

17. INNOVATIVE

17.1 SUBJECT FOR APPROVAL: Post Gateway - Draft Planning Agreement for 22 Noller Parade, Parramatta

REFERENCE F2021/00521 - D08099189

REPORT OF Team Leader LUP

3335 RESOLVED (Tyrrell/Esber)

- (a) **That** Council endorse the legal drafting of a Planning Agreement in accordance with the Letter of Offer provided in Attachment 1 to facilitate a monetary contribution of \$225,000 to Council for the purposes of contributing towards the delivery of public domain works associated with, or new connections to, the Alfred Street Bridge.
- (b) **That** the draft Planning Agreement be publicly exhibited concurrently with the Planning Proposal for a minimum period of 28 days and that a report be provided to Council on the outcomes of the public exhibition.
- (c) **Further**, that Council delegate authority to the Chief Executive Officer to correct any minor inconsistencies or anomalies of an administrative nature relating to the draft Planning Agreement documentation that may arise during the drafting and exhibition process.

DIVISION A division was called, the result being:-

AYES: Councillors Barrak, Bradley, Davis, Dwyer, Esber, Garrard, Issa, Jefferies, Pandey, Prociv, Tyrrell, Wearne, Wilson and Zaiter

NOES: Nil

Note: Councillor Barrak declared a pecuniary interest in Item 17.2. He left the meeting at 7.48pm prior to consideration and vote on the matter.

17.2 SUBJECT FOR APPROVAL: Post Exhibition - Draft City of Parramatta (Outside CBD) Development Contributions Plan 2021

REFERENCE F2019/00796 - D08093512

REPORT OF Team Leader Land Use Planning

3336 RESOLVED (Esber/Tyrrell)

- (a) **That** Council receives and notes the submissions made during the public exhibition of the "Draft City of Parramatta (Outside CBD)

INNOVATIVE

ITEM NUMBER	17.1
SUBJECT	FOR APPROVAL: Post Gateway - Draft Planning Agreement for 22 Noller Parade, Parramatta
REFERENCE	F2021/00521 - D08099189
REPORT OF	Team Leader LUP
APPLICANT:	Hamptons Property Services Pty Ltd
LANDOWNER:	Jimstam Holdings Pty Ltd

DEVELOPMENT APPLICATIONS CONSIDERED BY SYDNEY CENTRAL CITY PLANNING PANEL: Nil

WORKSHOP/BRIEFING DATE: Nil

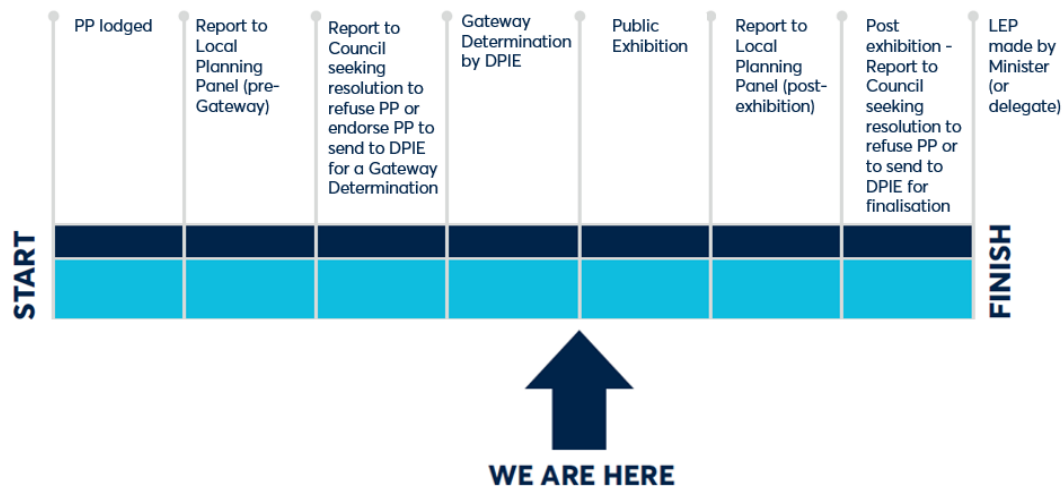
PURPOSE:

To seek Council's endorsement of the draft Planning Agreement for the purposes of concurrent exhibition with the related Planning Proposal for 22 Noller Parade, Parramatta (RZ/15/2018).

RECOMMENDATION

- (a) **That** Council endorse the legal drafting of a Planning Agreement in accordance with the Letter of Offer provided in **Attachment 1** to facilitate a monetary contribution of \$225,000 to Council for the purposes of contributing towards the delivery of public domain works associated with, or new connections to, the Alfred Street Bridge.
- (b) **That** the draft Planning Agreement be publicly exhibited concurrently with the Planning Proposal for a minimum period of 28 days and that a report be provided to Council on the outcomes of the public exhibition.
- (c) **Further**, that Council delegate authority to the Chief Executive Officer to correct any minor inconsistencies or anomalies of an administrative nature relating to the draft Planning Agreement documentation that may arise during the drafting and exhibition process.

PLANNING PROPOSAL TIMELINE



SITE DESCRIPTION

1. The subject site is located on a single lot at 22 Noller Parade, Parramatta and is shown in **Figure 1** below. It has an approximate site area of 908m² and has a legal description of Lot 1 DP 35895. The site is bound by Noller Parade to the south, Alfred Street to the east and the Parramatta River to the north.



Figure 1: Locational Map

2. A single storey dwelling and detached garage are currently located on the site. The land surrounding the subject site comprises a mixture of low density residential to the south east, medium density residential to the west and south, and high density residential to the east.

3. It is noted that the adjoining properties to the west and south of the site in the R3 Medium Density Residential zone have existing 3 and 4 storey residential flat buildings. 'Residential flat buildings' are not permissible in this zone, however these buildings existed prior to the implementation of the Parramatta LEP 2011 and are therefore subject to existing use rights under Division 4.11 of the Environmental Planning and Assessment Act 1979 (EP&A Act).
4. Further, the property directly to the east of the site contains 13 storey mixed use development. The site's location on a corner and the adjoining and surrounding development has resulted in it becoming isolated.
5. At its meeting on 8 October 2019, Council endorsed a Planning Proposal for the site to be submitted to the Department of Planning, Industry and Environment (DPIE) for Gateway Determination seeking the following:
 - a. Rezone land from R2 Low Density Residential to R4 High Density Residential
 - b. Increase the maximum Height of Building control from RL 14.000 to 17m (5 storeys)
 - c. Include a maximum floor space control of 1.5:1 (approx. 16 apartments)
6. Council also resolved at the 8 October 2019 meeting that the CEO be authorised to negotiate a Voluntary Planning Agreement on behalf of Council and that the outcome of negotiations be reported back to Council prior to its concurrent exhibition with the Planning Proposal.
7. Given the relatively minor nature of the Planning Proposal, the preparation of a site specific Development Control Plan is not proposed and any future development will be assessed under the existing provisions of the Parramatta DCP 2011.
8. A Gateway Determination was issued by DPIE on 5 December 2019 (shown in **Attachment 2**) and includes the following conditions:
 - a. That Council be authorised as the local plan making authority;
 - b. That the Planning Proposal be publicly exhibited for a period of at least 28 days; and
 - c. Consultation be carried out with the following public authorities:
 - i. NSW State Emergency Service
 - ii. Environment, Energy and Science, and
 - iii. NSW Heritage.

PLANNING AGREEMENT

9. At its meeting on 8 October 2019, Council resolved the following in relation to the draft planning agreement:

“(c) That the CEO be authorised to negotiate a Voluntary Planning Agreement on behalf of Council to the land value of 50% of the value uplift as per Council's Planning Agreements Policy 2018 in addition to any development contributions payable...”

10. It is noted that the recently released Planning Agreements Practice Note (DPIE, February 2021) seeks to move away from value capture (as referred to in the above Council resolution and Planning Agreements Policy 2018) towards an infrastructure needs approach to negotiating planning agreements. It is acknowledged that while negotiations have occurred prior to the practice note being issued, the value uplift analysis detailed in this report has been used as a secondary check for the purposes of ensuring that an appropriate monetary contribution is provided towards infrastructure that will directly benefit and service the future development at the site.
11. The primary purpose of the draft Planning Agreement is therefore to provide monetary contributions towards public domain works associated with the Alfred Street Bridge which adjoins the subject site. These public domain works include upgrades to the southern entry of the Bridge at the junction of Noller Parade/Alfred Street, as well as facilitating a foreshore connection between the Alfred Street bridge and Gasworks Bridge (south side of Parramatta River).

Land Value Uplift

12. Council engaged an independent valuation consultant (BEM Property) to peer review the applicant's valuation analysis as part of determining the value uplift referred to in Council's resolution. The valuation details agreed between the applicant and Council officers following this review are provided in Table 2.

Table 2: Land value uplift assessment

Uplift Analysis	Amount
Land valuation under current controls	\$2,500,000
Land valuation under proposed controls	\$3,000,000
Relinquishment of access (at the Alfred Street frontage to facilitate public domain works associated with the Alfred Street Bridge)	\$50,000
Total Value Uplift	\$450,000
Planning Agreements Policy Minimum Requirement (50% land value uplift)	\$225,000
Current Planning Agreement Offer (50%)	\$225,000

13. It is noted that the Total Value Uplift (\$450,000) may appear to be relatively low given the proposed rezoning from R2 Low Density Residential to R4 High Density Residential. However valuations submitted by both the applicant and peer reviewed by Council's independent consultant confirm that the site had inherent value in its potential to be rezoned to a higher use given its attributes. The site is an isolated site that is surrounded by high density residential development (ranging from 3-4 storeys to the south and west; and 13 storey mixed use development to the east) and is also located along the Parramatta Light Rail route. These attributes have resulted in the site having a relatively high base value (under current planning controls) despite the existing R2 zoning.
14. Further, the total value uplift has also been reduced (by \$50,000) as a result of the land owner relinquishing access along the Alfred Street frontage to enable

closure of this portion of Alfred Street to facilitate public domain works associated with the Alfred Street Bridge landing.

Planning Agreement Offer

15. On 17 April 2021, Council received a Letter of Offer from the applicant seeking to provide Council with a monetary contribution (\$225,000) to Council for the purposes of infrastructure that will benefit and service redevelopment of the subject site. Namely, the monetary contribution will assist in contributing towards the delivery of public domain works associated with, or facilitating new connections to, the future Alfred Street Bridge.
16. A revised Letter of Offer was subsequently submitted on 2 June 2021 to amend staging of this contribution in line with Council's Planning Agreements Policy however the total monetary contribution remains unchanged.
17. It is noted that the applicant had previously proposed to carry out works adjacent to their site within Alfred Street as part of their VPA contribution towards the Alfred Street Bridge public domain works. However, Council officers have already designed the proposed public domain works at the southern entry of the Alfred Street Bridge and would therefore prefer a monetary contribution towards these works, including facilitating future connections to the bridge to ensure these works are undertaken in a coordinated manner.
18. Location of works and concept plans detailed below:



Figure 2: Map showing area of Alfred Street to be closed including future foreshore connection

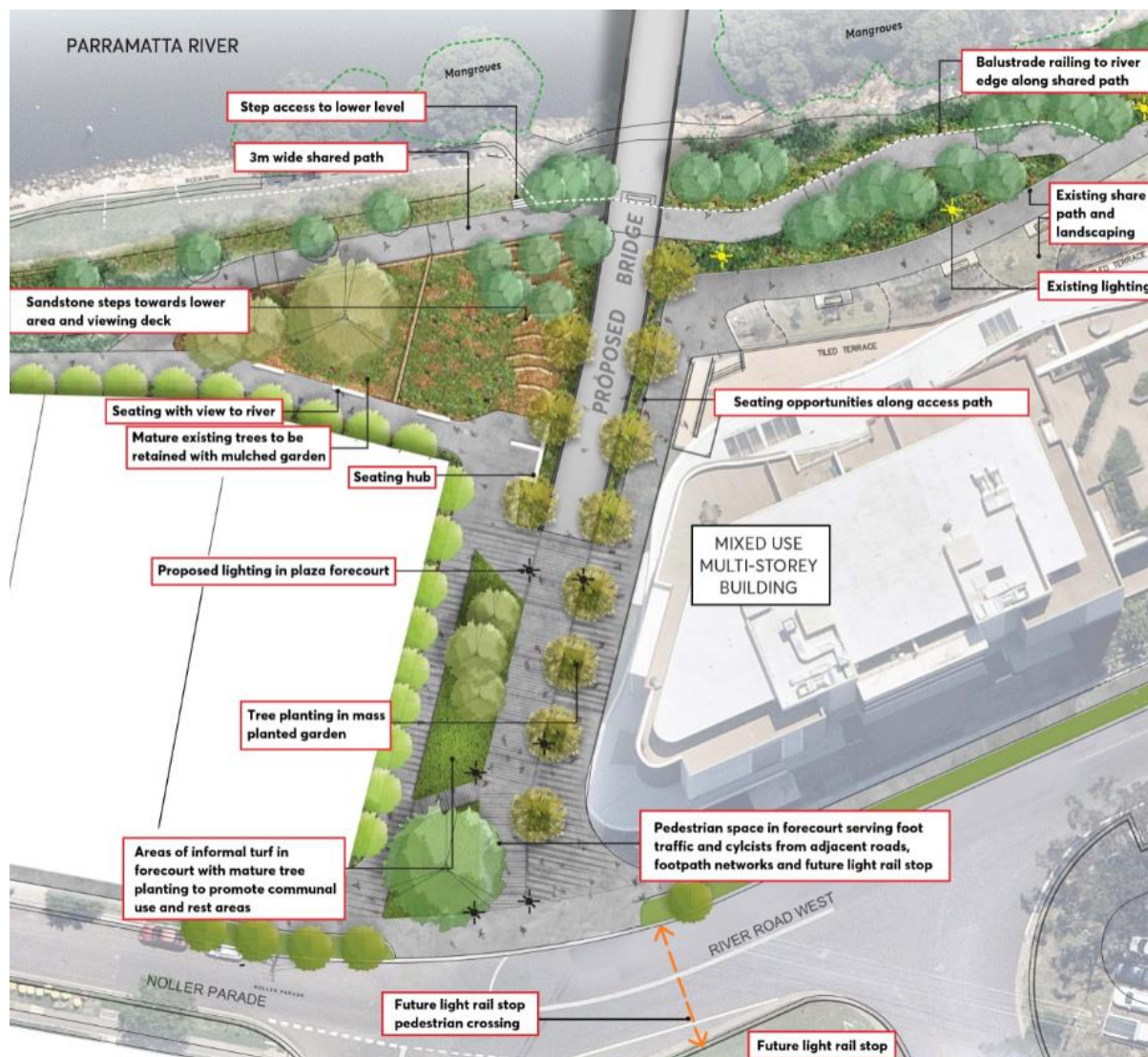


Figure 3: Alfred Street Concept Plan

19. The Planning Agreement Offer is provided in **Attachment 1** with the key matters detailed in Table 3 below.

Table 3: Summary of Planning Agreement Offer

	Item	Costs for Planning Agreement	Value attributing public benefit
1.	Monetary contribution towards Public Domain works associated with, or new connections to, the Alfred Street Bridge.	\$225,000	\$225,000
2.	Relinquishment of access (at the Alfred Street frontage to facilitate public domain works associated with the Alfred Street Bridge)	Nil cost attributed in VPA	Nil cost attributed in VPA (however value uplift analysis considers impact of loss of access on land values)
Staging	75% of the monetary contribution prior to the issue of a Construction Certificate (CC) 25% of the monetary contribution prior to the issue of any occupation certificate (OC) (interim or final)	Yes	Yes

Security	Bank Guarantees could be alternatively provided	Yes	Yes
Costs	Applicant agrees to pay Council's legal costs	Yes	N/A
Other	Section 7.11, 7.12, and 7.24 contributions apply	Yes	N/A
Total		\$225,000	\$225,000

20. Items relating to monetary contributions (or alternative bank guarantees) will be subject to indexation to reflect increases in the Consumer Price Index between the execution of the agreement and timing payments as required by Part 5.11 of Council's Planning Agreements Policy.
21. It is recommended that the CEO be granted delegated authority to finalise the legal drafting of the planning agreement on behalf of Council. Should Council resolve to endorse the draft Planning Agreement offer, a draft legal agreement and explanatory note will be prepared for the purposes of a concurrent public exhibition with the associated planning proposal for the site.

CONSULTATION & TIMING

22. Pending Council's resolution on this matter, the draft Planning Agreement will be publicly exhibited. The exhibition will be conducted in accordance with the Gateway determination and the requirements of the Environmental Planning and Assessment Act 1979. The outcome of the public exhibition will then be reported to Council with a view to finalising the Planning Proposal and Planning Agreement.

Stakeholder Consultation

23. The following stakeholder consultation has been undertaken in relation to this matter:

Date	Stakeholder	Stakeholder Comment	Council Officer Response	Responsibility
21 May 2021/24 May 2021	Property Development Group	No objections raised to VPA offer	No further action required.	City Planning
10 June 2021/11 June 2021	Senior Transport Planner	No objections raised to VPA. Advice provided that monetary contributions could also contribute toward facilitating future connection to Alfred Street Bridge along the foreshore (to the rear of the site) from Gasworks Bridge.	No further action required.	City Planning

Councilor Consultation

24. No previous Councillor consultation has been carried out in relation to the outcomes of the Planning Agreement negotiations since the previous report to Council on the Planning Proposal for this site. Councillors were advised of the parameters of this negotiation as part of that previous report considered on 8 October 2019.

FINANCIAL IMPLICATION FOR COUNCIL

25. If Council resolves to approve this report in accordance with the recommendation, Council will receive a monetary contribution of \$225,000 should a residential development proceed. This contribution is not included in the current adopted four-year budget and if resolved, will be included within the budget process or as part of the quarterly review.
26. The monetary contribution in the Planning Agreement would be delivered in addition to development contributions payable with respect to any redevelopment of the site. The costs of registering the agreement and associated easements on the title of land and transfer of monetary contribution or bank guarantee will be paid by the applicant.
27. The monetary contribution will be staged with 75% of the monetary value prior to issue of Construction Certificate. The remaining 25% will be paid prior to issue of any Occupation Certificate.
28. The table below represents the estimated timing of the monetary contribution to be received if Council resolves to approve this report.

	FY 20/21	FY 21/22	FY 22/23	FY 23/24	F24/25
Revenue Contribution		\$168,750 (75%)	\$56,250 (25%)		
Operating Result					
External Costs					
Internal Costs					
Depreciation					
Other					
Total Operating Result					
Funding Source			VPA Contribution	General revenue	General revenue
CAPEX					
CAPEX					
External					
Internal					
Other					
Total CAPEX					
Funding Source					

29. The costs associated with the preparation, exhibition and finalisation of the draft Planning Agreement involve internal resources and legal costs. The developer will reimburse any legal costs relating to the VPA, which will then result in nil cost to Council for this item.

Conclusion

30. It is recommended that Council endorse the Draft Planning Agreement Offer for 22 Noller Parade, Parramatta and that the Chief Executive Officer be authorised to prepare the legal drafting in accordance with the Letter of Offer provided in **Attachment 1** on behalf of Council for the purpose of public exhibition.
31. If endorsed, the draft Planning Agreement will be publicly exhibited concurrently with the Planning Proposal for 22 Noller Parade, Parramatta for a minimum of 28 days. A further report will be prepared for Council on the outcome of the public exhibition period.

Kevin Kuo
Team Leader LUP

Michael Rogers
Land Use Planning Manager



Robert Cologna
Acting Group Manager, City Planning

Michael Tzimoulas
Executive Director Corporate Services

David Birds
Acting Executive Director, City Planning & Design

Brett Newman
Chief Executive Officer

ATTACHMENTS:

- | | | |
|--|--|---------|
| 1  | Letter of Offer (dated 2 June 2021) | 3 Pages |
| 2  | Gateway Determination - 22 Noller Parade, Parramatta | 2 Pages |

REFERENCE MATERIAL