



05 March 2019

Waverley Council
C/C The General Manager
PO Box 9
BONDI JUNCTION 1355

Dear Councillors,

Thank you for the opportunity to address Council on this matter (being Item no. PD/5.4/19.03).

Uniting is the services and advocacy arm of the Uniting Church in New South Wales and the ACT. It is one of the leading not-for-profit aged care and community housing providers with approximately 3000 social, affordable and independent living units across 80 villages, 76 Residential Aged Care Facilities, 60 childcare centres, out of school child care services, disability services, counselling services and many other support services across NSW and the ACT. Uniting is looking to significantly invest in and honour its commitment to meet the need for community services in the Waverley LGA.

The vision for this project is to develop a holistic community hub where people can access a range of contemporary housing, accommodation and support services across a spectrum ranging from early learning and seniors housing to contemporary healthcare. The planning proposal is intended to provide a logical and flexible planning framework to support this future vision for housing, accommodation and support services.

This project is high priority and is of organisational significance for Uniting. Uniting is in a fortunate position to be self-funded. It has a sustainable ten-year plan. Waverley is part of this ten-year plan and a budget is already in place to ensure the vision for the site is realised and the services are provided to the Waverley LGA.

The existing services and accommodation on the site is ready for renewal and the accommodation in its current state, does not meet universal living standards. Current aged care residents are living in four-bed rooms with shared bathrooms which are not in line with contemporary aged care service models.

Uniting has been running services and addressed community needs from the Waverley site for 100 years and wishes to reiterate its long-standing commitment to the site. Uniting has no plans to divest the site. The report put to Council, prepared by Council staff, is misleading in terms of representing this. It appears to assume the provisions proposed under the planning proposal will support the attractive divestment of the site. The willingness of Uniting to retain the existing SP2 zone – a zoning which by its nature does not produce the highest value use, should reflect this intention for the site.

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Irrespective of this, the site remains in private ownership. Council staff cannot base their planning assessment on a preconceived (and false) idea that the site will be divested. Much of the commentary within the report put to Council looks to sterilise the site and inhibit in particular, the development potential of the existing R3 zoned portion of the site. The need to retain community infrastructure also does not validate the appropriateness of Council staff in trying to leverage privately-owned land to meet community purposes.

The report prepared by Council also states that Uniting has not made a public benefit offer. This was discussed with Council staff and Uniting have stated that they are open to a public benefit offer or agreement with Council at the appropriate time. Since this was formally stated by Uniting (in January 2018) neither parties have furthered discussions for a public benefit offer as other issues more pertinent to the planning proposal have sought to be addressed.

If such an offer were of great importance to Council staff at this stage of the planning proposal process, it should have been raised again and negotiations could have progressed. Uniting will not stand to be perceived as not acknowledging the need for a public benefit offer.

Extensive consultation with the community was undertaken prior to lodgement of the planning proposal. Uniting is committed to engaging with the community, so the consultation work took place to provide the community with a clear understanding of the intended outcome for the site (by presenting the proposed planning proposal in full). It also sought to identify and address any potential community concerns, and importantly, reinforce Uniting's intent to be open and transparent with the community.

Extensive consultation was also undertaken with Council staff from 2014 prior to lodgement.

The planning proposal was subsequently lodged (in 4 July 2017) with the positive sentiment of the community, with the overwhelming majority of people being supportive of Uniting's vision for the site. There was particular support for the improvement and expansion of services, the opening of the site for the community, the continued provision of green space and respect for the site's existing heritage.

Since lodgement of the planning proposal, significant negotiation has been undertaken, ongoing information has been provided, extensive studies completed, and multiple amendments made. This demonstrates why the planning proposal has been amended on more than one occasion since lodgement and has been the subject of an exhaustive 19-month council assessment period.

Uniting has continually operated in good faith and provided significant additional information to address the concerns of Council staff, to which to date, have been dismissed. Uniting has conceded on proposed heights and has put forward legitimate strategies to address the concerns of Council staff. There have been no concessions or realistic strategies put forward by Council staff to provide an appropriate outcome for both parties. This has made the last 19-months somewhat of an unproductive effort.

Council staff have continually raised new issues which have sought to inhibit Uniting from developing up to the proposed provisions. Most pertinent has been the use of the site's existing zoning and onsite existing heritage items to leverage control on the site. The need to rectify heritage listings for the site and investigate whether existing heritage items on the site should be elevated to

a State listing is commensurate of this. The existing heritage items and their heritage significance has already been assessed and this is reflected in their current listing in the LEP.

Overall, significant additional work to address the concerns of Council staff has been undertaken, only to be dismissed. Guiding this, in our opinion, has been a premature focus on potential built form and design outcomes (based on an *indicative* masterplan submitted with the planning proposal) more appropriate to DA assessment and DCP controls, rather than an assessment focused on strategic merit. An underlying issue has also been Council's recent experience in dealing with recent overzealous planning proposals in the LGA and what appears to be a genuine fear (as mentioned above) of the site being divested.

This is disappointing and unfair and seems to have guided the recommendation put forward by Council staff. This planning proposal should be assessed on its own merit. Uniting and its private land holdings, should not be unduly constrained on this basis and should not be adversely impacted on Council's previous inability to secure the intended public benefit and intended outcomes originally envisioned under other planning proposals.

In terms of the recommendations put to Council, we note the following:

1. Uniting is close to acquiring all the lots along Birrell Street which are proposed to be included in the planning proposal. Their inclusion in the planning proposal was guided by a discussion with Council staff, is logical and will save the need for further amendments to the LEP if required.

Uniting has the written consent of two of the three remaining lots still not under their ownership. The remaining owner has verbally acknowledged Uniting's request for land owners consent however due to serious health issues, is yet to formalise this consent in writing.

2. The proposed alteration to the Land Zoning Map was an alternative proposed by Uniting. It retains the existing zoning on the site (which is Council's preference) yet redistributes the existing R3 zoned land across the site into a single and consolidated portion of developable land. This was also suggested by the Local Planning Panel when Uniting articulated its vision for an intergenerational community providing a range of accommodation including accommodation for key workers.

It does not seek to increase the quantity of R3 zoned land in which the site is already entitled to. The schedule of uses was updated accordingly to apply to each zone across the site to mitigate any issues of permissibility which may arise from the split zoning.

3. The proposed site-specific zone boundary clause was an alternative proposed by Uniting to support the land use zoning alternative. It is critical to mitigate any issues of permissibility which may arise from split zoning across the site and provide a degree of flexibility in the case a more appropriate and logical built form outcome can be achieved with minor encroachment into the surrounding SP2 zone. Importantly, it proposes not to permit additional GFA for residential flat buildings greater than that permitted in the R3 zone.

Council staff have provided a very literal interpretation of the potential clause and misrepresented the clause (via Figure 1 of their assessment report) to reflect a 'land grab' to increase the amount of R3 zoned land across the site. The intent of the draft provision was to relate only to R3 zoned land on the site. The draft provision does not seek to use the R3 zoned land across the site's boundaries. Clause (1) of the draft provision provided to Council staff stated that such a provision

was to apply to land between two zones on land identified as the War Memorial Hospital, not outside the site.

4. Seniors housing, community facilities and centre-based childcare centres permitted as additional uses across the site is supported by Uniting. Retail premises, business premises and hotel and motel accommodation were also proposed as additional uses across the site. They were proposed to be capped in order to satisfy the concerns of Council staff – which was to ensure these uses would not override the primary uses on the site and adversely impact existing impacts of traffic and retail.

The cap was deliberately proposed to limit these uses to a scale which remains subservient to the primary uses of the site while also negotiating an appropriate outcome for the site and Uniting's intended service offering. These uses are critical in activating and integrating the site and its residents with the community (and vice versa) and not creating a gated community.

After gaining in-principle support of the proposed caps, they were, as the recommendation indicates, not supported by Council staff. These additional uses are deliberately limited to support only the day-to-day needs of residents, activate the precinct and attract the community (in a controlled manner). Council staff prefer to retain the site for its primary uses only. Uniting intends to 'open up' the site to the community for their use and engagement. This is considered a superior planning outcome.

Uniting also proposed the permissibility of serviced apartments and function centre across the site provided it could be demonstrated they are ancillary to and associated with the existing health services facility. These uses were deliberately chosen to support the broader connected vision for the site and provide appropriate accommodation for visitors of residents. Their inclusion within the planning proposal is logical and aligns to intended outcomes for the site.

These additional uses also reemphasise the need for a mechanism like the site-specific zone boundary proposed by Uniting (as mentioned above). The mechanism would provide a clear approval pathway and remove the ambiguity during DA assessment in the case such uses were to straddle different zones across the same site.

Overall, Uniting has undergone significant negotiation and provided substantial justification in relation to additional permitted uses for the site. When the planning proposal was first lodged, Council staff recommended that an alternative option was *that the 'zoning at this stage remain as SP2 with changes to the schedule of uses for the site to allow **for all** of the uses proposed'*.

All the uses proposed for the site were subsequently placed into the schedule of uses and the existing zoning retained as recommended by Council staff. Since this recommendation (17 August 2017), Council staff have continually reduced the number of additional permitted uses they support. This again reflected the misleading, tireless and frustrating process undertaken by Council staff to date.

5. Uniting has conceded on heights across the site in light of the concerns of Council staff. This has included reducing the maximum building height at the Church Street frontage from 21m to 17m, removing the 21m maximum height zone on Birrell Street to give a consistent 15m height along the length of Birrell Street, and reducing the area of the 28m height envelope.

The extensive additional information provided to Council staff demonstrated that the site can appropriately manage the heights proposed and not cause any significant additional environmental impact. The heights proposed are still reflective of the functional requirements required by Uniting to provide their intended services.

6. A recommended FSR of 1.2:1 by Council staff has been based on an *indicative* masterplan submitted with the planning proposal. It is indicative only, intended to inform one potential built form outcome under the provisions proposed under the planning proposal.

Further additional information which has been provided to Council staff has demonstrated the envelopes under the indicative masterplan, if they were to be developed with the heights proposed by Uniting, would generate an FSR of 1.47:1. An FSR of 1.58:1 is achieved if the lots along Birrell Street were included within the site area. An FSR closer to 1.5:1 is therefore considered by Uniting, a more realistic and logical FSR for the site.

It must be reiterated that an FSR of 1.5:1 will contribute to community uses and community benefit. The existing SP2 zoning on the majority of the site secures this benefit and ensures it is provided. The SP2 zone is the preferred zoning option for Council staff and imposes on the site, albeit in line with the desired service offering of Uniting, a use which provides a recognised community benefit, supports the provision of more services and restricts other uses which would facilitate a higher value use of the site.

7. Maximum site-coverage, landscaping and deep soil provisions are not provisions provided by an LEP. These are DCP controls, intended to support the finer-grain design and development of a site. Their potential inclusion with the LEP does not have merit and does not conform to standard practice. These recommended provisions were added by Council staff only after negotiations were completed.

Uniting has demonstrated a significant and ongoing effort to work with and address the concerns of Council staff. Uniting remains open to negotiations with Council staff however the recommendation at this point, still lacks an appropriate degree of flexibility, will not allow for the intended outcomes of the site to be achieved, and ultimately, reduce the level of benefit Uniting provide to the Waverley LGA. For these reasons, it is requested the recommendation not be supported.

Yours sincerely



Adrian Ciano
Head of Property Development, Uniting