

Planning and Assessment

IRF20/544

Plan finalisation report

Local government area: Canada Bay

1. NAME OF DRAFT LEP

Canada Bay Local Environmental Plan 2013 (Amendment No 13)

2. SITE DESCRIPTION

The planning proposal applies to land at 25 George Street, North Strathfield. The 7,444 square metre site is currently zoned IN1 General Industrial, with a maximum building height of 12 metres and an FSR of 1:1.

The site is located 850 metres to the south of Concord West Station and 900 metres to the north of North Strathfield Station.

The site is currently occupied by an industrial estate development known as “Homebush Industrial Estate”. The estate contains small industrial tenancies across two buildings.

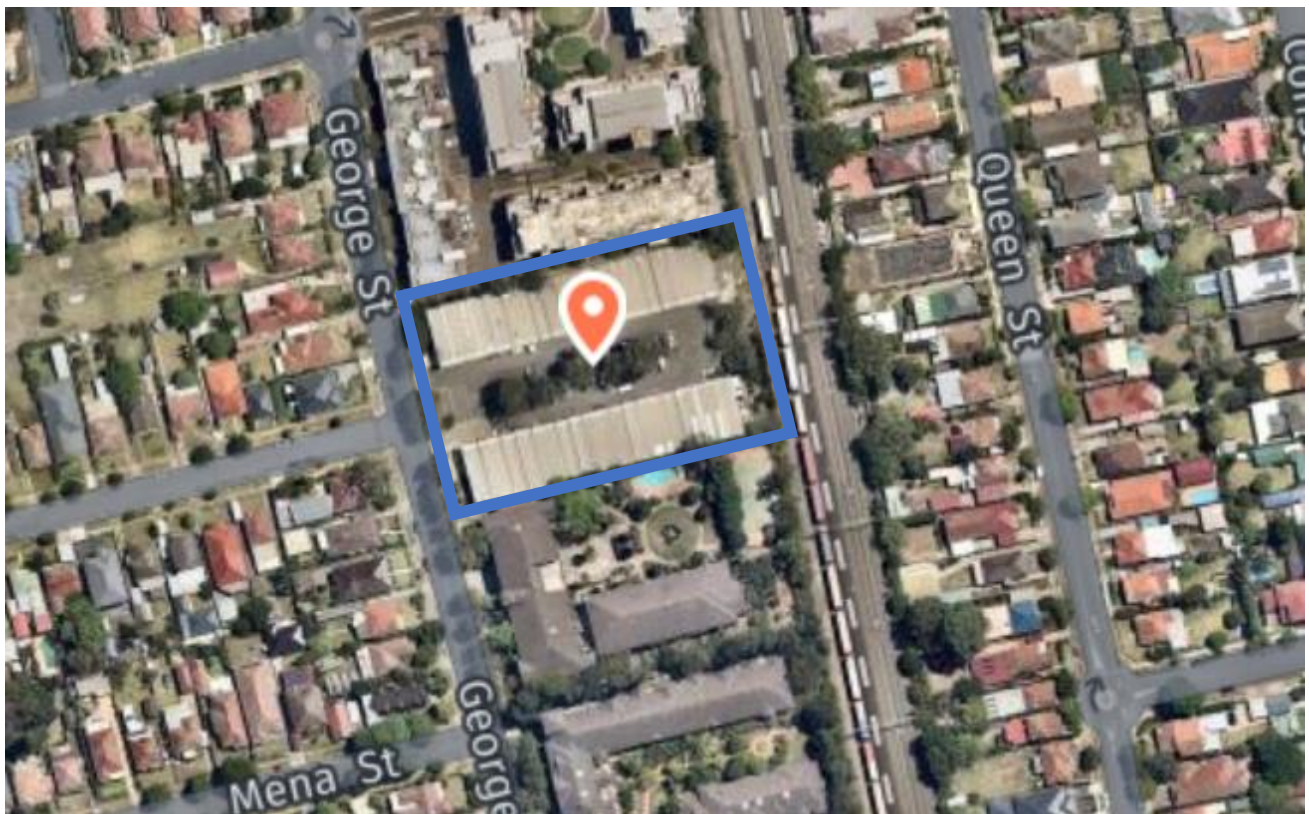


Figure 1: Subject site



Figure 2: Location of Subject Site

3. PURPOSE OF PLAN

The draft LEP seeks to:

- rezone the site from IN1 General Industrial to R3 Medium Density Residential;
- increase the maximum floor space ratio (FSR) from 1:1 to 1.6:1;
- increase the maximum height of buildings from 12 metres to part 16 metres and part 22 metres;
- apply a site-specific satisfactory arrangements provision for contributions to designated State public infrastructure identified as part of the Parramatta Road Urban Transformation Strategy.

The proposal is supported by a concept plan depicting a residential flat building of approximately 126 dwellings with six storeys to the rear of the site and four storeys fronting George Street.



Figure 3: George Street Concept Montage (Source: Planning Proposal, Urbis)

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Strathfield state electorate. The Hon. Jodi Mackay MP is the State Member.

The site falls within the Reid federal electorate. The Hon. Fiona Martin MP is the Federal Member.

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

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. Rezoning Review

A Rezoning Review request was lodged with the Department on 28 September 2016 as Council had failed to determine the proposal within 90 days.

On 24 November 2016, the Sydney Central Planning Panel determined that the proposed instrument should be submitted for a Gateway determination as it has strategic and site-specific merit. The Panel noted the proposal is consistent with Council's 'Concord West Precinct Masterplan'. It also acknowledged Council's concerns regarding traffic and transport issues, particularly in relation to the intersection of George, Pomeroy and Beronga Streets. The Panel recommended:

- a proportional financial contribution to allow for the intersection upgrade;
- a reduced parking provision for any future development on the site; and
- alternative parking mechanisms for any future development on the site such as car share and arrangements to encourage active transport.

Council accepted the role of Planning Proposal Authority on 16 December 2016.

6. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 11 April 2017 (**Attachment C**) determined that the proposal should proceed subject to conditions. The Gateway determination was altered on 6 April 2018, 2 October 2018 and 14 May 2018 to extend the time for completion due to the time taken for Council to secure affordable housing contributions as recommended by the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) and discussed in further detail in Section 9 of this report.

The new timeframe for completing the LEP is by 18 December 2019. Given that Council has now submitted the plan to the Department for plan finalisation, a Gateway alteration to extend the timeframe for completion is not considered necessary.

7. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 27 June 2017 to 25 July 2017.

Council received three submissions from residents. Issues raised are discussed below.

7.1. Traffic and Parking

Concerns were raised in relation to the increase in traffic and demand for parking arising from the proposal.

According to Council's traffic report, given the nature of the surrounding road network, the George St/Pomeroy St intersection would be susceptible to increased periods of congestion as a result of the Planning Proposal and the Concord West Masterplan.

A condition of consent of the approved Victoria Avenue Primary School required a new left turn slip lane to be constructed at the George St/Pomeroy St intersection.

Council's traffic modelling indicates that following full development, including the George St/Pomeroy St intersection upgrade, the intersection is anticipated to operate at a comparable level of service to its current operation, with typically manageable queues and delays on all approaches.

Council notes that the improvements to the intersection are yet to be completed. Council's Engineers advised on 21 April 2020 that detailed design and documentation for the George and Pomeroy Street intersection upgrade is currently underway. The Department is funding the design and documentation via the Housing Acceleration Fund. A final business case is due on September 2020 after which an application for stage 2 (construction) funding will need to be submitted to the Department. If approved at the end of 2020, the works are likely to commence by early 2021 and be completed by mid-2022 (**Attachment I**).

It is noted that the proposal relies on the upgrade of the George St/Pomeroy St intersection in order to demonstrate acceptable traffic flows following full development. The intersection upgrade is also listed in the PRCUTS Infrastructure Schedule as a regional piece of infrastructure to be delivered in the short term. It is therefore intended that the Department levy contributions towards this infrastructure item via the proposed satisfactory arrangements clause.

In relation to parking, the car parking provisions within Council's draft Development Control Plan Special Precincts have been updated in accordance with a previous Council resolution and are now consistent with the Parramatta Road Urban Transformation Strategy. This is intended to encourage a modal shift from private car usage to public transport.

7.2. Built Form

Submissions raised concerns about the proposed height, form and setbacks, particularly the street frontage.

Council commissioned an urban design review to inform the Concord West Precinct Master Plan. Council notes that the masterplan has been subject to significant consultation with the local community. The master plan has informed a development control plan (DCP) that applies to the site and establishes built form controls designed to transition the scale of new development effectively between existing established low-density dwellings and proposed medium density.

The DCP establishes a 4-metre front set back, with 3-4 storeys fronting George Street and development stepping up to 6 storeys at the rear of the site. According to Council's Post Exhibition Report, the Planning Proposal is consistent with the DCP and is considered acceptable (**Attachment J**).

7.3. Open Space

Submissions noted the need to provide sufficient open space for the amenity of future residents and improve the proposal's presentation to the street.

Council's DCP requires a 4-metre setback from the George Street frontage, 6 metres from the north and a 9-metre rear setback. Deep soil zones are also required in the front setback

to enable adequate landscaping. According to Council's Post exhibition Report, the concept plan submitted with the proposal is consistent with the required setbacks of the DCP and demonstrates that the proposal is capable of meeting these criteria. The site will be assessed against the landscaping and open space requirements of the DCP and Apartment Design Guide at the development application stage should the proposal proceed **(Attachment J)**.

8. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult Roads and Maritime Services, Transport for NSW (TfNSW), Energy Australia, Sydney Water and NSW Department of Education in accordance with the Gateway determination.

Council has consulted these authorities. One agency submission was received from TfNSW, no objections were raised to the proposal. TfNSW requested that, due to the proximity of the site to the railway corridor, any future development on the site should be discussed with Sydney Trains prior to lodgement of a development application. Council noted this comment in its post-exhibition report and resolved to notify the applicant to consult with Sydney Trains prior to lodgement of a development application.

9. POST-EXHIBITION CHANGES

On 15 August 2017, Council resolved to support the finalisation of the planning proposal subject to arrangements being in place to dedicate a minimum 5% of the fully developed gross floor area to Council as affordable housing.

A planning agreement was proposed as the mechanism to dedicate affordable housing to Council, thus there were no post-exhibition changes proposed to the planning proposal. The planning agreement was placed on exhibition 10 September to 7 October 2019 and executed on 5 November 2019.

10. ASSESSMENT

The proposal is supported because:

- Council has satisfied all conditions of the Gateway determination;
- it is broadly consistent with the Parramatta Road Corridor Urban Transformation Strategy and the Concord West Precinct Masterplan;
- it was updated prior to exhibition to include a satisfactory arrangements provision for contributions to state public infrastructure identified under the Parramatta Road Corridor Urban Transformation Strategy;
- it has demonstrated consistency with the Eastern City District Plan; and
- it has demonstrated that the site can be remediated for residential purposes.

11. Section 9.1 Directions

1.1 Business and industrial zones

The Gateway determination considered the proposal's inconsistency with Section 9.1 Direction 1.1 Business and industrial zones and determined that it was justified in relation to the terms of the direction.

The inconsistency is justified by the Parramatta Road Urban Transformation Strategy, that considers employment growth in the corridor as well as supporting the viability of identified centres. The strategy recommends an R3 Medium Density Residential Zoning for the site. It is informed by an economic report, providing an assessment of the retail demand, large

format demand and commercial demand of the corridor to determine the quantum of non-residential floorspace required.

The Planning Proposal is also consistent with Council's Concord West Precinct Masterplan, which identifies a number of industrial sites within the precinct for potential rezoning to residential development, including the subject site.

2.6 Remediation of Contaminated Land

On 17 April 2020, the Minister for Planning and Public Spaces approved the removal clause 6 from *State Environmental Planning Policy No 55 – Remediation of Land* (SEPP 55) and transfer the requirements to a Ministerial direction (No 2.6) under section 9.1 of the *Environmental Planning and Assessment Act*.

This direction applies because the site is currently used for industrial purposes. The planning proposal is accompanied by a Preliminary Site Investigation report. A desktop investigation found that the site has consistently been for commercial/industrial purposes from 1912 to 2015. The report recommends that a Stage 2 detailed site investigation to determine the future land use suitability of the site.

A detailed site investigation report was provided to the Department on 18 February 2020 (**Attachment H**). It concludes that the site is deemed suitable for high density residential use and provides recommendations for managing any future construction of the project. Canada Bay Council, as the Planning Proposal Authority, has indicated that it is satisfied that the land is suitable for residential purposes (**Attachment G**).

7.3 Parramatta Road Corridor Urban Transformation Strategy

This direction applies to the Planning Proposal as the site is located within Homebush Precinct of the identified boundaries of the Parramatta Road Corridor (**Figure 4**).

Figure 7.2: Homebush Character and Identity

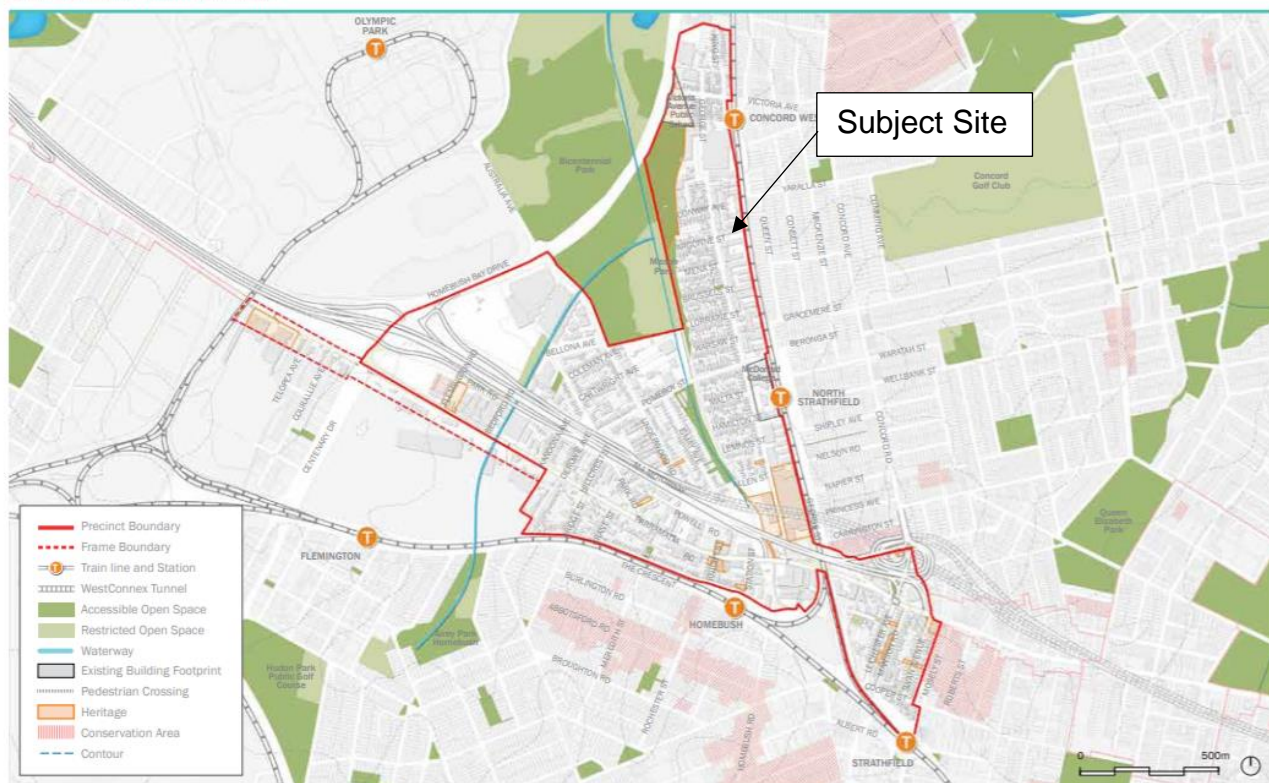


Figure 4: Extract from PRCUTS depicting Homebush Precinct

The proposal is inconsistent with the proposed sequencing of the Parramatta Road Strategy as the subject site lies outside of the land release area for 2016-2023 outlined by the Implementation Plan supporting the study. The section 9.1 direction enables planning

proposals to progress if they can demonstrate consistency with the PRUCTS 'Out of Sequence Checklist'.

As required by the condition 1(a), the planning proposal (**Attachment A**) has been updated to address the Out of Sequence Checklist of the Parramatta Road Corridor and is considered justified in this respect based on the following:

Urban Design:

The proposal is consistent with the zoning and FSR controls recommended in the strategy. The strategy recommends a maximum building height of 12 metres, which is 10 metres lower than the proposed maximum building height of 22 metres at the rear of the and 4 metres lower than the proposed maximum building height of 16 metres fronting George Street.

The proposed maximum building heights are considered acceptable, despite the inconsistencies with the Parramatta Road Strategy as they are consistent with the recommended building heights outlined in the Urban Design Study supporting the Concord West Precinct Master Plan. The Master Plan provides a more fine-grained, detailed analysis than the Parramatta Road Strategy and has informed the creation of a DCP for the area. According to this study, the built form controls deliver high quality urban design and the increased height is appropriate in this context.

Precinct wide traffic study:

The Parramatta Road Strategy requires a precinct-wide traffic study to be finalised prior to rezoning of land. At the time of preparing this report, the study is still underway.

UrbanGrowth NSW advised that the Parramatta Road Strategy does not require a precinct wide traffic study prior to rezoning for planning proposals that were submitted to Council prior to the release of the final PRCUTS as in these cases a traffic study would already be supported by Council or required as part of a Gateway determination (**Attachment E**). The planning proposal was first determined by Council on 6 September 2016, prior to the release of PRCUTS on 9 November 2016.

As detailed in section 7.1, the proposal was supported by a traffic study prepared by GTA Consultants. The study concludes that the proposal will have acceptable traffic impacts, subject to the completion of the George St/Pomeroy St intersection upgrade. It is therefore considered that the requirement for proposals to be supported by a traffic study has been addressed and therefore the proposal should proceed to finalisation.

Affordable housing:

The out of sequence checklist also requires a dedication of 5% of new housing to be provided as affordable housing. As detailed in section 9 of this report, arrangements are in place to dedicate a minimum 5% of the fully developed gross floor area to Council as affordable housing through a planning agreement.

Satisfactory Arrangements:

As required by the Action Plan of the strategy, the proposal was updated prior to exhibition to include a satisfactory arrangements provision for contributions to State public infrastructure. Described in section 7 of this report, the proposal relies on the upgrade of the George St/Pomeroy St intersection in order to demonstrate acceptable traffic flows following full development. The intersection upgrade is listed in the PRCUTS Infrastructure Schedule as a regional piece of infrastructure to be delivered in the short term.

As such, the subject site has been added to the intensive urban development area map requiring satisfactory arrangements to be agreed to for the provision of designated State public infrastructure before development of land can occur.

The Secretary can be satisfied that the inconsistencies with the section 7.3 Parramatta Road Corridor Urban Transformation Strategy are justified.

9.2 State environmental planning policies

The proposal is considered to be consistent with all relevant SEPPs.

9.3 State, regional and district plans

Eastern City District Plan

Priorities for the Eastern City District Plan include working with Council to identify suitable locations for housing intensification and urban renewal, particularly around Planned Precincts, established and new centres, and along key public transport corridors.

Planning Priority E12 of the Eastern District Plan requires that industrial land is retained and maintained. However, it also recommends that the land within the Parramatta Road Corridor is not subject to the retain and manage approach to industrial land given the extensive work and research undertaken to develop the strategy to transform land uses within the area.

Given the proposal is consistent with the recommended land uses of the Parramatta Road Corridor Urban Transformation strategy, the proposal is considered to give effect to the Eastern City District Plan.

Local Strategic Planning Statement

The Structure Plan contained within Canada Bay Council's Local Strategic Planning Statement (LSPS) indicates that the subject site belongs to the Parramatta North Road Urban Renewal Area.

Priority 5.3 encourages investigation into changes to the planning framework to encourage greater diversity of dwelling within the vicinity of Concord West Station. The concept plan associated with the planning proposal proposes 126 apartments, which will assist in promoting housing diversity.

Priority 17.1 requires the delivery of new open space in conjunction with land use change in North Strathfield, Concord West and along the Parramatta Road Corridor. The proposal may contribute to the sportsground identified in the PRCUTS infrastructure schedule through local developer contributions, as recommended by the schedule.

Priority 9.3 requires that strategic land use change adjoining or adjacent to North Strathfield and Concord West station, must not occur until such time as Council has endorsed a study that determines how retail and commercial floor space can be accommodated. A Gateway determination was issued for the proposal on 11 April 2017 before the release of the final LSPS in March 2020. The Gateway determination considered that the proposal's inconsistency with Section 9.1 Direction 1.1 Business and industrial zones was justified in relation to the terms of the direction as detailed in section 11 of this report.

Based on the relevant priorities, the proposal is considered to give effect to the Council's LSPS.

12. MAPPING

The planning proposal has four maps associated with the LEP amendment. These include an updated land zoning map (LZN_002), an updated height of buildings map (HOB_002), an updated FSR map (FSR_002) and a new intensive urban development area map (IUD_002) to apply a satisfactory arrangements clause for contributions to State infrastructure to the site. Relevant maps have been checked by GIS staff.

13. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment F**). Council confirmed on 25 February 2020 that it was happy with the draft and that the plan should be made (**Attachment G**).

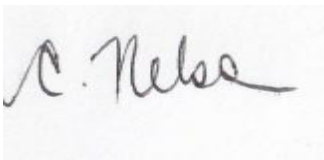
14. PARLIAMENTARY COUNSEL OPINION

On 10 March, 2020 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

15. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because it:

- is broadly consistent with the Parramatta Road Corridor Urban Transformation Strategy, the Eastern City District Plan and Council's Local Strategic Planning Statement;
- is supported by Canada Bay Council; and
- has met all conditions of the Gateway determination.



24 May 2020
Charlene Nelson
A/Manager, Eastern and South Districts
Eastern Harbour City



29 May 2020
Brendan Metcalfe
A/Director, Eastern and South Districts
Eastern Harbour City

Assessment Officer: Carina Lucchinelli
Senior Planner, Eastern and South Districts
Phone: 9274 6563