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| DATE OF DECISION | 31 March 2020 |
| PANEL MEMBERS | Carl Scully (Chair), Jan Murrell, Sue Francis, John Brockhoff |
| APOLOGIES | Roberta Ryan |
| DECLARATIONS OF INTEREST | Angelo Tsirekas and Michael Megna declared conflicts of interest and did not participate in the Panel for this matter. Both declared they had previously considered the proposal in their roles at Council. |

REZONING REVIEW - 2019ECI038 – Canada Bay – RR_2019_CANAD_001_00 – 160 Burwood Road, Concord (AS DESCRIBED IN SCHEDULE 1)

Reason for Review:

- ☐ The council has notified the proponent that the request to prepare a planning proposal has not been supported
- ☒ The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

PANEL CONSIDERATION AND DECISION

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

Based on this review, the Panel determined that the proposed instrument:

- ☒ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site-specific merit
- ☐ **should not** be submitted for a Gateway determination because the proposal has
 - ☐ not demonstrated strategic merit
 - ☐ has demonstrated strategic merit but not site-specific merit

The decision was unanimous.

REASONS FOR THE DECISION

OVERVIEW

Due to the unique circumstances and context of the Bushells site, the retention of the IN1 (General Industrial) zone over the entire site would be most unlikely to meet all the desired outcomes of the relevant strategies into the future.

However, a mix of industrial / urban services, residential and open space uses can take maximum advantage of the characteristics and setting of the site to achieve a very strong net public benefit consistent with outcomes sought from State and local planning strategies.

Highly distinctive site and setting

The Bushells site on Parramatta River has a highly specialised and bespoke use for coffee manufacturing. Unlike most if not nearly all planning proposals the land subject to this proposal is owned also by the owner of the manufacturing plant which it seeks to move to another location. The site is dominated by the integrated coffee-making facilities associated with the tall roasting hall tower and surrounding building built in the 1950's.

It is understood that the site and its facilities are not fit for purpose for coffee-making into the future - and that the unique fixed facilities would not be readily useable for a comparable employment purpose.

The Panel were advised the current use is expected to relocate to another purpose-built facility in NSW later this year with an anticipated employment of 70-80 persons. In this respect, the Panel notes that the proposal has the capacity to provide more jobs on site than the existing use at only 136 jobs. This together with the relocation of the operation to regional NSW where more jobs will be provided results in a significant net gain in employment.

The site includes substantial open paved parking and hard stand areas, grassed and treed areas that extend to near the harbour foreshore. It is noted that the adjacent foreshore does not have deep water port access.

The surrounding context of the industrial site is residential on three sides— with the northern side facing the heritage listed Massey Park golf course and Parramatta River (with moored recreational vessels off the nearby Bayview Park and boat ramp).

The site is relatively remote being on a peninsula and is several kilometres from the commercial and retail centres at Burwood, along Parramatta Road or at Concord. The site is isolated by residential development - as well as separate to and remote from other industrial lands at Queens Road Five Dock and on Parramatta Road.

The site is not readily accessible for high volume industrial traffic being away from arterial roads, (Parramatta Rd is 1.5km and Burwood Station 2.4km) and is constrained by residential development sensitivity along all access roads.

Opportunity to give effect District Plan and LSPS by meeting broader strategic objectives

The site, with its residential and waterside open space setting, offers an outstanding opportunity to meet housing diversity, affordable housing, some urban services and open space and foreshore access objectives of the local and district strategies.

The Planning Proposal provides the opportunity for adaptive reuse and heritage recognition of certain factory facilities and its heritage garden setting.

The site can also support employment and urban services / light industrial uses at a scale that is in proportion to (and recognises) constraints due to accessibility, traffic and the surrounding residential environment.

However, to achieve these outcomes a viable residential yield would need to underpin the future use of the site.

Demonstrated strategic merit (refer PS 16-004)

- ***Consistent with the relevant regional plan (Greater Sydney Region Plan 2018) or district plan (Eastern Sydney District Plan 2018); or***
 - **The planning proposal is not strictly consistent with Objective 23 / Strategy 23.1 of the Greater Sydney Region Plan, nor Action 51 and Planning Priority E12 (Retain and manage industrial and urban services Land) of the Eastern Sydney District Plan.** The planning proposal is premised on the rezoning of a substantial component of the site away from General Industrial zone. Industrial land in the entire District and LGA is designated and governed by the principle ‘*retain and manage*’ – specifically that industrial lands should be ‘safeguarded from competing pressures especially residential and mixed use zones’.
 - **However, the outcomes sought by applying the ‘*retain and manage*’ principle will not be met by retaining the site entirely as an IN zone.** The ‘*retain and manage*’ principle works on the basis that these lands are needed for economic and employment activities

‘required for Greater Sydney’s operation, such as urban services’. The specialised coffee manufacturing activity will cease on the site, and the Panel considers the setting (and land economics) neither suits other specialised manufacturing uses nor other industrial uses at a large scale due to remote character of the site and its residential surroundings.

- For example, the District Plan refers to urban services as activities that serve local communities and businesses and require adequate land across the District to reduce the need to travel. The District Plan recognises these uses will evolve over time....” *...there is a need to review the list of appropriate activities within any precinct...and how supported through permitted uses in an LEP.*”
 - In the interim the Panel notes there is no legal definition of ‘urban services’ nor a current zone or performance criteria to understand where such uses may fit. The Panel recognises the need for ‘urban services’ and considers this site should make a greater contribution to facilitate these uses within the planning proposal. At the same time some of the examples of ‘urban services’ described in the District plan such as waste management and concrete batching plants would not be suitable uses for the subject site, whereas motor vehicle services and the like would be, especially having regard to the large residential catchment that has emerged in the area in the last few decades. Further consideration of the statutory mechanism to provide the needed flexibility envisaged for ‘urban services’ is required into the future. However, in the interim this planning proposal includes IN2 uses as well as additional retail/commercial space to satisfy the requirement to provide for ‘urban services.’
 - The proponent had initially proposed that ‘Light industrial’ uses be permitted in the R3 zone but was removed due to apparent concerns council did not want such uses to be retained on the site together with residential uses. The Panel, however, supports such a zone, in the absence of a definition for ‘urban services’. The Panel considers that any planning proposal should include provisions for a development standard to enshrine a minimum GFA provision of 3000 sqm of light industrial uses. In addition, the Panel is of the view that the retail /commercial area also include ‘urban services’ and that the GFA for such uses be increased from 3,500 to 7,000 sqm.
 - The GSC think piece: ‘A Metropolis that Works’ notes ‘where lands are placed under pressure, or strategic arguments can be upheld in support of rezoning, then the ‘no regrets’ principle needs to drive all levels of decision-making.’ This includes consideration of displacement strategies relevant to any change in use.
 - **The outcomes sought by applying the ‘retain and manage’ principle could be achieved with ‘no regrets’ by an alternative mix of uses on the site.** The ‘retain and manage’ principle also recognises that ‘the number of jobs should not be the primary objective – rather a mix of economic outcomes that support the city and population’. The Planning Proposal can both maintain jobs and offer such a mix of economic outcomes by enabling a range of emerging ‘urban services’ uses to occur on the site which respond to the changing uses and character of employment lands in Eastern Sydney.
- **Consistent with a relevant local strategy endorsed by the Department; or**
 - **Canada Bay LSPS was endorsed by the Greater Sydney Commission on 25/03/20.** It contains site specific requirements for the Bushells site and explicitly recognises that it is ‘likely to experience renewal in the short to medium term’. It establishes a priority ‘to provide high quality planning and urban design outcomes’ and adopts Action 6.3 accordingly.

- **Canada Bay LSPS acknowledges that a change of land use at the Bushells site can be consistent** - where it provides '*a high quality planning and urban design outcome*' (Priority 6) and addresses Action 6.3 by:
 - recognising the requirements of the District Plan regarding industrial land (*see above re consistency with relevant regional plan*)
 - achieving height and density that is compatible in context; (*see site specific merit below*)
 - contributing to the green grid and generous public foreshore access and setback; ; (*see site specific merit below*) and
 - adequately considers and is sympathetic with heritage features (*see site specific merit below*).

- **The planning proposal can provide a high quality planning and design outcome and be consistent with the LSPS** - subject to the conditions proposed for consideration via the gateway process.

- **Canada Bay Local Employment and Productivity Strategy (SGS 2019) has been forwarded to but not endorsed by DPIE –**
 - The strategy recommends 'retain Bushells site' (Action 18a) but adds a proviso:
 - '*This position does not preclude Council from exploring innovative future uses with operations that aren't simply compatible with the surrounding residential uses but provide some form of service both to the local and wider community*'
 - The Panel notes that the planning proposal is innovative and can result in operations that are both compatible with surrounding residential uses (refer site specific merit - below) and provide service to the community – by:
 - Contributing needed and high quality open space by improving foreshore access, contributing to green grid and offering setbacks (*refer LSPS actions under Priority 16 – specifically including the site as part of the Hen and Chicken Bay foreshore spine of the green grid*)
 - Retaining and adaptively reusing heritage elements
 - Contributing to housing quantity and diversity objectives for the LGA and District including demand for medium density housing identified in the LSPS and targets in the District Plan.
 - Enabling employment and urban services on part of the site – with the potential to employ a greater number (than existing) – in a setting that would introduce the opportunity for a range of niche light industry and creative spaces – suited to the emerging economic development trends in the LGA outlined in SGS 2019.
 - Improving local amenity, via the provision of neighbourhood centre scale local services and retail

- ***Responding to a change in circumstances, such as new infrastructure or changing demographic trends not recognised in existing planning controls.***
 - **The planning proposal responds to a change in circumstances** - both in relation to the immediate use of the site; and more generally in relation to trends in economic activity and employment in industrial spaces.
 - The proposed cessation of coffee manufacturing on site is due to changes in the nature and cost of new plant and the desirability of a different location to meet anticipated freight and logistics needs. This is a noticeable trend for major inner urban manufacturing sites recognised in the SGS 2019.
 - The planning proposal responds to the likelihood that the entire site will be neither suited for: another bespoke manufacturing use, nor a high concentration of different industrial uses which would cause friction with the surrounding residential area.

- The planning proposal responds to an opportunity for a component of the site to be retained and adapt towards a contemporary light industrial / urban services use.
- ***A proposal in respect of a change to planning controls which are less than 5 years old must clearly meet the Strategic Merit Test.***
 - The Canada Bay LEP was made in 2013 and the Eastern Sydney District Plan was updated in 2018. The LSPS was endorsed in 2020.

Demonstrated site specific merit

In many respects the comments on the strategic merit are also relevant to the site specific merits. The location/zoning map clearly depicts the relationship of this 3.9 hectare site to the adjoining residential area and the opportunity through the planning proposal to provide the opening up along the foreshore of Exile Bay that immediately interfaces with Massey Park and the Hospital Precinct open space and with foreshore public access to Bayview Park. This would create an extensive public access foreshore area. The planning proposal not only provides a foreshore link but also an additional 8,900 sqm of adjoining open space connecting commercial and residential uses on the site and providing a through link to Burwood Rd.

The surrounding residential area is low to medium, however, the subject site provides the opportunity to provide commercial and urban service uses to serve the much larger residential population in this relatively geographically insular area. At the same time higher density for the subject site would provide a choice of dwelling type with -affordable housing in perpetuity, in a landscaped area with 25% canopy cover consistent with the District and Region Plans. The planning proposal proposes 5% affordable housing, however, the Panel considers this should be increased to 10%.

The planning proposal supports the Planning Priorities of the District Plan including:

E14 protecting and improving the health and enjoyment of Sydney Harbour and the District's waterways...

E16 protecting and enhancing scenic and cultural landscapes...

E17 urban renewal and transformation projects will be critical to increasing urban tree cover canopy...

E18 delivering high quality open space...

RECOMMENDATION

In recommending that the planning proposal proceed to Gateway the Panel recommends to the delegate that the following matters be attached as conditions of any such Gateway determination: -




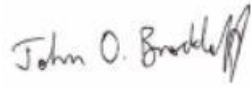
1. A local planning provision be introduced into the instrument for the site to allow light industrial (IN2) uses to be permissible on the site. This is in the absence of a definition in the standard instrument of 'urban services'
2. A development standard be introduced into the instrument to increase the minimum provision of non-residential uses to 10,000 sqm, where a min 3,000 sqm shall be provided for 'urban services' (aka light industrial uses)
3. Satisfactory arrangements be in place prior to the instrument being made to allow for, at least, the maintenance on the site of: -
 - Minimum of 8,900 sqm of Public Open Space
 - Minimum of 10% affordable housing to be provided in perpetuity
4. A DCP shall be prepared and exhibited concurrently with the planning proposal to include:
 - urban design criteria

- increased setbacks relative to building/wall height adjacent to existing lower density residential uses
- increased building separation
- height distribution relative to boundaries
- building mass distribution
- deep soil landscaping
- sustainability measures
- heritage and curtilage

CONCLUSION

The Panel, in its deliberations in making the recommendation to support the planning proposal, with the above requirements, has carefully considered the Planning Priority of the District Plan to “*retain and manage industrial and urban services land*”. The Panel considers this planning proposal will facilitate a master planned development that enhances the unique qualities of the site for future and current residents of the area while, at the same time, providing urban service uses and employment opportunities.

In the circumstances, the Panel is of the opinion that for the subject site to achieve all urban planning goals requires careful balancing of the Planning Priorities established by the State and local planning authorities.

| PANEL MEMBERS | |
|---|--|
|  Carl Scully (Chair) |  Jan Murrell |
|  Sue Francis |  John Brockhoff |

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DEPARTMENT REF - ADDRESS | 2019ECI038 – Canada Bay – RR_2019_CANAD_001_00 160 Burwood Road, Concord |
| 2 | LEP TO BE AMENDED | Canada Bay Local Environmental Plan 2013 |
| 3 | PROPOSED INSTRUMENT | <p>The rezoning review request relates to the planning proposal for the site at 160 Burwood Road, Concord. This is the third version of the planning proposal.</p> <p>The planning proposal seeks to amend the Canada Bay Local Environmental Plan (LEP) 2013 to Rezone the site from IN1 General Industrial to part B1 Neighbourhood Centre, part R3 Medium Density Residential and part RE1 Public Recreation; Increase the maximum Height of Buildings from 12m to:</p> <ul style="list-style-type: none"> • 12m (3 storeys), 17m (5 storeys) and 21m (6 storeys) along the eastern boundary and immediately north of the Central Roasting Hall |

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| | | <ul style="list-style-type: none"> • 15m (4 storeys with ground floor urban services) between the Central Roasting Hall building and the three storey terraces on Burwood Road; • 18m (5 storeys) at the northern boundary of the site; • 21m (6 storeys) at the centre of the site around the Former Bushells Factory Central Roasting Hall building; <p>It is noted that there is:</p> <ul style="list-style-type: none"> • No change to the height of the Central Roasting Hall building (existing roof height being RL 46.6); and • No change is proposed to the height of buildings along the Burwood Road frontage, the western boundary and immediately north of the Central Roasting Hall. <p>The proposal also seeks to:</p> <ul style="list-style-type: none"> • Increase the maximum Floor Space Ratio (FSR) from 1:1 to 1.25:1 • List the former Bushells Factory Building as an item of local heritage significance under Schedule 5. |
| 4 | MATERIAL CONSIDERED BY THE PANEL | <ul style="list-style-type: none"> • Rezoning review request documentation • Briefing report from Department of Planning, Industry and Environment |
| 5 | BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY | <ul style="list-style-type: none"> • Site inspection: Various. <i>Due to Coronavirus precautions, Panel members visited the site independently, on dates between 23 March 2020 and 30 March 2020</i> <ul style="list-style-type: none"> ○ Panel members who visited the site: Carl Scully (Chair), Jan Murrell, Sue Francis, John Brockhoff • Briefing with Department of Planning, Industry and Environment (DPIE): 31 March, 10am <ul style="list-style-type: none"> ○ Panel members in attendance: Carl Scully (Chair), Jan Murrell, Sue Francis, John Brockhoff ○ DPIE staff in attendance: Brendan Metcalfe, Sung Pak • Joint Briefing with Council, Applicant and Department: 31 March 2020, 11am <ul style="list-style-type: none"> ○ Panel members in attendance: Carl Scully (Chair), Jan Murrell, Sue Francis, John Brockhoff ○ DPIE staff in attendance: Brendan Metcalfe, Sung Pak ○ Council representatives in attendance: Paul Dewar, Diana Griffiths ○ Proponent representatives in attendance: Derek Nix, Stephen Moore, Jim Koopman, Brett Maynard, Alf Lester, John Elliot, Robert McGuinness |