

8. REPORTS FROM OFFICERS

8.1 Mount Gilead Planning Proposal - Relocation of Proposed Community Hub Building and Additional Permitted Use

Reporting Officer

Executive Manager Urban Release and Engagement
City Development

Community Strategic Plan

Objective	Strategy
1 Outcome One: A Vibrant, Liveable City	1.2 - Create safe, well maintained, activated and accessible public spaces

Officer's Recommendation

1. That Council forward the Planning Proposal for the Mount Gilead Estate on Lot 1 DP 1240836 as attached to this report (attachment 1) to the Department of Planning, Industry and Environment seeking a Gateway Determination on the basis that the temporary occupation of the Community Hub for a Sales and Information Centre building be defined as an Exhibition Home instead of a Business Premises as requested by the applicant.
2. That should the Minister determine under Section 3.3.2 (2) of the *Environmental Planning and Assessment Act 1979* that the matter may proceed without significant amendment to the Proposal, Council publicly exhibit the Planning Proposal in accordance with the terms of the Gateway Determination.
3. That Council exercise, via the General Manager the plan making functions of the Minister for Planning under section 3.31(3)(b) of the *Environmental Planning and Assessment Act 1979*, pursuant to the instrument of delegation dated 20 November 2012.
4. That Council agrees to the relocation of the proposed Community Hub building from land zoned B1 Neighbourhood Centre on lot 61 in DP752042 to an alternate site located on part of Lot 1 in DP 1240836 which is zoned RE1 Public Recreation as shown in attachment 1.
5. That following the exhibition, a report on submissions be presented to Council.
6. That the proponent and property owners be advised of Council's resolution.

Purpose

The purpose of the report is to present a proponent initiated Planning Proposal Request for land within the Mount Gilead Estate which seeks to relocate the proposed Community Hub building and to permit future occupation of the community facility for a Sales and Information Centre.

Property Description	Lot 61 DP 752042
Application No	1702/2019/E-PP
Applicant / Owner	Lendlease Communities (Mount Gilead) Pty Ltd
Provisions	Campbelltown Local Environmental Plan 2015
Date Received	11 April 2019

History

The Mount Gilead release area was rezoned for urban development in September 2017. Mount Gilead forms part of the greater Gilead Precinct which provides for urban expansion within the southern portion of the Campbelltown Local Government Area. A Voluntary Planning Agreement (VPA) was adopted by Council on 6 December 2018 which makes provision for essential community facilities, including a Community Hub which is the subject of this report.

The current location of the Community Hub as provided by the VPA is on land zoned B1 Neighbourhood Centre which is located on lot 61 in DP752042. Delivery of the Community Hub is required within 12 months of the issuing of a subdivision that creates the 1,200th lot.

The Campbelltown City Council Local Planning Panel (the Panel), at its meeting of 26 June 2019 provided advice in support on the Proposal and suggested that:

- The amendment only apply to that part of Lot 1 in DP 1240836 to be identified by future subdivision of a size that reflects the future proposed community centre.
- The Schedule 1 amendment provide for the use of that land for a Sales and Information Centre only and not for the more broad definition of a Business Premise. The new definition of Sales and Information Centre should be inserted into the Schedule 1 Amendment.'
- It considers that the Planning Proposal Request has sufficient strategic and site specific merit to advance to Gateway Determination stage, on the grounds that the Planning Proposal:
 - i. Is sufficiently consistent with metropolitan, district and local planning outcomes, objectives and strategies.
 - ii. Is required to facilitate the relocation of the Community Facilities from the existing site zoned B1 Neighbourhood Centre due to constraints associated with Planning for Bushfire Protection.

- iii. Would enable early delivery of a Community Facility for the benefit of future residents.

Development Application 3868/2017/DA-CW for tree removal, dewatering of dams, site remediation works and bulk earthworks at Appin Road, Gilead was approved by the Panel at its meeting on 24 July 2019 which approves bulk earthworks on the subject land.

The Site

The subject site is situated in Lot 1 in DP 1240836 and forms part of the original subdivision of the Mount Gilead Estate as illustrated in Figure 1, attachment 1. The site has an area of 24 hectares, is clear of structures, with scattered vegetation and contains two small dams on the north eastern portion of the site.

Access to the site is provided by existing rural driveways from Appin Road, which is designated as a classified road under the control of Roads and Maritime Services.

Development applications for bulk earthworks and residential subdivision are currently under assessment by Council.

Planning Proposal Request

Investigations by the applicant regarding the suitability of siting a community facility on land zoned for a future neighborhood centre has identified that the required asset protection zone limits the opportunity to site a future structure on this land. This is due to the classification of a Community Facility under Planning for Bushfire Protection as Special Fire Protection Purpose meaning that the facility must be located entirely outside of the APZ.

Accordingly, the applicant has nominated an alternate site located on part of Lot 1 in DP 1240836 which is zoned RE1 Public Recreation. In order to permit the use of the facility for a sales and information centre, as already permitted on the current planned location, the Planning Proposal Request (PPR) is seeking to:

- Amend Schedule 1 (Additional Permitted Uses) of Campbelltown Local Environmental Plan 2015 to permit use of the site for a Business Premise.
- Amend the Additional Permitted Use Map APU_003 and APU_009 to identify Lot 1 DP 1240836 as a 'Business Premise.'

Although Lot 1 in DP 1240836 is a large parcel, it is likely that a site specific lot would be proposed as part of future subdivision applications to further define the applicable land.

Report

This report considers the strategic context of the PPR in relation to state and local planning policies and the potential impacts of the Proposal.

1. Strategic Context

The following state, district and local planning policies are relevant to the proposal as discussed below.

1.1 Greater Sydney Region Plan

In March 2018 the Greater Sydney Region Plan: A Metropolis of Three Cities was released, and sets a 40 year vision which establishes a 20 year plan that manages growth and change for Greater Sydney through the context of economic, social and environmental matters.

The plan integrates the core fundamentals of land use, transport and infrastructure planning across State agencies and the three tiers of Government identifying key directions and objectives.

The proposal is consistent with the key directions; A City for People and A City in its Landscape and the associated objectives 'Communities are healthy, resilient and socially connected (objective 7) and Public open space is accessible, protected and enhanced (objective 31).

1.2 Western City District Plan

The Western City District Plan (connecting communities) was released in March 2018 and provides a template for realising the Western Parkland City of the Metropolis of Three Cities (Region Plan for Greater Sydney).

The District Plan is noted to; *inter alia*, inform the assessment of planning proposals. Further, the District Plan is identified to assist councils to plan for and support growth and change, and align their local planning strategies to place based outcomes. It guides the decisions of State Agencies and informs the private sector and wider community of approaches to manage growth and change.

The Gilead Estate is recognised within the Land Release Area in the Western City District Plan. The future development of the release area will contribute towards achieving the Campbelltown Local Government Area housing supply target. The current proposal seeks to facilitate the delivery of a community facility which can be occupied for the purpose of a sales and information centre to support the sale of land, and other community based events as hosted by the developer prior to handing the facility to Council.

The Planning Priorities which encompass this development include:

- planning for a city supported by infrastructure (W1)
- benefits of growth realised by collaboration of governments, community and business (W2)
- providing services and social infrastructure to meet peoples changing needs (W3)
- fostering healthy, creative, culturally rich and socially connected communities (W4)
- creating and renewing great places and local centres, and respecting the districts heritage (W6)
- delivering high quality open space (W18)
- adapting to the impacts of urban and natural hazards and climate change (W20)

1.3 Greater Macarthur Growth Area

The Greater Macarthur 2040: An Interim Plan for the Greater Macarthur Growth Area released in November, 2018 and focuses on providing two structure plans for the Urban Renewal Corridor, as well as providing a broad scoped plan for the land release areas.

The subject site is found within the Greater Macarthur Structure Plan: Land Release Area and is classified as Existing Urban Land. No direct relevance in regards to the Community Hub can be distinguished from this scale of Structure Plan.

1.4 Section 9.1 Local Planning Directions

Section 9.1 of the *Environmental Planning and Assessment Act 1979* allows the Minister for Planning to give directions to Council regarding principles, aims, objectives or policies to be achieved, or give effect to, in the preparation of draft local environmental plans.

The directions of most relevance to the Planning Proposal are summarised below.

- **Direction 2.1 Environmental Protection Zones**

The objective of this Direction is to protect and conserve environmentally sensitive areas. There are no known issues of biodiversity significance attached to the land which situates the Community Facilities located in the Gilead Estate.

However, the subject site is bounded to the south by an area of Managed Lands zoned as RE1 Public Recreation. Development of land in the vicinity of the managed lands would be subject to an Asset Protection Zone (APZ) which has been considered by this application and discussed below in this report. Therefore, the proposal is consistent with this direction.

- **Direction 4.4 Planning for Bushfire Protection**

The objective of this Direction is to protect life, property and the environment from bushfire hazards as well as encouraging sound management to prevent the extent of a bushfire. Community facilities are considered by the Planning for Bushfire Protection Guidelines as a Special Fire Protection Purpose. Accordingly, any future proposal would be required to demonstrate that a facility can be appropriately sited. The PPR is supported by a Bushfire Assessment Report that demonstrates firstly, that the current planned site is unsuitable and secondly, that the proposed location of the community facility could be sited outstand any future APZ of approximately 34 – 40 metres from the managed lands. Therefore, the proposal is consistent with Direction 4.4 Planning for Bushfire.

- **Direction 7.2 Implementation of Greater Macarthur Land Release Investigation**

This Direction requires that any proposal is consistent with the implementation of the Greater Macarthur Land Release Investigation Strategy. The Stage 1 of the Gilead precinct forms part of the Greater Macarthur Growth Area and is already zoned for urban development. Therefore, the proposal is consistent with this direction.

1.5 Draft Local Strategic Planning Statement

The Draft Local Strategic Planning Statement (LSPS) is Campbelltown City Council's plan for our community's social, environmental and economic land use needs over the next 20 years. The LSPS provides context and direction for land use decision making within the Campbelltown Local Government Area (LGA).

Its purpose is to:

- provide a 20 year land use vision for the Campbelltown LGA
- outline the characteristics that make our city special
- identify shared values to be enhanced or maintained
- direct how future growth and change will be managed
- prioritise changes to planning rules in the Local Environmental Plan (Campbelltown Local Environmental Plan 2015) and Council's Development Control Plans
- implement the Region and District Plans as relevant to the Campbelltown LGA
- identify where further detailed strategic planning may be needed.

It sets planning priorities to ensure that the LGA can thrive both now and in the future, and that future development is appropriate for the local context. The proposal for Gilead Community Facilities is considered to be consistent with the planning priorities and actions of the LSPS for Campbelltown.

1.6 Community Strategic Plan - Campbelltown 2027

The Campbelltown City Community Strategic Plan (CSP) is a ten year vision that identifies the main priorities and objectives for the future of the Campbelltown City Local Government Area (LGA) and is Council's long term plan to deliver the community inspired vision.

The CSP acknowledges the need to provide for housing diversity and affordability in a structured way, whilst preserving the important natural attributes of the LGA and facilitating its promotion.

The proposal is generally consistent with the CSP and in particular Outcome 1: A vibrant, liveable city and Outcome 2: A respected and protected natural environment. Delivery of the Community Facility would support these outcomes by providing an important community hub that in the first few years of the release can also be occupied by the developer to support local sales and community events.

1.7 Campbelltown Local Environmental Plan 2015

The Campbelltown Local Environmental Plan 2015 (CLEP 2015) is the principal environmental planning instrument for the City of Campbelltown.

The proposal seeks to relocate the community facility so that it can meet site planning requirements and addresses the future Boulevard Collector Road. The zoning will remain Public Recreation (RE1) and will satisfy the Rural Fire Services Asset Protection Zone.

A Community Facility under the CLEP 2015 is defined as:

Community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation
- and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

Under the Campbelltown Local Environmental Plan 2015, Community Facilities are permissible with consent in this zone.

The applicant is proposing to deliver and utilise the Community Hub as a Sales and Information Centre. A Sales and Information Centre is a type of business premises which is not a permissible land use.

Given the concern raised by the Local Planning Panel regarding the broad range of uses that would be permissible under the business premises group term, an alternate approach would be to narrow the definition so that a 'Sales and Information Centre' is considered under the following standard instrument definition:

An Exhibition Home means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.

This definition would enable the operation of a sales and information centre to co-exist with the planned display village adjacent to the site. The sales and information centre would be defined as an Exhibition Home and would be shown on the Additional Permitted Uses Map and Schedule 1 of CLEP 2015 as follows:

- i.e. (1) This clause applies to part of Lot 1, DP 1240836, as shown coloured on the Additional Permitted Uses Map to permit an Exhibition Home for the purpose of a Sales and Information Centre.

In accordance with the adopted VPA, upon registration of the 1200th lot, the applicant is required to hand the Community Hub over to Council. Until this time, the proposed Schedule 1 provision would enable Council to consider a development application for occupation of part of the Community Hub for an Exhibition Home to function as a sales and Information centre.

1.8 Campbelltown (Sustainable City) Development Control Plan 2015

The Campbelltown (Sustainable City) Development Control Plan, 2015 (CSCDCP 2015) is a companion planning document which seeks to assist in realising the objectives of CLEP 2015 through the provision of more detailed general controls, land use specific controls and site specific controls. On the grounds that the CSCDCP is absent of any specific controls for the Community Hub building, any future assessment of a development application would occur on a merit basis.

2. Evaluation

The following environmental impacts are relevant to the proposal as discussed below.

2.1 Bushfire Prone Land

Concern regarding the proposed location of the Community Hub was not previously raised by the RFS during the original rezoning process.

However, further consultation by the applicant with the RFS during the preparation of development applications has confirmed that the Community Hub is a 'Special Fire Protection Purpose' under Planning for Bushfire Protection 2018. This classification requires a greater APZ setback of 34m to 41m. As shown in Figure 10 of attachment 1, this significantly constrains the ability to deliver a Community Hub in the current planned location.

The proposed new location for the Community Hub, north of the Managed Land, is illustrated in Figure 11 of attachment 1. This position provides sufficient setback from the required APZ and is more prominently located on the main collector road that will service the precinct.

2.2 Biodiversity

Impacts on biodiversity are separately addressed under an application for biodiversity certification in accordance with the saving provisions of the now repealed *Threatened Species Conservation Act 1995* (TSC).

On the 5 June 2019, biodiversity certification was conferred over Gilead Stage 1 under s126H of the TSC. The order was signed by the Chief Executive of the Office of Environment and Heritage (OEH), as delegate of the Minister for Energy and Environment. Therefore, development within the certified area may proceed without the usual requirement under the *Environmental Planning and Assessment Act 1979* for site-by-site threatened species assessment.

2.3 Mine Subsidence

Lot 1 in DP 1240836 is located within the South Campbelltown Mine Subsidence District and Coal Exploration Authorisation Area A248 which includes the Bulli and Balgownie Coal Seams. The previous rezoning process considered mine subsidence and concluded that the site was suitable for urban purposes. Since rezoning, Subsidence Advisory NSW has issued approvals under the *Coal Mine Subsidence Compensation Act 2017* and allow for appropriate design requirements to assist with mitigation should future mining occur.

Council and Department of Planning both supported this prior to rezoning the land for urban development. Therefore, the planning proposal does not alter this conclusion.

2.4 Contamination

Four Potential Areas of Environmental Concern (PAEC) have been identified by the applicant on Lot 1 in DP 1240836 (previously Lot 3 in DP 1218887) and includes uncontrolled fill from road cuttings, asbestos containing material from the existing pipe network and hydrocarbon impacted soils along the alignment of an existing transmission line. The revised location of the Community Hub is not affected by the four PAECs.

A Remediation Action Plan (RAP) has been prepared to address the four PAEC and confirm the site can be made suitable for the proposed residential development. Lendlease currently has a development application with Council seeking approval for these remediation works. A copy of the RAP is provided at Appendix E of attachment 1.

3. Voluntary Planning Agreement

In 2018, Council executed a Voluntary Planning Agreement (VPA) with Lendlease Communities that requires delivery of a Community Hub within 12 months of the 1,200th lot being registered with a budget of \$1.3m.

Based on advice from the applicant, the 1,200th lot is projected to be registered by the end of the 2021/2022 financial year. Therefore, the Community Hub would be required during the 2022/23 financial year pending lot registrations.

The applicant has advised they would deliver the Community Hub early should its use for a sales and information centre be supported. The applicant also advises that the design and specification of the facility would also be to a higher standard than originally budgeted as part of the VPA with further detail to be considered upon the lodgement of a development application.

4. Public Benefit

The community benefit test is an important element of determining whether a Planning Proposal has merit. Relevant matters for consideration of a Local Environmental Plan amendment include whether it accurately reflects the strategic direction and changing circumstances of an area, the length of time that has elapsed since the community was consulted about the planning controls applying to the land, and whether the planning controls are too prescriptive to facilitate a sensible development. The test also considers whether there is a demonstrable public interest in considering an alternative proposal to the existing planning scheme, which may not have been considered by Council or the community when the scheme was adopted.

In the case of this proposal, a public benefit is achieved by amending the CLEP 2015 as is reflected in the following:

- the site is located within the Gilead Estate and is identified as a growth area within the Greater Sydney Commission's Greater Macarthur Interim Plan.
- the Community Facilities is required in accordance with the Voluntary Planning Agreement established for Gilead.
- allows for early commencement and delivery of the Community facilities upon registration of the 1200th lot.

5. Formal Consultation

A guide to preparing local environmental plans has been prepared by the Department of Planning, Industry and Environment (DPIE) to assist councils in preparing planning proposals and LEPs. Should Council resolve to proceed with the Planning Proposal, and Gateway Authorisation is issued by the DPIE, consultation would be undertaken in accordance with the Gateway Determination requirements.

6. Statutory Consideration

The preparation of a draft Planning Proposal is the first step in the process of requesting changes to a planning instrument. Should Council resolve to progress the draft Planning Proposal to Gateway Determination, the DPIE would confirm the technical studies required and relevant parts of the draft Planning Proposal to be updated or amended prior to public exhibition.

As part of the Gateway Authorisation process, Section 3.34 of the *Environmental Planning and Assessment Act 1979* allows the Minister and the Secretary to delegate functions to a Council and/or an officer or employee of a Council. When submitting a draft Planning Proposal, Council is required to identify whether it wishes to Exercise Delegation (the Authorisation). Authorisation delegates the following plan making powers to Council:

- to make and determine not to make an LEP
- to defer inclusion of certain matters
- to identify which matters must be considered and which stages of the plan making process must be carried out again

At its meeting on 20 November 2012, Council resolved to formally accept the plan making delegations and delegate the plan making functions to the General Manager and Director Planning and Environment (now titled Director City Development).

On the grounds that the Planning Proposal Request is consistent with the types of draft LEPs routinely delegated by the DPIE, it is recommended that Council seek to exercise the Authorisation in this instance.

7. Next Steps

Following the advice and support of Council, the process for requesting a Gateway Determination will be undertaken.

Conclusion

At its meeting of 26 June 2019, the Local Planning Panel advised it supports the Planning Proposal Request subject to limiting the use from a Business Premises to a Sales and Information Centre. On the grounds that this use is not a defined term in the Standard Instrument, it is recommended that the use be defined as an Exhibition Home via an amendment to Schedule 1 (Additional Permitted Uses) of the CLEP 2015.

The proposal would be complimentary to the early release stages of the estate and would provide a facility that the applicant may use to undertake early activation and programmed activities associated with marketing events. Accordingly, it is recommended that Council support progression of the draft Planning Proposal with amendments as outlined in this report.

Attachments

1. Applicant's Planning Proposal (contained within this report)
2. Draft Planning Proposal - Gilead Community Facilities (contained within this report)