

**DECISION OF 3599th COUNCIL MEETING
HELD ON 26 MARCH 2012**

166. G02: Planning & Development Committee - 19 March 2012

7. PD06: Planning Proposal for the Parraween Street Car Park & Early Childhood Health Centre, Cremorne

Report of Mark Yee, Strategic Planner, 14 March 2012

On 13 February 2012, Council considered a report regarding the Planning Proposal for the proposed redevelopment of the Parraween Street Car Park and the neighbouring Early Childhood Health Centre in Cremorne. The proposed development consists of a combination of two levels of underground car parking, public open space, key worker housing, an early childhood health centre and a café. Council resolved:

THAT the report be adopted subject to an investigation into amending the Planning Proposal to zone the proposed designated 'parkland' to an open space zoning.

The Planning Proposal was subsequently sent to the Department of Planning & Infrastructure (DPI) for Gateway Determination.

The Planning Proposal seeks to amend North Sydney Local Environmental Plan 2001 (NSLEP 2001), by rezoning the site from Special Uses to Residential C, and to include a site specific clause in Part 5 of the document. The site specific clause will allow the additional uses of "car park" and "refreshment room", and include a provision to address the proposed developments inability to comply with the relevant landscaped area requirements.

Informal advice from the DPI has raised concern regarding the Planning Proposal and in particular the issues pertaining to the proposed site specific provisions. It was suggested that Council considers amending the Planning Proposal to zone the site as Mixed Use. This would remove the need to seek the additional use of "refreshment room" and the provision needed to address the issue of landscaped area. However the Planning Proposal would still have to seek to include a provision to allow the additional use of "car park".

Council had previously considered the Mixed Use zone as a viable zoning alternative. In reviewing the advice from the DPI a Mixed Use zoning would importantly maintain the intent of the Planning Proposal and not result in detrimental impact to the amenity of neighbouring properties.

The primary benefit of zoning the site Mixed Use is the removal of the complex landscaped area provisions required under a Residential C zone. Zoning the site Mixed Use also requires map amendments to provide controls related to building height and non-residential floor space ratio. For the site it is proposed to have a building height limit of 12m with a non-residential floor space ratio of 0 - 2:1.

The advice from the DPI also noted that DLEP 2009 seeks to confirm the classification of the site as "operational". It is understood that Council had previously classified a portion of the site as "operational". The Planning Proposal provides an opportunity to confirm the classification of the site as "operational" under NSLEP 2001 and this is a prudent approach.

Recommending:

1. THAT Council amend the Planning Proposal to:

- a) Rezone the subject site from Special Uses to Mixed Use.
- b) Set a building height limit of 12m and a non-residential floor space ratio range of 0 – 2:1.
- c) Include a site specific provision in Part 5 to allow the additional permitted use of "car park".
- d) Classify the site as "operational".

2. THAT Council forward the amended Planning Proposal to the Minister for Planning in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979.

Resolved to recommend:

1. THAT Council amend the Planning Proposal to:

- a) Rezone the subject site from Special Uses to Mixed Use.
- b) Set a building height limit of 12m and a non-residential floor space ratio range of 0 – 2:1.
- c) Include a site specific provision in Part 5 to allow the additional permitted use of “car park”.
- d) Classify the site as “operational”.

2. THAT Council forward the amended Planning Proposal to the Minister for Planning in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979.

The Motion was moved by Councillor Baker and seconded by Councillor Raymond.

Voting was unanimous

**Report to General Manager**

Attachments:

1. Previous Council Report on 13 February 2012

SUBJECT: Planning Proposal for the Parraween Street Car Park & Early Childhood Health Centre, Cremorne

AUTHOR: Mark Yee, Strategic Planner, 14 March 2012

EXECUTIVE SUMMARY:

On 13 February 2012, Council considered a report regarding the Planning Proposal for the proposed redevelopment of the Parraween Street Car Park and the neighbouring Early Childhood Health Centre in Cremorne. The proposed development consists of a combination of two levels of underground car parking, public open space, key worker housing, an early childhood health centre and a café. Council resolved:

THAT the report be adopted subject to an investigation into amending the Planning Proposal to zone the proposed designated 'parkland' to an open space zoning.

The Planning Proposal was subsequently sent to the Department of Planning & Infrastructure (DPI) for Gateway Determination.

The Planning Proposal seeks to amend North Sydney Local Environmental Plan 2001 (NSLEP 2001), by rezoning the site from Special Uses to Residential C, and to include a site specific clause in Part 5 of the document. The site specific clause will allow the additional uses of "car park" and "refreshment room", and include a provision to address the proposed developments inability to comply with the relevant landscaped area requirements.

Informal advice from the DPI has raised concern regarding the Planning Proposal and in particular the issues pertaining to the proposed site specific provisions. It was suggested that Council considers amending the Planning Proposal to zone the site as Mixed Use. This would remove the need to seek the additional use of "refreshment room" and the provision needed to address the issue of landscaped area. However the Planning Proposal would still have to seek to include a provision to allow the additional use of "car park".

Council had previously considered the Mixed Use zone as a viable zoning alternative. In reviewing the advice from the DPI a Mixed Use zoning would importantly maintain the intent of the Planning Proposal and not result in detrimental impact to the amenity of neighbouring properties.

The primary benefit of zoning the site Mixed Use is the removal of the complex landscaped area provisions required under a Residential C zone. Zoning the site Mixed Use also requires map amendments to provide controls related to building height and non-residential floor space ratio. For the site it is proposed to have a building height limit of 12m with a non-residential floor space ratio of 0 - 2:1.

The advice from the DPI also noted that DLEP 2009 seeks to confirm the classification of the site as “operational”. It is understood that Council had previously classified a portion of the site as “operational”. The Planning Proposal provides an opportunity to confirm the classification of the site as “operational” under NSLEP 2001 and this is a prudent approach.

RECOMMENDATION:

1. THAT Council amend the Planning Proposal to:

- a) Rezone the subject site from Special Uses to Mixed Use.
- b) Set a building height limit of 12m and a non-residential floor space ratio range of 0 – 2:1.
- c) Include a site specific provision in Part 5 to allow the additional permitted use of “car park”.
- d) Classify the site as “operational”.

2. THAT Council forward the amended Planning Proposal to the Minister for Planning in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979.

Signed: _____

Endorsed by: _____
Manager Strategic Planning

LINK TO DELIVERY PROGRAM

The relationship with the Delivery Program is as follows:

Direction:	1. Our Living Environment
Goal:	1.4 Provide appropriate public open space, recreation facilities and services
Direction:	2. Our Built Environment
Goal:	2.2 Improve mix of land use and quality development
Goal:	2.5 Improve traffic management
Direction:	3. Our Economic Vitality
Goal:	3.1 Ensure a vibrant, strong, and sustainable local economy
Direction:	4. Our Social Vitality
Goal:	4.4 Enhance community services, facilities and information
Goal:	4.6 Promote affordable housing and accommodation
Direction:	5. Our Civic Leadership
Goal:	5.5 Ensure the long term financial sustainability of North Sydney

SUSTAINABILITY STATEMENT

The issues of sustainability were addressed in the previous report to Council on 13 February 2012, which is attached to this report.

BACKGROUND

On 13 February 2012, Council considered a report regarding the Planning Proposal for the proposed redevelopment of the Parraween Street Car Park and the neighbouring Early Childhood Health Centre in Cremorne. The proposed development consists of a combination of two levels of underground car parking, public open space, key worker housing, an early childhood health centre and a café. Council resolved:

***THAT** the report be adopted subject to an investigation into amending the Planning Proposal to zone the proposed designated 'parkland' to an open space zoning.*

The Planning Proposal was subsequently sent to the Department of Planning & Infrastructure (DPI) for Gateway Determination.

DETAIL

The Planning Proposal that was initially submitted to the DPI sought to allow the proposed development by amending NSLEP 2001 in the following ways:

- Rezoning the subject site from Special Uses to Residential C;

- Insert a new site specific clause in Part 5 to:
 - o include the additional permitted uses of “car park” and “refreshment room”;
 - o include a provision to address the inability of the proposed development to comply with the relevant landscaped area requirements.

However, informal advice from the DPI suggested that using the Mixed Use zone may be more appropriate, as this would remove the need for some of the proposed site specific provisions and that the zone would better reflect the nature of the proposed development.

The objectives and permitted uses for the Mixed Use zone are as follows:

Mixed Use Zone

1 Objectives of the zone

The particular objectives of this zone are to:

- (a) *encourage a diverse range of living, employment, recreational and social opportunities, which do not adversely affect the amenity of residential areas, and*
- (b) *create interesting and vibrant neighbourhood centres with safe, high quality urban environments with residential amenity, and*
- (c) *maintain existing commercial space and allow for residential development in mixed use buildings with non-residential uses at the lower levels and residential above, and*
- (d) *promote affordable housing.*

2 Development which may be carried out in this zone

Development for the purpose of:

advertisements; apartment buildings; attached dwellings; boarding-houses; business identification signs; child care centres; clubs; commercial premises; community facilities; community notice signs; duplexes; dwelling-houses; drainage; educational establishments; home industries; home occupations; hospitals; hotels; medical centres; open space; places of assembly; places of public worship; real estate signs; recreational facilities; refreshment rooms; remediation; restricted premises; shops; showrooms; take-away food shops; taverns; telecommunications facilities; temporary signs; utility installations, other than gas holders or generating works.

The proposal is a mixed use development comprising of key worker accommodation, public open space, two levels of underground parking (incorporating public car parking), a new early childhood health centre and a cafe.

All of the proposed uses are permissible under the Mixed Use zone except for ‘car park’. As such the Planning Proposal would still have to include a site specific provision to allow the additional use of a ‘car park’. It should be noted that the use of ‘car park’ is only permitted in the Special Use Zone where ‘car park’ is identified on the map with red lettering.

To understand the implications of zoning the site Mixed Use instead of Residential C, an analysis was undertaken of the relevant planning controls for the Mixed Use Zone. This is addressed in the following section.

Building Height

Under Clause 29(2) of NSLEP 2001, building height in the Mixed Use Zone is controlled through the relevant LEP map. The site is immediately adjoining properties that are zoned Residential C, which have a building height limit of 12m.

To ensure that any development on the site would be consistent with the built form of these adjoining properties, it would be appropriate to set a 12m height building limit for the site.

Building Height Plane

Clause 30 of NSLEP 2001, relates to building height plane in the Mixed Use zone. Subclause 2(C) requires the following:

(2) *Building height plane controls*

A building must not be erected in the mixed use zone, on land that adjoins or is adjacent to land within a residential or open space zone, if any part of the building will exceed a building height plane:

- (c) *commencing 3.5 metres above existing ground level, and projected at an angle of 45 degrees, at all points from each of the boundaries of the site that adjoin land within the residential C zone.*

This requirement is identical to the building height plane requirements for sites in the Residential C zone. As such it is considered that the Mixed Use Zone would offer the same protection as the Residential C zone to the amenity of adjoining residential land in terms of building separation, solar access and privacy.

Non-residential Floor Space Ratio

To ensure a diverse mix of uses in each building in the Mixed Use zone, a development must comply with the specified non-residential floor space ratio. This is required under clause 31(2) of NSLEP 2001, which is as follows:

(2) *Floor space controls*

A building must not be erected in the mixed use zone if the floor space ratio of the part of the building to be used for non-residential purposes is not within the range specified on the map.

The proposed development is for a mix residential and non-residential uses. The proposed cafe and the new Early Childhood Health Centre would constitute non-residential floor space.

Opposite the site on the southern side of Parraween Street, the buildings are all zoned Mixed Use and all have a specified non-residential FSR range of 0.5 – 2:1. However, it is noted that the proposed development includes a significant portion of the site to be dedicated as open space. Given that such a large portion of the site will be designated for open space purposes it is unclear if the development will be able to meet the minimum requirement of 0.5:1.

It is therefore recommended that the site has a specified non-residential FSR range of 0 – 2:1. As the site is adjoining residential properties it is considered that having a lower requirement for non-residential floor space is satisfactory as it is consistent with these adjoining uses.

Landscaped Area

Under NSLEP 2001 the Mixed Use zone does not require developments to provide a minimum percentage of landscaped area. It should be noted that the landscaped area controls for sites in a Residential C zone require sites with an area over 900m² to provide minimum landscaped area of 60% of the site area.

The definition of landscaped area under NSLEP 2001 is as follows:

landscaped area of a site means the part of the site that is generally at existing ground level, that is not occupied at or above or below by any building structure, swimming pool or hard-surfaced tennis court, or the like, that is or is proposed to be predominantly landscaped by way of plantings, gardens, lawns, shrubs or trees and that is available for use and enjoyment by the occupants of the building erected on the site, but does not include any area set aside for driveways and parking.

As the proposed underground car park is envisaged to cover the whole of the site, all of the proposed open space area would be located above a building structure. The redevelopment under the previous Planning Proposal would therefore not be able to comply with the landscaped area requirements under NSLEP 2001. To address this, the previous Planning Proposal created a new provision that would allow area at ground level above an underground car park to be included when calculating landscaped area – ultimately a new landscaped definition for this site only.

This proposed provision had been identified by the DPI as being potentially problematic and zoning the site Mixed Use would remove the need for this complex site specific provision.

It is noted that redevelopment does propose the provision of parkland. The previous Council resolution did include requiring Council to investigate the possibility of zoning the designated parkland to an open space zoning.

Council staff subsequently investigated the possibility of zoning a portion of the site for open space. However, it was determined that as the design of the development is not near finalisation, zoning a portion of the site as open space may restrict future development options. When the open space area has been determined a rezoning process can then be undertaken.

DLEP 2009

Under DLEP 2009 it is proposed to zone the site R4 - High Density Residential and include a site specific provision allowing the additional uses of a "car park" and "restaurant". Given the uncertainty of the timeframe for the gazettal of DLEP 2009, the Planning Proposal is likely to be gazetted ahead of DLEP 2009 under the provisions of NSLEP 2001. In this scenario the controls for the site under DLEP 2009 would be amended to reflect the provisions in the Planning Proposal.

Re-classification of Land

The advice from the DPI also noted that the site was proposed to be classified as "operational" under DLEP 2009. When the *Local Government Act 1993* was introduced it required all councils to classify public land as either "operational" or "community". It is understood that Council classified a portion of the site as "operational" at this time.

Prudently, Council sought to confirm the classification of the subject site as "operational" under DLEP 2009. This process has involved confirming the classification of several Council owned sites and was addressed at the public hearing on 1 June 2011.

The Planning Proposal provides an opportunity to reconfirm the classification of the site as "operational" under NSLEP 2001.

Conclusion

Due to concerns raised through informal advice from the DPI, it is recommended that the Planning Proposal for redevelopment of Parraween Street Car Park and neighbouring Early Childhood Health Centre be amended.

It is recommended that the amended Planning Proposal seek to rezone the site to Mixed Use with a building height limit of 12m and a non-residential floor space ratio range of 0 - 2:1. In addition, the Planning Proposal should also include the additional permitted use of a "car park" and reconfirm the classification of the site as "operational".

It is considered that the Mixed Use zone accurately reflects the nature of the proposed development, providing it with the necessary planning provisions to deliver the intended outcome.