

REPORT PD/5.7/19.12



Subject: 194-214 Oxford Street and 2 Nelson Street, Bondi Junction
- Voluntary Planning Agreement and Site Specific DCP

TRIM No: PP-1/2015

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RECOMMENDATION:

That Council:

1. Notes that negotiations have occurred for a Voluntary Planning Agreement generated by the planning proposal at 194–214 Oxford Street and 2 Nelson Street Bondi Junction, with the proposed agreement to provide for contributions totalling \$7.45 million, with \$4.7 million as a cash contribution.
2. Publicly exhibits the proposed Voluntary Planning Agreement for a minimum period of 28 days.
3. Publicly exhibits the Site-Specific DCP for 194–214 Oxford Street for a minimum period of 28 days, in accordance with section 3.43 of the *Environmental Planning and Assessment Act 1979* and clause 18 of the *Environmental Planning and Assessment Regulations 2000*.

1. Executive Summary

The 194 Oxford Street Planning Proposal (PP) was approved by the Department of Planning and Environment and gazetted on the 20 September 2019. The sites included in the Planning Proposal were 194–214 Oxford Street and 2 Nelson Street, Bondi Junction. The gazettal of the PP increased the height of buildings on the sites from 15 m to 36 m, the FSR from 1.5:1 to 3.5:1, removed the heritage listing from four terrace houses and requires both a design excellence competition and a Site-Specific Development Control Plan (SSDCP). Any development that is to occur on these sites must go through a design excellence competition process as per clause 6.10 of the Waverley LEP. Clause 6.11 of the Waverley LEP requires Council to make a site-specific DCP for these sites to help inform the design excellence competition. The SSDCP has been drafted with objectives and controls pertaining to built form, design excellence, public domain and waste.

As part of the Planning Proposal negotiations the applicant has offered to enter into a Voluntary Planning Agreement (VPA) with Council. In June 2019 we received confirmation in writing of the applicants VPA Offer totalling \$7.45 million of which \$4.7 million is a monetary contribution and the remainder being the dedication of land and provision of a public plaza.

The SSDCP was prepared by Council staff in line with clause 6.11 of the Waverley LEP 2012. This report also notes that a VPA has been negotiated and a draft instrument will be prepared for exhibition and subsequent endorsement for Council. The VPA is an important tool in dealing with the additional pressure on infrastructure and the public domain and externalities caused by the level of development allowed for under the approved Planning Proposal

2. Introduction/Background

Council received this Planning Proposal in March 2015. The Planning Proposal was not supported by Council but was given Gateway Determination through a then Pre-Gateway Review (now called a Rezoning Review) in December 2016. Following public exhibition and despite a community consultation period that saw 396 submissions opposing the development and only 10 supporting it, and Council's unanimous opposition to the proposal, the Department of Planning, Environment and Industry decided to support the Planning Proposal and the plan was gazetted in September 2019. Clause 6.11 was added to the Waverley LEP as part of the gazettal of the Planning Proposal on the sites 194-214 Oxford Street and 2 Nelson Street, Bondi Junction in September 2019. Under clause 6.11, Council is required to prepare a site-specific DCP for 194-214 Oxford Street and 2 Nelson Street, Bondi Junction.

As part of the Planning Proposal negotiations, the applicant has offered to enter into a Voluntary Planning Agreement (VPA) with Council. In June 2019, the applicant provided a VPA offer totalling \$7.45 million of which \$4.7 million is a monetary contribution and the remainder being the dedication of land and provision of a public plaza.

3. Relevant Council Resolutions

Meeting and date	Minute No.	Decision
Strategic Planning and Development Committee Meeting 2 April 2019	PD/6.1/19.04	<p>That the Mayor urgently write to the new Minister for Planning and Public Spaces, the Hon Robert Stokes MP, requesting:</p> <ol style="list-style-type: none"> 1. That the Minister take back his delegation from the Department of Planning and Environment with respect to the planning proposal for 194–214 Oxford Street and 2 Nelson Street, Bondi Junction. 2. The Minister's refusal of the planning proposal for 194–214 Oxford Street and 2 Nelson Street, Bondi Junction. 3. An urgent meeting with the Minister to present Council's objections to this proposed development.
Council 18 July 2017	CM/7.1/17.07	<p>That Council:</p> <ol style="list-style-type: none"> 1. Not supports the planning proposal at 194–214 Oxford Street and 2 Nelson Street, Bondi Junction, for the following reasons: <ol style="list-style-type: none"> (a) The proposed height and floor space ratio will result in an overdevelopment of the site and will present an unacceptable built form scale, particularly to Oxford Street. (b) The proposal has not sufficiently addressed the impacts of bulk and scale, and is not sympathetic to and does not provide an acceptable transition to the heritage items on the subject site (Norfolk Island Pine), in the surrounding area (Nelson Hotel) and Centennial Park.

		<ul style="list-style-type: none"> (c) The majority of community feedback received opposes the proposal, with 69% of objections relating to increased traffic congestion, lack of parking and pedestrian safety. (d) The value of the public benefits offered as part of the planning proposal are not aligned with the expected value uplift of the proposal and does not comply with the Council's Planning Agreement Policy 2014. No planning agreement has therefore been entered into as part of this planning proposal. (e) The proposal does not provide affordable rental housing in accordance with the benchmarks stated in the draft District Plans, and is not consistent with Council's methodology for valuing uplift. (f) The proposal is inconsistent with the recommendations of the Government Architect's Office Final Report on the West Oxford Street Precinct Plan. (g) Inconsistency with the following directions under Waverley Together 3: <ul style="list-style-type: none"> (i) L5a – Ensure planning controls for new buildings and building upgrades deliver high quality urban design that is safe and accessible, in which heritage and open space is recognised, respected and protected. (ii) L5b – Protect and maintain heritage significant buildings while ensuring they are fit for use. (iii) L5c – Consider the use of planning controls and agreements to provide improvements to built infrastructure. (h) The 2013 Traffic Study (prepared by GTA Consultants) is inadequate as follows: <ul style="list-style-type: none"> (i) The modelling is not acceptable due to the length of time since the survey was carried out. (ii) The intersection modelling, whilst acknowledging the existing congestion at the Oxford Street/Nelson Street intersections, does not provide any
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		<p>solutions.</p> <ul style="list-style-type: none"> (iii) The intersection models need to be modelled as a network rather than individual intersections. (iv) The report fails to consider the impact of the proposed development on surrounding roads and local amenity. (v) The report does not address the issue of vehicles exiting the Osmund Lane shared lane into Nelson Street <ol style="list-style-type: none"> 2. Agrees to forward this report and any other relevant information to the Department of Planning and Environment (DPE), acting as a delegate of the Greater Sydney Commission, to make a final decision regarding the planning proposal. 3. Publishes an information sheet on Council's website explaining what actions developers have in regard to planning proposals.
Council 15 December 2015	CM/7.1/15.12	<p>That Council does not support the planning proposal at 194-204 Oxford Street and 2 Nelson Street, Bondi Junction for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposed height will result in the overdevelopment of the site and present an unacceptable built form scale, particularly to Oxford Street, in an area that borders the Mill Hill Conservation area. 2. The proposal will result in unacceptable overshadowing of the public domain and Centennial Park. 3. The proposal may set a precedent for adjoining sites seeking additional height and floor space. 4. The proposal is not in the public interest of the West Oxford Street Precinct. 5. The proposal is in excess of the current LEP height limit of 15m and the FSR of 1.5:1.
Operations Committee 31 March 2015	OC/5.1/15.03(2)	<p><i>Relevant extracts.</i></p> <p>That Council:</p> <ol style="list-style-type: none"> 1. Notes that the West Oxford Street Design Charrette produced ideas for the future of West Oxford Street. The ideas were publicly exhibited and tested in a

		<p>statistically valid survey.</p> <p>2. Notes the 'West Oxford Street Design Charrette Summary Report and Recommendations' prepared by the Government Architect's Office.</p> <p>...</p> <p>4. Agrees with the following approach that has been recommended based on the assessment of the submissions received from the public exhibition, the Government Architects Report and the ideas from the design charrette teams that for the Waverley LEP 2012 (WLEP) floor space ratio and height of buildings controls:</p> <p>...</p> <p>b) That any decision on whether changes to the WLEP 2012 are warranted relating to blocks 1, 2 and 3a as identified on Map 2 [provided below] be deferred until the assessment of the Planning Proposal received for 194–214 Oxford Street and 2 Nelson Street has taken place. Understand that the assessment and investigations will consider use, heritage, overshadowing, wind effects, impact on the skyline, views and vistas of Centennial Park, design excellence and traffic impacts.</p> <p>5. Sends an information sheet on the Planning Proposal received for 194–214 Oxford Street and 2 Nelson Street to the residents in the surrounding area up to Denison Street, Birrell Street and Syd Einfeld Drive and send a copy to Woollahra Council.</p> <p>...</p>
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4. Discussion

Site Specific Development Control Plan (SSDCP)

The SSDCP (See Attachment 1) outlines objectives and controls for built form, design excellence, public domain and waste. The SSDCP will be incorporated as an amendment into the Waverley Development Control Plan 2012 for any future development application. The DCP lists controls for the creation of a public plaza, waste management and collection points and controls relating to built form outcomes.

The built form controls relate to addressing issues such as overshadowing and articulation to the streetscape. The design excellence competition outlines the guidelines by which any design excellence competition is to be run (this process will be undertaken by the applicant). The public domain controls outline how the public plaza is to be designed with regards to active frontages, street furniture, public art, footpaths, through site links and solar access within the plaza. Finally, the waste controls relate to the

amenity, access, collection and ongoing management of waste, for both residential and commercial uses on the site.

Clause (e) under the Built Form controls indicates that no additional height or floorspace will be supported for these sites. Whilst not a statutory provision, the addition of the DCP Clause will provide great assistance in opposing any potential future request for further additional floor space on the site under the VPA Policy which has been a significant issue of concern to Council and the community.

Voluntary Planning Agreement (VPA)

As part of the Planning Proposal, the applicant has offered to enter into a Voluntary Planning Agreement (VPA) with Council. Over the course of several years, Council negotiated with the applicant and had completed two independent valuations. Initially in 2018, the applicant offered a total contribution of approximately \$3.5 million, with a cash contribution of \$400,000. Following further negotiations in early 2019, the applicant offered a total contribution of approximately \$6.9 million, with a cash contribution of \$3million. Following further negotiations and a meeting facilitated by the DPIE (formerly DPE), in June 2019 Council received confirmation in writing of the applicants VPA Offer totalling \$7.45 million of which \$4.7million is a monetary contribution and the remainder being the dedication of land along the southern portion of the Oxford Street sites and the creation and provision of a public plaza adjacent to Osmund Lane (Attachment 2).

The public domain improvements associated with the \$4.7million contribution have not been determined at this stage but under Council's current VPA Policy would typically go towards the Bondi Junction Complete Streets program and 10% towards affordable housing. In this instance it would be appropriate to target the expenditure of this funds more specifically when the VPA is advertised for public comments. This VPA contribution could go towards public domain / park works in the vicinity, such as improvements to the existing pedestrian and cycling bridge over Sid Einfeld Drive, public art, particularly given the location of this site and its prominence as an entrance to Bondi Junction, physical improvements to St James Road and the refurbishment of St James Park, or similar public domain improvements in and around the surrounding residential areas of Mill Hill and Grafton St.

5. Financial impact statement/Time frame/Consultation

Financial Impact Statement

The works involved with the public exhibition and finalisation of the DCP and VPA will be undertaken by Council staff. This is already within the existing budget.

Time frame

Public Exhibition	December 2019 – February 2020
Report to Council	March 2020

Consultation

The 194 Oxford Street SSDCP and VPA will be placed on public exhibition for a minimum of 28 days in accordance with section 3.43 of the *Environmental Planning and Assessment Act 1979* and clause 18 of the *Environmental Planning and Assessment Regulations 2000*.

Given that public exhibition will be occurring over the summer months, it is intended that the exhibition period will be extended to early February 2020 in order to assist interested parties to provide comment.

6. Attachments

1. Site Specific DCP
2. Agreed VPA terms .