION ISSUE

OFFICER'S RESPONSE

Traffic management

Six submissions raised the need for a traffic impact study. Three submissions also requested that South Dowling Street should be investigated to be made one-way, to better manage traffic, including access to the proposed redevelopment.

A submission from Transport for NSW (TfNSW) does not object to the proposal or the provision of a new vehicle access of South Dowling Street. However, they require that the vehicle access point be located as far away as possible from the Oxford Street and South Dowling Street intersection. The access point should be for service vehicles only (as proposed) and is to be restricted to left-in-left-out movements. Signposting and a splayed driveway to enforce left-in-left-out movements should be explored in any future development application (DA).

A traffic and transport assessment report was submitted in support of the original proposal. The Planning Proposal does not significantly increase the floor space and there is no increase to the amount of parking, and consequently traffic, being generated as a result of this planning proposal.

The transport assessment that accompanied the planning proposal found there is adequate capacity to accommodate trips generated by future development on site without compromising safety and operation of nearby intersections.

Action I1.2 of the City's Planning Statement identifies Oxford Street as corridor it will work with the NSW Government to plan for its transition to a 'people first' place, applying the NSW Government's Movement and Place framework so it is healthier, quieter, cleaner and greener with increased footpath capacity. This advocacy extends to respective side streets and will be explored as part of the City's Oxford Street Strategic Review.

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| | <p>Requests for changes to local traffic conditions and arrangements have been noted. Changes to traffic conditions involves other stakeholders, chiefly TfNSW who is the controlling authority for Oxford Street and South Dowling Street being State Roads, not just a decision of the City. The City has started investigations about this and with TfNSW. This will be fully explored as part of the Oxford Street Strategic Review.</p> <p>In response to the TfNSW submission, the draft DCP has been amended to incorporate the requirement that the service access to be restricted to left-in-left-out movements. Otherwise the access matters raised had already been included in the exhibited draft DCP.</p> |
| On-street pick up and set down | |
| <p>Five submissions questioned how on-street pick-up and set-down would occur, particularly in relation to the operation of the hotel use and related to medical patient transportation. On this matter TfNSW raised that a future DA needs to identify demands associated with the development and consider making a change from No Stopping to a partial No Parking restriction on South Dowling Street, within the vicinity of Rose Terrace, with appropriate consultation with any affected parties.</p> | <p>This matter would be required to be addressed at the DA stage and does not alter the Planning Proposal.</p> <p>The draft DCP requires that a transport management plan incorporating all operations and servicing on the site shall be submitted with the development application.</p> <p>TfNSW has supported the potential to change stopping restrictions to accommodate pick-up and set-down, subject to further investigation and consultation, who are the controlling authority of South Dowling Street, which is a State Road.</p> <p>Given the heritage constraints, on-site drop-off and pick-up facilities could not be provided.</p> <p>Alternative pick-up and drop-off could occur from surrounding locations, including the bus lane on Oxford Street, which is allowed for taxis under (NSW) Road Rules r187. Also, public transport could be used given the accessible location.</p> |
| Street trees and road safety | |
| <p>TfNSW raised that while it supports increasing tree canopy to provide shade along key walking and cycling routes and assist in combating the heat island effect, the species within the kerbside clear zone of arterial roads should be frangible for road safety reasons and have adequately setback from trafficable lanes, but ensure adequate pedestrian clear widths are maintained. This is to protect heavy vehicle overhang, including bus mirrors.</p> | <p>The land is under the care and control of the City, the matter will be reviewed at the detailed design phase and does not require any amendment to the draft DCP.</p> |

| Waste and loading management | |
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| <p>Two submissions raised the need for all loading of waste and service vehicles to occur on-site, not as currently occurs on Oxford Street. The submission from TfNSW has also required this. The future DA should identify service vehicle requirements and should be supported by an assessment of the service vehicle access arrangements and swept paths for the longest design vehicle to access the site demonstrating that these vehicles can safely enter and exit the subject site in a forward direction as well as manoeuvre throughout the site.</p> | <p>The supporting concept design submitted, incorporates a new access off South Dowling Street, vehicle entry, truck lift, turntable and loading area for on-site waste and deliveries. It has been designed to accommodate a small rigid vehicle entering and exit the site in a forward direction.</p> <p>The draft DCP already includes controls to ensure servicing on site is provided with the DA and that this would be limited to a small rigid vehicle, which is acceptable to service the uses proposed and considering the heritage constraints.</p> <p>The DCP control also ensures that this includes servicing of the entertainment facility from the same level.</p> |
| Overdevelopment and precedent for further overdevelopment, gentrification and lowering affordability of the area | |
| <p>One submission raised concern over “incentivising” development by granting the increased planning controls as this would inevitably be used as a precedent in demands for further such increases by investors and developers of Oxford Street properties. This would be to the detriment of the heritage character of the street and amenity of the neighbourhood, cause further gentrification and increase pressure on housing affordability.</p> | <p>Under planning legislation, proponents can submit planning proposal requests to Council. If they are not determined by Council the proponent can then seek a 'rezoning review' from the Independent Planning Commission. Any planning proposal request lodged with Council must be considered on its strategic and site-specific merit, which includes heritage and amenity issues among others.</p> <p>This proposal was assessed on its merit. With changes to the proposal and appropriate planning controls it was recommended to increase the height and floor space. The planning proposal and draft DCP delivers strategically important land uses that will support the precinct and a built form that respects the heritage values of the site and area.</p> |
| Structure and water impact and safety of adjoining housing during construction | |
| <p>Eight submissions raised concerns about the structural impact of the proposal on adjoining properties. Protection was requested, noting the very close location and deep excavation proposed, particularly the fragile building structures of the adjoining heritage listed Rose Terraces</p> <p>Also, safety concerns were raised regarding excavating and stabilising of the existing theatre rear wall, with some directly adjoining residents recommending that the excavation be pushed back to be within the main building. Three submissions recommended that structural assessments should include Rose Terraces.</p> | <p>A structural report was submitted by the proponent in support of proposal and concept design that identifies in relation to excavation near the southern boundary that "To mitigate chance of undermining at these locations introducing closely spaced piles will assist to avoid material from under or adjacent footings moving. It is anticipated that one row of temporary anchors will be required to restrain the retention walls."</p> |

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| | <p>Given the vulnerability of the early existing structures, the City engaged an external heritage structural engineer to peer review the structural report submitted. The peer review notes the challenging aspects of the site, including the close proximity of neighbouring properties to the site boundaries. It recommended that a future DA needs to be supported by a detailed structural report with an existing structural condition report that determines existing footing depths and types; an existing condition report of Busby's Bore; a detailed geotechnical inspection; and risk management plan.</p> <p>The recommendations of the structural peer review have already been incorporated into the heritage conservation controls in the site-specific draft DCP and protection of adjoining residential structures is now specifically included in the amended draft DCP.</p> <p>Detailed consideration of the structural retention of the building and excavation will be considered at the DA and construction certificate (CC) stage.</p> <p>Also the standard requirement will be imposed as a condition of consent in a future DA for a dilapidation report. This will survey the existing condition of the adjoining buildings to provide a baseline to compare against if there are claims of damages caused by the construction.</p> |
| Substation impact to neighbours | |
| <p>Two submissions raised concerns over the placement of the substation. No. 260 South Dowling Street (shown as No. 10 Marshall Street on the concept design) raised concerns that the exclusion zone around the substation extends into the backyard of the submitter's property, which incorrectly does not show their property boundary on the concept plans and needs to be setback. They also raised that a 2 metre setback to the raised garden bed was not provided on the concept plan like other Rose Terrace properties.</p> | <p>An additional control has been included in the amended draft DCP, that any on-site substation associated with the development is to be located and designed to manage any potential impacts on neighbouring properties.</p> <p>The minor discrepancies identified have not affected the assessment of the draft controls. The necessary information will be required to be accurately provided as part of a development application to enable detailed assessment and ensure impacts are managed. However, the correct location of Deposited Plan (DP) boundaries, has been approximately shown on Figure 5 of the Committee report.</p> |

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| | <p>The difference in setback reflects the angled nature of the southern boundary and it is noted that the original main building on this property is setback greater than other properties adjacent to the southern boundary (approximately 3 metres), which provides adequate private open space within their property, as shown on Figure 5 of the Committee report.</p> |
| <p>Substation impact to public domain</p> | |
| <p>One submission also raised concerns that access for the construction and operation of the substation will destroy or damage the established public domain adjacent to the properties at No. 260-264 South Dowling Street, which were achieved through strong community participation and highly valued by the community.</p> | <p>The implications of the provision of any new substation proposed in the redevelopment of the site will need to be considered as part of a future DA for the site.</p> <p>However, an additional control has been included in the amended draft DCP, that any on-site substation associated with the development is to be located and designed to manage any potential impacts on neighbouring properties and the public domain.</p> |
| <p>Loss of yard and landscape amenity for No. 12 Rose Terrace</p> | |
| <p>The owner of No. 12 Rose Terrace has raised that her property has included use of a much larger area (3 metre x 7 metre) of the subject site for many years and that she has occupied it since 2001. She has established and maintained a garden, installed a deck and has strong sentimental connection with the much-loved plum tree, which provides shade, landscape amenity, and is the site where she has sprinkled the ashes of a loved one. The submission objects to the loss of this space, amenity and biodiversity in this existing area. She recommends that the excavation be pushed back (i.e. to be within the main building) to preserve this amenity.</p> | <p>While the owner of No. 12 Rose Terrace has informally enjoyed and maintained the space within 1-11 Oxford Street, as shown in Figure 5, it is reasonable that the proponent seeks to redevelop the site. This space could be redeveloped under the current planning controls, regardless of this planning proposal.</p> <p>The supporting concept design has taken the approach of generally providing a 2 metre setback of land (apart from 260 South Dowling Street discussed above), which is understood will be made available for private recreation for each terrace, as shown in Figure 6 and 7 of the Committee report.</p> <p>The amended draft DCP now includes a 2m dimension on 'Figure 6.xx: 1-11 Oxford Street, Paddington – Maximum building envelope plan', to provide certainty on the required setback from the allowed envelope to the southern boundary adjoining the Rose Terrace properties, apart from 260 South Dowling Street.</p> <p>The concept design also shows the residences are proposed to be provided outlook onto a more attractive landscaped roof garden above a normal fence height wall edge, unlike the current situation, where the residences overlook an old cooling tower, elevated fire stair and aging wall.</p> |

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| | <p>To ensure this green roof area is provided, an additional control has been included in the amended draft DCP that a green roof with a minimum area of 90 square metres is to be provided south of the existing main building structure within the green area, as shown in 'Figure 6.xx: 1-11 Oxford Street, Paddington – Public domain, loading, servicing and access'.</p> |
| <p>Removal of attractive plum tree reducing Rose Terraces rear amenity</p> | |
| <p>One submission raised the amenity value of the plum tree, which is proposed for removal to enable extension of the proposal to the south of the southern theatre wall, arguing that it should be protected. However, two submissions from 13-15 Oxford Street apartments, have requested that the tree be trimmed back.</p> | <p>The removal of the tree identified as a <i>Harpehyllum caffrum</i> (Wild Plum) shown in Figure 5, was assessed by the City's Tree Management Officer, who considered that, given the defects noted in the Arborist Impact Assessment and observed during the site inspection, and provided there was adequate compensatory planting and meet require canopy as required under the existing provisions of the DCP as indicated on the concept design and concept landscape plan, there would be no objection to the removal of the tree.</p> |
| <p>Rose Terrace properties be provided right of carriageway to the rear</p> | |
| <p>Two submissions raise that each title for the Rose Terraces should be afforded right of carriageway as part of any planning changes, so that the residents can access the rear of their premises.</p> | <p>The concept design shows a 2 metre setback to a wall and raised garden as shown in Figures 6 and 7 of the Committee report.</p> <p>The draft DCP now includes a 2m dimension on 'Figure 6.xx: 1-11 Oxford Street, Paddington – Maximum building envelope plan', to provide certainty on the required setback from the allowed envelope to the southern boundary adjoining the Rose Terrace properties, apart from 260 South Dowling Street discussed above.</p> <p>The establishment of right of way over this land is a private property matter to be negotiated between the proponent and Rose Terrace properties and not a matter that may be imposed by Council.</p> |
| <p>Noise, vibration and security concerns from rooftop bar and entertainment facility</p> | |
| <p>Two submissions raised noise, vibration and security concerns over the operation of the entertainment facility and roof-top bar and sought assurances that adequate sound proofing, appropriate hours and management of patrons and access control would occur to not impact adjoining residences.</p> | <p>Given the complete rebuild the uses generating noise, vibration and security concerns will need to fully comply with required standards. These matters will be considered as part of the assessment of a future DA and controlled through conditions on any consent granted. It is noted that entertainment facilities and food and drink premises can occur under the current planning controls regardless of the planning proposal.</p> |

| Noise, vibration and dust impact during construction | |
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| <p>Three submissions raised concerns about the amenity and health impact from construction for residents directly adjoining the site, particularly considering how close the excavation is.</p> | <p>These matters will be considered as part of the assessment of a future DA and also controlled through conditions of any consent granted to minimise impacts during construction. This will require particular care managing the retention of the main structure of the existing building and construction next to the southern and eastern boundary, given the very close proximity to it.</p> <p>This will also be guided by a more detailed structural report, addressing the additional structural matters required, which are already included in the proposed draft DCP.</p> |
| Reduction in solar access | |
| <p>Three submissions raised concerns over the potential loss of solar access and that there should be no less solar access as a result of the increased controls.</p> | <p>Any future development application will be assessed against current overshadowing controls in the DCP.</p> <p>While the detailed assessment of overshadowing will be considered at development application stage a preliminary assessment has been considered at this planning proposal stage.</p> <p>To limit any impact on the residential areas to the south of the site, the majority of the building has been massed to the Oxford Street side with only minor increase in height at the rear.</p> <p>Assessment of shadow analysis of the concept design, which the maximum building envelope permitted within the amended draft DCP has been modelled on, at 21 June demonstrates:</p> <ol style="list-style-type: none"> a. the windows at the rear of properties at 2-20 Rose Terrace (marked as Marshall Street on the shadow analysis) and 260-262 South Dowling Street directly south of the site, either do not currently receive solar access due to shadowing from the existing building on the site or will be unaffected; b. minor additional overshadowing of properties at 264 to 276 South Dowling Street. However, given the south-east orientation of the rear windows, any additional overshadowing would be limited to window frames, window reveals and walls and the affected windows are ground floor kitchen and first floor bedroom windows, which the solar access controls in the principle DCP does not protect. |

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| | <p>c. there is no additional shadowing of windows to properties at 1-17 Rose Terrace;</p> <p>d. apartment Nos. 1-6 in the residential flat building at 13-15 Oxford Street to the east of the site, has minor additional overshadowing but will receive greater than two hours solar access from 11 am to 1pm;</p> <p>e. there is no additional shadowing of the Rose Terrace park.</p> <p>Based on the shadow analysis, it is concluded that the maximum building envelope permitted with the amended draft DCP will satisfy the solar access controls within the principle DCP.</p> |
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| Privacy impacts | |
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| <p>Three submissions raised that there must be no loss of privacy from the rear rooms, rooftop bar or other windows looking into adjoining residential.</p> | <p>Clause 6.21(4)(d)(vii) of the Design Excellence provisions within the LEP requires consideration of how proposed development addresses inter-alia visual and acoustic privacy.</p> <p>The detail of this matter will be addressed at the DA stage. However, the supporting concept design demonstrates there will be no visual privacy impacts to the Rose Terrace properties due to the rear theatre wall, required to be retained, blocking any views from hotel rooms into adjoining residential properties, which instead will view into a heavily landscaped internal courtyard with trees. The retention of the high wall will also attenuate acoustic privacy impact.</p> <p>The concept design demonstrates how visual privacy can be protected between any roof-top bar into apartments at No. 13-15 Oxford Street by the design of the roof and the provision of large planter on the eastern side. Visual and acoustic privacy protection of these residential properties could also be managed with the provision of further privacy screening and baffling and on the eastern side of any roof-top bar or other management conditions being imposed on any consent granted.</p> <p>There are no other existing windows, proposed windows or potential windows on the eastern wall facing adjoining No. 13-15 Oxford Street, given the existing wall is located on the boundary, due to fire rating constraints and retention of heritage fabric.</p> |
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| Removal of awnings to Oxford Street | |
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| <p>The Paddington Society, while supportive of the revitalisation of this significant site at the western gateway of Paddington, raised that it did not support the removal of the continuous awnings to Oxford Street as it would have a negative impact on pedestrian amenity for sun and rain protection.</p> | <p>Documentary evidence in the heritage impact statement shows that the original 1911 picture theatre had no awning along Oxford Street, therefore it is acceptable from a heritage perspective to change the building to have separate awnings associated with entries.</p> <p>This also allows for planting of trees in between the new awnings, providing space for the tree canopy that will improve the visual and physical amenity of the area through shade, urban cooling and enhanced biodiversity.</p> |
| On-site parking | |
| <p>One submission, while strongly supportive of the proposal, thought the plan needed on-site parking to be able to attract customers for an entertainment venue.</p> | <p>The City adopts maximum car parking rates to encourage alternatives to private motor vehicles, such as public transport, walking or cycling. It does not require on-site car parking, except space for servicing.</p> <p>Car parking within the maximum permitted under the current controls will need to manage heritage issues such as retaining the main structure of the existing building and the corner location on two busy State controlled roads.</p> <p>The site is well served by frequent bus services along Oxford Street and there is a significant local catchment that would also provide patronage to the entertainment venue, who can walk and cycle to the venue and support sustainability goals.</p> |
| Fire protection | |
| <p>One submission raised that significant fire protection steps should be arranged, noting the significant fire risk at the moment with the building.</p> | <p>This is a critical process of the DA and CC stage and not relevant to the planning proposal process.</p> <p>A complete redevelopment of the site will occur such that full compliance with fire regulations will be required, that will completely address any fire risks relevant to the specific proposal put forward.</p> |