



Our Ref: 18098

12 December 2019

Department of Planning Industry and Environment
PO Box 39
Sydney NSW 2001

Attention - North District Planning Team

Dear Sir/Madam

**RE: REVIEW REQUEST FOR PLANNING PROPOSAL AT 166 EPPING ROAD
LANE COVE (LANE COVE COUNCIL PLANNING PROPOSAL 36)**

We write in relation to the above and the attached Request to Review application form. The submitted Planning Proposal (PP) was submitted to Council on 30 August 2019 and on 19 November 2019, Council resolved not to support the forwarding of the PP for gateway determination. A copy of this decision is provided at **Attachment A**.

The submitted PP is provided at **Attachment B**. The submitted PP addresses the matters required to be addressed in a Request for Review including demonstrating that the PP has both strategic merit and site specific merit. No other documentation has been provided to Council. This letter seeks to revisit the findings of the PP in order to specifically respond to the matters raised by Council. These issues are discussed below and in the Economic Consultant Response at **Attachment C** and the Traffic Consultant Response at **Attachment D**.

A. Fails the strategic merit test.

Reasons:

- 1) The Planning Proposal is **not consistent** with **Objective 23 (and Action 11)** of the Greater Sydney Commission's, '**A Metropolis of Three Cities**' which is to preserve and manage industrial and urban services land.

Urban and Regional Planning, Environmental Planning and Statutory Planning
Registered Office: Lyndhurst, Suite 19, 303 Pacific Highway, Lindfield N.S.W 2070
Telephone: (02) 9416 9111 Facsimile: (02) 9416 9799
email: admin@inghamplanning.com.au
A.C.N. 106 713 768

www.inghamplanning.com.au



Firstly the PP does not necessarily seek to reduce the amount of industrial land. Changing the zoning is an option but the preference would be to allow the existing commercial use to be permissible by way of an addition to Schedule 1 of Lane Cove LEP 2009 and also permit shop-top housing and residential flat buildings. This means that the site will remain capable of being able to accommodating uses that are permitted in the subject IN2 zoning. Whilst all of these uses may not be compatible with residential use, a significant number of uses that are permitted would be compatible:

Car parks; Centre-based child care facilities; Community facilities; ~~Depots~~; Food and drink premises; Garden centres; ~~Hardware and building supplies~~; Industrial training facilities; (some) Light industries; Medical centres; Neighbourhood shops; ~~Oyster aquaculture~~; Places of public worship; Recreation areas; Recreation facilities (indoor); Respite day care centres; Roads; Self-storage units; ~~Sex services premises~~; Signage; ~~Tank-based aquaculture~~; ~~Vehicle body repair workshops~~; ~~Vehicle repair stations~~; Vehicle sales or hire premises; ~~Warehouse or distribution centres~~

Based on the above around 70% of permitted uses would remain appropriate.

Secondly, the current use of the site is not industrial but commercial. This use is a non-conforming existing use. Notwithstanding this, the presence of commercial uses in Lane Cove West is acknowledged in the Greater Sydney Regional Plan (GSRP) where in Strategy 23.1 it is noted that:

"In parts of Greater Sydney such as Lane Cove West, Mascot, Camperdown, and Warriewood, office, industrial and urban services have been able to co-locate successfully."

The proposed PP does not change the existing situation with more commercial floor space being proposed than currently exists (14% more). Further, in response to Council's concern that the proposed floor space is less than the 1:1 permitted, the applicant is agreeable to a minimum 1:1 non-residential FSR being mandated.

Given that the existing commercial use has an FSR of around 0.91:1 and the permitted FSR is 1:1 there is very little incentive to redevelop the site, which contains a somewhat dated 1980's office building. Not surprisingly, as detailed in **Attachment C**, the redevelopment of the site for commercial use would not be viable. Given the value of the existing commercial use, it is even more unlikely that the site would revert to an industrial use (also noted in **Attachment C**). This is supported by the following comments in the Greater Sydney Commission's document "Thought Leadership Series – A Metropolis that Works":



Although there are many competing pressures for land across the city, once the land has moved to a higher value use, it is highly unlikely to be converted back.

As noted in Attachments C and D, the site is not suitable for industrial use for a variety of reasons including the size and slope of the land, poor connectivity, vehicular access and environmental sensitivity (also likely to have been the reasons why Council allowed commercial use in the first place).

For Council to rely so heavily on the miniscule possibility that at some point in the future an industrial use (which would otherwise not be allowed) would become viable, it is considered to be an extreme position taken only to stymie a practical approach to the future of the site. The fact of the matter is that Council approved the loss of industrial land. This has been reinforced by the PAC approval of the adjoining Meriton development which makes the site even less attractive to higher impact industrial uses.

It must be remembered that the GRSP is a very high level document and there will always be specific circumstances where an 'inconsistency' will be appropriate. The circumstances here are unique and do not apply to the vast majority of industrial land in that the actual use of the site is commercial not industrial and it is adjoined by 300 apartments. Therefore there is no practical inconsistency with Objective 23 of the GSRP as no industrial land will be lost as a result of the PP and, in fact, the employment generating potential of the land will be maintained and enhanced.

2) The Planning Proposal is **not consistent** with the following aspects of the **North District Plan**:

- a) **Planning Priority N11** which is to retain and manage industrial & urban services land.
- b) **Principles for managing industrial and urban services land**.
- c) **Action 46** which is to retain and manage industrial and urban services land and preventing conversion of the land to residential development, including mixed use zonings.

For the same reasons given above, the PP is not inconsistent with this Planning Priority.

3) The Planning Proposal is **not consistent** with **objectives 8 and 21** of the **Lane Cove Community Strategic Plan (LCCSP)**, as the proposal is not consistent with the community priorities and actions for housing supply and retention of commercial land.

In relation to Objective 8 Housing, the proposal provides for additional sustainable and affordable housing in accordance with this objective. The site is within 30



minutes bus/train ride of 5 major centres making it highly sustainable and the applicant has offered to provide 10% of dwellings as affordable housing.

Objective 21 does refer to the retention of commercial land. It relates to 'Developing Business Precincts' and the PP is consistent with this objective as the existing business use is proposed to be retained and enhanced.

- 4) The Planning Proposal is **not consistent** with **Planning Priorities 3, 5 and 7** of the **Draft Lane Cove Local Strategic Planning Statement** (DLSPS). The site is not identified as a strategic precinct, nor is it considered an appropriate area for housing.

The Lane Cove West employment lands are specifically identified in the DLSPS to be protected and managed for industrial and commercial land uses.

Planning Priority 3 includes reference to the 'Eastern Economic Corridor'. It states:

Significant infrastructure and social services are needed to sustain the Corridor's productivity and liveability, and its ability to attract and retain workers. Innovation in building transport capacity and linkages, a range of housing options and services that ensure a sense of community are on the critical path to ensuring that the EEC delivers expanding employment and prosperity for residents and for Sydney.

Encouraging redevelopment of an underutilised site will allow these outcomes to be achieved. The PP provides for both improvements to employment uses and housing options for workers within the corridor. It provides the opportunity of over \$12M in contributions that will be used for social infrastructure including affordable housing and improvements to the local bushland trail network.

Planning Priority 5 relates to housing and includes the following comments:

Aligning the location of high-density developments with sustainability criteria such as access to transport and services, helps offset any shortfall in open space.

As previously noted the PP is highly consistent with the sustainability objective of a '30 minute city' with 5 major centres being within a 30 minute bus/train ride.

Council notes that its housing capacity under the current LEP has been taken up and that new growth will be accommodated in St Leonards. However in their decision of 9 July 2019, the Independent Planning Commission (IPC) concluded the following in regard to the South St Leonards PP which allowed for up to 2400 additional dwellings:

the scale of residential development contained in the planning proposal would represent an overdevelopment of the site.



Whilst the IPC also concluded that this number of dwellings was not needed to meet the GSC targets, it has not yet been determined how these targets will be met. The subject PP offers the potential for additional housing in a highly accessible location that does not tear at the fabric of an existing community.

Planning Priority 7 refers the retention of industrial land as detailed in the GSRP, which has previously been addressed.

- 5) Given that the strategic planning documents (i.e. *A Metropolis of Three Cities and North District Plan*) identify this site as an area for employment growth (existing and proposed), the existing planning controls are considered appropriate.

As noted above it is extremely unlikely that the existing controls will promote employment growth as the capacity of the site is already close to the maximum. Significant upzoning such as that proposed would be required for any substantial redevelopment of the site. Therefore the PP is considered to be consistent with the objectives of the relevant strategies in relation to employment growth particularly within the important Eastern Economic Corridor.

B. Inconsistent with Section 3.8 of the *Environmental Planning and Assessment Act*

Reason

This section of the Act deals with the 'Implementation of Strategic Plans' which requires all Planning Proposals to 'give effect' to any applicable district strategic plan.

Given the direct inconsistency with Planning Priority N11 and Action 46 of the *North District Plan*, dated March 2018, the Planning Proposal does not 'give effect' to the North District Plan.

This is a repeat of previous concerns about the loss of industrial land which have been addressed above. The overarching objectives of the EP&A Act are achieved by the PP as it promotes the "*orderly and economic use of the land*".

C. Fails the site-specific merit test.

Reasons:

- 6) The Planning Proposal has not satisfactorily addressed SEPP 33 – Hazardous and Offensive Development and SEPP 55 – Remediation of Land. The proponent's Planning Proposal does not consider the potential impacts of air pollution from multiple sources including the adjoining Ingreion flour mill and the Lane Cove Tunnel Air Vent Stack.
- 7) The rezoning of the site to permit residential land uses would compromise future IN2 Light Industrial uses in the precinct and would likely result in land use conflicts with surrounding industrial properties.
- 8) The Planning Proposal actually reduces the amount of employment floorspace to less than the current maximum permissible FSR of 1:1 – thus resulting in a net loss of employment floor space. This will restrain future employment growth in a potential reduction of commercial floorspace and associated employment density/yield.



In relation to 6, it is considered that these are matters that can be addressed at post-gateway stage. The strategic issues of land use conflict with hazardous uses have already been addressed with the approval of the adjoining Meriton development. Here the PAC determined that despite the adjoining SC Johnson site being used for chemical manufacture, residential use at the Meriton site was appropriate. It is noted that SC Johnson no longer manufacture chemicals on their site. We are in the process of consulting with these land owners and will provide appropriate correspondence in due course.

In relation to 7, again, the lack of issues arising from the Meriton approval demonstrates that no land use conflict from residential uses has occurred. Apart from SC Johnson and Ingredion, the site is well removed from the bulk of the Lane Cove West industrial area.

In regard to 8, as noted above the applicant has agreed to increase the minimum non-residential FSR from 0.9:1 to 1:1 to address this concern.

D. Fails to consider Other Related Matters

- 9) The Department of Planning, Industry, and Environment has identified and mapped the subject site as an 'employment lands precinct', as it is a valuable contributor to the 'Eastern Economic Corridor'.
- 10) The subject site is isolated from social and community infrastructure, both existing and planned, as it is not located within an accessible commuting distance of a strategic or local precinct.
- 11) Only one entry/egress route is available, which is a risk to emergency vehicles under Rural Fire Service policies, and only one entry for pedestrians into the site.
- 12) The Planning proposal would further compromise district views from adjoining Local Government Areas, Willoughby and City of Ryde including the National Park.

In relation to 9, the site is within an existing industrial and which forms part of the Eastern Economic Corridor (EEC). However as noted the existing use is not industrial and the proposal will maintain and enhance the employment generating capacity of the land and the corridor generally by providing demand for services from new residents. The EEC is not intended to be totally commercial and there is a demand for worker housing within this corridor to maintain and enhance its competitiveness by allowing workers to live close to their place of work.

In regard to 10, this is not correct with the site being within a 30 minute bus/train ride of 5 major centres including the CBD and Lane Cove town centre. This makes it accessible to a wide range of community and social infrastructure. Further as detailed in the PP, the site is part of a network of bushland trails that link many recreational opportunities in close proximity. The proposal includes contributions for significant upgrades to these trails, which are presently in a very poor state of repair.



In relation to 11, the PP has been accompanied by a Bushfire Report and Council did not consult with RFS. In any event this consultation can be done as part of any gateway requirement.

In relation to 12, the proposal is similar in scale to the approved Meriton development and is a considerable distance away from most vantage points. The impact of views is concluded to be negligible.



Conclusion

The vast bulk of the concerns raised relate to the loss of industrial land. As noted above this is incorrect in both a factual and practical sense. The PP does not intend to change the zoning of the land and as such there will be no loss of industrial land. Residential use may mean some uses are incompatible but this will be the minority of uses permitted in the IN2 zone. In any event such uses are highly unlikely to occur in the future as Council has already allow the use of the land to change from industrial to commercial. The only feasible way a site such as this can contribute to the objectives for employment and housing growth in the Eastern Economic Corridor is through significant upzoning.

In view of the above, rather than being inconsistent with the objectives of the relevant strategic plans, the PP will assist in achieving the desired outcomes. The submitted PP addresses the matters required to be addressed in a Request for Review including demonstrating that the PP has both strategic merit and site specific merit. As noted in the PP, the former Planning Assessment Commission (PAC) concluded that residential use in this location had strategic merit and that the remaining sites in the northern part of the Lane Cove West industrial area (ie the subject site, SC Johnson and Ingham) be the subject of further investigation.

It is noted that SC Johnson has ceased manufacturing and Ingham is presently up for sale. As these sites have a long history of manufacturing it is likely that remediation costs for any redevelopment would be significant and it is highly unlikely that there will be any significant redevelopment without a change in zoning. So, whilst the PP does not rely upon these sites, it is likely that in the medium-longer terms, these areas previously identified by the PAC will contain similar uses to those proposed at 166 Epping Road.

Please do not hesitate to contact the undersigned if you wish to discuss.

Yours faithfully

Brett Brown, Director
Ingham Planning Pty Ltd