

DATE OF DETERMINATION	Thursday 31 August 2017
PANEL MEMBERS	Maria Atkinson (Chair), John Roseth, Sue Francis, Brian McDonald
APOLOGIES	None
DECLARATIONS OF INTEREST	None

The Panel heard from members of the community, Inner West Council and representatives of the proponent at a public meeting held 20 July 2017 at Petersham Town Hall, 107 Crystal Street Petersham.

The Panel reconvened a panel meeting held at Christie Conference Centre 3 Spring Street Sydney on 31 August 2017, opened at 2:00pm and closed at 4:45pm.

PLANNING PROPOSAL

2016SYE060 – Inner West - PP_2016_LEICH_002_00 – at 67 - 73 Lords Road Leichhardt (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

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

As the relevant planning authority, the Panel determined that the proposed instrument, as described in Schedule 1, should not be made.

The decision was split and the Chair used her casting vote. Maria Atkinson (MA), Chair with the casting vote, and Brian McDonald (BM) voted against the proposal. In support of a deferral of the rezoning decision were John Roseth (JR) and Sue Francis (SF).

REASONS FOR THE DECISION

The majority of the Panel, Maria Atkinson (MA), Chair with casting vote, and Brian McDonald (MB) do not support the Planning Proposal to rezone land from IN2 Light Industrial to R3 Medium Density Residential (FSR 2.4:1).

The majority found the compelling reason for not supporting the proposal was the loss of employment land. This decision was based on consideration of Section 117 Direction 1.1 objective “to protect employment land in business and industrial zones”, and the Draft Central District Plan which requires “the precautionary principle be invoked when the rezoning of an industrial or other employment land”.

Maria Atkinson and Brian McDonald noted that the proposal is out of sequence with the Implementation Plan which sequences the Lords Road parcel for 2023-2030 and that the Submissions Report did not include proponent responses that satisfactorily addressed the Out Of Sequence Checklist of the Parramatta Road Urban Transformation Strategy (PRUTS) Implementation Plan 2016-2023.

The panel considerations related only to the Lords Road site which has unique characteristics and should not be taken as a precedent for any other land within PRUTS.

John Roseth (JR) and Sue Francis (SF) voted to defer the decision subject to the proponent submitting a response to the “Out of Sequence” checklist of the *PRUTS Implementation Plan 2016-2013*.

While JR and SF accept that there are valid arguments both in favour and against the proposed rezoning, the principal consideration for them is to maintain the integrity and credibility of the planning system.





The Panel must reach its decision in the light of two Strategic Plans and two Statutory Directions, which are inconsistent with each other. The first Direction is “*Section 117 Direction 1.1 Business and Industrial Zones*”, which constrains, but does not prohibit, the conversion of industrial land to other uses. Numerous re-zonings of industrial land to other uses have occurred under this Direction on the grounds of justifiable inconsistency. There is the *draft Sydney Central District Plan*, which suggests relying on the Precautionary Principle, when there is uncertainty whether a parcel of industrial land might be needed in the future. There is also the “*Parramatta Road urban Transformation Strategy*” (PRUTS), which shows the Lords Road parcel zoned as Medium Density Residential with a FSR of 2.4:1. And there is “*Section 117 Direction 7.3 Parramatta Road Urban Transformation Strategy*” (Direction 7.3), which requires a relevant planning authority (i.e. the Panel) to be consistent with the Strategy when considering planning proposals on land within the area covered by the Strategy.

In JR and SF’s opinion, of the above documents, PRUTS and Direction 7.3 prevail. This is because Direction 1.1 is not specific to any parcel of land, while the draft Sydney Central District Plan is a draft only and is not strengthened by a Section 117 Direction. It may be lawful to make a recommendation that is inconsistent with PRUTS, however, the justification for it would have to be extremely strong.

In JR and SF’s opinion, it is not appropriate for the Panel to make a recommendation that is inconsistent with PRUTS and therefore with Direction 7.3, because such a recommendation would damage the integrity and credibility of the planning system. Given the existence of Direction 7.3, a prospective buyer of the Lords Road parcel, no matter how circumspect, would be justified in holding a reasonable expectation that the land can be developed for housing at something like the density shown in PRUTS. Moreover, a recommendation that is inconsistent with the Strategy would also render uncertain the future of all land indicated for a change of zoning in PRUTS.

Further, the location of the site close to the light rail stops goes to the reason the land is identified in the PRUTS for residential use and higher density.

However, JR and SF are also aware of the fact that the planning proposal, while consistent with PRUTS, is out of sequence with the Implementation Plan which sequences the Lords Road parcel for 2023-2030. If JR and SF were the majority of the Panel, they would defer their recommendation that the planning proposal be made, pending the proponent responding satisfactorily to the Out Of Sequence Checklist of PRUTS Implementation Plan 2016-2023.

PANEL MEMBERS	
 Maria Atkinson (Chair)	 John Roseth
 Sue Francis	 Brian McDonald

SCHEDULE 1		
1	PANEL REF – LGA – PLANNING PROPOSAL NO. - ADDRESS	2016SYE060 – Inner West - PP_2016_LEICH_002_00 67 - 73 Lords Road Leichhardt
2	LEP TO BE AMENDED	Leichhardt Local Environmental Plan 2013
3	PROPOSED INSTRUMENT	Rezoning from IN2 Light Industrial to R3 Medium Density Residential.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Submissions report: 16 June 2017, submissions during public exhibition: <ul style="list-style-type: none"> ○ 1,014 public submissions ○ A 235-signature petition ○ 5 public agency submissions ○ 6 submissions from Inner West Council ○ 1 submission from the Hon. Jo Haylen MP, State Member for Summer Hill • Verbal submissions at the public briefing meeting (20 July 2017): <ul style="list-style-type: none"> ○ On behalf of Inner West Council – Richard Pearson Gill Dawson ○ In objection – Darcy Byrne, Jeremy Granville Smith, Marghanita de Cruz, Anthony Raciti, Margo Moore Philippa Scott, Carmen Jarrett, Sharon Carey, Sharon Carey on behalf of Patricia Carey, Colin Cranson, Therese Briggs, Karen Eldridge, John Lozano, David Rollinson, Charles Becker, Jennifer McNamara, Daniel Depre, Dinah McClelland, Gretchen Gamble, Bruce Scott, Veronica Lee, Cassi Plate, Joy Camilleri ○ On behalf of the proponent – Ben Hendricks
5	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Public Briefing Meeting 20 July 2017