



20 October 17

Mr Steve Murray
Executive Director, Regions
NSW Department of Planning and Environment
320 Pitt Street
Sydney NSW 2000

Dear Steve,

Re: Planning Proposal for 67 - 73 Lords Road, Leichhardt (PP_2016_LEICH_002_00)

On 31 August 2017, the Sydney Central Planning Panel, in its role as the Relevant Planning Authority (RPA), determined that the proposed instrument relating to 67-73 Lords Road, Leichhardt, should not be made. The decision was not unanimous – it was split two votes for and two against, with the Panel's Chair using her casting vote against the proposal.

The Panel's Determination and Statement of Reasons refers to what they consider to be an "inconsistency" between s117 Direction 1.1 Business and Industrial Zones, and s117 Direction 7.3 Parramatta Road Urban Transformation Strategy, which specifically requires an RPA to be consistent with PRUTS which identifies medium density residential uses with an FSR of 2.4:1 for the subject site. The Determination further states that two members of the Panel (Sue Francis and John Roseth) consider that PRUTS and Direction 7.3 prevail.

In our view, there is no inconsistency between these two s117 Directions. Direction 1.1 includes a clause specifically providing for inconsistency with the terms of the Direction where the land is identified by an endorsed strategy as being suitable for other uses. PRUTS clearly identifies the site for a change of use and the Planning Proposal is thereby consistent with Direction 1.1. Furthermore, the draft Central District Plan states in Section 3.6 Protect and manage employment and urban services land that a precautionary approach should be taken to rezoning employment and urban services land, "the exception being where there is...an alternative strategy endorsed by the relevant planning authority". In the case of the Lords Road site, there is an endorsed alternate strategy (PRUTS) which has specifically identified land use changes for the site developed on the basis of assessment of economic, environmental and social implications.

In addition, assessment of the employment opportunities and the requirements to maintain an appropriate amount of employment-generating land within the corridor forms part of the overall PRUTS that has been adopted by Government. The outcome of this assessment is that the Lords Road site offers an opportunity to provide for residential uses to ensure that the balance between the needs of maintaining employment land and providing for additional residential development. Notwithstanding the above, we would be willing to further consider the amount of non-residential uses provided on the site, if this would help alleviate community concern.

We note that the Determination and Statement of Reasons also makes it clear that two of the four Panel members, John Roseth and Sue Francis, consider that the principal consideration is to maintain the credibility of the planning system. They comment that it is not appropriate for the Panel to make a recommendation that is inconsistent with PRUTS and therefore with s117 Direction 7.3, because "such a recommendation would damage the integrity and credibility of the planning system". It goes on to state that "It may be lawful to make a recommendation that is inconsistent with PRUTS, however, the justification for it would have to be extremely strong".

We strongly agree with these statements and we note that justification for the inconsistency between the recommendation and PRUTS has not been provided. Should the final determination be that the proposal, which is entirely consistent with the State Government's vision and strategic plan for the Parramatta Road Corridor (PRUTS) released less than 12 months ago, it would be a strong signal that there can be no reliance or expectation placed upon the provisions contained within such strategic plans. Not only would this be entirely ambiguous for communities, landowners and developers in terms of the desired urban outcomes for an area, surely it will also make it very unclear for town planners working within the Councils implementing PRUTS, the Planning Panels that have been established under the Greater Sydney Commission and the Department of Planning and Environment (DP&E).

The Panel's Determination and Statement of Reasons states that "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". It is our view that a clear precedent would be set by a determination of this Proposal that is inconsistent with PRUTS. It would send a message that it is not necessary to implement PRUTS on any land within the corridor should the RPA not be of a mind to do so.

The Panel's Determination and Statement of Reasons noted that the proposal is out of sequence with the Implementation Plan and that the Submissions Report did not include proponent responses that satisfactorily addressed the Out of Sequence Checklist.

When the Planning Proposal was submitted to Council in 2014, the Greater Sydney Commission nor Urban Growth NSW had been created and the key planning documents that now apply had not been prepared.

At the time of the Gateway Determination, dated 14 July 2016, the Parramatta Road Corridor Urban Transformation Strategy was in draft form. The Implementation Plan 2016-2023 and the Out of Sequence Checklist that now form part of the final PRUTS had not been made publicly available at that time.

Notwithstanding that these documents were not yet available for consideration, the supporting documentation submitted with the Planning Proposal contained a thorough assessment of the issues relating to the proposal's consistency with the relevant s. 117 Directions and the draft PRUTS in relation to the appropriateness of the timing of the proposal.

We therefore consider that the issues pertaining to the out of sequence nature of the proposal have been addressed and do not constitute a strong reason to determine that the proposal should not proceed.

However, if the DP&E considers that an Out of Sequence Checklist needs to be prepared, we will be happy to submit this documentation.

It is requested the issues raised in this letter be taken into consideration in the review being undertaken by DP&E and that the planning proposal be progressed towards finalisation in line with PRUTS.

Should you wish to discuss the contents of this letter, please don't hesitate to contact me.

Yours sincerely



Ben Hendriks
Managing Director

