

PLANNING
PROPOSAL
ADDENDUM

ADDENDUM TO PLANNING PROPOSAL

53-69 Victoria Road, 46 Thornley Street & 45 Formosa Street, Drummoyne

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Introduction

Council received a Planning Proposal for 53-69 Victoria Road, 45 Day Street and 46 Thornley Street, Drummoyne. The Planning Proposal seeks to:

- rezone part of the site from R2 Low Density Residential to B4 Mixed Use;
- increase the maximum building height across the site from 8.5m to 14m;
- apply a bonus maximum building height of 20m for 63-69 Victoria Road where a minimum site area of 2,500m² is achieved;
- increase the maximum floor space ratio (FSR) for 63-69 Victoria Road and 45 Day Street from 0.5:1 and 1:1 to 2.1:1;
- increase FSR for 53 Victoria Road and 46 Thornley Street from 0.5:1 and 1:1 to 1.7:1; and
- apply a bonus FSR to a maximum of 2.25:1 across the site where a minimum site area of 2,500m² is achieved.

The Planning Proposal intends to facilitate redevelopment of the subject sites through the demolition of existing commercial and residential dwellings to provide for the construction of a mixed-use development.

Consultation has been undertaken with the applicant to establish appropriate planning controls for the site. The submission to increase development controls on the subject site include a transition to the scale of the built form to the adjacent low density housing to the rear (interfacing Formosa Street) and south-eastern frontages (interfacing Thornley Street).

A draft amendment to the Canada Bay Development Control Plan has been prepared to accommodate the proposed development.

Two draft Planning Agreements have been prepared and aim to provide a monetary contribution for improved facilities at Brett Park in Drummoyne and Drummoyne Pool.

It was resolved at the Council meeting of the 20th September 2016 that the Planning Proposal is supported for submission to the Department of Planning and Environment for a Gateway Determination.

Gateway Determination

A Gateway Determination was received for the Planning Proposal on the 24th October 2018.

The Gateway Determination required various matters to be addressed prior to proceeding to Public Exhibition. Details of the Gateway Determination are provided below, including how requirements identified within the Gateway Determination have been addressed:

Gateway Determination Requirement	Action taken to satisfy requirement
1(a) update the project timeline, outlining the anticipated timeframes for the plan making process;	Timeline included within this Addendum has been updated to reflect anticipated timeframes.
1(b) update the proposal to address the provision of Affordable Housing;	Discussion to address the requirement for Affordable Housing incorporated within this Addendum.
1(c) including additional information to address cross ventilation and solar access requirements of the Apartment Design Guide;	SEPP 65 Design Principles and ADG Compliance Assessment has been prepared by the Applicant and included within public exhibition documentation.
1(d) address and justify the inconsistency with section 9.1 Direction 6.3 Site Specific Provisions as the proposal seeks to introduce a site-specific clause that does not currently exist in the zone;	Discussion to address Section 9.1 Direction 6.3 Site Specific Provisions provide within this Addendum.
1(e) include the Site Investigation Report prepared by Woolcotts Consulting Engineers that is referenced in the Proposal.	Additional Site Investigation Report included within public exhibition documentation.
5 (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified.	Council will seek agreement from the Secretary that the inconsistency with Direction 6.3 is justified.

Updated Detailed Site Investigation (DSI) and Remedial Action Plan (RAP)

In accordance with the requirements of State Environmental Planning Policy No. 55 – Remediation of Land, the applicant has prepared a Detailed Site Investigation (DSI) and Remedial Action Plan (RAP). Following initial Council feedback, an updated DSI and RAP has been provided. The following advice was provided by Council:

It is considered likely that the site is capable of being made suitable for the proposed development if the amended RAP (and DSI) is implemented noting the following comments:

- *Insufficient detail is provided regarding the need for intrusive investigation associated with groundwater quality and soil vapour in relation to the USTs with respect to both site suitability and potential for off-site migration of contaminants*
- *The contaminants of potential concern related to the UST must also be considered as part of the OHS plan for the site*
- *Insufficient detail is provided regarding the specific method, sample handling and frequency of validation testing for asbestos in soil and air (i.e. as required by NEPM (2013) / WA DoH (2009) and legislation and Codes of Practice relating to asbestos)*

The above items, together with any other contamination related matters, could be captured as part of the NSW EPA accredited Contaminated Site Auditor process. Consequently, the DA must condition requirement for a Site Audit Statement (SAS) and Site Audit Report (SAR) prior to issue of the construction certificate.

A copy of the updated Detailed Site Investigation and Remedial Action Plan is provided as a separate document within the public exhibition material.

Provision of Affordable Housing

Clause 1 (b) of the Gateway Determination requires the Planning Proposal to be updated to address the provision of Affordable Housing.

In accordance with the requirements of Greater Sydney Region Plan “A Metropolis of Three Cities” and The Eastern City District Plan, there is an expectation that Affordable Housing will be provided at a rate of 5 – 10 percent of the new residential floorspace created as a result of a rezoning decision.

The Planning Proposal seeks to rezone part of the land from R2 Low Density Residential to B4 Mixed Use. Requirements of the Sydney Regional and Eastern District Plan therefore apply with respect to the provision of Affordable Housing. On this occasion, Council is seeking a variation to this requirement for the following reasons:

- The Planning Proposal was supported by Council in 2016, before the Greater Sydney Region Plan and Eastern City District Plan were finalised;
- A Planning Agreement is in place and will provide monetary contributions for improvement to a local park and public pool that will benefit both local residents, workers and Bay Run users;
- It is considered onerous to require further contributions in addition to those proposed;
- Amending the Planning Proposal at this late stage would provide further delay, giving consideration to the time which it has taken to progress to the Planning Proposal to public exhibition already, primarily due to the number and interest of landowners.

Further discussion is provided below:

- Council resolved to support the Planning Proposal to be submitted for Gateway Determination on 20 September 2016.
- Two Planning Agreements were drafted and submitted to support the Planning Proposal.
- Finalisation of the draft Planning Agreements took an extended period due to the number of landowners involved in the rezoning, including a State Government Agency representative for the Ambulance Station located within the subject site.
- The Planning Agreement has been agreed in principle to provide monetary contributions to enable the upgrade of Brett Park (adjacent to the subject site), including re-building the toilet block, improvements to the BBQ area and training equipment; and improvements to Drummoyne Pool.
- Brett Park is highly visible and well-located park within close proximity to additional densities in Drummoyne, particularly along Victoria Road and for users of the Bay Run. The toilet and BBQ amenities require significant work to restore appropriate standards to the amenities. Relocation of the toilet will significantly improve the amenity for the Bay Run users as it will be located closer to the run and have higher visibility.
- The Greater Sydney Region Plan and the Eastern City District Plan commenced in March 2018. A significant amount of work had already been undertaken for the preparation and finalisation of the Planning Proposal and subject Planning Agreements.
- In this regard, it is considered that significant monetary contribution is already offered by the applicant to support the value uplift of the Planning Proposal.
- The timing of the Planning Proposal pre-dates the finalisation of both the Greater Sydney Region Plan and the Eastern City District Plan.
- Council considers the provision of monetary contributions to make improvements to Brett Park and Drummoyne Pool in this instance, are a reasonable contribution in the circumstances.

Section 9.1 Direction 6.3 Site Specific Provisions

The Planning Proposal intends to make the following site-specific amendments to the Canada Bay LEP 2013:

<p>Draft Clause – City of Canada Bay Local Environmental Plan 2013 (Canada Bay LEP 2013)</p> <p>The following additional clauses are proposed within the Canada Bay LEP 2013 (<i>Draft clause shown in Red</i>):</p> <p>Draft 4.3 Height of buildings</p> <p>(2) The height of a building on any land is not to exceed the maximum building height shown for the land on the Height of Buildings Map.</p> <p><i>(2A) Despite subclause (2), the maximum height of a building on the land identified as Lot 10 DP 625084 (63-69 Victoria Road, Drummoyne) is 20m, where a site area greater than 2,500m² is achieved.</i></p> <p>Draft 4.4 Floor Space Ratio</p> <p>(2) The floor space ratio on any land is not to exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map.</p> <p><i>(2G) Despite subclause (2), the maximum floor space ratio on the land identified as “Area 6” on the Floor Space Ratio Map is 2.25:1, where a site area greater than 2,500m² is achieved.</i></p>
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Objective

The objective of the direction is to discourage unnecessarily restrictive site-specific planning controls.

What a relevant planning authority must do if this direction applies

Discussion is provided below with respect to how the Planning Proposal addresses each criteria of the subject Direction:

Clauses (4) and (5) of the Direction state:

Direction	Council Response
<p><i>Clause (4) A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</i></p>	
<p><i>(a) allow that land use to be carried out in the zone the land is situated on, or</i></p>	<p>The proposed amendment does allow that land use to be carried out in the zone the land is situated on.</p>
<p><i>(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</i></p>	<p>The proposed amendments Draft 4.3 (2A) Height of buildings and Draft 4.4 (2G) Floor Space Ratio provide an opportunity for bonus development to be achieved should a minimum site area be achieved.</p> <p>The purpose of the draft height and floor space ratio clauses are to encourage site amalgamation and ensure an appropriate interface is provided in circumstances where the subject lots are not</p>

	consolidated.
<i>(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principle environmental planning instrument being amended.</i>	The proposed amendments to the Canada Bay LEP do not restrict the use of the land, though provide an opportunity for bonus development should the minimum site area be achieved.
<i>(5) A planning proposal must not contain or refer to drawings that show details of the development proposal.</i>	The Planning Proposal does not contain or refer to drawing that show details of the development proposal.

Despite the inconsistency with Direction 6.3, the proposed site specific clause is considered to be appropriate to achieve a high quality urban design outcome. The draft clauses will facilitate development with a scale and impact having regard to the likelihood that the lots may not be consolidated.

Community Consultation

Section 3.33 of the Environmental Planning and Assessment Act (1979) requires the provision of details of proposed community consultation. Consultation on the Planning Proposal will take place in accordance with the Gateway Determination made by the Minister for Planning.

1. It is proposed to exhibit the Planning Proposal for 49 days (7 weeks) to cater for the public exhibition occurring over the December/January period:
 - a. City of Canada Bay website;
 - b. Local newspaper (Inner West Courier), which circulates in the City of Canada Bay local government area;
 - c. In writing to the landowners/residents and surrounding landowners.
2. Consistent with Cl.4 of the Gateway Determination, a public hearing is not required.
3. Consultation will be undertaken with the following public authorities:
 - a. Ambulance Service of NSW;
 - b. Office of Environment and Heritage;
 - c. NSW Department of Education;
 - d. Environment Protection Authority;
 - e. Transport for NSW;
 - f. Roads and Maritime Services;
 - g. Energy Australia;
 - h. Sydney Water; and
 - i. NSW Fire and Rescue.

Public authorities will be given at least 21 days to comment on the proposal.

Project Timeline

Milestone	Timeframe and/or date
Anticipated commencement date (date of Gateway determination)	Monday 24 October 2018
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	Planning Proposal Exhibition – Required 28 days (proposed 49 days over December / January period) Government Agency Consultation – 21 days
Commencement and completion dates for public exhibition period	Tuesday 11 th December to Monday 28 th January 2019.
Timeframe for consideration of submissions	Four weeks following completion of public exhibition, including two-to-three weeks to further consult with Government and servicing authorities.
Timeframe for consideration of a proposal post exhibition	Eight weeks.
Date of submission to the Department to finalise the LEP	No later than six weeks prior to finalisation of the LEP.
Anticipated date the Council will make the plan (if delegated)	No later than 24 th October 2019.
Anticipated date Council will forward to the department for notification	No later than 24 th October 2019 (12 months from Gateway Determination)