



# Council Meeting

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## General Report - Meeting Date: 04/02/2015

Public -

Item Number: ORD19

Subject: PLANNING PROPOSAL - 8 & 10 MARTIN AVENUE, 9 BIDJIGAL ROAD AND 47 & 49 BONAR STREET, ARNCLIFFE

File Number: F14/364

Report by: Coordinator Urban Strategy (Jacky Wilkes)

Community Engagement: Yes

Financial Implications: No

## Precis

In March 2014 the developers of 10 Martin Avenue and 47- 49 Bonar Street, Arncliffe initiated discussions with Council officers regarding a voluntary planning agreement (VPA) for land dedication and embellishment to complete Stage 2 of the community park and central square for Bonar Street Precinct in return for increased height and floor space entitlements on the Residential parts of the site.

A planning proposal has been submitted to Council to amend the *Rockdale Local Environmental Plan (RLEP) 2011* applying to land at 8 and 10 Martin Avenue, 9 Bidjigal Road and 47 and 49 Bonar Street, Arncliffe to enable the consent authority to vary the height and FSR standards provided the development provides additional community infrastructure via a planning agreement and the development satisfies the Design Quality Principles in SEPP 65, in particular Principle 1 - Context.

Redevelopment of the site presents an opportunity to secure and expedite the delivery of important community infrastructure in Bonar Street Precinct. Stage 1 of the community park has been constructed recently via a VPA associated with the development of 45 Bonar Street. Given the unique context of the site created in part by the scale of development on 45 Bonar Street and provided a quality design outcome can be achieved and net public benefit can be achieved, an increase in height and floor space ratio is considered reasonable. The planning proposal does not seek to "lock in" any height and FSR standards nor tie to a specific design solution, which will be subject to detailed development assessment once a final development application is lodged. This adopted approach, which will enable integrated and comprehensive considerations of the planning merit and planning benefit of the development on the site, is supported.

This report recommends Council's approval of the planning proposal for submission to the Minister for Planning for a gateway determination.

## Council Resolution

NOTE:

Councillor L Sedrak was absent for the voting on this item.

Mr Adam Coburn, supporting the officer's recommendation, addressed the Council.

### SUSPENSION OF STANDING ORDERS

RESOLVED on the motion of Councillors Barlow and Awada

That Standing Orders be suspended in order for a staff presentation on the item.

NOTE:

A staff presentation was made.

RESUMPTION OF STANDING ORDERS

RESOLVED on the motion of Councillor Nagi and Ibrahim

That Standing Orders be resumed.

MOTION moved by Councillors Mickovski and Awada

1 That Council supports the planning proposal (Attachment 1) and its supporting documents, subject to minor changes as outlined in this report, for submission to the Minister for Planning for Gateway Determination.

2 That the planning proposal be recommended to be exhibited for four (4) weeks and in accordance with the requirements of the Gateway Determination.

DIVISION

DIVISION on the MOTION called for by Councillors Mickovski and Awada

FOR THE MOTION

Councillors O'Brien, Macdonald, Bezic, P Sedrak, Awada, Barlow, Saravinovski, Kalligas, Nagi, Mickovski, Ibrahim, Hanna, Tsounis and Poulos

AGAINST THE MOTION

Nil

The MOTION was ADOPTED 14 votes to 0.

## Officer Recommendation

1. That voting on this matter be by way of a Division.
2. That Council supports the planning proposal (Attachment 1) and its supporting documents, subject to minor changes as outlined in this report, for submission to the Minister for Planning for Gateway Determination.
3. That the planning proposal be recommended to be exhibited for four (4) weeks and in accordance with the requirements of the Gateway Determination.

## Report Background

Council has received a planning proposal from Mecone Pty Ltd on behalf of Canberra Estates Consortium No. 42 Pty Ltd. The planning proposal affects land at 8 and 10 Martin Avenue, 9 Bidjigal Road and 47 and 49 Bonar Street, Arncliffe (the site) and seeks an amendment to *Rockdale Local Environmental Plan (RLEP) 2011* to allow consent authority to consider development on the site with a variation to the current building height and floor space ratio (FSR) standards, provided that the development includes additional community infrastructure via a planning agreement and the development satisfies the design quality principles in SEPP 65. (Refer to **Attachment 1**)

The planning proposal will also progress as part of a development application process and its accompanying Voluntary Planning Agreement (VPA). The VPA offer is for land dedication and embellishment to deliver Stage 2 of the community park and central square for Bonar Street Precinct.

## SITE AND CONTEXT

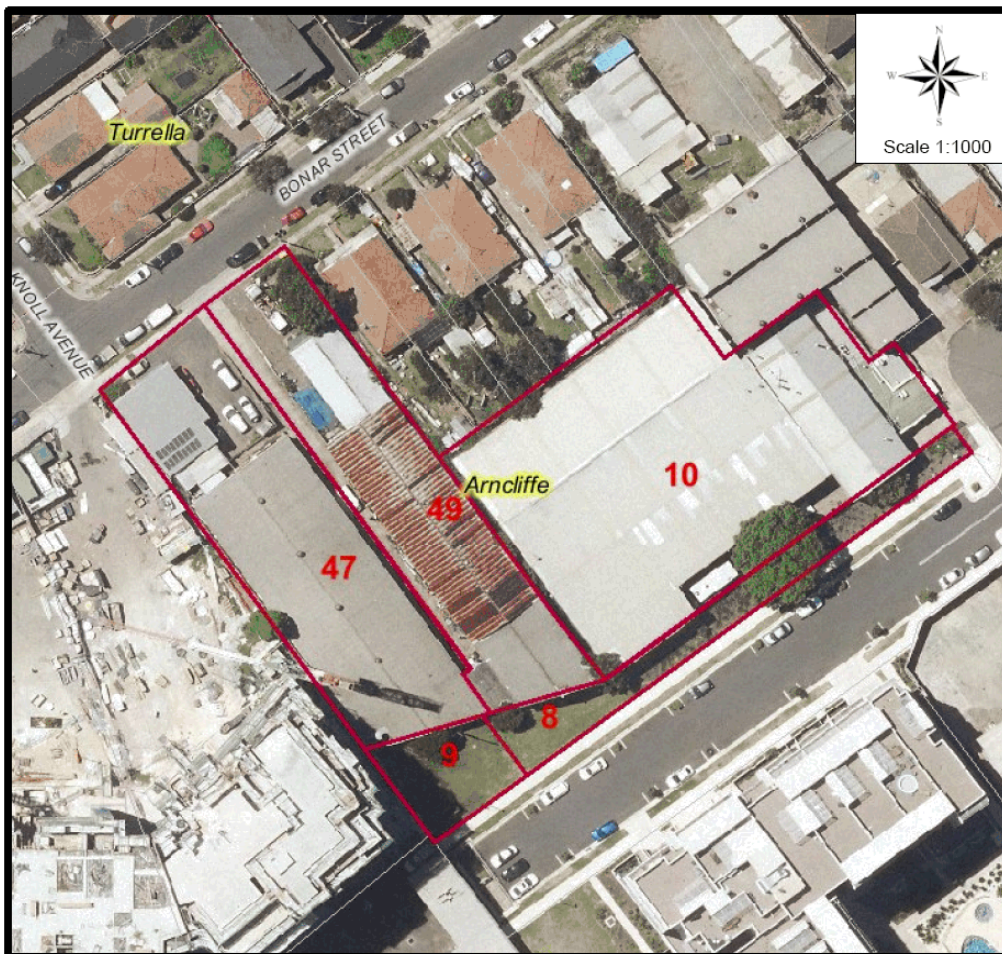
The site is located within Bonar Street Precinct in Arncliffe, as identified in Rockdale Development Control Plan (DCP) 2011. As indicated in "*A plan for growing Sydney*", recently released by the Department of Planning and Environment (DP&E) in December 2014, the site is also within the Arncliffe Priority Precinct.

The following parcels of land, which have a total area of approximately 5,920 m<sup>2</sup>, are affected by this planning proposal:

- 10 Martin Avenue (Lot C DP 158978)
- 47 and 49 Bonar Street (Lot 1 & Lot 2 DP 233666)
- 8 Martin Avenue (Lot 2039 DP 1159612)
- 9 Bidjigal Road (Lot 2310 DP 1159612)

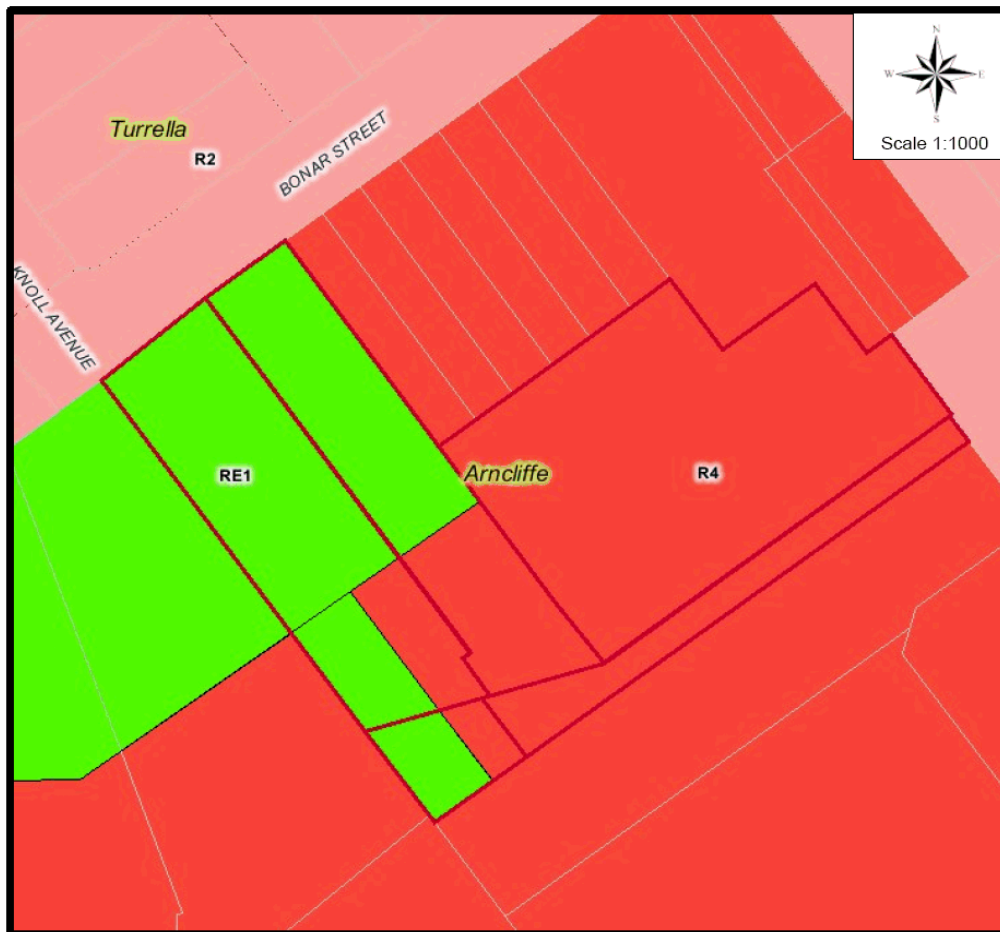
The strip of land at 8 Martin Avenue and 9 Bidjigal Road was dedicated to Council on 9 January 2013 by the developer of 9-11 Wollongong Road for the purpose of creating the central square and allowing part of the land to be consolidated with 10 Martin Avenue and 47 and 49 Bonar Street. This would ensure that development consistent with the Bonar Street Structure Plan contained within the Rockdale DCP could be realised.

Figure 1 illustrates the current surrounding land uses. It shows the existing warehouses at 47 and 49 Bonar Street and attached dual occupancy dwellings flanking the site to the north at Nos 51-61 Bonar Street. It also shows newer **residential flat building** development to the west and south which is consistent with Council's *RLEP 2011* and RDCP 2011.



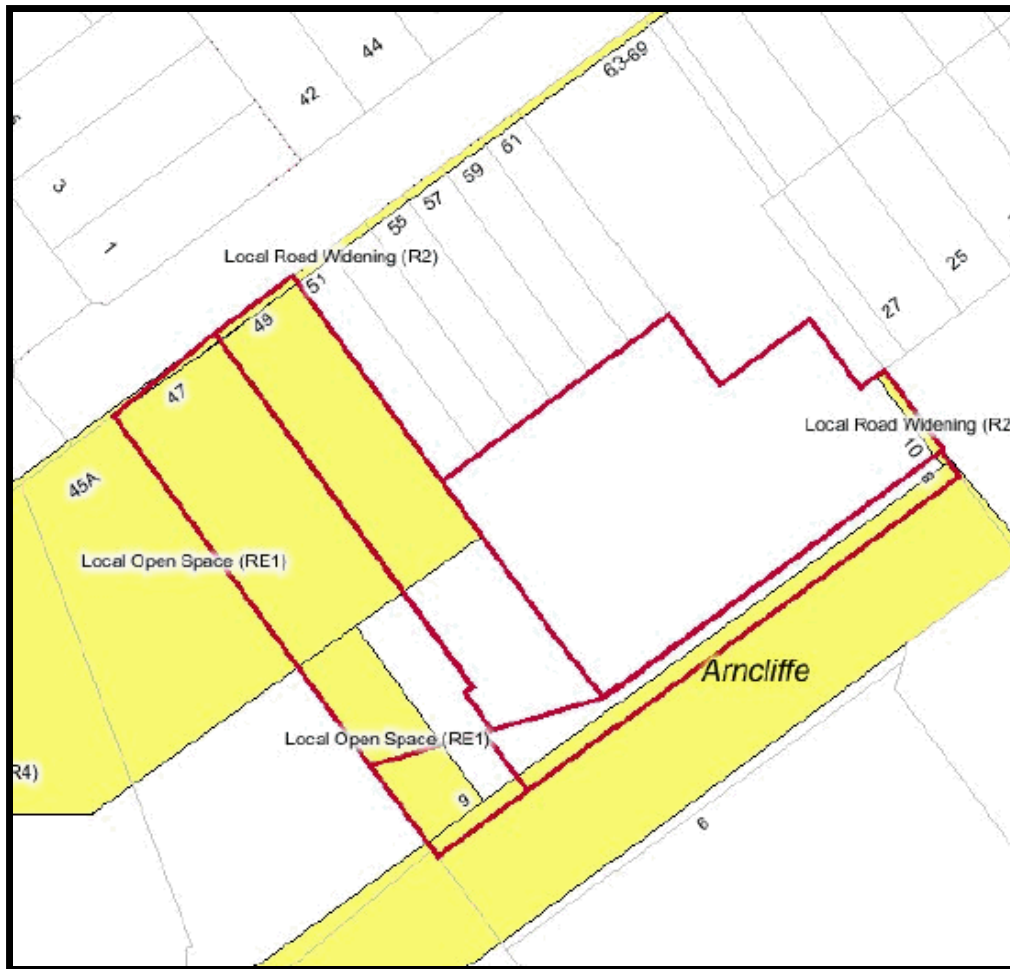
**Figure 1** - Aerial photo of the subject site including No.s 47 and 49 Bonar Street

In terms of the *RLEP 2011* controls, a large part of the site is zoned R4 High Density Residential, which allows redevelopment of the site to **residential flat buildings**. The western part of the site is zoned RE1 Public Recreation for the purposes of creating Stage 2 of the community park and the central square for Bonar Street Precinct (refer to Figure 2).



**Figure 2** - An extract of the LEP Land Zoning Map

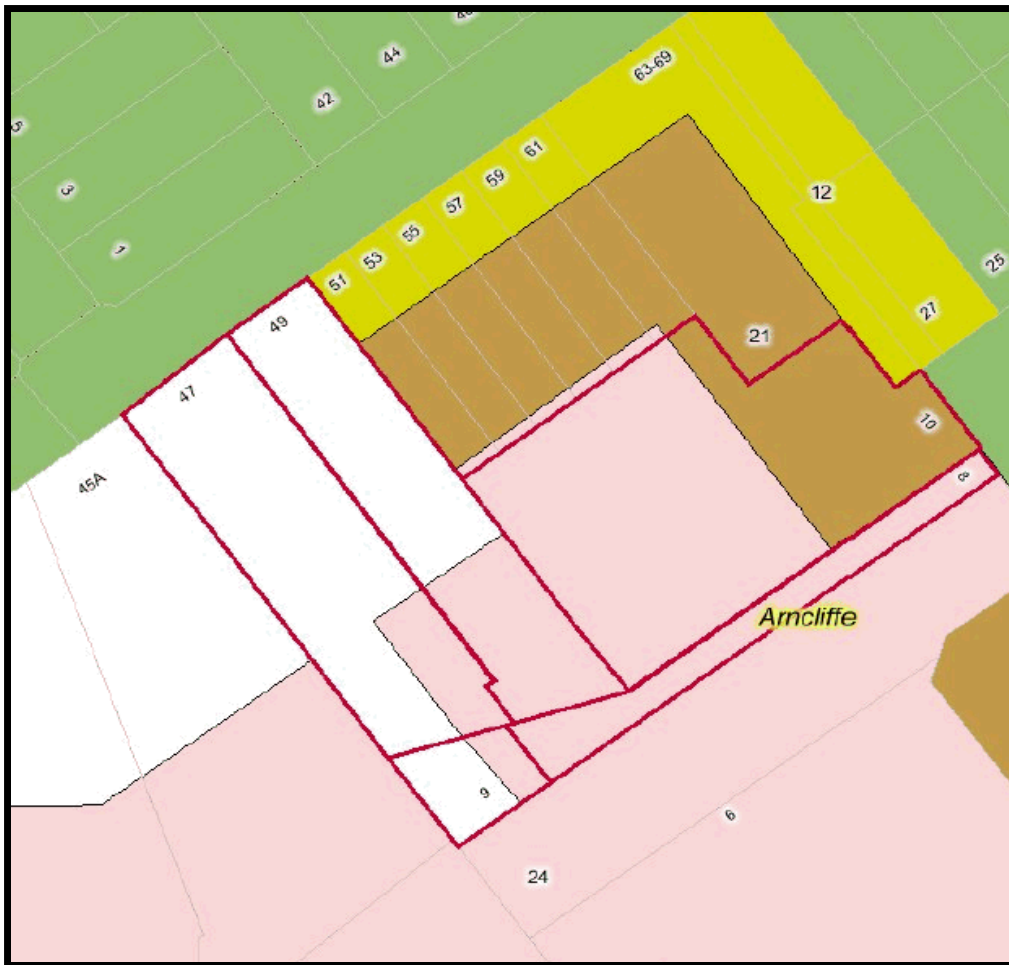
To support the RE1 Public Open Space zoning over the properties at 47 and 49 Bonar Street, these sites are also subject to a reservation (Local Open Space) to assist in delivering the open space infrastructure. Also, the Bonar Street and Martin Avenue frontages of the site are subject to reservation (Local Road Widening).



**Figure 3** - An extract of the LEP Land Reservation Acquisition Map

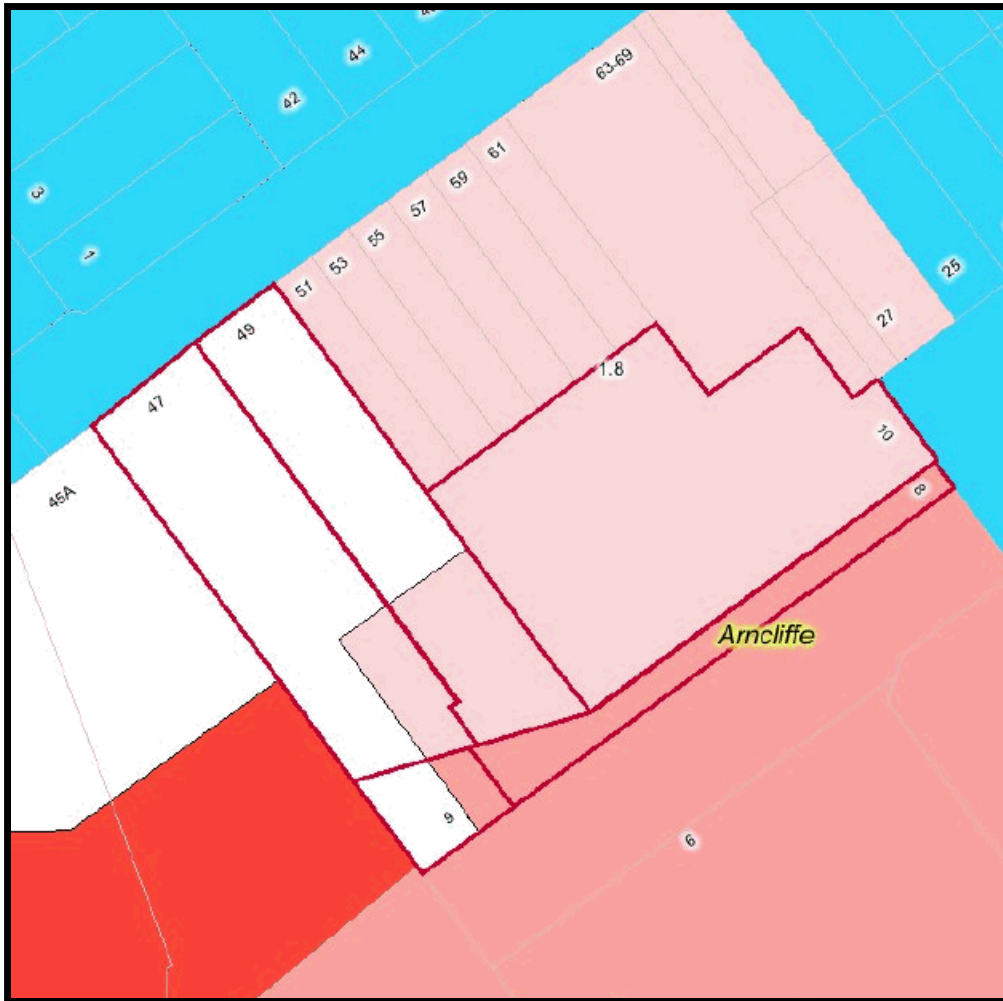
The site is subject to the following development standards in accordance with the *RLEP 2011* maps:

- maximum building height ranges from 21 metre to 24 metres (6 to 7 storeys) applying to 8 and 10 Martin Avenue, part of 9 Bidjigal Road, and part of 47 and 49 Bonar Street (refer to Figure 4).



**Figure 4** - An extract of the LEP Height of Buildings Map

- maximum FSR of 1.8:1 applies to 10 Martin Avenue and part of 47 and 49 Bonar Street whilst a maximum FSR of 2:1 applies to 8 Martin Avenue and part of 9 Bidjigal Road (refer to Figure 5).



**Figure 5** - An extract of the LEP Height of Buildings Map

Figure 6 shows the Bonar Street Structure Plan contained in Part 7.2 of the Rockdale DCP 2011. It illustrates the community park and the central square as well as the indicative building footprints for the site.



**Figure 6** - An extract of the Bonar Street Structure Plan (Source: Applicant's Planning Proposal)

Bonar Street Precinct is undergoing significant transformation from an industrial area into a high density residential environment. Buildings surrounding the site include some of the recently constructed and approved developments that reflect this transformation, such as:

- newly constructed Bidjigal Road and residential flat building of 7 to 8 storeys at 9-11 Wollongong Road to the south;
- soon to be completed residential flat building of 9 storeys and delivery of Stage 1 of the community park at 45 Bonar Street to the west; and
- recently approved residential flat building of 3 to 7 storeys at 63-69 Bonar Street to the north.

## THE DEVELOPMENT PROPOSAL

Commencing in March 2014, discussions on the development of the site continued when a pre lodgement application (Pre DA) was submitted to Council. The proposal was for a **residential flat building** applying to 10 Martin Avenue, Arncliffe (PDA-2014/28). At the Pre DA meeting, discussions involved consolidating the site with 47 and 49 Bonar Street, 8 Martin Avenue and 9 Bidjigal Road to facilitate a development consistent with the Bonar Street Precinct Structure Plan. It was also proposed that the land dedication to Council that would realise the community park and central square could be delivered via a Voluntary Planning Agreement (VPA).

As further discussions progressed it was proposed that a VPA would accompany a design concept that relied on varying the current building height and FSR controls applying to the site. Table 1 below shows the variation sought:

| Control            | Current Controls | Proposed Controls |
|--------------------|------------------|-------------------|
| Floor Space Ratio  | 1.8:1            | 3.1:1             |
| Height of Building | 21-24m           | 31m               |

**Table 1** - Applicant's proposed height and FSR controls in 2014 (Source: Mecone)

The developer sought to rely on a development application process by relying on Clause 4.6 of *RLEP 2011* to permit the variations. However, Council received advice clause 4.6 was not able to have regard to the voluntary planning agreement offer. To this end, in December 2014, the applicant submitted a draft planning proposal seeking amendments to the height and FSR as per Table 1, above. The proposed height of 31 metres (9 storeys) and FSR of 3.1: 1 were requested by the applicant based on a development at 45 Bonar Street, previously supported by Council as part of a VPA to deliver Stage 1 of the community park. The development concept with the draft planning proposal also sought to encroach upon No. 47 Bonar Street to allow underground level basement car park that would be located

beneath the future central square. The applicant was advised that this was not supported.

A preliminary concept design consistent with the proposed height and FSR increases was referred to the Design Review Panel (DRP) for comments. A second, revised design was also reviewed by the DRP in relation to the concept sought via the draft planning proposal. In its second round of comments, the DRP noted concerns related to the bulk and height of the building, its interface with adjoining public open space and the basement car park extended beyond the development site. The DRP report states that the panel:

*"supports the form and configuration of pre-DA submission in principle but is currently over scaled. The proposal needs to be reduced in height and density, and satisfactorily resolve the other issues raised above to become appropriate to its context."*

As a result, the applicant was asked to reconsider its approach and its rationale for their proposed building heights and FSR controls. This has resulted in modifications being made to the planning proposal.

## THE PLANNING PROPOSAL

A revised planning proposal and accompanying draft VPA were prepared in January 2015. The planning proposal seeks to enable future development of the site to enjoy a variation to the development standards (ie. height and FSR) above and beyond what might be sought via a variation usually sought by clause 4.6 or *RLEP 2011*. However, in addition, the additional variation would deliver a community benefit.

The planning proposal seeks to achieve the intended outcome by proposing a new item in Schedule 1 of the *RLEP 2011*:

### **"8-10 Martin Avenue, 9 Bidjigal Road and part of 47 & 49 Bonar Street, Arncliffe**

(1) *The height and floor space ratio controls may be varied provided:*

*(a) a planning benefit is derived; and*

*(b) in the opinion of the consent authority, the development otherwise satisfies the Design Quality Principles in SEPP 65, in particular Principle 1 - Context.*

*(2) A planning benefit means a development contribution, set out in a planning agreement, that confers a net public benefit, that is, a benefit that exceeds the benefit derived from measures that would address the impacts of particular development on surrounding land or the wider community."*

The proposed clause requires that any variation to the development standards is required to demonstrate that a community or public benefit is derived from the development. The land dedication and construction works to deliver the central square and Stage 2 of the community park would be the potential planning benefit derived from this development proposal. The draft clause also requests that the DA demonstrates that the development satisfies the Design Quality Principles in SEPP 65. This is to ensure that the variation is supported on its planning merits. This is in line with the principle in Council's VPA policy that:

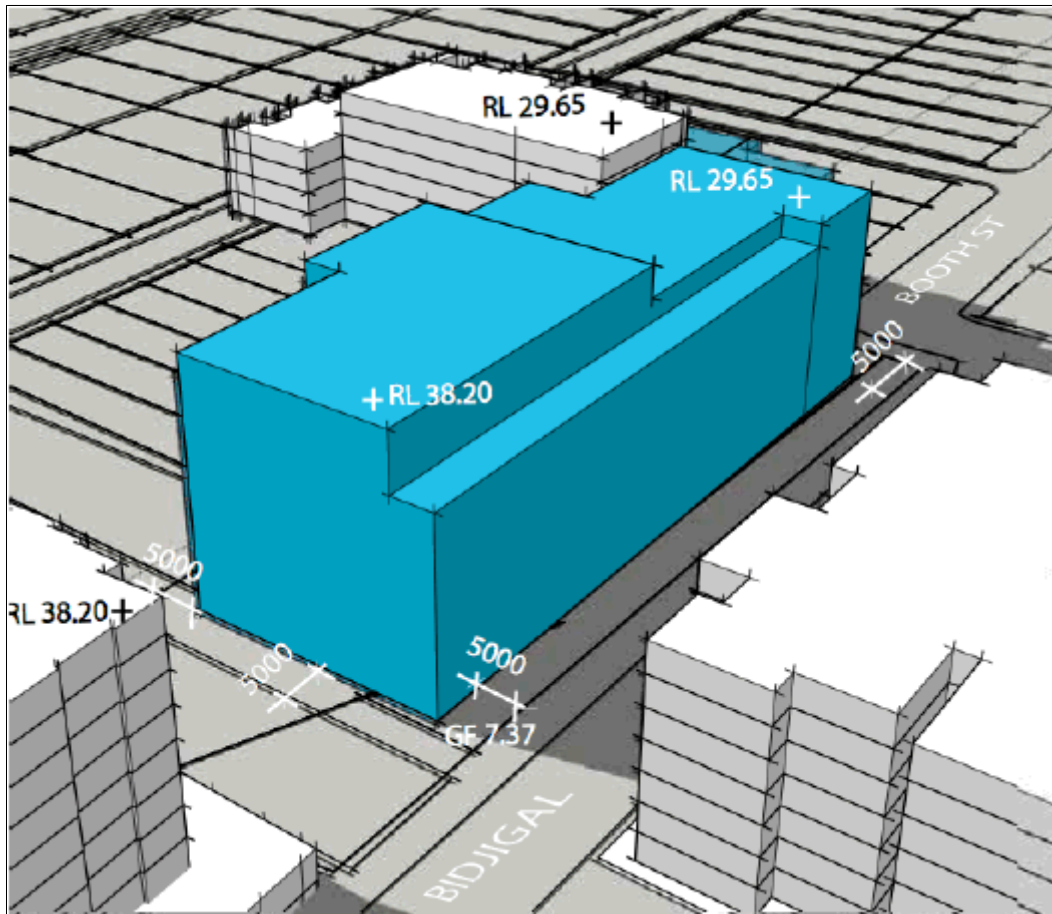
*"development that is unacceptable on planning grounds (including, without limitation, environmental grounds) will not be permitted because of planning benefits offered by developers that do not make the development acceptable in planning terms."*

The emphasis of the draft clause is on the Context Principle from SEPP 65 which ensures that any increase in development densities will be contained within a building envelope that respond to the immediately surrounding context and satisfies the design requirements in the SEPP.

The proposed clause only pertains to the development site discussed in this report (ie. 8-10 Martin Avenue, 9 Bidjigal Road and part of 47 and 49 Bonar Street, Arncliffe). This means that proponents of other sites within the local government area would not be able to rely on this clause.

## Urban Design Analysis

The planning proposal is accompanied by an Urban Design Report (refer to **Attachment 2**), which primarily provides the design considerations underpinning the development proposal. The heights and built form of the proposed building seek to relate to the surrounding developments recently constructed or which have received development consent and to have regard to the building's presentation to the community park and to Bidjigal Road. Figure 7 illustrates the applicant's indicative building envelope.



**Figure 7 - The building envelope sought by the proponent via the planning proposal**

Despite this initial building envelope analysis, the final building envelope will be explored and finalised through a development application process which will take into account all design considerations including building design and articulation, resident amenity and other environmental impacts. The final density will be realised through the development application process which will largely be a design refinement process.

However, these studies relate to the original development proposal. Therefore, as part of the comprehensive development application documentation, detailed overshadowing analysis and updated traffic impact study that relate to the final proposal will need to be provided to demonstrate that any increase in building heights and density will not result in unreasonable impacts.

#### **Traffic Impact Report**

The planning proposal is supported by a Traffic Impact Assessment report (November 2014) which is provided as **Attachment 3**. However, the traffic analysis responds to the development concept rather than the planning proposal. Regardless, a revised Traffic Impact Report will need to be prepared at a later stage. It would be appropriate for this to be a component of the development application process.

### **DEVELOPMENT APPLICATION AND DRAFT VOLUNTARY PLANNING PROPOSAL (VPA)**

#### **Development Application**

A development application is proposed to be lodged by the applicant in February 2015. The VPA will support the development application. By this stage, the draft planning proposal will have been submitted to the DP&E for Gateway Determination. As noted in the section above, it is likely the development application and its supporting VPA will be exhibited concurrently with the planning proposal (as discussed in the section immediately below), following the DP&E's Gateway decision.

#### **Draft Voluntary Planning Agreement (VPA)**

In conjunction with the development application, the applicant has initiated a draft VPA process with Council officers to deliver a community benefit. At this stage, the draft VPA offer includes:

- land dedication and embellishment work to deliver Stage 2 of the community park and central square (area of approximately 2,194 m<sup>2</sup>);

- the transfer of land at 8 Martin Avenue and 9 Bidjigal Road Arncliffe; and
- exemption from S94 Contributions developer payments.

The VPA process presents an opportunity to secure and fast track the delivery of the reserved public open space, an important community infrastructure in the Bonar Street Precinct. The VPA will be finalised and submitted as part of a development application. A separate Council report will be prepared once the draft VPA has been finalised so it can be presented to Council for consideration.

It is proposed that the final VPA be publicly exhibited in conjunction with the development application. It is likely that the planning proposal will also be exhibited concurrently.

## ASSESSMENT OF THE PLANNING PROPOSAL

The proposed clause in the planning proposal enables considerations of the planning merit and planning benefit of the development at the development application stage when the detailed building design is developed and the terms of when the concurrent development application and VPA are finalised. As such, the proposed clause does not "lock in" a specific design solution to the site nor a degree of variation permitted. The detailed development assessment process will ensure that the appropriate development built form and density are satisfactorily resolved, taken into account relevant requirements in SEPP 65 and the Rockdale DCP 2011. This is because the emphasis of the clause is on the Context Principle from SEPP 65.

Furthermore, any scheme which includes any element of the **residential flat building** to encroach on (or at stratum) over the central park (ie. land currently zoned RE1 Public Open Space), is not supported.

### Project Timeframe

The applicant's Project Timeframe on page 41 of the planning proposal proposes a timeframe that is unrealistic. This will need to be reviewed for the purposes of the planning proposal's exhibition once the Gateway Determination has been issued by the DP&E (on the assumption they support the proposal as outlined in this report). This is consistent with the DP&E's guidelines which requires the Council (or RPA) be responsible for the content of planning proposals.

## ADEQUACY OF THE DOCUMENTATION

### Adequacy of the planning proposal for exhibition purposes

The planning proposal is a well prepared and well argued document that clearly explains the complex historical factors leading up to this planning proposal as well as its rationale to amend *RLEP 2011*. However, it could be made more "reader friendly" and acceptable for the purposes of community consultation by way of:

- clearly indicating the proposed amendment clause. At present, the community will struggle to identify where the proposed clause ends;
- clarifying the detail of some figures;
- clarifying some statements regarding property descriptions;
- improving some referencing;
- removing irrelevant content (eg discussion of the Rockdale Residential Strategy which has no policy status or currency);
- improving the description of the proposed building envelope; and
- explaining or clarifying planning lingo.
- 

### Adequacy of the report for exhibition purposes

The Design Analysis could be made more "reader friendly" and acceptable for the purposes of community consultation by way of:

- inserting a clear title to the report - 'Urban Design Analysis';
- replacing urban design technical language;
- introducing supporting text that explains some of the diagrams; and
- improving the overshadowing diagrams so they show impact on the balconies of No., particularly the diagram for 3pm, mid winter.

These changes are considered necessary so that the community can be appropriately informed about the proposal.

### Adequacy of the Traffic Impact Report for exhibition purposes

As described earlier, the traffic analysis responds to the development concept rather than the planning proposal.

Therefore, a revised Traffic Impact Report will need to be prepared at a later stage. It would be appropriate for this to be a component of the development application process.

## CONCLUSION

The proposed clause will enable redevelopment of the site and an opportunity to secure and fast track the delivery of the important community infrastructure in Bonar Street Precinct. The clause is drafted in a way so that the design outcomes will not be compromised and so too a clear community benefit will be achieved. In this regard, a development concept seeking an increase in development densities is considered reasonable.

The planning proposal will enable integrated considerations of the planning merit and planning benefit of the development on the site at the development application stage when the detailed building design is developed through the development application process and through its accompanying VPA.

## Financial Implications

There are no financial implications applicable to this report.

## Community Engagement

Should the planning proposal progress through the gateway, the planning proposal will be subject to community consultation under Section 56(2)(c) and 57 of the EP&A Act including the requirements of the gateway determination.

Once the subsequent development application is lodged and the draft VPA is finalised, they will be publicly exhibited concurrently to allow for community comments.

## Rockdale City Plan

|                   |                                                                                                                                                                                                                                             |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Outcome:          | Outcome 2 - Rockdale is a City with a high quality natural and built environment and valued heritage in liveable neighbourhoods . A City that is easy to get around and has good links and connections to other parts of Sydney and beyond. |
| Objective:        | Objective 2.2 - Our City has a well managed and sustainable built environment, quality and diverse development with effective housing choice in liveable neighbourhoods                                                                     |
| Strategy:         | 2.2.2 - Promote high quality, well designed and sustainable development and places that enhances the City                                                                                                                                   |
| Delivery Program: | 2.2.2.A - Demonstrate leadership and commitment in the management of development that enhances the City (DCPD)                                                                                                                              |
| Operational Plan: | 2.2.2.A.3 - Manage proposals for major development to ensure growth is appropriately scaled and located and delivers communitiy benefits (MUES)                                                                                             |

Additional Comments:



[Attachment 1 Planning proposal Martin Ave Jan 2015.PDF](#)



[Attachment 2 Urban Design Report Martin Ave Jan 2015.PDF](#)



[Attachment 3 Traffic Impact Assessment Nov 2014.PDF](#)