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July 29, 1970



In reply please quote: 7078/A30

The Town Clerk
The Council of the City of Sydney
Town Hall
SYDNEY NSW 2000

Dear Sir:

re: Detail Development Control Plan for Block bounded
by Martin Place, King, Pitt and Castlereagh Streets.

Your Ref: 2136/70 EW/TY

In response to Council's request for advice on this particular
matter, we enclose our report for your consideration.

Yours faithfully
URBAN SYSTEMS CORPORATION PTY LTD

George Clarke, City Planner
Managing Director

Enc.

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Transportation Systems Pty Ltd
Development Implementation Pty Ltd
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REPORT TO THE COUNCIL OF THE CITY OF SYDNEY

Council Reference : 2136/70 EW/TY

USC Reference: 7078/A30

Subject: Detail Development Control Plan
for the Block bounded by Martin Place, King
Pitt and Castlereagh Streets

We have carefully studied and considered the letter from the Minister for Local Government to the Lord Mayor on this subject. We have sought and obtained further information from the Lord Mayor and the City Building Surveyor, who have attended meetings of the "Goodsell Committee" which has been established to consider a plan proposed for this block by the major landowner within it. We were last week kindly permitted to view the model of the proposal and have had the benefit of advice from a number of the consultants associated with us in formulating the Strategic Plan for the City.

Sir John and his Committee, appointed by the Premier, "support the concept of an integrated development" of this city block.

The Minister for Local Government has considered the representations made to him by the Goodsell Committee and the Minister states: "I agree that redevelopment of the whole block on an integrated basis would be a desirable approach. I am aware, of course, that this is in keeping with the announced policies of your Council and I am sure that it would be anxious to secure an overall block redevelopment of this prestige site in the heart of the central business district, if this is at all possible".

The Minister seeks the cooperation of Council in the control of development within the subject block so as to ensure that future development on any part of the block conforms strictly to the provisions of an integrated plan for the whole. The Minister asks that the Council accept responsibility for the preparation of a detailed plan which could be prepared, adopted and administered by Council.

The Goodsell Committee has suggested to the Minister that before Council moves to prepare such a detailed plan, the Minister should suspend the provisions of the County of Cumberland Planning Scheme over the whole block. The

Minister has paid Council the additional courtesy of seeking Council's views on the desirability or necessity for suspension of the Scheme. Council has directed us to report upon the question:-

"Is the preparation and enforcement of a detail plan for the integrated redevelopment of this block likely to prejudice the principles and policies of the Strategic Plan for the City currently being prepared by Council?"

We advise that if the preparation and enforcement of a detail plan for this block is carried out by Council, exercising its powers under Clause 27 of the County Scheme Ordinance, as underscored by Clause 35 of the Minister's Exhibition Ordinance, it will be relatively simple for the detail block plan to be efficiently coordinated with Council's strategic planning process as well as with Council's future development control and action planning for the surrounding precinct.

We have concluded that the circumstances of this particular case and the public interest indicate that the redevelopment of this block should be integrated, and on a substantially comprehensive basis.

We advise that, in detail planning for this block, there will be difficult and urgent questions to determine, particularly regarding the volume of car parking to be permitted, the regulation of the parking facilities, the traffic effects upon the local street system, and the likely effects of development within this block on pedestrian amenity, and upon the character of development on the opposite sides of the surrounding streets. These are already urgent and difficult questions throughout the City and will confront any authority which undertakes to prepare and administer this particular detail development plan. Council must confront and resolve these questions as part of its current strategic and action planning programme. There seems no reason for Council to seek to postpone or relinquish its responsibilities by declining to act quickly and decisively on this particular request from the Minister.

The second question raised by the Minister is whether Council wishes the Minister to go through the procedure of suspension of the provisions of the County Scheme and the gazettal of an Interim Development Order before Council commences the preparation of detailed development control plan for this block. The subject land is zoned "County Centre" in both the County of Cumberland Planning Scheme and in the Draft Statutory City of Sydney Planning Scheme. This zoning presents no actual or potential problems to any conceivable desired development on this block. Suspension is only necessary when the existing zoning does not permit the type of development envisaged. This is not here the case.

Suspension is expedient when the Minister has reason to doubt the bona fides, or the determination, or the practical abilities and resources of a Council to effectively and expeditiously prepare a detail control plan, and/or where the Minister has reason to doubt the willingness or determination of Council to defer or refuse premature development consents during the period of preparation of the plan. If Council has willingness to use its existing powers effectively, then suspension, which enables the matter to be taken out of the hands of Council, is not justified.

We have particularly studied the statutory procedures and legal powers available to Council in planning for and enforcing -

- (i) the amalgamation and integrated development of sites;

and

- (ii) comprehensive developments at the scale of a city block or a city precinct.

These powers of Council derive, inter alia, from Clause 27 of the County of Cumberland Planning Scheme Ordinance, and equally, if not indeed in even more explicit and stronger form, from Clause 35 * of the Minister's Exhibition Draft Ordinance of the City of Sydney Planning Scheme. We have carefully studied relevant principles and precedents in these matters established by Judgements handed down over the years by the Justices of the Land and Valuation Court.

Precedents of detail development planning and control without suspension have been established by Council and The State Planning Authority in the planning and administration of comprehensive redevelopment plans for Woolloomooloo and for Bondi Junction. Similar successful precedents have been set by other Councils, notably Willoughby and Woollahra Councils, in the refusal of premature Development Applications during the preparation of, and the subsequent effective enforcement of, detail plans for the controlled redevelopment of Artarmon, as well as within the Chatswood Business Centre, and over Darling Point. All of these detailed plans achieve the amalgamation of sites and are in the process of achieving the concepts of comprehensive redevelopment where these have been incorporated into detail plans adopted by resolution of a Council as a formal expression of Council's determination of the public interest.

Suspension action was not taken by any of these authorities in any of these cases of recent or current effective detail development planning action. If suspension action was not necessary in Woolloomooloo, Bondi Junction, Artarmon, Chatswood and Darling Point, then there seems no necessity

* See appendix to this Report.

for it in this particular case, where the scale of the problem is so much smaller in area, and no more complex in its ramifications.

Clause 27 of the County Scheme Ordinance and Clause 35 of the Draft City Scheme provide full and proven * power for Councils to defer or if necessary refuse development consents while a detail planning process is in progress or under consideration. These and other powers of Councils are sufficient to permit Council to control the type of development sought in the present instance.

Suspension cannot itself hasten the preparation of a detail plan, or the resolution of differing views among a number of bodies. What can hasten the preparation of a detail or action plan is a resolution of Council so to act, combined with a resolution of Council to instruct its servants and agents to act without unnecessary delay. Suspension cannot obviate the necessity for consultations by Council with a number of other authorities, regulatory bodies and advisory committees. The machinery of suspension, and the framing and gazettal of an Interim Development Order can themselves be sources of delay. Section 342 of the Act, and its complex sub-sections, themselves introduce potential complications and possible sources of delay.

Suspension of the provisions of the County Scheme cannot suspend the operation of the Heights of Building Act, the Heights of Building Advisory Committee, and the powers of the Minister under that Act. Suspension of the County Scheme raises a potential problem of a consequent suspension or amendment to the Statutory Scheme for the City.

* Legal precedent is established, for example, in the Judgement of Mr Justice Else Mitchell in C & H Pty Limited v. Sydney City Council, 1964, reported in Vol. 10 of the Local Government Reports of Australia, page 343 et seq.

RECOMMENDATION

It is recommended that:-

Council concurs with the Minister that redevelopment of the whole of the subject block on an integrated basis is desirable;

In response to the Minister's request, Council resolves to prepare a detail development control plan, to be known as the City of Sydney Action Plan No. 2, for the precinct bounded by the northern alignment of Martin Place, the southern alignment of King Street, the eastern alignment of Castlereagh Street and the western alignment of Pitt Street;

Council advise the Minister that Council is of the opinion that Council possesses sufficient legal power to effectively prepare and implement such a detail development control plan, and requests the Minister not, at this stage, to exercise his powers to suspend the area from the provisions of the County Scheme;

Council resolves to grant not any development consents within the subject area specified above unless and until the aforementioned detail plan has been completed or until Council is satisfied that the public interest in the achievement of an integrated development will not suffer.

APPENDIX TO CONSULTANT'S REPORT

EXTRACT FROM pp. 27 and 28 OF THE MINISTER'S
EXHIBITION ORDINANCE - TOWN AND COUNTRY
PLANNING - CITY OF SYDNEY PLANNING SCHEME -
LOCAL GOVERNMENT ACT 1919 Part XIA.

Consideration of
applications generally.

35. In respect of any application for consent to erect or use a building or to carry out or use a work or to use land, the responsible authority shall take into consideration -

- (a) The character of the proposed development in relation to the character of the development on the adjoining land and in the locality;
 - (b) The size and shape of the parcel of land to which the application relates, the siting of the proposed development and the area to be occupied by the development in relation to the size and shape of the adjoining land and the development thereon;
 - (c) any representations made by any statutory authority in relation to the application or to the development of the area, and the rights and powers of any such authority;
 - (d) any detailed plan or design, adopted by resolution of the responsible authority for the development of the locality in which the land to which the application relates is situated;
 - (e) the existing and future amenity of the neighbourhood;
 - (f) the circumstances of the case and the public interest; and
 - (g) the provisions of the scheme.
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