



CITY OF PARRAMATTA

Mr Simon Turner
Planning Officer
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Your Reference	IRF19/12117
Our Reference	RZ/8/2018
Contact	Jane Liang
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2 April 2019

Dear Mr Turner,

RE: Review of Gateway determination at 1-17 Grey Street and 32-48 Silverwater Road, Silverwater PP_2018_COPAR_010_00

I refer to your letter dated 12 March 2019 seeking Council comments on the review of Gateway determination at 1-17 Grey Street and 32-48 Silverwater Road, Silverwater.

Council at its meeting of 26 February 2018 considered the Planning Proposal and resolved:

- (a) **That** Council endorse the former Auburn Council officer's recommendation (dated 7 October 2015) as the pathway to progress with the Grey Street Planning Proposal.
- (b) **That** Council advise the applicant that it will consider entering into a VPA with the landowners in relation to the Planning Proposal to ensure that an appropriate public benefit contribution/infrastructure is provided given the proposed up-zoning and additional density being sought.
- (c) **That** delegated authority be given to the Acting CEO to negotiate the VPA on behalf of Council and that the outcome of negotiations be reported back to Council prior to public exhibition.
- (d) **That** Council consider a further report on the Site Specific DCP for the subject site prior to its public exhibition. It is noted that while a Draft DCP is required to be prepared prior to sending the Planning Proposal to the DPE for Gateway Determination (consistent with the former Auburn Council officer recommendation), that the DCP assessment process can occur following this process to enable the Planning Proposal to proceed to Gateway in a timely manner.
- (e) **That** the Planning Proposal, Site Specific DCP and VPA be exhibited concurrently.
- (f) **That** Council advises the Department of Planning and Environment that the Acting CEO will be exercising the plan-making delegations for this Planning Proposal as authorised by Council on 26 November 2012.
- (g) **Further, that** Council authorise the Acting CEO to correct any minor anomalies of a non-policy and administrative nature that may arise during the plan amendment process.

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Council's resolution was based on the former Auburn Council officers' detailed assessment of the proposal (dated 7 October 2015) which sought to refine the Planning Proposal to better reflect the objectives and recommendations of the Auburn Employment Lands Strategy (ELS) 2015. It also sought to reduce the extent of residential development originally requested to ensure the viability of developing a new Neighbourhood Centre within the Precinct. A comparison between the Auburn Council officer recommendation and the Auburn Council resolution date 7 October 2015 is shown in Attachment 1.

The former Auburn Council adopted the Auburn ELS 2015 prepared by AEC Group at its meeting 20 May 2015. The Auburn ELS 2015 provided an updated strategic framework for employment land (industrial, business and commercial zones) within the former Auburn City LGA. The subject land to which the proposal applies is located within Precinct 14 (Silverwater Road) of the Auburn ELS 2015.

The Auburn ELS 2015 recommended that a new neighbourhood centre located within the area bound by Beaconsfield Street, Carnavon Street, Deakin Park and Hume Park, Silverwater could be considered and that such a centre could improve the viability of the Enterprise Corridor B6 zone to east. The Auburn ELS 2015 recommended that a new centre be zoned B1 Neighbourhood Centre, and envisaged that the role of this centre would be one of local convenience. The ELS further recommended that if residential development was to be permitted within Precinct 14 (which includes the subject site), that it be limited to that which is required to enable viable development for a centre, and that the land fronting Silverwater Road be maintained for business uses.

However, on 7 October 2015, the former Auburn Council resolved to endorse the Planning Proposal to proceed to Gateway Determination as submitted by the applicant (refer to Attachment 1) while also amending the Auburn ELS 2015 to reflect Council's decision as shown in the current version of the ELS.

Following the local government amalgamations in 2016 and the conclusion of the Auburn Public Inquiry (which included review of Councillor's conduct with regards to a number of Planning Proposals including the Grey Street Proposal), City of Parramatta Council has since sought to amend the current Planning Proposal to ensure consistency with the recommendations of the originally adopted Auburn ELS 2015 but prior to the ELS being amended by Council in October 2015.

A detailed chronology of the history relating to the processing of this planning proposal is shown in Attachment 2. In addition to the above, Council officers have also prepared the following comments regarding to the review of Gateway determination request.

Section 9.1 Direction 1.1 Business and Industrial Zones

The Planning Proposal seeks to rezone the site from B6 Enterprise Corridor to B1 Neighbourhood Centre zone. It is acknowledged that the proposal seeks to remove a zone that strictly permits business related land uses, by introducing a zone that permits mixed use development in the form of shoptop housing. However, given that the B1 zone also permits

standalone housing (ie residential flat buildings), the planning proposal also seeks to mandate the inclusion of 4,000m² of floor space for non-residential uses on the ground and first floors of any future development comprising 2,500m² of supermarket and 1,500m² of local specialty retail/commercial floor space. This will ensure that the site maintains a commercial role.

According to the applicant's economic advice, the planning proposal is estimated to generate a future workforce of up to 160 workers compared to approximately 122 under the existing B6 zone and controls.

The objective of Section 9.1 Direction 1.1 seeks to protect and retain industrial or business zones. The proposed changes to planning controls will mandate a minimum provision of business/service/retail uses to be included in the LEP so that potential job numbers are increased. While the nature of non-residential uses will differ from uses that would normally locate within the previous B6 zone (e.g light industry, specialised retail/bulky goods premises, garden centres) the former Auburn Council has prepared the Auburn ELS which reviewed all employment and business zones within the LGA and determined that a neighbourhood centre within this Silverwater Road Precinct would improve the surrounding B6 zoned area by providing for the local convenience needs of future workers and local residents.

For the reasons mentioned above, it is considered that the proposed changes to planning controls is consistent with the objectives of the Section 9.1 Direction 1.1 Business and Industrial Zone while also servicing the local convenience needs of the surrounding employment area.

Local Planning Panels Direction – Planning Proposal

This direction applies to all planning proposals prepared after 1 June 2018 to be referred to the Local Planning Panel (LPP) for advice.

The Planning Proposal was originally lodged with Auburn City Council on 24 July 2015 and was considered by Council on 7 October 2015 and subsequently submitted to the Department of Planning and Environment (DPE) on 15 December 2015 for Gateway Determination. The Planning Proposal was withdrawn from the Gateway Determination process pending outcome of the Auburn Public Inquiry which concluded in February 2017. Subsequently, the City of Parramatta Council resumed the Planning Proposal process and the matter was considered at the 26 February 2018 Council meeting where it was resolved to endorse the former Auburn Council officer's recommendation (dated 7 October 2015). The Planning Proposal has since been forwarded to the DPE requesting Gateway determination on 20 September 2018. Following this, the DPE has determined that the proposal not proceed and the applicant has since lodged a post Gateway Review.

While the Planning Proposal was forwarded to the Department for Gateway for a second time post 1 June 2018 (commencement of the LPP Direction), the planning proposal was assessed and endorsed by the former Auburn Council in 2015. The proposal was considered for a second time by the City of Parramatta Council where it was resolved at the February 2018

Council meeting to proceed with the proposal in accordance with the previous Auburn Council officer assessment as opposed to the adopted Auburn Council resolution. Consideration of the proposal on both of these occasions occurred prior to the LPP Direction coming into force.

It is noted the February 2018 Council resolution required additional work and technical studies (eg. a Stage 1 Contamination Report, Traffic Report and urban design/concept plans) to be completed prior to formally submitting the Planning Proposal with the DPE for Gateway Determination. Following the Council resolution in February 2018, Council officers had been awaiting the required documentation from the applicant before sending off the planning proposal package for Gateway in September 2018.

Based on the above, it is considered that the LPP direction does not apply to this planning proposal.

Consistency with the Greater Sydney Regional Plan and Central City District Plan

The DPE have indicated that a key reason for not proceeding with the Planning Proposal is that it is inconsistent with the Greater Sydney Regional Plan (GSRP) and Central City District Plan's (CCDP) relating to industrial and urban services land. The relevant objectives and actions from both plans are discussed below:

- *Greater Sydney Regional Plan - Objective 23 Industrial and urban service land is planned, retained and managed*
- *Central City District Plan - Action 49 Review and manage industrial and urban service land*

The objectives and actions of the GSRP and CCDP respectively are that they seek to maintain the integrity of industrial and urban services land especially those "in close proximity to markets (eg. Residential areas and/or commercial areas) in line with their operational needs and therefore supply the higher order economic activities of the city" (GSRP objective 23). The GSRP identifies that such areas can also act as a safeguard against land use conflicts with non-compatible uses, such a residential uses. Council agree with the objectives of the GSRP in principle and acknowledge that many areas of employment lands are under increasing pressure to turn over to residential uses due to their good accessibility and proximity to nearby centres or public transport. However, the issue of retention and management of industrial and employment lands needs to be reviewed to ensure that the supply of industrial land is appropriate to existing and future needs. This is "review and manage" rationale is reinforced by Action 49 of the CCDP.

The site and broader Silverwater Road B6 zone consists currently of low density residential development and has largely remained undeveloped in accordance with its employment zone since 2010 where the B6 zone was introduced in the area. It borders Silverwater Road, an arterial road connecting the site to the broader road network including Victoria Road to the north and the M4 Western Motorway to the south. It also adjoins a low density residential area to the east and west with the Silverwater IN1 zone directly to the north.



As discussed previously, the former Auburn Council carried out a review of its industrial and business lands as part of the Auburn ELS 2015. The Auburn ELS recommended that a new Neighbourhood Centre located on the western side of Silverwater Road within this B6 precinct (including the subject site) could improve the viability of the broader industrial area. The ELS also acknowledged that some residential development may need to be provided for in order to ensure the development viability of the new Neighbourhood Centre. It is considered that the proposal is consistent with the principles for managing industrial and urban services land as outlined by the GSRP and CCDP as it seeks to implement the findings of the former Auburn Council's strategic review of employment lands (Auburn ELS) with regards to Precinct 14 Silverwater Road.

Land Use Conflict and Precedent Issues

As discussed above, employment lands should be managed to ensure that an adequate supply of appropriately zoned land is provided to service current and future needs. It is acknowledged that allowing residential development within employment precincts can lead to land use conflicts between non-compatible uses. Residential development within employment precincts can also compromise the operations of surrounding industrial/business development and place pressure on the broader precinct to turn over to residential.

The Auburn ELS has identified that one neighbourhood centre accommodating 3,000sqm – 5,000sqm GFA could be considered within the area bound by Beaconsfield Street, Carnavon Street, Deakin Park and Hume Park (which includes the subject site). The 4,000m² non-residential component of the planning proposal meets the requirement of providing a single Neighbourhood centre which includes a quantum of retail and commercial GFA consistent with the objectives of the ELS.

Further, the site consists of the entire block bound by Carnavon to the North, Silverwater Road to the east, Bligh Street to the south and Grey Street to the west. It is considered that the site is well contained and unlikely to result in a precedent issue given that the proposal (should it proceed) would fully meet the objectives of the Auburn ELS set for this precinct.

In relation to the land use conflict issue, the fact that the site is bound by roads on all 4 frontages means that there will be a degree of separation between the neighbourhood centre and surrounding residential development. Furthermore, a more detailed design exercise is proposed to be carried out in order to inform a future Site Specific DCP which will not only include mitigation measures to address impacts of the proposal on the surrounding residential development (eg. increased building setbacks, landscaping) but also include development controls to minimise amenity impacts of the commercial/retail uses on residential development within the same building.

Lack of public transport infrastructure

The site is serviced by existing transport options including a local bus service connecting to Auburn Rail Station and Parramatta Rail Station. The closest bus route that serves the site is bus route 544 to Auburn Station and is located 90 metres from the site. The frequency of the

544 bus service is every half an hour during peak hours and every hour off peak. A train service from Auburn train station to the Parramatta City Centre is approximately 10 minutes and 15 minutes to Sydney Olympic Park. Alternatively, the site is a 25 minute walk from Auburn station. There is also a north-south cycle link to Sydney Olympic Park which is an 80 metre walk from the site.

There is also a bus stop located at the Parramatta Road/Percy Street junction which is approximately 700m from the site where future residents/workers can catch the M92 bus to the Parramatta City Centre (bus frequencies being every 15 minutes in general during weekdays and every 20 minutes during weekends with the last services at approximately 8:40pm).

The site is considered to have reasonable access to public transport in order to support a new Neighbourhood Centre within the precinct.

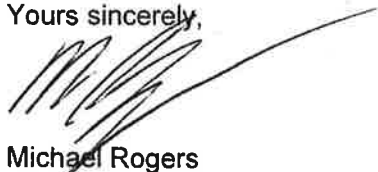
Based on the above, Council maintains its position as set out in Council's resolution dated 26 February 2018 to endorse the Planning Proposal to proceed to Gateway Determination and subsequently public exhibition. Should a Gateway Determination ultimately be issued for the site following assessment by the Independent Planning Commission, it is acknowledged that further design work will need to be carried out to inform a future Site Specific DCP and a Voluntary Planning Agreement negotiated for the site.

The business paper relating to Council's consideration of this matter on 26 February 2018 can be found at:

<https://www.cityofparramatta.nsw.gov.au/council/council-meetings/council-business-papers-minutes-dates>

If you have any queries in relation to this matter, please contact Jane Liang, Project Officer Land Use Planning on 9806 5057.

Yours sincerely,



Michael Rogers
Land Use Planning Manager

Attachment 1: Comparison Table – Auburn Council Officer Recommendation and Auburn Council Resolution (7 October 2015)

Attachment 2: Grey Street Planning Proposal Chronology

Attachment 1

Council Report to 7 October 2015 – Comparison Table	
Former Auburn Council Officer Recommendation	Former Auburn Council Resolution
<p>1. That Council amend the planning proposal application for the rezoning of land at 1-17 Grey Street and 32-48 Silverwater Road, Silverwater (PP-3/2015), as follows:</p> <p>(a) amend the proposed rezoning to B1 Neighbourhood Centre;</p> <p>(b) reduce the proposed FSR to a maximum of 2.7:1, as recommended by the feasibility analysis undertaken by the AEC Group on behalf of Council;</p> <p>(c) reduce the maximum height of buildings to 20 metres, and require the applicant to undertake urban design analysis to test the impact on traffic across the envelope and relationship with surrounding development;</p> <p>(d) require the applicant to undertake additional traffic modelling and analysis to assess the potential cumulative impact of the proposal on traffic across the broader traffic network, including Silverwater Road, as recommended by the RMS;</p> <p>(e) require the applicant to provide further justification for the reasons for refusal cited in the Department of Planning's Gateway Determination, and justify inconsistency with section 117 Direction 1.1 - Business and Industrial zones (via a study in accordance with the regional, subregional or the Auburn Employment Lands Strategy 2015) for Director General of DPE's agreement prior to proceeding;</p> <p>(f) require the applicant to undertake a Phase 1 contamination assessment of the site (subject land) in accordance with SEPP 55 – Remediation of Land to investigate possible site contamination, and suitability of the site for residential uses.</p> <p>(g) require the applicant to modify the Planning Proposal to ensure that the 4,000 sqm retail component comprises a 2,500 sqm supermarket and 1,500 sqm of local specialty retail/commercial floor space.</p> <p>(h) The applicant provide a site specific development control plan for the controls identified above.</p> <p>2. Once all required amendments have been made, finalise the planning proposal and send to the Department of Planning for a Gateway Determination.</p>	<p><i>1. That Council approve the planning proposal to proceed to Gateway for the rezoning of land at 1-17 Grey Street and 32-48 Silverwater Road, Silverwater (PP-3/2015), as follows:</i></p> <p><i>a. zone the site B2 Local Centre;</i></p> <p><i>b. allow a maximum floor space ratio of 4:1;</i></p> <p><i>c. allow a maximum height of 25 metres; and</i></p> <p><i>d. amend the Auburn Employment Lands Strategy 2015 to recommend the site be zoned B2 Local Centre, consistent with the findings of the Publicly Exhibited Draft Auburn Employments Lands Strategy, and permit residential uses on the site including land, zoned B2 Local Centre with frontage to Silverwater Road.</i></p> <p><i>2. That once all the required amendments have been made, Council forward the planning proposal to the Department of Planning and Environment for Gateway Determination.</i></p> <p><i>3. That Council note that Gateway Determination will likely require the applicant to undertake the further studies prior to consultation being undertaken in accordance with s56 and s57 of the Environmental Planning and Assessment Act (1979), including:</i></p> <p><i>a. additional traffic modelling and analysis to assess the potential cumulative impact of the proposal on traffic across the broader traffic network, including Silverwater Road, as recommended by the RMS;</i></p> <p><i>b. applicant to undertake a Phase 1 contamination assessment of the site (subject land) in accordance with SEPP 55 – Remediation of Land to investigate possible site contamination, and suitability of the site for residential uses; and</i></p> <p><i>c. the applicant provide a site specific development control plan for the controls identified above.</i></p>

Attachment 2

Chronology of Key Events – PP-3/2015	
May 2015	Auburn Employment Lands Strategy (ELS) 2015 reported to Council and adopted. The ELS sets the strategic direction for employment zoned lands across the former Auburn LGA (subject site is identified as part of 'Silverwater Road (Precinct 14)').
July 2015	Application for a Planning Proposal (PP-3/2015) lodged.
August –September 2015	Non-statutory public exhibition of the planning proposal. Total of 13 submissions received: 1 submission in support, 9 submissions raising objections, 2 petitions signed by 119 residents and business raising objections and 1 State Agency submission (RMS) requesting that additional work is required to properly assess the cumulative impact on traffic within the broader network.
October 2015	Council considers report on the assessment of the PP and resolves to forward the PP to the DPE for Gateway Determination as well as amend the adopted Auburn ELS 2015 to reflect Council's decision (discussed in further detail under 'The Planning Proposal')
December 2015	Planning Proposal is submitted to the DPE for Gateway Determination. Auburn ELS 2015 also amended to reflect above Council resolution.
January 2016	Minister for Local Government announces Formal Public Inquiry into Auburn City Council (which specifically reviews the Grey Street PP as well as other matters subject of the Inquiry)
February 2016	State Government suspends Auburn City Council and installs Interim Administrator.
March 2016	Auburn's Council's Administrator resolves that all Planning Proposals subject of the Inquiry be placed on hold pending its outcome and subsequently resolves to advise the DPE that the Grey Street PP "is withdrawn, so that no further assessment or action by the Department of Planning be taken"
May 2016	Local Government Boundary review process results in the subject site coming within the LGA of the newly formed City of Parramatta Council.
July 2016	City of Parramatta Council adopts Parramatta ELS 2016 which includes the new employment areas resulting from the Local Government boundary review process. In light of the Administrator resolution of the former Auburn Council in March 2016, the Parramatta ELS recommends that Council not proceed with any proposal to create a new centre in Silverwater (despite the amended Auburn ELS) and therefore recommends the retention of the current B6 zoning.
February 2017	Public Inquiry completed and Commissioners Report released. The Commissioner found criticism of the Councillors that voted in favor of the Grey Street PP, but noted that this criticism does not translate into a finding that they have breached the Act or Model Code. The Inquiry therefore makes no recommendations in relation to the Grey Street PP.
August – October 2017	Applicant makes representations to City of Parramatta Council's former Administrator and subsequently Council's former CEO to restart the PP process. Council officers are of the view that the PP has been withdrawn and a new application should be paid for and lodged should the applicant seek to progress with the PP. Responses from both the former Administrator and former CEO provided to the applicant to this effect.
November 2017	Applicant submits legal advice to Council arguing that the PP application is still technically 'live', rather it was put on hold pending completion of the Public Inquiry and subsequently withdrawn only from the Gateway Process and not withdrawn in its entirety. Therefore the applicant is requesting that Council either: <ol style="list-style-type: none"> 1. Forward the Planning Proposal to the DPE for Gateway Determination; or 2. Put the matter to a Council meeting for a resolution. <p>Council officers have since received legal advice from its own internal legal team who concur with the applicant's submission and that Council now has the</p>

	<p>opportunity to choose the path it wishes for the PP to take and reflect that decision in a Council resolution.</p>
February 2018	<p>The Planning Proposal is reported to Council on 26 February 2018, Council at its meeting considered the Planning Proposal and resolved:</p> <ul style="list-style-type: none"> (a) That Council endorse the former Auburn Council officer's recommendation (dated 7 October 2015) as the pathway to progress with the Grey Street Planning Proposal. (b) That Council advise the applicant that it will consider entering into a VPA with the landowners in relation to the Planning Proposal to ensure that an appropriate public benefit contribution/infrastructure is provided given the proposed up-zoning and additional density being sought. (c) That delegated authority be given to the Acting CEO to negotiate the VPA on behalf of Council and that the outcome of negotiations be reported back to Council prior to public exhibition. (d) That Council consider a further report on the Site Specific DCP for the subject site prior to its public exhibition. It is noted that while a Draft DCP is required to be prepared prior to sending the Planning Proposal to the DPE for Gateway Determination (consistent with the former Auburn Council officer recommendation), that the DCP assessment process can occur following this process to enable the Planning Proposal to proceed to Gateway in a timely manner. (e) That the Planning Proposal, Site Specific DCP and VPA be exhibited concurrently. (f) That Council advises the Department of Planning and Environment that the Acting CEO will be exercising the plan-making delegations for this Planning Proposal as authorised by Council on 26 November 2012. (g) Further, that Council authorise the Acting CEO to correct any minor anomalies of a non-policy and administrative nature that may arise during the plan amendment process.
September 2018	<p>The Planning Proposal is forwarded to the DPE for Gateway determination following the receipt of the additional information required by the February 2018 Council resolution.</p>
December 2018	<p>Council receives correspondence from the DPE determining that the Planning Proposal should not proceed primarily due to its inconsistency with the Central City District Plan and section 9.1 Direction 1.1 Business and Industrial Zones.</p>
March 2019	<p>The applicant lodges request to review the Gateway determination with the Department. Council receives a letter from DPE requesting Council comments in relation to the applicant's post gateway review.</p>