

Proposal to amend Canada Bay LEP 2013 to amend height and floor space ratio controls for Waterview Street, Second Avenue and Barnstaple Road, Five Dock to increase development standards (approx. 50 dwellings)

Proposal Title :	Proposal to amend Canada Bay LEP 2013 to amend height and floor space ratio controls for Waterview Street, Second Avenue and Barnstaple Road, Five Dock to increase development standards (approx. 50 dwellings)		
Proposal Summary :	The proposal seeks an amendment to the Canada Bay Local Environmental Plan 2013 to increase the maximum height of buildings from 8.5 metres to part 14 metres and part 10.5m, increase the maximum floor space ratio (FSR) from 0.5:1 to 1.0:1 and amend the Heritage Map and Schedule 5 to remove the heritage listing for 39 Waterview Street, Five Dock (Item I486).		
PP Number :	PP_2017_CANAD_002_00	Dop File No :	17/05831

Proposal Details

Date Planning Proposal Received :	11-Apr-2017	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 :	6 Barnstaple Road		
Suburb :	Five Dock	City :	Sydney
Land Parcel :	Lot 1 DP 302709		Postcode : 2046
Street :	8 Barnstaple Road		
Suburb :	Five Dock	City :	Sydney
Land Parcel :	Lot 2 DP 302709		Postcode : 2046
Street :	45-47 Waterview Street		
Suburb :	Five Dock	City :	Sydney
Land Parcel :	SP 41835		Postcode : 2046
Street :	43A Waterview Street		
Suburb :	Five Dock	City :	Sydney
Land Parcel :	Lot A DP 401351		Postcode : 2046
Street :	43 Waterview Street		
Suburb :	Five Dock	City :	Sydney
Land Parcel :	Lot B DP 401351		Postcode : 2046
Street :	41 Waterview Street		
Suburb :	Five Dock	City :	Sydney
Land Parcel :	Lot 1 DP 956496		Postcode : 2046

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Street :	39 Waterview Street		
Suburb :	Five Dock	City :	Sydney
		Postcode :	2046
Land Parcel :	Lot 11 DP 869673		
Street :	37 Waterview Street		
Suburb :	Five Dock	City :	Sydney
		Postcode :	2046
Land Parcel :	Lot 3 DP 311193		
Street :	2 Second Avenue		
Suburb :	Five Dock	City :	Sydney
		Postcode :	2046
Land Parcel :	Lot 4 DP 311193		

DoP Planning Officer Contact Details

Contact Name : Ella Wilkinson
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RPA Contact Details

Contact Name : Elvie Magallanes
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DoP Project Manager Contact Details

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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) : 50
Gross Floor Area : 0	No of Jobs Created : 0

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

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. Sydney Region East has not met any lobbyists in relation to this proposal, nor has the Director been advised of any meetings between other Department officers and lobbyists concerning this proposal.

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Have there been meetings or communications with registered lobbyists? :

No

If Yes, comment :

Supporting notes

Internal Supporting Notes :

THE SITE AND CONTEXT

The site is approximately 4,483 square metre, is situated to the East of the Five Dock Town Centre and comprised of nine properties. One of these properties is listed in Schedule 5 of the Canada Bay LEP 2013 and is identified as heritage item I486 (also known as 39 Waterview Street, Five Dock) on Heritage Map Sheet HER_005.

Land to the west of the subject site (Great North Road) contains properties which are currently zoned B4 Mixed Use comprising commercial and retail premises, forming the main street of the Five Dock Town Centre. Properties to the east of the subject site (Waterview Street) are zoned R3 Medium Density Residential and comprise single and double storey detached dwelling houses. To the south of the subject site (Second Avenue) land is zoned B4 Mixed Use and contains single storey residential dwellings. Properties to the north of the subject site (Barnstaple Road) are zoned R2 Low Density Residential and comprise single and double storey residential dwellings.

CURRENT PLANNING CONTROLS

The land is currently zoned R3 Medium Density Residential, with a maximum building height of 8.5 metres and an FSR of 0.5:1. The current maximum building height and maximum FSR do not reflect the intent of the current zone, which is to provide for the housing needs of the community and a variety of housing types within a medium density residential environment.

The inconsistency between the R3 Medium Density Residential zone and the current controls are a result of the proximity of the site to the Five Dock Town Centre and the Urban Design Study that was prepared to outline the desired future development outcomes of the Five Dock Town Centre.

PROPOSAL

The proposal is the result of this Five Dock Town Centre Urban Design Study, adopted in 2014. Council prepared a planning proposal accompanied by a draft Development Control Plan (DCP) and draft Development Contributions Plan to implement the recommendations of this study. Submissions were received during this exhibition (21 October 2014 to 17 November 2014) that requested the boundaries of the Five Dock Town Centre be extended to include the area of land being rezoned to the northern end of Waterview Street.

At the time, this land was not identified for rezoning as it was located out of the core of the centre, contained constrained sites, including a heritage item and an existing strata development and would require the extension of the proposed Waterview Lane to facilitate improved access.

On 3 November 2015, Council endorsed the draft Plan and resolved to prepare a separate report to investigate zoning, heritage and redevelopment of land between Second Avenue and Barnstaple Road on the western side of Waterview Street, Five Dock, following the submissions that were received during the previous planning proposal for the Five Dock Town Centre, requesting to extend the boundaries of the Town Centre.

On 2 August 2016, Council considered the outcome of these investigations and resolved to exhibit draft planning controls for the subject site. Submissions received from this exhibition outlined issues relating to proposed building controls and the impact of the proposed development on the established community.

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Council prepared an Exhibition Outcomes Report which recommended that a planning proposal for the subject site should proceed, subject to the maximum height of development on Waterview Street being limited to three to four storeys, and FSR limited to 1.0:1 to prevent adverse impacts on surrounding residents by achieving a building of lesser bulk and allow for articulation of the building through variations to the setbacks and building heights.

Council has prepared a DCP to accompany the planning proposal to incorporate the key design considerations raised during exhibition of the draft planning controls, which also includes a recommendation for a 6 metre wide laneway from Barnstaple Road to Waterview street to limit traffic and parking impacts to existing residents. The DCP will be placed on exhibition to support the planning proposal.

In regards to heritage item I486 (39 Waterview Street, Five Dock), a report prepared by Futurepast Heritage Consulting (on behalf of the owners of 120 Great North Road and 2 Second Avenue, and not submitted to support this planning proposal) states that existing modifications to 39 Waterview Street are substantial and lessen the heritage value/significance of the dwelling.

Council's Heritage Advisor contends that the modifications to the house and the changes to the original setting of the house do not provide justification for an increase in height that would change the built form or setting of 39 Waterview Street, and to do so would have adverse impacts on the heritage item.

Despite this, Councillors voted to submit the planning proposal to amend the building controls for the land bounded by Waterview Street, Barnstaple Road, Second Avenue, and adjacent to the Five Dock Town Centre.

Council's report outlines that should the heritage item be required to be retained, alternate development standards (building height and FSR) would be required to minimise the impacts on the heritage item. The proposal states that the preferred and more feasible option is to remove the heritage item to allow development of the land in line with the medium density residential zone.

Council has proposed the following controls for the subject site, should the removal of the heritage item be supported:

- a height increase from 8.5 metres to part 14 metres (4 storeys) to adjoin the current B4 Mixed Use zone along Great North Road and Second Avenue, stepping down to 10.5 metres (3 storeys) along Waterview Street and Barnstaple Road;
- an FSR increase from 0.5:1 to 1:1;
- removal of heritage item I486 (39 Waterview Street, Five Dock).

The proposed controls would facilitate medium density residential development, consistent with the current R3 Medium Density Residential Zone on the site.

External Supporting
Notes :

Council is seeking delegation to carry out the Minister's plan-making functions under section 59 of the Environmental Planning and Assessment Act 1979 (the EP&A Act). Delegation is considered appropriate as the matter is of local significance.

Adequacy Assessment

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

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

Comment : **OBJECTIVES**

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- To ensure that the proposed development achieves an integrated urban design outcome for all (9) nine properties.

- To ensure that development has an appropriate interface with adjacent low density residential development.

- To implement floor space ratio and building height controls that are informed by local character, street proportions, interface with surrounding properties and community consultation.

INTENDED OUTCOMES

- A three storey street wall to Waterview Street and Barnstaple Road that steps up to a maximum height of four storeys.

- Removal of the Heritage item located at 39 Waterview Street from Schedule 1 of the Canada Bay Local Environmental Plan to permit redevelopment of the site.

- The preparation of a Development Control Plan for the site that contained detailed guidelines to deliver:

- landscape buffer along Waterview Street to widen the visual appearance of the street and creation of improved interface with the low density development on the eastern side of Waterview Street.

- provision of new laneway between Barnstaple road and Second Avenue as a secondary access for properties fronting Great North Road and Waterview Street.

- provision of on-site parking for residents and visitors in accordance with the requirements of the Canada Bay Development Control Plan.

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

Is an explanation of provisions provided? Yes

Comment :

HEIGHT OF BUILDINGS

- Amend Canada Bay LEP 2013 HOB map to apply 14.0m (4 storeys) along Waterview Street stepping down to 10.5m (3 storeys) along Waterview Street and Barnstaple Road.

- The proposed height will enable a transition to occur between the established low rise residential buildings on the eastern side of Waterview Street and future development on Great North Road to the west of the site.

FLOOR SPACE RATIO

- Amend Canada Bay LEP 2013 FSR map to increase the permitted floor space ratio from 0.5:1 to 1.0:1.

- The land functions as a transition between the higher development along Great North Road and the lower development on the eastern side of Waterview Street.

HERITAGE

- Amend Schedule 5 Environmental Heritage to omit item I486 (39 Waterview Street, Five Dock).

- Amend Heritage Map to reflect the removal of the heritage listing.

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Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

2.3 Heritage Conservation

* May need the Director General's agreement

3.1 Residential Zones

3.4 Integrating Land Use and Transport

Is the Director General's agreement required?

c) Consistent with Standard Instrument (LEPs) Order 2006 :

d) Which SEPPs have the RPA identified?

SEPP No 53—Metropolitan Residential Development

SEPP No 65—Design Quality of Residential Flat Development

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Housing for Seniors or People with a Disability) 2004

SEPP (Infrastructure) 2007

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

S117 Directions

2.3 HERITAGE CONSERVATION: This Direction applies to the planning proposal as it affects items, areas, objects and places of environmental heritage significance.

The proposal is considered to be **INCONSISTENT** with this direction as it outlines the intention to delist a local heritage item (1486 - 39 Waterview Street, Five Dock) and the proposal has not demonstrated that the environmental heritage significance of the item, area, object or place is conserved by existing or draft environmental planning instruments, legislation, or regulations that apply to the land, or that the provisions of the planning proposal that are inconsistent are minor.

Further, as outlined in the planning proposal, Council's own Heritage Advisor outlines that "the modifications to the house and the changes to the original setting of the house do not provide sufficient justification for an increase in height that would change the built form or setting of no. 39 Waterview Street and would have an adverse impact on the heritage item".

RECOMMENDATION: As the proposal is inconsistent with the requirements of the S117 Direction it is deemed appropriate that a Heritage Assessment is prepared to support the planning proposal, prior to public exhibition. Following the preparation of this Heritage Assessment, Council is to consult with the Office of Environment and Heritage (OEH), prior to public exhibition.

The planning proposal is considered to be consistent with all other relevant Section 117 Directions and State Environmental Planning Policies.

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

If No, explain :

Further justification regarding s117 Direction 2.3 Heritage Conservation is required to demonstrate consistency with this direction.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Indicative mapping has been provided with the proposal. Mapping prepared in accordance with DPE technical guidelines will be required for submission at s59 stage.

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Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Public consultation will be undertaken in accordance with the Gateway determination. The proposal suggests an exhibition period of 28 days. The Department deems this time period appropriate, given the proposal is not considered to be of low impact as described in A Guide to Preparing LEPs (Department of Planning and Environment 2016) due to the inconsistency with S117 directions 2.3 Heritage Conservation.**

PROJECT TIMELINE

Council has provided an indicative project timeline with a completion date to be determined. The Department considers a 12 month project timeline for completion is adequate.

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 :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Canada Bay LEP was notified in July 2013.**

Assessment Criteria

Need for planning proposal : **A planning proposal is the best way to amend the current controls on the subject site and achieve the redevelopment objectives for the site in line with the Five Dock Town Centre Urban Design Study and the Exhibition Outcomes Report prepared by Studio GL on behalf of Council.**

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Consistency with strategic planning framework :

REGIONAL STRATEGIES

A PLAN FOR GROWING SYDNEY

The proposal is broadly consistent with A Plan for Growing Sydney, in particular Goal 2: A city of housing choice, with homes that meet our needs and lifestyles.

DRAFT CENTRAL DISTRICT PLAN

The proposal outlines that the proposed Amendment to the Canada Bay LEP 2013 is consistent with the draft Central District Plan in that the proposal will;

- provide for improved housing choice as outlined in Priority 4.3 by increasing diversity of housing types including terraces and apartments in a variety of configurations;
- create great places as outlined in Priority 4.6 by complementing Five Dock Town Centre and the surrounding neighbourhood by providing diverse housing stock with appropriate urban design controls; and
- provide design led planning to support high quality urban design as outlined in Liveability Action 11 through the application of a specific DCP to guide good urban design outcomes in the Five Dock Town Centre.

However, Liveability Action 13 outlines the intent to conserve and enhance environmental heritage including Aboriginal, European and natural by identifying and protecting heritage elements. The protection of heritage is a key action in the draft Central District Plan, and further justifies the requirement for a supporting Heritage Assessment to be prepared and consultation with OEH, prior to public exhibition.

LOCAL STRATEGIES

FUTURES PLAN20 (FP20)

The proposal is consistent with Canada Bay Council's Futures Plan20, in particular, the goal to encourage and support the provision of diverse housing stock which responds to changing needs.

CANADA BAY LOCAL PLANNING STRATEGY 2010-2031

The proposal is consistent with the Canada Bay Local Planning Strategy 2010-2031 by encouraging housing choices in close proximity to transport and promoting mobility for social and economic growth. In particular this plan outlines the intent to coordinate the implementation of infrastructure of facilities and availability of transport nodes. The close proximity of the subject site to the Five Dock Town Centre and the public transport options along Great North Road demonstrates consistency with the recommendations of the plan.

Environmental social economic impacts :

ENVIRONMENTAL IMPACTS

The proposal does not apply to land that has been identified as containing critical habitat or threatened species, populations or ecological communities, or their habitats.

Heritage

The proposal outlines the intent to remove a local heritage item (I486 - 39 Waterview Street, Five Dock) from Schedule 5 and Heritage Map Sheet HER_005 as it would be difficult to achieve a reasonable level of development potential and retain the heritage item within the site. The proposal is not supported by a Heritage Impact Assessment and Council's Heritage Advisor has outlined that an increase in height that would change the built form of 39 Waterview Street would have an adverse impact on the heritage item. Therefore, it is considered appropriate that the heritage value of the dwelling be assessed, OEH be consulted on the findings of this report, and the planning proposal be updated to include any recommendations, prior to public exhibition.

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Urban Design

The proposal outlines that the building controls proposed, should the heritage item be removed from the LEP, will result in good urban design outcomes. The proposal has addressed the following through the preparation of a site specific DCP for the site and the surrounding Five Dock Town Centre that addresses interface issues, solar access, street proportions and street character. This has been achieved by encouraging taller buildings to adjoin the current B4 Mixed Use zone along Great North Road and Second Avenue, and step down to 10.5 metres along Barnstaple Road and Waterview Street which adjoins the established residential areas and encouraging well proportioned street wall height and setbacks along Waterview Street.

However, as noted in the proposal, should the Heritage Impact Assessment find that it is not appropriate for the heritage item to be removed from the Canada Bay LEP 2013, the proposed built form controls may require updating to achieve integration between new development and the existing heritage item.

Traffic and Transport

The proposal does not include a supporting Traffic and Transport Assessment. Given the Exhibition Outcomes Report prepared by Studio GL on behalf of Council (November 2016) outlines Traffic and Parking was the number one concern, raised in 10 out of the possible 12 submissions that were not supportive of the proposal, a Traffic and Parking Assessment should be prepared to inform the proposal and build on the assessment of some of the urban design recommendations that have been mentioned above prepared by Studio GL, designed to mitigate issues raised in submissions regarding Traffic and Parking. Council should consider updating the supporting DCP to include any recommendations arising from this report. The assessment should also address the impact of the proposal on the local and wider road network. Consultation with RMS is also included as a condition of Gateway to address these concerns.

Public and Active Transport

Similarly submissions in the Exhibition Outcomes Report outline that public transport in the area is limited, with existing bus routes identified as at capacity during peak times. Therefore, consultation with Transport for NSW has been included as a condition of Gateway to address this capacity issue.

Acid Sulfate Soils

The proposal outlines that the subject site is identified as Class 5 on the Acid Sulfate Map in the Canada Bay LEP 2013 and therefore works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land, will require development consent. Further, an acid sulfate soils management plan is required to be prepared prior to development consent being granted for the proposed works in accordance with the Acid Sulfate Soils Manual. These issues can be addressed at the development application stage.

ECONOMIC IMPACTS

Housing

Canada Bay Council's local strategic plans, including Futures Plan20 (FP20) and Canada Bay Local Planning Strategy 2010-2031 both outline broad support for an increase in housing options and diversity within the Canada Bay Local Government Agency.

SOCIAL IMPACTS

Infrastructure

Increased density has the potential to place increased demand on existing social infrastructure such as schools, medical centres, childcare and community facilities. Council estimates the planning proposal covering the whole of the Five Dock Town Centre,

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determined in 11 August 2016, could yield 400 dwellings.

According to Council, this proposal will yield approximately 50 dwellings. As this proposal forms part of the original Urban Design Study prepared to support the Five Dock Town Centre, and given the Gateway determination for the original Five Dock planning proposal required consultation with relevant Agencies, including NSW Department of Education and Training and NSW Department of Health, it is considered appropriate that these Agencies are consulted regarding this proposal. This requirement has been included as a condition of the Gateway.

Further, referral to Sydney Water Corporation, and relevant service providers has also been included as a requirement of the Gateway determination in line with previous Gateway determination conditions for the finalised Five Dock planning proposal. These service providers have been updated in the current Gateway determination to reference providers that are specific to the site.

Assessment Process

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

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Department of Education and Communities
Transport for NSW
Transport for NSW - Roads and Maritime Services
Sydney Water
Telstra
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 :

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 : **The proposal will increase the density of the site. Existing infrastructure servicing the site may not have the capacity to accommodate future development. It is expected that these services would be upgraded by a developer, where required, to support the proposed development. Therefore, key authorities should be consulted as part of the Gateway determination to address any upgrade requirements.**

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Documents

Document File Name	DocumentType Name	Is Public
Cover letter to Dept seeking gateway and delegation.pdf	Proposal Covering Letter	Yes
Planning Proposal Waterview Street Five Dock.pdf	Proposal	Yes
Council report.pdf	Proposal	Yes
Council minutes from meeting 7 March 2017.pdf	Proposal	Yes
Exhibition Outcomes Report.pdf	Proposal	Yes
Draft Development control Plan - Waterview street.pdf	Proposal	Yes
1520_COM_FSR_005_010_20170322.pdf	Proposal	Yes
1520_COM_HER_005_010_20170316.pdf	Proposal	Yes
1520_COM_HOB_005_010_20170316.pdf	Proposal	Yes
1520_COM_LZN_005_010_20170223.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions: **2.3 Heritage Conservation**
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport

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

1. Prior to community consultation the following studies are to be prepared, and are required to be placed on public exhibition with the planning proposal:
 a) a Heritage Impact Assessment to assess the impacts regarding the intention to remove heritage item I486 (39 Waterview Street) from Schedule 5 of the Canada Bay LEP and the relevant Heritage Map Sheet;
 b) a Traffic and Parking Impact Assessment to address any impacts the proposal may have on the local and wider road network. The study should address the recommendations as outlined in the Exhibition Outcomes Report, and the draft Development Control Plan, and address whether these measures are adequate, or if other measures are required to mitigate the impact on traffic and parking due to the proposed increase in density.

2. Following the preparation of the Heritage Impact Assessment and prior to community consultation, the Office of Environment and Heritage (OEH) is to be consulted, to address the proposals inconsistency with section 117 Direction 2.3 Heritage Conservation. OEH is to be provided with a copy of the planning proposal and all relevant supporting material, and given at least 21 days to comment.

The planning proposal is to be updated to address any advice provided by OEH.

3. Community consultation is required under sections 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 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 2016).

4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:

• Ausgrid

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- Jemena Gas South
- Department of Health
- Department of Education and Training
- Transport for NSW
- Transport for NSW – Roads and Maritime Services
- Sydney Water Corporation
- Telstra
- Optus

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 on the proposal.

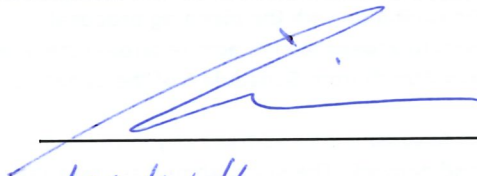
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons : The planning proposal reflects Canada Bay Council's resolution of 7 March 2016 to support the proposed amendment to existing height and FSR controls, and removal of heritage item I486, under Canada Bay LEP 2013.

The proposal is supported because it is consistent with the objectives of Council's FuturesPlan20 strategic planning principles outcome area as the proposal will enhance local shopping centres, community spaces and residential streets and the infrastructure required to service them.

Signature:



Printed Name:

W. Williamson

Date:

9/5/2017