

## Item 7.

### Heads of Agreement - Sydney Square Renewal

File No: X100212

#### Summary

This report outlines the key terms of the proposed Heads of Agreement between the City of Sydney (the City) and St Andrew's House Corporation (SAHC) and the Anglican Church Property Trust Diocese of Sydney (ACPT) for the renewal, use and management of Sydney Square.

In May 2025 Council endorsed the project scope for the staged renewal of Sydney Square, including works on land owned by other parties (SAHC and ACPT) and the proposed principles for agreements between the City and Sydney Anglican Property (SAP) representing SAHC and the ACPT.

The City has worked with SAP to develop key terms for a Heads of Agreement to be entered into between the parties. The Heads of Agreement summarises the main terms of the Transaction Documents to be entered into between the parties which include a Development Deed, Lease (Main Square Lease Area), and Easements and Covenants.

Subject to Council endorsement of the key terms of the Heads of Agreement as set out in this report, the Heads of Agreement will be finalised and developed into the Transaction Documents as detailed herein.

## **Recommendation**

It is resolved that:

- (A) Council approve the key terms of the Heads of Agreement with the Anglican Church Property Trust Diocese of Sydney (ACPT) and St Andrew's House Corporation (SAHC) for Sydney Square as set out in the subject report;
- (B) authority be delegated to the Chief Executive Officer to negotiate, finalise and execute the Heads of Agreement and the transaction documentation including the Development Deed, Lease (Main Square Lease Area), Easements and Covenants together with any other agreement, deed or instrument in accordance with the key terms of the Heads of Agreement, to effect the endorsed outcomes; and
- (C) Council note that if the key terms contemplated by (A) above are substantially changed, Council's approval will be required for those changes.

## **Attachments**

- Attachment A.** Identification Plan - Property Ownership
- Attachment B.** Identification Plan - Renewal Area (ACPT and SAHC land)
- Attachment C.** Identification Plan - Lease and Easements

## Background

1. In May 2025 City of Sydney Council endorsed the staged renewal of Sydney Square, which includes works on land owned by St Andrew's House Corporation (SAHC) and Anglican Church Property Trust Diocese of Sydney (ACPT).
2. The first stage of renewal works are planned to be completed prior to the commencement of the delivery of the future Town Hall Square and will include the renewal of:
  - (a) the Main Square - the area between Sydney Town Hall, St Andrew's Cathedral and St Andrew's House which is part owned by the City and part owned by SAHC
  - (b) the Eastern Square - the area between George Street and St Andrews Cathedral owned by the ACPT and
  - (c) the Western Square - the area between St Andrews Cathedral and St Andrew's House owned by SAHC.
3. The May 2025 report to Council included proposed principles for agreements to be made with SAHC and ACPT noting that the endorsed project scope includes works on land owned by SAHC and ACPT.
4. The principles for agreements included:
  - (a) the City funding and delivering the renewal of the public domain (paving, furniture, lighting) in 'Sydney Square' including on land owned by ACPT and SAHC.
  - (b) entering into a long-term legal arrangement with SAHC which may include a long-term lease and/or management agreement, over a portion of 'Sydney Square' owned by ACPT, with the City taking responsibility for:
    - (i) management and control of public and events use of the area
    - (ii) maintenance of the area.
  - (c) Commitments from ACPT and SAHC through appropriate legal interests to ensure public access throughout Sydney Square, including the areas to the west and east of St Andrew's Cathedral.
  - (d) restriction of vehicle access to the eastern side of the cathedral (from Bathurst Street) to be on a 'by exception' basis for the purposes of major events at the cathedral e.g. weddings, funerals, state functions etc.
  - (e) SAHC to fund and deliver the Cathedral Community Garden as per approved Development Application D/2021/1217, within a reasonable time period.
  - (f) SAHC and ACPT to fund future capital renewal works on SAHC and ACPT owned land.

5. The City and Sydney Anglican Property (SAP), representing SAHC and the ACPT, have agreed key terms for a Heads of Agreement to be entered into between the parties and both parties are committed to the on-going use and management of Sydney Square as a 'public place' with public assembly (including the right to protest) activities to be managed in accordance with relevant legislation.
6. Subject to Council endorsement of the key terms of the Heads of Agreement as set out in this report, the Heads of Agreement will be finalised and developed into the Transaction Documents as detailed herein.

### **Key Terms of Heads of Agreement**

7. The Heads of Agreement summarises the main terms of the Transaction Documents which are the binding agreements to be negotiated and entered into between the parties. The Transaction Documents include a Development Deed, Lease (Main Square Lease Area), Easements and Covenants.

### **Development Deed**

8. The Development Deed will set out the terms and obligations of the parties in relation to delivery of the first stage of the renewal of Sydney Square in accordance with the project scope endorsed by Council in May 2025.
9. Key terms of the Development Deed to be included in the Heads of Agreement include:
  - (a) Development Approval and Consent - the City is responsible for obtaining development approval for the project and will bear all costs associated with development approvals, design and documentation.
  - (b) Contamination / Hazardous Materials - the City will commission suitably qualified consultants to undertake detailed site investigations of the project site areas owned by SAHC and ACPT. SAHC and ACPT will be required to remediate and pay all costs associated with the required treatment or removal of pre-existing contaminated and / or hazardous materials associated with their land or property.
  - (c) Termination – Prior to the works commencing, if certain types of hazardous material are identified, the parties may elect to terminate the Development Deed. If remediation works are not completed by SAHC and ACPT within an agreed period of time, the City has the right to terminate the Development Deed.
  - (d) Construction License - SAHC and ACPT will grant licenses to the City to undertake construction works on their land.
  - (e) Construction Works - the City will be responsible for engaging a suitably qualified contractor to carry out the works and will bear all costs associated with construction of the works. (excluding the treatment or removal of pre-existing contaminated and / or hazardous materials on land owned by SAHC or ACPT).
  - (f) Completion - at practical completion SAHC and ACPT must grant the easements and covenants in favour of the City over the Eastern Square and Western Square areas and enter into the Lease for the Main Square Lease Area.

- (g) Works to be completed by SAHC and ACPT - prior to completion of works by the City, SAHC and ACPT will use reasonable endeavours to complete the installation of bollards to restrict vehicular access to the Eastern Square area from Bathurst Street and complete the construction of the St Andrew's Cathedral Community Garden.

### Lease

10. The area of Sydney Square located between Sydney Town Hall, St Andrew's Cathedral and St Andrew's House is the main square area and is part owned by the City and part owned by SAHC.
11. At the completion of the first stage of the renewal works the City and SAHC will enter a 50-year Lease over the SAHC owned land that forms the main square area (Main Square Lease Area). The Lease will be at a peppercorn rate of \$1 per annum (if demanded).
12. The Main Square Lease Area is approximately 1,360 square metres and will be in stratum being limited from the ground surface and unlimited in height. The final Main Square Lease Area will be determined prior to lodgement of the Development Application.
13. Key terms to be included in the Heads of Agreement:
  - (a) Permitted Use - the City, SAHC and ACPT commit to the on-going management and use of the Main Square Lease Area as a public place. Permitted uses of the Main Square Lease Area to be defined in the Lease will include:
    - (i) public access (the full and free right of the public to go, pass and repass over the Main Square Lease Area with or without animals) for all lawful purposes
    - (ii) public use including general community, cultural, social use and recreational activities
    - (iii) events, gatherings and activities in accordance with all applicable laws, policies and procedures, including the City of Sydney Events Guidelines, for staging events in public spaces in the City of Sydney local area.
  - (b) Management of Use - the City will use its reasonable endeavours to ensure that any activity or event held at the Main Square Lease Area takes into account the character, purpose and surrounding context.
  - (c) Outgoings / Utilities - the Lease will be structured as a gross lease, meaning the City is not liable for additional outgoings beyond the annual rent, other than the cost of utilities that exclusively service the Main Square Lease Area and are separately metered.
  - (d) Maintenance and Repairs - the City will be responsible for the day-to-day maintenance and cleaning of the square and carrying out minor repairs to address damage arising from public use or events.
  - (e) Capital and Structural Works - SAHC will be responsible for all costs to carry out any capital or structural repairs that arise during the term of the Lease.

- (f) Make Good - the City will have no obligation to make good the Main Square Lease area at the expiry or termination of the Lease.
- (g) Expiry of Lease - an easement and covenant over the Main Square Lease Area (as outlined below) will be registered to commence on expiry of the Lease term.

### **Easements and Covenants**

- 14. Easements and covenants are to be registered on the title of land owned by the SAHC and ACPT. Granting of easements and covenants in favour of the City will be staged:
  - (a) Eastern Square and Western Square areas - to be granted at practical completion of the renewal of Sydney Square.
  - (b) Main Square area - on expiry or termination of the Lease term.
- 15. Key terms to be included in the Heads of Agreement:
  - (a) Nature of the Easement - the easement grants to the City and its authorised users (the public) the full and free right to go, pass and repass over the Easement Area with or without animals for all lawful purposes.
  - (b) Purpose - the easement is to be provided at no cost to the public and is for the purpose of providing reasonable access over the Easement Area to any member of the public in accordance with and subject to the provisions of the easement.
  - (c) Events and Temporary Closures - SAHC and ACPT may restrict access or close the Easement Area for limited periods of time for repair, maintenance, refurbishment and on a 'by exception' basis for funerals, weddings, state functions or other significant events held at St Andrew's Cathedral.
  - (d) Positive Covenant - SAHC and ACPT are required to:
    - (i) at all times, maintain the Easement Area (including any lighting) in good condition and state of repair)
    - (ii) install and maintain bollards to restrict unauthorised vehicle access to the Easement Area
    - (iii) ensure that the Easement Area is maintained in a safe condition and take all reasonable steps to prevent any hazards or conditions that may pose a risk to public safety and
    - (iv) keep the Easement Area clean and free from rubbish.
  - (e) Restrictive Covenants - No part of the Easement Area is to be used for parking at any time. Vehicular access to the Easement Area is permitted but is restricted to allow for pick-up / drop-off only. Vehicular access is to be controlled by bollards installed at the Bathurst Street entrance and must not interfere with the public's use of the Easement Area.

## Key Implications

### Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

16. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This report is aligned with the following strategic directions and objectives:
- (a) Direction 3 - Public places for all - Sydney Square sits between two important civic landmarks, Sydney Town Hall and St Andrew's Cathedral. Sydney Square's generally poor presentation does not reflect the importance of these buildings and their role in our community. Post light rail, this area is not delivering on the amenity needed by our community - improvements to Sydney Square will encourage better use of the square and increase amenity for the community and will benefit our two important heritage buildings.
  - (b) Direction 4 - Design excellence and sustainable development - A refurbishment of the square will lift its design quality to match that of George Street, Sydney Town Hall and St Andrew's Cathedral.
  - (c) Direction 5 - A city for walking, cycling and public transport - Sydney Square and Town Hall Arcade provide access to Town Hall Station and the light rail. Improving legibility and access will benefit both the square and the stations.
  - (d) Direction 8 - A thriving cultural life - Sydney Square has the potential to host events, markets and other cultural activities, as well as to be a place of respite in a busy city environment. An adaptable square design will create opportunities for increased usage, in particular activation of its edges.

### Organisational Impact

17. Resources are allocated to implement and manage the proposed Transaction Documents including the Development Deed and Construction Licence with ongoing management of the Lease and Easement. The management of the Lease and Easement are minimal, and no additional resources are warranted.
18. There will be an increase in cleaning and maintenance costs to the City with the addition of the area under Lease where the City will be responsible for cleaning and maintaining.
19. Management of public use of the square will be simplified with the Main Square area to be managed by the City.

**Risks**

20. The key terms outlined in the Heads of Agreement address key risks associated with the delivery of renewal works (Development Deed), management of the Main Square (Lease) and public use and access to the Eastern Square and Western Square (Easement and Covenant). The binding Transaction Documents will define the key terms in detail, and will include matters such as insurance, safety and security, and dispute resolution.
21. The execution of the documents in accordance with the key terms set out in this report will ensure that the project can be managed within the City's risk appetite and risk tolerance, particularly in relation to legal and regulatory requirements, reputational risk and financial risk.

**Social / Cultural / Community**

22. The renewal and upgrade of Sydney Square creates increased opportunities for community enjoyment and enables cultural experiences in a city where public space is in great demand.

**Environmental**

23. The renewal is aligned with the City's leadership in environmental sustainability and climate action through retaining tree canopy to maximise green linkage improvements between city, parklands, and harbour.

**Financial Implications**

24. Funds for the Sydney Square renewal works are included in the Long-Term Financial Plan.
25. Under the Lease for the Main Square the City as lessee will be responsible for cleaning and maintaining the area under Lease. This has been budgeted for in the Long Term Financial Plan.

**Relevant Legislation**

26. Project delivery will be in accordance with relevant planning and approval legislation and regulations, including the Environmental Planning and Assessment Act 1979 (NSW) and Roads Act 1993 (NSW).

### Critical Dates / Time Frames

27. Target dates for the project and execution of the Transaction Documents are:

Timing	Key Deliverable
March 2026	Heads of Agreement finalised and executed
Mid 2026	Development Deed executed Development application lodged
Mid-End 2026	Construction documentation concurrent with planning assessment
Early 2027	Renewal works commence
Late 2027	Renewal completed Lease of Main Square and Public Access Easement for Western and Eastern part of the Square commence

### Options

28. The City can undertake works on the land without entering into the Heads of Agreement as contemplated in this report but that would involve significant risks during the construction of the project and would undermine the future efficient management of the area.

### Public Consultation

29. Extensive community consultation and engagement was undertaken as part of Sustainable Sydney 2030 and Sustainable Sydney 2030-2050: Continuing the Vision, and for the Town Hall Precinct Public Domain Plan.
30. Further public consultation will be undertaken as part of the planning approval process for the project.

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