

## 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**

**File No: X087876**

#### **Summary**

The Green Square urban renewal area is Australia's largest urban renewal area and features the Green Square Town Centre (Town Centre) at its heart. The urban renewal area is forecast to grow to around 32,000 dwellings, housing around 63,000 people by 2036. This growth equates to \$22 billion in private investment and \$1.8 billion in local infrastructure.

In 2010 the City developed planning controls for the Epsom Park neighbourhood in the eastern edge of the urban renewal area. The planning controls facilitated the redevelopment of much of the area, unlocking substantial local infrastructure, including new roads, parks, community facilities such as Gunyama Park and Aquatic Centre and regional trunk drainage through to Alexandra Canal.

This report follows the public exhibition of Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland (the planning proposal) to amend the *Sydney Local Environmental Plan 2012* (Sydney LEP). The planning proposal was exhibited with Draft Sydney Development Control Plan 2012 - 118-130 Epsom Road and 905 South Dowling Street, Zetland (draft DCP) and a draft planning agreement.

The planning proposal and draft DCP (the planning controls) increase height limits on some parts of the site and reduces it on others to provide more diverse housing, including family-sized townhouses, and more and better public spaces and streets. The proposed changes to height are visually appropriate and consistent with similar Green Square precincts (such as the Lachlan Precinct) and respond to the bulk and scale of neighbouring existing and future developments. The creation of new streets will improve access to Green Square station via Zetland Avenue and the recently completed indoor and outdoor pools, playing fields, parks (some under construction), public school (under construction) and library for the proposed development as well as those in Rosebery to the south.

The planning proposal does not change the Floor Space Ratio (FSR) or the mixed-use zoning.

In addition to the proposed planning controls a draft planning agreement was publicly exhibited. It included a commitment from the landowner to higher sustainability targets, the provision of space for everyday retail needs, parking provisions for electric vehicle charging and dual reticulation of water so that future development may connect to an expanded water recycling facility.

The proposed planning controls and draft planning agreement were publicly exhibited from 27 March 2023 to 8 May 2023, a period of six weeks. About 4,350 notification letters were sent to landowners and occupants of surrounding properties, with approximately 1,000 of these letters being delivered to residents of the Randwick City Council Local Government Area. The City also hosted an online information session on 4 April 2023 to allow the community to ask questions of planners and urban designers about the proposed planning controls.

A total of 136 submissions from the general community were received during the public exhibition period. Five submissions were in support of the proposal, 11 submissions provided mixed feedback or were in support of specific elements of the proposal and 120 submissions were in opposition of the proposal. In addition, one submission was received on behalf of the proponent and one submission was received on behalf of an adjacent landowner. Six submissions were received from public authorities, including one from Randwick City Council.

Matters raised in submissions are summarised at Attachment A. Key issues include:

- concerns about the impact the development would have on the local road network;
- concerns about the proposed height of development, particularly the proposed 90 metre tower at the north-east corner of the site on Link Road, and overshadowing, privacy and visual impacts; and
- concerns about the cumulative impact of density and the community infrastructure needed to support it.

A submission was also made by the landowner, raising a number of issues with the publicly exhibited planning controls.

Following consideration of submissions, the following key changes to the exhibited planning controls are recommended:

- additional requirements in the DCP, to guide future consideration of traffic and transport and flooding matters at the concept development application stage;
- amendments to the car parking requirements in the draft DCP to remove conflict with the LEP requirements;
- increasing the maximum permitted gross floor area for the purposes of shops from 1,000 square metres to 1,200 square metres to resolve an identified shortfall of supermarket floor space in the area; and
- reversion to the current DCP's active frontage requirements to align with the LEP's minimum non-residential floor space requirement.

In addition, it is proposed to amend the stretch BASIX provision in the planning proposal so that it only applies where the existing state government BASIX requirements apply. This amendment is proposed following analysis of new *State Environmental Planning Policy (Sustainable Buildings) 2022*, which is proposed to come into force on 1 October 2023. Early indications are that it may not be possible for high rise residential development to achieve BASIX scores much more than those that are required as part of the new SEPP.

This report recommends Council approve the planning proposal and draft DCP, as amended following public exhibition. If approved, the proposal will be forwarded to the Department of Planning and Environment for finalisation. The amendment to the Sydney LEP 2012 will come into effect when it is published on the NSW Legislation website. Amendment to the Sydney Development Control Plan 2012 will come into effect at the same time as the LEP is published.

## Recommendation

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 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;
- (C) 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;
- (D) 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.
- (E) Council note the draft Voluntary Planning Agreement as shown at Attachment D to the subject report will be executed under the delegation of Council in accordance with the Environmental Planning and Assessment Act 1979.

**Attachments**

- Attachment A.** Summary of Submissions and Responses
- Attachment B.** Planning Proposal - 118-130 Epsom Road and 905 South Dowling Street, Zetland (as amended following public exhibition)
- Attachment C.** Draft Sydney Development Control Plan 2012 - 118-130 Epsom Road and 905 South Dowling Street, Zetland (as amended following public exhibition)
- Attachment D.** Planning Agreement
- Attachment E.** Gateway Determination
- Attachment F.** Council and Central Sydney Planning Committee Resolutions

## Background

1. This report follows the public exhibition of Planning Proposal: 118-130 Epsom Road and 905 South Dowling Street, Zetland (planning proposal) and Draft Sydney Development Control Plan 2012 (draft DCP), shown at Attachment B and C respectively. An associated draft planning agreement was also publicly exhibited and is shown at Attachment D.



Figure 1: Aerial image of subject site (in red) and immediate vicinity

2. Site details, current planning controls, proposed planning controls and a public benefit offer from the landowner to the City are described in detail in the pre-exhibition report to the Transport, Heritage, Environment and Planning Committee and the Central Sydney Planning Committee (CSPC), available at:  
[https://meetings.cityofsydney.nsw.gov.au/ieListDocuments.aspx?CId=137&MId=3962&Ver=4\(item 10\)](https://meetings.cityofsydney.nsw.gov.au/ieListDocuments.aspx?CId=137&MId=3962&Ver=4(item 10))
3. The publicly exhibited planning proposal facilitates alternative building heights ranging from three metres to 90 metres, to be expressed on a new Alternative Heights Map Sheet, subject to a site-specific provision which secures:
  - (a) BASIX affected development exceeding the energy and water targets by no less than 5 points;
  - (b) no less than 4 per cent of the gross floor area on the land being provided for non-residential purposes;
  - (c) a new Active Street Frontages map to guide the location of non-residential uses; and

- (d) there being no additional height being awarded for the achievement of design excellence.
4. The publicly exhibited draft DCP provides the framework for the changes to the public domain on the site and underpins the alternative height controls with provisions to guide the bulk and scale of development and how the buildings interface with the street.
  5. The planning proposal does not supersede the current planning controls, that is, the current planning controls continue to apply to the site if the proponent prefers to develop under those controls. If the alternative heights are utilised however, the entirety of the site is subject to the alternative heights map and the above site specific requirements and planning agreement obligations.
  6. An indicative reference scheme that shows a possible built form outcome that may result from the proposed planning controls, is shown in Figures 2 to 5 below.



Figure 2. Indicative development concept - aerial view from south-east. Source: MAKO Architecture - Reference Design



Figure 3. Indicative development concept - aerial view from west. Source: MAKO Architecture - Reference Design



Figure 4. Indicative development concept - Defries Avenue looking north. Source: MAKO Architecture - Reference Design



Figure 5. Indicative development concept - Mulgu Park. Source: MAKO Architecture - Reference Design

7. In addition to the proposed planning controls a draft planning agreement was publicly exhibited, including commitment from the landowner to:
  - (a) provide no less than 4 per cent of the gross floor area of the development for non-residential purposes;
  - (b) achieve an energy and water BASIX score of at least 5 points above the existing commitments for all BASIX-affected development on the site;
  - (c) design and construct all future buildings on the site so as to be capable of providing a dual reticulation water system for up to estimated 2000 residents; and
  - (d) ensure all private residential parking spaces can be Electric Vehicle Charging spaces.
8. The Central Sydney Planning Committee (CSPC) and Council, at their meeting on 5 December 2022 and 12 December 2022 respectively, approved the planning proposal and the draft DCP to be submitted to the NSW Department of Planning and Environment (Department) for a Gateway determination, and for public authority consultation and public exhibition in accordance with any Gateway determination conditions. Council and CSPC resolutions are provided at Attachment F.
9. On 2 March 2023, the Department issued a conditional Gateway determination for the planning proposal shown at Attachment E to this report, requesting minor changes and clarifications to be made prior to public exhibition. The planning proposal was amended accordingly and following approval from the Department, the proposed planning controls and a draft planning agreement were placed on public exhibition from 27 March to 8 May 2023.



10. This report recommends Council approve the planning proposal and draft DCP, as amended following public exhibition. If approved, the proposal will be forwarded to the Department for finalisation. The amendment to the *Sydney Local Environmental Plan 2012* (Sydney LEP) will come into effect when it is published on the NSW Legislation website. Amendment to the Sydney Development Control Plan 2012 (Sydney DCP) will come into effect at the same time as the Sydney LEP amendment is published.

### Public Exhibition

11. The planning proposal, draft DCP and draft planning agreement were publicly exhibited for six weeks from 27 March 2023 to 8 May 2023. This exceeded the four week public exhibition requirement of the Gateway determination. Public exhibition was in accordance with the City of Sydney Community Engagement Strategy and Community Participation Plan 2022.
12. The City sent approximately 4,350 notification letters to landowners and occupants of surrounding properties, with approximately 1,000 of these letters being delivered to residents of the Randwick City Council Local Government Area. The exhibition was also advertised on the City's 'Sydney Your Say' page and included in the April Sydney Your Say newsletter which was sent to 6,975 subscribers.
13. The City hosted an online information session on 4 April 2023, which was advertised on the City's 'Sydney Your Say' page and referenced in the notification letters sent to surrounding properties.
14. In accordance with the Gateway determination, notification of the public exhibition was also made to the following public authorities:
  - (a) Randwick City Council;
  - (b) Energy, Environment and Science Group;
  - (c) Transport for NSW;
  - (d) Federal Department of Infrastructure, Transport, Regional Development and Communications;
  - (e) Sydney Airport Corporation;
  - (f) Air Services of Australia; and
  - (g) Civil Aviation Safety Authority.
15. A total of 136 submissions from the general community were received during the public exhibition period. Five submissions were in support of the proposal, 11 submissions provided mixed feedback or were in support of specific elements of the proposal and 120 submissions were in opposition of the proposal. In addition, one submission was received on behalf of the proponent and one submission was received on behalf of an adjacent landowner. Six submissions were received from public authorities, including one from Randwick City Council.
16. A summary of submissions and the City's detailed response is included at Attachment A of this report, with the key issues discussed below.

*Traffic, transport and parking*

17. 115 submissions from the general community raised concerns about traffic generation, particularly in West Kensington, local road infrastructure and/or the quality of the traffic study submitted with the planning proposal. Submissions related to these matters were also received from Transport for NSW and Randwick City Council.
18. The planning proposal does not increase the density (number of dwellings) permitted on the site. Therefore, there is no additional traffic and transport impact generated by the proposed planning controls, compared with the current planning controls that have been in place since 2012. It is noted that the Bitzios consultants review of the traffic impact assessment commissioned by Randwick Council found that there is limited nexus between the development's traffic and new or unforeseen impacts in the Randwick local government area.
19. Assessment of the traffic implications must be considered as part of future development applications, including necessary upgrades to intersections. The City has written to the proponent to advise them of the matters raised by Transport for NSW in their analysis of the traffic study submitted with the planning proposal, which will need to be addressed in development applications. Transport for NSW recommended implementing planning controls to ensure that any future traffic study to be lodged with a development application is consistent with the requirements of Transport for NSW. An additional provision to this effect is recommended to be included in the DCP.
20. The submission from Transport for NSW raised concern about the uncertainty regarding the future intersection arrangements at various points on the periphery of the site. Transport for NSW recommended that suitable satisfactory arrangements are made to ensure land required for future road upgrades are future-proofed (reserved) from development on the site.
21. The current planning controls set out the general expectation for intersections around the site, including land dedication for new road at the corner of Link Road and Zetland Avenue and along George Julius Avenue, as well as land dedication for footpath widening along Epsom Road. These dedications will occur as part of the development application process, with the detailed design of the roads being undertaken closer to the delivery.
22. Where signalisation or augmentation of an intersection for public transport is required, the City will work closely with Transport for NSW to secure the necessary land dedications, setbacks and/or developer contributions as part of the development application.
23. Some submissions raised concerns that the site is not well served by public transport. Some submissions noted that any development on the site should not proceed until the NSW Government has committed to constructing a metro station near the site.
24. The site is located within a 10-minute walking distance of Green Square train station (at its closest point) and within 400 meters of bus stops services, including:
  - (a) service 370 – this service runs every 10-20 minutes (peak services vary) from Epsom Road, connecting the site to Green Square Train Station, Newtown and Glebe to the west, and the University of NSW and Coogee to the east.

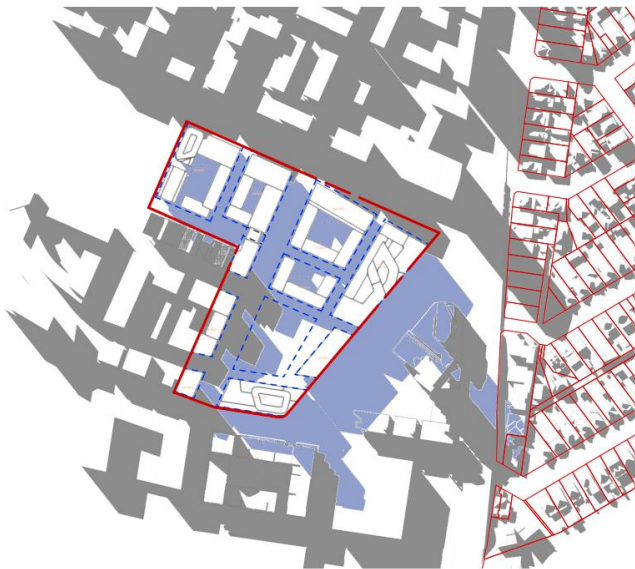
- (b) service 306 – this loop service runs every 10 minutes from Epsom Road and connects the site to Redfern train station in the north-west (via Green Square train station), to Eastlakes shopping centre and to Mascot station.
  - (c) service 304 – this continuous loop service runs from Gunyama Park Aquatic and Recreation Centre and Epsom Road to Redfern, Surry Hills, Martin Place and Circular Quay every 5 minutes on weekday peaks and every 10 minutes at most other times.
25. This site adjoins part of a planned eastern transit corridor, a surface transport corridor linking Green Square town centre and its train station to the City centre.
26. The City continues to advocate to Transport for NSW for a metro station in the local area in the long term, however this is not seen as immediately necessary for the development of the site which is currently adequately serviced by existing transport options. The City does acknowledge however that as development occurs over time, it is important Transport for NSW continue to improve to public transport options to support the growing community.
27. The City and Transport for NSW also work together to improve connectivity in and around this precinct and to promote sustainable transport use, including:
- (a) Green Square and Waterloo Transport Action Plan – Transport for NSW and the City jointly engaged a consultant to undertake a review of connectivity in the area of Green Square and Waterloo and develop an action plan up to 2024 and beyond to the opening of the metro;
  - (b) speed reduction – Transport for NSW and the City have been working together on a plan to reduce the majority of roads within the City area to 40km/h;
  - (c) cycleways – City and Transport for NSW will work together to roll out cycle links across the local area, including Epsom Road (currently in planning), Zetland Avenue and George Julius Avenue. There are several existing on-road and off-road bicycle routes surrounding the site that connect the site with adjoining precincts, to Central Sydney and to the wider network of regional bike paths.
  - (d) behaviour change – Transport for NSW and the City have recently implemented a behaviour change campaign in Green Square and the surrounding area. This is aimed at encouraging more sustainable methods of travel;
  - (e) maximum parking rates – In its planning controls the City establishes a maximum parking rate based on the accessibility of a site to public transport and service. The approach is intended to promote public transport use in favour of driving to a destination.
28. Some submissions raised concerns there was an undersupply of parking spaces to be provided as part of the proposal and that this would exacerbate existing pressures on street parking. Conversely, some submissions asserted that there was an oversupply of parking spaces which would contribute to traffic generation in the area.

29. The City's parking rates are set out in the Sydney LEP and establish maximum parking rates based on the accessibility of the site to public transport and service and the amount of dwellings and non-residential floor space. This approach is applied consistently across the local area and is supported by Transport for NSW. The planning proposal does not increase the density on the site and therefore does not increase the maximum number of car space permitted.
30. The reference scheme indicates about 860 parking spaces being provided in the development, as currently permitted under the Sydney LEP. Final approval for parking will occur at the development application stage.
31. Transport for NSW also made extensive recommendations to promote the use of sustainable modes.
32. Council is in agreeance with Transport for NSW that a future development application should promote the use of sustainable transport. These matters are to be addressed in a Green Transport Plan to be lodged with the development application.

*Building height, overshadowing and visual impact*

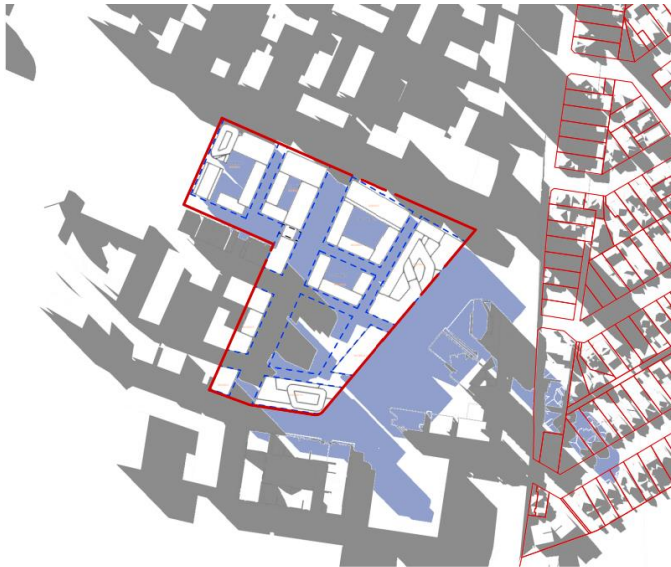
33. 93 submissions stated objections to the proposed building heights, with specific opposition to the proposed 90 metre tower at the north-east corner of the site. Concerns related potential overshadowing and privacy impacts, as well as the visual impact of the tower on the West Kensington heritage conservation area (conservation area).
34. The planning proposal facilitates additional height in some locations and a reduction of height in others. This allows for:
  - (a) a wider range of housing types to be provided on the site, including family-sized townhouses;
  - (b) more sunlight to the public domain, specifically to Mulgu Park;
  - (c) more and better quality public spaces and streets within the precinct; and
  - (d) a mix of land uses, with retail and commercial spaces to enliven the locality.
35. The proposed planning controls limit the floor plates of the towers on the site to ensure each is visually slender, that shadows they cast move quickly, and to ensure views are shared. It is considered the redistribution of height results in an overall improved public outcome for the site.
36. The height of towers responds appropriately to others already constructed in Green Square and the South Dowling Street corridor and their floorplate is controlled to maximise visual amenity. The building footprints and street heights have been arranged to improve amenity in the public domain and relocating building mass from the ground plane allows for the provision of new publicly accessible open spaces throughout the site, linking various streets and key open spaces in the neighbourhood.

37. At its nearest point, the subject site is approximately 70 metres from the nearest property in the Randwick local government area. Moreover, the 25-storey tower will need to be sited further from this point and will likely be more than 90 metres away from the nearest dwelling in the conservation area. The Link Road triangle and an elevated M1/Southern Cross Drive, a seven lane state road, lies between the site and the conservation area with a single underpass.
38. Appropriate solar access is measured with reference to the NSW Government's Apartment Design Guide (ADG) requirements. In addition, the City's planning controls require that new development must not create any additional overshadowing where solar access is less than two hours between 9am and 3pm on 21 June. Solar access is measured at mid-winter (21 June) because this is when the sun is lowest in the sky and therefore represents a 'worst case scenario' for overshadowing.
39. Overshadowing analysis was publicly exhibited as part of the supporting documentation with the planning proposal. The analysis demonstrates this standard can be achieved on neighbouring sites, including the conservation area, with the building envelopes shown in the planning proposal.
40. The exhibited analysis shows that the tower in the north-eastern corner of the site is the only proposed element that will create any additional overshadowing towards the conservation area further than that from existing built form at the Link Zetland site. On the 21 June this additional overshadowing does not commence until 2:30pm and is limited to the building nearest to Southern Cross Drive. By 3pm, the shadow extends over an additional three properties along the northern side of Lenthall Street and into the front yards of two properties on the southern side of Lenthall Street.



21/6 14:30

Figure 6. 21 June at 2:30pm. Source: Solar Impact Analysis - Randwick local government area



21/6 15:00

Figure 7. 21 June at 3pm. Source: Solar Impact Analysis - Randwick local government area

41. On surrounding apartments in closer proximity to the site, the analysis demonstrates that appropriate solar access can be maintained to existing and planned surrounding apartment buildings and can be achieved for the planned buildings within the development itself.
42. The requirement for solar access will be further tested in the detailed design process at the development application stage. Any future development must maintain compliance with the ADG.
43. On the public domain, the City's planning controls require a minimum of 50 per cent of the open space to receive sun for four hours between 9am and 3pm in midwinter. Overshadowing analysis of open space in and around the site shows this can be achieved and support its intended uses.
44. The proposed reduced building height to the immediate north of Mulgu Park (to allow for three storey townhouses), results in increased solar access to the park, allowing 78 per cent of the park to receive four hours of sun between 9am and 3pm in midwinter compared with 53 per cent under the current controls.
45. The ADG also contains standards to ensure new residential apartments achieve acceptable levels of visual privacy for residents and neighbours. To limit the impacts of overlooking, it requires a minimum 24 metre separation between habitable rooms and balconies with other habitable rooms, balconies and other private open spaces for buildings that are nine or more storeys high. As above, with a separation distance of 90 metres from the tallest tower at the north-east of the site to dwellings in the conservation area, the ADG standards are achieved. They are also achieved, and more often exceeded, with more immediate development bordering the site.
46. Randwick City Council's submission requested for a heritage impact assessment to be undertaken to assess the potential visual impacts that could result from the proposed planning controls to the conservation area.

47. The Randwick Heritage Study – Volume 1 Heritage Conservation Area Review 2021, prepared on behalf of Randwick Council, recognises the visual interest of the West Kensington heritage conservation area as being predominantly internally focused, with some of the more interesting views out of the area being to the south-east towards the Sacred Heart Church. The Statement of Significance for the conservation area states:

It features interesting street junctions, many of which are T-junctions, and streets which range in length. This results in a great variety of internal vistas, long and short, most of which are terminated by buildings at an intersection or bend. Some of the more interesting views out include views to the elevated areas to the south-east, where the Sacred Heart Church still stands. The area's visual interest is mostly a consequence of built character, and the geometry of the subdivision, with all allotments orientated at 45 degrees to the main compass points.

48. The subject site is to the west and southwest of the conservation area, with tall buildings along Southern Cross Drive already visible. It is not considered that an additional building(s) [one 25 storey building] within view of parts of the conservation area would negatively impact on the stated heritage significance of the area, particularly as there is no impact on visual or acoustic privacy.

*Density and supporting community infrastructure*

49. 65 submissions stated objections to the excessive density and overdevelopment of the area and raised concerns regarding the cumulative impact of development in the area. Many of the concerns in relation to density and cumulative impact related to traffic impacts, that are discussed above in this report. 45 submissions were concerned there was insufficient community infrastructure, such as schools, community facilities and open space, to support it.
50. The planning proposal does not increase the density permitted on the site and will not facilitate the delivery of any additional dwellings, above what would already be permissible under current planning controls.
51. The planning proposal facilitates a number of public domain improvements including an additional 5,500 square metres of public open space, including Mulgu Park and three additional areas of newly proposed open space. The site is close to a variety of exemplary community facilities and open spaces including the Green Square Plaza and Library, Joynton Avenue Creative centre and Matron Ruby Park and playground. It is also close to childcare centres and a community shed. The site is adjacent to Gunyama Park Aquatic and Recreation Centre including a playing field and adventure park and is within walking distance of the Drying Green in the Town Centre.
52. A new public school is being built nearby on Zetland Avenue. It will provide the latest learning spaces and equipped core facilities to meet future enrolment demand in the area. The Green Square Public School and Community Spaces is being delivered by the Department of Education in collaboration with the City. Shared spaces include sporting and recreational courts. An Out of School Hours Care (OSHC) will be provided on site also.

*Landowner submission*

53. A submission was received by the landowner, seeking changes to the publicly exhibited planning controls to:
- (a) limit the extent of active frontages required as part of the proposed planning controls;
  - (b) remove the 1,000 square metre cap on the size of a supermarket that might be located on the site;
  - (c) remove car parking requirements in the draft DCP that exceed those in the Sydney LEP;
  - (d) remove the requirement for the physical break and visual separation to be achieved above ground floor between Tower C and the 8/9 storey building to its immediate south;
  - (e) remove the prohibition of parking and basement connections (cut-throughs) under future public roads;
  - (f) remove the duplication of requirements in the planning controls and the planning agreement;
  - (g) increase the maximum building height to the north of Mulgu Park;
  - (h) reduce the maximum floor plate requirements for the towers on the site;
  - (i) remove the prohibition of above ground car parking;
  - (j) remove the requirement for reduced building heights where the three metre setback to Zetland Avenue can be reduced; and
  - (k) introduce an 'articulation zone' to facilitate flexibility
54. Following consideration of the landowner submission, the following changes to the publicly exhibited planning controls are recommended:
- (a) the current active frontage requirements that apply to the site are to be maintained, that is, the expanded active frontage requirements in the publicly exhibited planning proposal and the draft DCP are to be removed. The recommended change acknowledges the proposed active street frontages requirements would result in more non-residential floor area than is otherwise required by the planning proposal and planning agreement. It also recognises the reduced flexibility that comes with including active street frontages in the LEP, rather than in the DCP only;



- (b) amending the planning proposal to allow for a 1,200 square metre supermarket to be provided on the site. This exceeds the current 1,000 square metre maximum in the Sydney LEP. The draft DCP is also to be amended to remove a size requirement for any supermarket on the site. The recommended change allows for the provision of the 178 square metre forecast shortage of supermarket floor space identified in the North Rosebery cluster (being where the site is located) in the City's retail study and recognises that the proposed controls require 4 per cent of the floor space (about 3,500 square metres) to be for non-residential uses;
- (c) rewording of the provision in the draft DCP that implies a required reduction in car parking below the maximum parking rate in the LEP. While the DCP will include provision to encourage exploration of opportunities to reduce parking and encourage sustainable transport choices, it is acknowledged the Sydney LEP is the prevailing planning control and a DCP requirement cannot override it;
- (d) provision in the draft DCP to allow basement connections (cut-through) and visitor parking (that is held in common property) below roads that are to be dedicated to council. The proposed change is consistent with development approvals on surrounding sites where this outcome has been facilitated;
- (e) removal of the requirement in the draft DCP that 'reduction in height elsewhere on the site' is required where the three metre setback to Zetland Avenue is not achieved. The amendment removes any implied inconsistency between the Alternative Built Form map and the Alternative Building Setbacks map.

#### *Randwick City Council*

- 55. In addition to those matters related to traffic, parking, overshadowing, visual impacts to the conservation area and cumulative impacts, the submission from Randwick City Council also made recommendations with regard to site specific FSR controls for each development block to increase certainty, the increase of affordable housing on the site and the sustainability benefits secured through the planning agreement.
- 56. These matters are addressed in the submissions table appended to this report. No changes to the publicly exhibited planning controls are recommended as a result of consideration of this submission.

#### *NSW Environment and Heritage Group*

- 57. The NSW Environment and Heritage Group made a submission regarding trees, biodiversity and flooding.
- 58. The City's planning framework includes detailed requirements for the management of trees that must be considered in relation to any future development application, including submission of an arborist report. The report must be prepared in line with City of Sydney guidelines, and relevant Australian Standards including for classification, protection and pruning. All street tree plantings must be in accordance with the City's Street Tree Master Plan 2011 and landscape design must consider the City of Sydney Landscape Code.
- 59. The submission also raised concern that Ministerial Direction 4.1 Flooding has not been properly addressed and that a flood impact and risk assessment is required to support the planning proposal.

60. This matter was considered by the Department of Planning and Environment prior to issuing Gateway determination for the planning proposal, and it considered the Ministerial Direction 4.1 Flooding had been appropriately addressed for the planning proposal, noting further flooding analysis is required at the detailed design (development application) stage. The current planning controls permit development and require the management of flood risk. The proposed height controls allow for development to accommodate the required flood planning levels.
61. Notwithstanding the above, it is recommended the draft DCP be amended to provide further clarification for the need for a flood impact and risk assessment in accordance with the Department's Flood Risk Management Guide LU01: Flood Impact and Risk Assessment.

*Civil Aviation Safety Authority, Sydney Airport Corporation and Department of Infrastructure and Regional Development*

62. Submissions were also received from the Civil Aviation Safety Authority, Sydney Airport Corporation and the Department of Infrastructure and Regional Development outlining the future approvals required at the development application stage of the development.
63. In response to matters raised, no changes to the publicly exhibited planning controls are needed.

## **Key Implications**

### **BASIX stretch targets**

64. Additional changes are proposed to the BASIX provision in the planning proposal.
65. *State Environmental Planning Policy (Sustainable Buildings) 2022* (Sustainable Building SEPP) will introduce higher BASIX targets. The planning agreement recognised the increase and only imposed stretch targets for development applications submitted under the current BASIX SEPP. The planning proposal is therefore proposed to be updated to be consistent with the planning agreement and recognise the increased target introduced by the Sustainable Building SEPP.

### **Planning agreement**

66. No changes are recommended to the publicly exhibited draft planning agreement.

### **Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision**

67. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. The proposed planning controls are aligned with the strategic directions and objectives.
68. The proposed planning controls give effect to the infrastructure, liveability, productivity and sustainability priorities in the Greater Sydney Commission's Greater Sydney Region Plan and Eastern City District Plan and the City's Local Strategic Planning Statement.

### **Relevant Legislation**

- 69. Environmental Planning and Assessment Act 1979.
- 70. Environmental Planning and Assessment Regulation 2021.

### **Critical Dates / Time Frames**

- 71. The Gateway determination requires that the amendment to the Sydney LEP 2012 is completed by 2 March 2024.
- 72. The Department determined Council would not be the local plan-making authority for this planning proposal. Therefore, should the proposed planning controls be approved by Council and the CSPP, the proposal will be forwarded to the Department to be finalised.
- 73. The amendment to the Sydney LEP 2012 will come into effect when the plan is notified on the NSW Legislation website, with the amendment to the Sydney DCP 2012 coming into effect on the same day.
- 74. The planning agreement will be executed and registered on the title of the land prior to the finalisation of the LEP and DCP.

### **GRAHAM JAHN AM**

Director City Planning, Development and Transport

Angela Smidmore, Specialist Planner