

CCL221-14 PLANNING PROPOSAL FOR LAND ZONED R3 MEDIUM DENSITY RESIDENTIAL IN PEAKHURST

Report Author/s	Director Planning and Development, Mr M Watt
File	14/906
Previous Reports Referenced	NM058-14 - Proposed Amendment to Peakhurst R3 Zone - Council - 05 Feb 2014 7:00pm
Community Strategic Plan Pillar	Economic Prosperity
Existing Policy?	Yes New Policy Required? No
Financial Implications	Within Budget
Reason for Report	For Approval

EXECUTIVE SUMMARY

Council at its meeting on 5 February 2014 resolved to prepare a Planning Proposal to amend Hurstville Local Environmental Plan (LEP) 2012 by changing the zoning of land currently zoned R3 Medium Density Residential in Peakhurst to R2 Low Density Residential. Council also resolved to commission external planning advice to prepare a comprehensive evidenced based Planning Proposal for the amendment and to forward the Planning Proposal to the Minister for a Gateway Determination when completed.

Following this resolution GSA Planning were engaged to prepare the Planning Proposal. GSA Planning have undertaken a comprehensive assessment of the subject area, conducted community consultation and have submitted the Planning Proposal (refer to Appendix 1) for Council's consideration.

The objective of the Planning Proposal is to amend Hurstville LEP 2012 to rezone the subject area from R3 Medium Density to R2 Low Density Residential. The intended outcomes of the Planning Proposal are as follows:

1. *"Amend the zoning of the subject land from R3 Medium Density Residential to R2 Low Density Residential;*
2. *Amend the floor space ratio (FSR) applying to the subject area to 0.6:1; and*
3. *Amend the height of buildings development standard to 9m".*

The proposed amendments are consistent with Council's resolution on 5 February 2014. This report provides Council with a copy of the Planning Proposal for consideration and if supported by Council, the Planning Proposal will be forwarded to the Minister for a Gateway Determination. Given that the Planning Proposal has been independently prepared, no further assessment or independent peer review of the Planning Proposal has been undertaken prior to submission to Council.

AUTHOR RECOMMENDATION

THAT Council supports the *"Planning Proposal for rezoning from R3 Medium Density Residential to R2 Low Density Residential of Land Zoned R3 Medium Density Residential in Peakhurst"* prepared by GSA Planning.

THAT the Planning Proposal be forwarded to the Minister for a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979; and

FURTHER THAT the Planning Proposal be referred to Council upon the Ministers decision.

REPORT DETAIL HISTORY

Key dates and events in relation to the subject area:

- 1994: Hurstville LEP 1994 zoned all residential areas in the LGA as 2 Residential Zone and by way of the *Development Control Plan 1 – LGA Wide*, which previously applied, the area was designated as “*Development Area C*” and residential flat buildings were not permitted.
- 2008: Council resolved to prepare a draft LEP for the Hurstville LGA and to prepare discussion papers.
- 28 Jul 2010: Council endorsed the Residential Land Discussion Paper for public exhibition. This paper included six residential investigation areas, including the subject area, for inclusion in the R3 Medium Density Residential zone.
- 5-27 Aug 2010: Community Consultation on Residential Lands Discussion Paper.
- 29 Sep 2010: Council Report on submissions to Residential Lands Discussion Paper. Council resolved on review of the issues raised in the submissions that all of the investigation areas be zoned R2 Low Density Residential (with a 9 metre building height and FSR of 0.6:1) in the draft LEP.
- 18 Jul 2011: The Department of Planning issued the section 65 certificate to allow public exhibition of the draft LEP and required the subject area to be zoned R3 Medium Density Residential.
- Jan – Feb 2012: Draft LEP exhibited with subject site zoned R3 Medium Density Residential, a maximum building height of 12metres and FSR range of 1:1 to 1.2:1.
- 12 Apr 2012: Council reviewed submissions and resolved that the subject area be zoned R2 Low Density Residential and the draft LEP be forwarded to the Minister to make.
- 7 Dec 2012: The Minister made Hurstville LEP 2012 with the subject area zoned R3 Medium Density Residential, maximum building height of 12 metres and FSR of 1:1 to 1.2:1.
- 2013: Following gazettal of the LEP 2012 Council received a number of representations from land owners expressing concern about the suitability of the zoning. A number of Notices of Motion were presented to Council outlining resident concerns and Council resolved to support the resident's representations.
- 10 Dec 2013: The Minister advised that any reconsideration of a rezoning would require a comprehensive evidence base and planning proposal.
- 5 Feb 2014: Notice of Motion was received in relation to a proposed amendment to the Peakhurst R3 Medium Density Residential zone. Council resolved:
- THAT Council prepare a Planning Proposal under Section 55 of the Environmental Planning and Assessment Act 1979 to amend Hurstville Local Environmental Plan 2012 by changing the zoning of land currently zoned R3 Medium Density Residential to R2 Low Density Residential and bounded by Forest Road, Bonds Road, Trafalgar Street, Gover Street, Lawrence Street, Peakhurst Park and Jacques Avenue, Peakhurst.*
- THAT Council commission external professional planning advice to prepare a comprehensive evidenced based Planning Proposal for the above amendment to zoning.*
- THAT Council forward the Planning Proposal to the Minister for a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979 when completed.*

THAT Council resolve that the Planning Proposal be placed on public exhibition in accordance with the Gateway Determination, if approved by the NSW Department Planning and Infrastructure.

FURTHER THAT Council advise the Department of Planning and Infrastructure of its decision.

- Mar 2014: Following a competitive tender process, consultants GSA Planning were engaged to prepare the planning proposal.
- 27 May 2014: GSA conducted a community consultation meeting with owners and residents in the subject area to provide information on the planning proposal and seek the communities input and comments.
- 9 Jul 2014: GSA provided a briefing on the planning proposal to Councillors at a Councillor Workshop.

SITE DESCRIPTION

The Planning Proposal relates to an area that is generally bound by Forest Road, Bonds Road, Trafalgar Street, Gover Street, Lawrence Street, Peakhurst Park and Jacques Avenue, Peakhurst.

Peakhurst R3 Medium Density Residential Area



The subject area has an area of approximately 21.5 hectares and comprises approximately 252 Torrens Title allotments (which includes 245 residential allotments).

The Planning Proposal states that “the 245 residential allotments comprise a total of 390 dwellings. Detached dwelling houses and semi-detached dwellings are the dominant land use and account for approximately 56.4% of all dwellings. Multi-dwelling housing developments account for approximately 24.3% of all dwellings and the two (2) residential flat developments comprise a total of 75 units or 19.3% of all dwellings”. A summary of the residential uses is contained in Table 1 of the Planning Proposal.

The land is zoned R3 Medium Density Residential with a maximum building height of 12 metres and FSR range of 1:1 to 1.2:1 under Hurstville LEP 2012.

PLANNING PROPOSAL

GSA submitted the *“Planning Proposal – Land Zoned R3 Medium Density Residential in Peakhurst”* to Council in July 2014 (Appendix 1 provides a link to the document).

The objective of the Planning Proposal is *“to amend the Hurstville Local Environmental Plan 2012 to rezone the subject area from R3 Medium Density Residential to R2 Low Density Residential”*. The intended outcomes are as follows:

1. *Amend the zoning of the subject land from R3 Medium Density Residential to R2 Low Density Residential;*
2. *Amend the floor space ratio (FSR) applying to the subject area to 0.6:1; and*
3. *Amend the height of buildings development standard to 9m.*

The Planning Proposal provides five (5) key points that justify the rezoning the subject land to R2 Low Density Residential. These include:

1. *“The subject area has had a long history of being designated for Low Density Residential and the existing built form and road network would suggest that a R2 Low Density Residential zone is still appropriate;*
2. *Medium Density is more appropriately located within walking distance of nodal points and the subject area is outside the designated walking catchment area of the Riverwood rail station;*
3. *The R2 Low Density Residential zone permits a wide range of residential uses that reflect the general character of the locality and provide for a density that is likely to be more compatible with the existing road network;*
4. *There are areas within the Hurstville LGA in close proximity to public transport nodal points that are better suited to medium and high residential zoning, in particular, the Hurstville City Centre has the capacity to meet the demand for medium density for Hurstville; and*
5. *The Planning Proposal is consistent with the Draft Metropolitan Strategy, the South Sub-Regional Strategy, and also the Local Urban Planning Strategy”.*

The planning proposal provides the following detail:

- a description and land use survey of the subject area;
- background to the planning proposal;
- justification for the planning proposal;
- demonstration of this justification against the strategic planning framework (Metropolitan Plan for Sydney 2036, Draft Metropolitan Strategy 2031, Draft South Sub-Regional Strategy, State Environmental Planning Policies, section 117 Directions); environmental, social and economic impact; and State and Commonwealth interests;
- maps for Hurstville LEP 2012 and proposed draft LEP maps;
- community consultation
- project timeline

Preliminary Community Consultation

On 27 May 2014 a community consultation meeting was conducted by GSA Planning to provide information on the Planning Proposal and to seek the communities input and comments. Approximately 60 people attended the meeting including long-standing owners; residents; and developers that had recently acquired properties within the subject area.

As outlined in Section 6.1 of the Planning Proposal *“A total of 17 representations were made at this meeting. Of these, seven (7) spoke in support of the Planning Proposal, six (6) did not support the Planning Proposal and four (4) were considered neutral.*

Responses to the Planning Proposal were mixed, with the majority of long-standing owners and residents firmly in support of Planning Proposal. The comments can generally be summarised into six (6) key points. These include:

- **Traffic, Parking and Road Safety** – *Increase in traffic arising from increased density. Inability of existing road network to cater for this traffic or the requirements of public transport. Narrow streets could not accommodate an increase in street parking;*
- **Residential Amenity** – *Primarily related to overshadowing, privacy and noise impacts;*
- **Residential Character** – *Loss of existing streetscape character through the construction of four (4) storey RFB;*
- **Infrastructure and Flooding** – *Concerns that part of the subject area floods and this would be exacerbated. Infrastructure, particularly public transport was inadequate to cater for demands resulting from residential flat buildings.*
- **Property Values** – *Decrease in property value if rezoned R2 Low Density Residential.*
- **Property Contracts** – *Properties were under contract and concerned that the developers would walk away if they did not get development consent for the residential flat buildings proposed.”*

The Planning Proposal states that the proposed amendment is consistent with Council’s resolution on 5 February 2014 and has been prepared in accordance with the Environmental Planning and Assessment Act 1979 and relevant Department guidelines.

ASSESSMENT

As indicated previously in this report, given that the Planning Proposal has been independently prepared, no further assessment or independent peer review of the Planning Proposal has been undertaken prior to submission to Council. The Planning Proposal is submitted by GSA directly to Council for consideration in response to the Council resolution on 5 February 2014.

ADDITIONAL INFORMATION

Status of Development Applications

Appendix 2 of this report provides a map showing the status of Development Applications (as at 24 July 2014) submitted to Council for residential flat buildings in the subject area since the R3 Medium Density Residential zoning took effect on 7 December 2012.

A total of 28 development applications and reviews have been submitted for 27 residential flat building proposals. The map shows their status as:

- Under assessment: 16
- Class 1 Appeal - Deemed refusal: 2
- Refused by Council without Appeal: 0
- Class 1 Appeal against Council refusal: 4
- Approved by Council: 4
- Approved by Land & Environment Court: 1

Existing Use Rights

If the subject area is rezoned to R2 Low Density Residential as outlined in the Planning Proposal it will result in the creation of existing use rights (on those properties with approved residential flat buildings) as residential flat buildings will be prohibited in the R2 Low Density Residential zone. Furthermore where a consent has been granted but development has not commenced, it may still be acted upon (prior to it lapsing) notwithstanding any change in zoning.

An existing use is a use that is lawfully commenced but subsequently becomes a prohibited use under a new LEP. The Environmental Planning Act makes provision for the continuance of existing uses.

NEXT STEPS

If the Council supports the Planning Proposal, the following process would be undertaken:

1. The Planning Proposal will be forwarded to the Minister for a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979.
2. The Department of Planning and Environment will undertake an assessment of the Planning Proposal before it is referred to and considered by the LEP Review Panel.
3. The LEP Review Panel will make a recommendation to the Minister as to whether there is merit in the proposal proceeding and if so whether any conditions should be attached.
4. If it is determined that the planning proposal should proceed, the Minister will issue a Gateway determination (which may include conditions) and the matter will be return to Council to process.
5. The planning proposal would then be publicly exhibited and reviewed (which may include changes). Following this the LEP is drafted for legal opinion and making.

If the Planning Proposal does not proceed, the subject area will remain zoned R3 Medium Density Residential under Hurstville LEP 2012.

Timeframes

The Planning Proposal includes a timeline which outlines the projected times for each stage of the process if the Planning Proposal is supported by Council. The Planning Proposal states that *"In the consideration of other Planning Proposals, it is likely that this proposal will take approximately ten (10) months to complete from the date of referral to DoPE"*.

[View – Appendices for Planning Proposal here](#)

CCL221-14 Planning Proposal for Land Zoned R3 Medium Density Residential in Peakhurst (14/906)

(Report by Director Planning and Development, Mr M Watt)

Minute No. 243

RESOLVED THAT Council supports the *"Planning Proposal for rezoning from R3 Medium Density Residential to R2 Low Density Residential of Land Zoned R3 Medium Density Residential in Peakhurst"* prepared by GSA Planning.

THAT the Planning Proposal be forwarded to the Minister for a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979; and

FURTHER THAT the Planning Proposal be referred to Council upon the Ministers decision.

(Moved Councillor M Stevens / Councillor C Hindi)

For:	His Worship the Mayor, Councillor J Jacovou; Deputy Mayor, Councillor N Liu, Councillor V Badalati; Councillor B Thomas, Councillor D Sin, Councillor J Mining; Councillor C Wu; Councillor C Hindi; Councillor M Stevens.
Against:	Councillor P Sansom; Councillor R Kastanias