
Council Meeting

9/11/2016

Item No	9.1
Subject	Planning Proposal – 177 Russell Avenue, Dolls Point
Report by	David Dekel, Coordinator City Places and Systems
File	(R) F16/835

Summary

A Planning Proposal has been received affecting 177 Russell Avenue, Dolls Point. The site currently accommodates two double storey residential buildings owned by the War Widows' Guild of Australia (the Guild).

The proposed amendments to the Rockdale LEP 2011 are:

- Height of Building: amend the maximum height of building from 14.5m to 17.75m;
 - Floor Space Ratio: amend the maximum FSR from 1:1 to 1.65:1; and
 - Amend clause 1.8A of the Rockdale LEP 2011 in order to allow a Development Application to be determined concurrently with the Planning Proposal.
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Council Resolution

Resolved by the Administrator

- 1 That Council supports the proposed change in the maximum Height of Building on the site from 14.5m to 17.75m, and maximum FSR on the site from 1:1 to 1.65:1.
- 2 That Council does not support the amendment to clause 1.8A of the Rockdale LEP 2011 in accordance with the assessment provided in the report.
- 3 That the Planning Proposal be amended in accordance with the report prior to submission to the Department of Planning and Environment for Gateway determination.
- 4 That Council continues to pursue negotiations with the proponent to develop a Voluntary Planning Agreement.
- 5 That the amended Planning Proposal and supporting documents be submitted to the Department of Planning and Environment for Gateway determination.
- 6 That Council publicly exhibits the Planning Proposal and Voluntary Planning Agreement concurrently, in accordance with the Department Planning and Environment's Gateway determination.

Officer Recommendation

- 1 That Council supports the proposed change in the maximum Height of Building on the site from 14.5m to 17.75m, and maximum FSR on the site from 1:1 to 1.65:1.
 - 2 That Council does not support the amendment to clause 1.8A of the Rockdale LEP 2011 in accordance with the assessment provided in this report.
 - 3 That the Planning Proposal be amended in accordance with this report prior to submission to the Department of Planning and Environment for Gateway determination.
 - 4 That Council continues to pursue negotiations with the proponent to develop a Voluntary Planning Agreement.
 - 5 That the amended Planning Proposal and supporting documents be submitted to the Department of Planning and Environment for Gateway determination.
 - 6 That Council publicly exhibits the Planning Proposal and Voluntary Planning Agreement concurrently, in accordance with the Department Planning and Environment's Gateway determination.
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Background

Applicant: Helm Properties (on behalf of the War Widows' Guild of Australia NSW Ltd.)

Land Owner: The War Widows' Guild of Australia NSW Ltd.

Council has received a Planning Proposal for land identified as 177 Russell Avenue, Dolls Point. The site is currently occupied by two, double-storey residential buildings which provide low-cost housing facilities for members of the Guild.

The Guild is a not-for-profit charitable organisation which provides low-cost housing, as well as other services and support, since 1946. In recent years, the Guild has found that the needs and demographics of its members has changed dramatically. This has resulted in a marked decrease in the demand for its low-cost housing service.

The Guild has, therefore, needed to redirect funds and resources to other, more-relevant services that are currently in greater demand by its members. In order to achieve the necessary revenue for this, the Guild has had to release capital through maximising the revenue which can be generated through the redevelopment and disposal of its residential assets.

The proposed amendments to the Rockdale Local Environmental Plan 2011 (the Rockdale LEP 2011), are intended to reasonably maximise the development potential of the site, thus enabling the Guild to provide the necessary services from revenue achieved through the subsequent sale of the site to Helm.

The ultimate aim of the proposal is to achieve development standards which will permit the erection of a residential flat building. To achieve this, the Planning Proposal seeks to:

- 1 Introduce a maximum Height of Building on the land of 17.75m; and
- 2 Introduce a maximum Floor Space Ratio on the land of 1.65:1.

In addition, it is also sought to amend clause 1.8A of the LEP in order to allow a Development Application (DA) to be assessed concurrently with the Planning Proposal. The proponent suggests the following additional wording to clause 1.8A:

To avoid doubt, Rockdale Local Environmental Plan 2011 (Amendment No X) applies to the determination of a development application made (but not finally determined) before the commencement of that plan.

Note: An Amendment Number will be assigned should the Planning Proposal proceed through Gateway.

An assessment of the proposed amendments is provided in this report.

SITE AND CONTEXT



Figure 1 – Aerial photo with subject site outlined in red (Source: IntraMaps)

The subject site is legally described as Lots 80-83, DP 2237 and has an area of approximately 2,576m², with a frontage to Russell Avenue of approximately 48m. It is a square site located on the southern side and eastern end of Russell Avenue which abuts the northern boundary of Cook Park/Peter Depena Reserve. Cook Park is a heritage listed park which surrounds the site on all sides (except immediately to the north and west) and extends from Brighton Le Sands to the north and Sandringham to the south.

Immediately to the east of the site is Waradiel Creek, with the continuation of Cook Park/Peter Depena Reserve further to the east. To the north and west, the immediate surrounding area is characterised by residential apartment blocks on linear sites ranging from three to four storeys in height.

Current Planning Controls

The current planning controls for the site as per the Rockdale LEP 2011 are as follows:

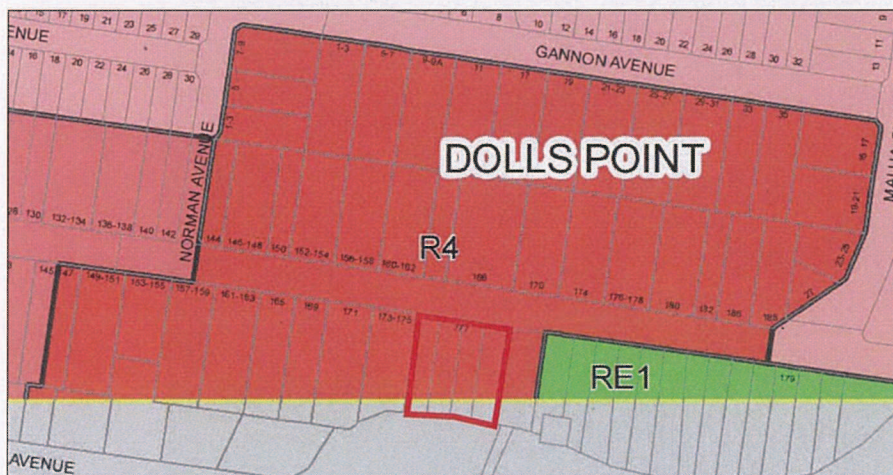
Zone: R4 – High Density Residential

Height of Building: 14.5m

FSR: 1:1

The subject site is located in an R4 High Density Residential zone which extends from the subject site as far as Nos. 145-147 on the south side of Russell Avenue. On the north side of Russell Avenue, the R4 zone extends from Norman Avenue to the west of the subject site and to Malua Street to the east. Further to the north, the R4 zone extends from the front boundary of the properties on McMillan Avenue as far as the front boundary of the properties on the south side of Gannon Avenue (see **Figures 2 and 3**). Both the Height of Building (see **Figures 4 and 5**) and FSR maps (see **Figures 6 and 7**) also follow the boundary of the R4 zone for this area.

The subject site straddles two Rockdale LEP 2011 map tiles, and the relevant maps for the current planning controls are shown below with the subject site outline in red:



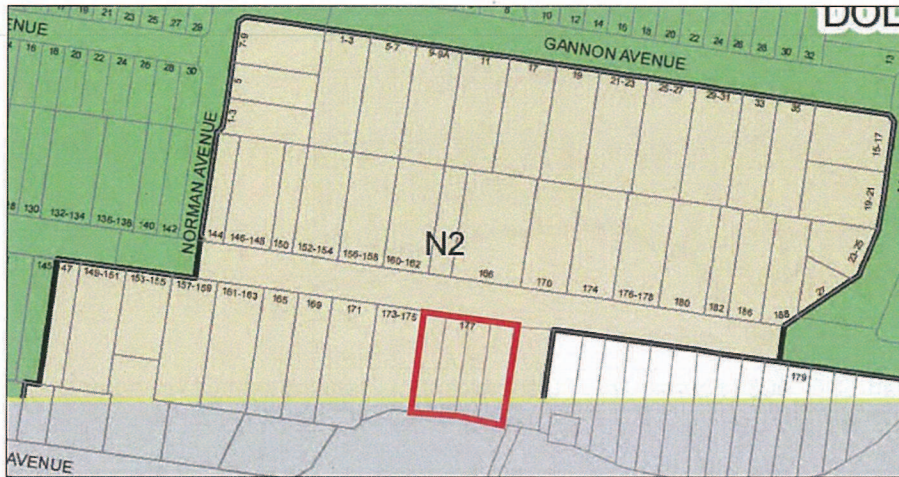


Figure 4 – Current Height of Building Map HOB_005 (Source: NSW Department of Planning and Environment)

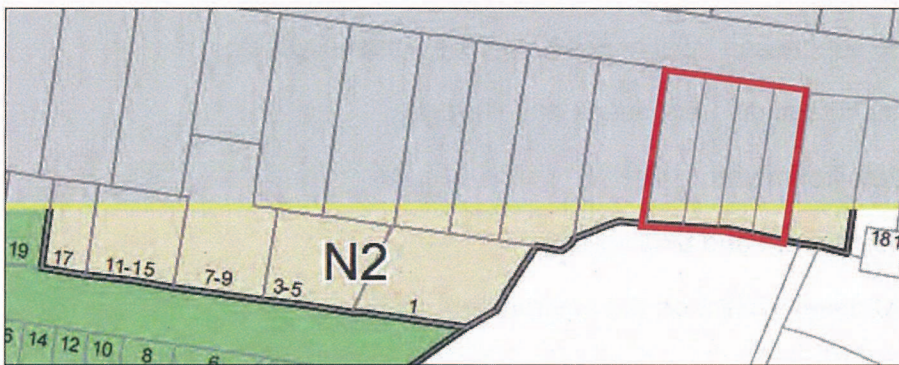


Figure 5 – Current Height of Building Map HOB_006 (Source: NSW Department of Planning and Environment)

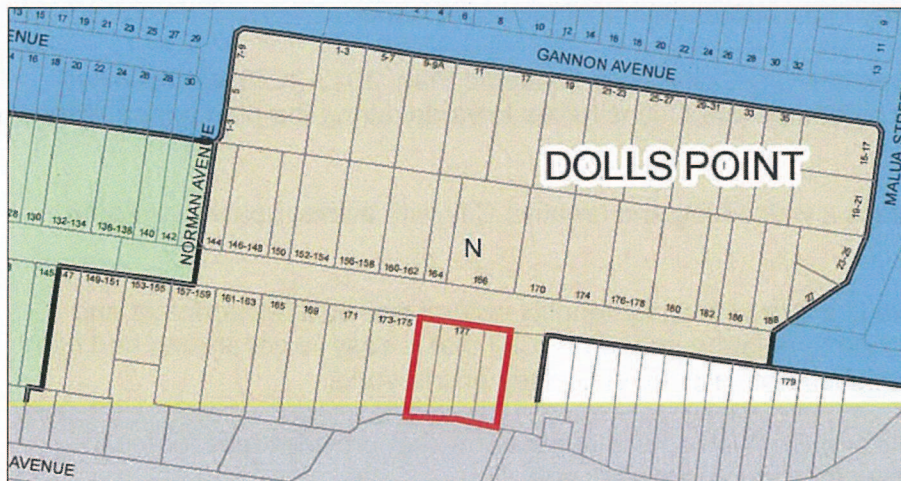


Figure 6 – Current FSR Map FSR_005 (Source: NSW Department of Planning and Environment)

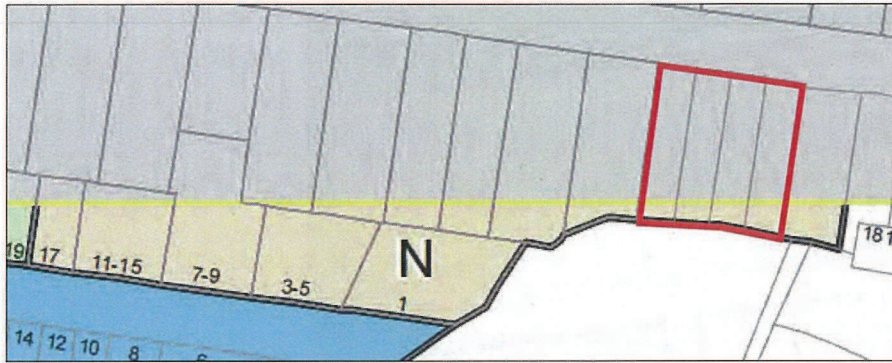


Figure 7 – Current FSR Map FSR_006 (Source: NSW Department of Planning and Environment)

Strategic Context

In 'A Plan for Growing Sydney', the Department of Planning and Environment (DPE) sets out a number of goals, directions and actions which are relevant to the aims of the Planning Proposal:

- Accelerate the housing supply and local housing choices across Sydney;
- Improve housing choice to suit different needs and lifestyles;
- Creating healthy built environments;
- Protect our natural environment and biodiversity;
- Manage the impacts of development on the environment; and
- Accelerate housing supply, choice and affordability and build great places to live.

In the submitted Planning Proposal (see attached), the proponent has reflected the goals of A Plan for Growing Sydney in an appropriate and relevant manner.

The Bayside Council 'Rockdale City Community Strategic Plan, 2013-2025' also outlines four strategic community outcomes that Council aims towards during the plan period. These are:

- Outcome 1 – Rockdale is a welcoming and creative City with active, healthy and safe communities;
- Outcome 2 – Rockdale is a City with a high quality natural and built environment and valued heritage with liveable neighbourhoods. A City that is easy to get around and has good links and connections to other parts of Sydney and beyond;
- Outcome 3 – Rockdale is a City with a thriving economy that provides jobs for local people and opportunities for lifelong learning; and
- Outcome 4 – Rockdale is a City with engaged communities, effective leadership and access to decision making.

The submitted Planning Proposal has made appropriate responses to these aims.

THE PLANNING PROPOSAL

The Planning Proposal has generally been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (the Act) and all relevant Planning Proposal Guidelines published by the DPE. The Planning Proposal report has been prepared by Helm Properties and is supported by the following documentation:

- Urban Design Study prepared by *PCA Architects* dated 21 June 2016;
- Traffic and Parking Impact Assessment prepared by *McLaren Traffic Engineering & Road Safety Consultants* dated 30 June 2016;
- Arboricultural Impact Assessment Report prepared by *The Arborist Network* dated 24 June 2016;
- Acid Sulphate Soil Assessment and Preliminary Waste Classification Assessment prepared by *Environmental Investigation Service* dated 30 June 2016;
- Geotechnical Investigation prepared by *GK Geotechnics* dated 15 June;
- Flooding advice provided by *Green Arrow* dated 11 August 2016.

Copies of the Planning Proposal and supporting documents are attached to this report.

The Planning Proposal seeks to change:

- The maximum Height of Building on the subject site from 14.5m to 17.75m; and
- The maximum FSR on the site from 1:1 to 1.65:1.
 - Amend clause 1.8A to allow for the determination of a DA submitted concurrently with the Planning Proposal

The Planning Proposal states that the proposed changes to the controls will achieve the following outcomes:

- Improved Amenity
- Improved Safety
- Address Flood Liability
- Improved Biodiversity
- Consistency with surrounding development
- Economic redevelopment
- Increase housing choice
- Not-for-profit organisation

ASSESSMENT OF THE PLANNING PROPOSAL

Proposed Height of Building

A Height of Building of 17.75m is being proposed as shown in the proposed Rockdale LEP 2011 maps below:

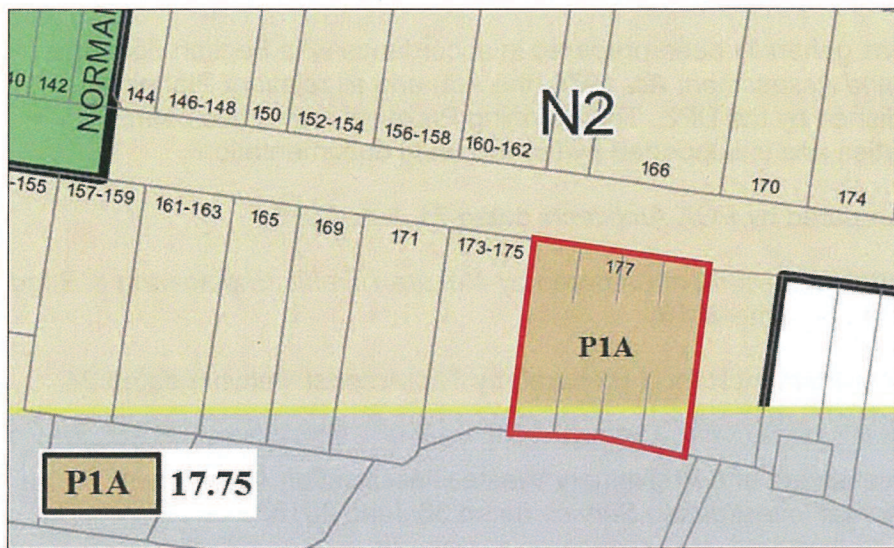


Figure 8 – Proposed Height of Building Map 005 (Source: Proponent's Planning Proposal)



Figure 9 – Proposed Height of Building Map 006 (Source: Proponent's Planning Proposal)

The proposed height is 3.25m higher than the current height control of 14.5m. The proposed height is based on an analysis of the immediate surrounding area, where many of the buildings have a height greater than the 14.5m control. This includes relatively new developments such as 172-174 Russell Avenue, which has a height of 16m. The subject site is also flood affected, which requires a minimum floor level to be applied. The additional height sought will ensure that a residential development can be accommodated on the site which is similar in height to properties in the immediate surroundings. **Figures 10, 11 and 12** below illustrate the proposed building height in the context of the adjoining property to the west and the properties along Russell Avenue:

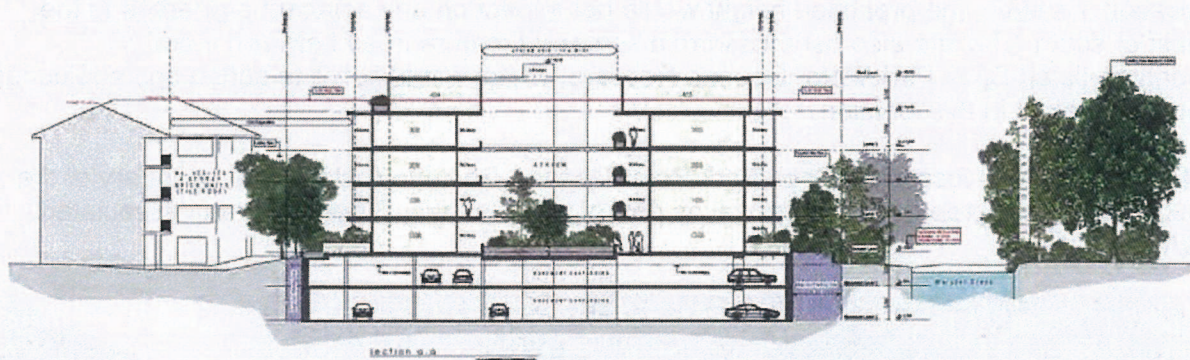


Figure 10 – Section east-west (Source: Proponent's Planning Proposal)

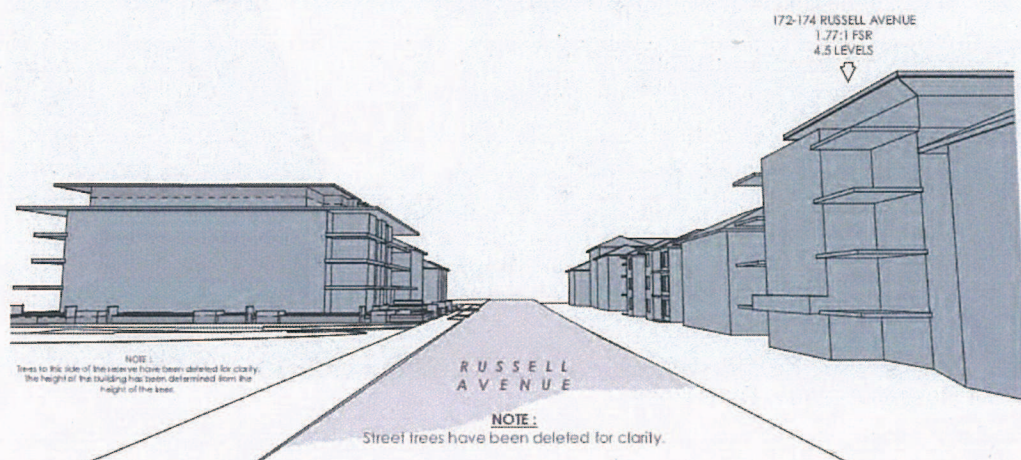


Figure 11 – Street perspective looking west (Source: Proponent's Planning Proposal)

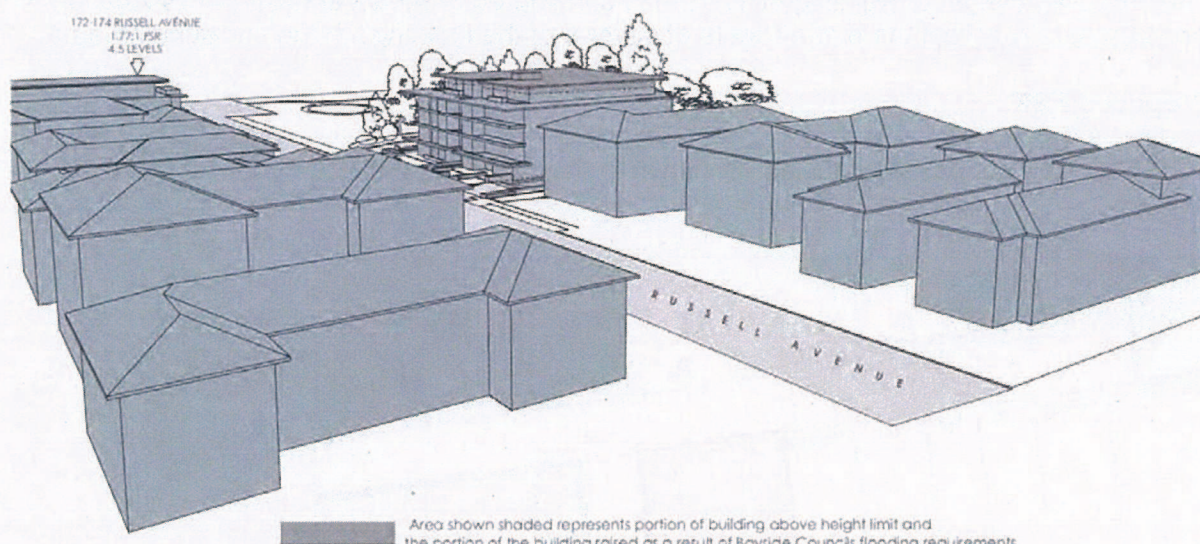


Figure 12 – Perspective looking south-west (Source: Proponent's Planning Proposal)

A recent example of a four-storey residential property in the area can be found at 172-174 Russell Avenue. This received development consent in 2009 and exceeded the maximum height restrictions at the time, which only permitted three-storey properties in the area. This property, shown in **Figure 13** below, is approximately 16m in height at its highest point and, while it has only four residential storeys, it has a raised ground floor starting at 3.5m AHD to facilitate car park access.

Furthermore, the subject site is the last lot on the south side of Russell Avenue in this location. As such, the proposed height would not impact on any adjacent properties to the east or south. The site also benefits from a screen of mature trees between it and the heritage-listed Cook Park/Peter Depena Reserve, which would serve to soften any additional building height in this location.

None of the trees located in Cook Park/Peter Depena Reserve (outside the boundary of the subject site) are proposed for removal as part of this Planning Proposal or any associated DA.



Figure 13 – 172-174 Russell Avenue, Dolls Point

Conclusion:

The proposed Height of Building of 17.75m is considered to be acceptable in this location. It would generally reflect the overall scale of several of the buildings in the surrounding area.

Proposed FSR

A FSR of 1.65:1 is being proposed as shown in the proposed Rockdale LEP 2011 Maps below:



Figure 14 – Proposed FSR Map 005 (Source: Proponent's Planning Proposal)

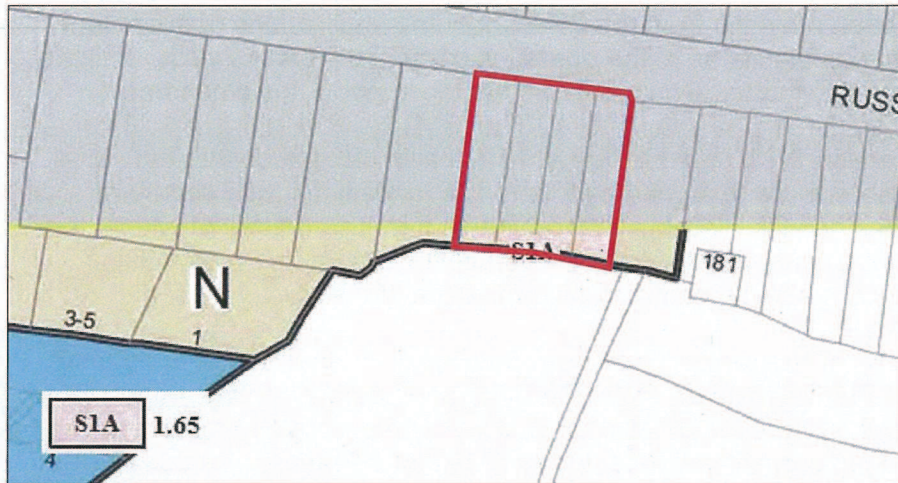


Figure 15 – Proposed FSR Map 006 (Source: Proponent's Planning Proposal)

Many of the lots in the area contain three and four storey buildings on narrow, linear sites with the footprint of each building occupying the majority of the site area as illustrated in **Figure 1**. This has been reflected by the proponent analysis.

Although a higher FSR is being proposed, the indicative drawings show that the built form can be concentrated towards the centre of the site. This would allow a sufficient distance to be maintained between any new development and the building immediately to the west. Furthermore, it could allow for a more-comfortable relationship between the built form and the riparian corridor along Waradiel Creek immediately to the east, with a greater distance between the two possibly being achievable.

Conclusion:

The proposed FSR is considered to be acceptable in this location. It would reflect the general high-density pattern of development in the locality and, as with the proposed Height of Building, would allow the most of efficient use of the land to be made to create the best possible financial return for the Guild.

Amendment of Clause 1.8A

The Planning Proposal also seeks to amend clause 1.8A of the LEP in order to allow a DA to be assessed concurrently with the Planning Proposal and determined once the plan making process is finalised. The proponent has suggested the following additional wording to clause 1.8A:

'To avoid doubt, Rockdale Local Environmental Plan 2011 (Amendment No X) applies to the determination of a development application made (but not finally determined) before the commencement of that plan.'

Section 72(J) of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) permits the concurrent assessment of a DA and a Planning Proposal for the same site. At the time of the submission of this Planning Proposal, a Land and Environment Court decision restricted the determination of concurrently-lodged DAs to the planning controls at the time of the DA was submitted.

However, since the lodgement of this Planning Proposal, a subsequent appeal has overturned this restriction, putting into question whether an amendment to clause 1.8A is necessary.

Little guidance has also been provided from the DPE about the implications of the recent court proceedings, causing ambiguity as to the operation of clause 1.8A. As such, until the DPE provides guidance on this matter, Council is reluctant to support this amendment.

While the provisions of section 72(J) of the EP&A Act 1979 allow for the concurrent consideration of a DA associated with a pending Planning Proposal, Council's general practice in recent times has been to discourage proponents from this course of action. It is commonly thought by the proponent that, if the DA is submitted during the plan making process, this will speed up the assessment and determination of their DA.

This has rarely been the case. Past experience has shown that the finalisation of both the plan-making process and the assessment of the DA have been delayed by the concurrent submissions. These delays are a result of amendments to the Planning Proposal required by either the DPE, Council or in a recent instance, the applicant of a Planning Proposal. This would, in turn, necessitate further amendments to the DA, prolonging the assessment and determination of the DA.

Conclusion:

The application of this clause is not supported and should be removed from the Planning Proposal prior to its submission to the DPE for Gateway determination (should Council support the Planning Proposal).

Traffic and Vehicular Access

The proponent has provided a Traffic and Parking Impact Assessment to support the Planning Proposal. The assessment is based on the indicative concept plan also provided to support the Planning Proposal and based on a scheme of 35 units. The analysis demonstrates that, compared to the subject site's existing development, the net traffic generation would equate to one additional vehicle every 7 to 8 minutes during both am and pm peak periods.

The proponent has provided a brief analysis of the local road and bus network. This analysis shows that the subject site is well served by and accessible to the existing road network, with the Grand Parade located approximately 500 metres to the north.

Several bus stops are located in the vicinity of the subject site, including a bus stop located directly along the site's Russell Avenue frontage (see **Figure 16**). These bus stops provide services to the surrounding commercial and retail centres of Miranda, Hurstville, Rockdale and the Sydney CBD.



Figure 16 – Road and transport analysis (Source: Proponent's Planning Proposal)

The suggested positioning of the vehicular access would see the vehicular access move from midway along the frontage of the site to the western boundary of the site, which in principle would be acceptable. Although this would need to be subject to satisfactory details being submitted as part of a development application, the generous 48m frontage should provide ample flexibility in the final positioning of the vehicular access.

Based on this information, the increase in traffic is considered to be acceptable and is unlikely to significantly increase traffic congestion in the immediate area. Regardless a more detailed analysis would be expected as part of the DA process.

Conclusion:

The future development facilitated by the Planning Proposal is unlikely to have any significant impact on traffic generation in the local area, is capable of achieving compliance with Council's DCP and will have no adverse traffic or parking impact on the surrounding road network.

Environmental Considerations

There are a number of environmental considerations that have been raised as a result of this Planning Proposal, including:

Trees

The proponent has submitted an Arboricultural Impact Assessment Report which states that:

- In order to accommodate the indicative concept plan, seven trees will require removal, including two *Magnolia grandifloras*;
- The *Magnolia grandifloras* will be propagated, with the propagated trees being incorporated into the overall landscape design for the property;
- All of the trees requiring removal have a low retention value; and
- The removal of the trees will be more than offset by the landscaping, riparian rehabilitation and improvements to the Peter Depena Reserve.

Council's Tree Management Officer has been consulted and concludes that the submitted Arboricultural Impact Assessment Report is a fair assessment of the site trees and the likely impacts. Although it is considered that the two Magnolia trees are significant specimens which date from well prior to 1965, the Officer concludes that their structure has been somewhat compromised by heavy pruning on several occasions and compensation can be provided with appropriate landscaping. There is no objection raised to the removal of these trees.

The Tree Management Officer also commented that the English Oak located at the rear of the site, based on the information provided in the report, can be safely retained, and it is expected that all attempts would be made to retain this tree in any future redevelopment of the site.

Conclusion:

Although the Planning Proposal would facilitate a development which will likely necessitate the removal of some trees, any new development facilitated by the Planning Proposal is also capable of securing a comprehensive landscaping and tree-planting scheme which will make a substantial improvement to the appearance of the site.

Flooding

The site is affected by the 1% Annual Exceedance Probability (AEP) flood and requires a minimum Habitable Floor Level (HFL) of 2.50m AHD with any new development. The proponent states that the existing residential development currently located on the site does not comply with the latest flooding guidelines and policies, whereas the indicative development scheme submitted in support of the Planning Proposal demonstrates that a well-designed building free of flood risk can be accommodated on the land.

Prior to submission of the Planning Proposal, the proponent consulted with Council on flooding matters. The information provided included confirmation of the AEP and HFL referred to above. Council also reviewed the Geotechnical Investigation submitted with the Planning Proposal. No further comments were made that are relevant to the Planning Proposal.

Conclusion:

The proponent has demonstrated that a higher-density residential development, in compliance with Council's standards, can safely be accommodated on the site. Detailed compliance would need to be demonstrated at the DA stage, including the submission of a Flood Management Plan.

Biodiversity

In the submitted Planning Proposal, the proponent has acknowledged the potential to respond to the subject site's location adjacent to the riparian corridor along Waradiel Creek. The Planning Proposal also recognises the opportunity this presents to enhance the functionality and quality of the natural environment along the interface between the creek and the subject site, and that this should be informed by further discussion with Council.

Council has provided comments on the Planning Proposal and confirms that the NSW Office of Water should be consulted on any development application to gauge any requirements in relation to the adjacent riparian corridor along Waradiel Creek.

The comments also set out additional matters which should be considered at the development application stage including investigating the presence of any threatened or

migratory species in the area and an assessment of any relevant construction and post construction impact on these species.

Any upgrade to the landscaping of the park land proposed would need to be developed in consultation with Council, as would any opportunity identified by the proponent to relocate the gross pollutant trap (or any other pollution control changes) in Waradiel Creek.

Conclusion:

Any development facilitated by the Planning Proposal would clearly need to have careful regard to the biodiversity interests in the area. The indicative scheme submitted in support of the Planning Proposal demonstrates that a higher-density development can be accommodated on the site with the built form located further away from the riparian corridor, although this would need to be carefully examined at the development application stage.

Contamination and Geotechnical

An Acid Sulfate Soil Assessment and Preliminary Waste Classification Assessment, and a Geotechnical Investigation, have been submitted in support of the planning Proposal. Council has reviewed the reports and concludes that the recommendations therein, including the Acid Sulphate Soils Management Plan, are satisfactory.

Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about the site shall be notified to Council.

ADEQUACY OF THE PLANNING PROPOSAL AND SUPPORTING INFORMATION FOR EXHIBITION PURPOSES

The DPE's guidelines state that Councils are responsible for the content of Planning Proposals. In this regard, the Planning Proposal is considered to be consistent with the DPE's guidelines. The supporting information is also considered to be satisfactory for the purposes of this Planning Proposal.

VOLUNTARY PLANNING AGREEMENT

Throughout discussions with the proponent about the planning proposal, the issue of providing a contribution to works of a public benefit has been raised but not formalised through a Voluntary Planning Agreement. Issues raised for consideration have included improvements to Waradiel Creek and its riparian zone, as well as park improvements.

It is recommended that Council officers continue to negotiate with the proponent about the details of works of a public benefit with the aim of having a draft Voluntary Planning Agreement prepared for public exhibition along with the Planning Proposal once it has been issued with a Gateway Determination.

CONCLUSION

The Planning Proposal seeks to achieve a strategic planning outcome that will facilitate higher density living opportunities consistent with the surrounding development character. The proposed increases in height and FSR are proposed for an area where the predominant scale and mass of development is reflective of that being sought in the Planning Proposal.

The proposed development standards would facilitate a residential apartment building which would make the most effective and efficient re-use of an existing residential site. It would also allow the War Widows' Guild of Australia to achieve the best possible return on this site for reinvestment into the support services it can provide elsewhere.

Financial Implications

Not applicable

Community Engagement

Should the Planning Proposal proceed through the Gateway determination stage, the Planning Proposal and proposed amendments to the Rockdale LEP 2011 will be subject to community consultation in accordance with Sections 56 (2)(c) and 57 of the Environmental Planning and Assessment Act 1979.

The specific requirements for community consultation will be listed in the Gateway determination, including any Government agencies that are to be consulted in relation to the Planning Proposal.

Attachments

- 1 Proponent's Planning Proposal.
(TRIM Ref: (R) 16/130944)
- 2 Urban Design Study prepared by PCA Architects dated 21 June 2016;
(TRIM Ref: (R) 16/128121).
- 3 Traffic and Parking Impact Assessment prepared by McLaren Traffic Engineering & Road Safety Consultants dated 30 June 2016.
(TRIM Ref: (R) 16/128113)
- 4 Arboricultural Impact Assessment Report prepared by The Arborist Network dated 24 June 2016.
(TRIM Ref: (R) 16/128115)
- 5 Acid Sulphate Soil Assessment and Preliminary Waste Classification Assessment prepared by Environmental Investigation Service dated 30 June 2016.
(TRIM Ref: (R) 16/128116)
- 6 Geotechnical Investigation prepared by GK Geotechnics dated 15 June.
(TRIM Ref: (R) 16/128116)
- 7 Flooding advice provided by Green Arrow dated 11 August 2016.
(TRIM Ref: (R) 16/128120)