

NOTICE OF COUNCIL MEETING

PUBLIC AGENDA

An Ordinary Meeting of City of Parramatta Council will be held in PHIVE (COUNCIL CHAMBER) COUNCIL CHAMBER AT 5 PARRAMATTA SQUARE, PARRAMATTA on Monday, 9 December 2024 at 6:30pm.

Gail Connolly PSM
CHIEF EXECUTIVE OFFICER

REPORTS TO COUNCIL - FOR COUNCIL DECISION

ITEM NUMBER	13.6
SUBJECT	Planning Proposal for 361-365 North Rocks Road, North Rocks
REFERENCE	F2024/00282 - D09519814
APPLICANT/S	Mecone NSW Pty Ltd
OWNERS	NextSense (Former Royal Institute for Deaf and Blind Children)
REPORT OF	Team Leader Land Use Planning

CSP THEME: Innovative

COUNCILLOR BRIEFING DATE: 3 December 2024

DEVELOPMENT APPLICATIONS CONSIDERED BY SYDNEY CENTRAL CITY PLANNING PANEL Nil

PURPOSE To update Council on the issued Gateway Determination by the Department of Planning, Housing and Infrastructure (DPHI).

RECOMMENDATION

- (a) That Council notes that the property owner has submitted a letter of offer to Council seeking to engage in negotiating and drafting a Planning Agreement (Attachment 3), seeking to provide local infrastructure to support a future development of land at 361-365 North Rocks Road, North Rocks. The Planning Agreement seeks to provide:
- i. A full sized oval construction and embellishment with associated pavilion and amenities
 - ii. Two (2) multipurpose courts capable of being used for pickleball
 - iii. Provision of play equipment adjacent to the community square and oval
 - iv. Provision of a pocket park on the south east corner of the site including play equipment and refurbishment of the existing cottage in that location
 - v. Passive open space or dog park in the north east corner of the site
 - vi. Potential dedication or access easement of bushland reserve at the northern part of the site
 - vii. Dedication of affordable housing
 - viii. Upgrade of shared path connections to the M2 Barclay commuter car park
 - ix. Monetary contribution for pathway upgrades within the bushland reserve and upgrades of open space
 - x. Construction and fit out of a multi-purpose facility of 1,000sqm – 1,500sqm

- xi. Community parking to support open space and the multipurpose centre uses.
- (b) That the CEO be authorised to secure the delivery of supporting infrastructure by:
- i. Negotiating the Planning Agreement based on the terms outlined in part (a) above;
 - ii. Ensuring the Planning Agreement does not exclude the application of 7.11 contributions and no credits or offsets are provided against contributions for any items delivered as part of the Planning Agreement.
 - iii. Publicly exhibiting the draft Planning Agreement for a minimum period of 28 days;
 - iv. Reporting to Council the outcomes of the public exhibition; and
 - v. Correcting any anomalies of a minor or non-policy nature that may arise during the preparation of the draft Planning Agreement.
- (c) That a submission be prepared in relation to the Planning Proposal when it is placed on public exhibition in accordance with the matters detailed in this report.
- (d) That a draft amendment to the DCP be prepared and exhibited for a minimum period of 28 days and the results of the exhibition be reported for Council's consideration.
- (e) That Council request that the DPHI not bring into force any changes to the LEP until the DCP amendment is finalised and the Planning Agreement is signed by Council and the landowner and is registered on title.

SITE LOCATION

1. The subject site is located at 361-365 North Rocks Road, North Rocks and is an irregular-shaped lot with an approximate area of 12.67ha (refer to Figure 1). It is located opposite to the North Rocks Shopping Centre. The site is currently occupied by low-scale, predominantly two storey buildings, which were previously being utilised by NextSense (formerly known as The Royal Institute for Deaf and Blind Children). NextSense provides a range of educational services for students with vision and/or hearing impairment and has relocated to a new facility at Macquarie Park.



Figure 1: Aerial view of the subject site at 361-365 North Rocks Road, North Rocks

BACKGROUND

2. In June 2021, Council received a Planning Proposal seeking to amend the planning controls for land at 361-365 North Rocks Road, North Rocks to facilitate approximately 1,080 dwellings by:
 - a. Rezoning the site from R2 Low Density Residential to part R3 Medium Density Residential and R4 High Density Residential;
 - b. Increasing the maximum height of buildings from 9m (2 storeys) to 25m (7 storeys); and
 - c. Introducing a maximum floor space ratio of 1.35:1.
3. An initial assessment by Council officers raised numerous concerns relating to non-compliances with Council's Local Strategic Planning Statement 2036 (LSPS), urban design merit, traffic, impacts upon natural areas, bushfire hazard, open space and tree canopy, flooding, water management and overall strategic merit. The Planning Proposal was reported to the Parramatta Local Planning Panel on 18 October 2022 and Council on 28 November 2022. On 28 November 2024, Council unanimously resolved not to proceed with the Planning Proposal and the applicant subsequently lodged a request for a Rezoning Review with DPHI to be considered by the Strategic Planning Panel arm of the Sydney Central City Planning Panel (Panel). Two separate Panels were convened to consider the Planning Proposal and are discussed below.
4. As a result of the rezoning review, the Panel has become the Planning Proposal Authority (PPA) for the Planning Proposal rather than Council. Council's role is limited to making a submission during the exhibition of the Planning Proposal.

Sydney Central City Planning Panel - 1 May 2023 - Not supported

5. At its meeting on 1 May 2023, the Panel was briefed by both Council officers and the applicant. The Panel determined that the Rezoning Review should not proceed to Gateway Determination. The majority of Panel members concluded that the Planning Proposal was not acceptable and did not satisfy the Strategic merit test, relying on the importance of Council's adopted LSPS to reach this conclusion.

Sydney Central City Planning Panel - 31 October 2023 - Supported

6. On 18 August 2023, Council was advised by DPHI that it was reconvening the Panel to reconsider the Rezoning Review having regard to the capacity of the Planning Proposal to deliver housing. This followed correspondence by the Minister for Planning and Public Spaces to all council mayors and the Planning Panel chairs within Sydney stating that the delivery of housing is a strategic priority for NSW.
7. The reconvening of the Panel was unusual, and officers were of a view that it was outside of the terms of the planning legislation to allow a Panel to be reconvened once it had made a determination. Officers sought legal advice and, in a letter, dated 19 September 2023, wrote to the Department advising that Council would not be engaging in the Rezoning Review process further or attending any Panel meetings until evidence was provided that DPHI could legally reconvene the Panel. DPHI wrote to Council on 23 October 2023 citing legal advice submitted by the applicant and advised that the Panel would reconvene despite officer's concerns.
8. The Panel met on 31 October 2023 and decided to support a revised Planning Proposal with recommendations for a proposal that differed from the original Planning Proposal submitted to Council. At that meeting, the Panel agreed to meet again following the receipt of a further revised Planning Proposal to be submitted by the applicant to determine whether it had met their recommendations. The Panel met on 13 March 2024 and were asked by the applicant to consider two options in relation to meeting the recommendations.
9. The Panel acknowledged that Council had not endorsed the Planning Proposal, however requested Council officers present to the Panel in relation to the two options presented by the applicant. Council staff attended the meeting on 13 March 2024 as requested by the Panel and advised that an option that provided reduced height of buildings fronting North Rocks Road to 3 storeys, reduced heights across the site to transition to the low-density residential character of the locality and responded to natural topography was preferred should the Panel decide to proceed with a Planning Proposal for the site. That option was endorsed by the Panel for submission for Gateway.
10. Council was advised on 31 July 2024 that another revised Planning Proposal (refer Attachment 2) was submitted to DPHI by the proponent following the Panel's decision. The Panel was not requested to review the revised Planning Proposal to ensure it was consistent with its recommendations but were briefed by the DPHI on the changes.

PLANNING PROPOSAL - GATEWAY DETERMINATION

11. A Gateway Determination was issued by DPHI on 21 October 2024 for the revised Planning Proposal (refer to Attachments 1 and 2). The Planning Proposal subject to Gateway will facilitate a reduction of dwellings from the original Planning Proposal of approximately 1,080 to 925 dwellings by introducing a reduced proposed maximum floor space ratio of 1:1 (from 1.35:1). However, the Planning Proposal will give the applicant more height than the Panel recommended. This is a fundamental concern for Council officers as the impact of the built form is one of the most contentious issues with this Planning Proposal.

12. Specifically, the Panel determined that the scale of development fronting North Rocks Road should be no greater than three storeys, yet the provisions in the Gateway determination allow for a four-storey development. The Panel also determined that the heights of buildings throughout the central part of the site be stepped down to relate to the sloping topography, with a maximum height of five storeys with the potential for one additional storey set back (equating to six storeys in total). However, the height controls in the Planning Proposal the subject of Gateway (and therefore will be exhibited) allows for heights of seven storeys.
13. On notification and review of the Gateway Determination, officers raised concerns with DPHI that there are errors in the proposed planning provisions that will apply to the site and questioned whether or not DPHI had fulfilled their obligations by ensuring that when the Planning Proposal is exhibited it will be consistent with the Panel's Record of Decision. In correspondence dated 30 October 2024, Council officers also requested that a revised Gateway determination be issued to rectify these issues.
14. On 31 October 2024, DPHI responded stating, in summary, that with regards to building height and FSR, they believe the recommendations of the Panel are accurately reflected in the Planning Proposal, no further amendment will be made to the Gateway Determination, and that Council will be able to make a submission so these matters can be fully addressed prior to finalisation.
15. As described earlier, Council is not the Planning Proposal Authority (PPA) for the Planning Proposal. As the Strategic Planning Panel arm of the Sydney Central City Planning Panel is the PPA, it will consider all submissions made during exhibition period, prepare a finalisation report and make a recommendation to the DPHI to complete the LEP amendment and issue it for notification.
16. Council officers recommend that a submission outlining the abovementioned concerns is made during the exhibition period. The exhibition period at this stage is likely to be next year as there are Gateway conditions that need to be addressed by the applicant before the Planning Proposal can be placed on exhibition.
17. Given that the Planning Proposal exhibition will not be undertaken by Council, it is important that the supporting Development Control Plan (DCP) and Planning Agreement that are still within the remit of Council are exhibited either concurrently or as close as possible to when the Planning Proposal is exhibited. This will give the community the clearest possible picture regarding the potential development outcomes for the site.
18. It is noted that Council's position was not to support development on the site, but as the Planning Proposal is now proceeding to public exhibition, ensuring that the draft DCP and Planning Agreement are commensurate with what is being proposed will facilitate the best possible outcome for the site within the parameters that have been set by DPHI.

DEVELOPMENT CONTROL PLAN

19. To ensure the best outcome for the site is achieved, it is recommended that the DCP amendment have objectives and controls including but not limited to the following matters:
 - a. Access and site setbacks;
 - b. Orientation of buildings;
 - c. Built form (including separation and setbacks between built form);
 - d. Public open space;
 - e. Private and communal open space; and
 - f. Car parking.

20. It is noted that the Planning Proposal, the subject of the Gateway Determination, introduces a clause requiring the preparation of a site specific DCP. It is important to note that under clause 4.23 of the *Environmental Planning and Assessment Act 1979*, where a LEP requires the preparation of a DCP before any development can be carried out on any land, that obligation may be satisfied by the making and approval of a concept development application (Concept DA) in respect of the land. The proponent has indicated that there is an intent to submit a concept DA once the amendments to the LEP are notified. To ensure that a DCP gives guidance at the DA stage, it is recommended that Council request that the DPHI not bring into force any changes to the LEP until an amendment to the DCP is adopted by Council.

PLANNING AGREEMENT

21. The Planning Proposal is accompanied by a letter of offer from the applicant to Council seeking to enter into and engage in negotiating and drafting a Planning Agreement under Section 7.4 of the *Environmental Planning and Assessment Act 1979* (refer to **Attachment 3**). A Planning Agreement is necessary to ensure that the supporting infrastructure is secured in the event that DPHI supports the proposal.

22. The applicant proposes to provide for the assets and facilities outlined in **Table 1** to be considered:

Table 1: Planning Agreement Proposal - Assets and Facilities

Open Space	<ul style="list-style-type: none"> • Full sized oval construction and embellishment (as generally shown in the proponent’s master plan included at Attachment 4) capable of accommodating multiple sports such as cricket and soccer and delivery of associated sporting infrastructure in line with Council’s Sportsground Strategy. • Construction and fit out of oval pavilion including amenities and storage facilities circa 300m2. • Minimum of 2 multipurpose courts with the ability for use for pickleball located in the area identified in the masterplan. • Provision of play equipment in the area located adjacent to the community square and oval. • Refurbishment of the existing building (cottage in the southern eastern site corner) to a standard fit for a community purpose subject to detailed consultation with
-------------------	--

	<p>Council staff and creation of pocket park with play equipment.</p> <ul style="list-style-type: none"> • Passive parkland or dog park in the north-eastern site corner. • Potential dedication of (northern) bushland reserve to Council should the land not be impacted by Asset Protection Zone obligations. Alternatively, an easement for public access is provided.
Affordable Housing	<ul style="list-style-type: none"> • Approximately 16 units dedicated in perpetuity to Council in accordance with the proponents Planning Proposal.
Traffic & Transport	<ul style="list-style-type: none"> • Upgrade of shared path connections to M2 Barclay Commuter Carpark.
Monetary Contribution	<ul style="list-style-type: none"> • Upgrade pathways within the adjoining bushland reserves. • Upgrades of open space outside of the site (location to be determined).
Multi-Purpose Facility	<ul style="list-style-type: none"> • Construction and full fit of a multipurpose facility in the order of 1,000m² - 1,500m².
Parking	<ul style="list-style-type: none"> • Community parking to support open space and the multipurpose centre uses. • Dedication of the majority of the road network as public roads. This would be facilitated at the DA stage. Nil value will be ascribed in the Planning Agreement.

23. The multi-purpose facility proposed by the applicant has the ability to be utilised in various manners. At present the proposal considers the relocation of the current senior citizens building at Don Moore Reserve to the new facility. The removal of this building from its current location aligns with current strategies to declutter the reserve, reduce financial expenditure on an ageing asset and would create additional space for alternative uses at Don Moore Reserve. The proposal contains a large portion of aged care and seniors living. Council officers believe the relocation of the current senior citizens use to the new site would assist in expanding amenity provision for current and incoming residents.
24. Additionally, the applicant has proposed to lease part of the facility to a not-for-profit organisation named 'Little Big'. Attachment 5 of this report provides details on the community services and benefits Little Big provides and are subsidised by the developer through their philanthropic fund. There is the possibility for Little Big to manage on Council's behalf the community use and bookings of the facility. Further discussions are required to determine lease terms and conditions.
25. The Planning Agreement letter of offer (Attachment 3) notes that "EG's preference is that contributions under sections 7.11 and 7.12 be excluded in whole or in part, and acknowledges that this is to be resolved in future consultation with Council." While the applicant indicates a preference to exclude

the application of 7.11 contributions against items proposed to be delivered as part of a Planning Agreement, it is recommended that Council's position is to not exclude contributions as part of any Planning Agreement. This will be addressed with the applicant as part of the negotiations undertaken in the drafting of the Planning Agreement.

26. Local traffic upgrades will be considered and required as part of any future development of the site. Such upgrades will be considered at the Development Application stage dependent upon the extent of development that will ultimately be achievable on the site and will be included as conditions of consent that must be addressed by the developer.
27. In addition, an appropriate dwelling mix of the affordable housing dwellings to be dedicated to Council in accordance with the planning proposal will be determined and form part of the negotiations with the proponent in the drafting of the Planning Agreement.
28. Further discussion will be required to determine the overall value of the Planning Agreement, noting the applicant has identified an approximate value of \$60 million. More detailed costings of the value of the Planning Agreement deliverables shall be peer reviewed by externally appointed quantity surveyors to ensure fairness and accuracy in determining value.
29. It is noted that while Council has not resolved to support the Planning Proposal for the site, it is important for Council to secure an infrastructure offer commensurate with what is being proposed in the Planning Proposal to ensure the needs of the community are being met should the proposal proceed.

CONSULTATION

Councillor Consultation

30. The following Councillor consultation has been undertaken in relation to this matter:

Date	Councillor	Councillor Comment	Council Officer Response	Responsibility
3 Dec 2024 - briefing	All invited	Not known at time of this report	Not known at time of this report	Group Manager - Major Projects and Precincts

FINANCIAL IMPLICATIONS FOR COUNCIL

31. The Planning Agreement is expected to deliver a range of financial benefits to Council. Should Council not authorise the CEO to negotiate and process a draft Planning Agreement in a timely manner, the risk is that the DPHI approves the proposal without securing the deliverables of the supporting infrastructure, thus financially burdening Council to deliver the infrastructure. Notwithstanding, this report seeks to negotiate a Planning Agreement for the purposes of public exhibition. Maintenance and depreciation costs will be detailed in the post-exhibition report to Council.

32. The exhibition of the draft Planning Agreement and DCP will be funded from the City Planning and Design directorate budget.

CONCLUSION

- 33. It is recommended that Council:
 - a. Prepare a submission on the Planning Proposal in accordance with the matters detailed in this report.
 - b. Authorise the CEO to negotiate with the applicant, process and exhibit a Planning Agreement to secure the delivery of supporting infrastructure.
 - c. Prepare and exhibit an amendment to the DCP to provide detailed planning and design guidelines as described in this report.

Naomi L'Oste-Brown
Team Leader Land Use Planning






Michael Rogers
Acting Group Manager Major Projects and Precincts

Jennifer Concato
Executive Director City Planning and Design

Amit Sharma
A/Executive Director Finance & Information

Gail Connolly
Chief Executive Officer

ATTACHMENTS:

- | | | | |
|---|---|--------------------------------------|-----------|
| 1 |  | Gateway Determination | 3 Pages |
| 2 |  | Planning Proposal | 143 Pages |
| 3 |  | Letter of Offer - Planning Agreement | 6 Pages |
| 4 |  | Proponent's Site Master Plan | 1 Page |
| 5 |  | Little Big Information | 29 Pages |

REFERENCE MATERIAL

[Link to Council Report & Attachments](#)