

ITEM 51: CCL 09/05/17 - EXHIBITION OF DRAFT PLANNING AGREEMENT FOR RAIL CORRIDOR LAND BETWEEN WORTH PLACE AND WATT STREET NEWCASTLE

REPORT BY: PLANNING AND REGULATORY
CONTACT: ACTING DIRECTOR PLANNING AND REGULATORY /
MANAGER STRATEGIC PLANNING

PURPOSE

The purpose of this report is to obtain a Council resolution to place the draft Newcastle Urban Rail Transformation Program Planning Agreement (**Attachment A**) on public exhibition pursuant to clause 25D of the *Environmental Planning and Assessment Regulation 2000*.

RECOMMENDATION

- 1 Council resolves to place the draft Newcastle Urban Rail Transformation Program Planning Agreement (**Attachment A**) on public exhibition for 28 Days.

KEY ISSUES

- 2 Council resolved at its Ordinary Council meeting held on 13 October 2016 to forward the Planning Proposal for the rail corridor land between Worth Place and Watt Street Newcastle to the Minister for Planning and Environment for Gateway Determination pursuant to Section 56 of the *Environmental Planning and Assessment Act 1979*. The planning proposal included a letter of offer from UrbanGrowth NSW to enter into a Planning Agreement to "*facilitate delivery of the following aspects:-*
 - a) *Dedication of the land proposed to be zoned RE1 Public Recreation*
 - b) *Enhancement of the public open space*
 - c) *Repurposing heritage buildings, particularly Newcastle Railway Station and Signal Box*
 - d) *Remediation of the open space*
 - e) *Commitment to provision of affordable housing.*"
- 3 Following the issue of a positive Gateway Determination on 13 December 2016 by the NSW Department of Planning and Environment, Council officers and officers from UrbanGrowth NSW and their consultants have been negotiating a draft Planning Agreement between Council, Landcom (t/a UrbanGrowth NSW) and Hunter Development Corporation.
- 4 The effect of the draft Planning Agreement (as outlined on page 58 of **Attachment A**) is as follows:

- i) The draft agreement does not exclude the application of s94 Contribution towards provision or improvement of amenities or services, s94A Fixed development consent levies, or s94EF Special Infrastructure Contributions to the Development.
 - ii) Provides for embellishment of open space to create a new Civic Link, Darby Plaza and expanded Foreshore Park.
 - iii) Provides for dedication of the abovementioned land.
 - iv) Provides for maintenance and restoration of heritage buildings and facilitates adaptive reuse of Newcastle Station and Signal Box.
 - v) Provides for remediation of the land.
 - vi) Provides for widening of Civic Lane
 - vii) Provides for funding of our affordable housing project with a fallback position of a minimum 5% of total residential development as affordable housing.
- 5 The draft agreement also provides two dispute resolution methods (expert determination and mediation) and imposes restrictions on the parties (Council, UrbanGrowth NSW and Hunter Development Corporation) transferring the Land or part of the Land or assigning, or novating an interest under the agreement.
- 6 The following provides a summary of the main points for consideration in the draft Planning Agreement.

Civic Link

- 7 The Civic Link is divided into two sections: the Council owned Museum Square and Civic Station Forecourt, and the rectangular portion of Lot 2 DP 1226145, which includes Civic Station (shown on the land dedication plan). The draft Planning Agreement allows for:
- i) Dedication to Council of part of Lot 2 DP 1226145.
 - ii) Remediation of the above land in accordance with the Remediation Action Plan.
 - iii) Remediation of the Museum Square and Civic Station Forecourt by Council in accordance with the Remediation Action Plan.
 - iv) Full or partial demolition of any buildings / structures on the Civic Link Land as determined by UrbanGrowth NSW (Civic Station and associated structures).
 - v) Embellishment of the Civic Link land with a minimum value of \$2,285,000 up to a maximum value of \$2,795,000.

- vi) Embellishment of the Museum Square and Civic Station Forecourt with a minimum value of \$1,290,000 and up to \$1,575,000.
 - vii) Embellishment of spaces is to be consistent with the Civic Link Design Intent included in Schedule 7 to the draft Planning Agreement and to include soft landscaping, footpaths, trees, furniture and lighting.
- 8 The draft Planning Agreement also includes a number of clauses relating to Civic Station works and dedication. As the draft Planning Agreement has been prepared prior to UrbanGrowth NSW finalising their plans for Civic Station, it is not known at this time if Civic Station is to be retained as is or partially or fully demolished.
- 9 To minimise the risk to Council, Clause 11 has been included in the draft Planning Agreement, which ensures that Council has no obligation to accept the dedication of Civic Station and the surrounding land, once UrbanGrowth NSW finalise their plans for the site.
- 10 The draft Planning Agreement provides that UrbanGrowth NSW must notify Council within 14 days of obtaining all relevant approvals for any works it proposes to carry out to Civic Station, and within 90 days Council must advise UrbanGrowth NSW whether it will accept dedication of the Civic Link land.

Darby Plaza – Public Open Space

- 11 Darby Plaza consists of a small portion of Lot 2 DP 1226551, shown on the Land Dedication Plan. The land is proposed to be remediated in accordance with the Remediation Action Plan and embellished in accordance with the Darby Plaza Design Intent included in Schedule 7 to the draft Planning Agreement. The embellishment is to have a minimum value of \$360,000 and a maximum value of \$440,000 and is to include soft landscaping, footpaths, trees, benches, bins and lighting.

Foreshore Park

- 12 Foreshore Park is proposed to be dedicated to Council and consists of the long strip of land being part of Lot 4 and part of Lot 6 (between the western alignment with Perkins Street and eastern extent of the proposed RE1 Public Recreation Zone) in DP 1226551 shown on the Land Dedication Plan. This will exclude any land required for the light rail alignment to the southern boundary of the lots.
- 13 Remediation of Foreshore Park land and part of Lots 3 and 5 in DP 1226551 will be completed by UrbanGrowth NSW in accordance with the Remediation Action Plan, between western alignment with Perkins Street and eastern extent of the proposed RE1 Public Recreation Zone.
- 14 Embellishment of the Foreshore Park Land and parts of Lots 3 and 5 DP 1226551 (between western alignment with Perkins Street and eastern extent of the proposed RE1 Public Recreation Zone) completed by UrbanGrowth NSW in accordance with the Foreshore Park Concept Plan (Schedule 4 to the draft

Planning Agreement). Embellishment is to have a minimum value of \$4,205,000 and a maximum value of \$5,140,000 and include: three new pedestrian crossings between Wharf Road and Hunter / Scott Streets at locations to be determined (potentially at Wolfe, Market and Newcomen Streets), shared road aligned with Perkins Street, between Wharf Road and Hunter Street, soft landscaping, footpaths, trees, benches, bins, bike racks, drink fountain, lighting, public art and streetscape works to north side of Scott Street and Hunter Street and south side of Wharf Road.

Civic Lane Widening

- 15 The draft Planning Agreement allows for the widening of Civic Lane between Civic Station and Worth Place by UrbanGrowth NSW and dedication of the additional land to Council (approximately 1m wide and 154m long). The widening of Civic Lane will provide an accessible link between Civic Link / Hunter Street and Wright Lane / Workshop Way as well as vehicular and service access to properties on the northern side of Hunter Street and the new developments between Civic Lane and Wright Lane.

Signal Box Heritage Conservation

- 16 UrbanGrowth NSW will provide up to \$300,000 worth of work on the Signal Box (excluding alterations and additions to the building) to enable the building to be upgraded to a standard that would allow it to be leased for a future commercial use. The Signal Box will remain in the ownership of UrbanGrowth NSW.
- 17 The Signal Box toilet block building will be redeveloped to provide public toilets for use by Foreshore Park and Signal Box use in accordance with DA2016/01081. The toilet block will be dedicated to Council.

Newcastle Station

- 18 UrbanGrowth NSW will provide a maximum of \$1,500,000 to enable works to the heritage fabric and to allow temporary use of the site. UrbanGrowth NSW will also provide for the ongoing maintenance of the station building and site. Newcastle Station is not proposed to be dedicated to Council.

Affordable Housing

- 19 The draft Planning Agreement requires for a minimum of 5% of the total residential development as affordable housing.

Part 3 – Provisions relating to the carrying out of work

- 20 Part 3 of the draft Planning Agreement, contains a number of clauses relating to the design and consultation of work, standard of work, maintenance and management of works and rectification of defects.
- 21 Clause 12 (Design and Consultation) ensures that UrbanGrowth NSW will prepare concept plans for all the work items listed in Schedule 2 (excluding item 11 – Foreshore Park) in accordance with the documents specified in the draft

Planning Agreement and submit them to Council for consideration. This section also precludes UrbanGrowth NSW from lodging a Development application and / or a Construction Certificate for works requiring embellishment without first submitting to Council a concept plan and / or construction drawings for Councils review.

- 22 Clause 13 (Standard of Construction Work) provides that all work is to be carried out in accordance with Council's specifications (listed in the draft Planning Agreement) and that Council must be appointed as the certifier in respect of any works comprising embellishment for the purpose of issuing a Construction Certificate.
- 23 Clause 15 provides for a maintenance period of 24 months from the acceptance of the work by Council and Clause 22 (Rectification of Defects) provides for a defects liability period of 12 months from the acceptance for the work by Council.

FINANCIAL IMPACT

- 24 The draft Planning Agreement will have a financial impact on Council due to costs associated with the long term ownership and maintenance of the land and the buildings and structures proposed to be dedicated to Council. Council is also required to cover the cost of the remediation of Museum Square and Civic Station Forecourt. Council can absorb the cost into its asset management budget. To minimise cost associated with the initial transfer of land, the Planning Agreement includes a 24 months maintenance period and a rectification of defects period of twelve months.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 25 The draft Planning Agreement aligns with the strategic directions of the Community Strategic Plan specifically vibrant and activated public places, a livable and distinct built environment and open and collaborative leadership. The proposed public spaces will provide for diverse activity and help strengthen social connections, celebrate and value heritage and culture by the restoration of heritage buildings including the Signal Box and Newcastle Station and provide a safe and activated place that is used by people day and night. The draft Planning Agreement will also ensure a greater diversity of housing for current and future community needs by the inclusion of the Affordable Housing project.
- 26 The draft Planning Agreement will also meet the objectives of the Open and Collaborative Leadership direction by making decisions based on collaborative, transparent and accountable leadership and active citizen engagement in local planning and decision making processes by involving the community in the public exhibition of the draft Planning Agreement, draft Development Control Plan and Planning Proposal for the rail corridor.

IMPLEMENTATION PLAN/IMPLICATIONS

- 27 The negotiation and public exhibition of the draft Planning Agreement will be completed in accordance with Council's Planning Agreements Policy and the requirements of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

RISK ASSESSMENT AND MITIGATION

- 28 The risk to Council of entering into the Planning Agreement has been reduced by including clauses in the draft Planning Agreement, that allow Council to either not accept specific buildings / structures (Civic Station) and including requirements that ensure the open spaces are designed and embellished in accordance with Council specifications and that Council is able to review the proposed design and construction drawings prior to a Development Application and / or Construction Certificate being submitted to Council. Council must also be appointed as the certifier in respect of any works comprising embellishment for the purpose of issuing a Construction Certificate.

RELATED PREVIOUS DECISIONS

- 29 13 October 2016 – Endorsement of the Planning Proposal for the rail corridor land between Worth Place and Watt Street Newcastle.
- 30 26 April 2017 – BBC Committee Recommendation – City Centre Affordable Housing.

CONSULTATION

- 31 Consultation has been undertaken internally with Council Officers. The draft Planning Agreement will be publicly exhibited with the draft Development Control Plan and Planning Proposal for the rail corridor land between Worth Place and Watt Street Newcastle.

OPTIONS

Option 1

- 32 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

- 33 Council resolves not to proceed with the draft Planning Agreement. This is not the recommended option.

BACKGROUND

- 34 The Newcastle heavy rail line was truncated by the NSW Government in December 2014.

- 35 During 2015, UrbanGrowth NSW consulted with the community on potential future uses for the rail line.
- 36 In April 2016, the Review of Environmental Factors (REF) for the light rail proposal was placed on public exhibition by Transport NSW. In July 2016, a formal determination was made that the Newcastle light rail project proceed. Construction work is expected to commence in 2017.
- 37 Council received a request to amend Newcastle LEP 2012 in order enable the rail corridor land between Worth Place and Watt Street Newcastle to be redeveloped for mixed use, public open space and tourist uses. The submitted request indicates that the requested amendments to the LEP support the objectives of the NSW Government's Newcastle Urban Transformation and Transport Strategy (NUTTP).
- 38 At the Ordinary Council Meeting held on 13 October 2016 Council resolved to forward the Planning Proposal for the rail corridor land between Worth Place and Watt Street Newcastle to the Minister for Planning and Environment for Gateway Determination pursuant to Section 56 of the *Environmental Planning and Assessment Act 1979*.
- 39 The Minister for Planning and Environment issued a positive Gateway Determination on 13 December 2016.

REFERENCES

ATTACHMENTS

Attachment A: Planning Agreement

Distributed under Separate Cover