

**ITEM 2. PROPOSED PUBLIC EXHIBITION OF DRAFT SYDNEY LOCAL ENVIRONMENTAL PLAN 2005 - AMENDMENT NO. 2 - AND DRAFT CENTRAL SYDNEY DEVELOPMENT CONTROL PLAN - AMENDMENT NO. 20 - FOR THE BLOCK BOUND BY ALFRED-PITT-DALLEY AND GEORGE STREETS SYDNEY - THE APDG BLOCK**

**FILE NO: S062501-5**

**SUMMARY**

In September 2008, the City of Sydney commissioned the NSW Government Architect's Office to prepare an urban design study (the UDS) for the block bound by Alfred, Pitt, Dalley and George Streets, Sydney (the APDG Block). The key purpose of the UDS was to ensure that Council has a consistent set of planning controls that promote high quality built form and urban design outcomes for both the public and private domain on this important street block.

The UDS recommended a preferred option for the APDG Block consisting of a large central open publicly accessible square, a connected and activated laneway network, and three tall tower buildings. A key principle influencing this recommendation was that additional height controls would be offered as an incentive in exchange for significant and quantifiable public domain improvements.

The Council and CSPC, at meetings of 1 June 2009 and 28 May 2009 respectively, considered the UDS and resolved to commence the process to amend *Sydney Local Environmental Plan 2005* (SLEP2005) and *Central Sydney Development Control Plan 1996* (DCP1996) to include the preferred option provided in the UDS as an alternative to existing development controls in SLEP2005.

In July 2009, the City received notification from the Director-General of the Department of Planning (DoP) to prepare an amendment to SLEP2005 for the APDG Block. The DoP supported Council's contention that the current planning controls for the site have resulted in an inadequate built form and public domain outcome and agreed that new development controls are required to improve this situation.

Draft amendments have been prepared to SLEP2005 and DCP1996 to include the provisions of the scheme recommended in the UDS as an alternative scheme to existing planning provisions. It is proposed to exhibit the amendments concurrently, following receipt of a "Section 65 Certificate" from the DoP.

The key amendment proposed to SLEP2005 is to enable sites within the APDG Block to develop as "Development Blocks", where increased height (ie, greater than the maximum height of 110m currently allowed by SLEP2005) will be offered in exchange for significant public domain improvements. The key amendment proposed to DCP1996 is to expand section 2.12 to include specific design guidelines supporting the proposed amendments to SLEP2005.

As part of the preparation of the amendment to SLEP2005, an economic analysis was undertaken by Preston Rowe Paterson National Property Consultants (PRP) to determine if the UDS preferred scheme and proposed draft LEP controls will work from an economic perspective and, if not, whether additional development incentives other than height will be required to trigger redevelopment in accordance with the UDS scheme.

This analysis found that redevelopment in accordance with the UDS is most likely to occur in the medium-term, that is - by 2014, without the need for further development incentives. However, this analysis also found that due to the current subdued real estate market it is unlikely that redevelopment will occur in accordance with the UDS scheme in the short-term, that is - prior to 2014.

## RECOMMENDATION

It is resolved that:

- (A) Council request a Certificate under the former Section 65 of the *Environmental Planning and Assessment Act 1979* from the Department of Planning to enable the public exhibition of *Draft Sydney Local Environmental Plan (Amendment No. 2)*, as shown at Attachment E to the subject report;
- (B) *Draft Central Sydney Development Control Plan (Amendment No. 20)*, as shown at Attachment F to the subject report, be placed on public exhibition concurrently with *Draft Sydney Local Environmental Plan (Amendment No. 2)* for a minimum period of 28 days following receipt of a Section 65 Certificate from the Department of Planning;
- (C) authority be delegated to the Chief Executive Officer to make minor amendments and corrections to *Draft Sydney Local Environmental Plan (Amendment No. 2)* prior to submission of a request for a Certificate under the former Section 65 of the *Environmental Planning and Assessment Act 1979*; and
- (D) authority be delegated to the Chief Executive Officer to make minor amendments and corrections to *Draft Central Sydney Development Control Plan (Amendment No. 20)*, or any changes necessary to ensure its consistency with the draft LEP when publicly exhibited.

## ATTACHMENTS

**Attachment A:** Resolution of Council of 1 June 2009 and Resolution of the Central Sydney Planning Committee of 28 May 2009

**Attachment B:** Section 54(4) Report to the Department of Planning requesting to prepare a draft local environmental plan for the Alfred, Pitt, Dalley and George Streets block - *Draft Sydney Local Environmental Plan 2005 (Amendment No. 2)*

**Attachment C:** Section 54(4) Notification from the Department of Planning advising that *Draft Sydney Local Environmental Plan (Amendment No. 2)* can be prepared

- Attachment D:** *Draft Sydney Local Environmental Plan 2005 (Amendment No. 2)*
- Attachment E:** *Draft Sydney Development Control Plan 1996 (Amendment No. 20)*
- Attachment F:** Urban Design Report prepared by Valad Property Group for 1 Alfred Street, Sydney  
(Note – This attachment will be circulated separately from the Agenda Paper and to Councillors and relevant senior staff only. A copy will be available for viewing on Council’s website and at the One Stop Shop and Neighbourhood Service Centres)
- Attachment G:** Report from Preston, Rowe, Patterson – National Property Consultants: Economic Analysis of Floor Space Transfer recommended in the Alfred, Pitt, Dalley and George Streets Site Urban Design Study  
(Note – This attachment will be circulated separately from the Agenda Paper and to Councillors and relevant senior staff only. A copy will be available for viewing on Council’s website and at the One Stop Shop and Neighbourhood Service Centres)

**BACKGROUND**

1. In September 2008, the City commissioned the NSW Government Architect's Office to prepare an urban design study (the UDS) for the block bound by Alfred, Pitt, Dalley and George Streets, located in the northern CBD at Circular Quay (the APDG Block). The key purpose of the UDS was to ensure that Council has a consistent set of planning controls that promote high quality built form and urban design outcomes for both the public and private domain on this important street block. The current planning controls that apply to the APDG Block were considered to be inadequate and required amendment in order to achieve better planning outcomes, and to promote attractive development opportunities.
2. The UDS was completed in May 2009 and recommended a preferred option for the APDG Block, consisting of a large central open publicly accessible square, a connected and activated laneway network, and three tower buildings. A key principle driving this recommendation was that additional height would be considered in exchange for significant and quantifiable public domain improvements, that is - that an incentive based approach is applied to development controls to promote desirable planning outcomes. The recommendations of the UDS have been the basis for informing appropriate amendments to provisions in *Sydney LEP 2005* (SLEP2005) and *Central Sydney DCP 1996* (DCP1996). These amendments are discussed in detail this report.
3. The UDS's preferred option identified three strategic groupings of sites located within the APDG Block, and proposed controls to enable these sites to develop in a "Development Block" pattern, where additional height will be offered in exchange for public domain improvements. In order to achieve the maximum height in one part of a Development Block, floor space from another part of the block would need to be transferred, thus freeing up that part of the block for the public domain.
4. The Council and the CSPC, at meetings on 1 June 2009 and 28 May 2009 respectively, considered the recommendations of the UDS and resolved to commence the process to amend SLEP2005 to include the preferred option provided in the UDS as an alternative to existing development controls in SLEP2005. Council and the CSPC also resolved to amend relevant sections of the *Central Sydney Development Control Plan 1996* (DCP1996) in support of the LEP amendment. Council and CSPC resolutions are at Attachment A.
5. In accordance with the former Section 54(4) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), in June 2009 the City notified the Director-General of the Department of Planning (DoP) of its decision to prepare a site specific draft local environmental plan for the APDG Block: *Draft Sydney Local Environmental Plan – Amendment No. 2* (the draft LEP). This Section 54(4) report included the justification for preparing the draft LEP, its intended outcomes and planned public and agency consultation. It also addressed the DoP's criteria for a spot rezoning, as required by DoP Circular No. PS06-015, dated 15 June 2006, titled "Spot Rezoning". The City's Section 54(4) report to the DoP (without its Attachments) is at Attachment B.

6. In July 2009, the City received notification from the Director-General of the DoP to prepare the draft LEP. The DoP's notification supported Council's contention that the current planning controls for the site have resulted in an inadequate built form and public domain outcome and agreed that new development controls are required to improve this situation. A copy of the DoP's section 54(4) notification is at Attachment C.
7. Further to matters relating to state agency consultation, Section 117 Directions, and delegations, the DoP also advised in their notification that prior to public exhibition Council is to provide the DoP with details of the legal mechanism proposed to be used in the draft LEP to achieve the alternative development controls. The DoP also requested that Council provide advice that the approach taken is legally enforceable.
8. In addition to responding to the DoP's requirements in the Section 54(4) notification, the City has undertaken additional research to assist in the preparation of the draft LEP controls. The focus of the research has been to determine the economic viability of the option recommended in the UDS and the planning mechanism proposed to achieve this option. To determine this, a consultant with expertise in land valuation and economics was engaged to prepare an economic analysis providing advice as to whether or not the proposed development controls will be economically viable. The outcomes of this research is discussed in detail later in this report.
9. The provisions of the draft LEP and draft DCP also have been reviewed to respond to the building envelope of the winning entry of the December 2009 architectural design competition held for the 1 Alfred Street site, that is - the north most property on the APDG Block. The winning design from Kerry Hill Architects (KHA) is based on the building envelope recommended in the UDS, as well as Council and CSPC resolutions which allowed for the redistribution of height on this site. It is therefore important to note that the winning design is a significant departure from the approved Stage 1 development application (DA) for this property. This is also discussed later in this report.
10. It is noted that because the City's Section 54(4) report was submitted to the DoP prior to the commencement of the new Part 3 of the EP&A Act on 1 July 2009, the draft LEP will progress under the former Part 3 of the EP&A Act. It is therefore the City's intent to submit a draft LEP to the Director-General under the former section 64 of the EP&A Act and to request certification (ie, a Section 65 Certificate) that the draft LEP may be publicly exhibited in accordance with the former section 66 of the EP&A Act.

## KEY IMPLICATIONS

### The Draft LEP

11. A draft LEP has been prepared to enable development that is mostly consistent with the preferred option in the UDS. The application of the controls in the draft LEP will achieve significant and quantifiable public domain benefits on the APDG Block, as well as built form which is both appropriate for its context and economically viable. A copy of the draft LEP recommended for public exhibition is at Attachment D and is discussed in the following section of this report.

*Current controls in SLEP2005*

12. Under the existing provisions of SLEP2005, the APDG Block is subject to a 110m height limit and FSR maximum of 12.5:1 for commercial development and 14:1 for residential development. For such a significant street block in a prominent location, these controls can result in poor built form outcomes, including tower crowding with and missed opportunities for significant public domain improvements. This was demonstrated by two recently approved DAs for properties located within the APDG Block which, although technically compliant with SLEP2005, could result in undesirable built form outcomes and a lost opportunity for significant and quantifiable public domain benefits. The draft LEP has been prepared to respond to this evident underperformance of existing controls.

*Proposed controls in the draft LEP*

13. The key mechanism proposed in the draft LEP is to enable sites within the APDG Block to develop as "Development Blocks", where increased height, that is - greater than the maximum height of 110m currently allowed by SLEP2005, will be offered in exchange for significant public domain improvements.
14. The draft LEP introduces a new clause 52A in SLEP2005 which aims to achieve the following within the APDB Block:
  - (a) a publicly accessible central open space linked to surrounding streets by a network of lanes and through site links;
  - (b) two new commercial office towers, one in the south-east corner, of a maximum 200 metres in height, and one on the western side fronting George Street, of a maximum 155 metres in height; and
  - (c) a thin residential tower in the north-west corner, fronting Circular Quay, of a maximum 185 metres in height.
15. The draft LEP controls are intended to operate as an alternative to existing controls in SLEP2005. Additional height will be allowed only if owners choose to participate in the alternative development scheme, that is - providing for significant public domain improvements. If they do not, then existing height controls in SLEP2005 would continue to apply. In other words, the draft LEP is not amending existing height controls in SLEP2005, rather, it is allowing for alternative heights in exchange for significant public domain benefits.
16. Three Development Blocks are proposed by the draft LEP, including optional additions to Development Blocks which may potentially increase their site area. The Development Blocks must be developed as a whole in order to achieve any additional height above the existing height control in SLEP2005. This means all lots within a Development Block will be subject to the same development application and the application will apply to the entire Development Block.
17. No additional FSR is proposed. However, equity of developable area, being FSR, will be maintained for all sites. Floor space will be allocated across the identified Development Blocks, rather than on individual sites. Therefore, in order to achieve the maximum height on one part of a Development Block, floor space from another part of the block must be transferred, thus freeing up that part of the block for the public domain.

18. Supporting Maps are provided in the draft LEP showing alternative heights and the Development Block pattern. These will be incorporated as amendments to the existing "Central Sydney Site Identification" map in SLEP2005.

#### **Differences between the draft LEP and UDS recommendations**

19. The draft LEP departs from the UDS preferred option in three ways: it no longer proposes new Opportunity Sites in accordance with Clause 56 of SLEP2005; alternative height controls now only apply to identified Development Blocks; and the building heights for 1 Alfred Street have been amended to be consistent with the winning entry in the 1 Alfred Street architectural design competition. These changes are discussed in the following section.

#### *Opportunity Site provisions*

20. In the reports to Council and the CSPC in mid 2009, it was stated that a number of properties within the APDG Block would be identified as Opportunity Sites in the draft LEP, consistent with UDS recommendations. However, it is considered that the recommended Opportunity Sites are better placed in the future City Plan rather than in the draft LEP at this stage.
21. The reason for this is that Opportunity Site controls would operate outside of the alternative provisions of the draft LEP and are unnecessary. Opportunity Site provisions in SLEP2005 primarily relate to the infilling of existing colonnades that impact on the quality of the public domain. The focus of the draft LEP should be the mechanism that activates the alternative scheme (ie, the incentive of additional height in exchange for significant public domain benefits) and not be confused with Opportunity Site provisions in SLEP2005 which, if taken up, allow for additional FSR.
22. If new Opportunity Sites were proposed in the draft LEP, this is likely to send a mixed message regarding which development incentives apply. The intent of the draft LEP is to offer only additional height as an incentive, and not additional FSR. It is noted that several of the opportunity sites suggested in the study are located outside of the Development Blocks identified in the draft LEP, which may further obscure the intent of the draft LEP. In any case, Opportunity Site provisions would not apply to Development Blocks on the APDG site if the alternative scheme is taken up since SLEP2005 does not allow for Opportunity Site provisions in Clause 56 to operate when development is an "extensive redevelopment".
23. There is also currently no urgency to introduce Opportunity Site provisions for the APDG block since the potential for short term redevelopment of the sites is unlikely, particularly since more substantial incentives are likely to be offered in the future by the alternative scheme in the draft LEP. The current downturn in the property development market also has further reduced the likelihood of redevelopment in the short term.

*Exclusion of height controls for sites not located within Development Blocks and adjoining sites*

24. Following a review of the maximum height controls recommended in the UDS, the final alternative height controls in the draft LEP will now only apply to sites that are located within Development Blocks. The UDS recommended that alternative heights also be included for several properties on the APDG Block located outside of proposed Development Blocks. However, since the focus of the draft LEP is to enable improved built form and public domain outcomes within Development Blocks it was considered appropriate to remove height controls for non Development Block properties. These controls would have no bearing on the operation of the planning mechanism that allows for the transfer of floor space within Development Blocks and the achievement of improved public domain outcomes. Also, it is highly unlikely that the proposed heights will be achieved because the recommended alternative heights in the UDS are substantially lower than existing permissible development heights on these sites.
25. As a consequence of the above, the proposed UDS height control of 45 metres has also been removed from the draft LEP for two small portions of land on Development Block 1 and Optional Addition A, and these two portions are now identified as publicly accessible space in the draft LEP. This includes a narrow sliver on the north-western part of Development Block 1 adjoining the central publicly accessible square, and a small rectangular portion on the south-western corner of Optional Addition A. Under the UDS, these two portions were proposed to be integrated with an adjoining Council-owned laneway and the St George Bank site at 176-186 George Street. It is now considered unnecessary to also include a height control for the smaller Development Block portions as they are unlikely to be developed in their own right.

*Amended controls for 1 Alfred Street (Valad Site)*

26. In March 2008, a Stage 1 development application (DA) to demolish the existing building on the 1 Alfred Street site (owned by Valad Property Group) and redevelop it as residential units was approved by the CSPC. Although the DA was compliant with existing planning controls, it was considered to be a less than optimum outcome. The approved DA demonstrated that current planning controls can be improved for better built form and significant public domain improvements and this acted as an important trigger to the UDS.
27. Recognising the deficiencies of existing planning controls, Valad undertook a design excellence competition in accordance with the findings of the UDS, and not the approved Stage 1 DA of March 2008. This demonstrated their willingness to consider a development proposal that is more consistent with the proposed alternative controls. The competition brief also included instructions from Council and CSPC resolutions of mid 2009. Amongst other things, these resolved to:  
  
*“consider flexibility in building height on the lower building, subject to a corresponding decrease in the height to the tall tower and the achievement of adequate daylight into the central open space, and any Design Competition for Valad’s site at 1 Alfred Street, Sydney (Goldfields House) be considered during the LEP preparation process.”*

28. In December 2009, the competition jury announced Kerry Hill Architects (KHA) as the winner of the competition. The KHA scheme proposes two residential buildings: "Building A" on the western side of the site is a slender tower with a reduced building footprint to that recommended in the UDS. This building articulates above level 5 (RL 21.5 metres) resulting in the building overhanging the proposed north-south lane. The building also proposes a reduced tower width above level 37 (RL 131.2 metres). To achieve this slender building form the KHA envelope compensates by increasing the height of "Building B" on the eastern part of the site. Building B has been increased to a height of RL 57.30 metres – the approximate height of Fairfax House adjoining to the south.
29. The KHA scheme responds to Council and CSPC resolutions to increase the height of Building B. However, instead of a commensurate decrease in the height of building A, the KHA scheme envelope for Building A has a reduced floor area above level 37, that is - the height of part of the building has decreased.
30. In January 2010, Valad provided the City with an urban design report to clarify how the winning envelope differs in respect to height, views and shadowing from the development envelope recommended in the UDS. The purpose of the report was to provide an urban design justification for departing from the preferred building envelope in the UDS. A copy of this report is at Attachment F.
31. Valad's report was reviewed by Council officers and was considered sufficient justification to adapt the planning controls in the draft LEP and draft DCP to accommodate the building envelope of the KHA scheme. City officers are satisfied that the impacts of the KHA scheme are not significantly different to the scheme recommended in the UDS, particularly in relation to overshadowing, solar access and views. In addition, the reduced building width above level 37 on Building B as an offset to the additional height of Building B is considered an appropriate outcome and generally consistent with Council and CSPC resolutions, particularly since the impacts of a higher Building B were demonstrated by Valad to be minor in comparison to the UDS preferred envelope.
32. In response to the KHA winning scheme and supporting urban design study, amendments have been made to the draft LEP and draft DCP to accommodate the building envelope. The key amendment made to the draft LEP was to modify the proposed height control map to show building heights consistent with the scheme. The key amendment to the draft DCP is to include an axonometric building control envelope diagram that aims to "lock in" the irregular envelope of the KHA scheme.
33. Valad have indicated that a development application is likely to be lodged in mid 2010. It is planned to exhibit the draft LEP, draft DCP and DA concurrently, in accordance with sections 72I to 72K of the EP&A Act, which allows for the concurrent exhibition of development applications and related LEP amendments. However, City staff have made it clear to Valad that there is risk in lodging a DA that is not compliant with in force planning controls and that even if the alternative planning controls are supported by Council at this stage, there is no guarantee that the draft LEP will be gazetted by the NSW Minister for Planning.

### The Draft DCP

34. To support the controls in the draft LEP, amendments are proposed to DCP1996 to ensure that the Council has a consistent set of planning provisions for the APDG Block. A copy of the draft DCP is at Attachment E and, as mentioned above, is recommended to be publicly exhibited concurrently with the draft LEP.
35. The key amendment proposed in the draft DCP is to expand section “2.12—Design Guidelines for Significant Sites” to include the scheme provided by the Urban Design Study as an alternative scheme in the DCP. As section 2.12 provides specific design guidelines for significant sites within Central Sydney, it is considered appropriate that this section provides design guidance for the APDG Block. The DCP provisions will only apply if the associated LEP provisions are triggered; that is, if proponents opt to use the alternative controls as provided by the draft LEP.
36. The draft DCP includes sections that deal with the following matters:
  - (a) overall objectives for the APDG Block;
  - (b) public domain principles and controls for the internal laneway network and central square;
  - (c) controls for bounding streets;
  - (d) massing and building form;
  - (e) fine grain active uses;
  - (f) building frontage alignment, heights and setbacks;
  - (g) pedestrian access and amenity;
  - (h) vehicular access controls;
  - (i) publicly accessible areas;
  - (j) internal amenity; and
  - (k) skyline design.
37. Where relevant, the draft DCP also includes supporting diagrams for the above matters, and includes an “axonometric” development control envelope diagram to clarify the intended built form outcome for the 1 Alfred Street site. This would effectively “lock in” the KHA winning building envelope. This is consistent with the approach already taken in DCP1996 for the GPO site and draft DCP controls proposed for the Commonwealth Bank “Money Box” site at Martin Place, which were recently placed on public exhibition by the City.

## Economic Analysis

38. In November 2009, the City engaged Preston Rowe Paterson – National Property Consultants (PRP) to undertake an economic analysis of the scheme proposed in the UDS, including an analysis of the proposed draft LEP controls. PRP were asked to advise the City whether the additional heights would provide sufficient economic incentive to land owners to develop in accordance with the preferred option in the UDS. PRP's final report is at Attachment G.
39. PRP's analysis assessed whether the proposed alternative scheme provides sufficient incentive and, if not, they were asked to recommend options for development controls that could incentivise redevelopment of the APDG Block in accordance with the UDS scheme. PRP were asked to provide the City with a temporal analysis; that is, to advise whether the additional height will provide sufficient incentive to trigger redevelopment under 2009 market conditions and at increments of five years (ie, 2014 and 2019).
40. In the economic analysis, PRP's key thesis was that site amalgamations and future land development are only likely when the value of the land for redevelopment exceeds, or is close to exceeding the value of the current built form. The reason for this is that as buildings become functionally obsolete, the value of land is likely to exceed the value of existing buildings, and development is most likely to be triggered under these conditions. PRP's opinion is that in the current subdued real estate market it is unlikely that redevelopment land values would exceed the current built form and, therefore, there is little incentive for redevelopment.
41. Following from this, a key finding of PRP's analysis is that site amalgamation based on height alone would not be triggered on the APDG Block in the current economic and real estate environment. Although it is acknowledged in the analysis that increased height provides a positive effect given that higher elevation would command a higher value and overall value, with increased height comes increased construction costs resulting from direct and indirect development costs. In other words, with the greater value derived from height there are also likely to be greater costs and that, at a certain point, value is subject to the law of diminishing returns where an optimal height is achieved.
42. However, despite the above, PRP are of the view that:

*"...as economic and market conditions improve, the height increases suggested in the Urban Design Study above 110 metres for each of the three development blocks will most likely incentivise site amalgamations given that the land value for redevelopment will exceed current built form value at the time."*
43. Therefore, although some kind of development incentive (in addition to height) may be used to trigger development in the short-term (ie, prior to 2014), property owners are most likely to take up the alternative UDS scheme in the medium term (ie, from 2014). As a result, additional development incentives, such as an FSR bonus, would be unnecessary since market conditions are likely to substantially improve in a 5-10 year time horizon, which is the time anticipated for this development to occur.
44. This is demonstrated in Table 1 below which has been adapted from PRP's analysis. The table compares the estimated values of the three proposed Development Blocks for 2009, 2014 and 2019 and shows:

- (a) existing use value of a Development Block “as is” (Column A);
- (b) highest and best use value of a Development Block under current controls in SLEP2005 (Column B); and
- (c) value of a Development Block based on controls proposed in the UDS (Column C).

45. Table 1 – Comparative Value of Development Blocks

Year	Development Block*	Column A Existing Use Value as is (\$ million)	Column B Highest and Best Use Value Under Current LEP (\$ million)	Column C Value Based on Inclusion in Urban Design Study Development Blocks (\$ million)
2009	1 (south east block – multiple ownership)	207	114	99
	2 (west block - Mirvac)	103	57	49
	3 (north block - Valad)	249	245	255
2014	1 (south east block – multiple ownership)	250	154	349
	2 (west block - Mirvac)	124	78	173
	3 (north block - Valad)	302	313	326
2019	1 (south east block – multiple ownership)	282	194	417
	2 (west block - Mirvac)	140	99	208
	3 (north block - Valad)	342	384	399

\* Refer to *Site Identification Map (Central Sydney – Sheet 3) APDG Site: Development Blocks* in Attachment D which identifies Development Blocks.

- 46. As discussed above, it is PRP’s view that site amalgamations, in accordance with the UDS, will only be incentivised when the land value for redevelopment exceeds the current built form value, that is - when the value in either Column B or C exceeds the value in Column A. It is shown in Table 1 that at current market rates (as of 2009) that development is unlikely to be triggered in accordance with either the UDS scheme or SLEP2005 on Development Blocks 1 and 2, since the values in either Column B or Column C do not exceed column A.
- 47. However, in clear contrast to 2009, by 2014 it is evident that development in accordance with the UDS scheme is likely to occur on all three Development Blocks, since the value of Column C significantly exceeds Column A. It is important to note that development in accordance with existing controls in SLEP2005 is unlikely to occur in 2014 on Development Blocks 1 and 2, since the value of Column B is substantially lower than Column A.
- 48. The desirability of the UDS controls is further reinforced by the values shown for 2019, which show an even more significant positive difference between values in Column C and Column A. Similar to 2014 outcomes, redevelopment is still highly unlikely to occur in accordance with current controls in SLEP2005 for Development Blocks 1 and 2 in preference to the UDS scheme, as land value is still much lower under the current controls in 2019. In fact, redevelopment under existing controls in SLEP2005 is unlikely to occur at all prior to 2019. The key implication of this is that existing low quality development on Development Blocks 1 and 2 is likely to remain in the absence of alternative planning controls.

49. PRP's study found that Development Block 1 is the most problematic from an amalgamation viewpoint, as it is in multiple ownership. Therefore, further measures would be required (other than additional height) to incentivise amalgamation on this block under *current* property market conditions, but not for 2014 as discussed above.
50. PRP's analysis makes four suggestions for development incentives, in addition to height, that could possibly trigger development in accordance with the UDS scheme in the short-term. However, the analysis notes that there is no guarantee that they will trigger site amalgamations in any given market cycle, as there are a number of other factors that can influence outcomes.
51. The four options (or combinations thereof) suggested by PRP include (a) to (d) below, with option (a) being their preferred option:
  - (a) a defined floor space ratio bonus applying to each site if it is amalgamated within the relevant Development Block, particularly Development Block 1;
  - (b) an amendment of Clause 10 of SLEP2005, to allow greater deviation from the other provisions of the LEP, namely FSR and car parking;
  - (c) a waiver of the requirement to acquire half of the additional floor space from Council's transferable heritage floor space register; and
  - (d) treatment of utility components of any redevelopment as being excluded from the calculation for FSR.
52. Despite the suggested options above, as discussed earlier in paragraphs 40 to 45 it is clear from PRP's analysis that additional incentives are unlikely to be necessary; predicated on the presumption that market conditions will improve by 2014.
53. This 2014 time-frame is relatively short in terms of property market cycles and it is considered that there is no imperative to incentivise redevelopment of the APDG Block in the short-term. This is supported by latest figures from the Property Council of Australia's Office Market Report (July 2009) which show that, in the Sydney CBD, all grades office space (excepting D-grade) have experienced large increases in vacancy rates, and that the Sydney CBD has posted the biggest six monthly drop in demand on record.
54. As a result of the outcomes of PRP's economic analysis discussed above, which clearly shows development under the UDS will be viable from 2014, no incentives, other than additional height (as per the UDS recommendation), are proposed in the draft LEP.

#### **Legal Opinion on the draft LEP**

55. In the Section 54(4) notification, the DoP advised that prior to public exhibition Council is to provide details of the legal mechanism proposed to be used in the draft LEP to achieve the alternative development controls and facilitate the transfer of floor space across Development Blocks. The notification requested that Council provide advice that the approach taken is legally enforceable.

56. In response to the Department's request, internal legal advice has been sought to determine if the draft LEP is legally enforceable. The City's Legal Unit advised that the draft LEP can be legally made, as Council has the power to set development standards in respect to land and also has the power to set alternative development standards in certain circumstances, for example, alternative heights and FSRs. The legal advice will be incorporated in the City's Section 64 Report when submitting a copy of the draft LEP to seek certification for public exhibition under the former Section 65 of the EP&A Act.

#### **Council owned site – Queens Court Laneway**

57. The draft LEP affects one Council owned site by potentially allowing development to a height of up to 200 metres above Queens Court laneway. This would become part of a through-site link under the proposed 200m high tower in the south-east corner of the APDG block. As a result, the draft LEP will be exhibited in accordance with the Best Practice Guideline published by the Department of Urban Affairs and Planning in January 1997 titled, "*LEPs and Council Land – Guideline for Councils using delegated powers to prepare LEPs involving land that is or was previously owned or controlled by Council*".
58. The Guideline specifies additional information that must be provided when the draft LEP is placed on public exhibition. The purpose of this additional information is to make clear Council's interest in the land and the reasons why the draft LEP is being prepared. Amongst other things, the Guideline requires Council to exhibit any financial implications resulting from a draft LEP amendment. This will ensure a clear and transparent plan making process and will allow the community to assess the proposal with a full appreciation of all the relevant information

#### **Strategic Alignment - Sustainable Sydney 2030 Vision**

59. The City of Sydney is the engine room of the State's economy, and a significant contributor to the Nation's economy, generating 24% of the State's and 8% of the Nation's gross domestic product (GDP). The Central Sydney area alone is the location of around 214,000 jobs. So that Central Sydney can continue with this important economic function, it must have capacity to grow. However, this growth must not compromise the key amenity factors that attract investment and jobs growth in the City. Balancing these key issues is highlighted in the City's *Sustainable Sydney 2030* vision and the State's Metropolitan Strategy "*City of Cities: A Plan for Sydney's Future*" and *Draft Sydney City Subregional Strategy*. The *City of Sydney Capacity Study 2008* shows that while there is a floor space capacity to allow for jobs growth in the medium term, it recognises there are barriers within and outside of the planning controls to enable this floor space to be realised.
60. To address the above issues, improve urban design outcomes and unlock capacity the City has identified the APDG Block as a strategic site where additional height could be offered in exchange for significant and quantifiable public domain improvements.

#### **RELEVANT LEGISLATION**

61. *Environmental Planning and Assessment Act, 1979.*

62. *Environmental Planning and Assessment Regulation, 2000*
63. *Local Government Act, 1993.*
64. *City of Sydney Act, 1988.*

#### **CRITICAL DATES / TIME FRAMES**

65. It is recommended that the draft LEP and draft DCP be supported, primarily to influence the development outcome for the Valad site at 1 Alfred Street discussed earlier in this report. It is considered that the progression of this DA is an important first step in achieving the current vision for the APDG block and the realisation of the City's intended planning direction for this street block. Should Council resolve to progress the draft LEP and draft DCP to public exhibition, this will provide some degree of certainty for this site's owner and the future character of the entire APDG Block.

#### **PUBLIC CONSULTATION**

##### **Section 62 Consultation**

66. In accordance with the former section 62 of the EP&A Act, the City has notified the following public authorities (and one adjoining Council) of the draft LEP:
  - (a) Energy Australia;
  - (a) Ministry of Transport;
  - (b) North Sydney Council;
  - (c) NSW Department of Planning - Heritage Branch;
  - (d) NSW Department of Planning – Director General;
  - (e) Roads and Traffic Authority of New South Wales (RTA);
  - (f) Rail Corporation New South Wales;
  - (g) State Transit Authority of New South Wales;
  - (h) Sydney Airport Corporation Limited;
  - (i) Sydney Harbour Foreshore Authority;
  - (j) Sydney Metro Authority;
  - (k) Sydney Water Corporation;
  - (l) Telstra Corporation Ltd; and
  - (m) TransGrid.

67. A copy of the Section 54(4) Report (excluding attachments) was sent to each agency for review and six submissions were received from: The Ministry of Transport; RTA, Sydney Water, Energy Australia, Sydney Metro Authority and Sydney Buses (State Transit Authority of New South Wales). No objections were raised to the draft LEP proceeding and submissions were generally supportive of the proposal.
68. However, the submission from Sydney Buses provided several comments summarised as follows:

*Issue*

The draft LEP should not allow for provisions that will impede or allow development that will hinder the operations of bus services in the Circular Quay Precinct.

*Response*

It is unlikely that future development resulting from the provisions in the draft LEP will impact upon bus services and the State Transit Authority will be consulted on all future development applications.

*Issue*

Support for the concept of improving connectivity and amenity around public transport infrastructure.

*Response*

Noted. Development resulting from the provisions in the draft LEP will improve connectivity and amenity around public transport infrastructure.

*Issue*

The precinct cannot sustain any growth in at grade parking and the installation of further parking in the area is not supported.

*Response*

Noted. The draft LEP does not propose any changes to existing parking rates permissible under existing planning controls.

*Issue*

The draft LEP should ensure that driveways or entrance/exit points from the block do not put further strain on existing intersections or disrupt traffic flow.

*Response*

Provisions relating to this matter are not included in the draft LEP. However, the draft DCP proposes a vehicular access plan which aims to keep vehicle entry points to a minimum.

**Public exhibition**

69. Public exhibition will consist of the following planning package:
- (a) *Draft Sydney Local Environmental Plan (Amendment No. 2)*;
  - (b) *Central Sydney Development Control Plan (Draft Amendment No 20)*;
  - (c) Economic Analysis: Floor Space Transfer Recommended in the Alfred, Pitt, Dalley and George Streets Site Urban Design Study prepared by PRP;
  - (d) a written statement prepared in accordance with the Best Practice Guideline titled, "LEPs and Council Land – Guideline for Councils using delegated powers to prepare LEPs involving land that is or was previously owned or controlled by Council"; and
  - (e) other exhibition documentation required by the EP&A Act and its Regulations.
70. Notification of the public exhibition will be placed in the Sydney Morning Herald and local papers, and letters sent to property owners within the APDG Block and in its vicinity. The planning package will be made available for viewing at the City of Sydney Council office locations throughout the local government area and on the City's web site.

**MICHAEL HARRISON**

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