

LEADING

ITEM NUMBER	13.3
SUBJECT	Status of Planning Proposal - 181 James Ruse Drive, Camellia
REFERENCE	RZ/5/2012 - D05686188
REPORT OF	Snr Project Officer; Service Manager Land Use Planning ; Director Strategic Outcomes and Development
PREVIOUS ITEMS	9.3 - Detailed Assessment of Planning Proposal - 181 James Ruse Drive, Camellia - Council - Development - 11 May 2015 6.45pm
APPLICANT:	Pacific Planning

PURPOSE:

The purpose of this report is to provide a status update on the planning proposal, draft development control plan and draft voluntary planning agreement affecting land at 181 James Ruse Drive, Camellia. This matter is reported to Council at the request of councillors.

RECOMMENDATION

- (a) **That** due to the outstanding issues outlined in this report, Council Officers continue to work with the applicant and the relevant State agencies to address the outstanding issues.
- (b) **That** a Councillor workshop be held in early 2018 to update the Councillors in terms of how the outstanding issues are being addressed.
- (c) **That** Council requests a change to the timeframe in the Gateway Determination from the Department of Planning and Environment.
- (d) **Further, that** Council formally request the applicant to submit a revised VPA Offer which appropriately addresses local and state infrastructure needed to support the level of development envisaged by this Planning Proposal and ensures that any land to be transferred or acquired by Council is remediated and embellished prior to acquisition by Council.

BACKGROUND

1. A planning proposal applies to land at 181 James Ruse Drive, Camellia. The applicant is Pacific Planning. Refer to Figure 1, below.
2. The planning proposal is seeking to deliver:
 - a) Approximately 3,200 residential units;
 - b) Approximately 15,000 sqm retail/commercial floorspace;
 - c) approximately 4,250 car spaces (as per 2014 Traffic and Parking Assessment report);
 - d) an internal network of private access roads; and
 - e) 9,570 sqm RE1 Public Recreation zoned land.



Figure 1 – Site at 181 James Ruse Drive, Camellia

3. A detailed assessment of the applicant’s planning proposal and supporting technical studies were reported to Council in May 2015 (Item 9.3). This report assessed three options for the site as shown in the table below:

	Option A (Proponent’s)	Option B	Option C (Officer recommendation)
Height of Buildings	<ul style="list-style-type: none"> • 14 storeys* (50m*) (foreshore buildings) • 35 storeys* (113m*) (max. height over remainder of the site) 	<ul style="list-style-type: none"> • 10 storeys* (35m*) (foreshore buildings) • 40 storeys* (126m*) (max. height remainder of the site) 	<ul style="list-style-type: none"> • 10 storeys* (35m*) (foreshore buildings) • 40 storeys* (126m*) (max. height remainder of the site)
Floor Space Ratio	5:1* (whole development site)	<ul style="list-style-type: none"> • 3.5:1* (foreshore buildings) • 5.3:1* (remainder of the site) 	<ul style="list-style-type: none"> • 3:1* (foreshore buildings) • 4:1* (remainder of the site)
Total Gross Floor Area	297,000 sqm*	297,000 sqm*	230,000 sqm*

* Inclusive of the 15% bonus resulting from the application of the proposed design excellence clause

Table 1 – Summary of options for the site from the Council report of 11 May 2015

4. All three options showed the maximum heights and densities on the assumption that Council’s design excellence provision would apply to the site. Thus the height and FSR on the respective LEP maps would be lower than that

shown in the above table. The Council Officer's recommendation was for Option C.

5. At that meeting, Council did not support any of the options and resolved:
- a) **That** Council adopt the revised heights listed in the table option B consistent with the outcome of the Statewide Planning draft Planning Proposal and urban design scheme as the controls for maximum building heights and floor space ratios to be included in the revised planning proposal with
 - A 35 metre maximum height for foreshore buildings;
 - A 126 metre maximum height for the development site;
 - A floor space ratio of 5.3:1 of the development site.
 - b) **That** Council authorises the CEO:
 - To prepare the amendments to the draft revised planning proposal at Attachment 1 in accordance with the Council endorsed option for the maximum building heights and floor space ratios;
 - To correct any minor anomalies of a non-policy and administrative nature that may arise during the plan amendment process;
 - To include the following amendment:

All development applications for the site must include a "Design Excellence Process" with a Design Integrity Panel in accordance with the Director General guidelines.
 - c) **That** Council's amended planning proposal be submitted to the DP and E for the purposes of seeking a revised Gateway Determination.
 - d) **That** during the community consultation of the planning proposal further consultation be undertaken with the relevant public authorities concerning a suitable 'satisfactory arrangements' clause to address Section 117 Direction 6.1 Approval and Referral Requirements.
 - e) **That** as required by Section 117 Direction 4.1 Acid Sulphate Soils, a copy of the Acid Sulphate Soils Study (part of the Remediation Action Plan) be provided to the Director General of the Department of Planning and Environment prior to the commencement of community consultation.
 - f) **That** a report be put to Council to the outcome on the community consultation of the planning proposal.
 - g) **That** Section 2.3 of the planning proposal be amended to remove the reference to a 7 metre exclusion zone and instead that the local clause permit roads, pedestrian access-ways, road related infrastructure and landscaping works above the containment cells before it is forwarded to the Department of Planning and Environment for a revised Gateway Determination.
 - h) **Further, that** the advice from the EPA on the 7 metre exclusion zone and Senior Project Officer – Land Use Planning memorandum dated 8 May 2015 be forwarded to the DP and E with the planning proposal.
6. Resolution a) above resulted in the revised Gateway Determination amending the maximum height from 86 metres to 126 metres and floor space ratio (FSR) from 5:1 to 5.3:1 for the proposed B4 Mixed Use zoned land. (A copy of the report is provided at **Attachment 1**). Thus, a revised planning proposal and

- revised urban design reports reflecting the increased heights and densities, along with the applicant's supporting documents as submitted, were forwarded to the Department of Planning and Environment (DP&E) by Council Officers on 2 June 2015.
7. On 24 September 2015, the DP&E issued a revised Gateway determination (GD) which reiterated the need for numerous studies and instructed on 12 further amendments to the planning proposal prior to its exhibition. The revised GD also required the applicant to *amend all supporting studies where relevant to ensure they reflect the maximum potential density and design concept that will be achieved on the site.*
 8. This GD's instruction to update the supporting studies required amendments to the following:
 - a) Urban Design Report,
 - b) Economic Impact Assessment,
 - c) Masterplan, and
 - d) Health and Safety Report.
 9. The revised GD also requested additional studies on the following and that these also be exhibited with the revised planning proposal:
 - a) The proposed development concept's compliance with SEPP 65;
 - b) The proposed development concept's impact on adjoining land to *minimize any potential amenity implication of the design concept on adjoining lands to promote and optimal renewal outcome for the wider precinct;*
 - c) A report that *demonstrates that the area of land to be zoned RE1 Public Recreation is adequate in terms of the proposed site density and amend the public open space provision should this are be inadequate in area.* This report was RE1 Public Recreation Adequacy Report.
 - d) Health and Safety to address:
 - i. *the petroleum pipeline and ascertain any health and safety implications for the proposal.*
 - ii. *Any noise and vibration issues arising from the proximity of the site to the freight rail line".*

These matters are further discussed within this report.
 10. Between late October and 22 December 2015 the applicant prepared the additional technical reports and amended a number of the existing supporting studies working with Council Officers. The exhibited technical reports were mostly to the satisfaction of Council Officers. However, there was some disagreement on the technical accuracy of the content within the SEPP 65 and Adjoining Lands Report on SEPP 65 solar access requirements and RE1 Open Space Report raised by Council Officers. However, the applicant refused to amend the documents to address Council Officer concerns and ultimately the documents were included in the exhibition material.
 11. The planning proposal and the supporting studies (making up 35 documents comprising technical reports and statements) were exhibited from 23 December 2015 to 12 February 2016 – a period of 8 weeks owing to the Christmas period. The planning proposal was also supported by a Supplementary Report which contained new content to that of the planning proposal submitted to the DP&E

for a Gateway Determination. This was done on advice from the DP&E so as not to invalidate the planning proposal process.

State Agency consultations

12. The revised Gateway determination required that ten State agencies be consulted, along with the Western Sydney University whose campus is located directly opposite the site across the Parramatta River. The table below provides the dates of the receipt of agency responses.

Agency	Date received
1. Sydney Water	3 February 2016
2. Endeavour Energy	12 February 2016
3. Environmental Protection Authority	12 February 2016
4. NSW Education	16 February 2016
5. NSW Office of Environment and Heritage	16 February 2016
6. Western Sydney University	19 February 2016
7. Department of Primary Industries (including DPI Fisheries and DPI Water)	22 February 2016
8. RMS (Maritime)	1 March 2016 (Draft)
9. Western Sydney Local Health District (NSW Health)	4 March 2016
10. DP&E's Infrastructure, Housing and Employment branch (which includes the Urban Renewal Team managing the Camellia Planning Precinct)	6 May 2016
11. Transport for NSW and RMS (Roads)	3 November 2017

Table 2 – Table providing the dates of the receipt of agency submissions

13. A submission from the DP&E's Urban Renewal team responsible for the Camellia Planning Precinct (refer to **Attachment 2**) was received on 6 May 2016. This submission raises a number of concerns with the proposal as exhibited, which pertain to:
- the applicant's density in the context of the density work that was being progressed at the time for the Camellia Planning Precinct,
 - view impacts,
 - overshadowing over the proponent's site and the proposed Camellia Town Centre and adjoining properties,
 - flooding, and
 - hazard planning (ie. proximity to the high pressure Hunter hydrocarbon pipeline) and
14. A joint submission from the Transport for NSW (TfNSW) and Roads and Maritime Services (RMS) DP&E's Urban Renewal letter (refer to **Attachment 3**) was received on 3 November 2017. This submission raises a number of concerns with the proposal as exhibited, which pertain to:
- Impact of a proposed upgrade of James Ruse Drive involving grade separation which will require future resumption of part of the applicant's site,
 - Impact of a proposed truncated corner of the proposed Parramatta Light Rail carriageway, and

- c) Associated findings of the applicant's Traffic Study including proposed traffic signals James Ruse Drive.
15. Council Officers sought further details of the exact land requirements for the upgrades/carriageway from TfNSW which the RMS subsequently provided on 23 November 2017. The details were also forwarded to the applicant and a meeting with the applicant and the relevant State agencies is scheduled for early December 2017 to discuss this matter.
 16. The overarching delay in progressing the planning proposal since the receipt of the DP&E's submission in May 2016 has been on account of the lack of response from TfNSW and RMS. Now that the receipt of this submission completes the State agency consultations that were required as part of the revised Gateway determination, Council Officers are now in a position to address a number of outstanding matters that require further consideration.
 17. Council Officers sought updates on the timeframe for the joint TfNSW/RMS submission in April, July, August, September of 2016 and August 2017, with traffic matters also being discussed with the applicant in conjunction with the DP&E and Council Officers via the Camellia Planning Precinct process in the first quarter of 2017.

Timeframes in Gateway determinations

18. The timeframe for the completion of a planning proposal is provided in a Gateway Determination which are issued by the DP&E. The timeframe can be altered by the DP&E in the event that complex planning matters become protracted. These are undertaken by way of 'Alteration Gateway Determination' and have become standard practice in the case of complex planning proposals where planning matters become protracted.
19. The process generally involves the DP&E contacting Council advising of the pending deadline. Council Officers either:
 - a) Advise the DP&E of the need for an extension – and in this instance, they must justify the need for any extension and the DP&E must accept that justification, or
 - b) Advise the DP&E that an extension is not required and that the planning proposal can be completed within the remaining timeframe.
20. Timeframe extensions in a Gateway Determination/revised Gateway Determinations are consistent with clause 56(7) of the EP&A Act 1979 which states *the Minister may, at any time, alter a determination.*

OUTSTANDING ISSUES

Introduction

21. The planning proposal affecting the site at 181 James Ruse Drive, Camellia is extremely complex. While a typical City of Parramatta planning proposal amends zoning, height and FSR maps and may have an accompanying site-specific DCP and a VPA, this planning proposal is intending to do significantly more, from a policy perspective. Thus, the planning proposal:
 - a) Is intending to:
 - i. insert four new local clauses within the LEP instrument pertaining to Satisfactory arrangements, Design integrity, Essential services

- ii. amend six maps (Land Zoning Map, Height of Buildings Map, FSR Map, Key Sites Map, Foreshore Building line, Natural Resources – Riparian Land and Waterways Map and Key Sites Map).
 - b) Applies to a highly contaminated site and foreshore.
 - c) Applies to a site which adjoins:
 - i. the proposed Parramatta Light Rail Project.
 - ii. the proposed future upgrade of James Ruse Drive.
 - iii. The Hunter pipeline a high pressure hydrocarbon pipeline.
 - d) Sits within the Camellia Planning Precinct which is undergoing a strategic planning process being managed by the DP&E.
 - e) Has an accompanying DCP where State agencies have indicated it requires specific content.
 - f) Has an accompanying VPA where State agencies sees it requiring certain content to ensure the delivery of local infrastructure.
22. There are numerous matters which are still outstanding and which require further analysis and assessment (either by the applicant, the DP&E or by Council). These outstanding matters have largely arisen from the submissions received via the State agencies/stakeholder representatives required to be consulted as per the Gateway determination.
23. Whilst the applicant has sought to provide its own response to the technical matters raised in the submissions, the responses are considered inadequate as they do not appropriately address the issues raised by the agencies. It is therefore considered that the suite of documents exhibited in late 2015/early 2016 is inadequate for Council to adopt the proposal and progress through the DP&E for finalisation as they do not appropriately address the outstanding issues which are yet to be resolved.
24. The outstanding issues are detailed below.

Key outstanding issues

25. The key issues identified in this report are likely to have an impact on the applicant's proposed density and floor space ratio as exhibited in late 2015/early 2016. They will therefore have an impact on the content of the accompanying DCP (which is yet to be exhibited). The issues are detailed below.

Camellia Masterplan process

26. The Camellia Precinct project is a project being managed by the DP&E which plans for a total dwelling capacity of 10,000 dwellings and is referenced in the DP&E's *Greater Parramatta Interim Land Use and Infrastructure Implementation Plan (LUIIP)* which stipulates "+10,000 HOMES BY 2036" for Camellia (p.5). The site area of the Camellia Town Centre is 370,000sqm. The total dwelling capacity was not known at the time the planning proposal was exhibited.
27. The applicant's proposal proposes some 3,200 dwellings which is 32% of the total planned dwelling yield for the Camellia precinct. Yet the applicant's site, which is 67,236sqm in area, only occupies 18% of the total land area.

28. This raises two issues that in the opinion of Council Officers may have a material impact on the final form of the planning proposal:
- a) If the Camellia Precinct is to have a total of 10,000 dwellings, the distribution of these dwellings should be based on urban design/planning assessment or the whole area. Permitting 32.5% of the dwellings on the subject site without taking into consideration the impact on the precinct for the rest of the precinct may result in undesirable urban form/planning and development visibility outcomes which could undermine the redevelopment of the Camellia Precinct as a whole. It may also prevent other sites being redeveloped which would hinder council's desire to remediate the Parramatta River foreshore .
 - b) At the time the planning proposal was exhibited, other landowners in the Camellia Precinct were not aware of that the infrastructure issues that has resulted in the proposed cap of 10,000 dwellings for the Camellia Town Centre. If the cap is retained and the subject site is permitted 3,200 dwellings, other land owners will end up with a lower dwelling yield that they might have expected when the subject planning proposal was publically exhibited. Given this issue, Council Officers suggest there should be further consultation with all landowners on the distribution of dwellings across the Camellia Precinct. Options for progressing this consultation are to either re-exhibit the planning proposal to provide the other landowners the opportunity to comment on the dwelling distribution or to allow this consultation to occur as part of the Camellia Masterplan exhibition process which the DP&E are seeking to undertake as part of the Camellia Masterplan process.
29. This issue is likely to have a direct impact on the density and FSR.
30. Council Officers have written to the DP&E requesting a status update on the Camellia Masterplan process. At a meeting with Councillors and Council Officers on Friday, 1 December 2017 the applicant indicates they had met with senior staff at the DP&E and that these Senior Officers had indicated that more than 10,000 dwellings may be contemplated for the Camellia Town Centre area. Council Officers sought to confirm this with Officers at the DP&E and on 4 December 2017 received confirmation that the 10,000 dwelling cap still applies to the Camellia Town Centre.

TfNSW and RMS infrastructure requirements

31. As per the submission from TfNSW and RMS received in November 2017, it notes that land resumptions are required for both the Parramatta Light Rail project and for a proposed future upgrade of James Ruse Drive, both of which will involve land resumptions.
32. These resumption matters are being discussed with the applicant and a meeting with TfNSW, RMS and the DP&E is being scheduled with the applicant on 6 December 2017. This report was drafted prior to this meeting being held and a further memo will be circulated to Council with the outcome of this meeting.
33. This issue could have a direct impact on the density and FSR and built form outcomes for this site.

Flooding

34. The DP&E's submission of May 2016 notes its own flood modelling process being undertaken on the entire Camellia Precinct which includes the applicant's

site. The modelling indicates that the site is in a 'High Flood Risk' area which *generally includes areas below the 100 year flood that is either subject to a high hydraulic hazard or where there are significant evacuation difficulties*. that the design concept does not adequately deal with the high flood risk.

35. Furthermore, this and other flooding issues have been raised by the Office of Environment and Heritage (OEH) in their submission of February 2016.
36. This issue could have a direct impact on the density and FSR and built form outcomes for this site.
37. The next major step to progress this issue would be for Council officers to progress with matter with the applicant in conjunction with the DP&E and the OEH.

Pipeline setback (SEPP 33 and HIPAP No.10)

38. The Hunter Pipeline which is a high pressure hydrocarbon pipeline extending from Port Botany to Newcastle flanks the eastern boundary of the site. *SEPP 33 – Hazardous and Offensive Development* and one of its supporting technical guideline *Hazardous Industry Planning Advisory Paper No. 10 Land Use Safety Planning* establishes the statutory framework around planning proposals affecting sites which are located next to sensitive land uses. Specifically, the framework requires that planning proposals must demonstrate that risks from the pipeline to the proposed future land uses comply with the relevant risk criteria.
39. The revised Gateway determination issued in September 2015 requires revision of the *Health and Safety Report to address the petroleum pipeline and ascertain any health and safety implications of the proposal*". However, the applicant sought to address this largely through a Risk Report.
40. The DP&E's submission on the planning proposal and supporting studies as exhibited notes that whilst the applicant's Risk Report addresses the requirements in relation to works in the vicinity of the pipeline which occur during the construction period, the report does *not address the potential risks imposed by the pipeline on the future population living on the site and the necessary setbacks required*.
41. At a meeting held on 20 November 2017 with the applicant, Council staff and the DP&E's Camellia Planning Team, the applicant was advised that on account of the site's proximity to the Hunter pipeline, a setback of between 30 metres and 50 metres from the pipeline easement may be required; 30 metres in the case of residential uses and 50 metres in the case of sensitive uses (such as child care services). To further progress this matter, the DP&E agreed they would forward the applicant's Risk Report to the DP&E's Hazardous Planning team so they can provide a more technical review of the adequacy of the report. A response is anticipated shortly.
42. Should the review find that a setback of between 30 and 50 metres is required, this will mean that the planning proposal, as exhibited, did not comply with SEPP 33.
43. This issue is likely to have a direct impact on the density and FSR and built form outcomes for this site.

Other outstanding issues

44. There are other outstanding issues also requiring resolution. These are detailed in **Attachment 4** and pertain to:

- a) Inconsistencies with other SEPPs,
- b) An alternative design integrity/excellence process, and
- c) The applicant's accompanying DCP and VPA.

CONCLUSION

- 45. The key issues raised are of such magnitude that the applicant's proposed development scheme is likely to require redrafting and potentially re-exhibition.
- 46. Council Officers stress the complexity of this planning proposal on account of:
 - a) The site's location within a precinct that is undergoing its own State government-led strategic planning process.
 - b) The site's location within a heavy industry precinct which currently has inadequate infrastructure for high density residential development.
 - c) The extensive contamination of the proponent's site and its foreshore and adjacent sites.
 - d) The site's proximity to James Ruse Drive, a major sub regional road spine which is subject to future grade-separation upgrade.
 - e) The site proximity to the proposed Parramatta Light Rail carriageway.
 - f) The site's proximity to a major high pressure hydrocarbon pipeline which involves an appropriate degree of hazards planning.
 - g) The planning proposal's accompanying DCP which has not yet been drafted for exhibition purposes owing to matters that need to be resolved at the PP stage.
 - h) The planning proposal's accompanying VPA which has not yet been drafted for exhibition purposes. This places council in a vulnerable position with regards to its ability to lock in the necessary local infrastructure required.
 - i) The extent of the unresolved issues raised by the State agencies which were required to be consulted as per the Revised Gateway determination.
 - j) The need for the progression of the draft VPA in concert with the planning proposal (and DCP) so that the VPA can be executed when the planning proposal comes into effect, as is Council's usual practice for VPAs.
- 47. As already noted, the timeframe within the Gateway determinations can continue to be altered by the DP&E in the event that complex planning matters are protracted. This has become standard DP&E practice in the case of complex planning proposals and Council Officers are confident that the DP&E will continue to extend the Gateway determination for this planning proposal as needed.
- 48. The key benefit of continuing to work with the applicant and State agencies on the planning proposal is so the planning proposal can progress through the DP&E in a timely matter. Some of the issues raised are best addressed by considering the opportunities and constraints of this site in conjunction with the Camellia Town Centre Masterplan process. Advice from DP&E Staff indicate this could be on exhibition as early as the first quarter of 2018.

Risks to Council if the planning proposal is progressed prematurely

49. If the above matters outlined in this report are not appropriately addressed before the planning proposal progresses to the DP&E for making, this will place Council at risk in terms of:
- a) The validity of the planning proposal process, specifically with regards to inconsistencies with three state environmental planning policies (SEPPs).
 - b) Council's ability to deliver a draft DCP that can provide the appropriate building envelope controls and other matters as have been raised in State agency submissions.
 - c) Council's ability to negotiate a draft VPA which locks in appropriate infrastructure at the right time.

KEY ISSUES

50. Whilst the need to review the compliance with these State Government policies has been known since the DP&E submission and the other submissions early in 2017, it has not been practical to assess these issues on an individual basis. The extent of road widening required by the RMS was always going to have an impact over part of the site that could be developed which would have flow-on effects for the built form outcome. This needs to be resolved to allow for a proper assessment of compliance with the relevant SEPPs.
51. In essence, up until all the constraints on the site are confirmed with State Agencies, it is not possible to confirm the area available for development. Once this area is confirmed, the built form options can be investigated and compliance with the policies referred to earlier in this report can be fully resolved. This is the process Council Officers are proposing to pursue in the continuing assessment of this proposal.

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ATTACHMENTS:

1	11 May 2015 Council Report - Assessment of planning proposal	36 Pages
2	Submission from DP&E's Urban Renewal Team	4 Pages
3	Submission from TfNSW and RMS	7 Pages
4	Council report - 18 December 2017 - Attachment 4 - Summary of Other Issue	7 Pages

REFERENCE MATERIAL