

**ITEM 2. OWNER'S CONSENT - PEMULWUY PROJECT REDFERN****FILE NO: S050260****SUMMARY**

The Aboriginal Housing Company Ltd (AHC) has lodged a Concept Plan application with the Department of Planning for development of the area known as Pemulwuy Project which includes four (4) parcels of land which are owned by the City. These lands are: Eveleigh Lane, which is proposed for residential dwellings development; part of Caroline Lane, which is proposed for retail and commercial development and respite and health care facility; and 91-99 and 119-121 Eveleigh Street which is proposed for community art gallery and commercial development.

As Council is the owner of the above described land, AHC has requested Council's consent to enable the lands to be included in the determination of the Concept Plan application.

The aim of the Concept Plan is to substantially revitalise the Pemulwuy area. However, the current proposal does not comply with "SEPP2005 – Major Projects" requirements for maximum permissible FSR and height. The City's Planning Division advises that there are also design and alignment issues.

Furthermore, in the City's assessment, the Concept Plan would also result in a reduction in publicly accessible open space from an existing 1500sqm to 400sqm. However, some innovative controlled public space is proposed in the form of a Public Art Gallery, Fitness Centre and Elders Centre which may be considered desirable in achieving improved social outcomes.

If owner's consent is given, the next steps would be as follows:

- (a) the Concept Plan is to be assessed by the Minister for Planning; and
- (b) if the Concept Plan is approved by the Minister for Planning, then the applicant will lodge a Project Application with the Minister. The Project Application will be placed on public exhibition and, as an owner of land, the Minister will refer the application to Council for comment. Concurrent with this process would be Council consideration of Council road closures/transfer and sale.

**RECOMMENDATION**

It is resolved that:

- (A) Council note the following concerns about the Concept Plan application:
  - (i) non-compliance with the development controls for height and FSR;
  - (ii) the design and treatment of the residential roofs should provide a more articulated built form to break up the perceived bulk of the development and contribute more positively to the skyline;

- (iii) the design and treatment of proposed residential buildings should better reinforce the street pattern and address the street alignment having regard to the project's social and cultural design considerations. The opportunity exists to improve the side elevations of the buildings to achieve greater continuity of built form, and to achieve more active street frontages and improved articulated facades;
  - (iv) the interpretation of the alignments of Eveleigh Lane and that part of Caroline Lane, which is proposed to be closed, should be reviewed; and
  - (v) the public benefits to be provided in light of the reduction in the City's open space should be articulated.
- (B) Council as owner of:
- (i) Eveleigh Lane, Redfern
  - (ii) part of Caroline Lane, Redfern and
  - (iii) 91-99 and 119-121 Eveleigh Street, Redfern
- consent to the inclusion of the Council land in the Concept Plan application lodged with the Department of Planning known as the Pemulwuy Project solely to enable the Concept Plan application process to proceed;
- (C) Council note that the owner's consent granted in clause (B) :
- (i) does not grant approval for the closure, reclassification, sale or transfer of the above described Council land, which will require a further resolution of Council; and
  - (ii) does not express any opinion as to the planning merits of the Concept Plan or fetter Council's discretion on raising its planning concerns;
- (D) Council note that no formal request has been made for the closure, reclassification, sale or transfer of the above described Council land in (B) and approval of any such request would require:
- (i) any sale/transfer to be at market value; and
  - (ii) an appropriate deed with the Aboriginal Housing Company Ltd to permit the land to be transferred back to the Council in the event that the current proposal is significantly altered or ownership changes;
- (E) Council note that the next stage of the Concept Plan application process, following granting of owner's consent, is for the applicant to lodge a Project Application with the Minister for Planning. This Project Application will be referred to Council for comment and placed on public exhibition. Council consideration of Council road closures/transfer and sale is concurrent with this process.

**ATTACHMENTS**

**Attachment A:** Plan showing location of Council land.

**Attachment B:** Photo Montage

**Attachment C:** Director-General's requirements.

**Attachment D:** AHC's plan of Comparison of Existing and Proposed Open Space.

**BACKGROUND**

1. The AHC lodged Major Project Application 06\_0101 with the Department of Planning on 11 September 2006 for a Concept Plan known as "The Pemulwuy Project", Redfern.
2. The Pemulwuy Project is situated on land in Redfern which is largely owned by the AHC, as well as land owned by the City of Sydney Council (1,022.3sqm), other Aboriginal organisations and some private residences.
3. The Pemulwuy Project Concept Plan is a mixed-use development including community, cultural and commercial uses and family oriented housing consistent with the vision of the Redfern Waterloo area.
4. The site is subject to the Major Projects SEPP 2005 and the Redfern Waterloo Built Environment Plan (RWBEP). However, the City's Planning Division was asked to provide preliminary comments on the proposal.
  - (a) The compliance of the proposal with the controls in the Major Projects SEPP 2005 is summarised below:

<b>Development Controls</b>	<b>Permissible under Major Projects SEPP 2005</b>	<b>Proposal as Assessed under Major Projects SEPP 2005</b>
Zoning	Business Zone – Mixed Use	The mixed use development is permissible with consent
Permitted land uses	Mixed business, residential and community facilities	Proposed uses (business, residential, cultural and community) are permissible with consent
Maximum permissible FSR (site area 9,736.5m <sup>2</sup> )	West of Eveleigh Street – 1.5:1 (0.75:1 max residential component)  East of Eveleigh Street (between Eveleigh Street and the train line) – 2:1 (1:1 max residential component)	<b>Does not Comply</b>  West of Eveleigh Street – 1.33:1 (0.9:1 residential and 0.43:1 commercial)  East of Eveleigh Street – 2.77:1 (0:1 residential, 2.77:1 commercial)

Development Controls	Permissible under Major Projects SEPP 2005	Proposal as Assessed under Major Projects SEPP 2005
Maximum permissible height	<p>West of Eveleigh Street – three (3) storeys</p> <p>East of Eveleigh Street five (5) storeys</p>	<p>West of Eveleigh Street retail, offices, health and respite centre and Elders Spiritual Centre are three (3) storeys in height, which complies. Residential dwelling are four (4) storeys, <b>which does not comply</b></p> <p>East of Eveleigh Street – Art Gallery Annex is four (4) storeys, and the Art Gallery and commercial buildings are five (5) storeys, which complies</p>

#### Planning

- (b) No objection is raised to the proposed uses, which are permissible with consent. The proposed built form is generally acceptable, subject to compliance with the maximum height and FSR controls.

#### Heritage

- (c) With the exception of the contemporary housing, the existing buildings date from the key period of significance for the Conservation Area. However, the buildings are somewhat isolated from the rest of the conservation area because of the demolition of most of the surrounding context over the last fifteen years or so. On this basis, no objection is raised to the demolition of the existing buildings on site. The scale and modelling of the proposed new buildings appears sympathetic to that of the conservation area.

#### Urban Design

- (d) No objection is raised to the scale of the development in terms of urban design. The overall scale of the site will be modest compared with other taller structures on Lawson Street. Notwithstanding this, the massing of the development should be further considered at DA stage which will be undertaken by the Department of Planning under SEPP – Major Projects.
- (e) As a cultural project for the Aboriginal community, the built form has evolved in response to the unique social housing and community needs of the area. Key aspects include:
- (i) appropriate design of dwelling types to suit the various family group structures based on consultation with the community;

- (ii) responding to security and safety issues unique to this area and to achieve the right level of autonomy and privacy between the various housing groups; and
  - (iii) locating the community, commercial and retail uses at the top end of the site opposite the Redfern Station to create the cultural gateway to the site.
5. Subsequently, the City's Planning Division in principle raises no objection to granting owner's consent as land owner to the Concept Plan, notes to Council the following concerns:
- (a) non-compliance with the development controls for height and FSR;
  - (b) the design and treatment of the residential roofs is to provide a more articulated built form to break up the perceived bulk of the development and contribute more positively to the skyline;
  - (c) the design and treatment of proposed residential buildings should better reinforce the street pattern and address the street alignment having regard to the project's social and cultural design considerations. The opportunity exists to improve the side elevations of the buildings to achieve greater continuity of built form, and to achieve more active street frontages and improved articulated facades;
  - (d) the interpretation of the alignments of Eveleigh Lane and that part of Caroline Lane, which is proposed to be closed, should be reviewed; and
  - (e) the public benefits to be provided in light of the reduction in the City's open space should be articulated.

### City Land

6. On 6 October 2006, the Department of Planning issued the Director General requirements for lodgement of the Concept Plan, as shown at Attachment C to this report. AHC, by letter dated 17 January 2007, has requested owner's consent from the City of Sydney to the Pemulwuy Project Concept Plan.
7. The three areas of City land included in the Concept Plan are as follows:
- (a) Eveleigh Lane has an area of approximately 398.06 m<sup>2</sup> and is to be closed and included in the residential development. No building will be built over the laneway. The closure of the lane will form private open space backyards for the ground floor four bedrooms dwellings. This is in accordance with the safety and community plan, consultation with the Redfern Police and various community groups;
  - (b) an area of 125.2 m<sup>2</sup> of part of Caroline Lane is proposed to be closed and used to erect a retail and commercial development and respite and health care facility; and
  - (c) the Council owned properties of 91-99 and 119-121 Eveleigh Street, having a combined area of 499.04 m<sup>2</sup>, currently used as open space (Pemulwuy Park) are proposed to be used to erect a public community art gallery and commercial development.

**Open Space**

8. It is noted that 91-99 and 119-121 Eveleigh Street were progressively acquired by South Sydney City Council from May 1988 to October 1994 at a total of \$193,500. The properties were acquired for the purpose of establishing a children's playground and landscaped open space area.
9. The plan prepared by AHC at Attachment D indicates that the area of existing public open space within the redevelopment area is 1,516 m<sup>2</sup> and following redevelopment the publicly accessible open space will reduce to 1,090 m<sup>2</sup>.
10. Upon review of the plans, the City's Planning Unit has advised that the amount of publicly accessible open space appears to be reduced even further and is considered to be in the order of 400 m<sup>2</sup>.
11. In respect to the Council owned lands, it is considered that a deed should be entered into with the AHC to protect the City's interests in the event that the current plan is substantially altered or current ownership changes.

**KEY IMPLICATIONS**

12. The next steps in relation to the proposal for Council land would be the Pemulwuy Project Concept Plan being assessed by the Minister for Planning. If the Minister approves the Concept Plan, the applicant can then lodge a Project Application with the Minister for Planning. This Project Application will be referred to Council for comment and placed on public exhibition. Council consideration of Council road closures/transfer and sale is concurrent with this process.
13. If the Department of Planning grants consent to the proposed development, any Council lands to be transferred to the AHC will be at market value.
14. It is also proposed that, following Department of Planning consent, Council enter into an appropriate deed with the AHC to permit the land to be transferred back to the Council in the event that the current proposal is significantly altered or ownership changes.
15. The proposal indicates a reduction in publicly accessible open space from the existing 1,516 m<sup>2</sup> to approx. 400 m<sup>2</sup> by the City's assessment. This differs from the proponent's assessment, which has counted small parcels of land that are adjacent to buildings.

**FINANCIAL IMPLICATIONS**

16. If the Concept Plan is approved, the sale and transfer of Council owned lands are proposed at market value.

**RELEVANT LEGISLATION**

17. The Roads Act 1993 and the Conveyancing Act 1919.

**OPTIONS**

18. The City may decline to give owner's consent for the inclusion of the City's land in the Concept Plan application.

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