



8 February 2019

Advice on a Rezoning Review
Planning Proposal for Multiple sites in the Showground Station Precinct, Castle Hill
(RR_2018_THILL_003_00)

1. INTRODUCTION

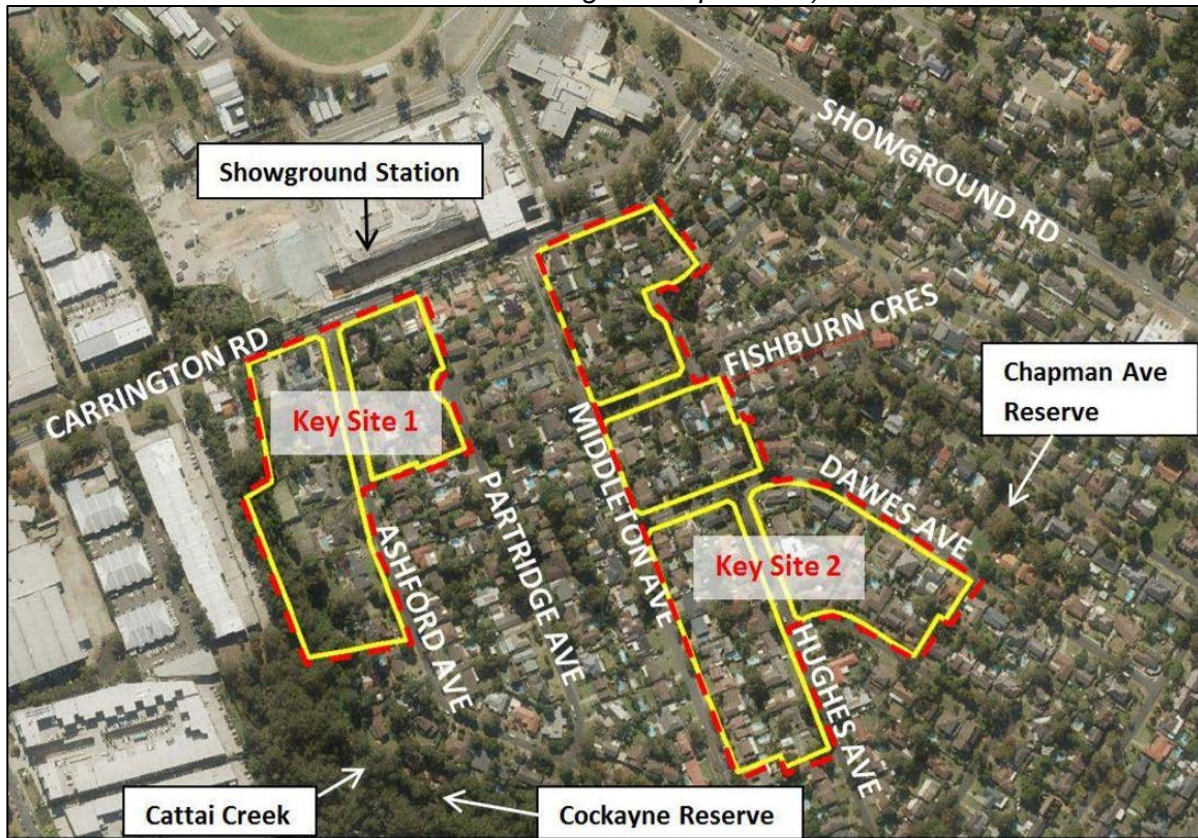
1. On 30 November 2018, the Independent Planning Commission NSW (**Commission**) received a request for advice from the NSW Department of Planning and Environment (**Department**) regarding a rezoning review for a planning proposal relation to planning controls applying to multiple sites in the Showground Station Precinct, Castle Hill.
2. Showground Corporation Pty Ltd (**Proponent**) has prepared a planning proposal that seeks to amend the planning controls in The Hills Local Environmental Plan 2012 (**HLEP 2012**) that apply to multiple sites in the Showground Station Precinct in Castle Hill.
3. The planning proposal was not supported by The Hills Shire Council (**Council**) and was subsequently referred to the Sydney Central City Planning Panel (**Planning Panel**) for review. The Planning Panel determined that the planning proposal did not demonstrate strategic merit and should not be submitted for a Gateway Determination.
4. Professor Mary O’Kane AC, Chair of the Commission, nominated Mr Peter Duncan AM (Chair) and Ms Carol Austin to constitute the Commission for the rezoning review.

1.1 Subject site

5. The planning proposal relates to two consolidated development sites (**Key Site 1** and **Key Site 2**) comprising 78 residential lots in the Showground Station Precinct in the suburb of Castle Hill in The Hills local government area (**LGA**).
6. The Showground Station Precinct is located approximately 10 kilometres (km) north of the Parramatta central business district and 13 km north-west of Macquarie Park. The consolidated sites comprise a combined total area of approximately 9.07 hectares (ha) and are located on the southern side of Carrington Road and opposite the future Showground Station (currently under construction as part of the Sydney Metro Northwest).
7. Key Site 1 comprises 17 individual residential lots bordered by Carrington Road, Ashford Avenue and Partridge Avenue. Cattai Creek is located along the rear boundaries of several properties that have frontage to Ashford Avenue. The site encompasses a total area of approximately 32,238 square metres (m²).
8. Key Site 2 comprises 61 individual residential lots bordered by Carrington Road, Middleton Avenue, Sexton Avenue, Fishburn Crescent, Dawes Avenue, Hughes Avenue and Cadman Crescent. The site encompasses a total area of approximately 58,462 m².
9. The location of Key Site 1 and Key Site 2 in context to the future Showground Station is

shown in Figure 1.

Figure 1: Showground Station Precinct, Castle Hill (Source: The Hills Shire Council report to Council meeting of 24 April 2018)



10. Planning controls that apply to the sites are identified under the HLEP 2012, as amended by *State Environmental Planning Policy Amendment (Showground Station Precinct) 2017 (Showground Station Precinct SEPP Amendment)*, which came into effect on 15 December 2017.
11. The Showground Station Precinct SEPP Amendment rezoned both sites from R2 Low Density Residential to R4 High Density Residential with part of Key Site 1 also rezoned from E4 Environmental Living to RE1 Public Recreation. The SEPP Amendment also introduced a new provision that ensures no more than 5,000 dwellings may be granted development consent within the broader Showground Station Precinct.
12. The maximum permissible building heights for both sites currently range from between 21 metres (m) to 40 m and have floor space ratio (FSR) provisions ranging from 1.6:1 to 2.1:1.

1.3 Summary of Planning Proposal

13. The planning proposal seeks to amend the HLEP 2012 by:
 - including a new key sites clause and amending the associated HLEP 2012 maps;
 - introducing a bonus incentive FSR and bonus incentive building height clause for these sites; and
 - introducing the requirement for the provision of community infrastructure and affordable housing if the bonus incentive FSR and building height is utilised.

14. A summary of the amendments to the existing planning controls under the HLEP 2012 is provided below:

| Key Site 1 | Existing Controls | Planning Proposal |
|-------------------------|---|----------------------------|
| Maximum building height | 6-12 storeys | 4-18 storeys |
| Floor space ratio | Base: 2.1:1, 1.9:1 & 1.6:1 Incentive: 3.1:1, 2.3.1 & 2.7:1 | Incentive: 2.09:1 & 4.55:1 |
| Dwelling yield | 2,203 (both Key Sites 1 and 2) | 1,140 |

| Key Site 2 | Existing Controls | Planning Proposal |
|---|---|---------------------------|
| Maximum building height | 6-12 storeys | 4-18 storeys |
| Floor space ratio | Base: 2.1:1, 1.9:1 & 1.6:1 Incentive: 3.1:1, 2.3.1 & 2.7:1 | Incentive: 2.61:1 & 4.8:1 |
| Dwelling yield | 2,203 (both Key Sites 1 and 2) | 1,900 |
| Total dwelling yield Key Sites 1 & 2 | 2,203 | 3,040 |

15. The planning proposal aims to facilitate higher density residential development with a potential yield of 3,040 dwellings which is approximately 837 more dwellings than what can be achieved under the existing planning controls.

16. A chronology of the history of the planning proposal is provided below:

- 8 November 2016 – the Proponent lodged the first version of the planning proposal (**original proposal**) with Council
- November 2017 – the Proponent lodged a revised version of the planning proposal (**planning proposal version 2**) with Council
- 15 December 2017 – the Showground Station Precinct SEPP Amendment came into effect
- April 2018 – the Proponent lodged a further revised version of the planning proposal (**planning proposal version 3**) with Council
- 24 April 2018 – Council resolved not to proceed with the planning proposal
- 30 May 2018 – the Proponent lodged a request to the Minister for Planning (**Minister**) for a rezoning review which was subsequently referred to the Department
- 20 June 2018 – the Department prepared a Briefing Report which was subsequently referred to the Planning Panel for its consideration
- 11 October 2018 – the Planning Panel determined that the planning proposal should not be submitted for a Gateway Determination as the proposal does not demonstrate strategic merit
- 30 November 2018 – the Commission received a request from the Department to review the planning proposal and advise on whether it should be submitted for a Gateway Determination.

17. The Commission has considered the April 2018 planning proposal (version 3) as part of its advice, which had also been considered by the Planning Panel in its determination. The Commission notes that the Applicant made changes to the planning proposal lodged with Council in November 2017 (version 2), as described in Council's letter dated 29 June 2018 to the Department. Council stated that the planning outcomes sought under both versions of the planning proposal are broadly the same. Furthermore, the Commission notes that while the April 2018 was accompanied by a revised voluntary planning agreement (**VPA**) offer from the Proponent, the VPA is a separate matter for consideration to the planning proposal and is not subject to the rezoning review.

2. SYDNEY CENTRAL CITY PLANNING PANEL REZONING REVIEW

18. In response to Council's decision not to proceed with the planning proposal, the Proponent lodged a request with the Minister for a rezoning review. The Department referred the planning proposal and its Briefing Report to the Planning Panel for its consideration and decision.
19. On 11 October 2018, the Planning Panel determined that the planning proposal fails to demonstrate strategic merit for the following reasons:
- *“the proposal seeks to amend controls that are less than 12 months old (the Showground Station Precinct SEPP Amendment) that were underpinned by comprehensive strategic planning studies undertaken by Council, the Department and other state agencies to determine an appropriate built form and density for the precinct;*
 - *the proposal may result in unplanned growth which may disadvantage other land owners in the precinct who may wish to develop their land in accordance with the current development standards, given a 5,000 dwelling cap for the precinct aligned with local and state infrastructure provisions;*
 - *the recently introduced planning controls provide certainty and are in the public interest;*
 - *the shortage of active open space in the precinct and wider area will be exacerbated by the proposed increase in dwellings; and*
 - *the proposed FSR and building height provisions will result in densities and a built form that are not envisaged for the location and may impact on solar access to adjoining sites, common open space areas and the public domain.”*

2.1 Referral of the Planning Proposal to the Commission

20. On 30 November 2018, the Commission received a request from the Department to undertake a further rezoning review and advise on whether the planning proposal should be submitted for a Gateway Determination.
21. The Department stated in its referral letter to the Commission that the Proponent has raised concerns with the Planning Panel's Code of Conduct in relation to conflicts of interest. The Department also stated that,
“To address any perception that the rezoning review has not been impartially considered, the Department has requested the Commission to undertake a further rezoning review and advise on whether the proposal should be submitted for a Gateway Determination.”
22. To assist the Commission in its review, the Department's referral included supporting information and reports that were considered by Council and the Planning Panel.

3. THE COMMISSION'S MEETINGS AND SITE INSPECTION

23. As part of Gateway Determination review, the Commission met with various parties and undertook a site inspection. A summary of the meetings and site inspection is set out below.
24. All meeting transcripts and site inspection notes were made available on the Commission's website on 8 January 2019.

3.1 Meeting with the Department

25. On 19 December 2018, the Commission met with the Department. Key points of discussion included the following:
- the Department provided an overview of the rezoning review process that has been established and the Department's role in this process;
 - the Department provided an overview of the community consultation process that was carried out as part of the rezoning of the Showground Station Precinct;
 - the Department advised that the 5,000 dwelling cap for the Showground Station Precinct was imposed to address infrastructure constraints, particularly the need for a new primary school in the local area; and
 - the Department reaffirmed its request for the Commission to consider the strategic merit of the planning proposal against the relevant strategic plans.

3.2 Meeting with Council

26. On 19 December 2018, the Commission met with Council officers. Key points of discussion included the following:
- Council provided an overview of its assessment of the planning proposal and advised that it considers the indicative future development of the precinct would result in buildings of excessive height, bulk and scale, overshadowing of public open space areas and inadequate interface with the adjacent Cattai Creek riparian corridor;
 - Council confirmed that the original planning proposal (version 1) was lodged with Council prior to the finalisation of the Showground Station Planned Precinct process that was carried out by the Department;
 - Council anticipates approximately 9,000 dwellings to be delivered in the Showground Station Precinct and advised that there are regional infrastructure issues that need to be addressed to cater for the increase in population, including the provision of a new primary school which is the responsibility of the State Government;
 - Council advised that until the regional infrastructure issues are resolved, a maximum cap of 5,000 new dwellings for the Showground Station Precinct is specified in the HLEP 2012;
 - Council confirmed it had received four major development applications since the Showground Station Precinct was rezoned with a combined yield of over 930 dwellings and has undertaken a further six pre-lodgement meetings for other sites with a combined yield of over 1,000 dwellings;
 - Council considered that the recent rezoning of the Showground Station Precinct has facilitated the recent development activity and therefore further changes to the planning controls are not warranted at this time;
 - Council advised that a contributions plan and development control plan (**DCP**) have been finalised since the Showground Station Precinct was rezoned. The contributions plan addresses local infrastructure requirements under the essential works list including local road improvements and public open space provisions; and
 - Council advised it would like to see the recently implemented development controls within the precinct remain for at least a five-year period to provide the opportunity for development to occur and work through any issues relating to built form and urban design.

3.3 Meeting with the Proponent

27. On 19 December 2018, the Commission met with the Proponent. Key points of discussion included the following:

- the Proponent provided a presentation on the planning proposal and advised on the project background to date;
- the Proponent considers the planning proposal demonstrates strategic and site-specific merit that would result in a better outcome for the site than what the development controls currently provide for;
- the Proponent confirmed the planning proposal includes affordable housing provisions including a percentage of dwellings to be rented at 20 percent below market rate for a period of up to five years;
- the Proponent considers that the planning proposal provides a unique opportunity to achieve urban design outcomes that would otherwise be unattainable without site amalgamation including improved street alignments and consolidation of public open space areas. Further, the Proponent considered the flexibility provided by site amalgamation enhances opportunities to achieve design excellence, to adhere to the Apartment Design Guide and provide FSRs that are better aligned with the existing controls under the HLEP 2012;
- the Proponent advised that the planning proposal would enhance the ability to deliver new public spaces including through-site links to Cattai Creek Reserve, the creation of a 5,000 m² park at the corner of Middleton Avenue and Dawes Avenue and widening of the Middleton Avenue to create a landscaped boulevard;
- the Proponent advised that the current development controls under the HLEP 2012 do not allow for the delivery of a better road network, improved urban design and additional public open space and other community infrastructure that is offered as part of the planning proposal and accompanying VPA;
- the Proponent considers that under the current LEP and DCP controls it is not possible to achieve the dwelling yield envisaged for the precinct; and
- the Proponent confirmed the planning proposal does not seek to change the current land use and instead seeks to amend the development controls to provide improved outcomes for the precinct.

3.4 Site inspection

28. On 19 December 2018, the Commission conducted an inspection of the site and surrounding Showground Station Precinct. The site inspection provided the opportunity to view the site and the surrounding residential locality.

4. ADDITIONAL INFORMATION

29. On 19 December 2018, the Commission requested additional information from Council regarding recent development applications that have been lodged within the Showground Station Precinct.

30. This information was provided to the Commission on 3 January 2019 and was made publicly available on 7 January 2019.

31. On 19 December 2018, the Commission requested additional information from the Department including:

- advice on the status and timing of a new school in the Showground Station Precinct;
- whether the provision of a new school will enable the current 5,000 dwelling cap to be increased to 9,000 dwellings; and
- advice on any consultations with the Proponent on the planning proposal prior to the making of the HLEP 2012, particularly regarding site amalgamation and its potential to contribute to improved urban design outcomes and public benefits.

32. This information was provided to the Commission on 8 January 2019 and was made publicly available on 9 January 2019.
33. On 10 January 2019, the Commission requested additional information from the Proponent including clarification of the affordable housing provisions proposed as part of the planning proposal and the estimated net present value of the proposed affordable housing rental subsidy.
34. This information was provided to the Commission on 15 January 2019 and was made publicly available on the same day.
35. On 31 January 2019 and 6 February, the Commission sought clarification from the Department regarding the version of the planning proposal that was referred to the Planning Panel for its review.
36. This information was provided to the Commission on 1 February 2019 with further clarification provided on the 5 February and 6 February 2019. This information was made publicly available on 8 February 2019.
37. On 4 February 2019, the Commission sought clarification from Council regarding the version of the planning proposal that was referred to in its briefing with the Commission on 19 December 2018.
38. This information was provided to the Commission on 4 February 2019 and was made publicly available on 7 February 2019.
39. All additional information provided to the Commission has been made available on the Commission's website.

5. THE COMMISSION'S CONSIDERATION

40. In reviewing the planning proposal, the Commission has carefully considered the following material (the **Material**):
 - Planning Proposal for the Showground Station Precinct prepared by APP and dated April 2018;
 - Council report dated 24 April 2018;
 - Submission requesting a rezoning review prepared by APP and dated 30 May 2018;
 - Rezoning Review – Briefing Report prepared by the Department and dated 20 June 2018;
 - Council's letter to the Department in reference to the Proponent's request for a rezoning review and dated 29 June 2018;
 - Rezoning Review – Record of Decision prepared by the Planning Panel and dated 11 October 2018;
 - A Guide to Preparing Local Environmental Plans prepared by the Department and dated December 2018;
 - Additional information received from Council on 3 January 2019 (refer paragraph 29);
 - Additional information received from the Department on 8 January 2019 (refer paragraph 31);
 - Additional information received from the Proponent on 15 January 2019 (refer paragraph 33);

- Additional information received from the Department on 1 February 2019 and 5 February 2019 (refer paragraph 35); and
- Additional information received from Council on 4 February 2019 (refer paragraph 37).

41. In providing advice on the rezoning review, the Commission has considered the strategic merit of the planning proposal.

5.1 Strategic Context

Key Strategic Planning Documents

42. The Commission has considered the following key strategic planning documents in reviewing the planning proposal:

5.1.1 Greater Sydney Region Plan

43. The Greater Sydney Region Plan (**GSR Plan**) integrates land use, transport and infrastructure planning across Greater Sydney. The Plan aims to create a 30-minute city where jobs, services and quality public spaces are in easy reach of people's homes. The GSR Plan identifies Castle Hill as being located in the Greater Parramatta metropolitan centre.

44. The GSR Plan acknowledges the Sydney Metro Northwest rail link will improve the growth prospects for the north-west of the city by increasing access to jobs.

45. The GSR Plan supports additional housing supply and a range of housing types in the right locations to create more liveable neighbourhoods and support Greater Sydney's growing population.

5.1.2 Central City District Plan

46. The Central City District Plan (**District Plan**) is a 20-year plan to manage growth in the context of economic, social and environmental matters. The District Plan states that it is to guide the decisions of State agencies and informs the private sector and the wider community of approaches to manage growth and change.

47. Planning Priority C1 – *Planning for a city supported by infrastructure* aims to align land use and infrastructure planning that maximises the use of existing infrastructure and for the provision of new infrastructure to be planned and delivered to meet the future needs of the district.

48. Planning Priority C3 – *Providing services and social infrastructure to meet people's changing needs* requires the integrated and targeted delivery of services and infrastructure to support growth and respond to the different needs of population groups. This includes the delivery of schools, health and aged care services, libraries, community and cultural facilities, parks and recreational facilities.

49. Planning Priority C5 – *Providing housing supply, choice and affordability, with access to jobs, services and public transport* aims to provide capacity for new housing that will benefit from existing and planned infrastructure. The District Plan sets out five-year housing supply targets that reflect the delivery potential under current planning controls,

including a minimum target of 8,550 additional dwellings for the Hills LGA between 2016 and 2021.

5.1.3 North West Rail Link Corridor Strategy

50. The North West Rail Link Corridor Strategy (**NWRL Corridor Strategy**) has been prepared to guide development over the next 20-25 years and aims to engage the community, land owners, state and local government agencies to identify future visions for precincts surrounding the Sydney Metro Northwest stations and to establish frameworks for managing future land use change.
51. The NWRL Corridor Strategy identifies the future Showground Station as providing the catalyst for the development of the surrounding area as a mixed-use centre with strong public transport links to the city and other centres throughout the north-west region.
52. The Showground Station precinct is identified as providing opportunities for increased employment and housing capacities within walking/cycling distance of the future Showground Station, while ensuring the local amenity, open spaces and natural environment are protected.

Key Matters for Consideration

53. The Commission's key matters for consideration in undertaking the rezoning review included the recent Showground Station Precinct SEPP Amendment and subsequent changes to the planning controls under the HLEP 2012, and infrastructure.

5.1.4 Showground Station Precinct SEPP Amendment

54. The Showground Station Precinct SEPP Amendment to the HLEP 2012 came into effect on 15 December 2017. The SEPP Amendment aims to deliver the strategic vision for the Showground Priority Precinct that is identified in the NWRL Corridor Strategy. The SEPP Amendment involved:
 - the rezoning of land to enable higher residential densities;
 - increasing the maximum building height provisions;
 - introducing a base FSR and incentive FSR provisions;
 - amendments to the minimum lot size provisions; and
 - introducing a limit on the number of new dwellings in the precinct.
55. The gazettal of the Showground Station Precinct SEPP Amendment followed strategic planning work that was undertaken by the Department in consultation with Council, the community and various State Government agencies. The planning proposal seeks to further amend the precinct's planning controls to introduce further residential density, increased building heights and increased FSR.
56. In its letter dated 29 June 2018, Council considered that the planning proposal is not supported by a change in circumstances to warrant the proposed amendments to the existing planning controls. Further, Council considered that:

“the planning proposal has the potential to weaken the planning controls recently introduced for the Showground Station Precinct which were initiated in response to the careful examination of local land and infrastructure capabilities and constraints.”
57. On 24 April 2018, Council formally resolved at its Ordinary Council meeting not to proceed with the planning proposal on the grounds that the precinct had only recently

been rezoned and that the proposed density and FSR would result in a built form outcome that is significantly different to what is envisaged for the precinct and without strategic justification.

58. The Planning Panel's rezoning review decision, dated 11 October 2018, also determined that there had been no change in circumstance to warrant such changes to the existing planning controls, which were less than 12 months old at the time of consideration.
59. A key factor in determining whether a planning proposal should proceed to a Gateway Determination is whether the proposal demonstrates strategic merit. The Commission notes that under the Department's *Guide to Preparing Local Environmental Plans (2018) (Guide to Preparing LEPs)* the strategic merit test requires consideration of:
- the relevant district plan or precinct plans that apply to the site;
 - any relevant local strategy that has been endorsed by the Department; and
 - any change in circumstance such as the investment in new infrastructure or changing demographic trends that have not been recognized by the existing planning controls.

Further to the above, the Guide to Preparing LEPs notes that:

"there will be a presumption against a rezoning review request that seeks to amend LEP controls that are less than 5 years old, unless the proposal clearly meets the strategic merit test".

60. The Commission has considered the strategic merit of the planning proposal in accordance with the considerations listed at paragraph 59 and notes that while there is no relevant local strategy that has been endorsed by the Department, there was significant strategic planning work undertaken by the Department in undertaking the Showground Station SEPP Amendment.
61. The Commission accepts the positions of Council and the Planning Panel in paragraphs 56 and 58 above in that there has been no change in circumstance to warrant the proposed changes to the planning controls that were recently introduced under the Showground Station Precinct SEPP Amendment.
62. The Commission considers that the further amendments proposed to the planning controls, which were only recently amended, would undermine the integrity of the strategic planning process and notes the decision made by the Planning Panel that: *"The controls were underpinned by comprehensive strategic planning studies undertaken by Council, the Department of Planning and Environment and other state agencies to determine the appropriate built form and density in the Showground Station Precinct needed to support the Sydney Metro Northwest project."*
63. On balance, the Commission finds that the planning proposal does not meet the strategic merit test under the Guide to Preparing LEPs as there has been no change in circumstance to support a contrary decision to that made by the Planning Panel for the reasons outlined in paragraph 61 above.

5.1.5 Infrastructure

64. The planning proposal would facilitate a yield of up to 3,040 dwellings, increasing the precinct's planned residential yield by 837 dwellings.
65. The Commission notes that clause 9.8 of the HLEP 2012 was introduced as part of the Showground Station Precinct SEPP Amendment to limit the number of new dwellings

within the precinct to 5,000 due to infrastructure constraints primarily relating to schools and active open space.

66. In its letter dated 29 June 2018, Council considered that the planning proposal does not take into account the cumulative impact on infrastructure within the broader Showground Station Precinct and would increase pressure on the surrounding road network, schools, community facilities and playing fields.
67. Council also considered there to be adequate capacity across the broader LGA to achieve the housing targets specified under the District Plan and that the additional yield that would be generated under the planning proposal is not required to meet the specified housing targets.
68. The Commission notes the Planning Panel has determined that the planning proposal fails to demonstrate strategic merit for the reasons outlined in paragraph 19. The Commission understands that the planning proposal would not change the 5,000-dwelling cap for the Showground Station Precinct but notes that it would account for up to 60 per cent of the total number of new dwellings permissible in the broader precinct. The Commission accepts the Planning Panel's conclusion in paragraph 19 that the planning proposal has the potential disadvantage other land owners in the precinct who have lodged development applications with Council that have been prepared in accordance with the development controls introduced under Showground Station Precinct SEPP Amendment.

6. THE COMMISSION'S ADVICE

69. The Commission has undertaken a further rezoning review, as requested by the Minister's delegate, which is set out in paragraph 20, and provides the following advice on whether the proposal should be submitted for a Gateway Determination.
70. The Commission has reviewed and considered the Material before it set out in paragraph 40, met with the Department, Council and the Proponent and carried out a site inspection.
71. Based on the Material, the Commission finds that:
 - there has been no change in circumstances that would warrant further amendments to the recently amended planning controls under the Showground Station Precinct SEPP Amendment, for the reasons set out in paragraph 61;
 - further amendments to the recently amended planning controls without any change in circumstance would undermine the integrity of the strategic planning process and the planning investigation work carried out by the Department in consultation with Council and State agencies, for the reasons set out in paragraph 62;
 - the planning proposal does not provide sufficient strategic merit to support a contrary decision to that made by the Planning Panel, for the reasons set out in paragraph 63; and
 - the planning proposal has the potential to disadvantage other land owners in the precinct who have lodged development applications with Council that have been prepared in accordance with the development controls introduced under Showground Station Precinct SEPP Amendment, for the reason set out at paragraph 68.

72. For the reasons set out in paragraph 71, the Commission finds that the planning proposal should not proceed to a Gateway Determination.



Peter Duncan AM (Chair)
Member of the Commission



Carol Austin
Member of the Commission