

1. Council note the contents of the report;
2. The General Manager be authorised to make minor clerical amendments to the DCP amendments which do not change the content and intent of the document;
3. In accordance with Part 3, Clause 21 of the Environmental Planning and Assessment Act Regulation 2000, Council endorse and give public notice of the adoption of the amendments to Inner West Comprehensive DCP for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill as shown at Attachment 1;
 - a. Council provide the Secretary of the Department of Planning and Environment a copy of the DCP amendments pursuant to Part 3, Clause 25 AB of EPA Act Regulation 2000; and
 - b. That a briefing be prepared on the heritage controls of the former Council areas.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

Councillors Iskandar and Marci left the Meeting at 8:52 pm and took no part in the discussion or voting on Item 7 as they had declared an a significant, non-pecuniary interest.

C1117 Item 7 466-480 New Canterbury Road, 26-38 Hercules Street, Dulwich Hill - Planning Proposal

Motion: (Drury/Stamolis)

THAT Council:

1. Receive and note this report;
2. Accepts the role of Relevant Planning Authority for the Planning Proposal at 466-480 New Canterbury Road & 26-38 Hercules Street, Dulwich Hill;
3. Request the Department of Planning and Environment delegate to Council the Plan Making functions to make the LEP amendment;
4. Submits the Proponent's Planning Proposal to the Department of Planning and Environment for a Gateway Determination; and
5. Council reiterates our view that the maximum building height be no greater than 5-6 storeys alongside Dulwich Grove light rail station, and that any planning proposal on the subject land should seek to protect Dulwich Hill public school from overshadowing and privacy impacts.

Item No: C1117 Item 7

Subject: 466-480 NEW CANTERBURY ROAD, 26-38 HERCULES STREET, DULWICH HILL - PLANNING PROPOSAL

Prepared By: Harjeet Atwal - Planning Operations Manager

Authorised By: Gill Dawson - Group Manager Strategic Planning

SUMMARY

Angus Developments Pty Ltd requested a Rezoning Review for a Planning Proposal with the Department of Planning and Environment (DPE) to amend *Marrickville Local Environmental Plan (MLEP) 2011* to rezone land from IN2 - Light Industrial at 466 - 480 New Canterbury Road and 26 - 38 Hercules Street, Dulwich Hill to permit residential, employment and open space. The planning proposal also seeks new development standards for building height and Floor Space Ratio.

The Rezoning Review was considered by the Sydney Eastern City Planning Panel (the Panel) on the 12 October 2017 who determined that the Planning Proposal should proceed to Gateway as the proposal demonstrated both strategic and site specific merit. The Panel has invited Council to be the Relevant Planning Authority (RPA) for this proposal and has requested that Council advise in writing within 42 days of its letter if it would like to be the Relevant Planning Authority (RPA) for this matter.

It is recommended that Council resolve to accept the role of RPA and advises the Panel accordingly. The role of RPA will enable Council to manage and influence the outcomes of the Planning Proposal as well as the process including community consultation.

RECOMMENDATION

THAT Council:

- 1. Receive and note this report;**
 - 2. Accepts the role of Relevant Planning Authority for the Planning Proposal at 466-480 New Canterbury Road & 26-38 Hercules Street, Dulwich Hill;**
 - 3. Request the Department of Planning and Environment delegate to Council the Plan Making functions to make the LEP amendment; and**
 - 4. Submits the Proponent's Planning Proposal to the Department of Planning and Environment for a Gateway Determination.**
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BACKGROUND

On 27 July 2016, Council received a Planning Proposal to amend the MLEP 2011 by:

- Amending the zoning from IN2 Light Industrial to RE1 Public Recreation for the proposed public open space link along the western edge of the site and public open space pocket park on the south-eastern corner of the site, and to B5 Business Development for the remaining land;

- Including a Clause 22 in Schedule 1 Additional permitted uses of MLEP 2011 to permit residential flat buildings throughout the B5 Business Development zone, and neighbourhood shops limited to the north-western corner of the site;
- Amending the height of building (HoB) development standard from no height identified to a mixture of 20 metres, 23 metres and 32 metres, and retaining no HoB control for the area relating to the proposed open spaces and the church; and
- Amending the floor space ratio (FSR) development standard from 0.95:1 FSR to a mixture of 2.2:1, 3.0:1 and 3.3:1 for the mixed use component, 1.2:1 for the church, and no FSR identified for the proposed public open space pocket park on the south-eastern corner of the site.

These changes would enable approximately 156 units and 4 commercial/retail tenancies and the following built form and open space development:

- A built form generally massed to the site edges and provision of a shared central communal open space courtyard;
- 5 storey mixed use development along New Canterbury Road, with retention of the 4 x 2 storey shop facades near Kintore Street corner and ground floor non-residential use (with retail limited to the north-western corner of the site);
- 8 storey, part 9 storey for a minor part fronting Hercules Street, 'landmark' mixed use building massed to the western side of the site adjacent to the light rail/GreenWay corridor, but setback 6 to 8 metres, and setback a minimum of 7.5 metres from the New Canterbury Road boundary;
- 5 storey residential flat building in the central part of Kintore Street side of the site;
- 5 storey, part 6 storey for a minor part fronting Hercules Street, residential flat building in the central part of Hercules Street fronting side of the site;
- Retention and alteration of the Greek Orthodox Church of the Holy Unmercenaries at 28 Hercules Street;
- Public open spaces, consisting of a pocket park on the corner of Hercules and Kintore Street and a strip of land adjacent to the light rail corridor connecting Hercules Street and New Canterbury Road; and
- Basement car park accommodating 29 spaces, with entrance off the middle of the Kintore Street frontage and an additional basement car park accommodating 137 spaces, with entrance off the middle of the Hercules Street frontage.

The Planning Proposal was considered by the Administrator at the 25 July 2017 Council meeting as Item No. C0717 Item 12. The Council report prepared by Council Officers, refer to **ATTACHMENT 1** considered at the Council meeting recommended R4 High Density Residential zone for land fronting Hercules Street, RE2 Public Recreation zone for 28 Hercules Street and any of the land proposed to be zoned RE1 Public Recreation should Council agree not to take ownership and recommended modifications to HOB development standards with corresponding changes to FSR development standards.

The Administrator resolved at the Council meeting that Council defer consideration of the Planning Proposal until the final Sydenham to Bankstown Corridor Urban Renewal Strategy was adopted and this position be conveyed to the DPE for its consideration in relation to any Rezoning Review Application.

On 14 August 2017, the proponent lodged a Rezoning Review Application with the DPE. The proposal lodged was the same as the proponent's proposal considered at the 25 July 2017 Council meeting.

On 12 October 2017, the Panel considered the Planning Proposal and found it demonstrated both strategic and site specific merit and should proceed to Gateway. The Panel also recommended that the delegate amend the planning proposal to:

1. *“Incorporate Inner West Council’s staff recommendations detailed in its report on the planning proposal to the Council meeting of 25 July 2017 (Item CO717 Item 12).*
2. *Ensure an active street frontage to New Canterbury Road;*
3. *Create opportunities for the retention of existing and new employment uses on the site;*
4. *Provide a through site link that supports Council’s Greenway Strategy;*
5. *Include a flexible provision enabling the variation of different zoning height and floor space ratio mapping controls across the site by up to 1 metre horizontally; and*
6. *The 1 metre variation not apply to the open space.”*

Subsequent to the above, Council received a letter on 16 October 2017 (note – The Panel’s letter incorrectly dates the letter as 16 November 2017) inviting Council to be the RPA for this planning proposal and to advise the Planning Panel Secretariat of its decision within 42 days. Refer to **ATTACHMENT 2** and **ATTACHMENT 3** for Panel’s record of decision and letter.

RATIONALE FOR COUNCIL AS THE RELEVANT PLANNING AUTHORITY

While the former Inner West Council Administrator resolved to defer consideration of the Planning Proposal pending a final Sydenham to Bankstown Corridor Urban Renewal Strategy, it was recommended by Council Officers that the Planning Proposal proceed to Gateway determination subject to various changes to the zoning, HOB and FSR developments standards.

The Sydenham to Bankstown Corridor Urban Renewal Strategy was recently re-exhibited and is not final. The land uses and densities have not changed for the subject land between the 2 exhibited draft documents which indicate an 8 storey form for purely residential development next to the Dulwich Hill light rail station and near to the Dulwich Hill public school.

At the 24 October 2017 Council meeting Item No. C1017 Item 21 – Sydenham to Bankstown Urban Renewal Corridor Strategy Submission was considered. Council resolved that there should be a maximum building height of 5-6 storeys alongside Dulwich Hill light rail station, and that any Planning Proposal on the subject land should seek to protect Dulwich Hill public school from overshadowing and privacy impacts.

To ensure Council maintains an active role in influencing the final outcome on the site it is recommended that Council accept the RPA role for this matter. As RPA Council will have greater ability to negotiate on behalf of the community in seeking to achieve the best possible outcome on the site.

Council Officers have worked collaboratively with the proponent to achieve a better design and community benefit which are detailed in the Council report of 25 July 2017. This continuity of Council knowledge and input should be leveraged to ensure high quality urban design and public domain outcomes.

If the DPE is nominated as the RPA, we risk a situation similar to the Lords Road Planning Proposal where the DPE did not amend the Planning Proposal or negotiate to address concerns raised during community consultation.

Council may also miss the opportunity for a Voluntary Planning Agreement (VPA) as was the case with Lords Road. Likely community benefits are affordable housing, open space provision and embellishment, retention of historical buildings and creation of a pedestrian through site link.

This report recommends submitting the Proponent's Planning Proposal for a Gateway Determination and recommending amendments in accordance with Council's Officers report considered at the 25 July 2017 Council meeting. It is noted as RPA, Council can only submit the Planning Proposal that the Proponent lodged with the Rezoning Review application to Gateway.

Consequently, the role of RPA will not compromise Council's ability to support or not support the Planning Proposal.

FINANCIAL IMPLICATIONS

The Proponent has submitted an offer to enter into a VPA. The revised VPA offer will be the subject of evaluation and negotiation with the proponent.

The final terms of the offer can be finalised after a Gateway Determination and prior to the final determination of the Planning Proposal. Matters for consideration could include affordable housing, open space provision and public domain improvements.

With Council as the RPA there will be a greater capacity to negotiate positive benefits for the community.

OTHER STAFF COMMENTS

PUBLIC CONSULTATION

No public consultation has been undertaken to date.

Statutory public consultation processes will be undertaken at the next stage in the assessment of the planning proposal. This process would be administered by Council whether it accepts the RPA role or not.

Council's standard community engagement framework includes exhibition for at least 28 days with notification:

- on the Inner West Council Your Say website
- in the Inner West Courier
- in writing to the owners and occupiers of adjoining and nearby properties

The outcomes of the public authority consultation and public exhibition would be reported to Council.

CONCLUSION

It is recommended that Council write to the Planning Panel Secretariat and accept the role of RPA to give it more influence over the Planning Proposal and final design and planning outcomes, seek delegation of the plan making function and submit the proponent's Planning Proposal request.

ATTACHMENTS

1. Item No. C0717 Item 12 - Council Officer Report for Planning Proposal considered at 25 July 2017 Council Meeting
2. Sydney Eastern City Planning Panel Record of Decision
3. Sydney Eastern City Planning Panel Letter to Council Inviting to be RPA