

Relevant Information for Council

FILE: X083066 **DATE:** 14 November 2022

TO: Lord Mayor and Councillors

FROM: Graham Jahn AM, Director City Planning, Development and Transport

SUBJECT: Information Relevant To Item 6 – Public Exhibition - Planning Proposal - 923-935 Bourke Street Waterloo - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment

Alternative Recommendation

It is resolved that:

- (A) Council approve Planning Proposal - 923-935 Bourke Street, Waterloo, as shown at Attachment A to the subject report, for submission to the Department of Planning and Environment with a request for Gateway Determination, ***subject to the following amendment:***
- (a) Drafting Instruction on page 42: notwithstanding Clause 7.23 – Large retail development outside of Green Square Town Centre and other planned centres, allow development consent to be granted to development for the purposes of **a shops** with a gross floor area not greater than 3,200 square metres;
- (B) Council approve Planning Proposal - 923-935 Bourke Street, Waterloo, as shown at Attachment A to the subject report, for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination, ***subject to the following amendment:***
- (b) Drafting Instruction on page 42: notwithstanding Clause 7.23 – Large retail development outside of Green Square Town Centre and other planned centres, allow development consent to be granted to development for the purposes of **a shops** with a gross floor area not greater than 3,200 square metres;
- (C) Council seek authority from the Department of Planning and Environment to exercise the delegation of all the functions under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect Planning Proposal - 923-935 Bourke Street, Waterloo;

- (D) Council approve draft Development Control Plan - 923-935 Bourke Street, Waterloo Amendment, shown at Attachment B to the subject report, for public authority consultation and public exhibition concurrent with the Planning Proposal, **subject to the following amendment:**
- (c) On page 10: (2) Any dedication of land to Council is required to secure an appropriate remediation outcome that is endorsed by Council to confirm the land is fit for purpose. ~~and is not constrained by a long-term Environmental Management Plan.~~
- (E) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposal - 923-935 Bourke Street, Waterloo and Draft Sydney Development Control Plan 2012 - 923-935 Bourke Street, Waterloo Amendment to correct any drafting errors or to ensure consistency with the Gateway Determination; and
- (F) authority be delegated to the Chief Executive Officer to prepare and exhibit a draft planning agreement in accordance with the letter of offer dated ~~31 August 2020 at Attachment D to the subject report~~ **11 November 2022 as shown at Attachment A to the subject Information Relevant To memorandum - Item 6 Transport, Heritage, Environment and Planning Committee meeting on 14 November 2022** and the requirements of the Environmental Planning and Assessment Act 1979.

Purpose

This memo is to also update the Committee about the revised letter of offer by Fabcot Pty Ltd (Woolworths Group) submitted on 11 November 2022 and minor changes to the planning proposal for 923-935 Bourke Street, Waterloo, and the draft Development Control Plan - 923-935 Bourke Street, Waterloo Amendment.

Background

The landowner, Fabcot Pty Ltd (Woolworths Group) has submitted a revised letter of offer to enter into a planning agreement with Council, dated 11 November 2002, providing a commitment to build affordable housing on site and dedicated to a registered Community Housing Provider (CHP) on completion.

In addition, based on discussions with the landowner, minor changes are proposed to the planning proposal for 923 -935 Bourke Street, Waterloo, to update the site specific provision allowing the development of a supermarket on the site, and to the draft Development Control Plan - 923-935 Bourke Street, Waterloo Amendment, to update the provision for managing contamination on site.

Public benefit offer

On 11 November 2022, the landowner submitted a revised letter of offer to enter into a planning agreement with Council. The revised letter of offer makes a commitment to build the affordable housing on the site, rather than paying a monetary contribution. The equivalent number of affordable housing units remains the same at 10 to 12 depending on size. Provision of affordable housing on the site will be in accordance with the City's Affordable Housing Program.

Planning proposal - site specific provision

It is proposed to amend the drafting instruction on page 42 of the planning proposal (in Attachment A to the subject report) to clarify that the 3,200 square metre cap is for a single 'shop' or supermarket tenancy at this maximum amount, rather than to cap the total quantum of retail permitted within the site (which would include smaller shops at street level). The site will also support finer grain neighbourhood retail shops as part of the mixed-use development. This minor amendment clarifies any potential for misinterpretation at the development application stage.

Draft DCP - contamination provision

It is proposed to amend the provision for contamination on page 10 of the draft DCP (in Attachment B to the subject report) to clarify that where remediation may be required of any land that is to be dedicated to Council, that the dedication of that land will be in accordance Council's contamination management policy.

Memo from Graham Jahn AM, Director City Planning, Development and Transport

Prepared by: Ash Chand, Specialist Planner

Attachments

Attachment A. Revised Public Benefit Offer – 923-935 Bourke Street, Waterloo

Approved



GRAHAM JAHN AM

Director City Planning, Development and Transport

Attachment A

**Revised Public Benefit Offer – 923-935 Bourke
Street, Waterloo**

11 November 2022

Ms Monica Barone

Chief Executive Officer
City of Sydney Council
456 Kent Street
Sydney NSW 2000

Attention: Mr Graham Jahn AM, Director of City Planning, Development & Transport

Dear Graham,

**Planning Proposal PP-2021-6962 – Amended Indicative Public Benefit Offer
923-935 Bourke Street, Waterloo – Woolworths**

On behalf of Fabcot Pty Ltd (Woolworths Property Group, Proponent) and in relation to the above property, we write to you regarding the Planning Proposal which was submitted on 19 November 2021 and which has been the subject of further discussions between the Proponent and the City of Sydney (the City).

This letter addresses the revised position of Fabcot in relation to the indicative public benefit offer associated with the proposal and which is intended to be delivered through a future Voluntary Planning Agreement (VPA).

The total public benefit offer, as explained through this letter, is provided through a number of means including increased affordable housing contributions, publicly accessible electric vehicle charging facilities, site specific sustainability targets and payment timing of Section 7.11 contributions.

This Letter of Offer is provided in confidence, is indicative in nature and a formal draft VPA is intended to be prepared and entered into with the City prior to the gazettal of revised planning controls for the site.

Affordable Housing

In accordance with the current *City of Sydney Affordable Housing Program*, additional contributions to affordable housing are required where Planning Proposals seek an uplift in development standards. Under Appendix B of the Program, the site is located within an area defined as 'South' which is designated as requiring a 12% contribution rate for additional Gross Floor Area (GFA) sought.

Based on the revised Indicative Reference Scheme prepared by Bates Smart, the calculation for the affordable housing contribution is as follows:

- The Indicative Reference Scheme has a total Floor Space Ratio (FSR) of 2.7:1, representing 0.5:1 FSR as 'uplift' over the current maximum of 2.2:1 FSR (inclusive of base controls, community infrastructure bonus and design excellence) under the *Sydney Local Environmental Plan 2012* (Sydney LEP 2012).
- 12% of the 'uplift' GFA (0.5:1) is 384m², which according to the *Affordable Housing Program* is to be provided as 'bonus' affordable housing. The 3,200m² relates to the proposed provision of a subterranean supermarket which is the premise of the Planning Proposal sought.

Clause 7.13 of the Sydney LEP 2012 'Contribution for purpose of affordable housing' requires new development within the Green Square area to provide onsite affordable housing provision at the rate of 3% for residential purposes and 1% for non-residential purposes. While this baseline affordable housing contribution is required at the Development Application stage, a further commitment to affordable housing is intended by Fabcot as part of this Planning Proposal and is an integral component of this Letter of Offer.

In accordance with the current planning controls applicable to the site, being a maximum FSR of 2.2:1, this equates to a total of 14,375m² of GFA. Using the reference scheme residential component of 10,698m² GFA, the balance of 3,677m² of theoretical floor area has been designated as non-residential (retail and commercial GFA) for the purposes of indicative calculations. Using an average 65m² GFA per apartment this equates to approximately six (6) apartments within the development. It is noted that this provision is required as part of the future Development Application on site as a baseline and as is not strictly linked with the Planning Proposal.

However, the total future affordable housing provision by Fabcot is approximately 742m² in GFA when viewed in totality, subject to the provisions of the current *Affordable Housing Program* and arising from the current indicative reference scheme. This equates to an approximate total of 10-12 apartments comprising the base provision and 'uplift' contribution.

This affordable housing is intended to be constructed on-site as part of the development and dedicated by the Proponent to a registered community housing provider. This represents a significant public benefit which will be delivered under a future VPA. The exact number of apartments, size and mix will be dependent on detailed Total Floor Area (TFA) diagrams and the future requirements of the registered Community Housing Provider.

Electric vehicle charging facilities

Fabcot intends to deliver a benchmark provision of publicly accessible electric vehicle charging facilities through a future VPA. All residential car spaces in the development to be EV ready, 50% of worker car spaces are to be EV ready and 25% of retail customer car spaces are to be fitted from the outset with a three phase Level 2 EV charger at 22 kilowatts or higher) with the addition of two (2) Level 3 or 4 fast chargers accessible within the retail parking provisions.

Fabcot signals their intention to provide the above which is understood to be consistent with the City's *draft Electric Vehicles Policy* which is expected imminently.

Sustainability targets and measures

Sustainability is key component of Fabcot's indicative public benefit offer. All energy efficiency and renewable energy targets for office and retail uses within the future development are proposed to be consistent with the City's *NetZero Energy 2026* provisions. The following specific measures are proposed:

- Supermarket & Retail – consistent with the City's NetZero Energy 2026 provisions.
- Commercial – consistent with the City's NetZero Energy 2026 provisions.
- Residential – BASIX compliance plus 5 points in both Energy (40) and Water (45).
- Incorporation of onsite rainwater capture and re-use for non-potable purposes within the development.
- Development of best practice site-wide resource recovery for operational waste / recycling systems.
- Commitment to electric vehicle charging facilities in residential, retail and commercial car-parking areas as presented above.

Summary and Conclusion

It is the intent of the proponent to form a VPA for the purposes of Section 7.7(3) of the EP&A Act. The draft VPA will be further defined and prepared post Gateway determination and will be available for public exhibition together with the Planning Proposal. The VPA will be executed prior to the gazettal of the amended planning controls for the site.

Fabcot presents a unique opportunity to provide an exemplar mixed-use development, which embodies a true community focus. Fabcot is committed to working with the City to create a genuinely meaningful public benefit on the site, which is connected and leveraged upon the City's successful existing programs in the community.

In summary, the key components of this indicative offer include the following:

- **Affordable housing** – construction of affordable housing contributions on-site consistent with the provisions of the City's *Affordable Housing Program*, equating to approximately 742m² in GFA (10-12 apartments, subject to detailed design) and dedication to a registered community housing provider;
- **Electric vehicle charging facilities** – infrastructure provision for 'EV ready' car parking including the upfront provision of 25% of retail spaces with Level 2 charging and two (2) spaces with Level 3 or 4 charging provisions.
- **Sustainability targets and measures** – consistent with the City's NetZero Energy 2026 provisions and onsite rainwater capture and waste recovery measures in the future operation of the development.

The indicative offer is premised and has been calculated on the realisation of the land use and density, presented in the indicative reference scheme as provided within the Urban Design report accompanying this Planning Proposal.

Fabcot believe that this indicative offer is in the public interest and is an appropriate balance in order to allow an additional 3,200m² of floorspace as a subterranean supermarket. The intended supermarket tenancy has been appropriately justified on a site and strategic merit basis within the Planning Proposal justification report. The premise of the urban design concept for the site, with subterranean retail, is a development which appears in line with the bulk and scale intended for the site, with a maximum 2.2:1 FSR located above ground and revised building height controls which prioritise the retention of key vegetation within the site and on surrounding street verges.

We trust this indicative public benefit offer associated with the Woolworths Waterloo development is met with support. Should you have any further queries, please do not hesitate to contact me directly.

Yours sincerely,



Pierre Abrahamse
Head of Mixed Use Property Development
Woolworths Group