

Our Ref: 15203
Council Ref: 15/03740

10 November 2017

15203

Carolyn McNally
Secretary
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Terry Doran

Dear Terry,

Rezoning Review Request
400-404 Cabramatta Road West, 2-18 Orange Grove Road & 6 Links Avenue, Cabramatta

On behalf of our client, TCON Constructions P/L, we hereby seek a Rezoning Review in relation to a planning proposal lodged with Fairfield City Council (Council) for the site located at 400-404 Cabramatta Road West, 2-18 Orange Grove Road & 6 Links Avenue, Cabramatta.

This Rezoning Review request is submitted on the basis that Council has resolved not to support the Planning Proposal.

Please find attached to this letter:

- A signed Rezoning Review Application Form;
- A cheque for \$20,000, being the relevant application fee;
- A copy of the Planning Proposal including additional information as provided in response to Council's requests for further information;
- A copy of Council's report; and
- A copy of all Council correspondence.

The Rezoning Review process was initiated by the Department of Planning and Environment with the following objectives:

- To provide a mechanism for applicants to have Council rezoning decisions reviewed;
- To ensure decisions on planning proposals that are well located, planned, and assist housing and job supply can be independently reviewed; and
- To increase transparency and provide greater certainty in plan making.

This request is consistent with all these objectives, specifically we note that:

- a) The planning proposal has been considered by Council and was refused progression to Gateway. This is notwithstanding Council recognising that the proposal would provide additional housing consistent with the then Draft South West District Plan and that the outcome of the proposed rezoning of the nearby Orange Grove Mega Centre will impact on the potential suitability of the locality including the subject site for higher forms of residential

development. The rezoning review process will therefore provide an appropriate pathway for a recommendation to be made on whether the proposal has sufficient merit to proceed to Gateway.

- b) The planning proposal documentation submitted to Council and discussed further in this letter, clearly demonstrates that the site has strategic merit particularly with respect to providing a range of dwelling types with good proximity to the Orange Grove Mega Centre, public transport connections to Liverpool and Parramatta, schools, and recreation facilities.
- c) The final decision of Council to refuse to acknowledge the planning proposal's strategic proximity to the Orange Grove Mega Centre site which is located within the Liverpool Council LGA.

In light of the above we respectfully request that the Planning Proposal be forwarded to the Sydney Western City Planning Panel to carry out a Rezoning Review.

1.0 Planning Proposal

On 14 March 2016 a preliminary Planning Proposal request was submitted to Council in relation to the subject site. The Planning Proposal sought to amend the *Fairfield Local Environmental Plan 2013* (the LEP) as follows:

- Rezone the site to R1 General Residential;
- Increase the maximum building height for the site to part 14 metres and part 27 metres;
- Increase the maximum floor space ratio for the site to 2:1; and
- Allow 'office premises' and 'business premises' as additional permitted uses on the site.

An aerial site photo is provided at **Figure 1** and the site's proximity to surrounding amenities is provided as **Figure 2**.

The planning proposal was modified prior to Council's consideration of the proposal. The modifications were made in response to feedback received from Council officers during the initial assessment phase. Changes to the scheme include a reduction in the height and FSR for the site. Refer to **Table 1** below for a comparison of the amended and initial proposal.

Table 1 – Comparative analysis

| | |
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| Rezone the site to R1 General Residential with 'office' and 'business premises' as additional permitted uses. | Rezone the site to R4 High Density Residential. Remove 'office' and 'business premises' as additional permitted uses. |
| Increase the maximum building height for the site to part 14 metres (4 storeys) and part 27 metres (8 storeys); | Allow heights to permit a range of 4, 6 and 8 storey buildings. Level 7 and 8 on the taller buildings fronting Orange Grove Road and Cabramatta Road West are setback from the street façade. |
| FSR 2:1 | FSR 1.9:1 |
| GFA: 30,780m ² incorporating: <ul style="list-style-type: none"> • 29,580m² residential; and • 1,200m² non-residential. | GFA: 28,557m ² incorporating: <ul style="list-style-type: none"> • 27,357m² residential; and • 1,200m² non-residential. |
| Approximately 340 x 2 bedroom apartments | Approximately 327 x 2 bedroom apartments, and 18 x 1 bedroom apartments |

The planning proposal considered by Council sought to amend the LEP for the subject site as follows:

- Rezone the site to R4 High Density Residential;
- Increase the maximum building height for the site to part 9 metres, part 14 metres, part 19 metres and part 27 metres; and
- Increase the maximum floor space ratio for the site to 1.9:1.



Figure 1 – Aerial view of the site location

Source: Ethos Urban

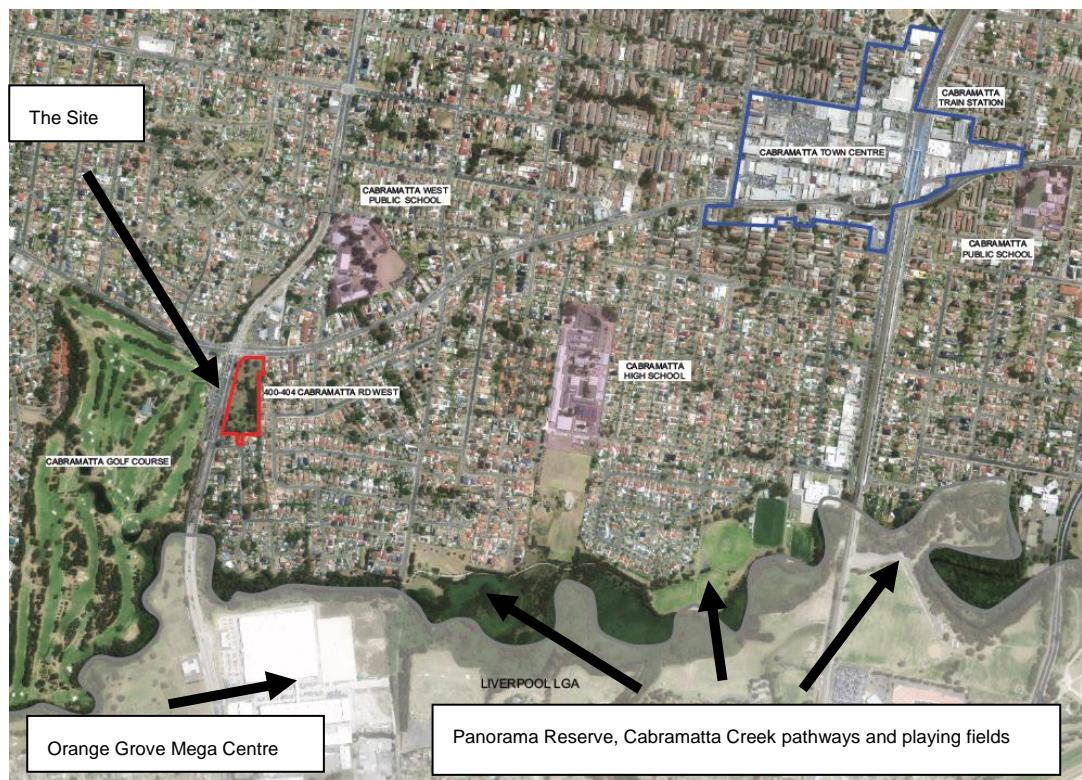


Figure 2 – An aerial photo of the site, demonstrating its proximity to the Orange Grove Mega Centre (Liverpool LGA) and surrounding amenities

Source: Nearmap

2.0 Background

The following table provides a summary of the chronology of the planning proposal, covering the period from the first formal discussions with Council through to their resolution to not support the Planning Proposal as amended.

Table 2 – Chronology of events

| Date | Event |
|----------|---|
| 14/10/15 | Pre-lodgement meeting with Council |
| 23/10/15 | Council issue meeting notes |
| 14/3/16 | Planning Proposal lodged |
| 10/6/16 | Council assessment letter issued (matters raised – Fairfield Residential Development Strategy; Status of the Orange Grove Mega Centre planning proposal; flooding; proposed zoning; additional permitted uses; built form). |
| 23/6/17 | JBA (now Ethos Urban) submit response to Council assessment letter |
| 12/9/17 | Council Meeting; Ethos Urban address the meeting on behalf of the applicant |
| 20/9/17 | Council refusal letter |

The Department have confirmed via email that the rezoning review can be submitted 42 working days following Council's notification that they are not preparing a planning proposal to forward for Gateway determination. This rezoning review has been submitted to the Department within the required timeframe.

3.0 Merit Assessment and Justification for Review

The following discussion demonstrates that the proposal reasonably and clearly meets the Strategic and Site-Specific Merit Tests and it is suitable to proceed to a Gateway determination.

3.1 Strategic Merit Test

Is the proposal consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant 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?

Council acknowledged in their Outcomes Committee report that the proposal was 'generally consistent' with the relevant strategic actions within the Draft South West District Plan, where Council were identified as the lead agency, namely:

- Action L3: Councils to increase housing capacity across the District; and
- Action L4: Encourage housing diversity

In the intervening period, the Draft Western City District Plan has been released for public comment. The proposal is consistent with Planning Priority W5 *"Providing housing supply, choice and affordability, with access to jobs and services"* for the following reasons:

- The site is unique and represents one of the largest single landholdings in the LGA. It has the capacity to provide a range of smaller affordable dwelling types to suit the change in housing demand for one and two person dwellings. This will boost housing supply within the established neighbourhood of Cabramatta and close to Liverpool consistent with the Draft Plan and will also enable the existing community to remain in place;
- It will provide 'more housing in the right location'. In November 2016, the State Government determined that the Orange Grove planning proposal should proceed through the Gateway, and that the amending LEP is to be finalised within 12 months (i.e. November 2017). The Orange Grove planning proposal is likely to result in an additional 21,000sqm floor space for 'shops'. This will result in Orange Grove accommodating approximately 40,000sqm retail floor space. This will place the site within a 10-minute walk of a centre that will be a significant employment generator with the capacity to accommodate 1,600 future retail jobs.

The proposal to provide 1,200sqm of non-residential floor space has the potential to create 66 jobs on-site in professions that will not conflict with the employment in the commercial centres.

In this context, Council have previously acknowledged that the site is proximate to a development that is equivalent to future 'sub-regional town centre', and it is strategically appropriate and justified to consider high density residential development on the site.

The site is well positioned within walking distance of significant retail and recreation facilities and is located within a mini cluster of mixed uses (golf course and club / restaurant; fast food; car wash) centred on the Cabramatta Road West and Orange Grove Road intersection. It is located immediately adjacent to bus stops that service both Cabramatta and Liverpool. The site's location supports the Greater Sydney Commission's plans to deliver a 30-minute city which is a core strategic aim of the Draft Plan. The site's proximity to strategic centres identified in the Draft Plan and surrounding amenities is provided below:

- Cabramatta West Public School - 350m (4 min. walk)
- Panorama Reserve & Cabramatta Creek - 400m (5 min. walk)
- Cabramatta West neighbourhood centre- 750m (10 min. walk)
- Orange Grove Mega Centre - 800m (10 min. walk)
- Cabramatta High School - 1.1km (13 min. walk)
- Cabramatta strategic centre and railway station - 1.8km (approx. 8 min. bus journey)
- Fairfield strategic centre and railway station – 4.5km (approx. 20 min. bus / train journey)
- Liverpool metropolitan city cluster - 2.1km (approx. 12 min. bus journey)
- Future Badgery's Creek airport site - 20km (approx. 25 min. drive)
- Greater Parramatta CBD – 12km (approx. 40 min bus/train journey)

We also note that public transport travel times from the site to Liverpool and the Sydney CBD are shorter than the travel times from Bonnyrigg and Wetherill Park; and travel times to Parramatta from the site, Bonnyrigg and Wetherill Park are similar. It is noted that Bonnyrigg and Wetherill Park both accommodate land zoned for higher density residential. The subject site represents the right location and there is strategic merit for higher density development considering its proximity to the Orange Grove Mega Centre and the numerous significant employment centres within a 30 minute travel radius.

Is it consistent with a relevant local strategy that has been endorsed by the Department?

The Fairfield Residential Development Strategy was prepared in 2009 to establish a sustainable development framework to guide decision making for the provision of 14,400 new dwellings in the eastern part of the LGA by 2031. The Strategy is used by Council to inform land rezoning for residential purposes. It is noted that Strategy is now almost 10 years old. It is acknowledged that the site is not contemplated in the planning proposal for higher density residential development; however our analysis of the strategy has identified that the Strategy is not delivering the housing required to meet the Council's target. In summary:

- The Residential Strategy states that rezoning existing centres and corridors within the eastern half of the LGA will provide capacity for 11,520 new high and medium dwellings to 2031. The balance of the 14,400 (2,880) are to be located as medium density on the fringe of the centres.
- Council have identified that their strategies to deliver medium density dwellings on the fringe of the centres have the capacity to deliver approximately 1,069 new dwellings. This results in a shortfall of 1,811 dwellings in the fringe areas.
- The major centres of Fairfield and Cabramatta are severely constrained by various factors (multiple sites under strata ownership, small sites that require amalgamation, insufficient road infrastructure and environmental factors i.e. flooding) and the practical ability for large scale residential redevelopment of both centres prior to 2031 is uncertain. There is no planned alternative to meeting the dwelling requirements. The subject site is large and appropriately located to deliver higher density housing.
- This Planning Proposal does not seek to undermine the centres and corridors strategy adopted by Council. The Council's forecast target identifies an anticipated shortfall of 1,800 new dwellings through the implementation of

Residential Strategy in the eastern LGA. The Planning Proposal will contribute to the provision of housing in the right location without undermining the hierarchy, or reduce the density of the established centres and corridors.

Therefore, the proposal is not inconsistent with the Council's Strategy.

Is it 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?

- As stated above, the Strategy is almost 10 years old.
- The planning proposal is responding to a recent change in circumstances that was not a consideration for Council during the preparation the Strategy in 2009. Namely, the positive Gateway determination to proceed with the Orange Grove rezoning. The Gateway determination and imminent rezoning represents a significant change to the strategic context and character of the surrounding area. Council acknowledge that once rezoned, Orange Grove will have the characteristics of a sub-regional town centre. The subject site is within easy walking distance of the Orange Grove site.
- This planning proposal seeks to amend the LEP to facilitate the future delivery of appropriate housing types that will reflect the subject site's strategic location that is not recognised by the existing planning controls.

3.2 Site-Specific Merit Test

The table below considers the planning proposal against the Department's site-specific merit considerations.

Table 3 – Site specific merit test

| The natural environment (including known significant environmental values, resources or hazards); | Ecological |
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| | An Ecological Issues and Assessment Report has been prepared by Gunninah (Appendix D to the initial planning proposal). In summary the assessment concluded that, <ul style="list-style-type: none"> • The site is located within a significant area of existing urban development and has been substantially cleared and developed in the past. The existing vegetation on the site is described as 'synthetic' and is dominated by introduced species and horticultural plantings. • The development area is not considered critical or important for the survival of a viable local population of any threatened biota or threatened or migratory species. • Therefore, the removal or modification of vegetation and trees from the site is not of particular concern. Where possible, trees around the periphery of the site should be retained for aesthetic and amenity reasons – they do not have any notable ecological value or function. The Planning Proposal to facilitate higher density development on the site is supportable on ecological grounds. |
| | Tree retention |
| | A Preliminary Arboricultural Assessment has been prepared by Urban Forestry Australia (Appendix C to the initial planning proposal). The assessment identified 75 trees on-site. None of the trees are listed as threatened under the Threatened Species Conservation Act 1995 or the Environmental Protection and Biodiversity Conservation Act 1999. Of the 75 trees, 32 (i.e. 42%) are located around the perimeter of the site and are able to be successfully retained subject to detailed design at any future development application stage. |
| | Flooding and overland flow |
| | Flooding analysis and modelling has been undertaken with regard to the amended indicative concept design. The analysis concludes that overland flow can be managed by the existing and future stormwater |

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| | <p>drainage infrastructure and swales. In this regard, there will be no additional impact on surrounding properties and the analysis does not identify any requirement to adjust the indicative building layout or raise finished floor levels.</p> <p>Views and vistas</p> <p>The site is located on the Cabramatta Road ridgeline at the southern boundary of the Fairfield LGA. The site's unique location enables it to become a legible gateway site to the LGA. Further, the site's elevation will enable future residents to enjoy high quality district and regional views.</p> |
| The existing uses, approved uses and likely future uses of land in the vicinity of the land subject to the proposal; and | <p>The surrounding land to the east and south is zoned R2 Low Density Residential and generally accommodates typical suburban single lot dwellings. The indicative concept, and the proposed controls, is designed to protect the existing amenity of the low density residential by transitioning to a lower scale at the boundaries. The indicative scheme demonstrates compliance with the relevant NSW Apartment Design Guide boundary separation and solar access requirements to the adjoining properties. Further the significant boundary vegetation can be maintained to soften the boundary interface.</p> <p>As outlined above, the subject site is within walking distance of the Orange Grove site to the south. The Orange Grove site currently accommodates the following:</p> <ul style="list-style-type: none"> • Service NSW; • Restaurants and takeaway food outlets; • 'Fashion Spree' (40 well-known brands) • Fitness centres; • Homemaker retailers; • Electrical retailers; • AMF Bowling; and • Stationery retailers. <p>Liverpool City Council, the Planning Assessment Commission and the Greater Sydney Commission support the current planning proposal for the Orange Grove site to allow approximately 21,000m² additional retail floor space. The planning proposal received a positive Gateway determination in November 2016. The Delegate of the Greater Sydney Commission included an instruction to finalise the amending LEP within 12 months of the Gateway determination (i.e. November 2017).</p> <p>Therefore, in a matter of months, the Orange Grove site is likely to be zoned to facilitate retail development that Fairfield City Council acknowledge will make it equivalent to a sub-regional town centre.</p> <p>The planning proposal for the subject site seeks to provide additional residential development at a scale and density that is appropriate for a location within walking distance of a sub-regional town centre without creating any unreasonable impacts on existing or future development in the surrounding area.</p> |
| 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. | <p>The site is immediately adjacent to bus routes that provide direct access to Liverpool and Cabramatta. These bus routes run frequently during peak times and have travel times of no more than approximately 12 minutes to each centre. The site is located within 30 minutes travel from Cabramatta, Fairfield, Liverpool and the future Western Sydney Airport site.</p> <p>The RMS recently upgraded the Orange Grove Road and Cabramatta Road West intersection. The Traffic Impact Assessment Report (Appendix B in the initial planning proposal) determined that the proposed increase in vehicle movements generated by the planning proposal can be accommodated without creating any significant impact on the operation of the surrounding road network.</p> |

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| | <p>Additionally, the site is well serviced by social infrastructure in the form of schools, recreational and sporting facilities (refer to the initial planning proposal).</p> <p>The Council's Direct Development Contributions Plan 2011 (Amendment 10) outlines the funding and infrastructure required to support the population growth identified in the FRDS (i.e. 14,400 additional dwellings in the eastern side of the LGA).</p> <p>The FRDS identifies that approximately 12,600 new dwellings can be accommodated within the existing centres or as medium density on the fringe of centres. The planning proposal has the potential to deliver approximately 340 of the 1,800 dwellings that the FRDS does not seek to accommodate. Therefore, the demand for infrastructure that the planning proposal will create is already accounted for in the existing Development Contributions Plan. No additional funding mechanisms are required at this stage.</p> |
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The planning proposal clearly meets the site-specific merit test.

4.0 Conclusion

In summary, the site has strategic and site specific merits that justify a rezoning review. As Council has determined not to support the planning proposal as amended, it is respectfully requested that the proposal to be considered under the Rezoning Review process.

I trust this information is what you require at this stage to progress this request, however should you have any queries about this matter or require any further information, please do not hesitate to contact me on 9956 6962 or at jmurray@ethosurban.com.

Yours sincerely,



Jim Murray
Associate Director