

Planning Services

Plan Finalisation Report

Local Government Area: Inner West (former Leichhardt) **File Number:** IRF18/1213

1. NAME OF PLANNING PROPOSAL

Planning proposal to rezone land from IN2 Light Industrial to R3 Medium Density Residential and amend floor space ratio (FSR) controls at 67–73 Lords Road, Leichhardt (PP_2016_LEICH_002_00).

2. SITE DESCRIPTION

The planning proposal applies to land at 67–73 Lords Road, Leichhardt (Figure 1).

The 1.07ha site is occupied by several brick buildings up to a height of 11.5m, which are used for a range of light industrial purposes including joinery, display model manufacturing, clothing design, artwork restoration, building installation services, fitness centres, storage and an art school/workspace.



Figure 1: Site location.

The site fronts Lords Road to the south, recreational land including the APIA Leichhardt Tigers Football Club and Lambert Park to the north, low-rise residential dwellings to the east and the Inner West Light Rail line to the west. The Marion Street light rail stop is approximately 150m from the site.

While the land is used and operates as a relatively small light industrial precinct, it is in a predominantly low-density residential area.

3. PURPOSE OF PLAN

The planning proposal seeks to:

- rezone the site from IN2 Light Industrial to R3 Medium Density Residential;
- increase the maximum FSR from 1:1 to 2.4:1; and
- include a satisfactory arrangements clause to ensure the provision of infrastructure required to meet the needs of the proposed redevelopment of the site.

The proposal seeks to facilitate the development of approximately 315 dwellings (apartments), 16 (5%) of which are to be affordable housing units. The proposal indicates that 15 jobs will be generated by a proposed childcare centre and post-development site maintenance.

There are no LEP height controls applying to the site. The proposal does not seek to introduce site-specific height controls.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Balmain State Electorate. Mr Jamie Parker MP is the State Member for Balmain. Mr Jamie Parker MP has raised concerns with the Minister for Planning's office and a meeting with Mr Parker and community representatives was held..

The site falls within the Grayndler Federal Electorate. The Hon Anthony Albanese MP is the Federal Member for Grayndler. To the regional planning team's knowledge, The Hon Anthony Albanese MP has not made any written representations regarding the proposal.

The State Member for the adjoining electorate (Summer Hill), Ms Jo Haylen MP, made a written submission objecting to the proposal (**Attachment G**).

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

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

5. PRE-GATEWAY REVIEW AND GATEWAY DETERMINATION

On 26 August 2014, the former Leichhardt Council resolved not to support the planning proposal. On 23 September 2014, a pre-Gateway review request was lodged with the Department.

On 11 November 2015, the proposal was referred to the former Sydney East Joint Regional Planning Panel (now the Sydney Eastern City Planning Panel) for independent advice.

On 7 December 2015, the Panel determined there was suitable merit to allow the proposal to proceed to Gateway. This was primarily due to the Panel considering the proposal to be consistent with the then draft Parramatta Road Corridor Urban Transformation Strategy.

Council declined the Department's invitation to process this proposal and on 23 May 2016, the Panel was appointed as the planning proposal authority.

A Gateway determination issued on 14 July 2016 determined that the proposal should proceed subject to conditions (**Attachment C**).

The Gateway determination was altered on 18 September 2017 to extend the time frame for completion to 21 January 2018 (**Attachment D**).

6. PUBLIC CONSULTATION

In accordance with the Gateway determination, community consultation was undertaken by the Panel from 15 November 2016 to 31 January 2017. At the request of the former Leichhardt Council (now Inner West Council), the 28-day exhibition period was extended to allow submissions to be accepted until the end of January 2017.

There were 1,014 community submissions and a petition with 235 signatures was received, all objecting to the proposal. The Panel held a public meeting on 20 July 2017, with 23 community members presenting their concerns.

Community concerns raised during the exhibition and consultation process included:

- loss of industrial/employment land and the associated loss of jobs and future employment opportunities;
- traffic and parking-related issues and adverse impacts on pedestrian and cyclist safety;
- unsuitable access;
- inadequate parking;
- excessive building heights and density;
- impact on the capacity of existing public transport services, local schools and childcare facilities;
- impact on existing infrastructure and whether supporting infrastructure will be provided;
- inadequacy of proposed affordable housing;
- heritage impact; and
- a lack of environmental benefits.

A detailed summary and review of the issues raised by the community is outlined in **Attachment E**.

There has been ongoing and significant interest and concern raised by the community and in the media about the proposed rezoning, particularly since the Panel made its final decision on the matter (this is discussed further in section 8).

7. ADVICE FROM PUBLIC AUTHORITIES

The Panel was required to consult the following agencies in accordance with the Gateway determination.

- NSW Roads and Maritime Services (RMS);
- NSW Department of Education;
- NSW Health;
- NSW Department of Family and Community Services;
- NSW Housing and Community Services;

- Ambulance Service of NSW;
- NSW Police Force;
- Fire and Rescue NSW;
- Sydney Water;
- Energy Australia;
- NSW Environment Protection Authority; and
- UrbanGrowth NSW.

Submissions were received from RMS, Sydney Water, NSW Environment Protection Authority, Ausgrid and Sydney Trains. Each agency provided comments and no objection to the proposal. Ausgrid and Sydney Trains were not required to be consulted but provided comments and advice, which were largely of a technical nature, independently of the formal consultation process.

A summary of the public authority submissions and how they have been addressed is also discussed in the submissions report (**Attachment E**). There are no outstanding issues or objections from public authorities.

Inner West Council made six submissions on the proposal, raising similar concerns to the community. Council objects to the proposal based on the following issues:

- the loss of employment land generally;
- the site is one of only a few locations left in the LGA that can accommodate such urban services, and the proposal's *Industrial Rezoning Economic Justification Report* (2013) is out of date and does not consider such matters;
- a Council-commissioned report by SGS Economics and Planning (which has not been made available to the Department) states that "there is a clear policy direction that all industrial-zoned land should be protected", that a significant area of industrial/employment land has already been lost to rezoning, and the remaining such land is unable to accommodate projected demand into the future;
- the proposal does not comply with the Parramatta Road Corridor Urban Transformation Strategy out-of-sequence checklist, particularly in relation to an appropriate level of documented stakeholder support and documentary evidence or project readiness in relation to key infrastructure projects;
- incompatibility with the strategy's planning and design guidelines relating to building height;
- the lack of a precinct-wide traffic study and supporting traffic modelling, which should be carried out before rezoning;
- potential land-use conflicts between future residents of the proposed development and the current use of Lambert Park and the APIA Leichhardt Tigers Football Club;
- uncertainty around compliance with the Department's Apartment Design Guide;
- a development of solely residential flat buildings being inconsistent with the objectives of the R3 zone; and
- a lack of confirmed provision for contributions towards local infrastructure, particularly as identified in the Parramatta Road strategy and former Draft Central District Plan.

8. PANEL DETERMINATION

On 31 August 2017, the Panel determined the proposed amendment to the Leichhardt LEP 2013 should not be made for the following reasons:

- loss of employment land: the Panel considered that the proposal did not demonstrate consistency with Ministerial Directions and the draft district plans, which seek to protect employment land; and
- inconsistency with the Parramatta Road Corridor Urban Transformation Strategy (2016): the Panel noted that the proposal was out of sequence with the strategy and therefore requires an assessment against the out-of-sequence checklist. The Panel noted that this assessment had not been completed and therefore considered the proposal to be inconsistent with the strategy.

In determining their position, the Panel had a split vote with the then Panel Chair using her casting vote to determine the proposal should not proceed. The determination responded to the significant degree of community and Council objections to the proposal.

On 26 September 2017, the Panel forwarded its determination to the Department with a request that the proposed amendment not proceed.

A copy of the Panel's determination and statement of reasons and its request for the matter not to proceed are at **Attachment F**.

9. ASSESSMENT

The proposal has been subject to detailed review and assessment through the Department's former pre-Gateway review and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement, including an extended exhibition period and a public meeting.

The issues raised during the review of the proposal regarding traffic and transport, bulk and scale, infrastructure servicing, impacts on schools, heritage and environmental issues generally relate to detailed design measures that could be addressed and resolved at the development application stage. These matters are not considered issues that would preclude the finalisation of the proposal and did not form part of the Panel's reasoning for determining not to progress the proposal.

The loss of employment land has been the key issue of contention and has not been adequately addressed by the current planning proposal. This issue is discussed in detail below.

Loss of employment land

As noted above, the site comprises a mix of light industrial uses and services. Information submitted by the proponent and Council indicates that the site provides 60-70 full-time jobs and up to 160 jobs in total, including part-time employees.

The proposal and subsequent supporting detail contend the site is not desirable for ongoing light industrial or any employment use. This is noted under the proposal documentation to be due to the site's size, location, access limitations and surrounding land uses. The proponent indicates that the undesirability of the site for employment uses makes it difficult to find tenants, which in turn has reduced demand, marketability and rents for the existing premises (**Attachment H**). The proponent has also provided additional detail to indicate there is other vacant business and employment land within the wider area that would be more suited for the current uses (**Attachment I**).

There were 386 submissions objecting to the loss of this industrial/employment land, jobs and job opportunities at the site, specifically the loss of businesses and community service providers that serve the local population.

The merits of the proposal which relate to new housing opportunity are noted and have been fundamental to the proposal progressing to date. Despite this, the significant objection to the proposal by the community, Council and the Panel and the inconsistency with the Revised Draft Eastern City District Plan, which seeks to protect existing employment land, demonstrate that the planning proposal in its current form is not an appropriate outcome for the site.

Revised Draft Eastern City District Plan

The plan replaces the Draft Central District Plan. Although it is still a draft document, the planning proposal has been considered against the most recent government direction for the area.

Planning Priority E5 of the revised plan highlights that the Parramatta Road Corridor Urban Transformation Strategy is one of several state-led initiatives providing for additional housing supply.

Despite this priority, the plan highlights the importance of industrial and urban services land for servicing and employing local communities. The plan notes that the remaining industrial land in the district and outside of its key employment centres is essential for urban services growth.

Planning Priority E12 recognises the importance of small, inner-city industrial precincts in providing services and jobs for local communities, and that capacity for industrial and urban services land must continue to be protected from conversion to residential and mixed-use development. The priority also seeks to facilitate the “contemporary adaptation” of industrial and warehouse buildings.

The site is occupied and used for light industrial purposes. The proposed R3 zone prohibits light industrial uses and those urban services-type uses envisaged by the revised Draft Plan. The proposed rezoning would therefore preclude light industrial or urban service uses at the site.

While the existing uses would be able to continue under existing use rights, their expansion, alteration and/or redevelopment would be limited. The loss of this light industrial site to entirely residential uses is considered inconsistent with this priority.

The proposal in its current form therefore does not demonstrate consistency with the revised Draft Plan and is therefore not supported.

Section 9.1 Directions

Direction 1.1 Business and Industrial Zones

This Direction seeks to protect employment land in business and industrial zones and is a key reason for the Panel not supporting the progression of the proposal.

The Direction allows inconsistency where it can be justified by an existing government-endorsed strategy. This land is identified as suitable residential land under the Parramatta Road Corridor Urban Transformation Strategy. The proposal's inconsistency with this Direction was agreed to by the delegate of the Secretary of the Department under the Gateway determination.

Direction 7.3 Parramatta Road Corridor Urban Transformation Strategy

This Direction seeks to facilitate development within the corridor consistent with the Strategy, providing a diversity of jobs and housing, and to guide the incremental transformation of the corridor in line with the delivery of necessary infrastructure.

The Strategy identifies eight precincts within the Corridor, which will be the focus of growth and renewal, and outlines sequencing and planning guidelines for managing this growth within each precinct area.

The site sits within the Taverners Hill Precinct under the Strategy. While the proposal is consistent with the Strategy's recommended planning controls for the Taverns Hill Precinct, this land is not identified for rezoning until after 2023. Rezoning the site today would therefore be inconsistent with the Strategy and in turn, inconsistent with the Direction.

The Direction allows a proposal to be inconsistent with the Strategy where it can be demonstrated to be consistent with the Strategy's 'Out-of-Sequence Checklist'.

The 'Out-of-Sequence' is contained in the Strategy in recognition that there may be justifiable cases for parts of the Corridor to progress to detailed planning and development prior to their scheduled release date. The Checklist ascribes six criteria, to determine the merits of a proposal progressing out of sequence with the Strategy's schedule.

The proponent has submitted an assessment against the checklist (**Attachment J**).

Despite this submission from the proponent, the current planning proposal is not considered consistent with the checklist as it does not meet the requirements of three criteria. This is discussed within Table 1 below.

Table 1: Out of Sequence Checklist Review

Criteria	Comments
<i>Criteria 2: Integrated Infrastructure Delivery Plan</i> <i>Must support the planning proposal;</i> <i>Demonstrates cost offset to Council and State agencies;</i> <i>To consider public transport; active transport; road upgrades and intersection improvements; open space and public domain improvements; community infrastructure, utilities and services.</i>	<p>The proposal is not supported with an Integrated Infrastructure Delivery Plan.</p> <p>While a voluntary planning agreement offer has been made to provide affordable housing, public domain upgrades and pedestrian through links and a 'satisfactory arrangements' clause would be a requirement for the LEP amendment:</p> <ul style="list-style-type: none">• the proposal does not quantify all of the local and regional infrastructure requirements for this proposed uplift;• the community is not aware of all public benefits; and• there is no agreement with the local council and all utility providers for service provision. <p>All infrastructure provision and delivery considerations would therefore be shifted to the development application phase, which is not an intended outcome under the Parramatta Road Corridor Urban Transformation Strategy.</p>

Criteria	Comments
<p>Criteria 3: Stakeholder engagement</p> <p><i>Consultation and engagement to have been undertaken;</i></p> <p><i>Appropriate level of support or agreement documented;</i></p> <p><i>Documentary evidence of planning or project readiness in terms of the extent of planning or business case development for key infrastructure projects.</i></p>	<p>There has been significant consultation and engagement as part of the planning proposal process and that the proposal has not been objected to by State public agencies.</p> <p>The proposal is not supported by the Planning Panel however, who is the 'appointed independent Planning Proposal Authority progressing the matter. The proposal is also not supported by the local Council or its community.</p> <p>It is argued that the proposal, in its current form, does not have an 'appropriate' level of support or agreement'.</p>
<p>Criteria 5: Feasibility</p> <p><i>Demonstrates economic feasibility with regard to likely costs of infrastructure and the proposed funding arrangements available for the Precinct or Frame Area.</i></p>	<p>A detailed feasibility analysis has not been submitted with the proposal.</p> <p>While it is considered that the proponent will have determined the feasibility of its proposal, all of the local and regional infrastructure requirements have not been quantified.</p> <p>Council does not support the proposal and therefore all local infrastructure provision and delivery considerations would be shifted to the development application phase.</p> <p>This is not an intended outcome under the Parramatta Road Corridor Urban Transformation Strategy.</p>

An overview of the whole checklist and the proposal's consistency with it is provided at **Attachment K**.

Given the inconsistency with the criteria, the inconsistency with the Direction has not been justified. Consistency with this Direction in this regard is unresolved.

10. CONCLUSION

The merits of the proposal which relate to new housing opportunity are noted and have been fundamental to the progression of the proposal to date.

The current proposal does not protect employment land however, and this is a key government objective and direction for Sydney's Eastern City District.

Additionally, the proposal is not supported by the Planning Panel, who is the independent Planning Proposal Authority appointed to progress the matter, nor is it supported by the local council and its community. This indicates that the current proposal does not have the support and agreement of key stakeholders, which is a key consideration for progressing rezoning proposals with the Parramatta Road Corridor.

The current proposal is therefore inconsistent with two key State plans, being the Revised Draft Eastern City District Plan and the Parramatta Road Corridor Urban Transformation

Strategy. Supporting the current rezoning proposal in this regard would not be considered the best planning outcome.

A revised rezoning proposal which addressed these outstanding matters could however be considered for this site and/or wider area.

It is not considered that the refusal would undermine the Parramatta Road Corridor Urban Transformation Strategy as the decision not to support this proposal relates to unresolved objections and inconsistencies with the Strategy. These matters may be addressed through a new planning proposal.

11. RECOMMENDATION

It is recommended that the Greater Sydney Commission's delegate as the local plan-making authority determine not to make the draft LEP under clause 3.36(2)(b) of the *Environmental Planning and Assessment Act 1979* because:

- the proposal has not demonstrated consistency with the Parramatta Road Corridor Urban Transformation Strategy and is therefore inconsistent with section 9.1 Direction 7.3 Parramatta Road Corridor Urban Transformation Strategy; and
- the proposal does not seek to protect or manage employment land.



13/3/2018

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13/3/2018

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