

**(ITEM 99/11) PLANNING PROPOSAL FOR 302-314 PARRAMATTA ROAD, BURWOOD**

File No: 11/31533

REPORT BY DEPUTY GENERAL MANAGER LAND, INFRASTRUCTURE &amp; ENVIRONMENT

**Summary**

The Planning Proposal requests an amendment of the *Burwood Planning Scheme Ordinance 1979* (BPSO) to allow a liquor store to stay lawfully on the land. A Development Application (DA) was approved in 2009 for a "mixed development" on the site and the owner wants to delete the residential component of the development. The Planning Proposal is of a minor nature and is assessed as satisfactory under the gateway criteria for new Local Environmental Plans (LEPs). It is recommended that Council endorse the Planning Proposal and forward same to the Department of Planning and Infrastructure (DP&I) for a gateway determination.

**Background**

The land at 302-314 Parramatta Road Burwood has been developed recently for a liquor store and associated public parking area and loading dock. A DA was approved in 2009 for a "mixed development" which is permitted in the Business Special 3(b) zone under the BPSO, and the approved development includes two small residential flats. The proponent wants to delete these flats, however the liquor store alone is prohibited in the zone under the BPSO.

**Proposal**

The Planning Proposal submitted by consultants on behalf of the owner Fabcot Pty Ltd requests an amendment of the BPSO to allow a "liquor store, associated car parking and loading facilities" as an additional permitted use on the land. This will enable the deletion of the two residential flats while allowing the liquor store development alone to continue lawfully on the land.

An initial Planning Proposal submitted to Council in June 2011 sought to address the matter through the provisions of the draft Comprehensive LEP. As this approach was likely to involve substantial delays, Council Officers suggested submission of a revised Planning Proposal that would amend the BPSO as the planning instrument currently in force. Additional information and clarification of certain matters in the Planning Proposal was also suggested.

The revised Planning Proposal submitted in August 2011:

- Requests an amendment to the BPSO to include an additional permitted use under clause 78D for the Business Special 3(b) zone
- Recognises the need to make a Section 96 application to modify the existing consent to legalise the current development without the inclusion of two flats, after the BPSO amendment is in place
- Addresses the requirements for Planning Proposals under Part 3 of the *Environmental Planning and Assessment (EP&A) Act 1979*
- Presents justification for the requested BPSO amendments and demonstration of the Net Community Benefits which will follow from the Planning Proposal

**Planning context, planning instruments and strategies**

The Planning Proposal reviews the planning context of the liquor store development on the subject land. It explains how the proposed amendment to the BPSO will work, and refers to the Section 96 application for modification of the existing consent that has been lodged concurrently with Council. This application is on hold pending the necessary eventuation of the Planning Proposal.

The Planning Proposal reviews also:

- the Metropolitan Strategy documents including the draft Inner West Subregional Strategy
- the 12 October 2010 report to Council on the draft Comprehensive LEP
- the December 2008 Interim Guidelines on Development Near Rail Stations and Busy Roads

**Gateway assessment criteria**

In accordance with the criteria established in the DP&I's guidelines published in 2009, the submitted Planning Proposal provides an assessment of the requested BPSO amendment.

*Need for the Planning Proposal*

- the Planning Proposal is consistent with the reports to Council on the draft Comprehensive LEP which indicate the intention to restrict the amount of residential development in the Parramatta Road corridor in view of potential noise and air pollution impacts
- the proposed amendment of the BPSO is the best means of achieving the outcome of lawfully permitting the liquor store development alone on the site. A net community benefit is provided by the substantial positive economic impacts of the liquor store development and the requested BPSO amendment does not impact on future housing development in the draft Comprehensive LEP's B6 Enterprise Corridor zoning of the land

*Relationship to Strategic Planning Framework*

- the Planning Proposal is consistent with the objectives and actions contained in the Sydney Metropolitan Strategy documents including the draft Inner West Subregional Strategy in that it will assist implementation of the "Enterprise Corridor" concept along this classified road. No inconsistency with Council's Community Strategic Plan or other local strategic plan is identified
- No existing relevant State Environmental Planning Policies (SEPPs) or draft policies that would restrict or prohibit the Planning Proposal are identified in the submitted report
- The assessment of the Planning Proposal in the context of the Section 117 Directions does not highlight any constraints.

*Environmental, Social and Economic Impact*

The Planning Proposal concludes:

- There is no critical habitat or threatened species, populations or ecological communities on the site and no need for an Environmental Study
- No other likely environmental effects are identified

- It will lead to positive social and economic effects by providing economic stimulus, employment, shopping and parking facilities. There are no known heritage impacts and there is general consistency with the principles of the draft Centres Policy

#### *State and Commonwealth Interests*

- The Planning Proposal concludes there is adequate public infrastructure to support the proposal because of its classified road location and adequate parking facilities
- State and Commonwealth public authorities will be consulted in accordance with the gateway determination of the Planning proposal

#### **Consultation**

Should Council resolve to progress the Planning Proposal, it would be forwarded to the DP&I for its determination as to the manner of community consultation and length of public exhibition.

#### **Planning or Policy Implications**

The Planning Proposal is for a relatively minor matter involving making a liquor store permitted with consent in the current Business Special 3(b) zone under the BPSO with the deletion of a residential component of development.

The necessary action is to amend the BPSO to add the subject land to Schedule 8 to make "liquor store, associated car parking and loading dock" permitted with consent pursuant to clause 78D of the BPSO. The proponent has already lodged the Section 96 modification of consent application that will need to be determined subsequently to make lawful the liquor store use alone on the site.

This action to amend the BPSO is justified in terms of the DP&I's criteria for gateway assessment of Planning Proposals, notwithstanding some limitations in the presentation and explanation provided in the submitted Planning Proposal. There will be no further impacts of any significance resulting from continuation of the liquor store development, and the deletion of two residential flats will make no difference to housing supply. No additional investigations are required to justify the Planning Proposal.

In the draft BLEP 2012 (Comprehensive LEP) the intended action to rezone the business land fronting Parramatta Road to B6 Enterprise Corridor will not be compromised by implementation of the Planning Proposal. The liquor store development will not be permitted under the intended terms of the B6 zone as it is a Shop rather than the type of Retail premises targeted for the B6 zone such as Bulky goods premises, Garden centres, Hardware and building supplies, Landscaping materials supplies, and Vehicle sales or hire premises. However the liquor store development is already in place, operates adequately in the location and will become an "existing use" when the land is zoned B6 Enterprise Corridor.

The submitted Planning Proposal also mentions changing the BPSO's land use table to make the liquor store a permitted use in the BPSO's Business Special 3(b) zone. This is not supported because it would entrench the permissibility of this kind of shop anywhere in the 3(b) zone and could compromise the draft BLEP 2012's intentions for zoning the various areas now zoned 3(b) in the BPSO.

The draft BLEP 2012 also intends to restrict the provision of residential accommodation in the B6 zone mainly to Shop top housing occupying up to 10% of floor space, however developments are not obliged to include any housing component in a development.

As the Planning Proposal is a low impact matter, public exhibition for 14 days is considered appropriate. The consultation process will follow the DP&I's gateway determination.

**Financial Implications**

The applicant has paid an application fee, which will cover Council's costs associated with progression of the Planning Proposal.

**Options**

Council may resolve to endorse the Planning proposal in-principle and forward it to the DP&I for a gateway determination. This option is recommended for the reasons outlined above.

Conversely, Council may resolve to not progress the Planning Proposal. However this would require the consented-to development on the land to be implemented in full in order to remain lawful. In the overall planning context this is not justified.

**Conclusion**

The Planning Proposal should be supported by Council and referred to the DP&I for a gateway determination as it is a relatively minor matter that will not adversely affect future planning for and development of the Parramatta Road corridor.

**Recommendation(s)**

1. That Council endorse the Planning Proposal for 302-314 Parramatta Road, Burwood, subject to any subsequent LEP to amend the BPSO through adding a "liquor store, associated parking and loading dock" to Schedule 8 under Clause 78D of the BPSO.
2. That Council forward the Planning Proposal to the DP&I for a gateway determination.
3. That a further report be put to Council for its consideration following community consultation, undertaken in accordance with the requirements of the gateway determination.

**Attachments**

- 1 Planning Proposal dated August 2011 34 Pages