

7 Concord Road Planning Proposal Mediation

9 February 2021 via Teams

1 Mediation Report

1.1 Purpose, scope and objectives

The Department of Planning Industry and Environment (DPIE), on behalf of Sydney Eastern City Planning Panel, requested an independent mediation be undertaken to discuss differing technical expert opinions in relation to 7 Concord Road Planning Proposal and the sites potential flood constraints.

The purpose of this report is to document the independent mediation undertaken on 9 February 2021. The attendees were convened by DPIE and included

- David Petrie, Director Case Management, Planning Delivery Unit DPIE
- Jenny Rudolph, Director, Urban and Regional Planning, Elton
- Mark Tooker, Owner, Tooker and Associates
- Brett Phillips, Director, Cardno
- Scott Button, Lyall and Associates
- Rex Wightley, Chief Engineer, Places and Infrastructure Greater Sydney DPIE
- Melanie Schwecke, Specialist Planning Officer, Resilience Planning DPIE
- John Earls, City of Canada Bay Council
- Tim Green, Senior Planning Officer, Eastern Harbour City DPIE

- Denise Wilson, Director idplanning (Mediator)

It is noted that Council's original representative was not available to attend. Council's representative joined at 10.20 am and fully participated in the discussion.

As requested by the panel, the following questions were to be discussed

- What is a floodway?
- Is the site in a floodway?
- If so, does the proposal constitute a significant increase in development of the land?
- If it constitutes a significant increase in development, then would an engineering solution to flooding risk permit or allow approval despite the Ministerial direction?
- If so, is such an engineering solution desirable for operation, maintenance and community safety?

The mediation scope included those matters above and relevant context including the development proposal background and process to date.

1.2 Methodology

The following methodology was used:

1. Agenda issued to attendees
2. Briefing with DPIE to understand background and review of summary reports
3. Facilitated meeting held on 9 February from 10am – noon.
4. Draft report reviewed by DPIE and attendees
5. Report finalised and issued to DPIE

1.3 Mediation discussion

The purpose and scope of the mediation was outlined.

Attendees introduced themselves, provided a brief background to the issues to be discussed.

The mediation approach was outlined and agreed.

1. What is a floodway

- There was significant discussion about what is a floodway and how a floodway is determined. Both parties used similar categorisation of the elements of a floodway with a different interpretation of how to apply the elements to this planning proposal.
- The proponent and its experts do not consider there is a floodway. This is supported by the independent expert.
- The DPIE technical representatives and Canada Bay Council considered there was a floodway.

No agreement was reached on this matter.

2. Is the site in a floodway?

- There was significant discussion regarding the application of relevant methodology, case studies and the planning proposal including potential amendments to the lower podium level.
- The proponent does not think that the site includes a floodway and the definitions.
- Council, DPIE the independent peer reviewer agree that the site is in a floodway

No agreement was reached on this matter.

3. If so, does the proposal constitute a significant increase in development of the land?

- There was agreement that there is a significant increase in development however views in the application of the Ministerial direction differed.

Agreement was reached on this matter.

4. If it constitutes a significant increase in development, then would an engineering solution to flooding risk permit or allow approval despite the Ministerial direction?

- There was significant discussion about engineering solutions, the maintenance of options and case examples.
- The proponent considered that engineering solutions are available and are included in the proposal. The proponent will send examples to DPIE.
- The DPIE technical representatives and Canada Bay Council considered there was significant risk that the engineering solutions would not be maintained.

No agreement was reached on this matter.

5. If so, is such an engineering solution desirable for operation, maintenance and community safety?

- There was significant discussion about the assurance of maintenance of engineering solutions
- The proponent and its experts believed that assurance can be achieved and referred to case studies.
- The DPIE technical representatives and Canada Bay Council considered there was significant risk that maintenance would not occur.

No agreement was reached on this matter.

1.4 Mediation conclusion

The mediation enabled opinions and the reasons for those opinions to be discussed.

The mediation was concluded when it was agreed that no further discussion would enable agreement to be reached on the above matters.