

**ITEM 1.           CARLTON AND UNITED BREWERIES SITE****FILE NO:           S033483****SUMMARY**

At its last meeting on 1 June 2006, the Central Sydney Planning Committee (CSPC) resolved that:-

- (1) *A letter from the Minister for Planning to the Lord Mayor be noted;*
- (2) *The CSPC request the Lord Mayor to write to Fosters Australia to seek their commitment to the finalisation of the Voluntary Planning Agreement; and*
- (3) *City staff be asked to bring forward to the CSPC current information on floor space ratio and design excellence issues.*

This report responds to item 3 of that resolution.

A letter was sent to Fosters in accordance with the resolution. At the time of writing this report, no response has been received.

**RECOMMENDATION**

It is resolved that the Central Sydney Planning Committee receive and note the subject report.

**ATTACHMENTS**

**Attachment A:** Letter received from the Minister for Planning on 25 May 2006

**Attachment B:** Letter in response from the Lord Mayor

## BACKGROUND

1. The Minister for Planning wrote to the Lord Mayor on 25 May 2006 (**Attachment A** to this report). The Lord Mayor's response to this letter is at **Attachment B** to this report.

### Finalisation of a Voluntary Planning Agreement

2. The comments provided are general, and do not deal with the detail and content of the draft Voluntary Planning Agreement (VPA) between the City and the site owner. That remains commercial-in-confidence and can not be detailed publicly at this stage. Similarly, any discussion on its contents would need to be in a closed session.
3. Two main points regarding the finalisation of a VPA were raised in the Minister for Planning's letter. These were:
  - (a) The request for the issue of a Section 65 certificate did not include a finalised draft VPA; and
  - (b) The draft VPA has not included clauses to enable the collection of an affordable housing levy for the Redfern-Waterloo Authority (RWA).
4. A summary of the response to the Minister's letter by the Lord Mayor is:
  - (a) The draft LEP is not required to be accompanied by a VPA in the submission to the Department of Planning, nor does the Department need to authorise a VPA between the City and any land owner. Recent legislative change has allowed for the exhibition of a draft LEP and VPA separately. However, it is still the City's intention to jointly exhibit a draft VPA and the draft planning controls and the City has been working towards this in a co-operative manner with the owner of the site.
  - (b) The draft VPA currently does not include a clause or section dealing with contributions to the RWA, following no formal response/advice on the matter and periodic discussion between staff of the City and RWA. It was understood there was to be a separate agreement between the RWA and the owner of the site.
5. Despite this, if an agreement was reached between RWA and the owner, this could be appended to the City's VPA, or it could remain separate.
6. Further, there is a separate ability to create a Contributions Plan under Section 30 of the *Redfern Waterloo Authority Act 2004*, although this is provided the site is nominated as state significant. This is not a path that requires voluntary agreement. If this occurs, it would be a matter for the Minister whether the State became the consent authority for a subsequent DA, or whether the consent role was delegated to the Central Sydney Planning Committee (CSPC), as recently occurred for the Sacred Heart Church on Oxford Street, Darlinghurst.

### Design Excellence

7. The Minister for Planning's letter requested that *"the inclusion of explicit clauses about the timing and nature of a mandatory competitive design process for the major components of the site, beyond the aims of the draft LEP"* be addressed by the City.

8. In terms of design excellence, it is agreed that this is a very important issue. However, the draft Local Environmental Plan (draft LEP) and draft Development Control Plan (draft DCP) are amendments to the City's existing LEP (*Sydney Local Environmental Plan 2005*) and DCP (*Central Sydney Development Control Plan 1996*), thereby allowing the existing provisions to apply as for all other development. This is beyond the aims of the draft LEP.
9. There are two qualifications on the design excellence provisions. Firstly, that the CSPC is allowed to nominate important sites (noting the whole CUB site is already nominated in the LEP) that require a competitive process even if the LEP criteria (of 55m height/1500sqm site area) are not met. This is therefore a stricter control than applies elsewhere (CI F2.14 of the draft DCP). Secondly, Clause F2.15 of the draft DCP allows consideration of allowing the winning architect for the previous design competition (held in 2004) to design the first building(s) following an approved Stage 1 DA for the whole site.
10. It should be noted that a competition has already been held for the site, and provisions exist requiring further competitive processes for individual buildings at the appropriate time. This is appropriate for such a large and important site.

#### **Floor space ratio controls for the site**

11. The third point raised in the Minister for Planning's letter requested "*further latitude in the (FSR) controls*". It is assumed this means an FSR above 4:1. The draft controls as endorsed by the CSPC and Council allow for an FSR ranging between 3.5:1 and 4:1.
12. There has been extensive urban design and built form analysis conducted by both the site's owner and independent consultants and advisors for the City. A key conclusion of the design jury recommendations was that an FSR of 4.4:1 for the site is too high, and particularly if it is predominantly a residential development. The conclusion of subsequent extensive urban design analysis was that 4:1 is at the extreme upper end of an acceptable FSR for the site. Even at this FSR it is not clear whether State requirements under *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* (SEPP 65) will be met. Achieving up to 4:1 is provided for in the draft controls and is contingent on achieving design excellence and residential amenity in the development of the site.
13. The primary limitations to achieving a higher density include:
  - (a) The achievement of adequate solar access to residential apartment buildings and a park;
  - (b) The achievement of reasonable distance separation between buildings;
  - (c) The provision of streets and accessways to buildings; and
  - (d) The retention of significant heritage buildings on the site.

14. The draft controls essentially redistribute the permissible density and building height on the site to allow for taller buildings along Broadway while providing for a park at the southern end of the site, while retaining significant buildings/structures. The additional height along Broadway gives the opportunity for more floor space (i.e. a higher FSR) than otherwise could be achieved under the current controls. The open space in the form of a park is needed to meet the demand for open space from the development, and also provides outlook to new residents in the southern portion of the site.
15. The draft controls are considered a benefit to the site owner by increasing the permissible height and redistributing bulk to allow for a development yield beyond that which is currently possible, in a form that would provide appropriate amenity. It is noted that the site owner has elected not to sell the site or lodge a development application under current controls.

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