



10 March 2011

**Proposal to amend Willoughby Local Environmental Plan 1995
to facilitate medium density residential development
at 126 Greville Street and 25 Millwood Avenue, Chatswood**

1.0 REQUEST FOR ADVICE

On 27 January 2011, the Minister for Planning requested the Planning Assessment Commission (the Commission) to advise:

- Whether the Commission supports an amendment to the *Willoughby Local Environmental Plan 1995* in relation to land at 126 Greville Street, Chatswood to amend zoning controls applying to the land; and
- If the commission supports such an amendment, recommend that an amendment be made subject to any requirements of a Gateway Determination under section 56 of the *Environmental Planning and Assessment Act 1979*.

The Commission consisted of Emeritus Professor Kevin Sproats as chair and Mr Garry Payne AM.

2.0 THE SITE

The site, having a total area of 34,700 m², is comprised of two land parcels:

- 126 Greville Street, Chatswood (Lot 1 DP 532353), being irregular in shape and having an area of approximately 34,350 m²; and
- Lot 1 DP 408490, being the land to the rear of 25 Millwood Avenue. The triangular parcel of land has an area of approximately 350m².

The two parcels of land are collectively known as '126 Greville Street' for the purposes of this report.

The site currently contains a 14,225m² concrete building (mainly 2 storeys, but in part 4 storeys) and a 2 storey car park. The existing building was specifically designed as an acoustic laboratory and is currently leased to Australian Hearing Services, which is due to vacate the site in 2013.

3.0 THE PLANNING PROPOSAL

The site is currently zoned 5(a) Special Uses – Acoustic Laboratory under the *Willoughby Local Environmental Plan 1995*.

A planning proposal was submitted to Willoughby Council in July 2010 by the Toga Group and Barana Group (the proponent) seeking to change the land use zones on the site to: zone R3 Medium Density Residential, and zone E2 Environmental Conservation. The same planning proposal was also sent to the Minister for Planning in December 2010.

The zonings sought in the planning proposal would facilitate:

- Development of 14 residential flat buildings between 4 to 6 storeys in height;
- Approximately 220 residential units; and
- A floor space ratio (FSR) of approximately 0.8:1 across the land in the R3 zone and 0.67:1 across the whole site.

4.0 COMMISSION MEETINGS

4.1 Meeting with Department of Planning

On 18 February 2011, the Commission met with Mr Tom Gellibrand and Ms Juliet Grant from the Department of Planning for a briefing.

Key issues discussed in this meeting included:

- Clarification on the advice being sought from the Commission. The Department advised that the planning proposal has been forwarded to the Commission in order to seek an independent view on whether there is strategic merit in amending existing zoning controls applying to the site.
- Strategic context of the proposal and potential future land uses for the site.

4.2 Meeting with Willoughby Council

On 18 February 2011, the Commission met with Council officers from Willoughby City Council including Mr Nick Tobin, Mr Greg Woodhams and Mr Craig O'Brien. Key issues discussed in this meeting included:

- History of the proposed rezoning;
- Council's key issues with the planning proposal (including density, design and fire application, ecological issues, community issues). It is noted that Council has yet to provide their comments on the planning proposal to the Department of Planning. The Council, however, in the meeting with the Commission indicated they would not support medium residential development as currently proposed by the proponent in the planning proposal; and
- Status of the draft *Willoughby Local Environmental Plan 2011* (draft WLEP).

5.0 INFORMATION AVAILABLE TO THE COMMISSION

The Commission was provided with a copy the following documentation to review:

- *Planning Proposal to the Minister for Planning – 126 Greville Street and 25 Millwood Avenue, Chatswood* prepared by Robinson Urban Planning Pty Ltd (on behalf Toga Group and Barana Group), dated December 2010. This document is to be referred to as 'the planning proposal' for the purposes of this report.
- Willoughby City Council Special Council Minutes (dated 3 November 2010), which includes Council's post exhibition report on the site and proposed zoning of the site under the draft WLEP.

In addition to reviewing information provided to the Commission from the Department, the Commission also visited the site and surrounding areas.

5.1 Additional Information Made Available to the Commission

During the meeting with the Department of Planning on 18 February 2011, the Commission questioned the strategic base for the Department's support of the planning proposal to allow for residential development of the site. The Department undertook to provide a supplementary report including: the strategic context of the site, an assessment of potential future land use, the merits of the planning proposal and justification for increasing the residential densities on the site.

The supplementary report was received on 2 March 2011. In conclusion, the Department considered:

- The subject site is well placed for redevelopment being located 1.2km from Chatswood centre and approximately 400m from a strategic bus route corridor.
- A medium density zone for the portion of the site occupied by existing structures would represent an appropriate change in land use for the site which would encourage development that:
 - Provides a greater housing choice in the Willoughby LGA;
 - Provides opportunities for affordable housing;

- Provides additional housing close to an existing centre that is well served by public transport;
- Responds to the existing character of the surrounding area;
- Contributes to the housing capacity of the Willoughby LGA; and
- Is located within an existing urban area.
- Heights in the order of 15m (or 5 storeys) would be acceptable on the subject site, but attention would need to be given to providing setbacks from the adjoining residential areas to ensure sufficient levels of amenity.
- Residential densities higher than the locality are considered appropriate
- Considered the site could accommodate an FSR in the range of 0.5:1 to 0.6:1 across the site.
- Issues associated with bushfire risk and the environmental aspects of the site, including the need for regeneration works may need to be addressed.

Following the meeting with the Commission on 18 February 2011, Council sent a letter (dated 4 March 2011) which included copies of correspondence received by Council on the planning proposal including:

- Letter from Commonwealth Department of Finance and Deregulation, dated 17 November 2010;
- Letter from NSW Department of Environment and Climate Change, dated 1 November 2010;
- Report from independent ecological consultant GIS Environmental Consultants dated 17 February 2011; and
- Bushfire Property Loss Risk Scale Map prepared by FireAus and Macquarie University, dated 17 January 2011.

6.0 BACKGROUND TO THE REZONING PROPOSAL

The proposal to rezone the site was first initiated in 2006. The proponent lodged an application to amend the *Willoughby Local Environmental Plan 1995* to rezone the land to a R3 - Medium Density Residential and E2 - Environmental Conservation to facilitate development for:

- Demolition of existing building and construction of medium density residential involving 14 buildings between 4 and 6 storeys in height; and
- A FSR of 0.75:1, resulting in approximately 250 units.

As a result of issues raised by Council, the proponent lodged an amended rezoning application in 2007 (the 2007 Amended Rezoning Application) which sought the same zonings (R3 and E2), but to facilitate a reduced development comprising:

- Demolition of existing building and construction of medium density residential involving 14 buildings between 4 and 6 storeys in height; and
- A FSR of 0.7:1, resulting in approximately 230 units

The 2007 Amended Rezoning Application was reviewed by Council officers who concluded the site was capable of supporting some form of medium density housing with a FSR of 0.4:1 (for the whole site) with a maximum height of between 2 and 4 storeys, equating to approximately 140 units. This was on the proviso that a new vehicular access could be provided from Millwood Avenue to relieve the traffic in Greville Street and reduce pressure on the Greville Street/Fullers Road intersection.

In July 2008, Council officers prepared a report to the Council meeting (dated 14 July 2008) which recommended the 2007 rezoning proposal not be supported in the form proposed and that a revised proposal be submitted. Council's principles for development on the site included a reduced FSR (0.57:1 across the site) and building heights between 2 and 4

storeys. This could result in approximately 180 dwellings on the site. This matter was deferred in the Council Meeting of 14 July 2008 where it was concluded a workshop would occur between the proponent and residents to develop a masterplan for the site as a basis for the rezoning.

The workshop was undertaken by an Independent Facilitator in 10 November 2008 and was attended by representatives from the Council, the community and government agencies (including the Department of Environment, Climate Change and Water, Roads and Traffic Authority, Rural Fire Service and the Department of Planning). Following the workshop, Council officers prepared a report which recommended rezoning the site to part R3 - Medium Density Residential and part E2 - Environmental Conservation, with a FSR of 0.57:1 across the site and building heights between 2 and 4 storeys. A maximum number of 180 dwellings on the site was also stipulated. The R3/E2 zoning was predicated on agreement from the RTA in providing satisfactory second vehicle access via Millwood Avenue. The report also recommended that if there is no agreement by the RTA for a satisfactory second vehicular access via Millwood Avenue, then the residential portion of the site should be rezoned E4 Environmental Living, together with a FSR of 0.45:1.

Despite Council officer's report as outlined above, Council, in a meeting on 1 December 2008, resolved to refuse the rezoning application and required a Local Community Liaison Committee ('LCLC') to be made up of Councillors, Council officers and local residents to make recommendations for future community uses on the site.

Between December 2008 and February 2011, the LCLC met to consider zoning options for the site and resolved to support the option of:

- Zoning the site E4 - Environmental Living, with the exception of the triangular vegetated parcel of land which would be zoned E2- Environmental Conservation. In addition, the LCLC recommended a clause to be introduced in the draft WLEP allowing either development as E4 with potential for approximately 40-50 dwellings or adaptive reuse of the existing building for the purposes of residential units (approximately 120 units within the existing building).

It is noted that residential flat buildings would be prohibited in the E4 zones, based on the above zoning controls, unless the existing building is adaptively reused for residential units.

Concurrently to dealing with the rezoning application for the site, Council has been involved in the preparation of the draft *Willoughby Local Environmental Plan 2011* (draft WLEP). This is a priority LEP and is earmarked for gazettal by June 2011.

The draft WLEP was exhibited in between 25 March and 20 May 2010 and proposed a SP2 Infrastructure zoning on the site. This was due to advice from the Department of Planning that Council could not zone land as residential if there was a record of contamination on the land. Following the exhibition of the draft WLEP, additional information was submitted by the proponent which resolved the contamination issue. Council concluded a residential zoning could be applied to the site.

During the exhibition of the draft WLEP, the proponent lodged a submission which requested the zoning for the site (as exhibited) be amended to:

- R3 Medium Density Residential and E2 Environmental Conservation, to allow for medium density residential development for 14 buildings between 13.5m to 20m (i.e. 4 to 6 storeys) with an FSR of 0.8:1 across the R3 zoned land.

Following the exhibition of the draft WLEP and based on the advice from the LCLC, Council resolved to amend the zoning of the site in the LEP to:

- Part E4 - Environmental Living and part E2 - Environmental Conservation, with an FSR on the E4 zoned area to be 0.4:1, a maximum building height of 8 metres); and
- Include a special provision which would permit the adaptive reuse of the buildings and car park on the site for residential flat buildings.

In July 2010, the proponent submitted to a planning proposal to Council which was similar to their submission to the draft WLEP to amend the zoning for the site to:

- R3 Medium Density Residential and E2 Environmental Conservation, to allow for medium density residential development for 14 buildings between 13.5m to 20m (i.e. 4 to 6 storeys) with an FSR of 0.8:1 across the R3 zoned land.

The Commission notes that the proponent wrote to the Department in July 2010 requesting intervention by the Department of Planning to ensure that the planning proposal could proceed. At the time, the Department of Planning advised that any intervention was premature.

In December 2010, the proponent made a request to the Minister for Planning seeking an amendment to the *Willoughby Local Environmental Plan 1995* (WLEP 1995) which would rezone the site to R3 Medium Density and E2 Environmental Conservation (to facilitate development for up to 200 dwellings) and determination of a Gateway rezoning request. The request was accompanied by a planning proposal (dated December 2010) which forms part of this review by the Commission and is based on the planning proposal previously forwarded to Council in July 2010. It is noted that at this point in time, the Minister has not appointed an alternative Relevant Planning Authority.

7.0 COMMISSION'S COMMENT

The Commission has reviewed the documents provided by the Department and Council, including the planning proposal (dated December 2010). The Commission has also taken into consideration the meetings with the Willoughby Council and the Department of Planning.

The Commission considers there is strategic merit in amending existing zoning controls on the site to allow residential development and supports an amendment to the WLEP 1995. In coming to this view, the Commission has examined a number of key issues including: strategic context and future potential uses, land use zoning and appropriate built form controls (including heights and floor space ratios).

7.1 Strategic Context and Future Potential Uses

The site is located approximately 1.2km west of the Chatswood Centre and approximately 400m from a strategic bus corridor running along Fullers Road. The site is also located on the edge of the northern extent of the Global Economic Corridor, as identified in the NSW Government's *Metropolitan Plan for Sydney 2036*, which runs from North Sydney to Macquarie Park and is a concentrated area of jobs in fields such as finance, business services, information industries and multimedia.

The Commission has reviewed the supplementary information provided by the Department (dated 2 March 2011) and supports the Department's strategic assessment and recommendations for potential future land uses for the site. The Commission concurs with the Department's conclusion that the site presents as an opportunity site for redevelopment due to its proximity to the existing Chatswood Centre and public transport routes.

In terms of the future potential land uses for the site, the Commission considers redevelopment of the site to a residential zone would be the most compatible use. The site

is surrounded by low density residential housing to the North, East and South and Lane Cover National Park to the West. A continuation of the high technology industrial use on the site would be inconsistent with the surrounding area.

The Commission considers allowing residential development on the site would also be consistent with the strategic policy settings outlined in the Metropolitan Plan, which include locating new housing close to existing centres and public transport. Residential development on the site would also contribute to the housing targets as required under the draft Inner North Subregional Strategy which requires Willoughby LGA to provide for 6800 additional dwellings by 2031.

7.2 Proposed Zoning and Built Form

The site represents one of the larger single land holdings (34,700m²) in the Willoughby LGA. Subsequently, this provides an opportunity to create higher density development on the site that will assist in providing greater housing choice and more opportunities for affordable housing in the area. As such, the Commission considers a medium density residential zone for the portion of the site occupied by the existing building would facilitate an appropriate development for the site.

In supporting an amendment to the WLEP 1995 to rezone the site for residential development, the Commission notes that a review of proposed maximum building heights and FSR controls as part of any future assessment of the planning proposal assessing is required to ensure future developments on the site will be complementary to the character of the surrounding locality.

The Commission notes that the current topography of the site and existing dense vegetation on the site ensures the existing 2-4 storey building is generally hidden from view from surrounding residential areas, including Greville Street. The topography of the site, therefore, creates an opportunity to provide buildings which are generally higher than the low density dwellings in surrounding areas.

If the site is to be rezoned for residential development, the Commission considers future development controls will require careful attention to ensuring appropriate setbacks from adjoining areas to minimise any impacts on the visual amenity of existing residences (such as privacy and retention of views). It is noted that a detailed assessment of built form and visual amenity impacts would be required in future development applications for the site.

The Commission considers a maximum height of 4 storeys along the Greville Street and a maximum height of 5 storeys in the southern portion of the site would be acceptable. This is on the proviso that the development provides suitable setbacks and existing trees along the Greville Street frontage are retained to assist in screening any future buildings.

The Commission notes the Department's supplementary report suggests the site could accommodate an FSR in the range of 0.5:1 to 0.6:1 across the site. The Commission considers suitable medium density development could be achieved with a FSR across the site towards the lower end of the range.

It is important to note that the Commission's support for the preparation of an amendment to the WLEP 1995 does not indicate the Commission's endorsement of the planning proposal (prepared by Robinson Urban Planning Pty Ltd, dated December 2010) as the Commission has not carried out a detailed merit assessment of the proposal. This includes endorsement of the anticipated density, heights, number of buildings or proposed layout. The documentation has only been used as a basis on which to confirm whether there is strategic merit in amending the zoning controls applying to the land. Any amendment to the planning

instrument should be subject to the requirements of a Gateway Determination under section 56 of the *Environmental Planning and Assessment Act 1979*.

7.3 Other Issues

The Commission acknowledges that Council has been actively working with the proponent to resolve issues since the lodgement of the planning proposal to Council in July 2010. Following a review of documentation provided from Council, it is understood that while Council has been focussed on the draft WLEP, Council has been concurrently progressing outstanding environmental issues on the site. These include:

- Ecological issues – Council engaged an independent ecological consultant to review the planning proposal. The consultant concluded there is insufficient flora and fauna surveys to adequately assess the impact of the proposal, including the location of endangered ecological communities.
- Access issues - It is noted that the Roads and Traffic Authority has not agreed to a secondary access to Millwood Avenue. The Commission notes Council's preference for the E4 Environmental Living zone is partly due to concerns with the development not providing a second vehicle access via Millwood Avenue.
- Bushfire issues - Part of the site is located in a high risk (category 1) bushfire prone area. Resolution of zoning boundaries (and developable areas) is required, having regard for the outcomes of ecological issues which may impact on planning for bushfire protection.

The Commission recommends that any amendment to the zoning have consideration for the above issues in determining requirements for further studies and establishing zoning boundaries.

8.0 COMMISSION'S RECOMMENDATION

1. The Commission supports the preparation of an amendment to the *Willoughby Local Environmental Plan 1995* in relation to land at 126 Greville Street and 25 Millwood Avenue to amend zoning controls applying to the land.
2. The Commission recommends that an amendment should be subject to any requirements of a Gateway Determination under section 56 of the *Environmental Planning and Assessment Act 1979*.



Emeritus Professor Kevin Sproats
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