ITEM-2 LEP REVIEW - STAGED IMPLEMENTATION OF LSPS

Department Community and Environmental Planning

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EXECUTIVE SUMMARY

A Planning Proposal has been prepared to give effect to the Eastern City District Plan and commence the implementation of the City of Canada Bay Local Strategic Planning Statement (LSPS).

The Planning Proposal seeks to amend the Canada Bay Local Environmental Plan 2013 by introducing local character areas, requiring a diversity of apartment sizes, increasing the provision of affordable housing, introducing a minimum lot size for boarding houses in the R2 Low Density Residential zone, introducing a new clause relating to aircraft noise, updating the environmentally sensitive land map, strengthening the Height of Building and Floor Space Ratio planning control objectives, rezoning a number of Sydney Water sites and making other housekeeping changes.

It is recommended that the Planning Proposal be endorsed by Council for submission to the Department of Planning and Environment for a Gateway Determination.

STRATEGIC CONNECTION

This report supports FuturesPlan20 Outcome area:

EFF 4.2.1 Provide **Strategic and Land Use Planning** to ensure the built and natural environment is highly liveable with quality and sustainable development incorporating best practice design.

This report also relates to the Draft Canada Bay Local Strategic Planning Statement, the Canada Bay Local Environmental Plan 2013 and the Canada Bay Development Control Plan.

REPORT

Background

In March 2018, the *Environmental Planning and Assessment Act 1979* (the EP&A Act) was amended to require local Councils to develop a Local Strategic Planning Statement (LSPS) that is consistent with and gives effect to the Eastern City District Plan. On 15 October 2019, Council resolved to endorse the draft LSPS and submit it to the Greater Sydney Commission for Assurance.

The EP&A Act also requires Council to review its LEP to give effect to the Eastern City District Plan. A Planning Proposal has now been prepared to commence the implementation of various actions in the LSPS. The Planning Proposal is the first in a series of Planning Proposals that will implement the principles and Actions of the LSPS.

The City of Canada Bay was one of 18 Councils in Sydney to receive up to \$2.5 million government funding to develop a LSPS and undertake a LEP review, conditional on Council adopting an accelerated 2 year program to complete the two documents.

Council is required to submit the Planning Proposal to the DPIE before 20 December 2019 for a Gateway Determination and to submit the draft LEP to the DPIE to make the plan before 30 June 2020.

Canada Bay Local Strategic Planning Statement

The LSPS sets out a 20-year strategic vision for land use planning for the City of Canada Bay. It brings together and builds on Council's Local Environmental Plan (LEP), Development Control Plans (DCP) and Development Contributions Plans, and state-wide and regional policies, including the Metropolitan Plan for Sydney, the Eastern City District Plan, Future Transport Plan 2056 and the State Infrastructure Strategy.

The LSPS planning priorities will be delivered through actions to guide land use decisions over the life of the strategy. The actions will be delivered in a series of Planning Proposals, as well as other operational plans by Council, such as the Bike Plan and the Development Contribution Plans. This first Planning Proposal establishes the basis for and sets up Planning Proposals to follow.

Planning Proposal

The Planning Proposal seeks to amend the Canada Bay Local Environmental Plan (CBLEP) 2013 to:

- a) Maintain and protect areas with distinctive local character by introducing Local Character Areas;
- b) Increase housing choices and diversity by expanding the range of apartment sizes;
- c) Increase the provision of affordable housing by requiring new developments in key renewal areas to deliver a proportion of affordable housing;
- d) Introduce a minimum lot size for boarding houses in low density zones to ensure they provide high quality amenity and are compatible with the character of the area;
- e) Ensure new development is designed to ameliorate the impacts of aircraft noise;
- f) Ensure environmentally sensitive land is protected from development impacts;

- g) Strengthen objectives for Height of Building and Floor Space Ratio controls to reduce ambiguity when applying Clause 4.6 of the LEP;
- h) Rezone certain Sydney Water sites to an infrastructure zone to ensure their operational protection;
- i) Correct errors and inconsistencies due to, for example, recent land subdivisions.

Local Character Areas

Action 7.2 of the LSPS states:

Seek to amend the Canada Bay Local Environmental Plan to implement interim local character statements for the Character Areas identified on Map 10.



Figure 1: LSPS Map 10, Proposed Interim Local Character Areas

The Planning Proposal seeks to introduce Local Character Areas into the LEP to:

- recognise, support and protect neighbourhood character, cultural identity, and sense of place;
- manage the impact of urban change on the desired future character;
- ensure that new development retains and enhances the key character attributes that contribute to a precinct's existing local character;
- retain and enhance the landscape and streetscape character, where these are a recognised feature of the area; and

- require development applications to emphasise the:
 - pattern of development and subdivision of the local area;
 - built form, scale and character of development;
 - architectural form and materials; and
 - garden settings of buildings and the tree canopy.

To protect the integrity of the Local Character Areas, it is proposed to seek a separate exclusion from the following State Environmental Planning Policies for complying development in the Local Character Areas:

- Part 3 of SEPP (Exempt and Complying Development Codes) 2008 (Housing Code)
- Part 3B of SEPP (Exempt and Complying Development Codes) 2008 (Low Rise Medium Density Housing Code)

The exclusion, if granted, will not prohibit development or reduce the current development potential of the areas. Instead, landowners and applicants who are undertaking works in Local Character Areas would be required to submit a Development Application rather than a Complying Development Certificate. The intention is to ensure that any new development is consistent with the desired future character statement of the Local Character Areas.

Detailed development controls will also be added to the Canada Bay Development Control Plan (DCP) to support local character. The draft DCP, which is at <u>Attachment – Draft DCP – Local Character Areas</u>, will be sent to the Department for information and to support the Planning Proposal. It will also be exhibited with the Planning Proposal.

The Department of Planning, Industry and Environment (the Department) is currently developing guidance in relation to Local Character Overlays and it is possible that the proposed LEP and DCP provisions for Local Character Areas may need to be amended to align with any model requirements prepared by the Department following receipt of a Gateway determination. For this reason, it is recommended that delegation be granted to the General Manager to amend the relevant LEP and DCP requirements as they pertain to Local Character Areas, where needed to align with any guidance released by the Department.

Diversity of apartment sizes

Action 5.4 of the LSPS states:

Amend the Local Environmental Plan to require all new development to provide an increased number of three bedroom apartments to meet the needs of couples and families, consistent with changing household and age structure.

Council's Local Housing Strategy (LHS) found that 88% of new demand for dwellings in the LGA by 2026 is likely to be for apartments. However, 20% of apartments are

currently occupied by families with children. There is therefore a need to ensure supply of a wide range of apartment types.

It is proposed to amend the Canada Bay LEP by inserting a new clause that would require a diversity of apartment sizes. This proposal would require development applications for residential flat buildings, or shop top housing, of 10 dwellings or more to include:

- at least 20% of the total number of dwellings to be self-contained studio dwellings or one-bedroom dwellings, or both, and
- at least 20% of the total number of dwellings to be 3 or more bedroom dwellings.

A diversity of apartment size would provide housing choice for different demographics, living needs and household budgets as well as accommodate the needs of a range of household sizes.

Affordable housing

Action 5.5 of the LSPS states:

Require a minimum of 5% of the Gross Floor Area of new development to be dedicated as affordable housing for:

- *Planned Precincts;*
- *Parramatta Road Corridor precincts;*
- Where there is a significant increase in density arising from a Planning Proposal.

An affordable housing contribution plan is required before the rezoning of the above precincts/sites.

The Planning Proposal seeks to require new development in renewal areas to provide affordable housing. It identifies where and how the affordable housing contribution would apply.

As for many Councils within the Greater Sydney Region, the decline in the affordability of housing is a key issue for the City of Canada Bay. Over the last 20 years there has been an ongoing decline in the proportion of housing available for low to moderate income households. At the time of the last Census, 42% of households renting in the City of Canada Bay LGA experienced rental stress when rental levels were considered against household income.

The desirable location and proximity of the LGA, together with the pressure on property prices from urban renewal and stagnation of wages is predicted to cause further declines in affordability over future decades. This will lead to increased demand for Affordable and Social Housing.

A lack of affordable rental housing has the effect of skewing the population of the City of Canada Bay, with low-moderate income earners forced away from the area. This leads to a less diverse community, the migration of young people to other areas and a reduced labour force of key workers, including emergency, hospital and even Council workers (such as childcare and depot staff) available to support the local economy.

There is currently demand for 5,058 social and affordable housing dwellings within Canada Bay, but a supply of only 1,187 dwellings. Demand is expected to grow to 7,056 dwellings by 2036, or 14% of all dwellings in Canada Bay.

The Environmental Planning and Assessment Act (EP& A Act) and SEPP 70 Affordable Housing (Revised Schemes) enable Council to levy contributions for affordable housing.

A condition imposed on a development consent to provide affordable housing must be authorised by a Local Environmental Plan (LEP) and be in accordance with an affordable housing contribution scheme. A proposed Affordable Housing Contributions Scheme (AHCS) for the City of Canada Bay has been drafted and is attached to the Planning Proposal. The AHCS sets out requirements for the provision of affordable housing in the Rhodes Planned Precinct (Rhodes Gateway West and Rhodes East), for 3 areas within the Parramatta Road Corridor and for 160 Burwood Road, Concord (the Bushell's site). It will generally apply to residential development that creates over 200 sqm of floorspace.

The proposed AHCS has been prepared in accordance with the requirements of the Department of Planning and is supported by evidence of the need for Affordable Housing in the LGA.

The LSPS minimum affordable housing requirement of 5% for renewal precincts is an aspirational target based on Council's understanding of feasibility across the LGA but is dependent on detailed viability testing for individual precincts as part of the AHCS.

As required by the Department of Planning, Council has undertaken viability testing, and has found that a 5% contributions levy was viable for some of the locations tested, but not for the Parramatta Road Corridor precincts. Instead a 4% contributions levy was found to be viable in the Corridor. It is likely that the lower viability threshold for affordable housing in the Parramatta Road Corridor is in part due to the Parramatta Road Corridor Urban Transformation Strategy being finalised in 2016, with new planning controls that increase density. Hence land values have risen, tightening profit margins.

The viability testing has supported the following proposed affordable housing levies:

- **Rhodes West Affordable Housing Contribution Area:** 5% of the additional total Gross Floor Area that is to be used for residential uses.
- **Rhodes East Affordable Housing Contribution Area:** 5% of the total Gross Floor Area that is to be used for residential uses
- Parramatta Road Corridor:
 - **Kings Bay Affordable Housing Contribution Area -** 4% of the total Gross Floor Area that is to be used for residential uses
 - **Burwood Affordable Housing Contribution Area -** 4% of the total Gross Floor Area that is to be used for residential uses

- Homebush Affordable Housing Contribution Area 4% of the total Gross Floor Area that is to be used for residential uses (except for 3 King St and 176 George Street in Concord West where 5% of any additional Gross Floor Area applies).
- **160 Burwood Road, Concord Affordable Housing Contribution Area -** 5% of the total Gross Floor Area that is to be used for residential uses

The AHCS will be reviewed on an annual basis and if there is sufficient evidence of a change in viability, Council will be seeking to increase the contribution rate for the Parramatta Road Corridor in line with the 5% LSPS target.

The measure of 'additional' Gross Floor Area (GFA) is defined as the difference between the proposed residential GFA (under amended planning controls) and the total GFA (under previous planning controls). The affordable housing contributions rates for 2 sites in the Homebush Scheme Area (3 King Street and 176 George St, Concord West) apply a different rate which has been agreed by Voluntary Planning Agreement prior to the Scheme being prepared.

The contribution for affordable housing can be met either as an on-site contribution (i.e. provision of a dwelling) or an equivalent monetary contribution.

The draft AH scheme is provided at <u>Attachment – Affordable Housing Contribution</u> <u>Scheme.</u> It will be sent to the Department for information and to support the Planning Proposal. It will also be exhibited with the Planning Proposal.

Minimum lot size for boarding houses

Action 7.8 of the LSPS states:

Seek inclusion of a minimum lot size of 800sqm for Boarding Houses in the R2 Low Density Residential zone to improve the amenity of boarding houses and reduce their impact in these areas.

The Planning Proposal seeks to introduce a minimum lot size for boarding houses in the R2 Low Density Residential zone to 800sqm.

The amendment to limit boarding house development in the R2 Low Density Residential zone will ensure that:

- **boarding** houses in the zone retain a low-density scale and character; and
- boarding houses achieve adequate setbacks, private open space and landscaped area, driveways and vehicle manoeuvring areas.

A recent report by the City Futures Research Centre for the South Sydney Regional Organisation of Councils (SSROC), which Canada Bay Council is a member of, found that the *SEPP (Affordable Rental Housing) 2009* (ARHSEPP) is not facilitating boarding houses that are affordable housing under the definition in the ARHSEPP. It is instead facilitating fast-tracked "micro-apartments" for students and younger workers who would normally occupy mainstream studio apartments.

Council will experience a significant increase in the amount of development to 2036, that will overwhelmingly comprise apartments in planned precincts and renewal corridors. Council's Local Housing Strategy has identified a need for housing diversity, particularly terraces and dual occupancy housing, larger (3 or more bedrooms) apartments and affordable housing. Council is seeking to address this need by:

- requiring a mix of apartment sizes in apartment developments;
- requiring or facilitating 5% affordable housing provision in the Parramatta Road corridor and Planned Precincts; and
- investigating opportunity for housing diversity in areas with good access to rail stations, in which medium-density terrace and dual occupancy housing will be permissible and feasible.

Additional market-delivered "micro-apartments" would exceed the demand for this typology, provide poor amenity for inhabitants and does not address the need for other housing typologies.

Council is therefore seeking to prohibit boarding houses on smaller lots in the R2 Low Density Residential zone and instead facilitate this land use outcome on larger lots in the R2 Low Density Residential zone. This will ensure that the built form and character (bulk, scale, architectural character and streetscape) of any potential new boarding house development is more likely to be consistent with the character of the local area. Also, the impact on the amenity of the existing and new residents is more likely to be reduced.



Figure 2: Lots of 800sqm area or greater in R2 Low Density residential zone

Environmentally Sensitive Land map

Action 14.2 of the LSPS states:

Review the land use zones and environmental controls in the Canada Bay Local Environmental Plan and Development Control Plan to ensure that significant remnant habitats are retained to protect endangered flora and fauna and improve habitat connectivity.

The Planning Proposal seeks to protect and enhance bushland and biodiversity, including iconic species and priority corridors.

Council's recently completed Biodiversity Framework provides up-to-date evidencebased guidance and actions to protect and enhance environmentally sensitive land and corridors. The Framework is also intended to assist in the protection of threatened and migratory species, and critical, significant and supporting habitats. Implementation of the framework will:

- endeavour to protect and conserve 100% of native vegetation in Council reserves;
- improve vegetation within critical habitat/ priority areas that are considered to have opportunities for connectivity;

- retain the maximum amount of native vegetation across development and infrastructure zones;
- protect foreshores, significant wetlands and Coastal Saltmarsh;
- restore the ecological function of high priority waterways and wetlands;
- achieve measurable increase in connectivity within reserves;
- increase numbers and density of urban trees, shrubs and understorey across the LGA;
- achieve measurable increase in habitat coverage within and adjacent to identified priority corridors;
- maintain and improve native species richness of flora and fauna in Council reserves; and
- increase biodiversity habitat & protection on private land.

The amendment will ensure that environmentally sensitive land is protected by:

- expanding the area of land currently zoned E2 Environmental Conservation to include land that contains critical habitat (Endangered Ecological Communities; and
- expanding the Environmentally Sensitive Land map to include land currently zoned E2 Environmental Conservation and land that contains critical and supporting habitat.



Figure 3: Updated biodiversity map



Figure 4: Proposed amended Environmentally Sensitive Land map



Figure 5: Proposed amended E2 Environmental Conservation zone

HOB and FSR objectives

The Canada Bay LEP currently includes objectives for Height of Building (HOB) and Floor Space Ratio (FSR) development controls that, if strengthened and tightened, would result in shorter assessment timeframes for relevant DAs and produce outcomes that are clearer and more transparent.

The Planning Proposal seeks to amend the HOB and FSR objectives by expanding and strengthening them. This will reduce ambiguity when assessing development applications and reduce the application of Clause 4.6 Exceptions to development standards of the LEP. The proposed amended Clauses are consistent with Council's LSPS and would not result in reduced development potential in the LGA.

Aircraft noise

The Sydney Airport Master Plan 2039 sets out the strategic direction for the development of Sydney Airport to ensure it can accommodate growth forecast to occur over the next 20 years. The Master Plan foreshadows an increase in average daily movements combined with a decrease in zero movement days and total respite period for aircrafts over the Canada Bay LGA.

In November 2018, Council engaged GHD to undertake an acoustic review of the Sydney Airport Draft Master Plan 2039 and the revised ANEF 2039. The recommendations of the review were to amend the CBLEP 2013 to include a new clause Development in areas subject to aircraft noise. The recommended clause is similar to clauses contained within the Leichhardt LEP 2013, Marrickville LEP 2011, Sydney LEP 2012 and Botany Bay LEP 2013.

A draft clause has been prepared for inclusion in the Canada Bay LEP that will require Council to be satisfied that appropriate arrangements are in place to mitigate the impact of aircraft noise where development occurs within ANEF contour of 20 or greater.



Figure 7: ANEF 2039 map

Sydney Water sites

The Planning Proposal seeks to respond to a request from Sydney Water to rezone 13 sites that are owned and operated by the Agency from a residential zone to SP2 Infrastructure.

The sites are:

- 33 Harris Road, Five Dock (Lot 1, DP 1177282)
- 89A Henley Marine Drive, Rodd Point (Lot 2, DP 180962)
- 1 Melrose Road, Abbotsford (Lot 25, DP 270127)
- Teviot Avenue, Abbotsford (Lot 10, DP 1241863)
- 24W Westbourne Street, Drummoyne (Lot B, DP 396119)
- 32 Wymston Parade, Wareemba (Lot 96, DP 6743)
- Bortfield Drive, Chiswick (Lot 1, DP 614437, and Lot 10, DP 238796)
- 8 Burns Crescent, Chiswick (Lot 11, DP 1175282)
- 33B Byrne Avenue, Russell Lea (Lot 101, DP 774790, and Lot 17 and 18, DP 8867)

• 8A Durham Street, Concord (Lot 66, DP 243992)

The requested rezoning will:

- better reflect the permanent and ongoing need for the land and existing assets to provide vital water and sewerage infrastructure;
- provide clarity to the local community about the current and intended use of the land;
- be consistent with Canada Bay LEP 2013 SP2 Infrastructure Zone objectives to provide for infrastructure and related uses; and
- confirm the land use is intended to support population growth within the LGA, providing services and infrastructure to meet peoples changing needs (consistent with Canada Bay's draft LSPS).

Housekeeping amendments

The Planning Proposal seeks to amend the CBLEP 2013 to correct various errors and anomalies that have arisen in recent years.

Heritage Items land

The Planning Proposal seeks to correct a number of heritage listings, which have arisen due to, for example, recent land subdivision. The Heritage Items are:

- Heritage Item I23 54 and 54a Blackwall Point Road, Chiswick
- Heritage Item I545 2, 11, 15, 17, 50, 58 Woodlands Avenue, Breakfast Point
- Heritage Item I353 40 Moore Street, Drummoyne

Roads and laneways and redundant Lots

The Planning Proposal seeks to remove planning controls for a number of roads, laneways and redundant lots, to be consistent with Council's general approach of applying no height or FSR controls to roads. The roads and laneways are:

- Laneway behind 70-92 Majors Bay Road, Concord
- Roads and properties removed by M4 on-ramp/off-ramp, North Strathfield

Additional Permitted Uses

The Planning Proposal seeks to correct errors in Schedule 1 Additional Permitted Uses that Council has become aware of that relate to recent land subdivisions and changes made under translation to the Standard Instrument LEP. The relevant sites are:

- 123 and 97-99 Peninsula Drive, Peninsular Drive, Breakfast Point
- Concord Oval, 8 Gipps Street, Concord
- 69 Renwick Street, Drummoyne
- 30–34 St Georges Crescent, Drummoyne
- 13 Bevin Avenue, Five Dock
- 104 William Street, Five Dock
- 49–51 Queens Road, Five Dock

Housekeeping

The Planning Proposal seeks to amend Part 2 Exempt development, to reduce duplication of controls for temporary signage and real estate signs. Where duplication in controls exist, the Canada Bay LEP will be amended to remove signage requirements. It will also clarify that this type of development is exempt development under the SEPP, noting that land owners permission will still be required.

Exhibition of Planning Proposal

In accordance with the EP& A Act, the Planning Proposal is required to be placed on public exhibition for a minimum of 28 days to enable community feedback. Exhibition should occur in February 2020 to meet Greater Sydney Commission timeframes. It is proposed that, at a minimum, this involve:

- notification on the City of Canada Bay website;
- notification in the Inner West Courier; and
- targeted consultation with affected landowners.

FINANCIAL IMPACT

Nil

Conclusion

The Planning Proposal is seeking to amend the Canada Bay LEP 2013 to give effect to the draft Local Strategic Planning Statement and the Eastern City District Plan. The Planning Proposal is the first in a series of Planning Proposals that will implement the Local Strategic Planning Statement.

The Planning Proposal introduced Local Character Areas, expands the range of apartment sizes, requires new developments to deliver a proportion of affordable housing, introduces a minimum lot size for boarding houses, introduces a new requirement to mitigate the impact of aircraft noise in new development, rezones certain Sydney Water sites an makes a number of housekeeping amendments to correct errors.

It is recommended that the Planning Proposal be endorsed for submission to the Department of Planning, Industry and Environment and be placed on public exhibition.

RECOMMENDATION

- 1. THAT the Planning Proposal (LSPS) be endorsed for submission to the Department of Planning, Industry and Environment for a Gateway Determination.
- 2. THAT delegation be requested from the Department of Planning, Industry and Environment to manage the plan making process.
- 3. THAT authority be delegated to the General Manager to make any minor modifications to the Planning Proposal following receipt of a Gateway Determination.
- 4. THAT authority be delegated to the General Manager to amend the proposed Local Character Overlay and associated Development Control Plan where necessary to align with any guidance released by the Department of Planning, Industry and Environment.
- 5. THAT Council note that should the Planning Proposal proceed to exhibition, that following consideration of any submissions, the Planning Proposal will be reported back to Council.
- 6. THAT the draft Development Control Plan and draft Affordable Housing Contribution Scheme be submitted to the Department of Planning, Industry and Environment for information and to support the Planning Proposal.
- 7. THAT the draft Canada Bay Development Control Plan and draft Affordable Housing Contribution Scheme be placed on public exhibition concurrently with the Planning Proposal.

Attachments:

- 1. Draft LSPS Planning Proposal (distributed under separate cover)
- 2. Draft DCP Local Character Settings (distributed under separate cover)
- 3. Draft Affordable Housing Contributions Scheme (distributed under separate cover)
- 4. Draft Affordable Housing Contributions Scheme Appendix A Housing Needs Assessment (*distributed under separate cover*)
- 5. Draft Affordable Housing Contributions Scheme Appendix B Affordable Housing Viability Assessment (*distributed under separate cover*)
- 6. Draft Affordable Housing Contributions Scheme References (distributed under separate cover)
- 7. Sydney Airport Draft Master Plan 2039 Acoustic Review (distributed under separate cover)
- 8. Biodiversity Framework and Action Plan (distributed under separate cover)

- 9. Biodiversity Framework and Action Plan Supporting Biodiversity Maps Current *(distributed under separate cover)*
- 10. Biodiversity Framework and Action Plan Supporting Biodiversity Maps Amended (distributed under separate cover)

ATTACHMENT 1 – Draft LSPS Planning Proposal (distributed under separate cover) **ATTACHMENT 2 – Draft DCP – Local Character Settings** (distributed under separate cover) **ATTACHMENT 3 – Draft Affordable Housing Contributions Scheme** (distributed under separate cover) **ATTACHMENT 4 – Draft Affordable Housing Contributions Scheme Appendix A - Housing Needs Assessment** (distributed under separate cover) **ATTACHMENT 5 – Draft Affordable Housing Contributions Scheme Appendix B** - Affordable Housing Viability Assessment (distributed under separate cover) **ATTACHMENT 6 – Draft Affordable Housing Contributions Scheme References** (distributed under separate cover) **ATTACHMENT 7 - Sydney Airport Draft Master Plan 2039 Acoustic Review** (distributed under separate cover) **ATTACHMENT 8 - Biodiversity Framework and Action Plan** (distributed under separate cover) ATTACHMENT 9 - Biodiversity Framework and Action Plan Supporting **Biodiversity Maps – Current** (distributed under separate cover) ATTACHMENT 10 - Biodiversity Framework and Action Plan Supporting **Biodiversity Maps - Amended** (distributed under separate cover)