

**ITEM MISCELLANEOUS AMENDMENTS TO CANADA BAY
LOCAL ENVIRONMENTAL PLAN 2013**

Department Planning and Environment

Author Initials: EMM

EXECUTIVE SUMMARY

This report describes proposed minor amendments to the Canada Bay Local Environmental Plan (LEP) 2013.

The amendments relate to various matters such as additional permitted uses, heritage, terrestrial biodiversity, floor space ratio and height of building. The amendments do not seek to modify the intent of the LEP.

It is recommended that the Planning Proposal be submitted to the Department of Planning and Environment for Gateway Determination to enable the document to proceed to public exhibition.

STRATEGIC CONNECTION

This report supports FuturesPlan20 Outcome area:

My city is well managed and my needs are met through high quality services and well maintained facilities and infrastructure.

REPORT

A Planning Proposal has been prepared to address the twelve (12) miscellaneous amendments outlined below. The Planning Proposal is provided as *Attachment 1*.

1. Floor Space Ratio – 296, 290 – 294 and 282 Lyons Road, Russell Lea

The site comprises 5 lots, 296, 290 – 294 and 282 Lyons Road, Russell Lea and is located on the corner of Lyons Road and Russell Street (Figure 1). The sites are part of a small cluster of shops that are surrounded predominantly by residential uses.



Figure 1: Subject site 296, 290 – 294 & 282 Lyons Road, Russell Lea

The site comprises 3 commercial tenancies used for the retail sale of paint, a food and drink premises and a veterinary clinic.

The Canada Bay LEP 2008 allocated a Floor Space Ratio (FSR) of 1.0:1 to these properties. However, maps associated with the Canada Bay LEP 2013 did not include a FSR for the land. The absence of an FSR on this site is a mapping error and is inconsistent with the prevailing FSR applied to the B1 Neighbourhood centres zones on Lyons Road.



Figure 2: Floor Space Ratio Map - 296, 290 – 294 & 282 Lyons Road, Russell Lea

It is recommended that an FSR of 1.0:1 be applied to these properties to reflect the intended Floor Space Ratio standards for these sites. The Floor Space Ratio Map is provided as *Attachment 2*.

2. Height of Building – 64 - 92 Majors Bay Road, Concord

The land comprises one to two storey shop top housing developments along 64 – 92 Majors Bay Road (Figure 3). The Canada Bay LEP 2013 allocated an 11m building height to these properties. The colour on the Height of building is correct, however an incorrect label was shown reflected on the LEP map (“I” instead of “L”).



Figure 3: Subject site 64 – 92 Majors Bay Road, Concord



Figure 4: Height of Building Map - 64 – 92 Majors Bay Road, Concord

It is recommended that the correct height of building label “L” be applied to illustrate the correct height of building permitted on the land. The Height of Building map is provided as *Attachment 3*.

3. Additional Permitted Uses – 380 Victoria Place, Drummoyne

The following provision currently applies to land located at 380 Victoria Place, Drummoyne under Schedule 1 – Additional Permitted Uses of the Canada Bay LEP 2013:

Clause 10 - Use of certain land at 380 Victoria Place, Drummoyne

- (1) This clause applies to land at 380 Victoria Place, Drummoyne, being Lot B, DP 401843 and Lot 1, DP 549352.*
- (2) Development for the purpose of marinas is permitted with development consent.*

The land at 380 Victoria Place, Drummoyne consists of three lots, including Lot B DP 401843, Lot 1 DP 549352 and Lot 1 DP 430123. Lot 1 DP 430123, identified in Figure 5 below, is currently omitted from Clause 10 above.



Figure 5: Subject site – 380 Victoria Place, Drummoyne

All land at 380 Victoria Place, Drummoyne is currently zoned R3 Medium Density Residential which prohibits Marinas (Figure 5), though Marinas are made permissible under Schedule 1 Additional Permitted Uses and the land is currently used for the purpose of a Marina.

As part of the preparation of the Canada Bay LEP 2013, *Clause 10 - Use of certain land at 380 Victoria Place, Drummoyne* only included 2 of the

abovementioned 3 lots. One lot known as Lot 1 DP 430123 was not included within Clause 10, despite the fact that this land is used for a Marina. The omission of this lot from Schedule 1 is considered to be an anomaly.

It is recommended that Lot 1 DP 430123 be added to Schedule 1 (Additional permitted use) of the LEP to ensure the use of the site is permissible in the LEP.

4. Part 6 Additional Local Provisions - Clause 6.3 of the Canada Bay LEP

State Environmental Planning Policy (Exempt and Complying Development) identifies specific land-based exclusions under *Clause 1.19 – Land on which complying development may not be carried out*, that restrict complying development being carried out on that land.

In particular, clause 1.19 states that development must not be carried out on land under the General Housing Code, Rural Housing Code, Commercial & Industrial (New Buildings and Additions) Code if the land is identified by an Environmental Planning Instrument (Canada Bay LEP 2013) as being ‘Environmentally Sensitive Land’.

Within the Canada Bay LEP 2013, properties considered to be *Environmentally Sensitive Land* are currently labelled on a map titled ‘Terrestrial Biodiversity Map’, being land containing (or within the vicinity of land containing) threatened species or endangered ecological communities and is required to address Clause 6.3 “Terrestrial Biodiversity” within the Canada Bay LEP.

As both the wording for the map and the clause within the LEP refers to *Terrestrial Biodiversity* rather than *Environmentally Sensitive Land*, confusion is created with respect to whether the SEPP (Exempt and Complying) 2008 is a land based exclusion.

In this regard, there is a discrepancy between the wording used in the LEP and the wording used in the SEPP.

It is recommended that Clause 6.3 and the map be amended to replace the term “Terrestrial Biodiversity” with the term “Environmentally Sensitive Land” to maintain consistency with the SEPP. The Biodiversity Map is provided as *Attachment 4*.

5. Height of Building – certain land in Five Dock

The Canada Bay LEP 2013 has allocated an 8.5m building height to the properties located on the corner of Bevin Avenue and Harris Road, Five Dock. The colour on the Height of Building Map is correct, however no label is shown.



Figure 6: Subject site – Bevin Avenue, Five Dock



Figure 7: Height of Building – Bevin Avenue, Five Dock

It is recommended that a height of building label “T” be applied to illustrate the correct height of building permitted on the land. The Height of Building Map is provided as Attachment 5.

6. Zoning – 545 - 551 Great North Road, Five Dock

The site comprises 4 properties, 551, 549, 547 and 545 Great North Road, Five Dock and is located on the corner of Altona Street and Great North Road. The sites form a small cluster of shops, surrounded by residential uses.



Figure 8: Subject site – 545 – 551 Great North Road, Five Dock



Figure 9: Zoning Map – 545 – 551 Great North Road, Five Dock

The sites are zoned as R3 Medium Density Residential under the Canada Bay LEP 2013. However, the sites comprise 1 and 2 storey “shop top” housing and to the north, along Great North Road are properties zoned B1 Neighbourhood Centre with commercial tenancies.

The zoning of 545 – 551 Great North Road, Five Dock as R3 Medium Density Residential is considered to be an anomaly given the existing neighbourhood shops on the site.

It is recommended that the land be rezoned to B1 Neighbourhood Centre to reflect the current and preferred use of the site. The Zoning Map is provided as *Attachment 6*.

7. Residential flat buildings in B4 Mixed Use zone

The Canada Bay LEP 2013 introduced residential flat buildings into the B4 Mixed Use zone.

A review was recently undertaken of approved buildings in the Five Dock and Drummoyne B4 Mixed Use zones and it was found that some developments had minimised commercial uses (retail/office and other non-residential floor space) to an extent that the commercial component comprised less than 20% of gross floor area on the ground floor.

Examples identified include:

Address	% of ground floor used for commercial	% of GFA (Gross Floor Area) used for commercial
189 – 193 Great North Road, Five Dock	10.51%	3.83%
227 Great North Road, Five Dock	9.54%	4.94%
77 – 79 Victoria Road, Drummoyne	22.71%	7.59%

The only requirement for commercial uses to be included within the B4 Mixed Use zone is the Active Frontage Clause of the LEP that requires non-residential uses directly adjacent to the main street frontage. Often spaces that are designed to meet the Active Street Frontage requirement are too small to enable a flexible variety of retail, office or other non-residential uses to be accommodated over the life a building. Where buildings are not designed to accommodate ground floor commercial uses or are strata subdivided, it is often difficult to convert residential floor space back to commercial floor space in the future.

The B4 Mixed Use zones in Canada Bay provide important local services for the growing Canada Bay community. It is important to ensure that as the community grows, there continues to be sufficient commercial floor space to provide for the

needs of the growing resident population. As a minimum, the ground floor of all new development in B4 Mixed use zones should be protected for the purpose of commercial uses.

It is apparent that the inclusion of residential flat buildings in the B4 Mixed Use zone has seen commercial and retail uses being minimised and residential floor space being maximised. It is recommended that the term “residential flat buildings” be removed from the B4 Mixed Use zone. Shop top housing will continue to be permitted. This use will enable the residential component of a building to be located above ground floor commercial uses.

8. Zoning and Additional permitted use – 355 – 359 Lyons Road, Five Dock

Due to the proposed B4 Mixed Use zone identified above, it is important to ensure that recent land uses changes made in relation to the property at 355-359 Lyons Road are not unduly affected.

The site comprises 3 properties, 355, 357 and 359 Lyons Road, Five Dock and is located on the corner of Lyons Road and Ingham Avenue. The sites form a small cluster of shops, surrounded by residential uses.



Figure 10: Subject site – 355 – 359 Lyons Road, Five Dock

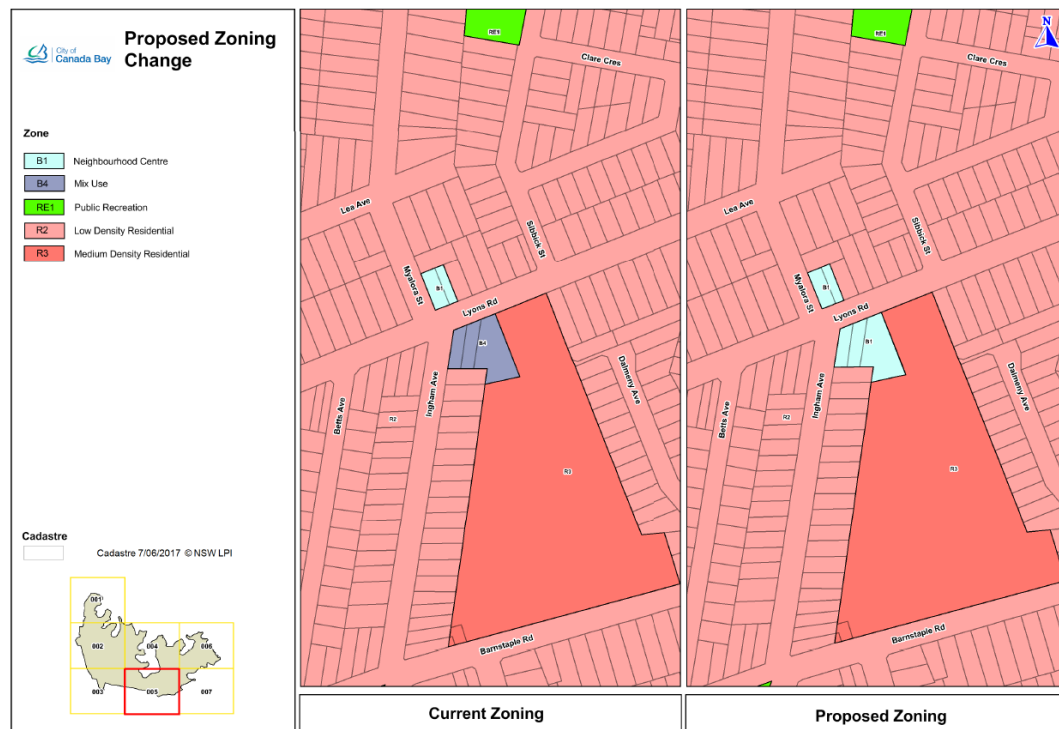


Figure 11: Zoning Map – 355 – 359 Lyons Road, Five Dock

355 and 357 Lyons Road is currently occupied by a single dwelling and 359 Lyons Road comprises 1 and 2 storey “shop top” housing. The ground floor of 359 Lyons Road has been used for many years for the retail sale of paint and associated equipment in the corner tenancy, with the second tenancy occupied by an upholstery business.

On the 10th of February 2015 a Planning proposal was lodged to rezone 355, 357 and 359 Lyons Road from R2 Low Density Residential and B1 Neighbourhood Centre to B4 Mixed Use. The applicant provided a development concept for the site that illustrates a development with both commercial and residential uses on the ground floor. The rezoning of the subject sites to B4 Mixed Use permitted residential flat buildings on the ground and the intended development outcome was for residential uses to be located partly on the ground floor. The proposal was adopted and gazetted on the 5th of August 2016.

This Planning Proposal was prepared on the assumption that residential uses would be permitted on the ground floor due to the narrow nature of the site frontage to Lyons Road and to enable residential uses to addresses Ingham Avenue to the rear of the site. To ensure that residential uses remain permissible on the ground floor following the removal of residential flat buildings from the B4 Mixed Use zone, it is recommended that this site be rezoned to B1 Neighbourhood Centre with an additional permitted use to permit residential flat buildings. The zoning map for this site is provided as *Attachment 7*.

9. Heritage – 6 Rodd Road, Five Dock

The land at 6 Rodd Road Lot 27 DP 4855(known as item I408) is a heritage item listed in Schedule 5 of the Canada Bay LEP.



Figure 12: Subject site –6 Rodd Road, Five Dock

The statement of significance describes the property as *“a rare and interesting Edwardian house in timber using an unusual roof form extending over the front verandah. Single gable anticipates later bungalows. Timber houses remained popular at Five Dock into the 1920s and this house is a rare surviving intact example.”*

However, the house that was the subject of the above description has been demolished and a new building erected (Figure 6 & 7). Council’s heritage advisor has undertaken an assessment of the property in relation to heritage significance and provided the following comments:

“There is a readily apparent discrepancy between the description of the house at 6 Rodd Road Five Dock in the council’s heritage inventory and the house present on the site, as evidenced in photos.

Namely, the house heritage inventory suggests it is a typical Federation style timber house, whereas the house extant on site presents as a c. 2000 brick house of few noteworthy architectural features.

Furthermore, the comparison of aerial photographs of 1943 and 2016 clearly indicate different footprint shape and size, suggesting that the house was either redeveloped or substantially modified.

In these circumstances, it is fair to assume that the house currently present at 6 Rodd Road Five Dock is not the house which was assessed and found to meet criteria for listing back pre-2000.”

Therefore the site is incorrectly listed as a heritage item and should be removed from the Canada Bay LEP for accuracy.



Figure 13: 6 Rodd Road, Five Dock – 1996



Figure 14: 6 Rodd Road, Five Dock – current



Figure 15: Heritage Map – 6 Rodd Road, Five Dock

Council has no record as to when the redevelopment of the house occurred.

It is recommended that the heritage listing be removed from 6 Rodd Road, Five Dock Lot 27 DP 4855 (known as item I408) including the map and Schedule 5 of the Canada Bay LEP. The heritage map for this site is provided as *Attachment 8*.

10. Heritage – Concord West Railway Station and Concord West Station Park

The Concord West Railway Station and Concord West Station Park Lot 101 DP 1002884 (known as item I394 and I395) are heritage items listed in Schedule 5 of the Canada Bay LEP.

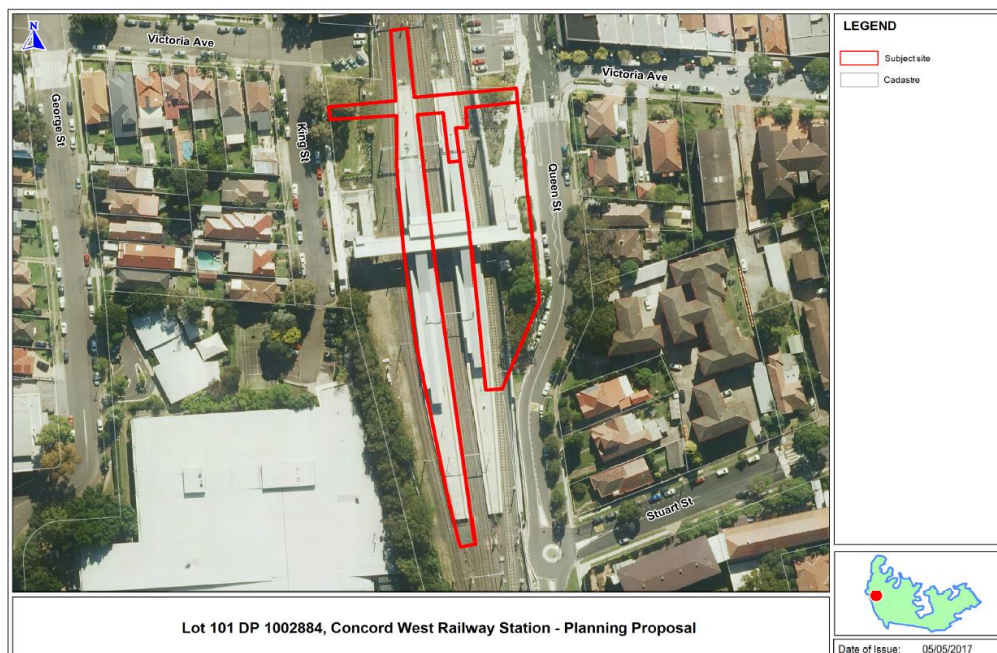


Figure 16: Subject site – Concord West Railway Station and Railway Station Park



Figure 17: Heritage Map - Concord West Railway Station and Railway Station Park

The statement of significance describes the Concord West Railway Station as “original platform and more recent station buildings. Small skillion roofed weatherboard buildings probably dates from 1920s or 30s”

The statement of significance describes the Concord West Railway Station Park as “small narrow rectangular shaped park laid out on flattish land beside railway. Park presents a fine row of mature brush box. Long asphalt (or blumen) dividing path through centre with rough sandstone flag edging lined on both sides with border planting of low shrubs and agapanthus. Timber and concrete

frame seats, some set in lawn. Also clipped phontinia, broom, ochna and two macadamias and one holly oak.”



Figure 18: Concord West Railway Station-1998



Figure 19: Concord West Railway Station - current



Figure 20: Concord West Railway Station Park 1998



Figure 21: Concord West Railway Station Park – current

In 2014, Transport for NSW undertook works to upgrade Concord West Station to improve station facilities and access for commuters. These works included modification to the platform and the landscape elements of the railway station

park. Council's heritage advisor has indicated that all historical elements have been removed, and the park was substantially modified. Therefore it would be reasonable to remove these two items from the LEP heritage list.

It is recommended that the heritage listing be removed from Concord West Railway Station and Concord West Station Park Lot 101 DP 1002884 (known as item I394 and I395) including updating the map and Schedule 5 of the Canada Bay LEP. The heritage map for this site is provided as *Attachment 9*.

11. Heritage – St Ambrose School (227 Queen Street, Concord West – Lot 14 Sec 3 DP 6949)

St Ambrose School at 227 Queen Street, Concord West Lot 14 Sec 3 DP 6949 (known as heritage item I392) is listed in Schedule 5 of the Canada Bay LEP.



Figure 22: Subject Site – St Ambrose School, 227 Queen Street Concord West



Figure 23: Heritage Map – St Ambrose School

The statement of heritage significance describes the school as an example of an “inter-war Romanesque style ecclesiastical building. Located on an important corner site, it is notable element in the streetscape. The building is important in the development of Catholic education in the Concord West community and served as the focal point of Catholic worship in the area from 1924 to 1965.”



Figure 24: St Ambrose School 1998



Figure 25: St Ambrose School – current

The buildings has been extensively modified to accommodate the increase in student population. Council’s heritage advisor has undertaken an assessment of the school in relation to heritage significance and concludes that over the years the historical built elements have been demolished and replaced with new elements. Therefore it would be reasonable to remove the item from the LEP heritage schedule.

It is recommended that the heritage listing be removed from St Ambrose School at 227 Queen Street, Concord West Lot 14 Sec 3 DP 6949 (known as heritage item I392), including updating the map and Schedule 5 of the Canada Bay LEP. The heritage map for this site is provided as *Attachment 9*.

12. Heritage – 32 Wymston Parade (Lot 95 DP 6743)

The land located on 32 Wymston Parade Lot 95 DP 6743 (known as heritage item I519) is listed in Schedule 5 of the Canada Bay LEP.



Figure 26: Subject site – 32 Wymston Parade, Wareemba



Figure 27: Heritage Map – 32 Wymston Parade, Wareemba

The statement of significance describes the property as “A small sewer pumping station, part of a group of structures spread throughout the Council area, all of different periods and styles, each reflecting the growth of suburbanisation and the stylistic features of those periods. The buildings are well designed using motifs from the period and are designed to sit into the surrounding domestic development.

The building is well detailed of face brick with a tiled roof, located on a large site that has now been affected by security fencing and use of the grounds for storage.

The building forms part of a significant group of service buildings in the Council area that demonstrate service infrastructure, the growth of suburban development and illustrate the changes in design of service buildings throughout the century. ”



Figure 28: MWS & DB Pumping Station – 32 Wymston Parade 2007

The Sydney Water Corporation have put forward a request to Council to amend the LEP heritage list and associated map to remove Lot 95.

The site consists of the Sewage Pumping Station SP0061 located on the southern half of the Sydney Water property (Lot 96 DP 6743) with the remaining northern half housing the depot building (Lot 95 DP 6743) which is to be demolished. The pumping station is listed as a local heritage item under both the Canada Bay Local Environmental Plan (LEP) 2013 and the Sydney Water's Section 170 Heritage and conservation register. Sydney Water's Section 170 curtilage only covers Lot 96, the pumping station and does not cover Lot 95 which houses the depot building. The Council local heritage listing curtilage covers both Lot 96 and Lot 95.

Lot 95 consists of a disused depot building, as well as few small concrete storage bays and picnic tables. The proposed demolition and remediation works will be restricted to this lot. A statement of heritage impact report has been provided to Council and concludes that the significance of the building (Lot 95) is considered to lack integrity in its interior and has low heritage significance.



Figure 29: Depot Building (Lot 95 DP 6743) – to be demolished

Council's heritage advisor has undertaken an assessment of the property in relation to heritage significance and recommended that the building is not part of significance of the adjoining historical pumping station and therefore no objection to remove it from Schedule 5 the LEP.

It is recommended that the heritage listing be removed from 32 Wymston Parade Lot 95 DP 6743 (known as heritage item I519) including updating the map and Schedule 5 of the Canada Bay LEP. The heritage map for this site is provided as *Attachment 10*.

Conclusion

A Planning Proposal has been prepared to implement the above amendments and Council endorsement is sought to submit the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.

Given the minor nature of the Planning Proposal it is recommended that Council request delegation to manage the process.

RECOMMENDATION

1. THAT a Planning Proposal be submitted to the Department of Planning and Environment for Gateway Determination for the following amendments to the Canada Bay Local Environmental Plan 2013:
 - a) provide a Floor Space Ratio of 1.0:1 to 296, 290 – 294 and 282 Lyons Road Russell Lea to reflect the intended Floor Space Ratio for these sites.
 - b) provide height of building label "L" to 64 – 92 Majors Bay Road, Concord to reflect the current height of these sites.

- c) amend Schedule 1, 10 use of certain land at 380 Victoria Place to include Lot 1 DP 430123.
 - d) replace “Terrestrial Biodiversity” in Clause 6.3 2(b) to “Environmentally Sensitive Land.” and make subsequent changes to the associated maps.
 - e) apply height of building label “I” be applied to certain land located on the corner of Bevin Avenue and Harris Road, Five Dock to illustrate the correct height of building permitted on the land.
 - f) rezone 545 – 551 Great North Road from R3 Medium Density residential to B1 Neighbourhood Centre to reflect the current and preferred use of the site.
 - g) remove “residential flat buildings” from the B4 Mixed Use zone;
 - h) residential flat buildings be added as an additional permitted use to Schedule 1, of the Canada Bay Local Environmental Plan for land at 355 – 359 Lyons Road, Five Dock (Lot 1 DP 319424 and Lot 40 & 41 DP 9978) and rezone the lots from B4 Mixed use zone to B1 Neighbourhood Centre.
 - i) amend the Canada Bay LEP to omit (Lot 27 DP 4855) 6 Rodd Road, Five Dock (item I408) from Schedule 5 Environmental Heritage.
 - j) amend the Canada Bay LEP to omit (Lot 101 DP 1002884), Concord West Railway Station and Railway Station Park (item I394 and I395) from Schedule 5 Environmental Heritage.
 - k) amend the Canada Bay LEP to omit (Lot 14 Sec 3 DP 6949) St Ambrose School (item I392) from Schedule 5 Environmental Heritage.
 - l) amend the Canada Bay LEP to omit (Lot 95 DP 6743) 32 Wymston Parade, Wareemba from schedule 5 Environmental Heritage.
2. THAT following receipt of the Gateway Determination, the planning proposal be publicly exhibited.
 3. THAT following the public exhibition period a report be provided to Council on the outcome and any further action to be taken.
 4. THAT Council request delegation from the Department of Planning and Environment to manage the process.

Attachments:

1. Planning Proposal for housekeeping amendments
2. Floor Space Ratio Map – 296, 290 - 294 and 282 Lyons Road Russell Lea
3. Height of Building Map – 64 – 92 Majors Bay Road, Concord
4. Biodiversity Map
5. Height of Building Map – Bevin Avenue
6. Zoning Map – 545 – 551 Great North Road, Five Dock
7. Zoning Map – 355 – 359 Lyons Road, Five Dock
8. Heritage Map – 6 Rodd Road, Five Dock

9. Heritage Map – Concord West Railway Station and Concord West Station
Park St Ambrose School (227 Queen Street, Concord West)
10. Heritage Map – 32 Wymston Parade, Waremba

Planning Proposal Miscellaneous

Updated Attachment 2. Floor Space Ratio Map 296 290- 294 and 282 Lyons...

Updated Attachment 3. 64 - 92 Majors Bay Road - map

Updated Attachment 4. Biodiversity Map - map

Updated Attachment 5. Height of building map Bevin Ave - map

Updated Attachment 6. Zoning Map Great North Road - map

Updated Attachment 11. 355 - 359 Lyons Road - map

6 Rodd Road - map

Concord West Station and St Ambrose - map

Updated Attachment 10. 32 Wymston Parade - map