

## 4.0 STATUTORY CONTEXT

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### 4.1 Part 3A of the Environmental Planning and Assessment Act, 1979

Part 3A of the Environmental Planning and Assessment Act commenced operation on 1 August 2005. Part 3A consolidates the assessment and approval regime of all major projects previously considered under Part 4 (Development Assessment) or Part 5 (Environmental Assessment) of the EP&A Act.

Under the provisions of Section 75B of the Act development may be declared to be a Major Project by virtue of a State Environmental Planning Policy or by order of the Minister published in the Government Gazette.

### 4.2 State Environmental Planning Policy (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 outlines the types of development which may be declared a Major Project for the purposes of Part 3A of the Act. Before a project can be declared by the SEPP as a Part 3A project the Minister must form the opinion that the proposed development is in accordance with one of the relevant schedules within the SEPP.

On 6 September 2005, the Minister for Planning endorsed a submission which recommended that the Channel Seven site be considered for inclusion within Schedule 3 of the Major Projects SEPP as a potential State significant site. The submission referred to the development proposed under the concept plan and advised the Minister that the Channel Seven redevelopment was of a kind described in Schedule 1, Group 5, Clause 13 of the SEPP, namely:

*“Development for the purpose of residential, commercial or retail projects with a capital investment value of more than \$50 million that the Minister determines are important in achieving State or regional planning objectives”.*

As the capital investment value of Channel Seven redevelopment is in the order of \$160 million and therefore exceeded the \$50 million criteria the Minister agreed that the development was a Major Project. In doing so the Minister satisfied himself that the development was important in achieving State or regional planning objectives on the basis the proposal would:

- contribute to renewal of existing areas under the Metropolitan Strategy;
- be accessible to regional transport corridors and access routes, and be a desirable residential location in close proximity to employment areas such as Macquarie Park;
- contribute to Metropolitan Strategy objectives of social mix by providing greater/better housing mix, dwelling size, and capacity to contribute to State strategies for affordable housing;
- be an efficient utilisation of land; and
- support major public infrastructure providing an opportunity to support major public infrastructure specifically the Chatswood-Epping rail link.

On 6 September 2005, the Minister also agreed to consider the Channel Seven site as a potential State significant site for listing in Schedule 3 of Major Projects SEPP. Following submission by the proponent of a study justifying the requested SEPP listing, the Department undertook the required exhibition and merit assessment of the rezoning. The Department also satisfied the requirements of Sections 37-39 of the EP & A Act concerning the making of State policies.

In early August 2006, State Environmental Planning Policy (Major Projects) 2006 (Amendment No. 6) was gazetted which amended the Major Projects SEPP by listing the Channel Seven site as a State significant site in Schedule 3 of that Policy. The gazetted provisions provide for residential and open space development, as well as broad development controls relating to density, height, dwelling yield and built form. Clause 5(1) of Schedule 1 provides that development on the site exceeding a capital investment value of \$5 million is subject to Part 3A of the EP & A Act and the Minister is the approval authority.

Pursuant to Section 36(1)(a) of the EP & A Act, the provisions within the Major Projects SEPP as they apply to the Channel Seven site prevail over the provisions of the Parramatta LEP. Accordingly, the proposed development is permissible and the Minister is the approval authority.

#### **4.3 Parramatta Local Environmental Plan 2001**

The Parramatta Local Environmental Plan 2001 (Parramatta LEP) zones the site Special Uses 5(a) (Television Station), which prohibits residential and open space development. However, as discussed above the proposal is permissible development by virtue of the provisions within the EP & A Act and Schedule 3 of the Major Projects SEPP. It is intended that the site specific provisions within Schedule 3 of the Major Projects SEPP will ultimately be transferred to a new Parramatta Comprehensive LEP.

#### **4.4 Director General's Environmental Assessment Requirements**

On 2 December 2005, the Director General issued environmental assessment requirements (DGRs) pursuant to Section 75F of the EP & A Act. The DGRs issued in respect of the Concept Plan specifically relate to:

- visual impact & urban design;
- transport and traffic impacts;
- drainage and flooding;
- heritage; and
- utilities & services.

In addition to these key issues, the proponent was also requested to address /demonstrate:

- statutory requirements;
- ecological sustainability / BASIX / SEDA compliance;
- fire and emergency access;
- subdivision; and
- landscaping.

#### **4.5 Other relevant legislation and environmental planning instruments**

Section 6 and **Appendix G** both set out the relevant consideration of legislation (including other Acts) and environmental planning instruments as required under Part 3A of the Act.

## 5.0 CONSULTATION AND ISSUES RAISED

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### 5.1 Community Consultation

The *Parklands Concept Plan* was publicly exhibited and notified in accordance with the EP & A Act and generally consistent with Parramatta City Council's Notification Policy. Section 75H(3) of the EP & A Act requires that after the Environmental Assessment has been accepted by the Director General, the Director General must, in accordance with any guidelines published in the Gazette, make the environmental assessment publicly available for at least 30 days. The Director General has not published any specific guidelines in relation to the public exhibition of the Concept Plan.

A "Test of Adequacy" was undertaken by the Department which determined that the matters contained in the DGRs were adequately addressed in the Environmental Assessment prior to public exhibition.

The process followed in terms of the public exhibition is broadly below:

- The application was placed on exhibition between 24 November 2005 and 23 December 2005.
- Copies of the Environmental Assessment and associated documents were available for inspection at the Department of Planning in Sydney and Council's Parramatta office. Copies were also available for inspection at the Epping Library.
- Advertisements were placed in three local newspapers – the Parramatta Advertiser, the Parramatta Sun and the Northern District Times Inner at the commencement of the exhibition period.
- Copies of the Environmental Assessment documents were forwarded to Parramatta City Council (as the local authority) and key relevant Government Departments including Department of Environment and Conservation, Roads and Traffic Authority, Sydney Water, Integral Energy, AGL, State Transit Authority, Department of Education and Training (i.e. as the responsible public authority for North Sydney TAFE), and the Department of Planning's Sydney West Region Branch.
- Details of the application were also forwarded to over 500 local residents within an appropriate radius of the site (i.e. landowners in the area generally bounded by Midson Road, Fred Spurway Reserve, Freeman Place, Lomax Street, Meredith Street, and Chelmsford Avenue) as well as special interest groups including Epping Civic Trust, Epping Chamber of Commerce, Eastwood Community Association, Loftus Park Community, Eastwood Brickworks Community Liaison Group, Mobbs Lane Bushcare Group, Edna Hunt Park Group, and Eastwood Chamber of Commerce.
- All recipients of the notification were also provided with a fact sheet setting out the proposal and Part 3A process.
- Details of the application were placed on the Department of Planning's and the proponent's websites ([www.parklandsepping.com.au](http://www.parklandsepping.com.au)).
- As a result of the consultation, a total of 208 submissions were received including two petitions.

### 5.2 Community Meetings

No community meetings were facilitated by either the Department or Council during the assessment process. It is understood, however, that the proponent has undertaken independent consultation processes with the local community, including organised tours of the site.

### 5.3 Consultation with Parramatta City Council and other Government Departments

The Department received written submissions from Parramatta City Council, Roads and Traffic Authority, Department of Education and Training, Department of Environment and Conservation, Sydney Buses, AGL, Integral Energy, Sydney Water, and the Department's Sydney West Region Branch. Copies of the submissions received from Council and the identified public authorities are

provided in their entirety at **Appendix E** whilst the proponent's response to submissions is at **Appendix D**.

Issues raised in the respective submissions are outlined below:

#### 5.3.1 Parramatta City Council

- Channel Seven site is being considered in isolation of Council's Residential Development Strategy (RDS) process;
- Council is better placed to consider the proposal given its understanding of local issues and community expectations;
- Concept Plan lacks urban design structure including definition of public and private spaces, continuity and enclosure, permeability and access, urban grain and landscaping;
- Proposed density and scale is out of context with adjoining Bungalow and Federation style housing and Brickworks site;
- proposed nine and 12 storey height limits are inappropriate for the location;
- a palette of material should form part of any future application;
- traffic report is based on 2001 figures and short period traffic surveys;
- traffic generation and traffic analysis should also include the proposed child care centre;
- provision of detailed design elements including kerb and gutter, bicycle/pedestrian pathways, bus bays, and underground services required;
- unclear as to whether child care centre will include on-site car parking;
- little detail provided concerning the hydrological, hydraulic and ecological parameters of the development;
- proponent needs to commit to all water management facilities and their design being of minimal maintenance having regard to management of mosquitoes, nuisance algae and pest species;
- comprehensive preliminary site assessment required with first project/development application demonstrating site is suitable for residential development or can be remediated;
- not listed as a heritage item, however Council's DCP requires sites greater than 5000m<sup>2</sup> to provide and implement an Arts and Cultural Plan as part of the overall development;
- Aboriginal heritage needs to be adequately addressed and therefore proponent should undertake heritage assessment;
- unclear as to whether open space areas will be dedicated to Council or retained under Community title;
- a wide vegetation corridor is required along Terry's Creek to improve infiltration and minimise sheet erosion;
- an Endangered Ecological Community is located on the Channel Seven site – all plant species should be sourced from local indigenous seed sources;
- Concept Plan does not adequately address the capacity of the local area to provide community services;
- little supporting information demonstrating size and configuration of the child care centre is likely to meet expected demand;
- proposal lacks the provision of communal on-site facilities such as play ground and meeting hall;
- existing bus routes are infrequent and unavailable at some times; and
- suitability of the site for traffic and pedestrians discussed in the Epping Traffic Management and Accessibility Plan should be adequately addressed.

#### 5.3.2 Roads and Traffic Authority

The planning considerations raised by the RTA are summarised below:

- proposed road works require approval of the RTA under Section 87 of the *Roads Act, 1993*;

- RTA will approve proposed traffic control signals subject to requirements:
  - right turn storage bay provided in Marsden Road;
  - design requirements are in accordance with the RTA specifications; and
  - developer is responsible for required property acquisition, public utility adjustments and/or relocation;
- developer investigates and pays for road noise & noise attenuation measures;
- local bus operators should be consulted; and
- local roads within site should be AMCORDER compliant

The RTA also made a number of non-planning related comments regarding administrative and certification processes and requirements. The proponent was forwarded a copy of the RTA's submission in its entirety and has considered these comments in addition to the planning considerations.

#### 5.3.3 *Department of Education and Training*

- development will be of minimal impact to Epping Annexe site (i.e.: North Sydney TAFE);
- construction will affect some sight lines site; and
- impacts of shadowing, stormwater and increased traffic not envisaged to affect to TAFE site.

#### 5.3.4 *Department of Environment and Conservation*

- draft Statement of Commitments should be more comprehensive and better address environmental issues and mitigation measures proposed by the environmental assessment;
- public transport, walking and cycling should be encouraged;
- notes and support's proponent's proposal to extend existing pedestrian connections and shared pedestrian/cycle networks;
- mode split may be appropriate;
- principles of DEC's draft Managing Urban Stormwater code should be adopted by the proposal;
- gross pollutant traps recommended;
- noise and vibration assessments to be carried out in accordance with recognised guidelines, best practice and Australian Standards;
- proponent should consider how site could be developed in accordance with ESD principles;
- supports retention of trees where practicable; and
- should Aboriginal objects be encountered during development, proponent should assess their nature and extent, and management measures.

#### 5.3.5 *Sydney Buses*

- State Transit operates bus routes 521, 541, 545, 550, and 624 within close proximity of the site;
- routes 521 and 541 travel along Mobbs Lane – State Transit should therefore be consulted in relation to any traffic changes made; and
- proposed roundabout on Mobbs Lane should be designed in consultation with State Transit requirements.

#### 5.3.6 *AGL*

- current capacity could be extended to supply the development site, dependant on commercial viability; and

#### 5.3.7 *Integral Energy*

- existing electrical infrastructure cannot support the proposed development;
- Channel Seven redevelopment is outside the normal supply catchment of the nearest Zone Substation (Dundas Zone Substation);

- an electrical supply constraint is emerging in Epping. Integral Energy is targeting West Epping for the establishment of a new Zone Substation however land acquisition is proving difficult; and
- Integral Energy has met with the proponent to discuss the requirement for a new Zone Substation.

#### 5.3.8 Sydney Water

- local amplifications to Sydney Water infrastructure may be required which will be assessed when specific developers apply to Sydney water for a Section 73 Compliance Certificate;
- Sydney Water has undertaken a feasibility investigation into servicing the proposed site which suggests amplifications could be accommodated; and
- Sydney Water requests it be consulted during subsequent project and/or development applications.

#### 5.3.9 Department of Planning – Sydney West Region

- Council has been granted planning reform funds to review and prepare its RDS. Whilst it is noted that the RDS delivery is some 3 years away, proponent should consult with Council in this regard;
- visual impact of the development beyond local area should be considered; and
- Department of Natural Resources should be consulted due to the proximity of the site to Terry's Creek.

### 5.4 Public Submissions

At the conclusion of the exhibition period on 23 December 2005 a total of 208 community submissions were received all generally objecting to the proposal. A summary of all submissions received is attached at **Appendix E**.

The key issues raised in submissions were:

- Density of development
- Building height and scale
- Traffic generation
- Flooding and stormwater management
- Open space
- Visual impacts

The proponent's response to the issues raised is at **Appendix D**. A discussion of the issues raised and their resolution (including consideration of the proponent's response) is in Section 6.

### 5.5 Independent Hearing and Assessment Panel

Section 75G of the Environmental Planning and Assessment Act provides that the Minister may constitute an independent panel to assess any aspect of a project. No panel was constituted for the purposes of Section 75G.