

27 November 2018

Amanda Harvey
Director, Sydney Region East
Department of Planning and Environment
320 Pitt Street, Sydney NSW 2000

By email: amanda.harvey@planning.nsw.gov.au

Dear Amanda,

Re: Public Exhibition – PP_2017_CANAD_005_00

Thank you for the opportunity to make a submission with respect to the public exhibition for 7 Concord Ave, Concord West.

Council has considered the exhibited material and considers the Planning Proposal for the rezoning of 7 Concord Ave, Concord West from IN1 General Industrial to R3 Medium Density Residential unacceptable given the inconsistency with the Section 9.1 Ministerial Direction – 4.3 Flood Prone Land.

Flooding

Ministerial Direction – 4.3 Flood Prone Land applies to the site.

The Ministerial Direction has been identified as a requirement to be addressed within the *Rezoning Review – Record of Decision, prepared by Sydney Central Planning Panel*; and the *Gateway Determination Report – Department of Planning and Environment*.

The following comments were articulated within the abovementioned documents and the Planning Proposal remains inconsistent with the Direction.

***Rezoning Review – Record of Decision, prepared by Sydney Central Planning Panel
(Thursday 8 June 2017)***

“...The Panel notes that any Planning Proposal within the PRUTS must meet Environmental Planning Assessment Act 1979, Section 117(2) Directions 7.3 which requires, inter alia, that satisfactory arrangements must be in place prior to the making of any such plan including addressing the flooding and local transport impacts...”

“...the Panel recommends that any Gateway determination ensure that satisfactory arrangements are made to be **consistent** with the Environmental Planning and Assessment Act 1979, Section 117(2) Directions 7.3 and 4.3. Specifically, the Panel, recommends investigations be made to find a precinct solution to both the flooding for the area north of Concord West train station, and local transport east of Powell’s Creek and north of Pomeroy Street...”

Gateway Determination Report – prepared by the Department of Planning and Environment.

“RECOMMENDATION

It is recommended that the delegate of the Secretary:

2. Note that the planning proposal should be revised to **demonstrate consistency** with section 117 Direction 4.3 Flood Prone Land;”

All requirements for consistency with the Section 117 Direction 4.3 Flood Prone as identified within the two documents above have been removed and are not incorporated or required to be addressed within the Gateway Determination.

Instead, only the following flood related requirements are included:

- Demonstrate consistency with any available findings of the precinct wide flooding study associated with the Burwood, Strathfield and Homebush Planned Precinct.
- Prior to the LEP being made, the proposal is to be updated to reflect any available precinct-wide findings or solution to traffic and flooding, as informed by the Burwood, Strathfield and Homebush Planning Precinct and Burwood-Concord Precinct Study.

Council is not aware of either of the abovementioned studies having commenced.

The recommendations of both the Sydney Central Planning Panel as a result of the Rezoning Review and the Department of Planning and Environment have been omitted from the Gateway Determination.

Affordable Housing

The amended Planning Proposal provides agreement to the provision of Affordable Housing stating the intended provision of 5% of the additional Gross Floor Area. However, there is no evidence as to how this provision will be met and nor is there a mechanism in place deliver the affordable housing. This must be finalised prior to any rezoning.

Conclusion

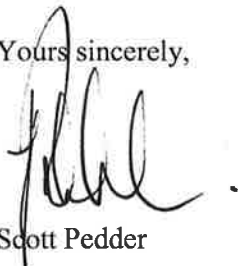
This planning proposal should not proceed given the inconsistency with the Section 9.1 Ministerial Direction (former Section 117(2)) – 4.3 Flood Prone Land including specific provisions for **Consistency** of this Direction.

The following documentation is provided as Appendices:

1. Extracts from Council's submission in response to the Rezoning Review, discussing flooding matters only;
2. Rezoning Review – Record of Decision, Sydney Central Planning Panel;
3. Gateway Determination Report, prepared by the Department of Planning & Environment; and
4. Gateway Determination.

Should you have any questions or wish to discuss, please contact Karen Lettice, Senior Strategic Planning on 9911 6406.

Yours sincerely,



Scott Pedder

Director, Community and Environmental Planning

Appendix 1 - Extracts from Council's submission in response to the Rezoning Review, discussing flooding matters only.

SITE-SPECIFIC MERIT TEST

b) Does the proposal have site-specific merit, having regard to the following?

The natural environment (including known significant environmental values, resources or hazards) and;

Flooding - Consistency with Ministerial Direction – 4.3 Flood Prone Land

This Direction applies to all councils that contain flood prone land when an LEP proposes to “create, remove or alter a zone or provision that affects flood prone land.” This Planning Proposal seeks to rezone the subject land from IN1 General Industrial to R3 Medium Density Residential. In this regard, 117 Ministerial Direction - 4.3 Flood Prone Land applies to the Planning Proposal.

Specifically, the Planning Proposal is inconsistent with the following:

(6) A planning proposal must not contain provisions that apply to the flood planning areas which:

a. permit development in floodway areas,

- The Planning Proposal does not comply with this Direction.
- A “floodway area” is defined in the FDM 2005 as “those areas of the floodplain where a significant discharge of water occurs during floods. They are often aligned with naturally defined channels. Floodways’ are areas that even if only partially blocked, would cause a significant redistribution of flood flow, or a significant increase in flood levels.”
- There is no defined channel. Modelling has shown that blockage of flow across the site or reduction of storage on the site would cause an increase in flood levels up stream. The proposed floodway and void were designed to mitigate this effect.
- Based on the above, the subject site is considered to be located in a floodway area as blockage of the site would cause diversion of flows and impact on upstream levels.

c. permit a significant increase in the development of that land,

- The Planning Proposal does not comply with this Direction.
- The Planning Proposal seeks a significant increase in the development of the land in that:
 - The Planning Proposal seeks to rezone land from a IN1 General Industrial land use to an R3 Medium Density land use. A Socio-

Economic Study was prepared by Hill PDA for the Master Plan which outlined two (2) as the number of employees working on the subject site. The Planning Proposal seeks to accommodate approximately 290 dwellings, and an estimated population of 696 (based on an estimated occupancy rate of 2.4).

- The Planning Proposal seeks to increase significantly the permissible Floor Space Ratio and Height of Building.
- The above reflects a significant increase in the development of the subject land.

d. are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or

- The Planning Proposal does not comply with this Direction.
- The proposal is likely to result in a substantial increase in requirement for government spending on infrastructure and drainage services. In particular, maintenance of drainage by way of removing sediment due to frequent inundation of their site and for drainage upgrades. Removal of sediment could run to several hundreds of cubic meters and there is no clear agreement on responsibility that is accepted by all the parties. (Council, RMS and SOPA)

Discussion

- The draft Concord West Flood Study (draft CWFS) included a Concept Flood Mitigation Option for Site 1 (subject site) that featured a floodway along the Eastern boundary and a central floodway through the site from East to West, linking to flood storage along the Western and partially along the north western boundary. The draft CWFS noted a number of reservations regarding this concept. It was considered to be an indication of the extreme measures that would be required to prevent off site impacts if the site were to be developed for residential use, rather than a valid or practical solution.
- Council has responded to the NSW Government Floodplain Development Manual 2005 and has been careful to consider the distinction between a re-zoning application (Planning Proposal) and a Development Application. The re-zoning is a higher level of the planning function. It notes the land is subject to flooding and asks “is this land suitable for the proposed use?” Once the zoning is established, the Development Application process notes “this land is subject to flooding” and asks “how do we manage the risk?” The answer to that is guided by the LEP and DCP. In this instance the Council is of the view the land is not suitable for residential land use.
- The IGS Assessment and the Peer Review prepared by the applicant offered a number of examples of developments (not Rezoning’s) including some that utilised under floor voids for floodway or flood storage. The examples cited are claimed to have “similar flooding conditions (to) the proposed development”. A site inspection of 4 of the examples at Parramatta disclosed that one was nearing completion and the other 3 were vacant sites at time of inspection. The completed project did not include a void.

None of the examples had the frequent inundation and tidal issues that are evident at the subject site. Neither are they subject to a damming effect similar to that created by Homebush Bay Drive at the subject site or the very flat downstream gradients and long obstructed downstream flow path of the subject site. Most importantly they are not subject to the speed of rise experienced by the subject site.

- **Time and speed of rise** is of particular concern for Site 1 because of the damming effect created by the Homebush Bay Drive Embankment.

The 'Time to Peak' for a Probable Maximum Flood (PMF) (15 mins) is 10 minutes with a maximum depth of 1.35m. The 'Time to Peak' for 1% AEP (25mins) is 16 minutes with a maximum depth of 0.56m. (Jacobs Report)

- Rezoning the site from IN1 General Industrial to R3 Medium Density Residential changes the flood related risk profile of the site and places a significantly higher number of people at risk.

There is access to the site from Station Street which is approximately 10m wide and Concord Ave which is approximately 9.2m wide. Both accesses are subject to shallow inundation during the 1%AEP event as shown on Map C- 15 of the DCWFS and 1m to 2m deep inundation during the PMF event as shown on Map C-17 of the flood study.

Council is not satisfied that those risks are at an acceptable level and that the subject Planning Proposal manages the risks appropriately.

- **Sea Level Rise and Climate Change** impact upon low lying areas within the precinct that would be subject to tidal flooding with potential sea level rise. They have the potential to increase the frequency of inundation of the proposed flood storage area during minor rainfall events. Combined with sedimentation, Sea Level Rise and Climate Change would heighten impact with respect to frequency and extent of inundation over time.
- **Amenity** of future residents will be negatively impacted by the proposed storage and floodway void being very low. The frequently wet floodway and storage areas are not a desirable planning outcome. The frequency of inundation is predicted to be several times per year for the current scenario and for the 2100 scenario the void invert would be almost constantly wet. This brings increased possibility of problems with marine growth, odour, increased difficulty and cost of cleaning and a requirement for an increased frequency of cleaning.
- The void will require regular cleaning to maintain its effectiveness, reduce odours from decaying organic material and reduce harbour for vermin. This regular cleaning will be an expensive imposition on the Community Association or Body Corporate leading to complaints, temptation to block the inlet and a reluctance to clean.
- **Infrastructure** - The proposal is likely to result in a substantial increase in requirement for government spending on infrastructure and drainage services. In particular, maintenance of drainage by way of removing sediment and demands by residents whose expectations do not include frequent inundation of their site for drainage upgrades. Removal of sediment could run to several hundreds of cubic meters and there is no clear agreement on responsibility that is accepted by all the parties. (Council, RMS and SOPA)

The Planning Proposal does not exhibit Site-Specific Merit as it is inconsistent with:

- **the Ministerial 117 Direction 4.3 Flood Prone Land, as the land is not considered to be a site suitable for residential development.**
- **the Ministerial 117 Direction 4.3 Flood Prone Land, as the rezoning would permit a significant increase in the development of land in a Flood Planning Area. This will present a significant increase in risk and safety of future residents and is not in the public interest.**
- **the Ministerial 117 Direction 4.3 Flood Prone Land, as the rezoning is likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services.**

The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal;

- Existing uses surrounding the subject site are predominantly residential, with exception to the land zoned for industrial use that is nominated within the Master Plan for investigation. Given the length of time the industrial use has operated in this location, the continued use of the site for industrial purposes is considered to be acceptable in the residential context.

The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision;

Conclusion

Given the departure from the *117 Ministerial Direction 4.3 Flood Prone Land* and significant issues raised with respect to flooding, the subject land is not suitable to be rezoned for residential use. Council is strongly of the view that the Planning Proposal does not exhibit Strategic or Site-Specific Merit and should not proceed to a Gateway Determination.

Appendix 2 - Rezoning Review – Record of Decision, Sydney Central Planning Panel.



DATE OF DECISION	Thursday 8 June 2017
PANEL MEMBERS	Maria Atkinson (Chair), Sue Francis, Clare Brown, Kevin Hoffmann
APOLOGIES	None
DECLARATIONS OF INTEREST	John Brokhoff – employed by PIA and applicant (Jenny Rudolph) is the president of PIA. Michael Megna & Tony Fasanella – both have voted on this in their capacity as Councilors.

REZONING REVIEW

2017SCL025 – Canada Bay - PGR_2017_CANAD_001_00 at 7 Concord Avenue Concord West (AS DESCRIBED IN SCHEDULE 1)

Reason for Review:

- The council has notified the proponent that the request to prepare a planning proposal has not been supported
- The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

PANEL CONSIDERATION AND DECISION

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:

- should be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- should not be submitted for a Gateway determination because the proposal has
 - not demonstrated strategic merit
 - has demonstrated strategic merit but not site specific merit

The decision was unanimous.

REASONS FOR THE DECISION





The Panel considered the Department of Planning and Environment's Rezoning Review Briefing Report, undertook a site visit and had briefings from representatives of the City of Canada Bay Council and the proponent.

The Panel determined that the Planning Proposal had strategic merit demonstrated by being consistent with the "Parramatta Road Urban Transformation Strategy" (PRUTS) for the Homebush Precinct.

In relation to site specific merit, concern was raised by Council in respect of site flooding and local traffic impacts. The Panel notes that any Planning Proposal within the PRUTS must meet the *Environmental Planning Assessment Act 1979*, Section 117(2) Directions 7.3 which requires, inter alia, that satisfactory infrastructure arrangements must be in place prior to the making of any such plan including addressing the flooding and local transport impacts.

The Panel also noted that the Planning Proposal seeks an FSR of 1.76:1 and a height of 25m. Whilst the height is consistent with the PRUTS the FSR exceeds that within the strategy.

Therefore, the Panel recommends that any Gateway determination ensures that satisfactory arrangements are made to be consistent with the *Environmental Planning Assessment Act 1979*, Section 117(2) Directions 7.3 and 4.3. Specifically, the Panel, recommends investigations be made to find a precinct solution to both the flooding for the area north of Concord West train station, and local transport east of Powells Creek and north of Pomeroy Street. Further, the Panel recommends that any FSR and height of the buildings be consistent with the PRUTS.

PANEL MEMBERS	
 Maria Atkinson (Chair)	 Sue Francis
 Clare Brown	 Kevin Hoffmann

SCHEDULE 1

1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	2017SCL025 – Canada Bay - PGR_2017_CANAD_001_00 at 7 Concord Avenue Concord West
2	LEP TO BE AMENDED	Canada Bay Local Environmental Plan 2013
3	PROPOSED INSTRUMENT	The proposal seeks to rezone the site from IN1 General Industrial to R3 Medium Density Residential increase the maximum building on the site from 12 metres to 25 metres and amend the maximum floor space ratio from 1:1 to 1.76:1.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Rezoning review request documentation • Briefing report from Department of Planning and Environment
5	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection & Briefing with Department of Planning and Environment (DPE): Thursday 8 June 2017, 11.45 am <ul style="list-style-type: none"> ○ Panel members in attendance: Maria Atkinson (Chair), Sue Francis, Clare Brown, Kevin Hoffmann ○ DPE staff in attendance: Coby Tomlins, Wayne Williamson • Briefing meeting with Council: Thursday 8 June 2017, 1.20 pm <ul style="list-style-type: none"> ○ Panel members in attendance: Maria Atkinson (Chair), Sue Francis, Clare Brown, Kevin Hoffmann ○ DPE staff in attendance: Coby Tomlins, Wayne Williamson ○ Council representatives in attendance: Tony McNamara, Karen Lettice, Paul Dewar, Brian Woolley • Briefing meeting with Proponent: Thursday 8 June 2017, 2.10 pm <ul style="list-style-type: none"> ○ Panel members in attendance: Maria Atkinson (Chair), Sue Francis, Clare Brown, Kevin Hoffmann ○ DPE staff in attendance: Coby Tomlins, Wayne Williamson ○ Proponent representatives in attendance: Jenny Rudolph, Vas Andrews, Mays Chalak, Brett Philips, Andreas Antoniadis, Giovanni Ruperto, Paul Ruperto, Peter Blackett, Mario Nicomede, Joseph D'Agostino.

Appendix 3 - Gateway Determination Report, prepared by the Department of Planning & Environment.

Planning Services

Gateway Determination Report

LGA	Canada Bay
RPA	Sydney Eastern City Planning Panel
NAME	Proposal to amend zoning, floor space ratio and height controls under Canada Bay Local Environmental Plan 2013 to increase development standards at 7 Concord Avenue, Concord West.
NUMBER	PP 2017 CANAD 005 00
LEP TO BE AMENDED	Canada Bay Local Environmental Plan 2013
ADDRESS	7 Concord Avenue, Concord West
DESCRIPTION	Lot 1 DP 219742
RECEIVED	16 August 2017
FILE NO.	IRF17/47
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

The proposal seeks to amend Canada Bay Local Environmental Plan 2013 as it applies to 7 Concord Avenue, Concord West as follows:

- rezone the land from IN1 General Industrial to R3 Medium Density Residential;
- increase the maximum floor space ratio (FSR) from 1:1 to 1.76:1; and
- increase the maximum building height from 12 metres to 25 metres.

The planning proposal was subject to a rezoning review process, which culminated in the Sydney Eastern City Planning Panel (formerly the Sydney Central Planning Panel) determining that the proposal should proceed for a Gateway determination and appointing itself as relevant planning authority (RPS) for the matter.

A copy of the Panel's Record of Decision is at **Attachment E**. In short, the Panel determined that the proposal demonstrated strategic merit, however noted that the proposal needed to be updated to:

- reduce the proposed FSR to meet the requirements of the Parramatta Road Urban Transformation Strategy; and
- address:
 - Direction 7.3 – Parramatta Road Corridor Urban Transformation Strategy, which requires appropriate arrangements for state infrastructure provision be in place before the rezoning is finalised; and

- Direction 4.3 – Flood Prone Lands, specifically in relation to any precinct wide flooding issues and solutions.

Site description

The site is irregular in shape and has an area of approximately 1.5 hectares. It contains a warehouse-type building largely used for indoor recreational purposes (paintball and indoor go-karting). It is also used for the storage of concreting equipment and has an attached two-storey brick office building.

The northern boundary of the site measures 105 metres and is located next to the residential development at Liberty Grove and Loftus Park. The western boundary measures 143 metres and fronts the elevated Homebush Bay Drive. The southern boundary measures 91 metres and abuts an industrial site, and the eastern boundary measures 196 metres and abuts the houses (and their backyards) and townhouses on King Street and Station Avenue respectively.



Figure 1: Site entrance (centre) at Station Avenue. Existing furniture manufacturing premises at left and townhouses at right of photo.

Along the western boundary of the site, the property's fence is set back approximately 10 metres from the boundary, which forms part of the elevated Homebush Bay Drive road edge. This setback comprises vegetation and trees, providing a visual barrier to Homebush Bay Drive.



Figure 2: Existing buildings on site.



Figure 3: Looking north, Homebush Bay Drive behind trees.

Surrounding area

The surrounding area is characterised by a variety of built forms and uses, including low and medium density residential and light industrial development, with Concord West Station approximately 300 metres to the south-east of the site. There is a neighbourhood centre on Victoria Avenue and Queen Street immediately to the north-east of the station. Beyond

Homebush Bay Drive are Bicentennial Park, Homebush Bay Parklands and Sydney Olympic Park to the west. Victoria Avenue Public School is approximately 150 metres south of the site and St Ambrose Catholic Primary School is approximately 450 metres to the south-east (Figure 4).

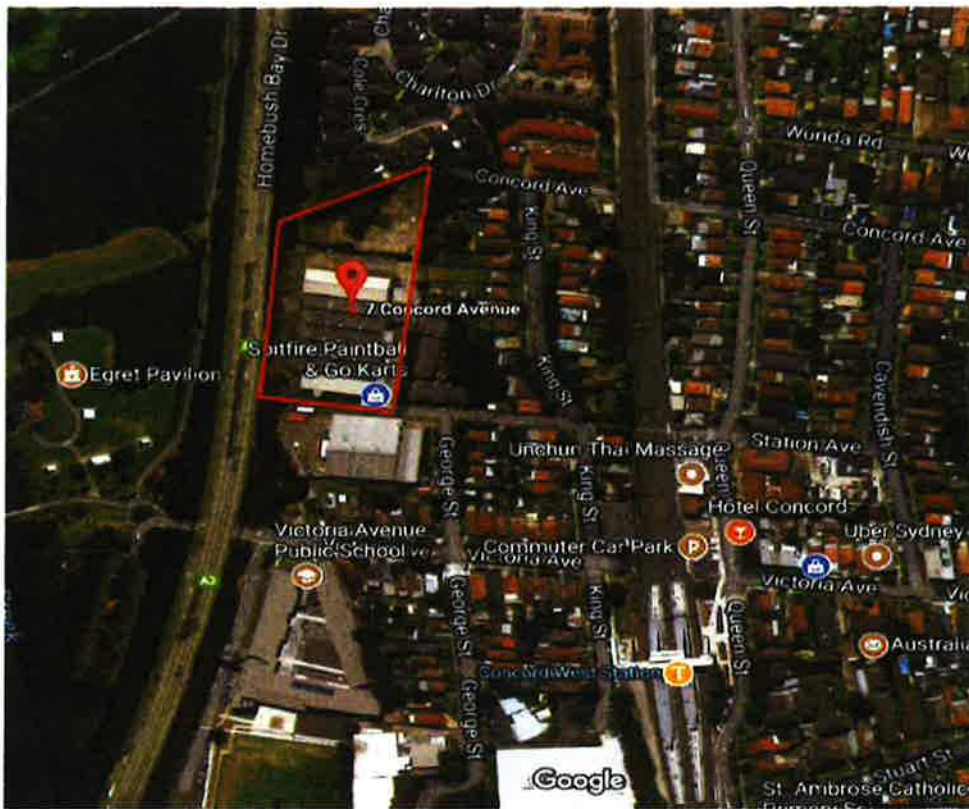


Figure 4: Aerial photo showing location and surrounding context (source: Google Maps).

The site is surrounded by a range of zones, including IN1 General Industrial, R2 Low Density Residential, R3 Medium Density Residential and SP2 Infrastructure. Surrounding sites have FSR controls of 0.5:1, 0.8:1 and 1:1, and surrounding building height controls are 8.5 metres, 10 metres, 11 metres and 20 metres.

Summary of recommendation

The planning proposal is supported, subject to conditions, because:

- it demonstrates strategic merit in the context of the NSW Government's vision for the renewal of the Parramatta Road corridor as provided for in the Parramatta Road Corridor Urban Transformation Strategy 2016-2023, and the strategic direction of the Strategy for the Homebush precinct;
- while the land is subject to flooding, the proposal presents a site-specific alternative solution in the absence of completed strategic work for the planned precinct designed to address flooding issues on a catchment-wide basis;
- it will contribute to increasing housing supply, diversity and affordability; and
- it demonstrates consistency with the draft Concord West Precinct Master Plan 2014 and will assist in providing a coordinated planning approach to the redevelopment of the area.

However, the proposal:

- should be updated to address precinct-wide flooding issues; and

- should be consistent with the recommended floor space ratio (FSR), housing affordability and state public infrastructure controls specified in the Parramatta Road Corridor Urban Transformation Strategy for the Homebush precinct.

The Gateway determination has been conditioned to address the above unresolved issues.

PROPOSAL

Objectives or intended outcomes

The proposal's principal objective is to amend Canada Bay Local Environmental Plan (LEP) 2013 to support the redevelopment of the site for approximately 290 dwellings.

The objectives and intended outcomes are considered clear and adequate for the purposes of the planning proposal.

Explanation of provisions

The proposal seeks to amend the Canada Bay LEP 2013 by:

- amending the land-use zoning map to rezone the site from IN1 General Industrial to R3 Medium Density Residential;
- amending the FSR map to set a maximum FSR of 1.76:1; and
- amending the height of buildings map to set a maximum height of 25 metres.

The explanation of provisions is considered clear and adequate for the purposes of the planning proposal.

Mapping

The proposed rezoning and amendment of FSR and building height controls require amendments to the corresponding LEP maps. The proposal includes extracts from the current and proposed zoning, FSR and building height maps. This is adequate for the purposes of the planning proposal.

NEED FOR THE PLANNING PROPOSAL

The planning proposal has been lodged in response to Council's Concord West Socio-Economic Study 2013. The study highlighted problems with attracting suitable tenants to use industrial sites in the precinct due to a shift away from traditional industrial uses, ageing building stock, proximity to residential uses and inappropriate street access for trucks. In 2014, Council commissioned the Concord West Precinct Master Plan (**Attachment F**), which focused on individual sites that were considered capable of higher-density residential development. The planning proposal responds to these studies by seeking to facilitate medium-density residential development on this industrial-zoned site.

The planning proposal is the mechanism by which to rezone the land and amend current development controls, facilitating the intended outcomes.

STRATEGIC ASSESSMENT

State

A Plan for Growing Sydney

The proposal is consistent with the plan in that it will contribute to increasing and accelerating the supply of housing in Sydney, particularly in an area that is well served by public transport and is close to the identified Rhodes strategic centre.

Draft Greater Sydney Region Plan

The draft Greater Sydney Region Plan was also released for consultation in October 2017. It provides a 40-year vision for Greater Sydney promoting collaboration across government to align land-use planning with future transport services. It is designed to inform district plans, local plans and the assessment of planning proposals. The proposal is generally consistent with the *10 Directions* outlined in the plan.

Specifically, it will increase the supply of housing and improve housing diversity and choice.

The proposal's analysis is based on A Plan for Growing Sydney. A Gateway condition will require the proposal to be updated to demonstrate consistency with the revised Draft Greater Sydney Region Plan.

District

Revised Draft Eastern City District Plan

The planning proposal does not address the Revised Draft Eastern City District Plan as it predates the release of the plan.

The draft Plan recommends that employment land in the District should not be converted to residential land. Despite this principle, the draft Plan recognises that additional capacity for housing supply is well progressed across much of the District and references the Parramatta Road Corridor Urban Corridor Urban Transformation Strategy 2016 as a State led mechanism for guiding rezonings within the area. The Strategy identifies the land as being suited for medium-density residential development. A detailed review of the proposal's consistency with this Strategy, including the proposed height and FSR controls, is discussed below.

The draft Plan also contains planning priorities regarding the provision of housing supply, choice and affordability.

While the proposal will contribute to increasing housing supply, it does not explicitly seek to facilitate any income-based affordable housing.

This matter is discussed below under the review of the Parramatta Road Corridor Urban Corridor Urban Transformation Strategy 2016 and can be addressed as part of the Gateway determination requirements.

A Gateway determination condition is proposed to ensure that the proposal is updated to address the revised draft Plan.

Parramatta Road Corridor Urban Transformation Strategy 2016

The site is identified in the Strategy's 2016-2030 release area for the Homebush precinct, which has a target of providing 9,500 new dwellings and 12,900 new jobs by 2050.

Zoning

The proposal is consistent with the future R3 Medium Density Residential zoning as identified in the Strategy.

Building height

The proposal seeks an increase in the permissible building height limit from 12 metres to 25 metres, which is consistent with the Strategy.

FSR

The Strategy recommends an FSR of 1.6:1, but the proposal seeks an FSR of 1.76:1. The accompanying urban design strategy provides a breakdown of dwelling numbers and sizes equating to an FSR of 1.7:1. The proposed FSR exceeds the Strategy's recommended FSR by 0.16:1 (10%).

The planning proposal states that the FSR of 1.76:1 is sought for the following reasons:

- 1.76:1 is an existing FSR increment under the current LEP controls, i.e. there is no 1.7:1 provision under the LEP; and
- due to feasibility and the cost of ensuring adequate management of environmental issues on the site, including flooding, contamination and acid sulphate soils.

The Strategy has been subject to significant and detailed consultation with stakeholders, which informed its final recommendations, including those relating to density and FSR controls. Furthermore, the Sydney Eastern City Planning Panel (formerly the Sydney Central Planning Panel) considered this issue at its meeting of 8 June 2017 and recommended that any FSR (and height of buildings) be consistent with the Strategy. In these circumstances, it is recommended that the planning proposal be revised to reflect a FSR of 1.6:1, consistent with the Strategy. A Gateway determination condition will require consistency with the Strategy.

Affordable housing

Principle 1 of the Strategy is to 'plan for a diversity of housing types to accommodate a wide range of community needs, including affordable housing, family housing, student housing and seniors housing'. One of the strategic actions for affordable housing is to "provide a minimum of 5% of new housing as affordable housing, or in line with government policy of the day." Five per cent (5%) equates to 14 dwellings out of the proposed 290.

As discussed above, the proposal does not explicitly provide for any income-based affordable housing, and is therefore inconsistent with the Strategy.

SEPP 70 - Affordable Housing (Revised Schemes) provides a mechanism for including affordable housing provisions in environmental planning instruments. This SEPP is currently being reviewed and Canada Bay is one of the LGAs being considered to be included in the SEPP. Should this eventuate, it would mean that any future development application on the land would be required to comply with the affordable housing provisions of Canada Bay Council. This provides some satisfaction that legislative schemes for ensuring affordable housing at the site will be in place before development consent can be issued.

Should this SEPP amendment not eventuate however, or the proposal proceeds the finalisation of the SEPP, there are other mechanisms for ensuring affordable housing provision at the site including voluntary planning agreements, restrictions on titles, etc. It is likely that the provision of affordable housing will also be a key consideration when determining any required state or local infrastructure contributions, which is discussed below.

The proposal should be updated to address this matter prior to exhibition and will again be reviewed before the Plan is made when determining sign off to Direction 7.3 (this is discussed in more detail below). The proposal will need to demonstrate how the minimum affordable housing affordability targets under the Strategy are being met.

Special infrastructure contribution

The Strategy confirms that development uplift in the corridor will place increased pressure and demand for state infrastructure and therefore arrangements for contributions towards funding infrastructure will need to be determined through rezoning proposals. This can be

achieved through voluntary planning agreement processes through the planning proposal process or as part of a development application.

A Gateway determination condition will require the proposal to be updated to discuss how adequate state infrastructure provision arrangements are being made. If it is intended to address VPA matters at a DA stage, it is likely that a satisfactory arrangements provision would be included in the LEP amendment.

Precinct Wide Traffic Review

The Strategy states that prior to any rezoning commencing, a Precinct-wide traffic study and supporting modelling is required to be completed.

While scoping works for this study have commenced, it is not the intent of the Department to defer the progression of planning proposals prior to the completion of this study, however the Gateway will be conditioned to require the proposal to be updated to address any available findings of the study prior to it being exhibited and or finalised.

Flood

The Strategy lists flooding as a key challenge in Concord.

The proposal has been submitted with a flood impact assessment (**Attachment H**) and site-specific flood mitigation response which includes a swale and culvert system, flood storage in the basement car park and raised floor and road levels.

A proponent-initiated peer review of the assessment (**Attachment I**) by Cardno highlighted several technical matters that should be considered, but found the proposed method of flood mitigation is generally suitable. The peer review also found that the proposal provides a development configuration that has been adopted for other developments on the Parramatta River.

The site specific response has been one of a number design response options provided to Council, and while Council is still concerned with the detail, it is Council's preferred option for managing flood at the site.

A separate planning proposal which has been issued a Gateway condition and is nearing completion (Ref: PP_2015_CANAD_005_00) seeks to introduce a flood planning map and associated model clause into Council's LEP. This was sought by Council under this separate planning proposal as a mechanism for ensuring site specific flood issues was a key consideration under any future development application. It is considered that the subject site should be included on this map and therefore ensure this new LEP clause applies to the site.

It is also noted that the Burwood, Strathfield and Homebush Planned Precinct, which was announced on 1 June 2017, will be investigating catchment-wide flooding and stormwater management issues and responses.

A Gateway condition has also been included to require the proposal to be updated to reflect any available findings of the Planned Precinct review, including any precinct-wide solution to flooding. This additional review would assist in addressing the Panel's concerns regarding flooding.

Local

City of Canada Bay Local Planning Strategy 2010-2031

The Department confirmed its general support for Council's Local Strategy in November 2009. The Strategy encourages housing choice in the LGA, including an adequate supply of affordable housing. The provision of affordable housing at the site has been discussed above.

The local strategy also recognises that isolated pockets of industrial land that are unlikely to support any future employment uses due to size and location are likely to be rezoned for non-employment uses over the time frame of the Strategy. The site is in a predominantly residential area and is not considered to be a significant employment generator. Thus, the proposal is broadly consistent with this element of Council's local strategy.

Section 117(2) Ministerial Directions

1.1 Business and Industrial Zones

The proposal is inconsistent with this Direction as it will enable residential land uses on a site zoned for industrial purposes. However, the inconsistency is considered justified given the site's relative isolation from other industrial/employment land and limited potential for employment generation, as well as its demonstrated consistency with the strategic elements of the draft Concord West Master Plan and the Parramatta Road Corridor Urban Transformation Strategy.

4.1 Acid Sulphate Soils

The site is identified as Class 2 on the Canada Bay LEP acid sulphate soils map. The proposal is consistent with this Direction because an acid sulphate soil management plan has been prepared, which concludes that the implementation of the plan will enable appropriate management of the potential risks associated with acid sulphate soils to structures and surrounding water bodies, including local groundwater and Powells Creek.

Furthermore, Canada Bay LEP 2013 includes clause 6.1 Acid Sulphate Soils, which is considered adequate to prevent environmental damage arising from exposure of acid sulphate soils.

4.3 Flood Prone Land

This Direction seeks to ensure that consideration is given to the Department's flood-prone land policy and to the potential flood impacts both on and off the subject land. The Direction requires that a planning proposal must not permit a significant increase in the development of flood-prone land.

The site is flood prone and proposal seeks to increase densities on the land and is therefore inconsistent with this Direction.

As discussed in detail on page 7 of this Plan Finalisation Report,

- the proposal is supported by a site specific flood impact assessment and design response for managing flood;
- it is proposed that the proposal be updated to include the site on Council's new LEP flood planning map;
- it is proposed to include conditions on the Gateway that require the proposal to be updated to address any available findings of the Burwood, Strathfield and Homebush Planned Precinct review, which is to include a precinct wide flood review; and
- consulting with the community and state agencies, such as the Office of Environment and Heritage, will also provide feedback on an appropriate response for managing flood through the proposed rezoning.

It is considered that there is suitable justification to allow the proposal to proceed however the inconsistency with this Direction remains unresolved until further justification, considering the matters above, is provided.

7.3 Parramatta Road Corridor Urban Transformation Strategy

This Direction gives statutory weight to the Strategy, and primarily seeks to facilitate development consistent with the Strategy. The proposal's consistency with this Strategy is discussed in detail from page 5 – 7 of this Gateway Determination Report.

It has been confirmed that while the proposal is consistent with the scheduling program of the Strategy, the proposal will need to be updated to reduce the proposed FSR for the site and to confirm how flooding will be managed and how affordable housing and state infrastructure provision arrangements will be made.

The inconsistency therefore remains unresolved until further justification is provided.

State environmental planning policies

State Environmental Planning Policy No 55 - Remediation of land

Clause 6 of SEPP 55 requires the planning authority to be satisfied that the land is suitable, or can be made suitable, for all the uses permissible in the zone.

The proposal is accompanied by a detailed remediation action plan, which concludes that remediation is required to make the site suitable for the proposed development. The proposal also confirms that an acid sulphate soils management plan has been completed. While the proposal is consistent with SEPP 55, consultation with the Environmental Protection Authority is recommended as part of the consultation process.

The proposal is not inconsistent with other applicable SEPPs and section 117 Directions.

SITE-SPECIFIC ASSESSMENT

Social

The proposal states that it will contribute to the social wellbeing of Concord West by increasing the supply of housing in an area with good access to public transport, employment, and recreational, commercial and retail opportunities. While the site is close to Concord Repatriation General Hospital, a neighbourhood centre, Strathfield Police Station and Concord Fire Station, it is recommended that the proposal be referred to Transport for NSW and relevant NSW medical and emergency service providers.

The proposal is likely to generate an increased demand for other social infrastructure such as schools and childcare facilities. While the site is close to Victoria Avenue Public School, Concord West Public School, St Ambrose Catholic Primary School, Strathfield North Public School and The McDonald College, it is recommended that the Department of Education be consulted on the proposal, to provide general advice and advice in relation to the capacity of these facilities and their ability to accommodate a potential increase in school-age children arising from the proposed development.

Environmental

Traffic and transport

The proposal includes an assessment of traffic and parking implications, which indicates that traffic generation will be 'very similar' to that of the former manufacturing uses at the site and concludes that 'there will be no adverse or unsatisfactory traffic or parking implications resulting from the envisaged development scheme'.

It is recommended that the proposal be referred to RMS and Transport for NSW for consultation regarding potential traffic implications. The proposal will also be referred to these agencies as part of any negotiations around state infrastructure provision arrangements.

Flora and fauna

The site has not been identified as containing critical habitat or threatened species, populations or ecological communities, or their habitats. The site is not within the area covered by the terrestrial diversity map, and consequently, neither is it directly captured by the Canada Bay LEP 2013 clause 6.3 Terrestrial Biodiversity (which prevents development consent being granted unless the consent authority is satisfied that any impacts are managed and/or mitigated). However, the site is adjacent to Bicentennial Park and Homebush Bay, areas containing mangrove and wetlands highlighted on the LEP terrestrial biodiversity map.

While it is not considered that the planning proposal will have any significant impact on terrestrial biodiversity, the potential for impact upon Bicentennial Park and Homebush Bay is a matter that would be considered in detail at the development application stage, as part of a wider 'site context' analysis.

High-pressure gas pipeline

The proposal has been referred to the Department's Hazards assessment team for review. The Hazards team advised that according to the information provided by the Australian Pipeline Database developed by the Australian Pipeline and Gas Industry Association, a primary gas main is located approximately 60 metres west of the site, in Bicentennial Park. In accordance with the requirement of Australian Standard AS 2885 -2012 Pipelines – Gas and Liquid Petroleum, any change of land use near the pipeline requires the licensee to review the pipeline's safety management study to assess the potential impact. As such, the Gateway determination will require consultation with the pipeline licensee (Jemena) on this proposal.

Heritage

The site is not identified as a heritage item or as part of a heritage conservation area, but local heritage item I467 (Powells Creek Reserve) connects to the site at its south-west corner.

Given the limited locational relationship between the site and Powells Creek Reserve, and the existing developed nature of the site and most of its surroundings, it is considered unlikely that the proposal will result in any significant adverse impact on the heritage values of the reserve.

Economic

The current uses of the site (paintball, go-karting and warehousing) are not significant employment generators, and both the Concord West Socio-Economic Study, the Paramatta Road Corridor Urban Transformation Strategy and the Concord West Precinct Master Plan recommend the rezoning of the site to R3 Medium Density Residential.

In these circumstances, it is considered that the rezoning of the site will not result in significant adverse economic impacts.

Infrastructure

The site has good access to public transport infrastructure, particularly Concord West train station and bus services operating along Concord Road.

While the planning proposal indicates that existing utility infrastructure can be augmented to meet additional demand, the site's development potential resulting from this proposal is such that it is likely there will be a need for additional infrastructure to meet demand.

CONSULTATION

Community

The planning proposal outlines the means of the proposed minimum 28-day community consultation, including newspaper notification, relevant planning authority (RPA) website notification, and notification in writing to affected and adjoining landowners.

It is noted that the Sydney Eastern City Planning Panel, as RPA, will be the body responsible for public consultation.

Agencies

The proposal does not specify which agencies should be consulted. It is recommended the following agencies be consulted on the planning proposal and given at least 21 days to comment:

- Transport for NSW;
- Roads and Maritime Services;
- Office of Environment and Heritage
- Department of Education;
- NSW State Emergency Service;
- NSW Health
- Department of Family and Community Services
- Ambulance Service of NSW
- NSW Police Force
- Fire and Rescue NSW
- Jemena; and
- Sydney Water.

TIME FRAME

The planning proposal provides an estimated project timeline, concluding that finalisation of the proposed LEP amendment will follow the RPA's request for finalisation in June-July 2018. Given that the proposal has been through the rezoning review process and was not lodged as a formal proposal with the Department until August 2017, the proponent's estimated timeline is no longer achievable. A revised timeline should be provided.

It is considered that a time frame of 12 months from Gateway determination is sufficient to complete the proposed amendment.

DELEGATION

Council declined the Department's invitation to be the RPA for this proposal following the rezoning review. Consequently, the Sydney Eastern City Planning Panel appointed itself as the RPA.

CONCLUSION

Despite inconsistencies with the strategic planning framework, the planning proposal is supported to proceed with conditions for the following reasons:

- it demonstrates consistency with the strategic planning framework;
- it demonstrates strategic merit and consistency with the Parramatta Road Corridor Urban Transformation Strategy 2016-2023 and the strategic direction of the Strategy for the Homebush precinct; and
- it will contribute to increasing housing supply, diversity and affordability.

However, the proposal should be updated to:

- address the requirements of section 117 Directions 4.3 Flood Prone Land and 7.3 Parramatta Road Corridor Urban Transformation Strategy;
- address the strategic planning framework in relation to the lack of provision for affordable housing;
- demonstrate consistency with the recommended FSR controls specified in the Parramatta Road Corridor Urban Transformation Strategy for the Homebush precinct;
- address the demand for state public infrastructure arising from the proposed development of the site; and
- provide an updated timeline.

Before finalisation the proposal will need to be amended to reflect any catchment-wide solution to flooding formed by the Burwood, Strathfield and Homebush Planned Precinct.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 117 Direction 1.1 Business and Industrial Zones is justified;
2. note that the planning proposal should be revised to demonstrate consistency with section 117 Direction 4.3 Flood Prone Land;
3. note that the planning proposal should be revised to demonstrate consistency with section 117 Direction 7.3 Parramatta Road Corridor Urban Transformation Strategy.

It is recommended that the delegate of the Greater Sydney Commission determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:
 - (a) address the requirements of the Parramatta Road Corridor Urban Transformation Strategy by:
 - reducing the proposed floor space ratio to 1.6:1;
 - confirming how adequate arrangement for providing affordable housing at the site and contributions to designated State public infrastructure will be made; and
 - demonstrating consistency with any available findings of the Burwood – Concord Precinct Wide Traffic Review.
 - (b) include the site on a LEP Flood Planning Map to identify the site as being within the ‘flood planning area’ (in accordance with the standard technical requirements for spatial datasets and maps);
 - (c) demonstrate consistency with the Draft Greater Sydney Region Plan and the Revised Draft Eastern City District Plan;

- (d) demonstrate consistency with any available findings of the precinct wide flooding study associated with the Burwood, Strathfield and Homebush Planned Precinct.
- (e) provide an updated timeline for the completion of the proposed amendment.

The revised planning proposal is to be provided to the Department for review and approval for public exhibition.

2. Consultation is required with the following public authorities:

- Transport for NSW;
- Roads and Maritime Services;
- Office of Environment and Heritage
- Department of Education;
- NSW State Emergency Service;
- NSW Health
- Department of Family and Community Services
- Ambulance Service of NSW
- NSW Police Force
- Fire and Rescue NSW
- Jemena; and
- Sydney Water.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment.

3. Community consultation is required under section 56(2)(c) and 57 of the Act as follows:

- (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
- (b) the relevant planning authority must comply with the notice requirements for exhibition of planning proposal and the specifications for material that must be made publicly along with planning proposal as identified in section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment 2016)

- 4. A public hearing is not required to be held into this matter by any person or body under section 56 (2) (e) of the *Environmental Planning and Assessment Act 1979*.
- 5. Prior to LEP being made, the proposal is to be updated to reflect any available precinct-wide findings or solution to traffic and flooding, as informed by the Burwood, Strathfield and Homebush Planned Precinct and Burwood-Concord Precinct Study.
- 6. The time frame for completing the LEP is to be 18 months from the week following the date of the Gateway determination.


Wayne Williamson 21/12/17
Team Leader, Sydney Region East


Catherine Van Laeren 21/12/17
Director, Sydney Region East
Planning Services

Contact Officer: Andrew Watkins
Planning Officer, Sydney Region East
Phone: 9274 6558

Appendix 4 - Gateway Determination.



IRF17/47

Ms Maria Atkinson AM
Chair
Sydney Eastern City Planning Panel
GPO Box 38
SYDNEY NSW 2001

Dear Ms Atkinson

Planning Proposal (PP_2017_CANAD_005_00) to amend Canada Bay Council Local Environmental Plan 2013 to rezone land and amend height and floor space ratio controls at 7 Concord Avenue, Concord West.

I am writing in response to the Panel's request for a Gateway determination under Section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to rezone land and increase the maximum permissible building height and floor space ratio controls at 7 Concord Avenue, Concord West.

As delegate of the Greater Sydney Commission, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed, as delegate of the Secretary, that the planning proposal's inconsistency with section 117 Direction 1.1 Business and Industrial Zones is justified in accordance with the terms of the Direction. No further approval is required in relation to this Direction.

The Panel may still need to obtain the agreement of the Department of Planning and Environment's Secretary to comply with the requirements of section 117 Directions 4.3 Flood Prone Land and 7.3 Parramatta Road Corridor Urban Transformation Strategy. The Panel should ensure this occurs prior to community consultation.

The Department is satisfied that there is adequate information included in the proposal for the matter to proceed. The planning proposal will need to be updated however to address the requirements of the Gateway determination and ensure that the proposal reflects the requirements of the relevant Regional, District and Precinct Wide Plans.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the week following the Gateway determination. The Panel should aim to commence the exhibition of the planning proposal as soon as possible. The Panel's request for the Department to draft and finalise the LEP should be made 10 weeks prior to the projected publication date.

COPY

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. To meet these commitments, the Greater Sydney Commission may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Mr Andrew Watkins from the Department's Sydney Region East team to assist you. Mr Watkins can be contacted on 9274 6558.

Yours sincerely

 8/1/18

Oliver Holm
Acting Executive Director, Regions
Planning Services

Encl: Gateway determination



Gateway Determination

Planning Proposal (Department Ref: PP_2017_CANAD_005_00): to amend zoning, floor space ratio (FSR) and building height controls under Canada Bay Local Environmental Plan 2013 for land at 7 Concord Avenue, Concord West.

I, the Acting Executive Director, Regions at the Department of Planning and Environment, as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Canada Bay Local Environmental Plan (LEP) 2013 should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:
 - a. address the requirements of the Parramatta Road Corridor Urban Transformation Strategy by:
 - reducing the proposed floor space ratio to 1.6:1;
 - confirming how adequate arrangement for providing affordable housing at the site and contributions to designated State public infrastructure will be made; and
 - demonstrating consistency with any available findings of the Burwood – Concord Precinct Wide Traffic Review.
 - b. include the site on Council's LEP Flood Planning Map to identify the site as being within the 'flood planning area' (in accordance with the standard technical requirements for spatial datasets and maps);
 - c. demonstrate consistency with the Draft Greater Sydney Region Plan and the Revised Draft Eastern City District Plan;
 - d. demonstrate consistency with any available findings of the precinct wide flooding study associated with the Burwood, Strathfield and Homebush Planned Precinct.
 - e. provide an updated timeline for the completion of the proposed amendment.

The revised planning proposal is to be provided to the Department for review and approval for public exhibition.

2. Consultation is required with the following public authorities:
 - Transport for NSW;
 - Roads and Maritime Services;
 - Office of Environment and Heritage
 - Department of Education;
 - NSW State Emergency Service;
 - NSW Health
 - Department of Family and Community Services
 - Ambulance Service of NSW



Planning & Environment

- NSW Police Force
- Fire and Rescue NSW
- Jemena; and
- Sydney Water.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment.

3. Community consultation is required under section 56(2)(c) and 57 of the Act as follows:
 - a. the planning proposal must be made publicly available for a minimum of **28 days**; and
 - b. the relevant planning authority must comply with the notice requirements for exhibition of planning proposal and the specifications for material that must be made publicly along with planning proposal as identified in section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment 2016)
4. A public hearing is not required to be held into this matter by any person or body under section 56 (2) (e) of the *Environmental Planning and Assessment Act 1979*.
5. Prior to LEP being made, the proposal is to be updated to reflect any available precinct-wide findings or solution to traffic and flooding, as informed by the Burwood, Strathfield and Homebush Planned Precinct and Burwood-Concord Precinct Study
6. The time frame for completing the LEP is to be 18 months from the week following the date of the Gateway determination.

Dated 8th day of January 2018.

Oliver Holm
Acting Executive Director, Regions
Planning Services
Department of Planning and Environment

Delegate of the Greater Sydney Commission