

**INNOVATIVE**

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<b>ITEM NUMBER</b>	13.1
<b>SUBJECT</b>	Planning Proposal for land at 55-59 Kirby Street, Rydalmere
<b>REFERENCE</b>	RZ/26/2016 - D06653665
<b>REPORT OF</b>	Senior Project Officer
<b>PREVIOUS ITEMS</b>	6.4 - Planning Proposal for Land at 55-59 Kirby Street, Rydalmere - Local Planning Panel - 19 Feb 2019 3.30pm
<b>LANDOWNER</b>	Fife Capital
<b>APPLICANT</b>	Mecone NSW Pty Ltd

**PURPOSE:**

The purpose of this report is to seek Council's endorsement to proceed with the Planning Proposal for land at 55-59 Kirby Street, Rydalmere in accordance with the recommendations of Council officers and the Local Planning Panel (LPP) on Tuesday, 19 February 2019 and recommend that Council forward it to the Department of Planning and Environment for a Gateway Determination.

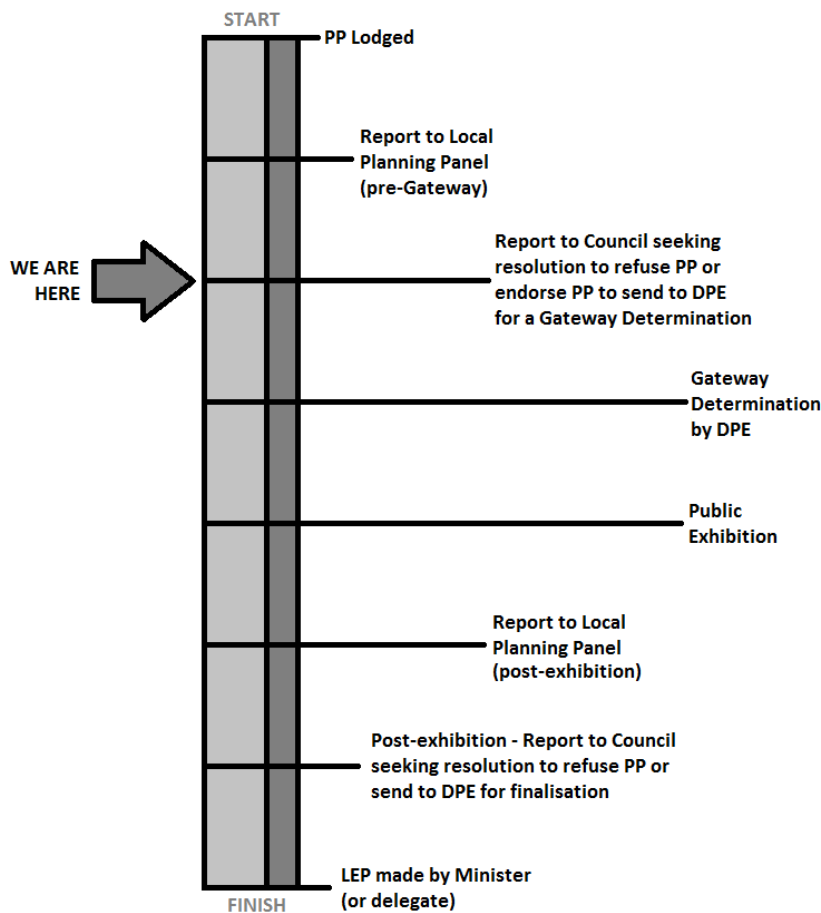
**RECOMMENDATION**

- (a) **That** Council resolve to proceed with the Planning Proposal for land at 55-59 Kirby Street, Rydalmere (provided at **Attachment 1**), which seeks the following amendments to Parramatta Local Environmental Plan (PLEP) 2011:
1. Rezone the site from IN1 General Industrial to R4 High Density Residential
  2. Increase the maximum height of buildings from 12m to 20m (6 storeys)
  3. Increase the floor space ratio from 1:1 to 1.3:1
  4. Amend Schedule 1 Additional Permitted Uses within PLEP 2011 to permit *café/restaurant, shops and office premises* on 59 Kirby Street (Lot 20 DP 855339) only, providing adequate detail has been provided relating to the exact nature of the proposed uses.
- (b) **That** a site-specific Development Control Plan (DCP) be prepared and reported to Council prior to the exhibition of the Planning Proposal addressing detailed design requirements for the site, including, but not limited to:
1. Overshadowing
  2. Communal open space provision
  3. Heritage
  4. Interface with Upjohn House and Upjohn Park
  5. Built form
- (c) **That** the Applicant's Traffic Impact Assessment be updated to reflect the proposed scheme.
- (d) **That** delegated authority be given to the Acting CEO to negotiate the Voluntary Planning Agreement (VPA) on behalf of Council in addition to Section 7.12 contributions payable, and that the outcome of negotiations be reported back to Council prior to its concurrent exhibition with the draft site

specific DCP and Planning Proposal.

- (e) **That** the Planning Proposal be forwarded to the Department of Planning and Environment for Gateway determination.
- (f) **That** Council advises the Department of Planning and Environment that the Acting CEO will be exercising the plan-making delegations for this Planning Proposal as authorised by Council on 26 November 2012.
- (g) **Further, that** Council authorise the Acting CEO to correct any minor policy inconsistencies and any anomalies of an administrative nature relating to the Planning Proposal that may arise during the amendment process.

### Planning Proposal Timeline



### BACKGROUND

1. On 11 July 2016, Council adopted the Parramatta Employment Lands Strategy which identifies 55-59 Kirby Street, Rydalmere, as being suitable for redevelopment for non-industrial uses due to the relatively isolated location of the site within a low density residential area and accessibility constraints.

2. On 22 December 2016, a Planning Proposal was lodged by Mecone (the Applicant) on behalf of landowners, Fife Capital, to amend Parramatta Local Environmental Plan (PLEP) 2011 by:
  - Rezoning the site from IN1 General Industrial to R4 High Density Residential
  - Increasing the height of buildings from 12m to between 14m and 40m (up to 12 storeys)
  - Increasing the floor space ratio (FSR) from 1:1 to 2.1:1
  - Amend Schedule 1 Additional Permitted Uses within PLEP 2011 to permit *café/restaurant* and *function centre* for the site
3. Following internal assessment, in March 2017 Council officers wrote to the applicant detailing a number of concerns with the Proposal, particularly those relating to the proposed density on the site, and advised that building heights between 4-6 storeys are considered to be appropriate for this site given its low density residential context.
4. On 1 March 2018, an addendum to the original Proposal was submitted for Council officer assessment. The revised scheme proposed to address the following changes to the original 2016 scheme:
  - Building heights from 6 to 10 storeys
  - FSR of 1.9:1
  - Changes to building setbacks and building frontages
  - Improvements to open space provision and deep soil zones
  - Solar access
5. A subsequent assessment by Council officers continued to raise concerns relating to the proposed density, built form and open space, traffic impacts heritage and open space. As a result of this assessment, the Applicant was advised that building heights between 4-6 storeys are still considered appropriate for this site, with a maximum FSR of 1.3:1.
6. During this time, consultation with the Roads and Maritime Services (RMS) was undertaken regarding the intersection of Kirby Street and Victoria Road and existing safety issues that would be exacerbated as a result of the proposed development. Further detail on this matter is provided in the LPP report contained in **Attachment 1** to this report.
7. A final revised scheme was submitted in September 2018 (refer to **Attachment 1**). This scheme proposed the following:
  - Building heights from 6-8 storeys
  - FSR of 1.5:1
  - Various changes to open space provision, street network and site access in response to feedback provided on the March 2018 scheme.
8. This scheme could yield approximately 795 new dwellings (between 1,741 and 2,164 new residents).
9. Council officers continued to raise concern in relation to the proposed FSR of 1.5:1, maintaining the position that the lower and recommended FSR of 1.3:1 is

more appropriate for the site and that the applicant's proposed FSR of 1.5:1 and 31m maximum building height limit was not supported.

10. However, as a result of Council officers' preferred density, the Applicant stated that it was not feasible to redevelop the site at an FSR of 1.3:1 and submitted a feasibility report to support this claim with the revised proposal. Council subsequently commissioned a review of the feasibility and independent valuation which revealed that it is feasible to redevelop the site at the Council officer-recommended FSR of 1.3:1. While development feasibility issues are not a relevant consideration when assessing planning merit, the review was nonetheless undertaken to address the issue raised by the Applicant. Further detail on this matter is provided in **Attachment 1** to this report.
11. A planning proposal containing the Council-officer recommended 1.3:1 FSR, maximum 20m (6 storey) building height limit and R4 High Density Residential zone was reported to the Local Planning Panel on 19 February 2019, where it was endorsed as per staff recommendations. Refer to **Attachment 1** to this report.

## ISSUES

12. The report to the LPP recommended that the site can be rezoned, but at a lower FSR and height limit than what the Applicant requested. These concerns were based on concerns relating to open space provision, impacts on the environmentally sensitive vegetation, heritage interface, traffic and transport and provision of community benefits are maintained.
13. The LPP agreed with the Council officer assessment and supported the recommendations of the LPP report. A full assessment of the Planning Proposal is detailed in the LPP report provided at **Attachment 1**.

## VOLUNTARY PLANNING AGREEMENT

14. The applicant has indicated a willingness to enter into a Voluntary Planning Agreement (VPA) with Council and submitted a formal Letter of Offer with the March 2018 iteration of the Planning Proposal. Details of the Applicant's initial items for inclusion are details in the LPP report provided at **Attachment 1**.
15. This report seeks Council's endorsement to commence VPA negotiations with the Applicant in relation to this Planning Proposal in accordance with Council's Planning Agreements Policy adopted on 26 November 2018. As per section 2.5.3 of the Policy, VPA negotiations are to be based on capturing 50% of the value uplift, which is the rate applicable for Planning Proposal's outside the CBD which have not received Gateway determination. A further report will be provided to Council following negotiations with the Applicant outlining the detailed VPA offer.

## CONCLUSION

16. There is strategic merit in the rezoning of the subject site. However, Council officers consider a lower FSR of 1.3:1 and 6 storey height limit to be more appropriate than the planning controls requested by the applicant. This position has been supported by the LPP. The remaining issues can be resolved as part of the design process during the preparation of the site-specific Development Control Plan (DCP) for this site, which will be reported to Council separately.

## **CONSULTATION & TIMING**

17. Should Council resolve to endorse this planning proposal with the recommended changes, it (and all related information) will be submitted to the Department of Planning and Environment for Gateway Determination. Community consultation will be undertaken as required by the Gateway determination.

## **FINANCIAL IMPLICATION FOR COUNCIL**

18. There are no financial implications for Council associated with this report.

Amberley Moore  
**Senior Project Officer Land Use Planning**

Michael Rogers  
**Land Use Planning Manager**

Jennifer Concato  
**Acting Executive Director City Strategy and Development**

## **ATTACHMENTS:**

- 1 [↓](#) LPP Report and Minutes 422 Pages

## **REFERENCE MATERIAL**

Item - 11.3 Part Closure of Church Street at the Intersection of the Former Darcy Street, Parramatta - has been moved to another part of the document.

## 12. THRIVING

12.1 SUBJECT Floodplain Risk Management Committee Minutes 3rd July 2018 and 13th November 2018

REFERENCE F2013/02228 - D06590904

REPORT OF Project Manager Environmental Outcomes

1974 RESOLVED (Tyrrell/Zaiter)

**That** Council receive and note the confirmed Minutes of the 3<sup>rd</sup> July 2018, and the draft Minutes of the 13<sup>th</sup> November 2018 Parramatta Floodplain Risk Management Committee meetings.

## 13. INNOVATIVE

13.1 SUBJECT Planning Proposal for land at 55-59 Kirby Street, Rydalmere

REFERENCE RZ/26/2016 - D06653665

REPORT OF Senior Project Officer

1975 RESOLVED (Esber/Garrard)

a) **That** Council resolve to proceed with the Planning Proposal for land at 55-59 Kirby Street, Rydalmere to make the following amendments to Parramatta Local Environmental Plan (PLEP) 2011:

1. Rezone the site from IN1 General Industrial to R2 Low Density Residential
2. Reduce the maximum height of buildings from 12m to 9m (2 storeys)
3. Reduce the floor space ratio from 1:1 to 0.5:1
4. Amend Schedule 1 Additional Permitted Uses within PLEP 2011 to permit *café/restaurant, shops and office premises* on 59 Kirby Street (Lot 20 DP 855339) only, providing adequate detail has been provided relating to the exact nature of the proposed uses.

For the following reasons:

- i. Consistency with the surrounding low-density residential context
- ii. Distance from public transport and Ermington local centre
- iii. Impacts on adjacent environmentally sensitive land
- iv. Improved heritage interface

- b) **That** the planning proposal at Attachment 1 be amended to reflect (a) above with supporting planning justification and evidence.
- c) **That** the applicant be required to contribute towards future upgrades of the Victoria Road/Kirby Street intersection as identified by Transport for NSW (TfNSW)/Roads and Maritime Services (RMS) as part of current investigations being undertaken for the Victoria Road Corridor.
- d) **That** a site-specific Development Control Plan (DCP) be prepared and reported to Council prior to the exhibition of the Planning Proposal addressing detailed design requirements for the site, including, but not limited to:
  - 1. Heritage
  - 2. Interface with Upjohn House and Upjohn Park
  - 3. Built form
  - 4. Internal road network
- e) **That** the Applicant's Traffic Impact Assessment be updated to reflect the proposed scheme.
- f) **That** the Applicant be invited to make a Voluntary Planning Agreement (VPA) offer to Council and the Acting CEO be authorised to negotiate the VPA. The VPA is to be in addition to Section 7.12 contributions payable, and that the outcome of negotiations be reported back to Council prior to its concurrent exhibition with the draft site specific DCP and Planning Proposal.
- g) **That** the Planning Proposal be forwarded to the Department of Planning and Environment for Gateway determination.
- h) **That** Council advises the Department of Planning and Environment that the Acting CEO will be exercising the plan-making delegations for this Planning Proposal as authorised by Council on 26 November 2012.
- i) **Further, that** Council authorise the Acting CEO to correct any minor policy inconsistencies and any anomalies of an administrative nature relating to the Planning Proposal that may arise during the amendment process.

DIVISION The result being:-

AYES Councillors Wilson, Bradley, Davis, Dwyer, Esber, Garrard, Han, Issa, Jefferies, Pandey, Prociv, Tyrrell, Wearne and Zaiter

NOES Nil