

REZONING REVIEW – Briefing Report

Date of Referral:	6 October 2017	
Department Ref. No:	RR_2017_THILL_001_00	
LGA:	The Hills	
LEP to be Amended	The Hills Local Environmental Plan 2012	
Address:	16-26 Chapman Avenue and 17-27 Dawes Avenue, Castle Hill	
Reason for review:	☒ Council notified the proponent that it will not support proposed amendment	☐ Council failed to indicate support for proposal within 90 days, or failed to submit the proposal after indicating its support
Is a disclosure statement relating to reportable political donations under s147 of the Act required and provided?	☐ Provided ☒ Not required Comment: The application form states that there are no reportable political donations or gifts to disclose.	

SUMMARY OF THE PROPOSAL

Background

- The rezoning review request has been submitted by Minter Ellison planners on behalf of CG Group Projects Pty Ltd, the landowners of 16-26 Chapman Avenue and 17-27 Dawes Avenue, Castle Hill, who seek to amend planning controls to enable the development of approximately 380 dwellings and 150m² of commercial floor space.
- The request has been submitted as The Hills Shire Council notified the proponent that it would not support the proposed amendment after it was considered at Council's meeting of 28 November 2017.
- The proposal submitted for the rezoning review is the same proposal that was presented to Council on 28 November 2017.

Locality and context

- The site is within the Showground Station Precinct (precinct finalisation report is at **Attachment C**). The site map is at **Attachment D**.
- The site is surrounded by low-density residential development to the north, south and west, and public open space to the south-east. Four additional lots to the south-east have been rezoned by the Showground Station Precinct and are awaiting acquisition to further expand the public open space.
- The site is approximately 450m from the new Showground Metro Station.
- Showground Road is approximately 150m to the north of the site, providing a main road to Castle Hill CBD and Castle Towers shopping centre, and out of the locality.

Site description

- The site comprises 12 lots, which contain detached dwelling houses with frontages to Chapman Avenue to the north and Dawes Avenue to the south. The total site area is 11,322m².
- There is a fall across the site of approximately 8m from Chapman Avenue to Dawes Avenue. The level in the east corner of the site, adjacent to Chapman Avenue, is approximately RL 112.16, which falls to approximately RL 104.20 in the west, adjacent to Dawes Avenue.

Current planning provisions

- The current planning controls applying to the site are:
 - zone R4 High Density Residential;
 - base floor space ratio (FSR) of part 1.6:1 and 1.9:1 (10 lots 1.6:1 and 2 lots 1.9:1);
 - incentivised FSR of 2.3:1 and 2.7:1 (10 lots 2.3:1 and 2 lots 2.7:1);
 - maximum height of buildings of part 27m and part 21m; and
 - minimum lot size of 1800m².

Proposed planning provisions

- The original planning proposal was lodged in July 2017 and sought to amend the land use zone from R2 Low Density Residential to R4 High Density Residential. However, the Showground Station Precinct was gazetted on 15 December 2017, which included the subject land and rezoned the land to R4 High Density Residential.
Subsequently, this planning proposal (**Attachment E**) now seeks to amend The Hills Local Environmental Plan 2012 to:
 - increase the maximum height of building from part 27m and part 21m to 47m for the entire site;
 - increase the FSR from part 2.7:1 and part 2.3:1 to 2.76:1 for the entire site; and
 - amend Schedule 1 to include a restaurant or café as an additional permitted use on the site, capped at a maximum gross floor area of 150m².
- The proponent seeks to provide a voluntary planning agreement (VPA) to meet infrastructure needs related to the development. The draft offer (**Attachment F**) proposes:
 - the dedication of land as an expansion of Chapman Avenue Reserve, which is valued at \$13 million in a valuation report provided by the proponent;
 - the embellishment of Chapman Avenue Reserve and land proposed to be dedicated is valued at \$1,880,941; and
 - the design and delivery of two through-site links with public right of carriageway is valued at \$485,217.

INFORMATION ASSESSMENT

Does the proposal seek to amend a zone or planning control that is less than 5 years old?

- Yes. The site was rezoned as part of the Showground Station Precinct, signed by the Minister and gazetted on 15 December 2017.

STRATEGIC MERIT TEST

Consistency with the relevant regional plan outside of the Greater Sydney Region, district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment.

Proponents will not be able to depend on a draft regional, district or corridor/precinct plan when the Minister for Planning, Greater Sydney Commission or Department of Planning and Environment have announced that such a plan will be updated before being able to be relied on.

Revised Draft Central City District Plan

- The plan was released on 26 October 2017. The plan is not mentioned in the rezoning review documentation. There are, however, several planning priorities that would apply to the site.
- *Planning Priority C5 – Providing housing supply, choice and affordability, with access to jobs and services.* The proposal consists of residential and employment-generating land uses.
- *Planning Priority C9 - Delivering integrated land use and transport planning and a 30-minute city.* The priority seeks to facilitate more housing, jobs, health and education facilities in metropolitan and strategic centres so more people will have public transport access to their closest metropolitan or strategic centre within 30 minutes. The site would locate dwellings within 30 minutes of the new Showground Metro Station.
- *Planning Priority C10 – Growing investment, business opportunities and jobs in strategic centres.* The plan identifies Castle Hill as one of seven strategic centres, incorporating Blacktown, Sydney Olympic Park, Norwest, Rouse Hill, Mount Druitt, Marsden Park and Epping. The strategic centres will provide:
 - opportunities for high levels of private sector investment;
 - flexibility so the private sector can choose where and when to invest;
 - co-location of a wide mix of activities, including residential;
 - high levels of amenity and walkability; and
 - areas identified for commercial uses and, where appropriate, commercial cores.

Consistency with a relevant local strategy that has been endorsed by the Department.

- There is no relevant local strategy that has been endorsed by the Department that can be relied on to establish strategic merit.

Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.

- The proponent notes that the site consolidation is significant, unique and perhaps unprecedented in the local government area. It has put the proponent in a position to deliver a major expansion and embellishment of the local park (a proposed 2,879m²) at no cost to Council.

SITE-SPECIFIC MERIT TEST

The natural environment (including known significant environmental values, resources or hazards).

- The application notes that there are no material site constraints relating to the natural environment that are of relevance to the planning proposal.

Other environmental factors

- The site is not on bushfire-prone land, does not contain any critical habitat or threatened species, and does not consist of any LEP biodiversity/terrestrial habitat mapping.

The existing uses, approved uses and likely future uses of land in the vicinity of the proposal.

- The site is made up primarily of largely one-storey and two-storey residential dwelling houses fronting both Dawes Avenue and Chapman Avenue.
- The future uses of land in the vicinity of the proposal are high-density residential as identified in the Showground Station Precinct plans.

The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

- The proponent notes that several major improvements will be carried out as part of the delivery of the Sydney Metro Northwest by the NSW Government and the development of areas within the precinct. Infrastructure upgrades will be provided by parties other than Council (including Transport for NSW, UrbanGrowth NSW and future individual developers within the precincts) as development occurs, at no cost to Council.
- The Department notes that any upgrades proposed were proportionate and to accommodate the new planning controls that were gazetted in December 2017.

Services and amenities

- The proponent notes within the supporting documentation for the planning proposal that based on preliminary investigations the site can be adequately serviced with all required utilities. The report proposes that there is sufficient capacity in existing and planned utility services to support additional development on the subject site and the general locality within the Showground precinct, where significant growth is expected into the future.

Traffic and transport impacts

- The proponent's traffic study concludes that there is "satisfactory road width to accommodate the increase in traffic and the current network has sufficient capacity to accommodate the net increase in traffic – both the conforming design and the proposed uplift scenario, without further improvements or upgrades".

Amenity impacts

- The proposal seeks building heights inconsistent with surrounding development permitted under the Showground Station Precinct rezoning.
- The planning proposal is predicated on the dedication of land to Council and the provision of communal open space on rooftops in order to provide a public benefit, being the extension of the local park.

Infrastructure implications

- A considerable amount of work has been undertaken by Council to determine the infrastructure required to support future growth within the precinct. This includes preparation of a draft contributions plan. This plan was publicly exhibited by Council from 9 January 2018 to 9 February 2018.
- While the supporting information submitted with the proposal concludes that the anticipated development will have a negligible impact, Council considers that impacts on local infrastructure have not been adequately addressed.

COUNCIL VIEWS

- The Department received Council's views on the proposal on 7 February 2018 (**Attachment B**).
- Council staff raised concerns that the planning proposal submitted for rezoning review was different to that originally submitted to Council. Council notes, however, that the planning proposal prepared by Council staff and presented to Council on 28 November 2017 contained several options, including an option that contained the same outcomes as the planning proposal submitted for the rezoning review. Notwithstanding this, the elected Council did not support any of the recommendations contained within the report.
- The proponent submitted a planning proposal to Council in July 2017 that sought amendments to the zoning, floor space ratio and height of building controls under *The Hills Local Environmental Plan 2012* to facilitate a mixed-use development. The development was to comprise four residential flat buildings with heights ranging between eight and 19 storeys (accommodating 380 dwellings), a 100-place centre-based child care facility and 150m² of commercial floor space for a café at ground level. Additionally, 2,879m² of the site was proposed to be dedicated to Council for the expansion of Chapman Avenue Reserve. The maximum floor space ratio proposed by the proponent was 3.5:1 (over the total site area).
- The options presented to Council by staff recommended for the approval of a modified version of the original Planning Proposal. The Council assessment report proposed an amendment to the LEP as follows:
 - (a) *"Rezone the site from R2 Low Density Residential to R4 High Density Residential;*
 - (b) *Apply a maximum height of buildings of 47 metres on the site (15 storeys including one storey of commercial);*
 - (c) *Apply a base floor space ratio of 1:1 and an incentivised floor space ratio of 2.3:1 to the site;*
 - (d) *Amend Schedule 1 to include "a restaurant or café" as an Additional Permitted Use on the site, capped at a maximum gross floor area of 150m²;*
 - (e) *Identify the site as "Area A" on the Floor Space Ratio Map (to allow housing diversity local provision to apply);*
 - (f) *Identify the site as "Area M" on the Key Sites Map (to allow bonus floor space of 20% up to a total FSR of 2.76:1 for master planned outcomes listed in Table 3 of this report to apply); and*
 - (g) *Identify the site as "Item 13" on the Additional Permitted Uses Map."*
- Council resolved not to proceed with the planning proposal, as Council considered the proposal lacks merit for the following reasons:
 - The planning proposal is broadly consistent with the principles of the high-level strategic framework in that it will increase housing supply and choice and provide the potential for a liveable environment with the expansion and embellishment of a local park.
 - There is a need to balance housing supply and choice with sufficient infrastructure, good urban design and public domain improvements to ensure liveability objectives are achieved. In this regard, the proposed scale of development, density and impact on local infrastructure has the potential to negatively impact on the locality.

- The proposal is inconsistent with the objectives of the State Government Corridor Strategy and the Showground Priority Precinct, specifically growth projections and desired future character. The proposal is inconsistent with The Hills Corridor Strategy in that it would allow for a dwelling yield and built form in excess of the envisaged outcome for the precinct.
- Permitting high-density residential development on the site before the completion of the Hills Showground Station Precinct was considered to be premature as it could undermine the outcome of the State Government's Priority Precincts process.
- Subsequently, the proponent has submitted a planning proposal for review that is consistent with the modified version that was presented to Council on 28 November 2017.
- Council is of the opinion that a rezoning review can only consider the original planning proposal and that it cannot consider potential options in a report written by Council officers that was not adopted by Council, specifically as this proposal was not submitted by the proponent for Council to consider.
- The Department interpretation of Part 5.1 of A guide to preparing local environmental plans, specifically the phrase "that was submitted to Council", is that the Department should receive whatever package Council resolved not to support. As such, the package submitted for the rezoning review is considered to meet the requirements as set out in the guide.
- Council also notes that the controls the proponent seeks to change are significantly less than five years old and that any stand-alone rezoning within the precinct would undermine the principles of the precinct-wide planning approach and is considered premature at this time.

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