

Item 3.

Pemulwuy Project - Variation to Project Deed with the Aboriginal Housing Company

File No: S128791

Summary

The Aboriginal Housing Company Limited (Aboriginal Housing Co), a not-for-profit organisation, is currently redeveloping the area known as “the Block” in Redfern as part of the Pemulwuy Project. 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 Aboriginal Housing Co, subject to finalisation of an appropriate deed with the Aboriginal Housing Co. The Pemulwuy Project Deed, as shown at Attachment A, was entered into by the City and the Aboriginal Housing Co on 31 May 2013 (Project Deed).

On 11 December 2017 and 29 October 2018, Council resolved to enter into Deeds of Variation in respect of the Project Deed with the Aboriginal Housing Co to provide for 12 month extensions to the date by which the development had to be "Substantially Progressed" under the Project Deed from 21 December 2017 to 21 December 2018, and 21 December 2018 to 21 December 2019, respectively. Council also resolved on 29 October 2018 to transfer small portions of land to the Aboriginal Housing Co.

On 4 March 2019, the original project approval for the Pemulwuy Project was modified. The Aboriginal Housing Co has also agreed with the City that within Precinct 3 it will ensure the student accommodation facility will make available a minimum of 110 beds to Aboriginal and Torres Strait Islander students at a subsidised rate. On 21 March 2019, this was secured by way of a covenant being registered on the title of the property in favour of the City. The Aboriginal Housing Co has requested the Project Deed be varied to reflect these latest updates.

This report seeks approval from Council to further vary the Project Deed to reflect a recent development approval given to the Aboriginal Housing Co in respect of Precinct 3 of the development, a modification to the original project approval given to the Aboriginal Housing Co, the development being "Substantially Progressed" under the Project Deed and further public benefit commitments given by the Aboriginal Housing Co to the City.

Recommendation

It is resolved that authority be delegated to the Chief Executive Officer to negotiate, execute and administer a Deed of Variation in respect to the Pemulwuy Project Deed with the Aboriginal Housing Company Limited provided such Deed of Variation is substantially on the same terms as the draft Deed of Variation as shown at Attachment B to the subject report.

Attachments

- Attachment A.** Existing Pemulwuy Project Deed
- Attachment B.** Draft Deed of Variation
- Attachment C.** Updated Public Domain Plan
- Attachment D.** Architectural Drawings Showing Overhang
- Attachment E.** Resolution of Council Dated 20 August 2012
- Attachment F.** Resolution of Council Dated 11 December 2017
- Attachment G.** Resolution of Council Dated 29 October 2018

Background

1. The Aboriginal Housing Co, a not-for-profit organisation, is currently redeveloping the area known as 'the Block' in Redfern as part of the Pemulwuy Project. The Pemulwuy Project site comprises 15,638 square metres of mixed used including affordable housing, commercial, retail, cultural, and community uses and public domain.
2. On 20 August 2012, Council resolved in principle to support the transfer of land to the Aboriginal Housing Co to allow the delivery of the Pemulwuy Project, subject to finalisation of an appropriate deed with the Aboriginal Housing Co.
3. On 21 December 2012, project approval was given for the 'Pemulwuy Project'. The development was to upgrade 'the Block'. The site was to be divided into three precincts:
 - (a) Precinct 1:
 - (i) the construction of 36 two storey townhouses, 26 units within an apartment building, retail/commercial space, gymnasium/fitness centre space, car park accommodating a total of 115 spaces; and
 - (ii) the provision of publicly accessible open space;
 - (b) Precinct 2: the construction of a mixed-use building, containing a retail/commercial space and a childcare centre; and
 - (c) Precinct 3: the construction of a mixed-use building containing a retail / commercial space, a gallery and student housing accommodating a total of 154 beds in 42 units.
4. On 31 May 2013, the City entered into a Project Deed (at Attachment A), with the Aboriginal Housing Co for the 'Pemulwuy Project', being the re-development of 'the Block' in Redfern. The Project Deed provided for 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.
5. On 11 December 2017, Council resolved to enter into a Deed of Variation in respect of the Project Deed with the Aboriginal Housing Co to provide for a 12 month extension to the date by which the development had to be "Substantially Progressed" under the Project Deed from 21 December 2017 to 21 December 2018.
6. On 2 October 2018, Council resolved to enter into a second Deed of Variation in respect of the Project Deed with the Aboriginal Housing Co to provide for a further 12 month extension to the date by which the development had to be "Substantially Progressed" under the Project Deed from 21 December 2018 to 21 December 2019 and to transfer small portions of land to the Aboriginal Housing Co.

7. On 4 March 2019, development approval was given for the construction of a student accommodation development within Precinct 3, including:
 - (a) construction of between 3 and 24 storeys student accommodation to a maximum height of RL 96.57, comprising:
 - (i) 596 student beds;
 - (ii) communal student amenities; and
 - (iii) communal open space including an internal courtyard and a roof top terrace; and
 - (b) public domain improvements, public open space and hard and soft landscaping.
8. On 4 March 2019, the original project approval for the Pemulwuy Project was modified to:
 - (a) delete all buildings and works relating to Precinct 3;
 - (b) delete the land-bridge over the rail corridor;
 - (c) replace the retail use in Precinct 1 with gallery use;
 - (d) amend public domain and open space within Precinct 1 and 2; and
 - (e) delete conditions and Statements of Commitments to take account of the deletion of Precinct 3.
9. The Aboriginal Housing Co has agreed with the City that within Precinct 3 it will ensure that the student accommodation facility will make available a minimum of 110 beds to Aboriginal and Torres Strait Island students at a subsidised rate. On 21 March 2019, this was secured by way of a covenant being registered on the title of the property in favour of the City.
10. The Pemulwuy development has now "Substantially Progressed" under the Project Deed.
11. As a result of the development approval and the modification of the project approval being given on 4 March 2019, the fact that the development has now "Substantially Progressed" under the Project Deed and the commitment from the Aboriginal Housing Co that it will make available a minimum of 110 beds to Aboriginal and Torres Strait Islander students at a subsidised rate, the Aboriginal Housing Co has requested the Project Deed be varied to reflect these latest updates.

12. The third Deed of Variation to the Project Deed which is the subject of this report, will give effect to the above variations and consequentially, will:
 - (a) update the public domain plan under the Project Deed to the plan attached at Attachment C;
 - (b) remove the Aboriginal Housing Co's obligations to grant the City any rights of way, as the relevant public domain land will now be dedicated to City rather than granting rights of way;
 - (c) remove the Aboriginal Housing Co's obligations to grant the City any easements for services, as the proposed services will now be in the public domain areas which are to be dedicated to the City as public roads; and
 - (d) grant an easement for overhang in favour of the Aboriginal Housing Co over part of the land to be dedicated to the City to allow part of one of the buildings to be developed to partially overhang the public road, as shown in the architectural drawings at Attachment D.

Key Implications

Strategic Alignment - Sustainable Sydney 2030 Vision

13. 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. This report is aligned with the following strategic directions and objectives:
 - (a) Direction 8 - Housing for a Diverse Population - 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 required to be delivered under the Project Deed include child care, the gallery and public open space. The Pemulwuy Project will contribute to the neighbourhood regeneration.

Relevant Legislation

14. Local Government Act 1993 - Council approval is required to enter into the proposed Deed of Variation as the authority to vary the Project Deed has not been delegated to the Chief Executive Officer.

Critical Dates / Time Frames

15. The Pemulwuy development is well under construction and due for completion within the next 12 months.

Options

16. Not agreeing to vary the Project Deed in accordance with this report, would put the Aboriginal Housing Co in breach of a number of its obligations under the Project Deed as the development approvals have been modified and it would not be consistent with Council's in principle support of the Pemulwuy Project.

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