

**ITEM 7. FRASERS BROADWAY (CUB) – VARIATION TO OWNER’S
CONSENT**

FILE NO: S057942

SUMMARY

In June 2008, Frasers sought approval from the Minister of Planning to modify the approved concept for redevelopment of the former Carlton and Untied Brewery site, Chippendale. Key modifications include additional floor space, redistribution of the built form, variation of the mix of land uses, increase in open space, reduction in car parking, additional water and energy saving initiatives, and a more pedestrian and bicycle friendly public domain.

Despite objections, Frasers report in response to submissions on the modification, (lodged with the Department of Planning October 2008) is still seeking additional floor space. The Department of Planning is yet to determine the application.

The key components of the revised concept include a stronger commitment to precinct water and energy saving initiatives, Council ownership of primary roads, an increase in the contribution for the Community Facilities, the option of monetary contributions to Council for road crossings, Council approval of management plans, a fast-tracked completion date for the Balfour Street park and extended maintenance periods for Council Roads.

As Council owns sections of road within the site, Council consent is required for the modifications as currently proposed. The terms of Council consent will be outlined in a Variation Deed to the existing Owners Consent Deed (OCD).

The Minister's approval of the application to modify the approved concept is not contingent on the Variation Deed with Council. Accordingly, the Minister's approval can be given irrespective of Council resolution on this matter. A Voluntary Planning Agreement (VPA) between Frasers and the Minister also makes provision for Council not granting consent and Frasers not being able to carry out works on Council owned portions of land.

RECOMMENDATION

It is resolved that:

- (A) Council note the development of a Variation Deed amending the terms of the Owner’s Consent Deed to allow inclusion of Council owned sections of road in the redevelopment of the former Carlton and Untied Brewery site, Chippendale; and
- (B) authority be delegated to the Chief Executive Officer to determine the request for, and terms of, the Variation Deed to the Owner’s Consent Deed for Council owned sections of road in the redevelopment of the former Carlton and Untied Brewery site, Chippendale.

ATTACHMENTS

Attachment A: Site Plan showing Council owned land within the site.

BACKGROUND

1. The former Carlton and United Brewery (CUB) is a 5.795 hectare site on the southern edge of Sydney's CBD. The site is proposed for redevelopment as a new commercial, residential and retail precinct. The site includes sections of Balfour Street, Irving Lane and Kensington Street, Chippendale currently owned by Council.
2. In 2003, Fosters announced that the Brewery would close in 2005, and the site would be sold for redevelopment. After several years of challenging negotiation with Fosters, Council and the then consent authority, the Central Sydney Planning Committee, agreed to a Floor Space Ratio (FSR) in the range of 3.5:1 to 4:1, indicative levels of infrastructure, services and amenities to be provided and a series of planning principles for the redevelopment of the site. These included public access, heritage to be preserved, design excellence, parkland and sustainability measures.
3. In June 2006, the Minister for Planning declared the site a Part 3A major project and subsequently became the consent authority. In October 2006, Fosters lodged a proposed concept plan and environment assessment report for the redevelopment of the site.
4. To lodge a valid application under Part 3A, the consent of the owners of all the land to which the application relates is required. Accordingly, CUB was obliged to return to Council to seek its consent (as owner) to lodge the application and, at this time, the Council indicated that it would consent but on certain terms which it required to be incorporated in an Owner's Consent Deed (OCD).
5. On 19 January 2007, an OCD was executed which, in very general terms, contained the following provisions:
 - (a) Fosters agreed to carry out certain works in relation to the park and transfer the land to the City by 31 December 2010;
 - (b) Fosters also agreed to carry out the Balfour Street park works "as soon as reasonably practicable"; and
 - (c) Fosters agreed not to sell the site without requiring the transferee to enter into a deed on similar terms.
6. On 9 February 2007, Fosters and the Minister signed a VPA. In summary, the VPA required Fosters to do a number of things, including:
 - (a) demolition, drainage, remediation, embellishment and dedication of the Main Park;
 - (b) signalised pedestrian crossings across City Road near Myrtle Street to Victoria Park and across Regent Street to Prince Alfred Park;
 - (c) embellishment of the Balfour Street Park, as well as other parks and areas within the site;
 - (d) provision of a new Community Facility (or upgrading an existing one) within the Chippendale locality to the value of \$2.5m; and

- (e) provision of child care facilities.
7. In June 2007, Fosters sold the site to Frasers, who in turn executed a deed poll and delivered it to the City under which it became bound by the terms of the OCD.
 8. In June 2008, after twelve months consultation as outlined later in this report, Frasers sought the Minister's approval to modify the development proposal. The key modifications included:
 - (a) an additional 22,000m² from the total Gross Floor Area (GFA) in the approved Concept Plan to a total of 257,000m² for the entire site;
 - (b) extending the site boundaries to include two properties on Kensington Street;
 - (c) varying the mix of land uses across the site to achieve a mix of 50% non-residential (minimum of 30%) and 50% residential uses;
 - (d) redistribution of the built form by lowering heights and reducing the mass of buildings along the southern boundary and increasing the height and size of the commercial buildings fronting Broadway;
 - (e) an amended central public domain area and park;
 - (f) a maximum of 2000 car parking spaces (reduced from 2440); and
 - (g) water and energy saving initiatives, increased open space, and moves towards a more pedestrian and bicycle friendly public domain.
 9. The modifications as proposed require changes to the Minister's VPA and a Variation Deed to Council's OCD.

KEY IMPLICATIONS

10. In summary, the key favourable changes sought in the VPA and OCD include:
 - (a) a stronger commitment to precinct water and energy saving initiatives;
 - (b) handing all primary roads within the site back to Council;
 - (c) an increase in the contribution for the Community Facilities by 9% (\$225,000) to \$2.725M (the increase is based on the increase in floor space and is consistent with the increase Redfern Waterloo Authority gained for Affordable Housing);
 - (d) the option of monetary contributions to Council for road crossings at City Road and Regent Street;
 - (e) a requirement for Council approval of management plans for publicly accessible private roads, throughways and open space;
 - (f) an extended maintenance period of 3 years for Council Roads; and
 - (g) a scheduled date to complete, or enable Council completion, of the Balfour Street Park by December 2009.

11. With respect to the precinct water and energy saving initiatives, as no Green Star Precinct tool exists, the required initiatives of the desired 6 Star Green Star rating are unknown. It is anticipated that the tool will require the generation of greenhouse efficient energy and the treatment and reuse of wastewater. Frasers have committed to using regeneration, sewer mining and onsite water reuse with the intent to position Frasers to have the ability to achieve a 6 Star Green Star Precinct rating. These initiatives are also subject to authority approvals and overcoming regulatory barriers.
12. The increase in the building floor space is the unfavourable component of the proposed modifications. Following exhibition of the modified concept and consideration of submissions, as per the Preferred Project Report lodged in October 2008, further changes were made. Changes were made to address concerns about scale, overshadowing and vistas, including a reduction in building heights and envelopes. The additional floor space was marginally reduced by 1,500m² to a total of 255,500m² GFA; however, 7,000 square metres of floor space has been relocated away from the corner of Abercrombie Street and Broadway, this site being an area of concern.
13. Other issues to be addressed in the variation deed include maintaining suitable depth for deep soil planting to cater for large trees and establishing where the stratum between roads and the underground car park will occur. These matters can be resolved through detailed attention to the wording in the Variation Deed.

BUDGET IMPLICATIONS

14. The Variation Deed will increase Frasers contribution to the Community facilities by 9%, or \$225,000.
15. The Variation Deed will also enable Council to gain a contribution from Frasers for alternate road crossings at City Road and Regent Street if signalised crossings as proposed are not achieved and commitment is made to an alternate crossing.

RELEVANT LEGISLATION

16. Council, as owner of the relevant land, is the Roads Authority under the Roads Act 1993.
17. The Environmental Assessment for a modification to the approved Concept Plan is pursuant to the Environmental Planning and Assessment Act 1979.

CRITICAL DATES / TIME FRAMES

18. After twelve months of consultation, the application for modification to the approved concept was lodged in July 2008. A Preferred Project Report was lodged with the Department of Planning in October 2008.

OPTIONS

19. Council has the option of not approving the Variation Deed, however, this is not recommended as it will revert back to the terms of the original OCD, sacrificing the offered improvements that are consistent with Sustainable Sydney 2030, such as the precinct water and energy saving initiatives.

20. The Minister's approval of the application to modify the approved concept is not contingent on the Variation Deed. Accordingly, the Minister's approval can occur irrespective of Council resolution on this option.
21. The VPA also makes provision for Council not granting consent and Frasers not being able to carry out works on Council owned portions of land.

PUBLIC CONSULTATION

22. Frasers conducted several consultation sessions with the local community, the City, government agencies and other major stakeholders in relation to the redevelopment of the site.
23. During the first consultation in September 2007, a number of key issues were raised such as local impacts during and after construction, minimising energy and water consumption, supporting social sustainability, minimising car use and traffic generation, encouraging walking and cycling, location and amount of open space and general design, density and building use concerns.
24. In November 2007, a second stage of consultation was conducted bringing the community, the City, other agency and authority stakeholders together with Frasers project team, including architects, sustainability specialists, transport experts and urban designers. Consultation included further discussion on key issues and ideas for the improvements to the approved concept.
25. Frasers have conducted further consultation with the community, the City, other agency and authority stakeholders for various reasons including design of the main park, as well as breaking down the barriers for energy and water saving initiatives.

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