

## **Post Exhibition - Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment**

**File No: X087876**

### **Summary**

The report to Council's Transport, Heritage and Planning Committee on 19 June 2023 recommended approval of the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland (planning proposal).

The recommendation also noted an exhibited Planning Agreement, based on a 4 November 2022 public benefit offer, would be executed under the delegation of Council. This planning agreement secured provision of minimum four per cent retail floor space, electric vehicle charging and capacity for a dual reticulation water system.

On 16 June 2023, the working day prior to the Committee, the proponent made a revised public benefit offer to add the construction of an affordable housing building and its dedication to a Community Housing Provider. The dedication would be in partial satisfaction of the affordable housing contribution required by the Local Environmental Plan (LEP) and was not additional affordable housing.

The Central Sydney Planning Committee (CSPC) on 22 June 2023 and Council on 26 June 2023 approved the planning proposal subject to the execution of a planning agreement prepared generally in accordance with the revised offer. The resolutions of Council and the CSPC are at Attachment A.

The City prepared the revised planning agreement and publicly exhibited it in November 2023.

On 24 January 2024, the proponent advised they would not proceed with the construction and dedication of the affordable housing and in a letter dated 25 January 2024 they formally withdrew their revised public benefit offer and reverted to the original planning agreement, based on the 4 November 2022 offer. The proponent's letter dated 25 January 2024 is at Attachment B.

A planning agreement can only be prepared in accordance with a public benefit offer from a proponent and is voluntary. Council cannot compel a developer to provide a public benefit or enter into a planning agreement.

The proponent is still required to provide three per cent affordable housing contribution under the Sydney LEP 2012. The proponent can satisfy the requirement by a monetary contribution or dedication of built dwellings. The monetary contribution is estimated to be in the order of \$29 million subject to the mix of uses in the detailed development applications.

Council's approval of the planning proposal was subject to the execution of the revised planning agreement. As the offer for the revised agreement has been withdrawn, a new resolution of Council is required to approve the planning proposal.

No other aspects of the planning proposal or the other commitments in the public benefit offer have changed.

This report provides a recommendation to approve the planning proposal for the reasons set out in the report to Council's Transport, Heritage and Planning Committee on 19 June 2023.

That report and its attachments are at Attachment C.

The Gateway Determination currently requires the planning proposal to be made by 2 March 2024. If approved the planning proposal will be forwarded to the Department of Planning, Housing and Infrastructure for finalisation.

## Recommendation

It is resolved that:

- (A) Council note the correspondence from Karimbla Properties (No. 60) Pty Ltd dated 25 January 2024 at Attachment B withdrawing the revised public benefit offer dated 16 June 2023 and committing to enter into the previously exhibited planning agreement;
- (B) Council note the matters raised in response to the public exhibition of the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland, Draft Sydney Development Control Plan 2012: 118-130 Epsom Road and 905 South Dowling Street, Zetland and Draft Planning Agreement: 118-130 Epsom Road and 905 South Dowling Street, Zetland as shown at Attachment A to Item 6 at the Transport, Heritage and Planning Committee on 19 June 2023;
- (C) Council approve the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland shown at Attachment B to Item 6 at the Transport, Heritage and Planning Committee on 19 June 2023, as amended following public exhibition, to be made as a local environmental plan under Section 3.36 of the Environmental Planning and Assessment Act 1979;
- (D) Council approve Draft Sydney Development Control Plan 2012: 118-130 Epsom Road and 905 South Dowling Street, Zetland shown at Attachment C to Item 6 at the Transport, Heritage and Planning Committee on 19 June 2023, as amended following public exhibition, noting the development control plan will come into effect on the date of publication of the subject local environmental plan, in accordance with Clause 20 of the Environmental Planning and Assessment Regulation 2021;
- (E) authority be delegated to the Chief Executive Officer to make minor variations to the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland and Draft Sydney Development Control Plan 2012: 118-130 Epsom Road and 905 South Dowling Street, Zetland to correct any minor errors prior to finalisation.
- (F) Council note the draft Voluntary Planning Agreement as shown at Attachment D to Item 6 at the Transport, Heritage and Planning Committee on 19 June 2023 will be executed under the delegation of Council in accordance with the Environmental Planning and Assessment Act 1979.

**Attachments**

- Attachment A.** 26 June 2023 Resolution of Council - Item 11.6 and 22 June 2023 Central Sydney Planning Committee Resolution - Item 6
- Attachment B.** Correspondence - Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland - Karimbla Properties - 25 January 2024
- Attachment C.** Link - [Item 6 at Transport, Heritage and Planning Committee on 19 June 2023: Post Exhibition - Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment](#)

**GRAHAM JAHN AM**

Director City Planning, Development and Transport

Angela Smidmore, Specialist Planner

# **Attachment A**

**Resolution of Council Item 11.6 on 26 June  
2023 and Central Sydney Planning  
Committee Item 6 on 22 June 2023**

## Resolution of Council

**26 June 2023**

### **Item 11.6**

#### **Post Exhibition - Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment**

It is resolved that:

- (A) Council note the matters raised in response to the public exhibition of the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland, Draft Sydney Development Control Plan 2012: 118-130 Epsom Road and 905 South Dowling Street, Zetland and Draft Planning Agreement: 118-130 Epsom Road and 905 South Dowling Street, Zetland as shown at Attachment A to the subject report;
- (B) Council note the Chief Executive Officer will, in accordance with the requirements of the Environmental Planning and Assessment Act 1979, prepare and exhibit an amended draft planning agreement, to that shown at Attachment D to the subject report, to be prepared in accordance with the public benefit offer dated 16 June 2023, shown at Attachment A to the subject Information Relevant To Memorandum;
- (C) subject to the execution of a planning agreement, generally in accordance with the public benefit offer dated 16 June 2023, at Attachment A to the subject Information Relevant To Memorandum, Council approve the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland shown at Attachment B to the subject report, as amended following public exhibition, to be made as a local environmental plan under Section 3.36 of the Environmental Planning and Assessment Act 1979;
- (D) Council approve Draft Sydney Development Control Plan 2012: 118-130 Epsom Road and 905 South Dowling Street, Zetland shown at Attachment C to the subject report, as amended following public exhibition, noting the development control plan will come into effect on the date of publication of the subject local environmental plan, in accordance with Clause 20 of the Environmental Planning and Assessment Regulation 2021;

- (E) authority be delegated to the Chief Executive Officer to make minor variations to the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland and Draft Sydney Development Control Plan 2012: 118-130 Epsom Road and 905 South Dowling Street, Zetland to correct any minor errors prior to finalisation; and
- (F) Council note that the planning agreement will be signed by the Chief Executive Officer under existing delegation.

The motion was carried on the following show of hands:

Ayes (9) The Chair (the Lord Mayor), Councillors Chan, Davis, Ellsmore, Gannon, Jarrett, Kok, Scott and Worling

Noes (1) Councillor Weldon.

Motion carried.

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## Resolution of Central Sydney Planning Committee

**22 June 2023**

### **Item 6**

#### **Post Exhibition - Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland - Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012 Amendment**

Moved by the Chair (the Lord Mayor), seconded by Councillor Kok -

It is resolved that:

- (A) the Central Sydney Planning Committee note the matters raised in response to the public exhibition of the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland, Draft Sydney Development Control Plan 2012: 118-130 Epsom Road and 905 South Dowling Street, Zetland and Draft Planning Agreement: 118-130 Epsom Road and 905 South Dowling Street, Zetland as shown at Attachment A to the subject report;
- (B) the Central Sydney Planning Committee note the Chief Executive Officer will, in accordance with the requirements of the Environmental Planning and Assessment Act 1979, prepare and exhibit an amended draft planning agreement, to that shown at Attachment D to the subject report, to be prepared in accordance with the public benefit offer dated 16 June 2023, shown at Attachment A to the subject Information Relevant To Memorandum;
- (C) subject to the execution of a planning agreement, generally in accordance with the public benefit offer dated 16 June 2023 at Attachment A to the subject Information Relevant To Memorandum, the Central Sydney Planning Committee approve the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland shown at Attachment B to the subject report, as amended following public exhibition, to be made as a local environmental plan under Section 3.36 of the Environmental Planning and Assessment Act 1979;

- (D) the Central Sydney Planning Committee note the recommendation of Council's Transport, Heritage, Environment and Planning Committee on 19 June 2023 that Council approve Draft Sydney Development Control Plan 2012: 118-130 Epsom Road and 905 South Dowling Street, Zetland shown at Attachment C to the subject report, as amended following public exhibition, noting the development control plan will come into effect on the date of publication of the subject local environmental plan, in accordance with Clause 20 of the Environmental Planning and Assessment Regulation 2021;
- (E) authority be delegated to the Chief Executive Officer to make minor variations to the Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland and Draft Sydney Development Control Plan 2012: 118-130 Epsom Road and 905 South Dowling Street, Zetland to correct any minor errors prior to finalisation; and
- (F) the Central Sydney Planning Committee note that the planning agreement will be signed by the Chief Executive Officer under existing delegations.

Carried unanimously.

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## **Attachment B**

**Correspondence – Planning Proposal –  
118-130 Epsom Road and 905 South  
Dowling Street, Zetland – Karimbla  
Properties – 25 January 2024**

25 January 2024

Mr Graham Jahn  
Director City Planning Development & Transport  
City of Sydney Council  
454 Kent Street  
SYDNEY NSW 2000

Email: [gjahn@cityofsydney.nsw.gov.au](mailto:gjahn@cityofsydney.nsw.gov.au)

Dear Mr Jahn,

**Planning Proposal - 118-130 Epsom Rd and 905 South Dowling Street, Zetland**

Further to discussions with the City of Sydney Council (Council), Karimbla Properties (No.60) Pty Ltd (Proponent/Developer), which is a wholly-owned subsidiary of the Meriton Group, is willing to enter into the previously agreed and exhibited Voluntary Planning Agreement (VPA) to support the endorsed Planning Proposal (PP) to amend the Height of Building (HoB) standards under the Sydney Local Environmental Plan (LEP) at 118-130 Epsom Rd and 905 South Dowling Street, Zetland (Site).

The previously agreed and exhibited VPA aligns with the Public Benefit Offer (PBO) issued to Council on 4 November 2022 after extensive discussions with Council staff, and which was subsequently supported and endorsed by Council to proceed through the Gateway process. This VPA was drafted, exhibited and included a commitment to reticulated water supply infrastructure within future buildings, minimum non-residential floor space, stretch sustainability targets for BASIX (even though they are no longer applicable) and provision of EV charging capability for all future residential parking spaces.

Subsequent offers to construct an Affordable Housing Building (AHB) on the Site to meet the Affordable Housing Contributions (AHC) under Clause 7.13 of the SLEP are accordingly withdrawn. This offer was made upon a request from Council in June 2023 but has not been finalised. Given the PP was supported by relevant committees and the Council without the AHB being proposed, and the method to deliver the AHC is not directly linked to the changes to the LEP (to amend building heights), we do not believe it should change the Council's support to finalise the PP.

As already demonstrated in the previous council assessment reports, the PP has significant strategic and site-specific merit to deliver a better-built form, building amenity, dwelling type, urban design and public amenity outcomes than currently permitted under the existing controls. The method to deliver the AHC under Clause 7.13 of the LEP does not otherwise affect the planning and built form outcomes.

Accordingly, we propose to deliver the AHC through a monetary contribution under future Development Applications which is currently estimated at approximately **\$29,000,000**. This approach has been taken on all previous Meriton developments in this area subject to Clause 7.13

and would take our collective monetary contribution under Council's scheme to around **\$110,000,000.**

This approach does not dismiss or otherwise erode the value of the AHC for this Site. It appropriately aligns this commitment to future DA's where the obligation applies.

As outlined above, we confirm that the PBO for this PP is outlined in the letter issued to Council on the 4<sup>th</sup> November 2022 which has previously been reviewed, endorsed and a draft VPA prepared and exhibited. Accordingly, there is a VPA available that can be executed and registered on title expeditiously to facilitate the finalisation of the PP.

Based on our discussions, we trust that reverting to the previous offer and subsequently endorsed/exhibited VPA is deemed adequate and can be reported to Council for consideration at the earliest opportunity with support from staff.

Please advise should you require anything further to progress the matter.

Yours sincerely  
**KARIMBLA PROPERTIES (NO. 60) PTY LTD**



Albert Chan  
**Director**



Matthew Lennartz  
**Executive Manager – Planning and  
Government**