

ITEM 16. PEMULWUY PROJECT – VARIATION OF DEED TO THE ABORIGINAL HOUSING COMPANY**FILE NO: S072236.007****SUMMARY**

The Aboriginal Housing Company Limited (AHC), a not-for-profit organisation, plans to redevelop the area known as “the Block” in Redfern. The Pemulwuy Project site comprises 15,638 square metres of mixed-use, including affordable housing, commercial, retail, cultural and community uses, and public domain.

On 20 August 2012, Council resolved in principle to support the transfer of land to the AHC, subject to finalisation of an appropriate deed with the AHC. The Chief Executive Officer was appointed the delegated authority to settle the terms of that deed. This Pemulwuy Project Deed, as shown at Attachment A, was entered into by the City and AHC on 31 May 2013.

This Deed requires the Pemulwuy Project to be “Substantially Progressed” by the “Agreed Date” which is defined as 21 December 2017. The AHC has confirmed that the Project is well progressed, having received Department of Planning approvals and a Construction Certificate for demolition works. It should be noted that the “Substantially Progressed” condition, as defined under the Deed, is unlikely to be met as although demolition works have been undertaken, construction has not yet commenced.

This report seeks approval for the City to enter into a Deed of Variation with the AHC to effect a 12-month extension to the Agreed Date, which will result in a revised Agreed Date of 21 December 2018.

RECOMMENDATION

It is resolved that authority be delegated to the Chief Executive Officer to negotiate, execute and administer a Deed of Variation of the Pemulwuy Project Deed with the Aboriginal Housing Company Limited, for the purpose of amending the “Agreed Date” from 21 December 2017 to 21 December 2018, and otherwise on terms acceptable to the City.

ATTACHMENTS**Attachment A:** Existing Pemulwuy Project Deed**Attachment B:** Precincts Plan**Attachment C:** Correspondence from Aboriginal Housing Company Limited March 2017

BACKGROUND

1. The Aboriginal Housing Company Limited (AHC), a not-for-profit organisation, plans to redevelop the area known as the Block in Redfern. The Pemulwuy Project site comprises 15,638 square metres of mixed-use, including affordable housing, commercial, retail, cultural and community uses, and public domain, as shown on the Precincts Plan at Attachment B.
2. On 20 August 2012, Council resolved in principle to support the transfer of land to the Aboriginal Housing Company, subject to finalisation of an appropriate deed with the Aboriginal Housing Company. The Chief Executive Officer was appointed the delegated authority to settle the terms of that deed. This deed was finalised and entered into on the 31 May 2013.
3. The deed formally commits the City to the transfer of a portion of Caroline Lane and Eveleigh Lane, being Lot 1 in DP1163669, and seven small parcels of land, to the Aboriginal Housing Company, allowing the delivery of the Pemulwuy Project.
4. The Department of Planning and Infrastructure granted Project Approval to the Pemulwuy Project on 21 December 2012, giving the Aboriginal Housing Company consent to redevelop the area into three precincts, including culturally appropriate and accessible housing.
5. The development was to upgrade 'the Block'. The site was to be divided into three precincts:
 - (a) **Precinct P1:**
 - (i) the construction of a two-part / six-storey mixed-use building containing 62 dwellings, retail/commercial space, gymnasium/fitness centre space, and a car park accommodating a total of 115 spaces; and
 - (ii) the provision of 865m² of publicly accessible open space;
 - (b) **Precinct P2:** the construction of a two-part / three-storey mixed-use building, containing a retail/commercial space and a 60 place childcare centre; and
 - (c) **Precinct P3:** the construction of a three-part / six-storey mixed-use building containing a retail/commercial space, a gallery and student housing accommodating a total of 154 beds in 42 units.
6. In May 2013, the City entered into a deed at Attachment A, with the AHC for the 'Pemulwuy Project', being the re-development of 'the Block' in Redfern. The deed was subject to Key Elements of the development being delivered. These include:
 - (a) affordable housing - Precinct 1;
 - (b) childcare - Precinct 2;
 - (c) gallery - Precinct 3; and
 - (d) public open space - Precinct 1.

7. The deed also agreed the transfer of City land (including the former Pemulwuy Park, Eveleigh Lane and Caroline Lane) for a sum of \$20 to facilitate the redevelopment of 'the Block'. This land has since been re-classified, closed and transferred as per the requirements of the deed.
8. Subsequently, and pursuant to section 9.3 of the deed, the City registered a Caveat on the subject land on 16 July 2014. This Caveat was registered to ensure that any development of this land would deliver affordable housing. The delivery of affordable housing was questioned by AHC and their investors due to the lack of financial capacity to deliver the project, based on their current proposal for the site.
9. In December 2016, the AHC lodged a Request for Secretary's Environmental Assessment Requirements (SEAR) with the Department of Planning and Environment, seeking a modification to Precinct 3. The modifications include:
 - (a) increasing the student accommodation from 154 beds in 42 units to 522 accommodation units;
 - (b) increasing the height of the building from a maximum of six storeys to 16; and
 - (c) increasing the floor space from 2.3:1 to 7.16:1.
10. The City made a submission to the Department of Planning on the latest application. Councillors were briefed in October 2017 prior to the submission being sent and received a copy of the submission.
11. On 14 March 2017, a letter was received from the AHC (shown at Attachment C) updating the Redfern community and the City about their new funding model and proposed amendments to the 'Pemulwuy Project'.
12. The delays to this project have been directly related to AHC's financial capacity to undertake this project. These financial challenges are due to insufficient funding from various government authorities. The former project relied heavily on government assistance. The recent appointment of KPMG as a financial consultant and the development of the new proposal ensures the project is economically viable, without reliance on government funding.
13. Whilst the proposed amendments to Precinct 3 are substantial and have considerable planning implications, the proposed amendments do not largely change the Key Elements for consideration within the deed. This project will still deliver affordable housing, the gallery, open space (including roads and plaza) and child care. Note: the gallery that was originally located in Precinct 3 is now located in Precinct 1 (the Block) and aligns common space that connects all three precincts.
14. In November 2017, City staff met with the AHC to undertake a review of the Pemulwuy Project Deed and discuss compliance with the Agreed Date of 21 December 2017.
15. The Pemulwuy Project Deed requires the AHC to have "Substantially Progressed" the Pemulwuy project by the Agreed Date, as follows:
 - (a) all approvals and authorisations reasonably necessary for the construction of the first stage of the Pemulwuy Project have been granted;

- (b) the AHC has entered into a construction contract for the construction of at least the first stage of the Pemulwuy Project; and
 - (c) construction work has commenced on the Pemulwuy Project site.
16. AHC has confirmed the following in response to the above “Substantially Progressed” conditions:
- (a) June 2017 - Section 75W to modify Precinct 3 submitted to Department of Planning and correspondence received from Department of Planning requesting further information as a result of Public Exhibition of S75W;
 - (b) June 2017 – Construction Contract updated and entered into with Diecorp; and
 - (c) construction has not yet commenced, however in October 2017, demolition of Murawina Building in Precinct 3 was completed, and in November 2017, demolition commenced of the Precinct 2 building.

KEY IMPLICATIONS

Social / Cultural / Community

17. The Pemulwuy Project plans to revitalise the area formerly known as the Block. The project aims to develop housing and services for the Aboriginal community, as well as providing a community centre, health and fitness facility, respite centre and public open space. In addition, Key Elements as defined under the Deed, include child care, the gallery and public open space. The Pemulwuy Project will contribute to the neighbourhood regeneration.

BUDGET IMPLICATIONS

18. The transfer of a portion of Caroline Lane and Eveleigh Lane (being Lot 1 in DP1163669) along with seven small parcels of land to the Aboriginal Housing Company, allowing the delivery of the Pemulwuy Project for the total nominal sum of \$20, results in a write off of an estimated \$700,000 in land assets and \$38,000 in “Park Improvements”, as per the City’s Financial Register.
19. The City’s financial records will recognise the discount on disposal from full market value, to reflect the City’s contribution to regeneration of the neighbourhood and the provision of child care, affordable housing, a gallery and open space.

RELEVANT LEGISLATION

20. Local Government Act 1993.

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