

ITEM 7. 301-303 BOTANY ROAD, ZETLAND (GREEN SQUARE TOWN CENTRE) – SITE UN-DEFERRAL**FILE NO: S100173****SUMMARY**

The Green Square Town Centre is identified as a 'Planned Major Centre' in the NSW Government's *Metropolitan Plan for Sydney 2036* and the new centre of the Green Square village in the City's *Sustainable Sydney 2030* strategy. It will make a substantial contribution to the *Sustainable Sydney 2030* targets and directions that pursue sustainable urban renewal, high quality design, sustainable forms of transport and affordable housing.

The subject of this report is the land at 301-303 Botany Road, Zetland (the site) which comprises Development Site 6 within the Green Square Town Centre. The current owners are Crown Green Square Pty Ltd, Sathio Investments Pty Limited and Crown Cornerstone Investments Pty Limited.

The *South Sydney Local Environmental Plan 1998* (South Sydney LEP) was amended in December 2006 to facilitate the development of the Town Centre for residential and commercial uses. The amended zoning and planning controls were established as a 'deferred matter' under Section 59(3) of the *Environmental Planning and Assessment Act 1979*.

This deferral mechanism has been used to ensure the delivery of essential civil infrastructure to support the Town Centre prior to enabling individual development sites to take advantage of the planning controls. The trigger for 'un-deferring' land is a commitment, in this case captured within a voluntary planning agreement, by the landowner and/or developer to contribute to the delivery of the essential infrastructure.

On the subject site, the South Sydney LEP controls were 'un-deferred' in conjunction with the voluntary planning agreement executed in October 2011. The agreement continues to apply to future development on the site.

Following 'un-deferral' of the site from the South Sydney LEP, Council prepared and publicly exhibited the *Planning Proposal Sydney Local Environmental Plan 2010 (Green Square Town Centre) – Sites 301 Botany Road, 501 Botany Road, 509 Botany Road, 3 Joynton Avenue, 511-515 Botany Road, 97-115 Portman Street, 811 Elizabeth Street, Zetland; 312-318 Botany Road, 320-322 Botany Road, 324 Botany Road, 318A Botany Road, 6-12 O'Riordan Street and 2A Bourke Road, Alexandria* (the Planning Proposal) and draft Green Square Town Centre Development Control Plan 2012 (Town Centre DCP). The Planning Proposal and draft Town Centre DCP contained revised planning controls for the Town Centre.

Following public exhibition, on 2 April 2012 and 29 March 2012, Council and the Central Sydney Planning Committee (CSPC), respectively, approved the Planning Proposal for making as a local environmental plan (LEP). The Town Centre LEP and DCP came into effect on 6 September 2013, but are also 'deferred' with respect to the site.

Recently the landowner has sought to enter into a new voluntary planning agreement (draft planning agreement) with Council for the provision of public infrastructure. The draft planning agreement is proposed to replace the 2011 agreement. Council, at its meeting on 25 August 2014, approved for public exhibition the draft planning agreement.

In conjunction with the draft planning agreement, and subject to its execution by the Chief Executive Officer, this report recommends CSPC approve the 'un-deferral' of the subject site so that the landowner may develop in accordance with the provisions for the site in the Town Centre LEP and associated Town Centre DCP. The purpose of the un-deferral is to:

- align the future development of the site with the most recent revision of the primary planning controls relating to the site, being the Town Centre LEP;
- facilitate a more flexible approach to floor space allocation;
- ensure the future development of the site is consistent with the current objectives and strategies contained in the Town Centre DCP for an inviting and diverse urban place; and
- allow for the draft planning agreement to be aligned with other planning agreements in the Town Centre.

It is noted that at its meeting of 21 February 2013, the CSPC approved a Stage 1 Development Application (DA) on the site to establish building envelopes and indicative site layout for future mixed use development. The approval is under the South Sydney LEP and is for a mix of residential and retail uses and basement car parking. 'Un-deferral' of the site will facilitate some change to the approved envelopes and uses in future Stage 2 DAs that are consistent with the most recent controls applying to the Town Centre.

RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee note that on 25 August 2014 Council delegated authority to the Chief Executive Officer to:
- (i) prepare and publicly exhibit a draft planning agreement for the site at 301-303 Botany Road, Zetland; and
 - (ii) make any minor changes to the draft planning agreement to finalise matters raised during public exhibition and execute the draft planning agreement;
- (B) the Central Sydney Planning Committee note that the report to the Planning and Development Committee on 9 September 2014 recommends that Council request the Minister for Planning un-defer land at 301 – 303 Botany Road, Zetland in accordance with Section 59 of the *Environmental Planning and Assessment Act*, subject to execution of the planning agreement by the Chief Executive Officer and the landowner; and

- (C) subject to execution of the planning agreement by the Chief Executive Officer and the landowner, approve the un-deferral of the land at 301 – 303 Botany Road, Zetland from *Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013* to give effect to *Planning Proposal: Sydney Local Environmental Plan 2010 (Green Square Town Centre) – Sites 301 Botany Road, 501 Botany Road, 509 Botany Road, 3 Joynton Avenue, 511-515 Botany Road, 97-115 Portman Street, 811 Elizabeth Street, Zetland; 312-318 Botany Road, 320-322 Botany Road, 324 Botany Road, 318A Botany Road, 6-12 O’Riordan Street and 2A Bourke Road, Alexandria*, to the extent that it applies to the subject land.

ATTACHMENTS

Nil.

BACKGROUND

1. This report recommends the Central Sydney Planning Committee (CSPC) approve the 'un-deferral' of planning controls at 301-303 Botany Road, Zetland (the site) from the *Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013* (the Town Centre LEP). The purpose of the un-deferral is to:
 - (a) align the future development of the site with the most recent revision of the primary planning controls relating to the site, being the Town Centre LEP;
 - (b) ensure the future development of the site is consistent with the objectives and strategies contained in the Town Centre DCP for an inviting and diverse urban place; and
 - (c) allow for the draft planning agreement for the site, that was approved by Council for public exhibition on 25 August 2014, to be aligned with other planning agreements in the Town Centre.

2. The site comprises Development Site 6 within the Green Square Town Centre (the Town Centre), as shown in Figure 1. The land was formerly owned by John Newell Pty Ltd and is now owned by Crown Green Square Pty Ltd, Sathio Investments Pty Limited and Crown Cornerstone Investments Pty Limited.

Figure 1 – Green Square Town Centre layout and subject site



SITE IDENTIFICATION PLAN
301-303 Botany Road, Zetland
Green Square Town Centre



3. A voluntary planning agreement between the landowner and Council applies to the site. The agreement was executed in October 2011 and was entered into by John Newell Pty Ltd, the previous landowner. The new owners of the site remain subject to the provisions of the agreement.
4. Recently the landowner has sought to enter into a new voluntary planning agreement (draft planning agreement) with Council for the provision of public infrastructure. The draft planning agreement is proposed to replace the 2011 agreement.
5. The proposed terms of the draft planning agreement generally reflect those that had been agreed in 2011. Key terms include:
 - (a) the dedication to Council of 231 square metres of land in fee simple for the construction of the Green Square Library and Plaza;
 - (b) the dedication to Council of 347.5 square metres of land in fee simple for the widening of the Botany Road and Bourke Road footpaths and the construction of the new footpath;
 - (c) the payment to Council of a cash contribution for 'essential infrastructure' in accordance with the 'Development Rights Scheme' in the *Green Square Town Centre Infrastructure Strategy (2006)*, less the cost of any works-in-kind delivered for public domain;
 - (d) provision of a publicly accessible path, and ancillary signage, linking the retail car park on the subject site to the Green Square Library; and
 - (e) the design and construction of any proposed building to be capable of being connected to the Green Infrastructure that is to be provided by Council to the boundary of the site.
6. The draft planning agreement also includes revised provisions in relation to Green Infrastructure, early dedication of land for the Green Square Plaza and Library and removal of a Side Deed. The Side Deed set out the obligations of the Council with respect to the delivery of green infrastructure services. It will also facilitate a licence for early access to dedication land in order to undertake infrastructure works and works related to the Green Square Library and Plaza.
7. Council, on 25 August 2014, approved for public exhibition the draft planning agreement.

Planning controls

8. The *South Sydney Local Environmental Plan 1998* (South Sydney LEP) was amended in December 2006 to facilitate the development of the Town Centre for residential and commercial uses. Prior to that, the land was zoned for industrial purposes.
9. The amended zoning and planning controls were established as a 'deferred matter' under Section 59(3) of the *Environmental Planning and Assessment Act 1979*.

10. This deferral mechanism has been used to ensure the delivery of essential civil infrastructure to support the Town Centre prior to enabling individual development sites to take advantage of the planning controls. The trigger for 'un-deferring' land is a commitment, in this case captured within a voluntary planning agreement, by the site owner and/or developer to contribute to the delivery of essential infrastructure to enable the orderly development of the Town Centre.
11. The South Sydney LEP controls on the site were 'un-deferred' in conjunction with the voluntary planning agreement executed in October 2011 and the site is currently zoned *11(a) Green Square Town Centre* under the South Sydney LEP, which facilitates residential, retail and commercial development. The *South Sydney Development Control Plan 1997: Urban Design* (South Sydney DCP) is the relevant DCP for sites seeking to develop under this LEP.
12. Following 'un-deferral' of the site from the South Sydney LEP, Council prepared and publicly exhibited the *Planning Proposal Sydney Local Environmental Plan 2010 (Green Square Town Centre) – Sites 301 Botany Road, 501 Botany Road, 509 Botany Road, 3 Joynton Avenue, 511-515 Botany Road, 97-115 Portman Street, 811 Elizabeth Street, Zetland; 312-318 Botany Road, 320-322 Botany Road, 324 Botany Road, 318A Botany Road, 6-12 O'Riordan Street and 2A Bourke Road, Alexandria* (the Planning Proposal) and draft Green Square Town Centre Development Control Plan 2012 (Town Centre DCP). The Planning Proposal and draft Town Centre DCP contained revised planning controls for the Town Centre.
13. Following public exhibition, on 2 April 2012 and 29 March 2012, Council and the CSPC, respectively, approved the Planning Proposal for making as an LEP. The Town Centre LEP and DCP came into effect on 6 September 2013, but are also 'deferred' with respect to the site.
14. On 6 September 2013, the Town Centre LEP came into effect. The Town Centre LEP contains slightly varied planning controls for the site, but again the provisions are 'deferred' from operation. The relevant DCP for sites seeking to develop under the Town Centre LEP is the *Green Square Town Centre DCP 2012* (Town Centre DCP).
15. Until such time as the site is 'un-deferred' from the Town Centre LEP, the relevant planning controls are the South Sydney LEP and DCP.
16. The site is the only site in the Town Centre that is subject to the South Sydney LEP and DCP. Other sites within the Town Centre, for which there is a planning agreement, have been 'un-deferred' under the Town Centre LEP and DCP.
17. To the extent of the subject site, the differences between the South Sydney LEP and the Town Centre LEP planning controls are minimal with the maximum floor space ratio (FSR) and height controls remaining generally the same. The key difference is the generally more prescriptive approach of the South Sydney LEP in allocating floor space between residential and retail development, while the Town Centre LEP remains silent on the floor space distribution.

18. The Town Centre DCP provides for substantially different controls across the Town Centre to those in the South Sydney DCP. On the subject site, the Town Centre DCP provides for a varied building alignment and the removal of a through-site link. Allowing the future development to respond to the Town Centre DCP will ensure it responds to the most recent review of planning controls and that it is consistent and responds to what will be achieved on adjoining sites, including the Green Square Library and Plaza.
19. The Town Centre LEP planning controls for the site are contained in the *Planning Proposal Sydney Local Environmental Plan 2010 (Green Square Town Centre) – Sites 301 Botany Road, 501 Botany Road, 509 Botany Road, 3 Joynton Avenue, 511-515 Botany Road, 97-115 Portman Street, 811 Elizabeth Street, Zetland; 312-318 Botany Road, 320-322 Botany Road, 324 Botany Road, 318A Botany Road, 6-12 O’Riordan Street and 2A Bourke Road, Alexandria* (the Planning Proposal). The following are the main controls that are proposed to apply to the site:
 - (a) zoned B4 Mixed Use;
 - (b) maximum FSR of 6.55:1 which generates a gross floor area (GFA) of 35,822 square metres and, where Design Excellence provisions are applied, a maximum FSR of 7.2:1 which generates a maximum GFA of 39,404 square metres;
 - (c) maximum building heights ranging from 18 storeys on the northern portion of the site, interspersed with 10 and 8 storey heights along the Green Square Library and Plaza to facilitate sun access;
 - (d) the provision of land for the public domain for the Green Square Library and Plaza and for footpath widening on Botany Road and Bourke Street; and
 - (e) a publicly accessible path linking the retail car park on the subject site to the Green Square Library.

Development application

20. On 21 February 2013, the CSPC approved a Stage 1 Development Application on the site to establish building envelopes and indicative site layout for future mixed use development, including residential and retail uses and basement car parking.

KEY IMPLICATIONS

Strategic Alignment

21. *Sustainable Sydney 2030* is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. Development in the Town Centre has the potential to realise many *Sustainable Sydney 2030* objectives. Of particular relevance are:
 - (a) Direction 2 - A Leading Environmental Performer - sets measurable targets to drive down the City’s environmental footprint by reducing greenhouse gas emissions by 70% compared to 1990 levels by 2030. The current and proposed voluntary planning agreement will ensure that all development can be connected to planned Green Infrastructure network.

- (b) Direction 3 - Integrated Transport for a Connected City - will provide for a City that is connected, accessible, easy to get to and easy to get around. The Town Centre is pivotal to the Integrated Inner City Transport Network and achieving an important public transport oriented hub in the south of the City. The current and proposed voluntary planning agreement will enable development that will enhance connectivity to the Green Square Station, the Town Centre and the adjacent neighbourhoods.
- (c) Direction 8 - Housing for a Diverse Population – will build on Sydney's character as a city of diversity and equity, with a place for everyone. It recognises that the lack of affordable housing is an increasing challenge in inner Sydney. In developing the site, the landowner will make a cash or in-kind contribution to provision of affordable housing under the Green Square Affordable Housing Scheme.
- (d) Direction 9 - Sustainable Development, Renewal and Design - responds to the sustainability and environmental imperatives facing our cities. The Town Centre is identified as the centre of the Green Square village. It will act as an exemplar for sustainable development and community infrastructure. The application of design excellence objectives will deliver high quality buildings and public domain.

RELEVANT LEGISLATION

- 22. *Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000.*

PUBLIC CONSULTATION

- 23. The Planning Proposal, which contains the planning controls for the site, was publicly exhibited in 2010. Submissions were considered by Council prior to adopting the Planning Proposal in 2012. No additional public consultation is required or proposed to 'un-defer' the site in the Town Centre LEP.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Tamara Bruckshaw, Senior Specialist Planner)