

23 March 2016

NSW Department of Planning and Environment  
The Gateway Team  
23-33 Bridge Street  
GPO Box 39  
SYDNEY NSW 2001

*Attention: Steve Murray  
Acting Executive Director, Regions*

Dear Steve,

**Re: Pre-Gateway Review for a Planning Proposal  
14-20 Orion Road, Lane Cove**

## 1 Introduction

This correspondence has been prepared on behalf of Ducru Pty Ltd and forms part of the formal request for a pre-gateway review of the decision made by Lane Cove Council not to support a rezoning request for the subject property that will comprise a future mixed use development comprising residential and commercial (retail uses).

The site comprises approximately 1.7 hectares of land, on the edge of the Lane Cove West industrial precinct.

## 2 Key Strategic Benefits of the Planning Proposal

The Planning Proposal in our opinion will deliver demonstrable social, economic and environmental benefits for the site and wider locality. These include:

- **Re-develop a long established underutilised commercial development** into a mixed use residential concept with a minimum 2,000sqm of non-residential floor space to maintain an employment function.
- **Facilitate the increase of land for residential purposes** on 'an outlier site' on the edge of the industrial area that enjoys high levels of amenity and not undermine the integrity of the industrial area.
- **Will enable provision of local retail services** that will benefit the new residents as well as meet the needs of the nearby workforce which are not being met.

## 3 Project Overview

This request for a review has been prepared in accordance with the requirements of 'A Guide to Preparing Local Environmental Plans' (Department of Planning and Infrastructure 2013), seeking an independent review of the decision made by Council not to advance the proposal.

The Planning Proposal request sought to:

- Rezone the site to B4 Mixed Use to enable a range of alternate viable land uses on the site.
- Amend the applicable floor space ratio standard to 2.5:1.
- Amend the building height standard to 55 metres
- To recommend a local planning provision that requires a minimum delivery of 2,000sqm of non-residential floor space on the site

The following documentation accompanies this letter to assist the Department of Planning and Environment (DoPE) with their understanding of the proposal:

- a) Completed Pre-Gateway Review application form, including disclosure of reportable political donations.
- b) Payment of the \$5,000 initial fee for eligibility.
- c) Documentation provided by the proponent with their original request for a plan amendment, including details of the consultation process undertaken by the proponent prior to lodging the Planning Proposal request (Refer to **Attachment A**).
- d) Report prepared by Council officers seeking a resolution from Lane Cove Council to not support the Planning Proposal at its meeting on 15<sup>th</sup> February 2016 (Refer to **Attachment B**)
- e) Correspondence issued by Lane Cove Council on 22 February 2016 confirming the decision of Council not to advance the Planning Proposal (Refer to **Attachment C**).

## 4 Proposal Background Summary

### 4.1 THE PROPOSAL

The original Planning Proposal request was submitted to Lane Cove Council on 16 October 2016, following a long history of consultation with Lane Cove Council staff and Councillors. The report was prepared in accordance with the “A Guide to Preparing Local Environmental Plans” and “A Guide to Preparing Planning Proposals”.

The main body of the report prepared by Urbis was supported by a range of comprehensive specialist studies and correspondence, including:

- Concept Masterplan & Urban Design Report (Sisions Architects)
- Market Economic Assessment (Urbis)
- Industrial Feasibility Analysis (JLL)
- Traffic Report (Colston Budd Hunt & Kafes Pty Ltd )
- Preliminary Environmental Review (Coffey)
- Correspondence with neighbouring owner SC Johnson

In addition, the proponent cited in the application an intention to enter into discussions about a Voluntary Planning Agreement however Council did not engage in such discussions and no formal offer was made.

A complete copy of the Planning Proposal request, including the specialist studies and reports, is appended to this correspondence as **Attachment A**.

A copy of Council's Assessment Report of the proposal, presented at the meeting of 15<sup>th</sup> February 2016 is appended to this correspondence as **Attachment B**.

#### 4.2 COUNCIL'S DETERMINATION

The Planning Proposal report and Council office assessment was reported to the Lane Cove Council meeting of 15 February 2016. The officer report recommended that Council not support the Planning Proposal as:-

1. *This location in Lane Cove West industrial area does not provide adequate and accessible social infrastructure or amenity for residential development. It creates the relative social isolation of the subject site. An isolated development of 459 apartments is unlikely to create its own "neighbourhood community".*
2. *It fails the objectives and criteria of the NSW Department of Planning & Environment's Employment Lands Assessment Checklist. The Checklist, "ensures the State has an adequate and appropriately located supply of land for industrial developments" (Metropolitan Strategy, p.38). Mixed Use is more appropriate to areas such as Macquarie Park, where commercial, industrial and residential land uses are better integrated and catered for.*
3. *It pre-empt's the findings of the DPE's recent investigation into the potential of employment lands regionally, and would most likely create an expectation among industrial land-owners in favour of further residential redevelopment at the expense of current industrial land uses.*
4. *The Urbis Economic Assessment (against the viability of commercial development in LCW) does not make a plausible case for the capacity of Lane Cove West Business Park (LCWBP) to accommodate predicted industrial floorspace demand. It significantly under-estimates employment projections relative to actual recent growth.*
5. *In arguing against the viability of industrial development in LCWBP, the assumptions and variables provided to the JLL Report are unrealistic and therefore do not support the conclusions drawn by this analysis.*
6. *Apart from residences, the proposal adds no new uses to those currently permitted on-site in terms of retail, commercial and child care uses.*
7. *The reasons for approval of residential development at 150 Epping Road do not apply to 14-20 Orion Road. It was approved under the State's former Part 3A system as development quite separate from the Lane Cove West IN2 industrial precinct and as a site unsuited for industrial configuration. It also adjoins a major bus route. Council did not support the approval of residential development at 150 Epping Road, and has no strategic plans to "further contribute to the residential presence of the area".*
8. *Residential users of an industrial area will inevitably lead to some amenity conflict with future industrial neighbours, regardless of the setbacks. Residential use would compromise future IN2 uses in the precinct.*
9. *It is possible that the proposal is not likely to contribute to any traffic congestion in the precinct. However, the current level of traffic is at an acceptable level, as indicated in the consultant report for Council by Traffix of 2012.*
10. *Site soil remediation must proceed to EPA standards before residential use is permitted.*
11. *Residential development is not needed to meet Council's housing target.*

In our opinion we disagree with Council's reasons for refusal. Our application dealt with these matters in the planning report and accompanying technical studies which we request the Department of Planning and the JRPP closely review .

At the Council meeting of 15 February 2016, the Council adopted the recommendations of the Council officer's report and a letter was issued to the proponent on 22 February 2016 (not received until 14 March 2016) notifying them of the resolution of Council to not support the Planning Proposal progressing to a Gateway Determination.

## 5 Assessment of Review Criteria

The information provided in the Planning Proposal submitted to Council in support of the proposed rezoning is extensive. The following table has been prepared to identify the sections of the Planning Proposal that demonstrates the way each of the review assessment criteria has been addressed:

| ASSESSMENT CRITERIA FOR REVIEW                                                                                                                                                                                                                                                                                                                      | PLANNING PROPOSAL REFERENCE                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| <b>a) Does the proposal have strategic merit:</b>                                                                                                                                                                                                                                                                                                   |                                                        |
| <ul style="list-style-type: none"> <li>Is consistent with a relevant local strategy endorsed by the Director-General or</li> </ul>                                                                                                                                                                                                                  | Section 6.1, 6.22                                      |
| <ul style="list-style-type: none"> <li>Is consistent with the relevant regional strategy or Metropolitan Plan or</li> </ul>                                                                                                                                                                                                                         | Section 6.2.1                                          |
| <ul style="list-style-type: none"> <li>Can it otherwise demonstrate strategic merit, giving consideration to the relevant section 117 Directions applying to the site and other strategic considerations (e.g. proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to homes etc)</li> </ul> | Section 6.13, 6.3, 6.61 + Urbis Market Economic report |
| <b>b) Does the proposal have site-specific merit and is it compatible with surrounding land uses, having regard to the following:</b>                                                                                                                                                                                                               |                                                        |
| <ul style="list-style-type: none"> <li>The natural environment (including known significant environmental values, resources or hazards) and</li> </ul>                                                                                                                                                                                              | Section 2.4, 6.2.1 + Coffey Report                     |
| <ul style="list-style-type: none"> <li>The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and</li> </ul>                                                                                                                                                                                              | Section 6.51, 6.52 , Sissons Report                    |
| <ul style="list-style-type: none"> <li>The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision</li> </ul>                                                                                                                  | Section 6.61                                           |

## 6 Justification for Review

This pre-gateway review request is considered to be justified for the following key reasons:

1. **The planning proposal will deliver community benefits to the precinct** by permitting tenancies suitable for retail, a child care centre and commercial uses which will service local employees within walking distance, reducing reliance on cars in the area.
2. **The planning proposal will maintain opportunities for employment** through permitting intensive employment tenancies including a child care centre, retail and commercial. It is estimated future development consistent with the concept design will generate ongoing employment benefits in the order of 128 employees, which with the predominate character of low employment generating industrial business elsewhere in the precinct.
3. **The proposal is consistent with strategic planning policy directions** in providing new housing opportunities in locations with good amenity and access to public transport. While the proposal seeks to rezone industrial land, the proposal commits to a minimum 2,000sqm of commercial floorspace to deliver employment levels commensurate (or greater) than the those provided on other large sites in the industrial area and thus does not remove the employment function of the land.
4. **The site has always been an outlier on the edge of the precinct, an exception to planning policy** the existing 9 storey commercial office development is not only prohibited in the zone, it is out of character for the locality. The market assessment confirms there is no sustainable market in the long term to enable the orderly economic use of this development. Its location on the edge of the precinct with scenic bushland views and access to public transport lends it to an alternate higher and better use as proposed. As such, it warrants consideration for land use change and any such change could not be seen as an unwanted precedent given its particular circumstances.
5. **The concept design responds to the site topography, surrounding natural context, and prevailing urban morphology** ensuring a built scale which is proportionate to the site's location, complimentary to the natural landscape and avoids unreasonable amenity impacts on surrounding sites. The height and FSR limits ensuring a built form that is compatible with the sites topography and complimentary with the approved development at 150 Epping Road (Meriton site).
6. **The concept design does not result in unreasonable impacts to adjoining land uses and residents**, with analysis demonstrating that the future development will not create a conflict in land uses with adjoining and surrounding industrial uses through appropriate separation and vegetative buffers. The traffic assessment carried out demonstrates on-site parking and access and egress can be appropriately accommodated on site with future traffic volumes being easily accommodated on the local road network. Further, it has been established that the traffic impacts from a development on the site similar to the concept design will be less than those associated with the existing development.
7. **The proponent of the planning proposal is willing to work with Council** to ensure the Lane Cove community is included in the public consultation process and the planning proposal is ultimately considered to be in the public interest.

## 7 Conclusion

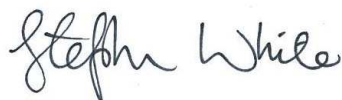
The planning proposal has been assessed against relevant state and local planning considerations. The planning proposal offers significant benefits and opportunities for the development of the site and to the surrounding area:

This planning proposal has thoroughly assessed the site's existing development controls and considered the site in its existing context, and the broader local and metropolitan strategic planning context. This planning proposal will enable the development of a more viable land use of the site which has suffered from lack of demand for a sustained period of time. New development will improve the vitality and safety of the local precinct while contributing valuable services to employees in the area, and provide quality residential dwellings for locals supported by public transport and infrastructure.

The site benefits from good development separation of industrial uses with excellent access to jobs and services. The size of the site and potential future development is such that it will create a community in itself which will provide for residents and the nearby employees. The abundance of proximate public parks and recreation spaces together with the walking and cycling networks, regular bus services and connectivity to jobs and major centres makes the site well suited to residential development.

For these reasons outlined in this letter, we believe the Planning Proposal has strategic merit and request your timely consideration of our request for a pre-gateway review. Please do not hesitate to contact me on (02) 8233 9955 should you have any questions or require any further information in support of our request.

Yours sincerely,



Stephen White  
Director

Encl.