

26 July 17

Mr. Marcus Ray
Deputy Secretary of Planning Services
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Mr Ray,

RE: 67-73 Lords Road, Leichhardt: Proponents response to issues raised at Public Meeting

I am writing to the panel on behalf of our client, Platino Properties in relation to the public meeting held on the 20 July 2017 concerning the planning proposal to rezone 67-73 Lords Road, Leichhardt. The purpose of this letter is to respond to issues raised by Council and the public at this meeting. It is requested this letter be forwarded to members of the Sydney Planning Panel for their information.

We believe that the public exhibition and hearing have been beneficial in revealing the concerns of some members of the public, and offer the opportunity to improve the scheme to address these concerns. Now that the exhibition process has been completed and we have had the opportunity to consider how points raised impact our client's planning proposal, we request that we be given the opportunity to address these concerns.

We note that most of the concerns raised were to do with the perceived potential impact of the proposal on the existing character of the area. While Council and members of the community have argued that the loss of Industrial land is a major issue, we would contend that this concern is not supportable given the prevailing circumstances relating to the existing uses on the site (that are not typical light industrial uses) and current commercial/industrial property vacancy levels in other areas in the Inner West.

In summary, we contend that:

- The strategic need for the site's redevelopment is recognised and supported by State Government strategic planning and development authorities.
- The impact of the loss of employment land and the level of purported employment on the site has been exaggerated by Council and the current situation in reality does not represent an economic use of the land.
- There is not the demand to support the ongoing use of the site exclusively for "creative uses". Moreover, Council through successive development applications has demonstrated it does not support such uses in practice.
- There are important legal implications of Gateway determination and S117 Directions for the determination of this planning proposal.

Now that we are clearer on the issues raised during exhibition and at the meeting we propose to amend the detailed design parts of our application – or offer alternatives including:

- The potential interface issues with Lambert Park can be managed through refined design requirements (as outlined in this submission) and reflection of these in a Development Control Plan (DCP) and imposition of restrictions on titles and/or sales contracts.
- The traffic impacts of the proposal are minimal, traffic can be reduced by eliminating the child-care centre, if that were seen to be a beneficial outcome.
- Some residents were concerned about the proposed narrowing of Lords Road and playground – this has been proposed as a traffic calming measure, and can be changed or deleted.

Detailed design issues relating to setbacks, distances between buildings etc. can be addressed in the draft DCP which can be amended with the co-operation of the Department of Planning and Environment and Council if it is willing.

These points are expanded upon below:

Strategic need is recognised and supported by State planning and development authorities

We ask the Sydney Planning Panel to consider the strategic need for high quality residential development and affordable housing in close proximity to public transport and employment. The lack of supply of residential development close to employment is widely accepted as one of the key reasons for lack of affordable housing options in Sydney. As Sydney grows by around 80,000 people per annum it is important that opportunities for urban regeneration of suitable sites are optimized. The Parramatta Road Corridor Urban Transformation Strategy identifies the need for 1,300 new homes within the Taverners Hill Precinct.

The Lords Road site, being adjacent to the new inner west light rail and within an area already predominantly zoned residential is entirely appropriate for residential development. This is supported by both the Department of Planning and Environment and Urban Growth NSW. The proposal is similar to a number of renewal sites that have been rezoned with the replacement of the old freight line with the inner west light rail.

The renewal of this site has been supported through the State Government's strategic planning for the Parramatta Road corridor and reflected in the final Parramatta Road Corridor Urban Transformation Strategy. As you would be aware this is also supported by a S117 direction that requires planning proposals to be consistent with the corridor strategy (refer below to "Legal implications of Gateway determination and S117 Directions").

The impact of loss of employment lands has been exaggerated by Council

It should be noted that the planning proposal was initially a response to Council's Employment and Economic Development Plan for Council in 2013, which identified that sovereign industrial sites, specifically including Lords Road (being less than 1% of industrial land in the former Leichhardt LGA) would be appropriate for alternative uses and rezoning. This was further confirmed through discussions with Council planning officers around this time.

It became evident that the planning proposal would not be supported by Council after its lodgment and, as we understand it, the briefing of elected officials. We also have observed that much of the negative information regarding the proposal has largely been driven by Council since this time.

Notwithstanding this:

- Contrary to Council's assertion that the site is an important local industrial precinct the uses currently located on the site are not typical industrial uses and include an art studio, a Kung Fu academy, storage and online sales distribution operations. Moreover, none of the current tenants on the site specifically service the local area.

- Most of these uses can be more appropriately located in other business zones in the LGA and would better support more activity on declining main streets like Norton Street, Leichhardt. Many existing uses and existing buildings along Parramatta Road would be compatible for many of those uses currently on the Site. Moreover, the Parramatta Road Corridor Urban Transformation Strategy provides for a significant future increase in mixed uses space along Parramatta Road itself, which will open up further opportunities for these types of uses in the future. Areas such as these would arguably be more appropriate locations given closer proximity to main roads and less restrictions on operations caused by immediate proximity to residential uses (refer to **Appendix B** for further detail).
- This was acknowledged by DPE in their pre-Gateway review who noted that "the site is not, as a whole, currently being used for the purposes intended by the IN2 Light Industrial zone and current uses could be accommodated in other zones elsewhere in the LGA"
- Our land economics advisor, AEC Group, has noted that while there is a market for employment lands in the inner city of Sydney, industrial lands that are 'orphaned' (such as Lords Road), which are close to residential and isolated from major arterial roads have poor prospects of remaining viable as industrial lands. When industrial tenants move out, our client's experience has been that it is difficult to attract other industrial tenants as their operations are restricted by Council planning approvals with reduced truck movements, noise restrictions, reduced hours of operations and so on.
- This is particularly the case with the Lords Road site as any access to the site must pass Kegworth Public School via narrow local roads that are not suitable for heavy vehicles.
- The difficulty retaining and developing the site for industrial uses stems from the fact that the majority of uses on the site requiring development approval have been rejected by Council over recent years (since 2000). These include:
 - Erection of a two-storey industrial building with roof top car parking refused by Council in 2002.
 - Change of use from a warehouse storing tiles to a warehouse for storage of motor vehicles refused by Council in 2003.
 - Gym – deemed refusal - was approved by at Council in 2007 only after an appeal to the Land and Environment Court (LEC) was lodged.
 - An application for an extension to the gym was approved by LEC in 2009.
 - Kung Fu Studio – approved by LEC – (lodged October 2008 approved April 2009 – 6 months).
 - Creative employment redevelopment application – Proposal to convert the premises into a creative centre, for light industrial uses, permissible in the zone was refused by Council and approved by LEC. This was proceeded upon with due its isolation from services such as cafes and other amenities.
- In addition to the above, prospective light industrial tenants when considering Lords Road industrial accommodation have generally been deterred from taking up space after discussions with Council. **Appendix A** provides an email from Platino's real estate agent that outlines these issues further.
- The difficulty in finding tenants has reduced demand and marketability considerably for these premises and as such the prevailing rents have been affected. Overall average rents on the site currently sit at \$95/ sqm compared to around \$150 sq/m to \$200 sq/m achieved in viable light industrial areas in the Inner West and around \$400-\$450 sq/m for creative uses in the Alexandria area.
- Moreover, this is driven by extensive competition from other sites in the locality that offer a less restricted operating environment. For example, on 24 July 2017 there were

173 vacant commercial/industrial premises in Leichhardt (refer to Appendix B for details). The availability of vacant commercial/industrial premises though, bodes well for current uses seeking alternate accommodation in the Inner West.

- The Site is not viable or sustainable as an IN2 site as characterised by unsupportive Council response to compliant applications, limited market appeal and resultant low rents.

Is there demand for creative uses on the site?

There has been some suggestion that the site could be suitable for 'creative uses'. Our economics advisor AEC has advised that the reality is that creative uses gravitate to locations of high amenity and where they can cluster. The ability to cluster is a critical one as it not only 'creates a creative environment', it also enables supporting services (e.g. quirky cafés, small wine bars and craft breweries, artisan boutique clothing shops) that altogether provide the 'vibe' of a creative precinct. Examples of creative precincts include Surry Hills, Alexandria and Rosebery as well as Camperdown and Redfern/Eveleigh. The Site is on its own 'orphaned' from any other employment lands and consequently has poor prospects of catalysing a 'creative precinct'.

The lack of demand for creative uses on the site is reflected in the fact that despite gaining an approval for such a use in 2008, Platino decided not to develop the site for this proposal due to lack of demand. The current uses on the site cannot be characterized as creative uses and the majority are uses that are taking advantage of cheap rents despite an abundance of alternative potential locations in the inner west.

Employment on the site is exaggerated by Council

The Inner West Council stated there were 160 full and Part Time employees on the site. The premises have an area of 10,300 sq m. 4,003 sq m is occupied by 3 warehouse tenancies with 15 employees. To the best of our estimate there are 71 people working on the site. We do not dispute the 160 figure - but many of these are likely to be part time such as personal trainers, gym instructors and the teachers in the art school who may attend the site for 1 or 2 hours per week. A more relevant figure is full time equivalent employee (FTE) number.

Perceived impacts on development on Lambert Park can be managed

A concern raised by a number of attendees was the impact of the proposal on the continued operations of Lambert Park, home of the Apia Football Club. As stated at the public hearing, we are concerned to ensure that the buildings are designed to consider noise and visual impacts of Lambert Park. We consider that Lambert Park and the Apia Football Club are important elements of the Leichhardt community and we are keen to ensure that development on the site does not restrict users of the Park. Further to this we are open to the imposition of restrictions on new buyers (on title, in contracts or both) to stop complaints regarding the on-going operations of Lambert Park. A paper addressing these issues specifically is attached to this letter at Appendix C.

The following design requirements are proposed to address this interface.

- Living rooms face Lambert Park to the North while all bedrooms face away from Lambert Park to the South
- All apartments will have wintergardens which will provide an additional layer of sound proofing.
- The toughened glass balustrading to the North façade will extend to 1.7m above the floor to provide a sound buffer, which will allow the occupants to open doors to their living rooms and facilitate the use wintergardens with the wintergarden screens open.

These design requirements are now proposed to be incorporated into the DCP for the site. The combination of these design requirements and further protection through title and/or contractual restrictions will offer protection to the continued operations of Lambert Park.

Traffic impacts of this proposal are minimal

The traffic study in support of the planning proposal considered existing and future development of the area. While our traffic study was completed in May 2014 with growth of around 1-1.5% in traffic per annum the results remain valid. The main findings of the study were:

- Nearby intersections will experience no loss of level of service (LOS) with:
 - Foster/Tebbutt Street/Lords Road currently LOS 'B' and when fully developed remaining at LOS 'B'
 - Tebbutt Street/Kegworth Street currently LOS 'A' and when fully developed remaining LOS 'A'
- Approximately half of the projected increase in traffic flows are expected to be generated by the proposed child care centre, which has been provided as the site falls within a "high needs area" with respect to childcare.
- A childcare centre was also proposed by the Urban Growth corridor Urban Renewal Strategy. If the childcare component was removed, the traffic generation potential of the residential development would be similar greater the traffic generation potential of existing uses.

We also note that Urban Growth have written to Council confirming that existing planning proposals are not required to wait for a broader district traffic study to be undertaken and these proposals should rely on individual traffic studies. This is also deemed by Urban Growth NSW and DPE to satisfy (in part) S117 Directions relating to the site.

Detailed design issues can be addressed in the draft DCP

A range of detailed design issues were raised by the public including interfaces with surrounding residences, overlooking and shadowing and the design of public domain improvements. The majority of these have been considered and addressed in the DCP prepared to date. We are however, prepared to work through these issues to ensure they are addressed to the Department and the panels satisfaction. This would result in a refined and potentially improved DCP.

There are important Legal implications of Gateway determination and S117 Directions for the determination of this planning proposal

We note the planning proposal has been determined to proceed under the gateway provisions of Division 4 of the Environmental Planning and Assessment Act 1979 (EPA Act). Furthermore, we note that the proposal is consistent with S117 Directions (of the EPA Act) in regard to 1.1 Business and Industrial Zones and 7.3 Parramatta Road Corridor Urban Transformation Strategy. Specifically, S117 Direction 7.3 Parramatta Road Corridor Urban Transformation Strategy requires a planning proposal to be consistent with the Urban Transformation Strategy and requirements within this direction.

The consistency with both the gateway determination and s117 directions has been noted by the Department of Planning in its submissions report. The adherence to these statutory provisions is an important legal issue which we are currently seeking legal advice on. This legal advice is expected in around 10 days and will be forwarded to the Department once received.

Conclusion

I trust this letter further clarifies our position in regard to the key points raised during the public exhibition and hearing for this project. Further, I would like reiterate our willingness to work with the Department of Planning and Environment and the panel in refining this application to address detailed design issues raised.

Please contact me on the details above if you would like to discuss this matter further.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Ben Hendriks', written in a cursive style.

Ben Hendriks
Managing Director