

Item No: C03/21-687

## **2-36 CHURCH STREET, LIDCOMBE - POST-EXHIBITION REPORT ON PLANNING PROPOSAL AND VOLUNTARY PLANNING AGREEMENT**

Responsible Division: Environment & Planning  
Officer: Director Environment & Planning  
File Number: PP2019/1  
Community Strategic Plan Goal: *A resilient built environment*

### **SUMMARY**

---

The Planning Proposal for 2-36 Church Street, Lidcombe was endorsed by Council at its meeting of 20 May 2020 for a Gateway Determination. The resolution also required the preparation of an acceptable Voluntary Planning Agreement.

Following receipt of a Gateway Determination by the Department of Planning, Industry and Environment, and in accordance with Council's resolution, Council officers prepared and exhibited a Planning Proposal and draft Voluntary Planning Agreement. This report outlines the feedback received during exhibition, and proposed amendments to the Voluntary Planning Agreement requested by the Proponent and considered acceptable by Council officers following exhibition.

It is recommended that Council endorses the revised Voluntary Planning Agreement for re-exhibition and, subject to no significant objections on the Agreement being received, delegates authority to execute the Voluntary Planning Agreement. It is also recommended that Council finalise the Planning Proposal.

### **RECOMMENDATION**

---

#### **That Council:**

- 1. Adopt the recommended planning controls for 2-36 Church Street, Lidcombe, as previously resolved by Council, being:**
  - a. Increase the Height of Buildings controls from:**
    - 14.9 metres to 22 metres
    - 16.9 metres to 32 metres
    - 22.9 metres to 40 metres
    - 27 metres to 40 metres
  - b. Increase the Floor Space Ratio controls from 1:29:1, 1.49:1, 2.49:1 and 2.6:1 to 3.2:1.**
- 2. Finalise the Planning Proposal (Attachment 1), as delegated by the Minister, following execution of the Voluntary Planning Agreement and registration on title.**

3. **Note that this Local Environmental Plan amendment will be published in the Government Gazette upon finalisation.**
4. **Endorse the revised Voluntary Planning Agreement (Attachment 2), noting that the amendments relate to the timing of payment and minor administrative changes only, with the scope and value of the public benefit offer the same as previously agreed by Council.**
5. **Endorse the revised Voluntary Planning Agreement be re-exhibited for a period of 28 days.**
6. **Endorse and delegate authority to the Mayor and General Manager to execute the revised Voluntary Planning Agreement on behalf of Council for 2-36 Church Street, Lidcombe, subject to no significant objections on the Agreement being received during re-exhibition.**

## REPORT

---

### Background

A Planning Proposal request was lodged with Cumberland City Council on 14 November 2019 for 2-36 Church Street, Lidcombe which sought to increase the maximum Height of Building and Floor Space Ratio controls for the site under the *Auburn Local Environmental Plan (LEP) 2010* for this site.

On 8 April 2020, Council officers reported the Proponent's Planning Proposal and preliminary public feedback to the Cumberland Local Planning Panel with a recommendation that the proposal be supported, subject to reduced Height of Building and Floor Space Ratio controls. The Panel expressed general support for the recommendation and advised Council to weigh the social benefits of the proposal against concerns about overshadowing of Rookwood graves and the inconsistency with the Lidcombe Town Centre Strategy.

At its ordinary meeting of 20 May 2020, Council considered a report on the Proponent's Planning Proposal, along with the Panel's advice and preliminary public feedback. Council resolved to proceed to Gateway with an amended Planning Proposal with a maximum Height of Building control of 40 metres and a maximum Floor Space Ratio control of 3.2:1. Council also resolved to prepare a Voluntary Planning Agreement to capture public benefit arising from the proposal.

A Gateway Determination was issued for the proposal in 24 July 2020, endorsing for the Planning Proposal to proceed to statutory public exhibition.

### Public Exhibition

The draft Planning Proposal and draft Voluntary Planning Agreement were publicly exhibited for a period of 28 days, from 18 November 2020 to 15 December 2020. During this time, the exhibition material was made available on Council's website and in hard copy form at selected Customer Service Centres and Libraries. Owners and occupiers within a 400-metre radius of the site received written notification. Council also consulted with NSW Heritage and Transport for NSW.

No community submissions were received in response to the exhibition.

Public authority submissions were received from NSW Heritage and Transport for NSW. The submissions are summarised below:

- NSW Heritage does not object to the proposal but notes that Council's broader strategic planning identifies height limits of up to 60 metres in Lidcombe town centre. Careful consideration is to be given to ensure that Planning Proposals along to boundaries of the Cemetery and Necropolis avoid or minimise overshadowing and view impacts.
- Transport for NSW requested revised traffic modelling, a revised Traffic and Parking Impact Assessment and an Electro Magnetic Field (EMF) analysis of the proposed childcare centre. Initially this information was required prior to finalisation of the Planning Proposal; however, Transport for NSW provided subsequent advice confirming that the requested information, with the exception of the EMF analysis, could be provided at the Development Application stage. The Proponent has provided an EMF analysis to Council, confirming that a childcare centre is suitable for this location and is unlikely to be impacted by electromagnetic fields from the nearby railway line.

### **Voluntary Planning Agreement**

Council endorsed a draft Voluntary Planning Agreement for exhibition at its meeting of 4 November 2020. The Agreement provides for a monetary contribution to fund public domain, open space and drainage improvements in the Lidcombe Town Centre. The draft Voluntary Planning Agreement was exhibited concurrently with the Planning Proposal in accordance to statutory and policy requirements.

Following exhibition of the Voluntary Planning Agreement, the Proponent sought changes to the terms and conditions, namely the timing of payment of monetary contributions and other minor administrative amendments which are considered reasonable and acceptable. It is proposed that the monetary contribution (\$4,750,000) be paid in instalments as follows:

(a) \$1,850,000 to be paid as a lump sum before the earlier of the following:

- (i) prior to any Construction Certificate being issued for any part of Building A or Building B which is only made permissible by the LEP Amendment, or
- (ii) 30 June 2023.

(b) \$2,900,000 to be paid as a lump sum before the earlier of the following:

- (i) prior to any Construction Certificate being issued for any part of Building C or Building D which is only made permissible by the LEP Amendment, or
- (ii) 30 June 2023.

While the scope and value of the public benefit offer as agreed by Council have not changed, the timing of payment is considered a material change and therefore warrants re-exhibition of the Voluntary Planning Agreement for a period of 28 days.

It is recommended that Council endorses the revised Voluntary Planning Agreement, exhibits it for a period of 28 days and, subject to no significant objections to the Agreement during re-exhibition, delegates authority to execute the Voluntary Planning Agreement and have it registered on title.

## **Planning Proposal**

It is recommended that Council finalise the Planning Proposal, as delegated by the Minister, following execution of the Voluntary Planning Agreement and registration on title. It is noted that minor changes have been made to the Planning Proposal post-exhibition, namely a statement to the effect that the childcare centre is a suitable use for the site and is unlikely to be exposed to unacceptable levels of electromagnetic fields from the nearby railway line.

## **COMMUNITY ENGAGEMENT**

---

Community engagement on the proposal is outlined in the main body of the report.

## **POLICY IMPLICATIONS**

---

Policy implications are outlined in the main body of the report.

## **RISK IMPLICATIONS**

---

There are minimal risk implications for Council associated with this report. The report's recommendation stipulates that the Voluntary Planning Agreement must be executed by both parties and registered on title prior to the Local Environmental Plan amendment being finalised.

## **FINANCIAL IMPLICATIONS**

---

Financial implication for Council regarding the Voluntary Planning Agreement are outlined in the main body of the report.

## **CONCLUSION**

---

As required by Council's resolution on 20 May 2020, Council officers prepared and exhibited a Planning Proposal and draft Voluntary Planning Agreement. This report outlines the feedback received during exhibition and provides an overview of the next steps required to finalise the Planning Proposal and Voluntary Planning Agreement.

## **ATTACHMENTS**

---

1. Planning Proposal
2. Revised Voluntary Planning Agreement
3. NSW Heritage Submission
4. Transport for NSW Submission
5. Transport for NSW Further Advice
6. Gateway Determination