

COUNCIL AGENDA ADDENDUM

ORDINARY COUNCIL MEETING

25 August 2021

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PLAN 02**Post exhibition report - Revised Middleton
Grange Town Centre Planning Proposal**

Strategic Direction	Strengthening and Protecting our Environment Exercise planning controls to create high-quality, inclusive urban environments
File Ref	242507.2020
Report By	Luke Oste - Coordinator Strategic Planning
Approved By	David Smith - Acting Director Planning & Compliance
Property	60-80 Southern Cross Ave and 45-65 Hall Circuit, Middleton Grange Lots 2, 3, 4, 5 and 6 DP 1207518; Lot 1 DP 1078564; Lot 12 DP 1108343; and Lot 102 DP 1128111.
Owner	Manta Group Pty Ltd Al-Somai Developments Pty Ltd
Applicant	Manta Group Pty Ltd

EXECUTIVE SUMMARY

At its meeting of 16 December 2015, Council resolved to endorse, in principle, a planning proposal request to rezone land and amend development standards at 60-80 Southern Cross Avenue and 45-65 Hall Circuit, Middleton Grange and to delegate authority to the CEO to approve a final planning proposal for submission to the Department of Planning, Industry and Environment (DPIE) for a Gateway determination.

The original planning proposal sought to modify the zoning and development standards applying to the subject site to enable the following:

- 86,031sqm of residential space (approximately 912 dwellings);
- 20,240sqm of retail; and
- 2,533sqm of other commercial uses.

A Gateway determination was issued by DPIE on 15 August 2016, including conditions requiring Council to update the planning proposal to address the conditions of the Gateway determination and to submit the revised planning proposal to DPIE for review prior to public

exhibition. Council was not authorised as the local plan making authority for this planning proposal, and the final decision rests with the Minister for Planning and Public Spaces (or delegate).

An amended planning proposal was referred to DPIE for final review, as required by the Gateway conditions, and the planning proposal was publicly exhibited between 29 August and 26 October 2018. Council received 867 submissions, of which 94% of respondents opposed the planning proposal.

A post exhibition report was considered by Council at its meeting of 12 December 2018 where Council resolved to withdraw support for the planning proposal and to write to the Minister requesting the planning proposal not proceed pursuant to Section 3.35(4) of the Environmental Planning & Assessment Act 1979.

At its 31 July 2019 meeting, Council resolved that it reaffirms the December 2018 resolution opposing the increase in density and heights as proposed for the Middleton Grange Town Centre at the time and commit that if any amendments were to be made by the proponent, an exhibition/community consultation period of 28 days would be undertaken.

At its 25 September 2019 meeting, Council considered a report in response to Council's resolution from the 31 July 2019 Council meeting. Council noted that the proponent seeks to lodge a revised planning proposal and that Council supports in principle the development of a town centre. Council also resolved that a preliminary assessment and exhibition be undertaken if a revised planning proposal was lodged.

A revised planning proposal was subsequently lodged by the proponent on 29 October 2019 (**Attachments 1 – 9**). The stated intent of the revised planning proposal is to facilitate a new town centre comprising a range of mixed-use buildings up to 29m in height (stated as eight storeys) and a total development Gross Floor Area (GFA) of 113,173 sqm comprising:

- 63,703 sqm GFA of residential space (approximately 671 new dwellings);
- 48,248 sqm GFA of non-residential uses including:
 - 12,529 sqm GFA of medical centre space;
 - 8,223 sqm of Office/SOHO (e.g. home office) space;
 - 500 sqm GFA of community centre; and
 - 26,996 sqm GFA of other commercial space (supermarkets, shops, cafes, gyms, entertainment, and childcare).

The revised planning proposal and supporting documents were publicly exhibited between 13 November and 11 December 2019 with 240 submissions received (**Attachment 10**).

On 21 November 2019, planning consultants Hill PDA were engaged by Council to complete an assessment of the merits of the revised planning proposal, as well as a peer review of the Economic Impact Assessment (EIA) submitted by the proponent. Their assessment is provided as attachments to this report:

- Planning proposal assessment – (**Attachment 11**);
- Economic assessment – (**Attachment 12**); and
- Economic assessment of additional information – (**Attachment 13**).

The proponent was provided an opportunity to respond to the Hill PDA assessment. Hill PDA then considered the proponents comments within a final assessment report (**Attachment 14**). The proponent's comments are provided as appendices within this report. In consideration of the proponent's comments, some minor amendments to Hill PDA's assessment and final recommendations were made. The Hill PDA recommendations, as updated, are incorporated into the recommendations of this report.

The proponent does not agree with the final assessment report by Hill PDA and has not agreed to further amend the planning proposal to address the recommendations in the report. The proponent has requested that Council make a recommendation to the Minister on the revised planning proposal as lodged and to then forward the planning proposal to DPIE for the Minister (or delegate) to make the final decision. As outlined above, Council is not authorised as the local plan making authority for this planning proposal, and the final decision rests with the Minister for Planning and Public Spaces (or delegate).

Four Gateway alterations to extend the timeframes for finalising the planning proposal have been issued by DPIE (**Attachment 15**). The most recent alteration requires Council to consider the planning proposal by 27 August 2021 and forward the proposal to DPIE for finalisation by 3 September 2021. Through correspondence with DPIE, it has been clearly stated that this is the final deadline. If this deadline is not met, DPIE, as the local plan making authority, has stated that they will 'call-in' the planning proposal and make a final decision under Section 3.35 of the Environmental Planning and Assessment Act 1979.

The proponent has made an offer to enter into a planning agreement with Council on the condition that the proponent's revised planning proposal is supported unchanged by Council and DPIE. A draft planning agreement (PA) is being negotiated with the proponent to provide public benefit items including open space, road upgrades and a cash contribution in lieu of S.7.11 and S.7.12 contributions. These negotiations have occurred to establish a draft funding mechanism to enable the delivery of critical open space and road upgrades in support of a future development if the revised planning proposal, as lodged by the proponent, is finalised by DPIE unchanged.

However, if the recommendations of the Hill PDA assessment are endorsed by Council and agreed to by DPIE as recommended, the proponent has stated that their offer to enter into a PA is withdrawn. This would have the effect of there being no secure mechanism to deliver

the open space and road upgrades proposed by the proponent in association with the planning proposal under a PA.

It is recommended that the assessment of the revised planning proposal undertaken by Hill PDA, and its recommendations, be endorsed by Council. Due to the proponent not agreeing to amend their PA offer if the recommendation is adopted by Council, there is no secure mechanism to deliver the proposed supporting open space and road upgrades associated with the planning proposal. As a result, it is recommended that the revised planning proposal be forwarded to DPIE in accordance with the Gateway determination (as altered) with a recommendation that the planning proposal not proceed in its current form.

It is also recommended that Council consider the future zoning and planning controls in the LEP to support the development of a local centre in Middleton Grange as part of Phase 2 of the LEP Review next year, including amendments to the DCP and contributions plan to ensure specific design controls and infrastructure provision is secured to guide future development.

RECOMMENDATION

That Council:

1. Notes the Gateway determination and subsequent alterations for Liverpool Local Environmental Plan 2008 (Amendment 63) and the results of public exhibition and community consultation;
2. Notes that Council has not been authorised as the local plan making authority for this planning proposal and that the final decision will be made by the Minister for Planning and Public Spaces (or delegate)
3. Endorses the assessment of the revised planning proposal undertaken by Hill PDA and its recommendations;
4. Notes the draft Planning Agreement and negotiations undertaken to date with the proponent;
5. Forwards the planning proposal to the Department of Planning, Industry and Environment with a recommendation that the planning proposal does not proceed in its current form by 3 September 2021;
6. Considers the future zoning and planning controls in the LEP to support the development of a local centre in Middleton Grange as part of Phase 2 of the LEP Review next year, including amendments to the DCP and contributions plan to ensure specific design controls and infrastructure provision is secured to guide future development if the planning proposal is not supported by the Minister for Planning and Public Spaces (or delegate).

REPORT

Background

- On **25 June 2015**, a planning proposal request was lodged with Council to amend Liverpool Local Environment Plan (LEP) 2008 for land at 60-80 Southern Cross Avenue and 45-65 Hall Circuit, Middleton Grange, which forms part of the site for a planned local centre for Middleton Grange;
- On **16 December 2015**, Council resolved to provide in-principle support for the planning proposal and delegated authority to the CEO to finalise a planning proposal and submit the planning proposal to DPIE seeking a Gateway Determination;
- On **15 August 2016**, the DPIE issued a Gateway Determination, with conditions. Council was not authorised as the plan making authority to finalise the LEP amendment.
- The following public authorities were consulted, pursuant to the requirements of the Gateway determination:
 - Transport for NSW;
 - Sydney Water;
 - NSW Office of Environment and Heritage;
 - NSW Department of Education; and
 - NSW State Emergency Services;
- Public exhibition was undertaken between **29 August 2018** and **26 October 2018**. 867 submissions were received, of which 94% of respondents opposed the planning proposal;
- A report was considered by Council at its **12 December 2018** meeting. Council resolved in part to:
 - *Withdraw support for the planning proposal pursuant to Section 3.35 of the Environmental Planning & Assessment Act 1979; and*
 - *Write to the Minister of Planning and the Greater Sydney Commission to request that the planning proposal not proceed pursuant to Section 3.35(4) of the Environmental Planning & Assessment Act 1979.*
- At its **31 July 2019** meeting, Council resolved in part that it:
 - *Reaffirms the December 2018 resolution opposing the increase in density and heights as proposed for the Middleton Grange Town Centre at the time;*

- *Commit that if any amendments were to be made by the proponent for the Middleton Grange Town Centre planning proposal an exhibition/community consultation period of 28 days would be undertaken; and*
- *Writes to the Department of Planning advising of Council's action and above resolution.*
- At its **25 September 2019** meeting, Council resolved in part (EGROW 04) that it:
 - *Supports in principle the development of a Town Centre;*
 - *Should the proponent submit a revised proposal, delegates to the CEO to allocate appropriate council resources to progress a preliminary assessment and place on exhibition the revised planning proposal in order to deliver a Town Centre for the people of Middleton Grange in the most timely manner possible;*
 - *Support the principle of the grid road layout in Middleton Grange; and*
 - *Undertake community consultation in conjunction with the assessment of an application and that the community consultation to not overlap the December/January holiday period.*

Gateway Extensions

Since the original Gateway determination was issued on 15 August 2016, four subsequent Gateway alterations have been issued by DPIE to amend the timeframes for finalising the planning proposal. The various Gateway deadlines issued are outlined as follows.

Table 1: Gateway Determinations and Alterations Summary

Gateway Issued	Date Issued	Deadline
Initial Gateway Determination	15 August 2016	15 February 2018
First Gateway Alteration	6 July 2018	22 February 2019
Second Gateway Alteration	24 August 2020	31 December 2020
Third Gateway Alteration	23 December 2020	30 April 2021 (forwarded to DPIE on this date)
Fourth Gateway Alteration	16 July 2021	3 September 2021 (forwarded to DPIE)

The most recent Gateway alteration requires the following:

Council is required to report on the proposal in accordance with the following dates:

- a. *Council to consider a report and recommendation on the proposal by 27 August 2021;*
- b. *Council to forward the proposal to the Department for finalisation by 3 September 2021.*

Through correspondence with DPIE, it has been clearly stated that this is the final deadline for the planning proposal. If this deadline is not met, the Minister, as the local plan making authority in this instance, will 'call-in' the planning proposal and make a final decision under Section 3.35 of the Environmental Planning and Assessment Act 1979 (The Act). DPIE have authority to make the final decision as to whether the planning proposal should proceed and be gazetted in this instance. Council's assessment and formal decision will be a consideration of DPIE in making this final decision.

Revised Planning Proposal

A revised planning proposal was lodged with Council by the proponent on 29 October 2019.

The package of documents submitted include:

- Revised planning proposal (**Attachment 1**);
- Urban design report (**Attachment 2**);
- Visualisation report (**Attachment 3**);
- Amended Middleton Grange town centre road alignment (**Attachment 4**);
- Traffic Impact Assessment (**Attachment 5**);
- Social Impact Response report (**Attachment 6**);
- Economic Response report (**Attachment 7**);
- Landscape plan (**Attachment 8**); and
- Flood Assessment report (**Attachment 9**).

The revised planning proposal and supporting documents, were placed on public exhibition from 13 November until 11 December 2019, in accordance with the requirements of Council resolution EGROW 04 of 25 September 2019. 240 submissions were received (see below in the "Consultation" section for details).

The revised proposal was referred to specialist units of Council for comment. Comment was also sought from the following NSW public authorities, in line with the requirements of the Gateway determination:

- Transport for NSW (TfNSW);
- NSW Department of Education;
- NSW State Emergency Service;
- Environment, Energy and Science Group (formerly Office of Environment and Heritage); and
- Sydney Water.

Notably, the NSW State Emergency Service declined to provide comment on the revised planning proposal and Roads and Maritime Service has since been incorporated into TfNSW. Responses to the submissions received from public authorities are detailed in the assessment report completed by Hill PDA, included as an attachment to this report (**Attachment 11**). It is noted that the Sydney Water response was received much later, on 6 April 2021 (**Attachment 16**), and therefore was not included within the Hill PDA report. The submission did not raise any concerns of note, with several matters to be addressed as part of any future DA.

On 21 November 2019, planning consultants Hill PDA were engaged to assess the merits of the revised planning proposal and to undertake a peer review of the Economic Impact Assessment (EIA) submitted by the proponent. The Hill PDA reports provide a comprehensive assessment of the merits of the revised proposal, to inform a decision by Council and ultimately, DPIE.

Subsequent Planning Proposal Revisions

The proponent provided additional information as requested by Hill PDA to clarify several issues and provide further justification for the proposal. This is provided in Appendix B of the Hill PDA assessment report (**Attachment 11**). Additional information was provided to Hill PDA on 6 August 2020 including:

- An updated Economic Impact Assessment (EIA);
- An updated Transport Impact Assessment (TIA); and
- A Response to Submissions and Infrastructure Report.

Further information was provided by the proponent on 9 October 2020, including:

- A covering letter; and
- Two economic reports considering retail and general economic impacts.

An assessment of the revised planning proposal and supporting documentation was undertaken by Hill PDA:

- Planning proposal assessment – (**Attachment 11**);
- Economic assessment – (**Attachment 12**); and
- Economic assessment of additional information – (**Attachment 13**).

Following completion of Hill PDAs assessment, the proponent was offered the opportunity to provide a response. Hill PDA then considered the proponent's response within a final assessment report (**Attachment 14**). The proponent's comments are provided as appendices within the report. In consideration of the proponent's comments, some minor amendments to Hill PDA's assessment and final recommendations were made. These minor changes included:

- A small increase in the maximum residential GFA that should be facilitated by the planning proposal;
- Slight changes to the height interfaces along the northern and southern boundaries of the site in alignment with the proponent's comments; and
- Enabling additional 'restaurant and café' uses within the R1 General Residential area.

Overall, Hill PDA's final assessment resulted in a recommendation that there should be a maximum GFA of 98,000sqm for the site, in comparison to the 113,000sqm proposed by the proponent. The Hill PDA recommendations, as updated, are incorporated into the recommendations of this report.

The proposal

This planning proposal, as revised, seeks to facilitate the development of a town centre for Middleton Grange, by making amendments to the LEP.

The planning proposal seeks to amend planning controls relating to the following land:

- Lots 2, 3, 4, 5 and 6 DP 1207518;
- Lot 1 DP 1078564;
- Lot 12 DP 1108343; and
- Lot 102 DP 1128111.



Figure 1: Planning proposal site (Source: Pacific Planning, October 2019)



Figure 2: Recent aerial photograph of the locality (source: Nearmap July 2021)

The stated intent of the planning proposal is to facilitate a new town centre comprising a range of mixed-use buildings up to 29m in height (stated as eight storeys). The proponent has indicated that the planning proposal would enable a total development Gross Floor Area (GFA) of 113,173 sqm comprising:

- 63,703 sqm GFA of residential space (approximately 671 new dwellings);
- 48,248 sqm GFA of non-residential uses including:
 - 12,529 sqm GFA of medical centre space;
 - 8,223 sqm of Office/SOHO (e.g., home office) space;
 - 500 sqm GFA of community centre; and
 - 26,996 sqm GFA of other commercial space (supermarkets, shops, cafes, gyms, entertainment, and childcare).

The planning proposal seeks to amend the LEP mapping to:

- Adjust zone boundaries as they apply to the site with the result of:
 - R1 General Residential: Reduction from 26,189 sqm to 14,243 sqm (approximately 11,946 sqm);
 - B2 Local Centre: Increase from 31,278 sqm to 43,013 sqm (approximately 11,735 sqm);
 - RE1 Public Recreation: Reduction from 2,340 sqm to 2,000 sqm (approximately 340 sqm);
 - SP2: Increase from 9,200 sqm to 9,800 sqm (approximately 600 sqm);
- Amend the Land Reservation Acquisition Map to identify land for acquisition by Council for the purposes of public recreation;
- Increase height limits:
 - New R1 General Residential: From 8.5 m to 9.5-14 m (three to four storeys);
 - New B2 Local Centre: From 8.5-18 m to 20 m-29 m (six to eight or nine storeys);
- Increase FSR limits:
 - New R1 General Residential: From 0.75:1 to 1:1; and
 - New B2 Local Centre: From 0.75:1 and 1.5:1 to 2.3:1.

The planning proposal also seeks to allow an additional permitted use of 'restaurant or café' on the part of the land to be zoned R1 General Residential.

Mapping

The planning proposal seeks to amend the Land Zoning (LZN) map, the Floor Space Ratio (FSR) map, the Height of Building (HOB) and the Land Reservation for Acquisition (LRA) maps applying to the subject site. Mapping changes are illustrated in Figures 3-6 below.

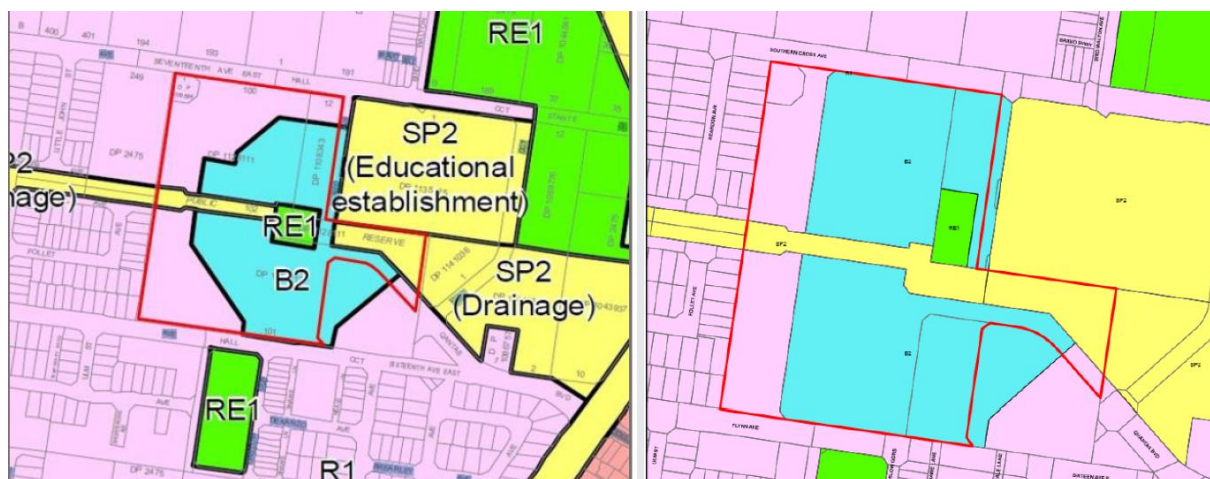


Figure 3: Existing and Proposed Land Zoning map

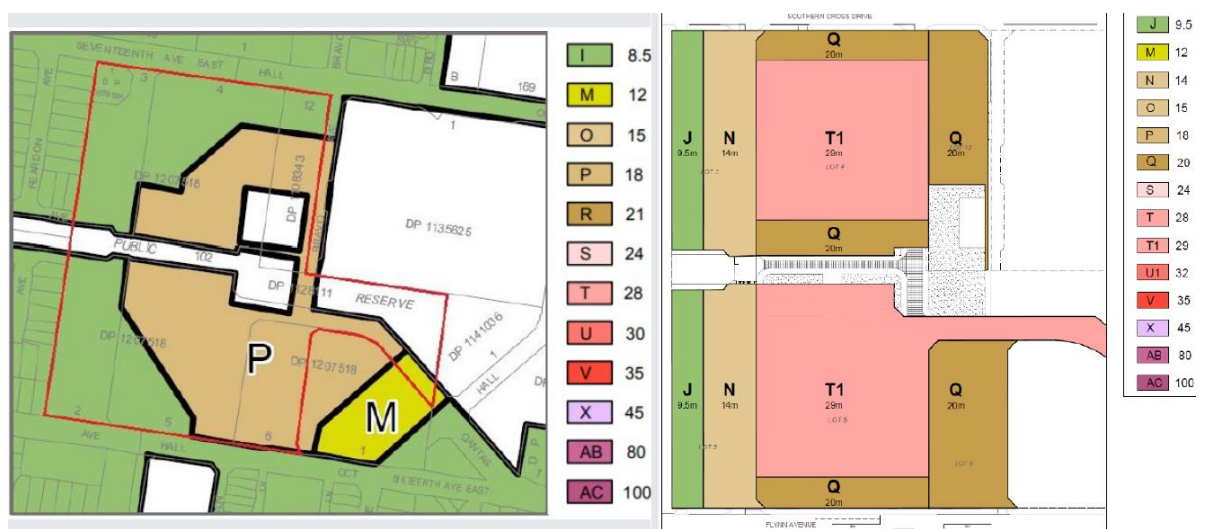


Figure 4: Existing and Proposed Height of Buildings map

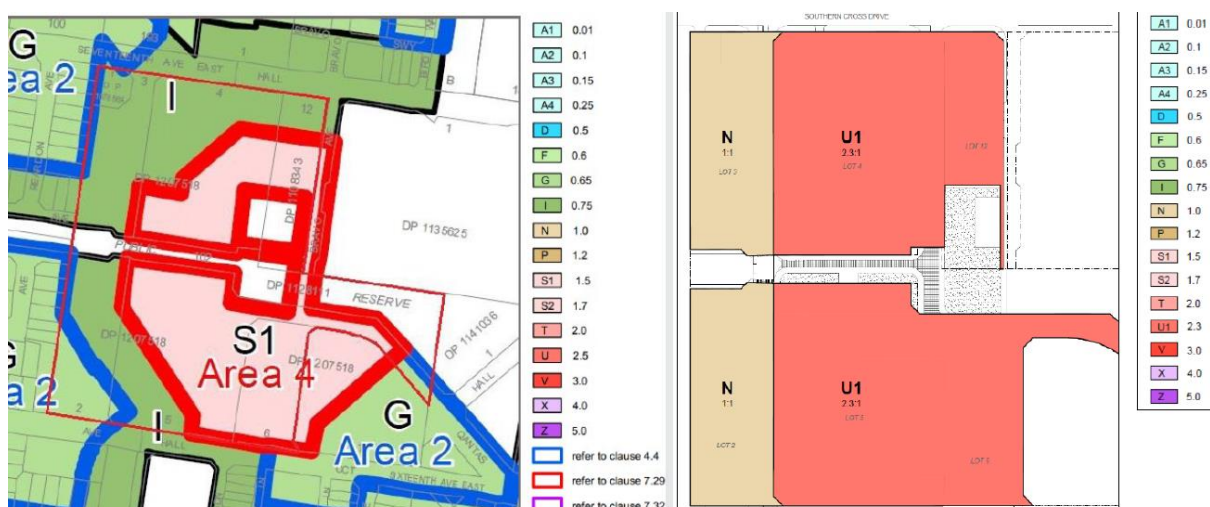


Figure 5: Existing and Proposed Floor Space Ratio map



Figure 6: Existing and Proposed Land Reservation for Acquisition map

Consultation

As required by Council resolution EGROW 04 of 25 September 2019, the planning proposal and supporting documents were placed on public exhibition for 28 days from 13 November until 11 December 2019. 240 submissions were received, including a submission from Charter Hall, owners of the Carnes Hill shopping centre. Of the submissions received, 136 expressed support for the proposal, 100 expressed opposition and three (3) were mixed. The issues raised by respondents are summarised in Figure 7 below.

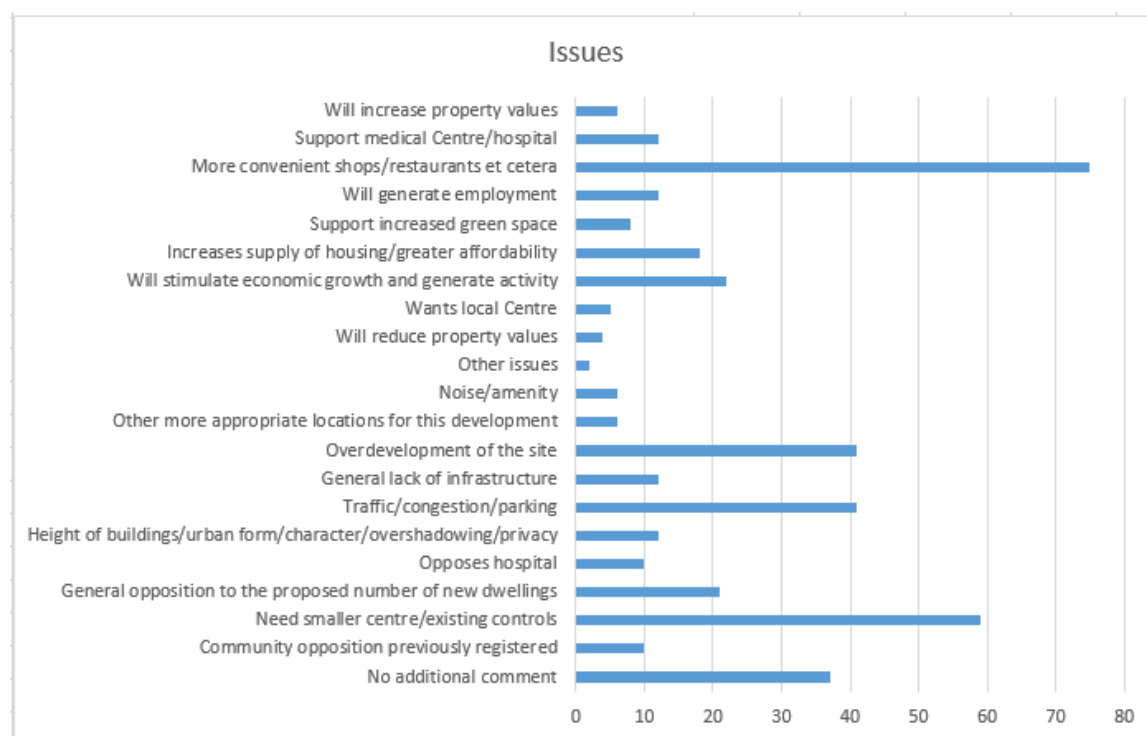


Figure 7: Frequency of issues raised in submissions received

A detailed submissions register summarising each submission is included in **Attachment 10**.

Submissions were received from the following public authorities:

- Education NSW;
- Environment, Energy and Science Group (formerly Office of Environment and Heritage);
- Transport for NSW; and
- Sydney Water.

Assessment of the matters raised in public authority submissions is included as part of the assessment report undertaken by Hill PDA. It is noted that the Sydney Water response was received much later, on 6 April 2021 (**Attachment 16**) and therefore was not included within the Hill PDA report. The submission did not raise any concerns of note, with several matters to be addressed as part of any future DA.

Hill PDA Assessment and Recommendations

The revised planning proposal was externally assessed by Hill PDA. The full assessment report is attached:

- Planning proposal assessment – (**Attachment 11**);
- Economic assessment – (**Attachment 12**);
- Economic assessment of additional information – (**Attachment 13**); and
- Updated assessment following the proponent's comments (the proponent's comments and a further economic assessment are provided as appendices to this single assessment report) – (**Attachment 14**).

The assessment recommended that Council support the planning proposal **subject to** several amendments. The Hill PDA assessment did not support the planning proposal in its current form for the following reasons:

- The proposed planning controls do not provide certainty and could create opportunities for a significantly different form of development from that which is described in the concept plan;
- The proposed building controls permit a scale of development that is inconsistent with the LSPS and has not been demonstrated to be appropriate for the site;
- The described commercial floorspace, while broadly consistent with the LSPS, has not been justified by the applicant as being supported by market conditions and may result in poor ground level activation;
- The proposed planning framework does not provide assurance that the proposed open space provision will be achieved on the site and potentially relies on a planning agreement to deliver the space; and
- The proposed planning controls could result in a scale of development that is not adequately serviced by infrastructure.

PLANNING & COMPLIANCE REPORT

The Hill PDA assessment recommends making the amendments outlined in Table 2 to the revised planning proposal as submitted by the proponent. Reasoning and a method for achieving each amendment is provided and is outlined below.

Table 2: Summary of Hill PDA Recommendations

Suggested amendment	Reasoning and Method
<p>Residential Limits:</p> <ul style="list-style-type: none"> • Cap residential floorspace to 72,000sqm; • Introduce cap on dwellings of 671 units; and • Provide Development Control Plan (DCP) controls for the site include design requirements for home-business enabling units (i.e. design objectives and minimum percentage of units). 	<p>The proponent has identified within the proposal documentation a stated goal of 671 dwellings. The suggested amendment to the planning proposal will ensure this goal is achieved through the planning controls applying to the site.</p> <p>This amendment can be achieved through an additional local provision clause within Part 7 of the LEP.</p>
<p>Cap the average FSR for the site to approximately 1.8:1.</p>	<p>Align the non-residential uses with the job generation sought in the LSPS.</p> <p>This is achieved by capping residential floorspace to 72,000sqm and removing a FSR control for 'New Park 3'.</p>
<p>Northern and southern interfaces:</p> <ul style="list-style-type: none"> • Maintain the proposed 20m height; • Introduce a 2-storey street wall and 4m setback control along the entirety of Southern Cross Ave and Flynn Ave, east of Main St. 	<p>The northern and southern boundaries of the site have proposed heights of 20m, fronting onto lands with an 8.5 m height limit. This could result in six storey development across the street from two storey development, which is a more severe transition.</p> <p>It is recommended that the suggested height transition controls are incorporated as an additional local provision clause within Part 7 of the LEP.</p>
<p>Allow up to 1,200 sqm of R1 General Residential adjacent to New Park to permit the Restaurant or café land use.</p>	<p>The proponent's recommendation to cap the land use at 1,200 sqm is not based on demand, but on a vision to include cafes and restaurants next to the central open space near 'New Park 1.' HillPDA accepts that this limited space, in a centralised area, would likely promote positive amenity and public domain outcomes.</p> <p>It is recommended that an additional permitted use clause to permit the 'restaurant and café' use with consent as an additional local provision clause within Part 7 of the LEP.</p>

PLANNING & COMPLIANCE REPORT

Maintain area proposed by the proponent to have height limit of 9.5m at current level of 8.5m	<p>Ensure two storey development proposed by applicant is delivered, aligning with transition to surrounding area. This recommendation was agreed to by the proponent in their response to Hill PDA.</p> <p>It is recommended that this element of the revised planning proposal is removed.</p>
Map 'New Park 3' on key site map and remove development standards.	<p>The revised planning proposal has 'New Park 3' mapped as B2 Local Centre with heights and FSR that would allow for approximately eight storeys of development.</p> <p>It is recommended that the location of 'New Park 3' is mapped on the key site map of the LEP and identified within an additional local provision clause within Part 7 of the LEP. Furthermore, it is recommended that the HOB and FSR maps are amended to remove 'New Park 3', effectively removing development potential to ensure the delivery of this public open space.</p>
Prepare an amended site-specific DCP to ensure future development is in alignment with the LSPS.	Prepare an amended site-specific development control plan that requires future development applications to demonstrate alignment with Council's Local Strategic Planning Statement employment goals for Middleton Grange and be supported by a peer reviewed economic impact assessment, that also demonstrates demand for the quantum of employment floorspace to be provided.
Request DPIE / TfNSW to finalise State level planning agreement for road upgrades prior to finalisation of planning proposal	As per Transport for NSW's submission, request that DPIE and Transport for NSW finalise planning agreements (or similar) with the applicant to ensure delivery of required traffic upgrades to accommodate the uplift associated with the planning proposal, as deemed acceptable by DPIE and Transport for NSW.
Refine development contributions plans to consider demand for infrastructure associated with the planning proposal	This was recommended by Hill PDA to ensure equitable contributions across the local community for infrastructure.

Overall, Hill PDA concurs that the general outcomes of the planning proposal, as revised, are supported. Remaining recommendations in contention are, while minor in nature compared to the overall planning proposal, critical to delivering the outcome sought by the proponent.

Hill PDA's revised recommendations consider the additional responses and evidence provided by the Pacific Planning and PPM Consulting responses. They seek to enable the specific outcomes sought by the planning proposal while limiting the potential for other non-desirable

outcomes, such as overdevelopment of residential uses or commercial uses that are not anticipated by the LSPS or the adopted Centres and Corridors Strategy. While the proponent relies heavily on the potential for the delivery of the concept design developed by the applicant, Hill PDA stresses that this concept design is only one potential outcome. Hill PDA's recommendations seek to ensure a similar outcome is delivered, should the concept design be adjusted in the future.

The proponent does not agree with the final assessment report by Hill PDA and has not agreed to further amend the planning proposal to address the recommendations. The proponent has requested that Council make a decision on the revised planning proposal as lodged and to then forward the planning proposal to DPIE for a final decision to be made.

Planning Agreement

The proponent has offered to enter into a planning agreement (PA) with Council, which provides for monetary contributions and other public benefits in support of the planning proposal. This offer is made on the basis that the revised planning proposal is adopted, without further alteration and finalised by the Minister for Planning and Public Spaces (or delegate).

There have been numerous iterations of a draft public benefit offer, in the form of draft letters of offer and more recently as a draft PA. The proposed draft PA provides for the following public benefit items:

- Construction of an open space park and embellishment works to the area designated as 'Park 3' with a minimum area of 2,500 sqm (park will remain in the private ownership of the developer, but with a public access easement);
- Dedication of 'Park 2' to Council. Park 2 is the land not currently owned by Council that is proposed to be rezoned RE1 – Public Recreation;
- Construction of a signalised intersection at Main Street and Flynn Avenue and the intersection for the new proposed access lane and Flynn Avenue;
- Construction of an upgrade to the Cowpasture Road intersection, Flynn Avenue from Qantas Boulevard to Ulm Street as a widened 4 lane road within the existing road reserve, in consultation with Council;
- Construction of a road upgrade and services for Southern Cross Avenue between the western boundary of the Land to the Middleton Grange Primary School;
- Construction of the culvert and drainage works approved under the Modification DA-64/2007/C; and
- A monetary contribution of \$8,000,000.

The draft PA excludes the application of S.7.11 and S.7.12 contributions for future development applications (DA's). The proposed PA will come into effect only if the planning proposal is gazetted, unchanged, facilitating the development of approximately 113,000sqm of GFA.

It is noted that if the recommendations of the Hill PDA assessment are accepted and incorporated into the planning proposal, this will reduce the potential yield of future development to approximately 98,000sqm of GFA. The proponent does not support this recommendation and has advised that if this recommendation is adopted, their PA offer is withdrawn. As a result, there will be an absence of a secure mechanism to deliver the open space and road upgrades proposed by the proponent to support the planning proposal.

Infrastructure Delivery – Open Space

The planning proposal identifies the provision of approximately 7,500 sqm of public open space through the proposed amendments. This provision is in response to past Council resolutions seeking sufficient open space be provided to support the population increase proposed. However, the LEP amendments proposed will not achieve this aim, with this open space provision reliant upon an executed PA. As noted by Hill PDA:

- The RE1 Public Recreation area would be approximately 2,000 sqm. These lands are not all owned by Council and would be subject to acquisition from the applicant in the future;
- A further 1,750 sqm of land zoned SP2 Infrastructure, partially identified as flood affected, is identified in concept drawings as being part of future parks;
- The mechanism for delivery of this land, as proposed, is not identified in the planning proposal. It would be likely that Council would deliver this outcome, not the applicant, unless subject to a PA. It should be noted that the relevant contributions plan does not identify the provision of this open space;
- Approximately 3,000sqm of land has been identified in concept drawings to be zoned B2 Local Centre for a plaza and open space grassed areas. This land is proposed to have height and FSR controls that would permit eight to nine storey buildings. As proposed, it would be possible for a future developer to seek consent for commercial development on land identified as being open space in concept plans.

It is noted that a revised PA could resolve these issues, however the proponent has advised that their PA offer is contingent on the planning proposal being support unchanged by both Council and the Minister. A contributions plan amendment could be prepared to deliver this open space. Negotiations have been pursued to this end; however, a resolution has not been reached to ensure a mechanism is established that can ensure that the proposed 7,500 sqm of open space can be delivered should the proposal be amended in alignment with the Hill PDA assessment recommendations.

Infrastructure Delivery – Road Upgrades

In its current state, the transport infrastructure in Middleton Grange is not capable of accommodating the uplift associated with the planning proposal. Development of intersection treatments and road upgrades to support the scale and layout of a future town centre as facilitated by the planning proposal is not addressed in the current contributions plan.

A funding mechanism is therefore required to ensure intersection treatments and roadworks are undertaken to mitigate the impact of the planning proposal on the local road network. Council's transport management department have outlined the required road upgrades, with this negotiated with the proponent and reflected in the draft PA. However as stated, this draft PA is reliant on the planning proposal being gazetted in its current form with a yield of approximately 113,000sqm of GFA.

Summary

As outlined above, the proponent has advised that their PA offer is contingent on the planning proposal being supported unchanged by the Minister.

Hill PDA has recommended that Council support further amendments to the planning proposal, that would result in a reduction in the GFA proposed from approximately 113,000sqm to approximately 98,000sqm. The proponent does not support this recommendation, and requests that Council support the planning proposal without further amendment, and to forward the planning proposal to DPIE for the Minister (or delegate) to make the final decision.

If the Council supports, and the Minister approves, an amended version of the planning proposal (as recommended by Hill PDA), there is no PA offer from the proponent. Therefore, there is no funding mechanism to ensure the delivery of open space and road upgrades to support the revised planning proposal. Further, it should be noted that the current version of the PA is only in draft form at this point and will require in-principle support from Council prior to public exhibition for 28 days. Once this has occurred, and if no significant objections warrant any changes, a decision could be made either by Council or delegated to the CEO, to execute the PA.

Conclusion

Given:

- the assessment conducted by Hill PDA;
- their recommendation that the planning proposal be further amended to reduce the GFA from approximately 113,000 sqm to approximately 98,000 sqm GFA;
- the proponent not agreeing to further amendments;
- the proponents PA offer only applying to the planning proposal that would yield approximately 113,000 sqm of GFA; and

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- the lack of a secure mechanism to deliver the proposed open space and road upgrades to support an amended planning proposal as recommended by HillPDA,

It is recommended that Council not support the revised planning proposal in its current form, and that the planning proposal be forwarded to DPIE in accordance with the Gateway determination (as altered) with a recommendation that it not proceed.

Hill PDA concurs with the proponent that the general outcomes of the revised planning proposal are supported, however, the proponent will not agree to further amendments to the planning proposal to address these concerns. It is acknowledged that remaining recommendations in contention, while minor in nature compared to the overall planning proposal, are critical to delivering the outcome purported to be sought by the proponent.

A draft PA is being negotiated with the proponent to deliver infrastructure to support future development enabled by this planning proposal, in the event the planning proposal is supported by the Minister. However, the offer from the proponent is subject to the planning proposal being gazetted in its current form with an approximate yield of 113,000 sqm of GFA.

There is a need for a local centre to be developed within Middleton Grange to service current and future residents. Both the Liverpool Local Strategic Planning Statement – Connected Liverpool 2040 (LSPS) and the Liverpool Centres and Corridors Strategy clearly identify this need. However, the current proposal is not supported for the reasons outlined in the assessment report. The recommended amendments to the planning proposal are considered reasonable, however the proponent will not agree to those amendments, and if they were supported by Council or the Minister, their PA offer would be withdrawn.

If the proposal, in its current form is not supported by Council or the Minister, it is recommended that Council considers the future zoning and planning controls in the LEP to support the development of a local centre in Middleton Grange as part of Phase 2 of the LEP Review next year, including amendments to the DCP and contributions plan to ensure specific design controls and infrastructure provision is secured to guide future development.

CONSIDERATIONS

Economic	<p>Further develop a commercial centre that accommodates a variety of employment opportunities.</p> <p>Deliver and maintain a range of transport related infrastructure such as footpaths, bus shelters and bikeways.</p> <p>Deliver a high-quality local road system including provision and maintenance of infrastructure and management of traffic issues.</p> <p>Facilitate economic development.</p>
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PLANNING & COMPLIANCE REPORT

Environment	Promote an integrated and user-friendly public transport service. Support the delivery of a range of transport options.
Social	Regulate for a mix of housing types that responds to different population groups such as young families and older people.
Civic Leadership	Undertake communication practices with the community and stakeholders across a range of media. Encourage the community to engage in Council initiatives and actions. Provide information about Council's services, roles and decision-making processes. Operate a well-developed governance system that demonstrates accountability, transparency and ethical conduct.
Legislative	Environmental Planning and Assessment Act 1979
Risk	The risk of endorsing the recommendations of this report may lead to a further delay in the delivery of a centre in Middleton Grange. It is noted, however, that DPIE may decide to gazette the planning proposal in its current form. A draft Planning Agreement that would provide a secure mechanism to provide supporting infrastructure is being negotiated. However, this draft Planning Agreement is still required to be publicly exhibited, endorsed by Council and executed before taking effect and will only apply if the planning proposal is gazetted unchanged.

ATTACHMENTS

1. Revised Planning Proposal (Under separate cover)
2. Urban Design Report (Under separate cover)
3. Visualisation Report (Under separate cover)
4. Amended Road Alignment (Under separate cover)
5. Traffic Impact Assessment (Under separate cover)
6. Social Impact Response Report (Under separate cover)
7. Economic Response Report (Under separate cover)
8. Landscape Plan (Under separate cover)
9. Flood Assessment Report (Under separate cover)
10. Summary of Submissions Table - Redacted (Under separate cover)
11. Hill PDA - Planning Proposal Assessment (Under separate cover)
12. Hill PDA - Economic Assessment (Under separate cover)
13. Hill PDA - Economic Assessment of Additional Information (Under separate cover)

14. Hill PDA - Final Assessment Incorporating Proponents Response Comments
(Under separate cover)
15. Gateway Determination (including all alterations) (Under separate cover)
16. Sydney Water Submission (Under separate cover)
17. Manta Group - Current ASIC Extract (Under separate cover) - **Confidential**
18. Al-Somai Developments - Current ASIC Extract (Under separate cover) -
Confidential

ECD 01**Rent Relief Assistance for Council's
Commercial/Retail Tenants**

Strategic Direction	Leading through Collaboration Strive for best practice in all Council processes
File Ref	262955.2021
Report By	John Milicic - Manager Property
Approved By	John F Morgan - Director Economy & Commercial Development

EXECUTIVE SUMMARY

Council has previously adopted a number of initiatives in response to COVID-19, which included the provision of rent abatement for Council's retail and small tenancies.

At an extraordinary Council meeting held in April 2020, initiatives were adopted by Council, providing financial benefit by the provision of rental abatement to Council's retail and small tenants (excluding telecommunications leases), for the period from 1 April 2020 to 1 October 2020.

In September 2020, Council resolved to further assist local small businesses by extending rent relief, for the period 1 November to 31 December 2020, if they qualified. As such, it was recommended that Council apply the provisions of the *Retail and other Commercial Leases (COVID-19) Regulation* for Council's commercial/retail tenants, subject to their qualification under the relevant provisions. Under these provisions, the qualifying tenants were provided a 50% rent waiver.

As part of the current Covid-19 lockdown restrictions, which commenced on 26 June 2021, Council has received requests from its tenant's seeking full rent abatement for the period of the lockdown.

It should be noted that Council is currently issuing Tax Invoices for it tenants, however, payment is not being pursued, whilst in lockdown.

In seeking to address the request, consideration was provided to the NSW Government announcement, dated 13 July 2021, of an economic support package aimed at helping businesses during the current COVID-19 lockdown. As part of the package, the NSW Government introduced the Retail and other Commercial Leases (Covid-19) Regulation 2021 (the New Regulation), which effectively provided for a moratorium on enforcement action by landlords in NSW. It did not, however, identify any provision for rent waiver consideration.

ECONOMY & COMMERCIAL DEVELOPMENT REPORT

On the 14 August 2021, advice was received from the NSW Small Business Commissioners Office that The *Retail and Other Commercial Leases (COVID-19) Regulation 2021* would be extended until 13 January 2022 and would require landlords to renegotiate rent, having regard to the National Cabinet's Code of Conduct.

The Code of Conduct requires landlords to provide rent relief in proportion with their tenant's decline in turnover. Of the rent relief provided, at least 50 per cent must be in the form a waiver, and the balance a deferral.

The Regulation applies to commercial and retail tenants with a turnover of up to \$50 million who qualify for the COVID-19 Microbusiness grant, COVID-19 Business Grant or JobSaver Payment. It will prohibit a landlord from evicting or locking out a tenant for certain breaches of the lease, unless they have first renegotiated rent and attempted mediation.

It is recommended, that that Council provide approval to provide a rental waiver of up to 50% of the rental for the commercial and retail tenants, in proportion to their decline in turnover, who qualify with the provisions of the New Regulation up until 13 January 2022 and negotiate the deferral of the rental balance over a 6-month period, subject to the remaining term of the lease agreements.

It is also recommended, that Council make an initial provision in its budget for an amount of \$250,000 to cover the potential cost of rent waivers and the potential rent deferment for its small commercial and retail tenants in the 2021/2022 financial year. As some of the larger tenants may fall under these provisions, a further update will be provided after the expiry of the current New Regulation on 13 January 2022, if further adjustments are required.

RECOMMENDATION

That Council:

1. Apply the provisions of the *Retail and other Commercial Leases (COVID-19) Regulation 2021 (the New Regulation)* for Council's tenants (subject to qualification);
2. Approve the rental waiver of up to 50% for the period 26 June 2021 until 13 January 2022 and rental deferment for a period of up to 6 months, subject to qualification and impact on turnover;
3. Note that 70 free parking pass cards have also been provided to NSW Health (Public Health Unit), which has been extended from the previously approved period of 8 August 2021 until 30 September 2021, associated with the extended lockdown period; and
4. Council make provision of \$250,000, in its 2021/2022 budget, to cover the cost of rent waivers and rent deferrals that may be granted to tenants, as outlined in this report.

REPORT

A Mayoral Minute, considered at the Council Meeting on 25 March 2020, outlined Council's response to the initial phase of the novel coronavirus (COVID-19) pandemic and identified ways in which Council could support the community.

At the time, approval was provided for rent abatement providing free rent from 1 April 2020 to 1 October 2020 (period of six months) for existing retail and small tenants (excluding telecommunications leases), managed by Council's Property Section, and were up to date with their rental payments.

The rationale was, that Council's tenants had started to ask for rent abatements, noting that a number of other Councils had already taken different approaches prior to the National Cabinets Mandatory Code of Conduct for Commercial Leasing and NSW Governments Retail and Other Commercial Leases (COVID-19) Regulation 2020 being adopted.

It was noted, that Council would continue to have operational costs and outgoings for its properties (ie: cleaning, security, statutory inspections). It was also recommended, that Council's Telecommunications Leases be excluded from any rent abatement or deferment consideration, as the telecommunications carriers continued to operate.

It was also further identified, that Tenants may also have provisions under leases where there is a "force majeure" clause to seek rental abatement, which may have impact on Council's financial position and forward budgets.

Based on further Covid-19 cases and associated impact on trade, an additional request was received by Council's tenants for further assistance in September 2020.

Noting that Council had provided its retail and small tenants with a full 100% rental abatement for a period of 5 months, it was identified that the assistance that Council had provided was well in excess of the provisions of the *Retail and Other Commercial Leases (COVID-19) Regulation 2020 (NSW)* (Regulation). Under the provisions of the regulations, if the tenants met specific criteria, a rental waiver of up to 50% could be considered in addition to rental deferment.

On 23 September 2020, the NSW Government announced the *Retail and other Commercial Leases (COVID-19) Regulation* would be extended until 31 December 2020. The central feature of the Regulation was the proportionality principle of rent relief to tenants according to turnover decline, subject to the provision of relevant financial information.

It was identified, that Council had provided a full rental abatement for a period of 5 months and that Council's tenants had potentially received a competitive advantage compared to other CBD tenants.

ECONOMY & COMMERCIAL DEVELOPMENT REPORT

In September 2020, Council resolved to assist local small businesses by extending rent relief, if they qualified. Therefore, it was recommended that Council provide an opportunity for its tenants to seek further rent abatement in line with provisions of the *Retail and Other Commercial Leases (COVID-19) Regulation* for the period of 1 November 2020 to 31 December 2020.

As part of the current Covid-19 lockdown restrictions, which commenced on 26 June 2021, Council has again received requests from its tenant's seeking full rent abatement for the period of the lockdown.

It should be noted that Council is currently issuing Tax Invoices for its tenants, however, payment is not being pursued whilst in lockdown.

In seeking to address the request, consideration was provided to the NSW Government announcement, dated 13 July 2021, of an economic support package aimed at helping businesses during the current COVID-19 lockdown. As part of the package, the NSW Government introduced the Retail and other Commercial Leases (Covid-19) Regulation 2021 (the New Regulation), which effectively provided for a moratorium on enforcement action by landlords in NSW. It did not identify any provision for rent waiver consideration.

On the 14 August 2021, advice was received from the NSW Small Business Commissioners Office that The *Retail and Other Commercial Leases (COVID-19) Regulation 2021* would be extended until 13 January 2022 and would require landlords to renegotiate rent having regard to the National Cabinet's Code of Conduct.

The Code of Conduct requires landlords to provide rent relief in proportion with their tenant's decline in turnover. Of the rent relief provided, at least 50 per cent must be in the form a waiver, and the balance a deferral.

The Regulation applies to commercial and retail tenants with a turnover of up to \$50 million, who qualify for the COVID-19 Microbusiness grant, COVID-19 Business Grant or JobSaver Payment. It will prohibit a landlord from evicting or locking out a tenant for certain breaches of the lease, unless they have first renegotiated rent and attempted mediation.

It is recommended that Council approves provision of a rental waiver of up to 50% of the rental for the commercial and retail tenants in proportion to their decline in turnover, that qualify with the provisions of the New Regulation up until 13 January 2022, and negotiate the deferral of the balance, over a 6 month period, subject to the remaining term of the lease agreements.

It should also be noted, that the 70 free parking pass cards that have been provided to NSW Health (Public Health Unit), have been extended from the previously approved period of 8 August 2021 until 30 September 2021, associated with the extended lockdown period.

ECONOMY & COMMERCIAL DEVELOPMENT REPORT

It is also recommended, that Council make an initial provision in its budget for an amount of \$250,000 to cover the potential cost of rent waivers and potential rent deferment for its small commercial and retail tenants in the 2021/2022 financial year. As some of the larger tenants may fall under these provisions, a further update will be provided after the expiry of the current New Regulation on 13 January 2022, if further adjustments are required.

CONSIDERATIONS

Economic	The cost of providing rental abatements/waivers and deferment are considered to be at approximately up to \$250,000 for the period of seven months.
Environment	There are no environmental and sustainability considerations.
Social	There are no social and cultural considerations.
Civic Leadership	Provide information about Council's services, roles and decision making processes.
Legislative	<i>Retail and Other Commercial Leases (COVID-19) Regulation 2021 (NSW) New Regulation.</i>
Risk	The risk is deemed to be Medium and within Councils risk appetite.

ATTACHMENTS

Nil

NOM 04**COVID Restrictions in Western Sydney**

Strategic Direction	Creating Connection Create a dynamic, inclusive environment, including programs to support healthy living
File Ref	263697.2021
Author	Nathan Hagarty - Councillor

BACKGROUND

For weeks Liverpool, along with other Western Sydney LGAs, have faced restrictions over and above the rest of Sydney. These additional restrictions have included extra testing requirements, limits on working and a ban on construction.

On Saturday 14 August, all of New South Wales was put in lockdown and restrictions were increased across Sydney. Both the Statewide lockdown and the case numbers confirm that the outbreak is now widespread. However, additional restrictions still exist in Liverpool and the other "LGAs of concern".

We've seen the dangers of confused and conflicting messaging from Governments throughout this pandemic. Clear, consistent and concise information during a crisis saves lives.

Additional restrictions, statements from politicians and footage from other parts of Sydney of people congregating in large numbers have many locals feeling ostracized and subject to double standards. This has fermented a dangerous undercurrent of resentment in our community.

If we're all in this together like the Premier has said, then there should be one rule for all.

NOTICE OF MOTION

That Council:

1. Notes:

- additional restrictions, statements from politicians and footage suggesting inconsistent enforcement across Sydney is causing distress and resentment in our community.
- the importance of clear and consistent messaging from Government and health authorities.

2. Write to the Premier as matter of urgency requesting serious consideration for consistent restrictions and enforcement across Sydney.

CHIEF EXECUTIVE OFFICER'S COMMENT

Stay-at-home orders are now in place across the entire state of New South Wales (NSW). Tighter restrictions continue to apply to residents in Greater Sydney Local Government Areas deemed areas of concern including Liverpool. These are necessary to help limit the spread of the current outbreak of the highly contagious Delta strain.

Liverpool City Council has lobbied the NSW Government for a targeted community health response, and, as a result, four pop-up COVID-19 vaccination clinics administered by the South Western Sydney Local Health District have recently opened in Council facilities.

Council has also shared relevant NSW Health information in popular community languages across Council's social media platforms and provided the latest updates to the community through Council's dedicated COVID-19 website page:
<https://www.liverpool.nsw.gov.au/council/coronavirus>.

Council will continue to support the work of NSW Health while advocating on behalf of the members of the Liverpool community until such a time that the stay-at-home orders are lifted.

We continue to call for more measured responses from the State and Federal Government towards COVID-19 compliance and more appropriate resources to help bolster vaccination rates in our region.

Writing to the NSW Premier as a matter of urgency requesting consideration for consistent restrictions and enforcement across Sydney is a matter for Council.

ATTACHMENTS

Nil

NOM 06	Rates
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Strategic Direction	Leading through Collaboration Seek efficient and innovative methods to manage our resources
File Ref	263677.2021
Author	Tony Hadchiti - Councillor

BACKGROUND

During the Council meeting held on Wednesday 28 July 2021 I proposed an inclusion to NOM 02 – COVID Support, shown below, which was unanimously carried.

4. Rate relief

Exhibit its intentions for the minimum statutory period for a one-off reduction of 10% on properties that sit within the definition of residential use subject to a criteria that would include but not limited to:

- *Property being used for owner occupier purposes;*
- *At least one owner has claimed a government COVID disaster payment; and*
- *The property is in the name of an individual.*

Present a report back to Council after the exhibition period.

On Friday 30 July 2021 the Mayor & Councillors were advised via email that the above was 'unlawful' and would not be enacted. The minutes of the meeting were published which also referred to the above as being "unlawful".

Section 356 of the Local Government Act 1993 Act 30 states word for word the following:

356 Can a council financially assist others?

- 1) A council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.*
- 2) A proposed recipient who acts for private gain is not ineligible to be granted financial assistance but must not receive any benefit under this section until at least 28 days' public notice of the council's proposal to pass the necessary resolution has been given.*

- 3) *However, public notice is not required if—*
- a) the financial assistance is part of a specific program, and*
 - b) the program's details have been included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and*
 - c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and*
 - d) the program applies uniformly to all persons within the council's area or to a significant group of persons within the area.*
- 4) *Public notice is also not required if the financial assistance is part of a program of graffiti removal work.*

Note - Part 4 of the Graffiti Control Act 2008 deals with graffiti removal work.

Point 1 & 2 of Sect 356 above are clear that Council may grant assistance as long as proper procedures are followed and those procedures were proposed

I thank Councils General Counsel for her time on the phone and via email talking through the issues, but our residents are suffering from this pandemic and Council should act quickly to show some extra support.

NOTICE OF MOTION

That Council:

1. Direct the CEO to immediately exhibit its intentions for the minimum statutory period required, for a one-off grant of financial assistance equivalent to 10% of the person/s annual rates payable, with a minimum grant of \$150 and maximum grant of \$300, to a person/persons who own property within the Liverpool Local Government Area that fits within the definition of residential use, subject to a criteria that would include but not limited to:
 - The property is being used for owner occupier purposes;
 - At least one owner has claimed and been granted a government COVID disaster payment 2021; and
 - The property is in the name of an individual(s).
2. Direct the CEO to immediately exhibits its intentions immediately for the minimum statutory period for a one-off grant equivalent to 10% of the annual rates, to a person/s who own properties that sit within the definition of residential that currently receive the pensioner rebate;

3. Direct the CEO to present a report back to Council in the September 2021 meeting, with clear instructions on how persons who meet the criteria can apply for the grant; and
4. Direct the CEO to ensure that immediately following the report to Council, that applications can be submitted via electronic means and in person should COVID restrictions allow for in person submission.

CHIEF EXECUTIVE OFFICER'S COMMENT

Legal advice obtained provides that the motion is within the scope of s356 of the Act and consideration of the Notice of Motion (NoM) and the Motion is business that the Council may lawfully transact at a meeting.

It will be necessary for the Motion to put out on public notice, unless Council actually knows that each and every person who will receive the grant is not a person who acts for financial gain. As it would be difficult, if not impossible for Council to know this, or in the alternative, that Council does know that some persons who will receive the grant do act for financial gain, the resolution must go out onto public notice. Further, public notice is also required if the programs proposed budget for that year, exceeds 5% of the Councils proposed income for the ordinary rates levied for that year.

Advice was also sought from the Office of Local Government who indicated, that in relation to the granting of financial assistance to those persons who are deemed eligible, under the Act, you cannot use restricted funds, which includes monies collected from levying a charge for water, sewer or domestic waste management services, for a reason other than the purpose for which it was levied. Any financial assistance provided must be sourced from general funds as per section 356 of the Act. Further, if the grants resulted in significant change to Council's operational and financial long term plans (which have already been exhibited), then Council may need to re-address these and then re-exhibit them to ensure compliance.

In terms of the financial implications of the 'grant', it is difficult at this time to quantify just how many persons within the Liverpool LGA will qualify for the grant (based on the NoM Criteria), given that the Federal Government are processing and distributing the 2021 Covid payments, for which Council is not privy to that information.

In terms of the proposed additional 10% grant to pensioners, this can be quantified using Council's current data on pensioner discounts. The impact to Council's revenue for this grant will be approximately **\$1.08 million** (based on current numbers of pensioner discounts – 9,000 persons) alone.

In terms of the residential rate payers, if 30% of those persons who own residential property apply for the grant, the impact on Council's revenue for this grant will be approximately **\$2.934 million** (based on 76,500 residential properties. If 100% of persons apply, the impact on Councils revenue for this grant will be approximately **\$9.780 million**. These figures are based

on an average grant amount of \$200.00 per person (these figures do not however include internal resourcing costs for administration).

Given that the Liverpool LGA has been in enforced lockdown since 26 June 2021, the financial exposure to Council of those eligible for a grant payment may be significant. The proposed grants are not budgeted for, and will have a significant impact on Council's operating results and Council's long term financial projections. In terms of what Council is already doing to assist those affected by the pandemic, Council is offering a deferment of rates for those who meet the hardship guidelines, and Council has already resolved not to charge interest on outstanding rates.

ATTACHMENTS

Nil

NOM 07

Civic Place Development Application

Strategic Direction	Leading through Collaboration Encourage community participation in decision-making
File Ref	263604.2021
Author	Tony Hadchiti - Councillor

BACKGROUND

Councillors have recently become aware that DA 836/2020/A was submitted and appeared in the weekly communication of lodged DA's.

This modification proposes as indicated in the planning portal the following:

Modification to Development Consent DA-836/2020 under Section 4.55 of the Environmental Planning and Assessment Act 1979, to delete the approved fifth basement level resulting in an updated car parking quantum and mix within a four level basement. This involves a reduction in the currently approved 344 car spaces in the Phase A component of Liverpool Civic Place to 271 car spaces. Specifically, this results in the removal of 73 car spaces. (Submitted: 26/07/2021).

Concerning in the above is the removal of 73 car spaces.

There should be no debate whether or not compliance with carparking is still achieved for the size of the development with the removal of these car spaces.

Council has been committed for years in delivering more car spaces and the Civic Place development was seen as a great opportunity.

More car parking in the CBD is long overdue.

NOTICE OF MOTION

That Council:

1. Note the need for extra public car parking spaces in the CBD;
2. Not support a reduction in public carparking within the CBD; and
3. Direct the CEO to immediately withdraw DA-836/2020/A.

CHIEF EXECUTIVE OFFICER'S COMMENT

Council resolutions of 29 October 2018 and 12 December 2018, delegated authority the CEO to do all things necessary to progress the Liverpool Civic Place development, in accordance with the proposed project scope and budget outlined in the report of staff. The resolution of 12 December 2018, directed the CEO to proceed with the Liverpool Civic Place development as per the plans and scope reported to Council on 29 October 2018, without additional car parking.

While Council has always strived to achieve around 300 car parking spaces for the Council Works component of Liverpool Civic Place, the approved Master Plan only achieved 285 spaces. However, following further planning requirements, design development and particularly Design Excellence Panel input around access arrangements, this number was reduced to 264 spaces. With further design development, Council was able to incorporate further parking spaces, including around 80 spaces on an additional level, and proceeded to incorporate this into the Council Works DA submission, with a total of 344 spaces included.

The inclusion of this parking/additional level had always remained subject to further investigation, particularly in regards budget. On receipt of this analysis, earlier this year, the decision was made to revert to the four-level basement option, resulting in a total of 271 car parking for the Council Works component of Liverpool Civic Place. Which we believe is a reasonable outcome considering LCP site shape and access arrangements.

ATTACHMENTS

Nil

NOM 08**Protecting Liverpool's Koalas**

Strategic Direction	Strengthening and Protecting our Environment Protect and enhance bushland, rivers and the visual landscape
File Ref	263902.2021
Author	Karress Rhodes - Councillor

BACKGROUND

It is with great sadness that I learned that a member of the public, driving home at 4am on Sunday 15 August 2021, stopped to save a young female Koala who was sitting on the side of Moorebank Avenue, scared, and confused.

I am personally disappointed that a Koala transit corridor along the George's River hasn't been established with possible feeder poles, Koala Feeder Trees and Koala River Crossing Bridges over the Georges River.

The State Government consented to the development of the Moorebank Intermodal despite local constituents reports that it was known as a Koala habitat and that there was evidence that the land was used as a Koala transit corridor.

This Koala, thankfully saved, was a female whose life is so precious in any attempts to save Australia's national emblem from extinction. She was of an age that Koalas leave their mothers in search of a territory of their own. They do this in Spring, this lucky little Koala has been saved, others will come, she will not be the last one to make the now treacherous journey along what was once a safer Koala transit corridor. Others might not be so lucky.

Moorebank Avenue and the Moorebank Intermodal site are on the natural habitat of the free-living Koala population, who will continue to use this corridor in order to find new mates and establish new territory, particularly during Spring, and each year and their lives will be in danger by doing so.

In view of the approval of the State Significant Moorebank Intermodal Development, and its interface with a natural habitat of free-living Koalas, there is the opportunity to consider what additional measures Council could consider to further protect Koalas transitioning through the Liverpool LGA.

We all want to save the Koala from extinction.

NOTICE OF MOTION

That Council prepare a report for the September 2021 Council meeting on what measures Council currently has in place and what additional measures Council could consider to further protect Koalas transitioning through the Liverpool LGA.

CHIEF EXECUTIVE OFFICER'S COMMENTS

The koala population within Liverpool LGA predominantly occurs within Commonwealth and privately managed land. The biggest barriers to koala movements through the LGA are state managed roads, developed lands, and security fencing around Defence land. These factors limit the direct actions available to Council to manage Koala habitat and movement corridors. However, Council is actively influencing outcomes by advocating to, and engaging with, stakeholders such as DPIE, TfNSW, Department of Defence, and adjacent Councils to seek improved habitat management practices.

The bushland adjacent to the Moorebank Intermodal, which provides habitat for koalas, will be managed in perpetuity as a biodiversity stewardship site. The Commonwealth (as its Commonwealth owned land) will be required to improve the biodiversity values of this habitat and will be required to submit annual reports to the Biodiversity Conservation Trust to demonstrate that enhancement works have been undertaken.

Council also critically evaluates proposed developments that may impact upon koala habitat. SEPP (Koala Habitat Protection) 2021 is consistently applied by Council when assessing pertinent development applications and potential impacts are considered within the context of the NSW *Biodiversity Conservation Act 2016* to ensure that any potential impacts are minimised.

The following summarises the range of actions Council has undertaken over the last three years that demonstrates its ongoing commitment to the stabilisation and strengthening of koala population in the LGA:

	Date	Action
1.	September 2018	Council officers attended the Wollondilly Koala Summit to better understand the issues facing Koala conservation in the Macarthur region. Outcomes and next steps of the summit were predominantly advocacy oriented.
2.	November 2018	Negotiated the installation of koala warning signs at known vehicle strike hotspots on RMS (now TfNSW) roads, at cost to Council.
3.	2018-2019	Advocated for improved wildlife crossing structures as part of the Heathcote Road upgrade and engaged with external stakeholders, including Department of Defence to seek support for a koala corridor through their land at Holsworthy (sent letters dated 31/8/2018, and 13/8/2019).

4.	March and December 2019	(Council reports) – various actions to preserve koala populations in the LGA, including reference in the reports that it's not feasible to provide a Georges River Koala Corridor or crossing bridges as there is no suitable habitat to connect to.
5.	2018-2020	Participated in multiple engagement opportunities for the development of the NSW Koala Strategy and Koala SEPP revision.
6.	April and July 2020	(Council reports) – Initiatives to protect koala populations and prevent koala and wildlife injuries including virtual fencing.
7.	April 2020	Liaised with Western Sydney Parklands Trust and Australian Wildlife Parks regarding the establishment of a wildlife hospital/sanctuary or a wildlife conservation tourist attraction.
8.	November 2020-current	Worked with DPIE to investigate ways to facilitate safe passage of wildlife across Heathcote Road, particularly in the vicinity of Deadmans Creek.
9.	May 2021	Attended the Long-term Koala Monitoring Workshop at Campbelltown City Council.
10.	June 2021	Prepared a business case to analyse the need and feasibility of a koala hospital/sanctuary.

Following the June 2021 Council meeting and presentation of the business case, Council resolved not to pursue the establishment of a koala hospital or sanctuary. Council resolved that alternative initiatives should instead be explored to attract a wildlife park to the LGA and support the existing veterinary care network for wildlife. In response to this resolution, Council will provide a report back to the November Council meeting on the identified initiatives.

Council is committed to the ongoing protection of land under its care, control, and management and the enhancement of areas of the greatest biodiversity value. As presented in the reports to the March 2019 and December 2019 Council meetings, it is not feasible to provide a Georges River Koala Corridor or crossing bridges as there is no suitable habitat to provide connection to. Extending koala habitat connections beyond their current range within the LGA would pose a threat to dispersing individual koalas due to impacts such as predation, vehicle strikes, starvation, unsuitable habitat and stress.

It is therefore recommended that Council await the outcome of the above engagement activities before a report is presented for Council's consideration.

ATTACHMENTS

Nil