

ITEM 6. UN-DEFERRAL OF PLANNING CONTROLS - 811 ELIZABETH STREET ZETLAND (GREEN SQUARE TOWN CENTRE) - PUBLIC EXHIBITION OF DRAFT PLANNING AGREEMENT**FILE NO: X007827****SUMMARY**

This report seeks approval to commence the process to put into effect (or 'un-defer') the planning controls for 811 Elizabeth Street, Zetland, in the Green Square town centre.

The Green Square town centre is identified as a 'Strategic Centre' in the NSW Government's *A Plan for Growing Sydney* (2014). Priorities for this centre are to deliver mixed-use development, including offices, retail, services and housing. The town centre will be the lively residential, commercial and cultural heart of the Green Square community. 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, the site at 811 Elizabeth Street, Zetland, comprises 'Development Site' 14. It is located on the eastern boundary of the town centre, at the north-western intersection of Joynton Avenue and the new Zetland Avenue.

The site's current owner is AMHA Properties Pty Ltd. Karimbla Properties (no. 56) Pty Ltd, part of the Meriton Group, is in the process of purchasing the site; settlement is expected in April 2018.

The 'deferred' planning controls for the site are contained in *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 term 'deferred' is used in the context of the *Environmental Planning and Assessment Act 1979* that allows the Minister for Planning (or delegate) to defer the inclusion of a matter in a proposed local environmental plan.

On 2 April 2012 and 29 March 2012, Council and the Central Sydney Planning Committee, respectively, approved the planning proposal for making as a local environmental plan. Approval was subject to the provisions being 'deferred' from operation until planning agreements for the delivery of essential civil and public domain infrastructure to service development in the town centre were agreed between Council and individual landowners. The *Green Square Town Centre Infrastructure Strategy* (2006) provides the basis for the terms of an agreement.

Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013 (the Town Centre LEP) puts into effect the planning proposal. It was first published on 6 September 2013 with 'un-deferral' of two Development Sites, including the City West Housing site on Portman Street.

The provisions in the Town Centre LEP were 'deferred' for the remainder of the sites, including the subject site. The site's current zoning is Zone 4(a) General Industrial under the *City of Sydney Planning Scheme Ordinance 1971*.

Both Karimbla Properties (no. 56) Pty Ltd and AMHA Properties Pty Ltd have submitted letters of offer to the City to enter into a planning agreement for the provision of public infrastructure and have requested the site be 'un-deferred'. Discussions on the planning agreement are ongoing, as the parties work to finalise the detail of the terms and conditions of the agreement. The terms of the final agreement will be consistent with the *Green Square Town Centre Infrastructure Strategy (2006)* and *Sustainable Sydney 2030* directions, and will include the delivery of the following public benefits:

- monetary contribution of \$3,080,000 (December 2005 value to be indexed to CPI) towards essential infrastructure in accordance with the *Green Square Town Centre Infrastructure Strategy (2006)*, less the cost of public domain works delivered by the developer;
- dedication of 1,833.1 square metres of land for the future Zetland Avenue and a new public lane/pedestrian/bike link;
- developer's works to construct the new lane/pedestrian/bike link and complete a portion of Zetland Avenue; and
- design and construction of any proposed building to meet the City's Green Infrastructure requirements for recycled water, energy efficiency and air conditioning refrigerant.

The City is currently preparing to construct Zetland Avenue, a portion of which will be on the site. Karimbla Properties (no. 56) Pty Ltd, AMHA Properties Pty Ltd and the City intend to enter into a Licence Agreement. This agreement will allow the City and its contractors access to the southern portion of the site to construct that portion of Zetland Avenue and then vacate the property before the development commences. Under the proposed Licence Agreement, the landowner will complete some of the surface finishes and above ground elements to this portion of Zetland Avenue as part of the development. This will be in accordance with their obligations under the planning agreement, prior to the land being dedicated to Council as a new public road.

This report recommends that authority be delegated to the Chief Executive Officer to negotiate, finalise and publicly exhibit the planning agreement to include the above public benefits. In addition, it is recommended authority be delegated to the Chief Executive Officer to execute the planning agreement, only if the public exhibition and any further discussions with the landowner do not result in any significant change to the terms of the agreement.

This report also recommends that authority be delegated to the Chief Executive Officer to negotiate, finalise and execute a Licence Agreement to allow the City and its contractors access to the southern portion of the site to construct a portion of Zetland Avenue before the development commences.

The report further recommends that, once the planning agreement is executed in accordance with the terms outlined above, the Central Sydney Planning Committee give approval to request that the Minister for Planning 'un-defer' the provisions for the site under the Town Centre LEP.

RECOMMENDATION

It is resolved that:

- (A) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 31 July 2017 that authority be delegated to the Chief Executive Officer to prepare and publicly exhibit a draft planning agreement for the site at 811 Elizabeth Street, Zetland, in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979*, that will require the landowner to deliver the following public benefits:
- (i) a monetary contribution of \$3,080,000 (December 2005 value to be indexed to CPI) towards essential infrastructure in accordance with the *Green Square Town Centre Infrastructure Strategy* (2006), less the cost of public domain works delivered by the developer;
 - (ii) the dedication of 1,833.1 square metres of land for the future Zetland Avenue and a new lane/pedestrian/bike link;
 - (iii) developer's works to construct the new lane/pedestrian/bike link and complete a portion of Zetland Avenue; and
 - (iv) the design and construction of any proposed building to meet the City's Green Infrastructure requirements for recycled water, energy efficiency and air conditioning refrigerant;
- (B) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 31 July 2017 that following public exhibition of the draft planning agreement, authority be delegated to the Chief Executive Officer to make any minor changes to the draft planning agreement to finalise matters raised during public exhibition and execute the planning agreement, subject to the planning agreement remaining consistent with the terms detailed in clause (A) above;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 31 July 2017 that authority be delegated to the Chief Executive Officer to negotiate, finalise and execute a Licence Agreement to allow the City and its contractors access to the southern portion of the site to construct a portion of Zetland Avenue prior to the development commencing;
- (D) subject to execution of the planning agreement by the Chief Executive Officer and the landowner in accordance with the terms detailed in clauses (A) and (B) above, that the Central Sydney Planning Committee approve the un-deferral of the land at 811 Elizabeth Street, Zetland, from *Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013* and 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; and

- (E) the Central Sydney Planning Committee note the recommendation to Council's Planning and Development Committee on 31 July 2017 that, subject to execution of the planning agreement by the Chief Executive Officer and the landowner in accordance with the terms detailed in clauses (A) and (B) above, Council will request that the Minister for Planning un-defer the land at 811 Elizabeth Street, Zetland.

ATTACHMENTS

Attachment A: Public benefit offer letter from Karimbla Properties (no. 56) Pty Ltd

Attachment B: Public benefit offer letter from AMHA Properties Pty Ltd

Attachment C: Green Square Town Centre DCP 2012 - Extracts

BACKGROUND

1. The Green Square Town Centre is identified as a 'Strategic Centre' in the NSW Government's *A Plan for Growing Sydney* (2014). Priorities for this strategic centre are to deliver mixed-use development, including offices, retail, services and housing. The town centre will be the lively residential, commercial and cultural heart of the Green Square community. 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.
2. The land at 811 Elizabeth Street, Zetland (the site) comprises 'Development Site' 14 within the Green Square town centre. It is located on the eastern boundary of the town centre, at the north-western intersection of Joynton Avenue and the new Zetland Avenue. Its locality and infrastructure context is shown at Figures 1 and 2.
3. The site's area is 9,771 square metres and is currently owned by AMHA Properties Pty Ltd. Karimbla Properties (no. 56) Pty Ltd is in the process of purchasing the site; settlement is expected in April 2018.

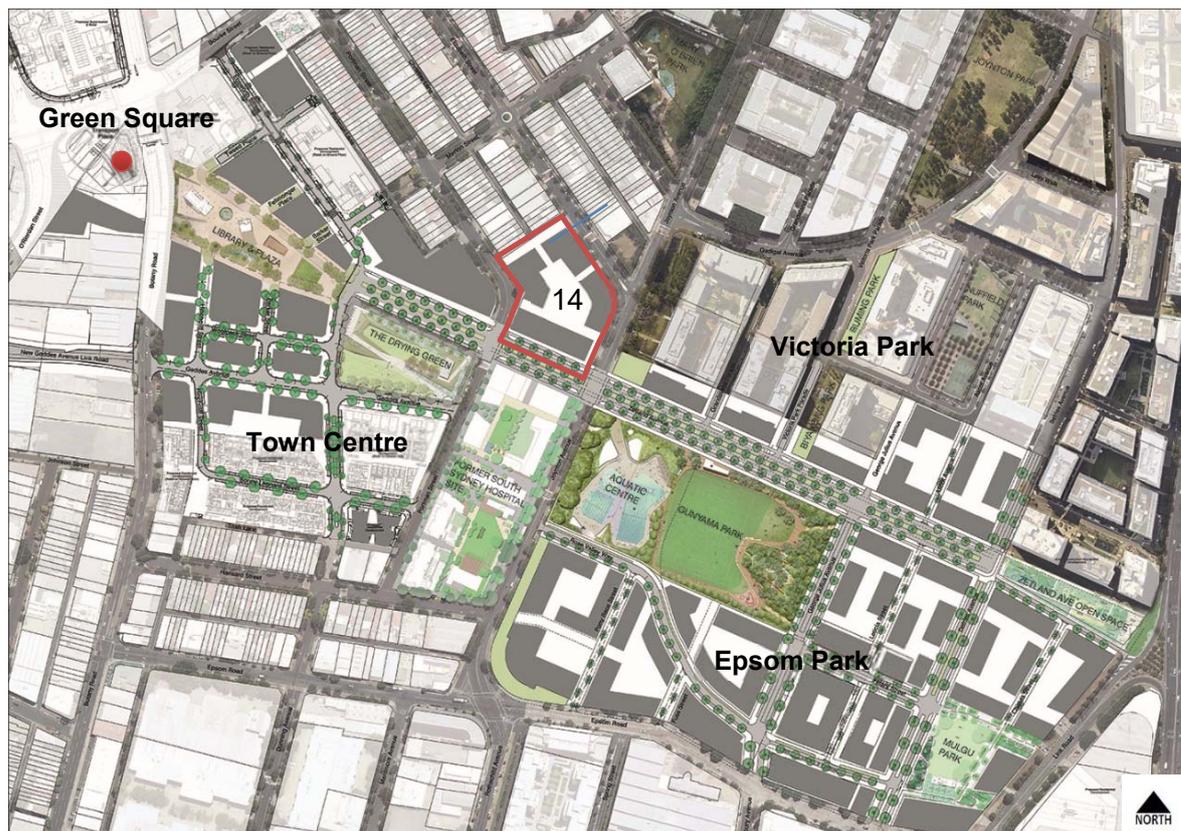
Figure 1: 'Development Site' 14 within local context

Figure 2: 'Development Site' 14 within the town centre context, essential infrastructure land shown hatched



4. The site's current zoning is Zone 4a General Industrial under *City of Sydney Planning Scheme Ordinance 1971* (the Planning Scheme).
5. The proposed planning controls for the site are contained in *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).

6. Section 59 of the *Environmental Planning and Assessment Act 1979* allows the Minister (or delegate) to 'defer' certain provisions and/or parts of land within a draft local environmental plan from being made. This process is known as 'deferral'.
7. Council, on 2 April 2012, and the Central Sydney Planning Committee (CSPC), on 29 March 2012, approved the planning proposal for making as a local environmental plan, but with the provisions being 'deferred' from operation. The 'deferral' is to ensure the commitment from landowners for the timely delivery of essential civil and public domain infrastructure to support redevelopment permitted under the new planning controls. The controls allow mixed uses, including residential, and significantly more development capacity than can be achieved under the current controls under the Planning Scheme.
8. *Green Square Town Centre Development Control Plan 2012* (the Town Centre DCP) was also approved by Council on 2 April 2012. It contains detailed built form and public domain controls. Attachment C contains images extracted from the DCP showing anticipated development on the site.
9. Once individual land owners choose to participate in the development of the town centre and offer to contribute to the delivery of infrastructure, the planning controls can be 'un-deferred'. The offer is detailed in a planning agreement between the landowner and Council. The *Green Square Town Centre Infrastructure Strategy* (2006) provides the basis for the terms of an agreement.
10. *Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013* (the Town Centre LEP) puts into effect the planning proposal. It was first published on 6 September 2013 at which time it 'un-deferred' the provisions for two sites: the 'Hatbands' site at 511-515 Botany Road, Zetland; and the City West Housing site at 130 Portman Street, Zetland. Satisfactory arrangements for the delivery of essential infrastructure had been made at the time between Council and the landowners for the 'un-deferral' of those sites.
11. At that time, the provisions in the Town Centre LEP were 'deferred' for the remainder of the sites, including the subject site. Therefore, the site's current zoning is Zone 4(a) General Industrial under the Planning Scheme. Other sites have since been 'un-deferred' and construction of buildings and public domain infrastructure is progressing at a fast pace.
12. The site and its surrounds are set to undergo a radical transformation over the next 10 years to realise a mixed use precinct defined by fine grain and tree-lined streets, parks and plazas. When fully developed after 2025, the town centre is projected to accommodate close to 3,900 dwellings, home to about 7,500 residents, and 8,500 workers.

Request to un-defer and public benefit offer

13. Karimbla Properties (no. 56) Pty Ltd and AMHA Properties Pty Ltd have provided letters of offer to enter into a planning agreement to 'un-defer' the site under the Town Centre LEP. A copy of the letters of offer is included at Attachments A and B.
14. The offers satisfy the City's infrastructure provision requirements. They are consistent with the *Green Square Town Centre Infrastructure Strategy* (2006) and the public domain provisions under the Town Centre DCP.

15. If Council and the CSPC endorse the recommendations in this report, the City will request the Minister for Planning (or delegate) that the planning controls, as they apply to the site only, be published on the NSW Legislation website. This will only happen once the planning agreement is finalised after public exhibition and registered on the property title. Once published, the new controls will be in force and the development potential unlocked.

Un-deferred planning controls

16. The following main controls will apply to the subject site, once un-deferred:
- (a) Zone B4 Mixed Use;
 - (b) maximum floor space ratio (FSR) of 2.31:1 which generates a gross floor area of 22,571 square metres. Subject to a successful competitive design process, up to 10 per cent additional floor space may be awarded, achieving a maximum FSR of 2.55:1 which generates a total gross floor area of 24,873 square metres;
 - (c) maximum building heights are set in Reduced Levels (RL) in the Town Centre LEP. Reduced Levels measure height above mean sea level. They range from RL 35.3 (four storeys) fronting the lane/pedestrian/bike link to RL 69.3 (12 storeys) fronting Zetland Avenue. The Town Centre DCP sets the height of buildings in storeys, ranging from four to six storeys on Elizabeth and Portman Streets and eight to 10 storeys on Zetland Avenue;
 - (d) where a successful competitive design process is undertaken, the heights on Zetland Avenue may be increased to 10 and 12 storeys. The height of buildings in Reduced Levels in the Town Centre LEP, described in paragraph 16(c) above, is the maximum height permitted inclusive of any potential additional floor space that may be awarded through a competitive design process; and
 - (e) the provision of building setbacks for landscaping and public domain dedication for:
 - (i) a lane/pedestrian/bike link between Elizabeth and Portman Streets;
 - (ii) northern portion of Zetland Avenue; and
 - (iii) landscape setbacks on Elizabeth Street.
17. The letters of offer from Karimbla Properties (no. 56) Pty Ltd and AMHA Properties Pty Ltd propose the dedication of land and delivery of the public domain infrastructure identified in the Town Centre DCP.
18. City staff have had preliminary discussions with Meriton Group on building envelopes. If Council and the CSPC approve the site un-deferral and the planning agreement is finalised in accordance with the approved terms, it is anticipated the incoming owner of the site will lodge a development application and undertake a competitive design process early in 2018.

Draft planning agreement

19. City staff have commenced preparation of a draft planning agreement that incorporates the civil and public domain infrastructure necessary for 'un-deferral' of the planning controls.
20. In summary, the key elements of the draft planning agreement are:
 - (a) a monetary contribution of \$3,080,000 (December 2005 value to be indexed to CPI) towards essential infrastructure in accordance with the *Green Square Town Centre Infrastructure Strategy (2006)*, less the cost of any works-in-kind delivered for public domain;
 - (b) the dedication of 1,833.1m² of land for the future Zetland Avenue and a new laneway/pedestrian/bike link;
 - (c) developer's works to construct the new laneway/pedestrian/bike link and complete a portion of Zetland Avenue; and
 - (d) the design and construction of any proposed building to meet the City's Green Infrastructure requirements for recycled water, energy efficiency and air conditioning refrigerant, as detailed below.
21. Planning agreements for development sites within the Green Square town centre include Green Infrastructure requirements to ensure that all buildings:
 - (a) are constructed to be capable of providing dual reticulation water system for water consumption, with the system being capable of fully connecting to the Non-potable Water Network provided by Council in Green Square and configured to supply all toilets, washing machine taps, car wash bays, cooling towers and irrigation usage;
 - (b) are designed and configured to make as much use as practical of renewable energy sources for domestic hot water;
 - (c) use Inverter air conditioning units for space heating that have an Energy Efficiency Rating of 4.0 or more;
 - (d) use Inverter air conditioning units for space cooling that have an Energy Efficiency Rating of 3.5 or more;
 - (e) use chilled water air conditioning or space cooling for retail spaces with a combined floor area in excess of 2,000 square metres;
 - (f) use air conditioning refrigerants with a low Global Warming Potential; and
 - (g) have a high standard of energy efficiency through the design of the buildings, as measured by the BASIX Energy Score.
22. The draft planning agreement will not affect the Section 94 contributions applicable under the *City of Sydney Development Contributions Plan 2015*, which will be levied at the development consent stage.

23. The draft planning agreement will not affect the contributions for affordable housing required under the Town Centre LEP. These contributions are to be levied at the development consent stage in accordance with the plan.
24. It is recommended that authority be delegated to the Chief Executive Officer to finalise the terms of the draft planning agreement on behalf of Council, for public exhibition for a minimum of 28 days.
25. It is also recommended that authority be delegated to the Chief Executive Officer to execute the draft planning agreement with the landowner if, following advertising or further discussions with the landowner, the terms in the agreement remain consistent with the terms described in clause (A) of the recommendation contained in this report. If the terms of the agreement change, they will be reported to Council for further consideration.
26. Once the planning agreement is executed, the City will request the 'un-deferral' of the controls in the Town Centre LEP and in accordance with the planning proposal.
27. The City is currently preparing to construct Zetland Avenue, a portion of which will be on the site. Karimbla Properties (no. 56) Pty Ltd, AMHA Properties Pty Ltd and the City intend to enter into a Licence Agreement. This agreement will allow the City and its contractors access to the southern portion of the site to construct that portion of Zetland Avenue and then vacate the property before the development commences. The landowner will then be able to use this portion for construction storage and unloading during development.
28. Under the proposed Licence Agreement, the City will not install some of the surface finishes and above ground elements to this portion of Zetland Avenue. These elements will be completed by the landowner as part of the development in accordance with their obligations under the planning agreement, before the land is dedicated to the Council as a new public road.

KEY IMPLICATIONS

Strategic Alignment - Sustainable Sydney 2030 Vision

29. *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 Green Square 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 planning agreement will ensure that all buildings will include requirements for recycled water, energy efficiency and air conditioning refrigerant.

- (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 Green Square 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. If executed, the planning agreement will enable development that will enhance connectivity through Zetland Avenue between Green Square train station, the town centre and eastern neighbourhoods in the Green Square renewal area.
- (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 Green Square town centre is identified as the heart of the City's southern areas. Civil infrastructure and facilities being delivered in the town centre for the Green Square community will be an exemplar for sustainable development and community infrastructure.

BUDGET IMPLICATIONS

- 30. Funding for the delivery of infrastructure and public domain works is critical to the success of the town centre. The *Green Square Town Centre Infrastructure Strategy* (2006) sets out the process for funding, through development, the delivery of civil infrastructure and public domain required to service the town centre. Two-thirds of this funding is to come from town centre landowners, with the City contributing one-third.
- 31. The terms of the draft planning agreement are consistent with the *Green Square Town Centre Infrastructure Strategy* (2006), the Town Centre DCP, the *Sustainable Sydney 2030* directions and the essential infrastructure development application approved by the CSPC in March 2013.
- 32. In accordance with requirements of the *Green Square Town Centre Infrastructure Strategy* (2006), the planning agreement will include a monetary contribution of \$3,080,000 (plus indexation for CPI from December 2005). The contribution value as at June 2017 is \$4,165,297.
- 33. A credit will be provided against the monetary contribution for the cost of the public domain works delivered under the planning agreement.

RELEVANT LEGISLATION

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

PUBLIC CONSULTATION

35. If the recommendations of this report are adopted, the draft planning agreement will be placed on public exhibition for no less than 28 days, in accordance with the *Environmental Planning and Assessment Act 1979*.

GRAHAM JAHN, AM

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