

JOINT REGIONAL PLANNING PANEL
Meeting of Sydney West, 25 September 2013

JRPP No	2012SYW089
Council DA Number	1610/2012/DA-RS
Local Government Area	Campbelltown City Council
Proposed Development	Airds Bradbury Renewal Project Stage 1 Subdivision to create 184 residential lots and 1 open space lot, with associated subdivision works including construction of new roads, drainage, site regrading and retaining, utility services and landscaping
Capital Investment value	\$12.7M
JRPP Referral Criteria	Crown application with CIV exceeding \$5M
Street Address	Georges River Road, Riverside Drive and Peppin Crescent
Applicant/Owner	NSW Land and Housing Corporation with Landcom (now UrbanGrowth NSW) as project manager
Number of public submissions	Nil
Recommendation	Approval with Conditions of consent
Report by	Scott Lee, Executive Planner, Government and Special Projects, Campbelltown City Council

Attachments:

- 1. Council Assessment report presented to JRPP meeting of 29 August 2013**
- 2. Proposed Deed of Agreement between NSWLHC and Campbelltown City Council**
- 3. Proposed conditions of consent**

Purpose of the Report

This report relates to the Stage 1 subdivision Development Application for the Airds Bradbury Renewal Project. It is an addendum report to be read in conjunction with the original assessment report that was presented to the Joint Regional Planning Panel at its meeting of 29 August 2013. In particular, this report addresses the issues raised by the Panel that gave rise to their decision at that meeting, to defer the matter pending the receipt of additional information.

Background

At its meeting of 29 August 2013, the Panel considered the Airds Bradbury Renewal Project Stage 1 subdivision application. The assessment report prepared by Campbelltown City Council is **Attachment 1**.

The Panel visited the site and acknowledged the general merit of the proposal and its consistency with the approved concept plan, however they were unable to finalise any determination and deferred the matter. The following extract from the Panel Minutes provides the reasons why deferral was necessary and what issues required further consideration.

The Panel unanimously defers the application for the following reasons:

- *The consent of Campbelltown City Council as landowner to the lodging of the application has not been received.*
- *The execution of the VPA required by condition 5 of the Concept Approval has not been finalised.*

Further the Panel considers the proposal has considerable merit and conforms otherwise with the Concept Approval.

The Panel requires when the matter is again considered by the panel the assessment report should provide –

- *Clear advice of the issue of Council's consent as owner of land subject of the application.*
- *Clear advice on legally binding arrangements to secure the measures identified in the proposed VPA for Stage 1 of the development.*
- *Discussion of means of permanently securing the proposed biodiversity offset arrangements.*
- *Advice on whether the applicant, been a Crown Agency accepts the condition that would be recommended in the report.*

Consideration of issues

The following section of this report provides updated information and advice on the four issues of concern to the Panel.

Clear advice of the issue of Council's consent as owner of the land subject of the application

This matter was dealt with at the Council meeting of 13 August when Council passed the following resolution:

1. That Council make a submission to the Department of Planning and Infrastructure regarding Urban Growth's modification application no. MP10-0186 MOD 1 advising that:
 - a. no amendment to the Concept Plan Approval should be considered that would have the effect of altering Council's capacity to negotiate and execute a Voluntary Planning Agreement for the Airds Bradbury Renewal Project, in the best interests of the community.
 - b. Council raises no objection to a modification to the Concept Plan Approval that accounts for the requirement for the proponent to put into place Works In Kind Agreements with Council to secure the funding and delivery of infrastructure relevant to Stages 1 and 2 of the Renewal Project, in accordance with the draft Voluntary Planning Agreement as amended and endorsed by Council.
2. That Council formally acknowledge the letter of offer from the NSW Land and Housing Corporation dated 9 May 2013 and confirm its commitment to enter into a Voluntary Planning Agreement for the delivery of public amenity and infrastructure services associated with the Airds Bradbury Renewal Project.
3. That Council request UrbanGrowth NSW to make amendments to the draft Voluntary Planning Agreement as submitted and associated documentation so that:
 - a. Council is the responsible management authority for any newly constructed Community Facilities Centre, from the commencement of its operation.
 - b. Any newly constructed Community Facilities Centre has exclusive access to at least 20 on site car parking spaces, secured through an appropriate legal mechanism.
 - c. More detailed specifications for the proposed Community Facilities Centre (Option 2) are provided to satisfy Council that the facility can accommodate local community requirements.
 - d. The proposed amenities buildings at both the proposed new Kevin Wheatley VC Reserve and Riley Park are a minimum of 205sqm GFA plus 110sqm awning.
 - e. A minimum 80 off-street spaces are provided at the proposed new Kevin Wheatley VC Reserve playing fields.
 - f. The minimum establishment/early maintenance period for bushland regeneration areas containing EECs is increased from two years to seven years or alternatively additional funds are made available to Council after the initial two year period, sufficient to enable Council to meet its higher establishment and early maintenance obligations for the management of EECs.
 - g. Structural engineering certification, attesting to the integrity of the walls of the pond at Kevin Wheatley VC Reserve, is provided and referred to in the Voluntary Planning Agreement.
4. That upon receipt of the requested amendments (Item nos. 3a to 3g inclusive) to Council's satisfaction, the draft Airds Bradbury Renewal Project Voluntary Planning Agreement and Infrastructure Services Delivery Plan be placed on public notification/exhibition with such public notification/exhibition to be carried out in accordance with the Environmental Planning and Assessment Act 1979 and Regulations, as soon as possible.
5. That the General Manager be delegated authority to execute the Agreement with NSW Land and Housing Corporation following public notification/exhibition and subject to any variations arising from community submissions or ongoing negotiations with NSW Land and Housing Corporation and UrbanGrowth NSW, deemed appropriate by the General Manager.
6. That the General Manager be delegated authority to provide owner's authorisation to the Airds Bradbury Renewal Project Stage 1 subdivision Development Application subject to a requirement that prior to the issue of the construction certificate for any access or works applicable to land currently owned by Council, the proponent is required to be the owner of that land.
7. That in negotiating the finer details of the Voluntary Planning Agreement Council officers explore the notion of retaining Baden Powell Reserve.

Following that meeting, a Recission Motion was lodged and subsequently debated at the Council meeting of 10 September 2013. The Recission Motion was defeated, meaning that the original resolution from 13 August stands as the Council decision.

As a result, it can now be confirmed that Council, as an owner of land the subject of the Development Application, has provided owners authorization to the lodgement of the application.(Refer to Point 6 of Council Resolution).

Clear advice on legally binding arrangements to secure the measures identified in the proposed VPA for Stage 1 of the development

It is intended that for Stage 1, a Works In Kind Agreement shall be entered into between NSW Land and Housing Corporation and Campbelltown City Council. A condition of consent is proposed that requires such an Agreement to be entered into prior to the issue of a subdivision certificate for any lots within Stage 1. This condition is consistent with the intent of the original concept plan condition that required a VPA to be entered into. In both cases, the intent of the condition is that contributions be agreed prior to any lots being created.

The original condition is the subject of a modification request currently being dealt with by the Department of Planning and Infrastructure. The latest advice received from the Department is that they are moving towards an amended condition that will provide more certainty in relation to the type of contributions to be made and the timing of payment, based upon an agreed position between the parties. It is anticipated that the matter will be dealt with under delegated authority by Department officers prior to the JRPP meeting date. An update can be provided at the Panel meeting.

Council's position on this matter is clear based on the Council resolution of 13 August, which was reconfirmed at the Council meeting of 10 September.

The Works in Kind Agreement is a legally binding document and this approach is not uncommon. In addition, the proposed condition of consent attached to this application can be enforced, if necessary, through the normal legislative mechanisms that support an approval granted pursuant to the *Environmental Planning and Assessment Act* (refer Part 6 Division 2A Section 121B Order 15, Comply with a Development Consent).

Council is satisfied that this arrangement is appropriate and secure and will enable the anticipated works associated with Stage 1 to be delivered.

Discussion of means of permanently securing the proposed biodiversity offset arrangements

The proponent is entering into two agreements that together will secure the proposed biodiversity arrangements envisaged by the approved biodiversity strategy.

Firstly, it is proposed to execute a Deed of Agreement Bushland Management - Airds Bradbury, which will be between NSW Land and Housing Corporation and Campbelltown City Council. A copy of this draft Agreement is **Attachment 2**. Such an agreement is legally binding on the parties. The terms of the Agreement are consistent with and supportive of, the desired outcomes for bushland/biodiversity arising from the Airds Bradbury Concept Plan approval. It identifies the obligations of both parties.

Secondly, a similar Deed of Agreement between NSW Land and Housing Corporation and the Office of Strategic Lands has been signed and a copy of this can be made available for the Panel at the meeting.

Both Agreements are legally binding. Both Agreements reference the Airds Bradbury Renewal Project Concept Approval because they are both a direct response to the conditions of consent attached to the Concept Plan approval. Further, both Agreements are referenced in proposed conditions of consent for the Stage 1 subdivision application.

It is considered that the proposed method of securing the required biodiversity offsets is appropriate.

Advice on whether the applicant, being a Crown Agency accepts the conditions that would be recommended in the report

Attachment 3 is a copy of the proposed conditions of consent.

All proposed conditions of consent have now been agreed by the applicant with the exception of two conditions that require some amendment.

Proposed condition 27 deals with compaction rates and it requires amendment so that it refers to the relevant Australian Standard rather than a Council DCP standard.

Proposed condition 37 deals with contaminated land and it requires amendment to refer to the current requirements of State Environmental Planning Policy 55 Contaminated Land.

The wording for both proposed amendments is being finalized to the satisfaction of both Council and the proponent and this can be confirmed at the Panel meeting to enable their inclusion in the final set of approved conditions.

Conclusion

This report has addressed the matters raised by the Panel during its initial assessment of the Stage 1 subdivision application for the Airds Bradbury Renewal Project. When read in conjunction with the original detailed assessment report, it is considered reasonable now to move towards approving the application.

Recommendation

THAT Development Application 1610/2012/DA-RS, for Stage 1 subdivision of the Airds Bradbury Renewal Project, be approved subject to the conditions of consent as described in Attachment 3 to this report.