

3 April 2012

## **DETERMINATION OF THE CONCEPT PLAN APPLICATION FOR THE 'CITYONE' DEVELOPMENT AT WYNYARD STATION (MP09\_0076)**

### **CONCEPT PLAN APPLICATION**

The Concept Plan (as amended by the Preferred Project Report (PPR)) seeks approval for the CityOne development at Wynyard, including:

- Upgrade of the eastern access ways to Wynyard Station including retail areas and concourse layout;
- Indicative building envelope to a maximum height of RL159.7 AHD on the land between Carrington Street and George Street;
- Use of the site for a mixed use development including commercial offices, business premises, shops, general retail food and drink premises, health/medical centre, public amenities, transport facilities, and tenant car parking;
- Development of the former Shell House including refurbishments for the purpose of commercial and retail use.

### **DELEGATION TO THE COMMISSION**

The concept plan was referred to the Planning Assessment Commission (PAC) for determination under Ministerial delegation dated 14 September 2011.

For this application, the Commission consists of Ms Gabrielle Kibble AO (Chair), Mr Garry Payne AM and Mr Richard Thorp.

### **DEPARTMENT'S ASSESSMENT REPORT**

On 25 January 2012, the Commission received the Director-General's Environmental Assessment Report and documents associated with the application.

The report considered the need and justification for the proposal and the relevant legislation. It also provided an assessment of the following key issues:

- Public benefit
- Built form
- Overshadowing
- Design of the Transit Hall between Carrington Street and George Street
- Treatment of Wynyard Lane
- Parking
- Construction Management
- Station Interface

In its assessment, the Department of Planning and Infrastructure (the 'Department') concludes that the proposed development is appropriate and fits within the context of the Sydney CBD, and that the proposal provides significant public benefits by delivering major upgrade works to the eastern entries of Wynyard Station and the transport interchange. The Department recommends approval, subject to conditions.

## **CONSULTATION**

The Department exhibited the Environmental Assessment (EA) proposal between 19 January 2011 and 18 February 2011, and received four submissions from Government authorities and 33 public submissions.

The PAC has not held a public meeting, as the majority of the submissions supported the proposal, being consistent with the Department's recommendation to approve the Concept Plan. Of the 33 public submissions, 25 (76%) supported the proposal and 8 (24%) objected.

Following exhibition, the proponent modified the scheme as set out in the PPR, which is the subject of the Department's Assessment Report and the PAC's determination.

The City of Sydney objected to both the EA and the PPR.

Each Member visited the site independently and is familiar with the area. The Commission reviewed submissions received by the Department, and also met with the parties outlined below.

### **1. City of Sydney**

Mr Graham Jahn AM, Director of City Planning, Development and Transport at the City of Sydney met with the Commission on 1 March 2012 to discuss the Department's recommendation.

The meeting focussed on Council's key concerns, namely,

- the site and application history;
- calculation of the site area and floor space ratio;
- overshadowing;
- height;
- setbacks to Carrington Street and Wynyard Park;
- the quantification, extent and timing of the public benefits and any agreement;
- other financial contributions including heritage floor space and 1% CIV contribution;
- Wynyard Lane;
- comparison of the scheme against the City of Sydney's controls; and
- precedent.

### **2. Department of Planning and Infrastructure**

On 7 March 2012 the Commission met with staff from the Department of Planning and Infrastructure to discuss the recommendation, including:

- the application history reducing the scope of works and discussions with stakeholders;
- quantification and scope of the public benefits;
- rationale for the recommended setbacks from Carrington Street and Wynyard Park; and
- the submissions received.

Following discussions with other parties, the Commission met again with the Department on 15 March 2011. At this meeting the Carrington Street/Wynyard Park setbacks and design competition requirements were discussed in further detail.

### **3. Transport for NSW**

On 7 March 2012, the Commission met with Transport for NSW (TfNSW) and their representative. The discussion focussed on the following aspects:

- current constraints with the Wynyard Station concourse, and improvements to the Station that the project would deliver including disabled access, improved fire safety, and Building Code of Australia compliance;
- the current ownership, leasehold, and maintenance of different parts of the Station, and as would eventuate following any redevelopment;
- the agency's general support for the scheme, as it would provide a Station upgrade funded and executed by the proponent, and a financial contribution towards new entrances to Wynyard Station or other public domain works;
- a preference for a legal agreement rather than a Voluntary Planning Agreement (VPA) between TfNSW and the proponent prior to any further approval, due to the complex needs of the Station and access, and the need to provide continuous services;
- the TfNSW Masterplan is due for completion by the end of 2012, and there is a need to integrate proposed works with Wynyard Walk and to progress any public benefits derived from this project in a timely manner.

#### **4. The Proponent**

The proponent and its representatives met with the Commission on 7 March 2012. In the meeting the following was discussed:

- the application history and discussions with stakeholders;
- quantification and scope of the public benefit;
- the proponent outlined the immediate improvements arising from the proposed Wynyard Station works including a more pleasant pedestrian environment, disabled access, and satisfying Building Code of Australia and fire safety regulations;
- the proponent expressed lack of support for any further setback from Carrington Street;
- the proponent would not support full removal of the commercial mezzanine in the transit hall;
- the proponent does not believe a design competition should be a requirement if a suitable architect and design can be secured to the satisfaction of the Director-General.

#### **5. Memocorp Australia Pty Ltd**

Memocorp owns Wynyard Gardens (Transport House) and 259 George Street. The Commission met with Memocorp and its representatives on 9 March 2012, and at this meeting Memocorp outlined the following concerns:

- the need for a setback between the proposal and Wynyard Park to reduce enclosure of Wynyard Park and to reduce its overshadowing impact on the Park;
- lack of assessment of overshadowing impacts on Wynyard Park, and the impact of the proposal on their students' use of this space as a break-out area;
- construction management, and potential impact on access to, and the operation of Wynyard Gardens;
- the need to consider the application in conjunction with other development being progressed and the cumulative impact on road, bus, train and pedestrian networks.

## COMMISSION'S COMMENTS

The site is located in the City of Sydney and the proposal incorporates the eastern entrances and concourse levels of Wynyard Station. These provide access to and from the Wynyard Station train platforms, and east-west pedestrian links. The site's interrelationship with a key City underground train station is relatively unique.

The proposal provides a rare opportunity to simultaneously upgrade a large area of the publicly accessible transit hall, key Station entrances, and central CBD buildings. It is anticipated that a comprehensive redevelopment by one developer to TfNSW's specifications would result in a better outcome and minimise disturbance, when compared to a piecemeal approach over the long term.

From its review the Commission is satisfied that the Department's assessment report has adequately canvassed and resolved many of the issues. Therefore, the focus of the comments below is specific matters that, in the opinion of the Commission, have required more detailed consideration.

### 1. Public Benefits

The proponent has offered the following improvements to Wynyard Station:

- a new transit hall, linking from the outside of the Wynyard Station ticket barriers to George Street, the Hunter Connection and Carrington Street via walkways and escalators;
- a new George Street entrance to Wynyard Station;
- a new Carrington Street entrance to Wynyard Station;
- a financial contribution of \$18.5 million to Transport for NSW to provide two new entry points at the north and south ends of Wynyard Park and/or other associated public domain works.

All of the works to be carried out by the proponent subject to this Concept Plan are between the eastern side of Carrington Street and George Street.

The proponent submitted reports by Deloitte, WT Partnerships and CB Richard Ellis estimating the costs and benefits to the proponent and the public. The City of Sydney responded, querying the justification and estimates, and including an analysis by Preston Rowe Paterson. The Department then commissioned an independent review by Gillespie Economics and Corporeal Pty Ltd ('Gillespie's').

The proposed public benefits have been questioned in a number of submissions. The main concerns raised are whether the public benefits are sufficient to justify the building envelope and floor space proposed over and above what would otherwise be expected of any redevelopment, whether the public benefits have been accurately estimated, and how the benefits will be secured.

The City of Sydney also raised the need for financial contributions for heritage floor space and 1% CIV, which together are estimated as \$19.587 million. As this is a Concept Plan application, there will be some shifting in the floor space and the capital investment value as the scheme evolves. The Commission's view is that it is more appropriate that heritage floor space, the 1% CIV levy and any Section 94 contributions are applied at the development application stage.

Public benefits have been considered in detail in the Department's report, and the Department has concluded that the public benefit, from the works being carried out and the

financial contribution to Transport for NSW, would be in the order of between \$47 and \$60 million.

Transport for NSW advised that the works are desirable to improve disabled access, fire safety and BCA compliance, and that the proposed transit hall would accommodate the Station's capacity projections up to 2060. The agency has also recommended transit hall requirements such as entry heights and additional escalators that have been incorporated in amended plans, and the design allows view lines between George Street and Carrington Street.

Transport for NSW has confirmed it is generally satisfied with the public benefit offer. The agency considers the proposed works would allow for an appropriate interface with the ticketed areas of Wynyard Station, and that they would support CBD access and connectivity taking into consideration Barangaroo and the Wynyard Walk. Transport for NSW's Masterplan is due by the end of 2012, and the agency's position is that the proposed works would not undermine the draft Masterplan intentions.

The Commission accepts that there are differences in opinion on the value of both the proponent's public benefit offer and the benefits that would flow to the company, and on whether this scheme represents the highest value to the State.

Irrespective of the exact dollar amount flowing either to the proponent or in cost savings to the Government, the Commission concludes that this application provides a unique opportunity to secure significant works that will improve pedestrian accessibility to and through the station concourse.

Transport for NSW suggested the proponent enter into a legal agreement to secure a number of matters, such as scope, timing, maintenance, and protection of their assets and public services during any redevelopment of the site.

Recommended *Condition A6* requires evidence that the proponent has entered into a Voluntary Planning Agreement (VPA) with TfNSW, prior to the submission of any future application. The Department confirmed that Transport for NSW has the legal capacity to enter into a VPA with the developer, and that TfNSW has confirmed it supports use of a VPA to address contributions by the proponent. Staging and construction management will also need to be considered as part of the detailed application stage(s) as set out in *Schedule 3(5) and 3(6)* of the recommended conditions.

There will be many matters that TfNSW need to resolve and agree with the proponent which are beyond the scope of a VPA or a concept plan approval. Accordingly, TfNSW will need to enter into legal agreements with the proponent separate to the planning process, as would occur in any owner-developer arrangement.

## **2. Setback to Wynyard Park**

The Department, Council and NSW Heritage Council raised concern with the proposal's enclosure of and visual impact on Wynyard Park, due to the building applying an unsuitable setback from the Carrington Street boundary. The Council recommended modifying the proposed building envelope to maintain an average 8 metre setback to Carrington Street above the height of the existing Shell House parapet level, with a minimum setback of 6 metres.

During the assessment process, the proponent amended their plans to provide a slot setback 3.5 metres deep at the Carrington Street frontage between the heights of RL56 and RL63.6, with no setback to the above tower.

In its report, the Department does not support the proponent's slot setback arrangement, on the grounds the tower would visually dominate Carrington Street and Wynyard Park, and that it would not reinforce the existing street wall height. Accordingly, the Department recommends a 3 metre setback above the podium for the full height of the tower (*Condition B2*). The Department's estimate is that the 3 metre setback would result in a loss of 1,775m<sup>2</sup> of gross floor area. However, recommended *Condition A5* would still allow a maximum gross floor area of 79,370m<sup>2</sup> for the towers east of Carrington Street, and therefore this floor space may be able to be accommodated elsewhere within the revised building envelope.

The appropriateness of the setback was discussed in meetings with the parties. Subsequently, the proponent wrote to the PAC confirming their position that a 6m setback would not provide a better design outcome, and that it would represent the loss of 5,400m<sup>2</sup> of floor space area. The proponent asserts this loss of floor space would directly affect the net lettable area, and would render the project unviable, given the various stakeholder requirements and expectations for the public spaces.

The Commission considers that the recommended 3 metre setback is insufficient to visually separate the tower from the podium level to an extent that would reinforce the street wall height. The lack of a sufficient setback above the podium would detrimentally affect Wynyard Park, as the tower would create a sense of enclosure and it would be visually overbearing as seen from the Park and surrounding buildings. Accordingly, the Commission has determined that a minimum setback of 6 metres is required above the podium for the full height of the tower, to provide a greater visual separation. *Condition B2* has been modified to reflect this decision.

The Commission notes the proponent's estimate that a 6 metre setback would result in a loss of 5,400m<sup>2</sup> based on the current design proposal. However, the permitted floor space area remains unchanged as set out in *Condition A5*, and there may well be design opportunities to off-set any loss attributed to the setback.

### **3. Overshadowing**

The proposed building envelope would slope from the north (RL159.7) down to the south (RL125.96). The slope follows the sun angle with the objective of maintaining solar access to Martin Place.

The proponent demonstrated there would be a narrow triangle of sun removed from Martin Place between 12:15pm and 1:15pm at the winter solstice. There would be no overshadowing of the Martin Place GPO steps or its sandstone façade.

The City of Sydney carried out its own modelling, which found the impact to be less than that suggested by the proponent. However, the City does not support any overshadowing of Martin Place.

The Department confirmed that there would be additional overshadowing on Wynyard Park mid-morning throughout the year, however the critical lunchtime period between 12:00pm and 2:00pm would be unaffected.

The Commission concludes overshadowing to either Martin Place or Wynyard Park would be minimal, and that the impact would not be readily discernable to users of these public spaces during peak lunchtime use.

The Commission supports the Department's recommended condition (*Schedule 3, 11*) requiring confirmation at the development application stage that the eastern tower would not overshadow the GPO's steps or northern façade.

#### **4. Design Competition**

The Department recommends in *Schedule 3(1)(A)* that future applications for any works on the portion of the site to the east of Carrington Street at the George Street level or above, shall be subject to a formal design competition. *Schedule 3(1)(B)* then allows the Director-General to waive the design competition process, or appoint a design panel if the architect and drawings demonstrate design excellence.

The Commission concurs with the Department's recommendation for a design excellence competition. However, it does not agree that the Director-General should be able to waive this requirement, because of the importance of the site location, its interrelationship with Wynyard Station, and its high visibility from the public domain and within the context of Sydney's CBD. The proponent has justified the scheme in part on this being a 'landmark' site, and any design needs to be of the highest quality to reflect its location and relationship with the public domain.

#### **COMMISSION'S DETERMINATION**

The Commission has carefully reviewed the Director General's Environmental Assessment Report and submissions, and discussed the Department's recommendation with the parties outlined in the above report.

On balance, the Commission agrees with the Department's recommendation for approval of the Concept Plan. In its view, the proposal provides the opportunity to comprehensively redevelop prominent above ground buildings and secure upgrading of the Wynyard Station eastern accesses and the transit hall.

The Commission has imposed a more stringent condition securing a 6 metre setback above the Carrington Street podium to reduce the building's impact on Wynyard Park. Subject to this modification, the Commission considers that the building envelope would not unreasonably impact on the public domain and surrounding heritage items.

Being a transitional Part 3A application in a unique location and with an integral relationship to Wynyard Station, the proposal would not set a precedent for other applications. The redevelopment would also landmark Wynyard Station, with design quality secured through a competitive design process and subsequent detailed approval(s).



Ms Gabrielle Kibble, AO  
**PAC Member (Chair)**



Mr Richard Thorp  
**PAC Member**



Mr Garry Payne, AM  
**PAC Member**