



Amendment to Schedule 1 of Canada Bay Local Environmental Plan 2013 to add an additional use of Child Care Centre at 25-27 Spencer Street, Five Dock

Proposal Title : **Amendment to Schedule 1 of Canada Bay Local Environmental Plan 2013 to add an additional use of Child Care Centre at 25-27 Spencer Street, Five Dock**

Proposal Summary : **The planning proposal seeks amendment to Schedule 1 of Canada Bay Local Environmental Plan 2013 to add an additional use of 'Child Care Centre' at 25-27 Spencer Street, Five Dock.**

PP Number : **PP_2015_CANAD_002_00** Dop File No : **15/15378**

Proposal Details

Date Planning Proposal Received : **29-Sep-2015** LGA covered : **Canada Bay**
Region : **Metro(CBD)** RPA : **City of Canada Bay Council**
State Electorate : **DRUMMOYNE** Section of the Act : **55 - Planning Proposal**
LEP Type : **Spot Rezoning**

Location Details

Street : **25 Spencer Street**
Suburb : **Five Dock** City : **Sydney** Postcode : **2046**
Land Parcel : **Lot 13 DP11967**
Street : **27 Spencer Street**
Suburb : **Five Dock** City : **Sydney** Postcode : **2046**
Land Parcel : **Lot 12 DP11967**

DoP Planning Officer Contact Details

Contact Name : **Alan Chen**
Contact Number : **0292286410**
Contact Email : **alan.chen@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Elvie Magallanes**
Contact Number : **0299116410**
Contact Email : **Elvie.Magallanes@canadabay.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Diane Sarkies**
Contact Number : **0292286522**
Contact Email : **diane.sarkies@planning.nsw.gov.au**

Amendment to Schedule 1 of Canada Bay Local Environmental Plan 2013 to add an additional use of Child Care Centre at 25-27 Spencer Street, Five Dock

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :		Consistent with Strategy :	
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to communication and meetings with lobbyists has been complied with.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **The Metropolitan (CBD) branch has not met any lobbyists in relation to this planning proposal, nor has the Director of Metropolitan (CBD) been advised of any meetings between other Departmental officers and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting Notes : **The planning proposal is seeking an amendment to Canada Bay Local Environmental Plan 2013 (CBLEP 2013) to add the land use 'child care centres' to Schedule 1 – Additional Permitted uses at 25-27 Spencer Street, Five Dock ('the subject site') .**

25-27 Spencer Street, Five Dock is currently zoned as IN1 General Industrial under the CBLEP 2013. A vacant light industrial building with basement parking, approved under a Development Application, currently occupies the subject site. The current zoning of the subject site prohibits the use for a child care centre. The subject site is located within an industrial precinct and development in the surrounding area generally comprises industrial use.

To the south of the subject site is a sex services premises operating with consent approved by Council on the 7th May 2002. The council report notes on 18 May 2015, following a meeting between the proponent and Council staff, it was mentioned that the sex service premises has been operating without incident since approval.

In 2012, Council prepared and endorsed a Child and Family Needs Strategy to enhance the wellbeing of families and children in the Canada Bay Local Government Area (LGA). The strategy states that the undersupply of child care centres in the Canada Bay LGA is an ongoing issue. Council has acknowledged their commitment to encourage the expansion of child care places through existing Council services, not for profit providers and the private sector. The proposal will allow an additional Childcare Centre facility within Canada Bay LGA and is deemed consistent with the Child and Family Needs Strategy.

Similar past planning proposals have sought Schedule 1 - Additional permitted uses for Child Care Centres, and apply to sites 95 and 97-99 Queens Road, Five Dock which are located in the vicinity of the subject site. These proposals have been approved by the Minister's delegate and amendments to the CBLEP 2013 were notified on 23 August 2013

Amendment to Schedule 1 of Canada Bay Local Environmental Plan 2013 to add an additional use of Child Care Centre at 25-27 Spencer Street, Five Dock

and 21 February 2014 respectively.

The draft Parramatta Road Urban Renewal Strategy identifies the subject site within the Kings Bay Precinct. Kings Bay Precinct has been indicated for future mixed use growth.

The Department notes that a Development Application for the conversion of an existing building to a child care centre has been submitted for the subject site. The decision for the Development Application is deferred until the determination of the planning proposal.

External Supporting Notes :

The planning proposal seeks an amendment to Canada Bay Local Environmental Plan 2013 (CBLEP 2013) to add Child Care Centre as an additional permitted use at 25-27 Spencer Street, Five Dock.

On 15 September 2015, Council supported the Planning Proposal to be submitted to the Department for a Gateway Determination.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The objective of this planning proposal is to facilitate an additional land use of 'Child Care Centre' at 25-27 Spencer Street while maintaining the existing IN1 - General Industrial Zoning.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The planning proposal will amend Schedule 1 of the Canada Bay Local Environmental Plan to include a child care centre as an additional permitted use at 25-27 Spencer Street, Five Dock.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

* May need the Director General's agreement

4.1 Acid Sulfate Soils

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

7.1 Implementation of A Plan for Growing Sydney

Is the Director General's agreement required? **N/A**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified?

e) List any other matters that need to be considered :

State Environmental Planning Policy 55 - Remediation of Land (SEPP 55)

Clause 6 of the policy requires a planning authority to consider contamination and remediation in rezoning proposals. In relation to land concerned with development proposed for child care purposes, the planning authority is to have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The planning proposal for a potential change of use from industrial to a child care centre is not supported by a contaminated lands assessment. Council has raised concerns about potential contamination on the subject site. Subsequently, the proposal should be supported by a preliminary site investigation report, in order to determine suitability for those uses permitted under the IN1 - General Industrial zone, and to satisfy the requirements of SEPP 55.

Amendment to Schedule 1 of Canada Bay Local Environmental Plan 2013 to add an additional use of Child Care Centre at 25-27 Spencer Street, Five Dock

The Department recommends the gateway determination include a condition requiring detailed consideration of SEPP 55 and assessment to determine the appropriateness of the additional permitted use (in relation to site contamination), prior to public exhibition. The assessment is to be included in the exhibition documents.

The planning proposal is considered not inconsistent with other relevant s117 directions and State Environmental Planning Policies (SEPPs), except for Direction 1.1 - Business and Industrial Zones which is to be discussed later in the report.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

Direction 1.1 - Business and Industrial Zones

This direction applies when a planning proposal affects land within an existing industrial zone.

The Department considers the proposal to be inconsistent with the direction as it enables a non-industrial use in an IN1 General Industrial zone which reduces potential floor space for industrial uses.

A planning proposal may be consistent with the terms of this direction if the inconsistency is either justified by a strategy or study which gives consideration to the objective of this direction and is approved by the Secretary, or is in accordance with the relevant Regional Strategy prepared by the Department, or is of minor significance.

The Department notes Council's Child and Family Needs Strategy has identified the shortage of child care placements across the Canada Bay LGA. However, the strategy does not give consideration to the terms of Direction 1.1. Notwithstanding, it is considered that the inconsistency with this direction is of minor significance.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The proposal has provided aerial photos to indicate the locations of the affected properties which is adequate for the purposes of assessment of this planning proposal.

There are no amendments to maps associated with the Canada Bay LEP 2013.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The proponent proposes community consultation will be implemented in accordance with Section 57 of the Environmental Planning and Assessment Act 1979.

Council anticipates the timeframe for community consultation will be as specified in the conditions of the Gateway Determination.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Amendment to Schedule 1 of Canada Bay Local Environmental Plan 2013 to add an additional use of Child Care Centre at 25-27 Spencer Street, Five Dock

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Canada Bay Council LEP 2013 was gazetted on the 19 July 2013.**

Assessment Criteria

Need for planning proposal : **On 15 September 2015, Council resolved to support the planning proposal, to amend the Canada Bay LEP 2013 to add the land use 'Child Care Centre' to Schedule 1 for 25-27 Spencer Street, Five Dock. The planning proposal is the only mechanism that would allow for addition of this use to Schedule 1.**

Consistency with strategic planning framework : **• A Plan for Growing Sydney provides direction for the city's future growth over the next two decades. The planning proposal is consistent with Direction 1.11 – "Deliver Infrastructure" on providing social infrastructure, such as a child care centre, to support the shortage of child care places in the area as identified in Council's Child and Family Needs Strategy.**

• The New Parramatta Urban Transformation Program is led by UrbanGrowth NSW which aims to deliver urban renewal along the Parramatta Road corridor. The draft strategy identifies the subject site to accommodate future mixed use zoning under the Kings Bay Structure Plan. The vision of the draft strategy outlines Kings Bay Precinct to accommodate future mixed use growth which is not inconsistent with the planning proposal. As the draft strategy is in process, the Department recommends the proponent consult with UrbanGrowth NSW for their views on the planning proposal.

• The proposal is consistent with the Council commissioned 'Child and Family Needs Strategy'. During the public exhibition of this strategy, findings identified the need for more child care places. Council's report states Council acknowledges the lack of child care places as an on-going issue and encourages the expansion of childcare places through different industry sectors. On 19 March 2013, Council adopted the strategy. The proposal is consistent with this strategy as it seeks to allow the use of a child care centre on site which positively responds to the shortage of child care places in the area.

• 'FuturesPlan20' (FP20) is a 20 year Council strategic plan developed for the City of Canada Bay area. The proposal is generally consistent with the strategy, particularly with the themes of 'Active and Vibrant', 'Innovative and Engaged' and 'Thriving and Connected', in that the proposal will facilitate a child care centre in a local government area with a shortage of child care places.

Environmental social economic impacts : **ENVIRONMENTAL**
The planning proposal will not result in any impact on critical habitat or threatened species, populations or ecological communities or their habitats as the site is located within a fully urbanised area and is currently developed.

A Traffic Impact Study, prepared by Hemanote Consultants, states under the circumstances that a child care centre is proposed, the external traffic generated would not result in major impacts on existing traffic or parking conditions.

SOCIAL
The Department notes that the objectives of the planning proposal would address the undersupply of child care places in the Canada Bay Local Government Area (LGA) as identified in Council's commissioned Child and Family Needs Strategy. However the strategy does not give specific consideration of the subject site to allow a child care centre.

Amendment to Schedule 1 of Canada Bay Local Environmental Plan 2013 to add an additional use of Child Care Centre at 25-27 Spencer Street, Five Dock

The Department notes a meeting between the applicant and Council staff was held on 18 May 2015 to discuss the subject site's vicinity to a sex services premises. The meeting confirmed that the sex service premises was approved by Council on 7 May 2002 and has been operating without incident since then. However, the proposal does not provide adequate consideration to the compatibility of a childcare centre close to a sex service premises.

The Department recommends the planning proposal be updated, prior to exhibition, to give consideration to the existing sex service premises on the corner of Parramatta Road and Regatta Road. In particular, the proposal needs to consider the potential impacts to the established sex services premises and the proposed child care centre; and demonstrate how potential land-use conflicts and adverse amenity impacts are minimised with reference to Clause 6.7 (1) - 'Location of Sex Services Premises' in the Canada Bay LEP 2013.

ECONOMIC

The proposal is considered consistent with the recommendations of a Socio-Economic Impact Study, prepared by Hill PDA. The study was undertaken to investigate the future zoning of the Five Dock industrial area which the subject site is located in. The study assessed three planning scenarios and discerned Scenario 2 to have the best economic and social outcomes. Scenario 2 recommends potential rezoning of IN1 General Industrial land to B5 Business Development to support efficient use of existing employment generating land through facilitation of a wider range of businesses to cater to the diverse needs of industrial occupants. The current CBLEP 2013 does not include B5 zoning. However, the Standard Instrumental template permits 'Child Care Centres' as a development with consent within the B5 Zone.

The outcome of this planning proposal would also address the high demand for child care places in the Canada Bay LGA.

The Department notes the consistency with the study only applies in the scenario that the entire precinct is potentially rezoned to B5 Business Development. The study does not consider the economic impacts of the proposal in light of the current situation of the precinct.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Other**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Amendment to Schedule 1 of Canada Bay Local Environmental Plan 2013 to add an additional use of Child Care Centre at 25-27 Spencer Street, Five Dock

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Letter seeking Gateway Determination 25 - 27 Spencer Street Five Dock.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Council Report and Resolution - 25 - 27 Spencer Street Five Dock.pdf	Study	Yes
EMGA - Noise Assessment.pdf	Study	Yes
Hemanote Consultants - Traffic and Parking Impact Assessment.pdf	Study	Yes
Indoor Environmental Solution - Electromagnetic Energy Report.pdf	Study	Yes
Indoor Environmental Solutions - Ambient Air Quality Assessment.pdf	Study	Yes
Attachment_1_-_Information_checklist.pdf	Proposal	No
Attachment_4_-_Evaluation_criteria_for_the_delegation_of_plan_making_functions.pdf	Proposal	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

- S.117 directions:
- 1.1 Business and Industrial Zones
 - 4.1 Acid Sulfate Soils
 - 6.1 Approval and Referral Requirements
 - 6.3 Site Specific Provisions
 - 7.1 Implementation of A Plan for Growing Sydney

Additional Information : **It is recommended that the planning proposal proceed subject to the following conditions:**

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (EP&A Act) as follows:

- (a) the planning proposal is considered routine as described in A Guide to Preparing LEPs (Department of Planning and Environment 2013) and must be made publicly available for a minimum of 28 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2013).

2. Consultation with UrbanGrowth NSW is required under section 56(2)(d) of the EP&A Act. UrbanGrowth NSW is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

Amendment to Schedule 1 of Canada Bay Local Environmental Plan 2013 to add an additional use of Child Care Centre at 25-27 Spencer Street, Five Dock

3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

4. Prior to public exhibition, the planning proposal is to be updated to give consideration to the existing approved sex service premises on the corner of Parramatta Road and Regatta Street, and any potential land use conflicts that may arise for the proposed use with reference to Clause 6.7 - 'Location of Services Premises' of Canada Bay LEP 2013.

5. Prior to public exhibition, the planning proposal is to be updated to demonstrate consistency with State Environmental Planning Policy 55 – Remediation of Land (SEPP 55).

6. Prior to exhibition, the planning proposal is to be updated to demonstrate consistency with the Draft New Parramatta Road Urban Transformation Strategy.

7. The planning proposal is to be completed within 9 months of the Gateway determination.

Supporting Reasons :

The outcome of the planning proposal would address the shortage of 'Child Care Centres' in the Canada Bay LGA as identified in Council's local strategic plan and is therefore supported. Potential land use conflicts with the adjoining approved sex services premises will need to be considered and managed appropriately.

Signature:



Printed Name:

Diane Sarkies

Date:

13/11/15