



Planning,  
Industry &  
Environment

## Alteration of Gateway determination report – PP\_2018\_STRAT\_001\_00

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Strathfield Local Environmental Plan 2012 – 7-23 and  
25-33 Water Street, Strathfield South

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# 1 Introduction

## 1.1 Overview

### 1.1.1 Name of draft LEP

The planning proposal seeks to amend the land zoning, floor space ratio and height of building maps applying to land under the Strathfield Local Environmental Plan 2012.

### 1.1.2 Site description

**Table 1 Site description**

Site Description	<b>The planning proposal (Attachment A) applies to land at 7-23 and 25-33 Water Street, Strathfield South</b>
Type	Site
Council / LGA	Strathfield

The site comprises six lots and has a total area of 18,952.7sqm (Figure 1). The site is currently used for a variety of industrial purposes including household trades, distribution centres and vehicle repairs. An electrical transmission tower and power lines are located adjacent to the southern boundary. Access to the site is from Water Street to the east of the site.



**Figure 1 Subject site (Source: Urbis 2016)**



The site forms part of the 5ha Water Street employment land precinct shown in Figure 2. The Water Street Precinct is used for a variety of industrial uses, including a concrete batching plant, warehouse and logistics centre. Access to the remaining parts of the precinct is from Dunlop Street to the west of the site. A condition of the Gateway determination (Attachment B) required the planning proposal to be extended to include the entire Water Street employment land precinct.



**Figure 2 Water Street employment land precinct (Nearmap 2020)**

### 1.1.3 Purpose of plan

The table below outlines the current and proposed controls for the LEP.

**Table 2 Current and proposed controls**

Control	Current	Proposed
Zone	IN1 General Industrial	R4 High Density Residential
Maximum height of the building	11m	28m
Floor space ratio	1:1	1.85:1

It is also intended the planning proposal would be accompanied by the preparation of a site-specific development control plan (DCP) addressing key matters such as building massing and typologies, active frontages and site remediation.

#### 1.1.4 Planning proposal history

The planning proposal was lodged with Council on 22 April 2016. On 19 July 2016 Council resolved that the planning proposal should not proceed to Gateway determination for the following reasons:

- A lack of a comprehensive flood study to support the zoning change,
- A lack of detail and consultation with external agencies regarding the proposed VPA,
- The proposed maximum building height of 28m and FSR of 1.85:1 are excessive considering the context of the site, and
- The potential land-use conflict between the proposed R4 High Density Residential zoning and neighbouring IN1 General Industrial zoning.

Council resolved that the planning proposal be amended to a maximum height of 11m and maximum FSR of 1.2:1 and submit additional information relating to flooding issues and voluntary contributions.

On 8 August 2016 the proponent lodged a pre-Gateway review of the planning with the Department. On 5 April 2017 the Sydney Central Planning Panel reviewed the pre-Gateway review request and determined that the planning proposal had strategic and site-specific merit and should proceed to Gateway determination. The Panel considered that the site should not be rezoned in isolation and recommended that the any rezoning to residential use be for the whole Water Street Precinct.

In March 2018 the GSC released the Greater Sydney Region Plan on 18 March 2018 and Eastern City District Plan. The Region Plan and District Plan set out a retain and manage approach for industrial zoned land in the Eastern Harbour City.

On 5 October 2018 the GSC released *Information Note – SP2018-1- Industrial and urban services land (Retain and manage) – transitional arrangements* to assist with the assessment of planning proposals in areas covered by the retain and manage approach for industrial and urban services lands.

The Information Note establishes transitional arrangements for planning proposals lodged before March 2018. The Information Note sets out that Planning proposals submitted before the adoption of the District Plan in March 2018 may proceed to Gateway determination. The Information Note also sets out that no extensions to the timeframe to complete the planning proposal will be granted.

#### 1.1.5 State electorate and local member

The site falls within the Strathfield State electorate. Jodi McKay MP is the State Member.

The site falls within the Watson Federal electorate. Tony Burke MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 2 Gateway determination and alterations

The Gateway determination issued on 19 February 2019 (**Attachment B**) determined the proposal should proceed subject to conditions. The Gateway determination required the proposal to be finalised by 19 February 2021. Advice provided from the Greater Sydney Commission (GSC) in Information Note SP2018-1 on employment lands (**Attachment D**) identified no extension to the timeframe would be granted.

The Gateway conditions required the following to be completed prior to community consultation:

1. The planning proposal is to be updated to extend the proposal to include all IN1 General Industrial zoned land within the Water Street Employment Land Precinct. The planning proposal is to be amended to:
  - Address and justify the inconsistencies with section 9.1 Direction 1.1 Business and Industrial Zones, 4.1 Acid Sulfate Soils, and 4.3 Flood Prone Land
  - Provide updated reports for the entire precinct, including a detailed flooding assessment, contamination assessment, electromagnetic radiation analysis, traffic and transport analysis, noise and emissions studies, economic impact analysis, a new urban design report to support proposed height and FSR across the precinct, and a social impact assessment.
  - Provide a project timeline outlining timeframes for the planning proposal
  - Address the Greater Sydney Region Plan and Eastern Sydney District Plan, including the provision of affordable housing
  - Provide a site-specific DCP for the entire precinct
  - Include a requirement for a development application for residential development on the site to be lodged within 3 years of the LEP being made. If no development application is lodged, the effect of the amendments to rezone the site will cease.
2. Consultation is to occur with Ausgrid regarding the site at 7-9 Dunlop Street and development of a new substation. This information is to be provided as part of the amended planning proposal
3. The amended proposal is to be forwarded to the Department for review and endorsement prior to community consultation.

To date, these conditions (conditions 1, 2 and 3 of the Gateway determination) have not been completed to enable the Planning Proposal to be publicly exhibited and completed within the specified timeframe of 24 months (condition 7 of the Gateway determination).

The Department wrote (**Attachment E**) to Council on 11 February 2021 noting the Gateway determination required that the planning proposal be completed by 19 February 2021 and required resolution. As the planning proposal has not adequately progressed, the letter sought Council's request for the planning proposal to not proceed having regard to clause 3.35(4) of the *Environmental Planning and Assessment Act 1979*.

On 19 February 2020, the Department received a response from Urbis on behalf of the proponent and Council (**Attachment F**) seeking a two-year extension of time to complete the planning proposal.

The letter requested the extension of time for the following reasons:

- The determination conditions required an extension of the planning proposal to include all IN1 General Industrial land within the Water Street Employment Land Precinct and completion of precinct wide studies, notably traffic and transport modelling, urban design study and environmental investigations (flooding, contamination, etc). Due to the expanded



scope of the planning proposal, this work is extensive and will take a considerable amount of time to complete.

- The expanded scope requires a Council led approach including development of an engagement strategy for consulting with landowners and the community.
- Council's focus in recent times has been on updating their local strategic planning policies, including preparing their Local Strategic Planning Statement (LSPS). The LSPS "Strathfield 2040" has been completed and endorsed by the GSC as being consistent with the Greater Sydney Region plan and Eastern City District Plan.
- Council is committed to acting on the Gateway determination. This is evidenced by Action 73 of the LSPS which has been classified as an immediate action (0-2 years):
  - o A73 Review the role of the WSELP to ensure that future redevelopment (residential/mixed uses) of the precinct takes into account existing constraint's and allows for appropriate amendment outcomes consistent with the Gateway determination issued by the DPIE 19 February 2019 and the GSC Information Note SP2018\_1
- The impact of COVID-19 and lack of confidence surrounding uncertainties of the global pandemic.

The request for the 24-month extension to the timeframe is not supported. The request confirms that extensive work remains to be completed on the planning proposal which will take a considerable amount of time to complete.

The NSW Government is committed to reforming the planning system to be more streamlined and simplified in order to help unlock productivity by creating jobs and supporting on-going economic recovery. The reforms include delivering improved processes for assessing and finalising planning proposals more efficiently. A key part of the reforms is to reduce timeframes to rezone land down to one year for completion

If the extension of time was granted, the planning proposal would take 4 years to be determined. This is contrary to the Planning Reform Action Plan which aims to reduce assessment timeframes and ensure all planning proposals are finalised within 1 year of Gateway determination.

### 3 Strategic assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B**) and subsequent planning proposal processes. However, the proposal has not been subject to a high level of public consultation and engagement or amended to address the conditions of the Gateway.

The Gateway determination report (**Attachment C**), provides an assessment of the Greater Sydney Region Plan, Eastern City District Plan, relevant section 9.1 Directions, and SEPPs applying to the Planning Proposal. The following section provides a strategic assessment against relevant strategic planning documents not included in the original assessment.

#### 3.1 Greater Sydney Region Plan and Eastern City District Plan

The Gateway determination report (Attachment C) identifies priorities and actions to be considered as part of a revised planning proposal, including specific priorities listed in the Eastern City District Plan (District plan). As noted within the Gateway determination report, the GSC issued information note SP2018-1 (**Attachment D**) regarding planning proposals affecting industrial and urban services land. The information note outlined guidance for planning proposals agreed to proceed and inconsistent with the retain and manage approach planning priority in the District Plan. This guidance was accompanied by conditions to ensure the Gateway determination required the:



- planning proposal to be updated to meet the requirements set by a relevant regional planning panel;
- Department to set a maximum timeframe for the LEP to be completed, after which no extensions of time would be granted; and
- planning proposal to include a sunset provision to repeal the amendments made to the LEP.

These conditions were addressed by the Gateway determination.

An action of the Greater Sydney Region Plan (Region Plan) is to review all industrial and urban services land identified as review and manage under objective 13. The completion and findings of this review would inform the application of the relevant planning priorities in the Region plan and District plan. The future planning for the Water Street employment land precinct – including the subject site – would need to address these findings. Council would have the benefit of this review in completing its employment land strategy. Should this review conclude there is merit in converting employment lands to mixed use or to meet housing diversity and supply needs a new planning proposal could be prepared by Council.

## 3.2 Local Strategic Planning Statement

Since Gateway determination, Council prepared and adopted a Local Strategic Planning Statement (LSPS). The LSPS was adopted in March 2020 and sets out the vision for the area in 2036 and actions to be taken to achieve this vision. The LSPS Planning Priorities relevant to the planning proposal are as follows:

- Planning Priority 2 – Connected, integrated, efficient and accessible transport options connect Strathfield's people to their neighbourhoods, centres, jobs, community and recreation areas;
- Planning Priority 6 – Development balances growth with best practice planning and infrastructure provision to deliver sustainable, liveable and well-designed neighbourhoods;
- Planning Priority 8 – Diverse Housing options provide for people at all lifecycles and connects the to jobs, recreation, services and transport;
- Planning Priority 10 - Industrial land and precincts deliver district and local urban services and provide activated spaces with minimal impact on neighbourhoods;
- Planning Priority 13 – Biodiversity and ecological health and resiliency is conserved, restored and enhanced;
- Planning Priority 14 – The Cooks River and Parramatta River catchments and waterways are healthy and accessible;
- Planning Priority 15 – Quality open spaces and thriving green corridors offset the impacts of growth across the LGA;
- Planning Priority 16 – A healthy built environment delivers sustainable and resource efficient outcomes; and
- Planning Priority 17 – Hazards are minimised, and infrastructure supports resiliency.

As the Gateway determination was issued prior to the implementation of the LSPS, future planning for the site would need to consider and address the Planning Priorities of the LSPS and justify any identified inconsistencies, for example, in response to Planning Priority 10.

## 3.3 Section 9.1 Directions

The Gateway determination report (**Attachment C**) identified the following s9.1 Ministerial Directions as being relevant to the Planning proposal:

- Direction 1.1 Business and Industrial Zones
- Direction 3.1 Residential Zones
- Direction 3.4 Integrating Land Use and Transport
- Direction 4.1 Acid Sulfate Soils
- Direction 4.3 Flood Prone Land

The Gateway assessment against the s9.1 Directions at the time of the Gateway determination remains relevant to the proposal, including any identified inconsistencies. The following s9.1 Directions were introduced after the Gateway assessment was completed and are identified as relevant to the proposal:

- Direction 2.6 Remediation of Contaminated Land

Under this direction, a Planning Proposal Authority must give regard to a report specifying the findings of a preliminary investigation carried out in accordance with the contaminated land planning guidelines. The proponent submitted a contamination audit which is based on the results of a 2007 site audit report and site audit statement to support a previous rezoning proposal. The entire Water Street employment land precinct was not considered under the original contamination assessment. Additional contamination investigations would be required to adequately address the Direction, including demonstrating consistency with the draft contaminated land planning guidelines.

### 3.4 State Environmental Planning Policies (SEPPs)

The Gateway determination report (**Attachment C**) identified the following State Environmental Planning Policies (SEPPs) as being relevant and consistent to the proposal. The assessment against the SEPPs at the time of the Gateway report remains relevant to the proposal.

- SEPP 55 – Remediation of Land
- SEPP 65 – Design Quality of Residential Apartment Development

## 4 Recommendation

It is recommended the Minister's delegate as the local plan-making authority alters the Gateway determination for the proposal not to proceed under clause 3.34(2)(a) and (7) of the *Environmental Planning and Assessment Act 1979* because:

- The Planning Proposal has not been amended in accordance with the conditions of the Gateway determination including providing justification for inconsistencies with section 9.1 Direction 1.1 Business and Industrial Zones, Direction 4.1 Acid Sulfate Soils, and Direction 4.3 Flood Prone Land;
- The Planning Proposal has not been exhibited in accordance with the Gateway determination; and
- The Gateway determination required the plan to be made by 19 February 2021 and has since lapsed. No request for extension has been granted in accordance with advice provided from the GSC (information note SP2018-1).
- The request for the Gateway alteration to extend the timeframe to complete the LEP for a further 24 months would extend the timeframe for determination of the planning proposal to 4 years from Gateway determination. This is inconsistent with the Planning Reform Action Plan NSW Government's Planning Reform Action Plan, which aims to make the planning assessment process more transparent and better align them with the delivery of strategic plans, including to ensure planning proposals generally take one year and no more than two years to complete.



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## Attachments

Attachment	Document
A	Planning proposal
B	Gateway determination
C	Gateway determination report
D	GSC Information Note (SP2018-1)
E	Letter to Strathfield Council requesting resolution (11 February 2020)
F	Letter from proponent requesting extension of time (19 February 2020)
G	Alteration of Gateway determination
H	Alteration of Gateway determination – letter to Council