

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