

REZONING REVIEW – Briefing Report

Date of Referral:	21 March 2018	
Department Ref. No:	PGR_2017_BURWO_001_00	
LGA:	Burwood	
LEP to be Amended	Burwood Local Environmental Plan 2012	
Address:	68-72 Railway Parade and 2-2A, 4-10 Oxford Street, Burwood	
Reason for review:	<input checked="" type="checkbox"/> Council notified the proponent that it will not support proposed amendment	<input type="checkbox"/> 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?	<input type="checkbox"/> Provided	<input checked="" type="checkbox"/> Not required Comment: The application states that there are no reportable political donations or gifts to disclose.

SUMMARY OF THE PROPOSAL

Background

The rezoning review request made by Pacific Planning Pty Ltd seeks to amend development standards under the Burwood Local Environmental Plan 2012 (Burwood LEP 2012) that apply to the site at 68-72 Railway Parade and 2-2A, 4-10 Oxford Street, Burwood. The proposal seeks to increase the maximum building height and floor space ratio (FSR) controls for the site.

The subject site comprises eight separate parcels of land that have gradually been acquired by the developer. A development approval currently exists for the land at 68-72 Railway Parade and 2-2A Oxford Street. The approval includes demolition of the buildings on the land and the construction of an eight-storey residential flat building that includes 87 apartments and basement car parking. The previous buildings on these properties have been demolished and excavation has commenced in accordance with this approval.

The proponent advises that since the above development approval, they have acquired two additional allotments to the south, being 4-10 Oxford Street. On 22 September 2017, a development application was lodged with Burwood Council to expand the previous development approval to include the additional lots. This development application is currently being considered by Burwood Council and will be reported to the Sydney Eastern City Planning Panel at a later date. The subject planning proposal relates to all of the allotments that pertain to the expanded development application.

On 13 February 2017, a planning proposal (**Attachment H3**) was lodged with Council that sought to:

- increase the maximum building height from 26m to 58m (18 storeys); and
- increase the maximum FSR from 3:1 to 5.45:1.

Following lodgement, Council appointed an independent consultant to review the proposal to provide a recommendation to Council. The recommendations stated that:

- the proposed 14-18-storey building height limits are considered excessive;
- a maximum of 12 storeys (39m) is considered appropriate. This includes a 10-storey (32m) element away from the corner on Railway Parade and a nine-storey (29m) element away from the corner on Oxford Street;
- non-residential uses should be provided to activate the ground floor street edge;
- a public open space area along the Oxford Street frontage should be provided to break up the building form; and
- a heritage impact statement should be prepared.

Council staff prepared a report for the Council meeting of 25 July 2017 recommending the following:

- that the proponent revise the scale and parameters of the proposal in line with the recommendations of the independent assessment of the proposal; and
- that the proposal be submitted to the Department of Planning and Environment for a Gateway determination only after it has been amended to the satisfaction of the independent consultant and Council's general manager.

Council formally considered the matter and resolved to not support the recommendations without a revised proposal being prepared. Following this resolution, the proponent prepared a revised planning proposal that responded to the independent review recommendations.

On 24 August 2017, the revised planning proposal was lodged with Council with a request to prepare a planning proposal for referral to the Department for Gateway consideration.

The revised planning proposal provided for a part 12-storey (46m) corner building with one 10-storey (40m) and one nine-storey (36m) building elements.

On 18 September 2017, Council advised the proponent that under clause 10A of the *Environmental Planning and Assessment Regulation 2000*, the request for reconsideration was declined. Council advised the proponent to lodge a new planning proposal for consideration.

On 17 October 2017, the proponent lodged a rezoning review request with the Department in response to Council's letter refusing to consider the request for reconsideration of the updated planning proposal.

The Department reviewed this request and advised the proponent that the rezoning review request could not be considered as it did not reflect the original proposal considered at Council's meeting of 25 July 2017. The Department's *A guide to preparing local environmental plans* specifies that a planning proposal that has been amended after Council has resolved to refuse the original proposal is not eligible to be considered under a rezoning review.

The Department advised the proponent that if they wished to continue to progress the rezoning review request, the proposal be amended to match the one that was originally lodged with Council on 13 February 2017.

The proponent has subsequently revised the rezoning review request to reflect the original planning proposal considered at Council's 25 July 2017 meeting.

Locality and context

The subject site comprises eight separate parcels of land. It has a total area of 3412m² and is on the corner of Railway Parade and Oxford Street, Burwood.

The site is approximately:

- 500m from Burwood Railway Station;
- 510m from Strathfield Railway Station; and
- 150m from the edge of the Burwood town centre.

The northern boundary of the site fronting Railway Parade is opposite the Western Railway Line. Oxford Street to the west is characterised by a mixture of single-storey dwellings and medium-density to high-density residential development. The site adjoins Burwood Public School to the east and south.

An aerial photograph of the site and its locality is provided at **Attachments B and C**.

Site description

The site is in the Burwood local government area (LGA). It contains several separate lots and is legally described as:

- 68 Railway Parade – Lot 1 DP 794978;
- 68A Railway Parade – Lot 4 DP 1105410;
- 70 Railway Parade – Lot 2 DP 591171;
- 72 Railway Parade – Lot 1 DP 80269;
- 2-2A Oxford Street – SP39363;
- 4-6 Oxford Street – SP83675; and
- 8-10 Oxford Street – Lots 1 and 2 DP 226905.

The northern six allotments fronting Railway Parade previously contained several land uses, including a two-storey boarding house, auto electrical premises, auto services premises and two-storey brick buildings that have been demolished under the existing development approval. The properties fronting Oxford Street are single residential dwelling houses.

The northern boundary to Railway Parade measures approximately 60m and the eastern boundary to Oxford Street measures approximately 80m. The remaining boundary adjacent to Burwood Public School measures approximately 110m.

Current planning provisions

The site is zoned R1 General Residential under the Burwood LEP 2012. It has a maximum building height of 26m and a maximum FSR of 3:1.

The site does not contain any heritage items and is not within a heritage conservation area.

The zoning, height and FSR maps are provided at **Attachment D**.

Proposed planning provisions

The proposal seeks to amend the Burwood LEP 2012 by:

- increasing the maximum building height from 26m to 58m; and
- increasing the maximum FSR from 3:1 to 5.45:1.

The intended outcomes of these arrangements are to facilitate the development of an 18-storey corner building with two lower 14-storey building elements for approximately 219 residential units (132 additional to that currently approved).

INFORMATION ASSESSMENT

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

No. The Burwood LEP 2012 commenced on 9 November 2012.

The proponent states that the strategic planning framework for the area, and the time frame since the appropriateness of the controls was last considered, has allowed for a review of an amalgamated block.

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 upon.

Eastern City District Plan

On 18 March 2018, the Eastern City District Plan (the Plan) was released by the Greater Sydney Commission. The original planning proposal, which is the subject of this rezoning review, addresses the Draft Central District Plan. The rezoning review request has been updated to provide additional comments in relation to the Eastern City District Plan. The proponent's request considers that the planning proposal is consistent with the goals and priorities of the plan, including to accelerate housing supply, revitalise suburbs and identify suitable locations for new homes and jobs close to transport.

The proponent states that a key priority of the Plan is Planning Priority E5, which seeks to 'provide housing supply, choice and affordability with access to jobs, services and public transport'. This includes facilitating 'greater housing supply' coordinated with local infrastructure to create liveable, walkable neighbourhoods with direct, safe and universally designed pedestrian and cycling connections to shops, services and public transport.

The proponent's request considers that the planning proposal provides an opportunity to support additional housing supply above that currently approved, given the amalgamation of the subject site.

Burwood, Strathfield and Homebush Planned Precinct

On 1 June 2017, the Department announced the Burwood, Strathfield and Homebush Planned Precinct. The planned precinct program tackles housing affordability by providing for a range of new homes to help reduce pressure on house prices. Planning for these areas is coordinated by the state and local governments, which helps ensure infrastructure such as schools, parks, community facilities, public transport and road upgrades are delivered to support community needs.

Planning for the Burwood, Strathfield and Homebush precinct is in its early development phase and it is unclear as to what the final boundaries of the precinct will be. The Department is working with City of Canada Bay, Burwood and Strathfield Councils to plan for the precinct, including undertaking detailed studies.

The proponent's rezoning review request states that the announcement of this precinct recognises the strong public transport links and the opportunities presented by WestConnex for the area. The planning proposal demonstrates the suitability of the site to accommodate additional height and density having regard to the government's strategic directive.

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

No local strategy has been endorsed by the Department.

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 rezoning review considers that the strategic planning framework for the area, and the time frame since the appropriateness of the controls was last considered, has allowed for a review of an amalgamated site. In this regard, the Greater Sydney Region Plan and the Eastern City District Plan identify Burwood as a strategic centre and the site is within an area identified as a planned precinct.

SITE-SPECIFIC MERIT TEST

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

Natural environment

The rezoning review request states that the subject site is within an established urban area in metropolitan Sydney, with an approved development application for an eight-storey residential building.

The application states that the site is not flood-prone. There are no known critical habitats, threatened species or ecological communities on the site and therefore the likelihood of any negative ecological impacts is minimal.

Contamination and geotechnical issues

The planning proposal states that a detailed site investigation report was prepared as part of the previous development application for 68-72 Railway Parade and 2-2A Oxford Street. This report identified the site as containing elevated levels of chemical contaminants. A remediation action plan was also included, which outlined the measures required to ensure the site could be made suitable for development. Council considered the site was suitable for residential development in accordance with the necessary remediation and conditions of consent.

Regarding the additional land included in the planning proposal for 4-10 Oxford Street, these lots are currently occupied by residential uses and therefore the proponent considers no contamination is likely to be present. However, further analysis could be carried out as part of any plan-making process.

Acid sulphate soils

The site is classified as Class 5 on the acid sulphate soils map in the Burwood LEP 2012. The proposal states that the site is not within 500m of any Class 1, 2, 3 or 4 lands and the site is not in an area with a probability of acid sulphate soil occurrence.

Heritage

The site is not a heritage item and is not within a heritage conservation area. Burwood Public School which adjoins the site contains the former School of Arts building which is listed as a local heritage item in the Burwood LEP 2012.

Overshadowing

The proposal includes overshadowing diagrams (9am, midday and 3pm) to provide an understanding of the impacts of the proposal on the surrounding area at the winter solstice. These diagrams are provided in the urban design report prepared by Aleksandar Design Group (**Attachment H4**). The analysis includes a comparison of existing shadows cast by the approved eight-storey development and the 18-storey proposal.

These diagrams show that most of the additional solar access impacts from the planning proposal will be to Burwood Public School. The school grounds include grassed and asphalt open space areas and basketball courts.

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

All buildings on the site at 68-72 Railway Parade and 2-2A Oxford Street have been demolished in accordance with the development approval for an eight-storey building. The allotments at 4-10 Oxford Street contain a two-storey dwelling house and dual occupancy.

The proponent states that the future development outcome for the site will be residential with the potential for shop-top housing.

Burwood Public School adjoins the site, and although it is unlikely to be relocated or redeveloped in the short term, it is zoned R1 General Residential. The site is near a range of residential developments including single dwellings and low-to-medium residential apartments. Railway Parade separates the site from the rail corridor to the north.

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.

Infrastructure and services

The rezoning review request states that the site is in an established urban area and has access to infrastructure, utilities and services. These services will be upgraded as part of the current approved development application. Consultation with relevant authorities during any public exhibition would confirm the capacity of current utilities to serve the increase in density on the site.

Traffic

A traffic and transport impact assessment prepared by Motion Traffic Engineers Pty Ltd was provided with the planning proposal for 18 storeys (**Attachment H5**). It concludes that the increased traffic generated by the development will have minimal impact on the surrounding road network.

Public transport

The rezoning review request states that the site is approximately 500m from Burwood and Strathfield railway stations. Railway Parade is also serviced by buses, with the closest bus stop approximately 50m to the east of the site.

COUNCIL VIEWS

Council advised (**Attachment G**) that the proposal submitted for a rezoning review formed the basis for Council's consideration of the planning proposal at its meeting of 25 July 2017. The only exception is that a revised version of the urban design report was subsequently submitted to Council, dated May 2017 (Revision B). Council is satisfied that the planning proposal documentation submitted to the Department represents the same proposal in terms of building form, density and scale that was considered by Council.

The proponent has since provided the updated urban design report to the Department, which is included as part of the rezoning review package.

Council advised that Cardno Pty Ltd was engaged to undertake an independent urban design assessment of the planning proposal. This assessment did not support the planning proposal for the reasons outlined under **Attachment G**. The assessment suggested that a lower height and density may be reasonable on the site.

Following the independent assessment, Council resolved to not support the planning proposal at the 25 July 2017 meeting.

Council states that a letter of offer to enter into a voluntary planning agreement (VPA) previously submitted to Council does not form part of the rezoning review package. Council advises that this letter provided for the provision of affordable housing valued at more than \$1.7 million. Although Council did not proceed in negotiating the VPA matter further, Council expresses concern at its absence from the rezoning review package. Council considers that the rezoning review process allows proponents to evade earlier VPA offers and commitments.

ATTACHMENTS

- Attachment B - Locality Map
- Attachment C - Site Map
- Attachment D - Current LEP Maps
- Attachment E - Concept Design (February 2017)
- Attachment F – Revised Concept Design (August 2017)
- Attachment G – Council Comments
- Attachments H1-H11 – Rezoning Review Application Package
 - H1 - Cover Letter
 - H2 - Application Form
 - H3 - Planning Proposal – February 2017
 - H4 - Urban Design Report (Version B) – May 2017
 - H5 - Traffic and Parking Impact Report – December 2017
 - H6 - Traffic Impact Assessment Addendum – May 2017
 - H7 - Landscape Plan
 - H8 - Visual Impact Assessment
 - H9 - Council and proponent meeting comments – November 2016
 - H10 - Council/independent review and proponent meeting comments – April 2017
 - H11 - Chronology of Events and Council Correspondence

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