

AGENDA



INNER WEST COUNCIL

COUNCIL MEETING

TUESDAY 12 FEBRUARY 2019

6.30pm

Live Streaming of Council Meeting

In the spirit of open, accessible and transparent government, this meeting of the Inner West Council is being streamed live on Council's website. By speaking at a Council meeting, members of the public agree to being recorded and must ensure their speech to the Council is respectful and use appropriate language. A person who uses defamatory, discriminatory or offensive language may be exposed to liability for which Council takes no responsibility. Any part of this meeting that is held in closed session will not be recorded

Pre-Registration to Speak at Council Meetings

Members of the public must register by 2pm of the day of the Meeting to speak at Council Meetings. If you wish to register to speak please fill in a [Register to Speak Form](#), available from the Inner West Council website, including:

- your name;
- contact details;
- item on the Agenda you wish to speak to; and
- whether you are for or against the recommendation in the agenda.

Are there any rules for speaking at a Council Meeting?

The following rules apply when addressing a Council meeting:

- keep your address to the point, the time allowed for each speaker is limited to three minutes. This time limit applies, no matter how many items are addressed by the speaker;
- when addressing the Meeting you must speak to the Chairperson;
- the Chairperson may curtail public participation where the information being presented is considered repetitive or irrelevant; and
- only 3 speakers for and against an Agenda Item are allowed.

What happens after I submit the form?

Your request will then be added to a list that is shown to the Chairperson on the night of the meeting.

Where Items are deferred, Council reserves the right to defer speakers until that Item is heard on the next occasion.

Accessibility

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Persons in the public gallery are advised that under the Local Government Act 1993, a person may NOT tape record a Council meeting without the permission of Council.

Any persons found recording without authority will be expelled from the meeting.

"Record" includes the use of any form of audio, video and still camera equipment or mobile phone capable of recording speech.

An audio recording of this meeting will be taken for the purpose of verifying the accuracy of the minutes.

PRECIS

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3	Notice of Webcasting	
4	Disclosures of Interest (Section 451 of the Local Government Act and Council's Code of Conduct)	
5	Moment of Quiet Contemplation	
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7 **Mayoral Minutes**

Nil at the time of printing.

8 **Condolence Motions**

Nil at the time of printing.

9 **Staff Reports**

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11 Reports with Confidential Information

Reports appearing in this section of the Business Paper are confidential in their entirety or contain confidential information in attachments.

The confidential information has been circulated separately.

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Minutes of Ordinary Council Meeting held on 11 December 2018**Meeting commenced at 6.33 pm****Present:**

Darcy Byrne	Mayor
Victor Macri	Deputy Mayor
Marghanita Da Cruz	Councillor
Mark Drury	Councillor
Lucille McKenna OAM	Councillor
Colin Hesse	Councillor
Sam Iskandar	Councillor
Tom Kiat	Councillor
Pauline Lockie	Councillor
Julie Passas	Councillor
Rochelle Porteous	Councillor (6.38pm)
Vittoria Raciti	Councillor
John Stamolis	Councillor
Louise Steer	Councillor
Anna York	Councillor
Rik Hart	General Manager
Elizabeth Richardson	Deputy General Manager Assets and Environment
Michael Tzimoulas	Deputy General Manager Chief Financial and Administration Officer
John Warburton	Deputy General Manager Community and Engagement
Nellette Kettle	Group Manager Civic and Executive Support, Integration, Customer Service and Business Excellence
David Birds	Group Manager Strategic Planning
Cathy Edwards-Davis	Group Manager Trees, Parks and Sports Fields
Erla Ronan	Group Manager Community Services and Culture
Simon Watts	Social and Cultural Planning Manager,
Deborah Lennis	Aboriginal Programs Supervisor
Jan Orton	Group Manager Environment and Sustainability
Adam Vine	Executive Manager, Enterprise Risk
Brooke Martin	Group Manager Properties, Major Building Projects and Facilities
Harjeet Atwal	Group Manager Development Assessment & Regulatory Services
Ian Naylor	Manager Civic and Executive Support
Katherine Paixao	Business Paper Coordinator

APOLOGIES:

Nil

DISCLOSURES OF INTERESTS:

Nil

CONFIRMATION OF MINUTES:**Motion: (Drury/McKenna OAM)**

THAT the Minutes of the Council Meeting held on Tuesday, 27 November 2018 be confirmed as a correct record.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Raciti, Stamolis, Steer and York

Against Motion: Nil

Condolence Motion – Marcia Tydeman

Councillor Passas advised the meeting of the passing of long term Ashfield resident Marcia Tydeman and requested that Council acknowledge her passing.

Motion: (Passas/Byrne)

THAT Council send flowers to the funeral of Marcia Tydwman on Thursday 13 December 2018.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Raciti, Stamolis, Steer and York

Against Motion: Nil

Councillor Porteous entered the Meeting at 6:38 pm.

C1218(1) Item 49 Mayoral Minute: Reigniting the Case for Trackless Trams

Motion: (Byrne)

THAT Council:

- 1. Explore opportunities for Professor Peter Newman to include the Parramatta Road Corridor as a case study for his current paper: Delivering Integrated Transit, Land Development and Finance - A Guide and Manual with Application to Trackless Trams, and that this is to include the consideration of the resources required to implement such a scheme;**
- 2. Approach other councils and key stakeholders along the Parramatta Road Corridor between the City and Strathfield, including Sydney University and Royal Prince Alfred Hospital, to support the Trackless Tram project for the Parramatta Road Corridor; and**
- 3. Convene a forum with key stakeholders with a view to encouraging the State Government to pursue a preliminary feasibility study to examine suitability of applying Trackless Tram technology to the Parramatta Road Corridor and other locations in the metropolitan area, to assist in facilitating its revitalisation.**

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Raciti, Stamolis, Steer and York

Against Motion: Cr Porteous

C1218(1) Item 50 Mayoral Minute: Rushed WestConnex Stage 3B Contract

Motion: (Byrne)

THAT Council write to the NSW Government requesting that it does not enter into any contract for the construction of WestConnex Stage 3B until after next year's State Election.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

Deferral of Items to 12 February 2019 Council Meeting**Motion: (Byrne/Stamolis)**

THAT Council defer Items 1, 2, 3, 8, 9, 11 and 26 until the Ordinary Council meeting on the 12 February 2019.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

Suspension of Standing Orders**Motion: (Byrne/Macri)**

THAT Council Suspend Standing Orders to hear from the registered speakers for Items 12, 14, 15, 29, 32, 36, 39 and 46.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

Councillor Passas left the Meeting at 7:02 pm.
Councillor Passas returned to the Meeting at 7:17 pm.
Councillor York left the Meeting at 7:25 pm.

Suspension of Standing Orders**Motion: (Byrne/Lockie)**

THAT Council further Suspend Standing Orders to deal with urgent priority Items 6, 10, 13, 15, 17 and 21.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis and Steer

Against Motion: Nil

Absent: Cr York

Councillor Passas left the Meeting at 7:36 pm.
Councillor York returned to the Meeting at 7:43 pm.
Councillor Passas returned to the Meeting at 7:44 pm.
Councillor Macri left the Meeting at 7:55 pm.

C1218(1) Item 6 Live Music Action Plan**Motion: (Byrne/York)****THAT Council:**

- 1. Adopt the Live Music Action Plan;**
- 2. Amend the definition of the Live Music Action Plan to include all live performance;**
- 3. Promote the establishment of the Live Music Planning Liaison Service to all identified live music and potential live music venues and report back in March on uptake of the service;**
- 4. Defer the consideration of the Live Music Grant guidelines pending information about the uptake of the Planning Liaison Service;**
- 5. Refer both the Live Music Action Plan and the Live Music Grants Program to Council's Arts and Culture Strategic Reference Group for advice about their effectiveness;**
- 6. Officers prepare a further report assessing the NSW Parliamentary Inquiry recommendations in reference to their applicability to the Inner West Local Government Area;**
- 7. Officers table at the first March Council meeting the components of the City of Sydney's Late Night DCP (currently on public exhibition) which relate to King Street Precinct to allow Council to consider how they can be harmonised. This report should also outline how Council's adopted position of initiating exempt or complying development for small scale music and arts uses in King Street and Enmore Road can be progressed;**
- 8. Write to the NSW Government and Opposition seeking a meeting to discuss locating the Live Music Hub, proposed in the Inquiry recommendations, in the Inner West Municipality;**
- 9. Seek to address the need for loading zones for musicians, raised in the Inquiry Recommendations, in Council's revision of the LEP and DCP;**
- 10. Note the Live Music Grant Program seeks to activate more public and commercial spaces in the Inner West for the performance and enjoyment of Live Music;**
- 11. Note the Inner West is home to approximately 60 venues that currently offer live music in some form. There is the opportunity for expansion of live music in the Inner West amongst the existing 100 pubs and clubs, 200 small bars and breweries, 600 cafes and restaurants and 150 art galleries and other spaces;**
- 12. In order to activate these spaces for live music as well as providing advice and support through the Live Music Planning Liaison Service, should consider establishing a grants/loans system to assist with minor to moderate building works in venues which would enable them to offer live music; and**
- 13. Receive a further report to the first March Council Meeting outlining how small to medium grants or loans can be made available to Inner West venue owners/tenants to undertake building works which will enable live music to be offered at their venue.**

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Cr Passas

Absent: Cr Macri

C1218(1) Item 10 Open Inner West 2018/19 Program for Endorsement

Motion: (Lockie/Byrne)

THAT Council:

1. Receive and note the report;
2. Council note evaluations have been received for 2017-18 programs;
3. Council note the festival dates for 2018-19; and
4. Council endorse funding the 19 applications as outlined in Attachment 1. Successful Grant Recipients 2018-19, totalling \$59,994 for the OIW 2018-19 grants Program.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

Absent: Cr Macri

Councillor Macri returned to the Meeting at 8:05 pm.

Urgency Motion - Notice of Motion to Rescind: Yeo Park and Gough Reserve Plan of Management

Councillor Drury requested that the meeting consider an Urgency Motion with regards to a Notice of Motion to Rescind: Yeo Park and Gough Reserve Plan of Management

Motion: (Drury/Macri)

THAT the motion be considered as a matter of urgency.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

The Mayor declared this matter was urgent.

Motion: (Drury/Macri)

THAT Council rescind Council's resolution of 9 October 2018, C1018(1) Item 3 Yeo Park and Gough Reserve Plan of Management.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

**C1218(1) Item 13 Yeo Park and Gough Reserve Plan of Management -
Administration Error**

Motion: (Drury/Macri)

THAT:

- 1. Council adopt the Yeo Park and Gough Reserve Plan of Management dated September 2018 (Attachment 2);**
- 2. Council, as land manager of Yeo Park (D 500212) Reserve Trust, refers the Plan of Management dated 29 November 2018 as it relates to Yeo Park (Crown Reserve) to the Minister of Primary Industries, Land and Water for consideration for adoption;**
- 3. Council undertake independent cost analysis of the proposed park improvements, notably a future restoration of the historic Yeo Park Bandstand/Rotunda and report these costs back to Council for consideration in the ten year capital works plan;**
- 4. To ensure continued community access and enjoyment of the park as a whole, Council negotiate a formal license agreement with the NSW Department of Education for community access to the Department of Education land within the park; and**
- 5. The following words be inserted into the history section of the Yeo Park Plan of management:**

“The area known today as Ashfield and the undulating countryside around Yeo Park was of high significance to the Aboriginal peoples. This area was often used to bring family units together for celebrations and gatherings to connect to country and community by sharing stories and teaching of lore.”

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

Councillor Passas left the Meeting at 8:11 pm.

Councillor Passas returned to the Meeting at 8:15 pm.

**C1218(1) Item 15 Balmain Leagues Club Precinct Development Control Plan
Amendment**

Motion: (Byrne/Stamolis)

THAT:

- 1. Council endorse the preparation of amended development control plan provisions for the Balmain Leagues Club Precinct under Leichhardt Development Control Plan 2000 that reflect the recommendations of the urban design and heritage analysis undertaken by Conybeare Morrison (CM+) and the peer review undertaken by SGS Economics & Planning;**
- 2. Once prepared, the amended development control plan be exhibited for a minimum of 28 days in accordance with the *Environmental Planning and Assessment Regulation 2000* in early 2019;**

3. Following exhibition, a report on the revised development control plan and any submissions be presented to the Council for consideration;
4. Council note the information provided by the Administrator of the Balmain Leagues Club about the proposed Deed of Company Arrangement for the merger of the Club and seek final confirmation of the outcome of this process prior to the DCP amendment being reported back to Council for adoption;
5. Council reaffirm its opposition to the compulsory acquisition of the site by the NSW Government for construction of the proposed Western Harbour Tunnel; and
6. Council reiterate its support for the planning proposal developed by Leichhardt Council in 2015 which reduced the FSR to 1:9:1 and reduced the height to 6-8 storeys as the appropriate intensity of development on this site.

Motion Carried

For Motion: Crs Byrne, Drury, Iskandar, Lockie, Macri, McKenna OAM, Passas, Raciti, Stamolis and York

Against Motion: Crs Da Cruz, Hesse, Kiat, Porteous and Steer

Foreshadowed Motion: (Porteous)

THAT Council:

1. Reiterate its support for the planning proposal developed by Leichhardt Council in 2015 which reduced the FSR to 1:9:1 and reduced the height to 6-8 storeys as the appropriate intensity of development on this site;
2. Notes that the current 3:88:1 development application is an over development of this site and no development of an amendment DCP should proceed unless the FSR is significantly reduced: and
3. Notes further that the current development application presents excessive height with the 12 storey towers; excessive retail development particularly in terms of the 2,888 sqm supermarket which will impact catastrophically on the local retail shopping high streets in Rozelle and Balmain and will generate unacceptable traffic congestion.

This Foreshadowed Motion Lapsed.

**C1218(1) Item 17 Amendment to Inner West DCP 2016 for 2-6 Cavill Avenue
Ashfield**

Motion: (Drury/Macri)

THAT Council adopt the site specific amendments for 2-6 Cavill Avenue, Ashfield to the “Inner West Comprehensive Development Control Plan 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill” (DCP) as recommended in the report to Council of 24 July 2018 on the Planning Proposal and DCP for the site, and:

- a) Carry out the procedures under the Environmental Planning and Assessment Act 1979 for making the amendment to the Development Control Plan; and

- b) Place an advertisement in the local newspaper advising that Council has adopted the amendments to the Development Control Plan, which will come into force in the event and at the time Planning Proposal PP_2017_IWEST_012_00 LEP amendment for 2-6 Cavill Avenue Ashfield is published on the Legislation website.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

Councillor Raciti left the Meeting at 8:26 pm.

C1218(1) Item 21 Proposed Change to the Boarding House Provisions under State Environmental Planning Policy (Affordable Rental Housing) 2009 to Limit Boarding Houses in the R2 Low Density Residential zone to a Maximum of 12 Rooms

Motion: (Macri/Kiat)

THAT:

1. The report be received and noted; and
2. The Department of Planning and Environment be forwarded a copy of this report as Council's response to the consultation and be advised that:
 - i. For the reasons detailed in the report, to ensure that the size and intensity of boarding house developments are compatible with the R2 Low Density Residential zone and to ensure that the design of all new boarding houses is compatible with the scale and character of the surrounding local area, the limit on the capacity of boarding houses on such zoned land should be based on the maximum number of residents rather than the maximum number of boarding rooms.
 - ii. As detailed in the report the boarding house provisions in the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) do not apply to all land zoned *R2 Low Density Residential* zone under the Standard Instrument. To address the issues identified in the report and to ensure that a limit on the size of boarding houses applies to all land zoned *R2 Low Density Residential* under the Standard Instrument—Principal Local Environmental Plan regardless as to whether or not that land is within an “*accessible area*”, *Clause 5.4 Controls relating to miscellaneous permissible uses* should be amended to include an additional subclause reading as follows:

“(11) Boarding houses on certain zoned land

If development for the purposes of a boarding house is permitted under this Plan, the maximum capacity of the boarding house must not exceed 12 lodgers if the boarding house is on land zoned R2 Low Density Residential.”
 - iii. The ARHSEPP provisions relating to boarding houses should be reviewed in a holistic manner rather than in the ad hoc approach proposed to ensure that a genuinely affordable housing product results.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Stamolis, Steer and York

Against Motion: Nil

Absent: Cr Raciti

Resumption of Standing Orders**Motion: (Byrne/Passas)**

THAT Standing Orders be Resumed.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Stamolis, Steer and York

Against Motion: Nil

Absent: Cr Raciti

Councillor Raciti returned to the Meeting at 8:41 pm.

C1218(1) Item 4 Aboriginal Frontier War Memorial**Motion: (Byrne/Iskandar)****THAT Council:**

1. **Endorse the recommendations from the Aboriginal community to reflect the story of the Aboriginal peoples survival through the erection of a series of monuments;**
2. **Receive a report from staff detailing how the recommendations can be implemented including scalable budgetary options that could be considered as part of council's 19/20 budget process;**
3. **Other prestigious locations in the Marrickville area be considered for the installation of, in consultation with the Aboriginal and Torres Strait Islander working group and Aboriginal Lands Council through the process; and**
4. **Receive a further report into the process of creating and installing a monument and other ways in which the Inner West Council can reflect the story of the Aboriginal peoples' survival.**

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Porteous, Stamolis, Steer and York

Against Motion: Crs Passas and Raciti

Councillor Passas left the Meeting at 8:58 pm.

Councillor Passas returned to the Meeting at 9:08 pm.

C1218(1) Item 5 Aboriginal Names for Inner West Council Wards**Motion: (Drury/McKenna OAM)****THAT Council:**

1. **Notes the staff process of Aboriginal community engagement; and**
2. **Adopts the recommendations of the Aboriginal community in Naming of the Council Wards as follows:**

**Ashfield Ward – Djarrawunang (Magpie)
Balmain Ward – Baludarri (Leather Jacket)
Leichhardt Ward – Gulgadya (Grass Tree)
Marrickville Ward – Midjuburi (Lillypilly)
Stanmore Ward – Damun (Port Jackson Fig).**

Motion Carried**For Motion:** Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Porteous, Raciti, Stamolis, Steer and York**Against Motion:** Cr Passas**Foreshadowed Motion (Stamolis)**

THAT Council to request a further option for the Aboriginal naming of Council wards as there has been no proposal put before Council which has sought to use the original Aboriginal names of the land, nations, peoples or specific Aboriginal persons; for example Eora, Wangal, Gadigal, Birrabirragal. A proposal which includes these Aboriginal names or names of a similar nature would be valuable in assisting Council to make its decision. Such a proposal will also ensure that Council has considered those Aboriginal names which were, and still are, used by the first peoples of our area and how we wish these names to remain at the forefront of the community consciousness in the Inner West.

This Foreshadowed Motion Lapsed.

ADJOURNMENT

9.09pm - The Mayor, Clr Byrne adjourned the meeting for a short recess.

9.23pm– The Mayor, Clr Byrne resumed the meeting.

Suspension of Standing Orders**Motion: (Byrne/Drury)**

THAT Council Suspend Standing Orders to deal with Items 12, 14, 15, 29, 32, 36 and 39 which had registered speakers.

Motion Carried**For Motion:** Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Stamolis, Steer and York**Against Motion:** Nil**Absent:** Crs Porteous and Raciti

Councillors Porteous and Raciti re-entered the Meeting at 9:30 pm.

C1218(1) Item 12 Camperdown Memorial Rest ParkSafe Update on the Outcomes of Community Engagement**Motion: (Lockie/Steer)****THAT Council:**

- 1. Endorse the proposed location for the public toilets within the park as outlined in the report and proceed to deliver these facilities in 2019;**
- 2. In response to the engagement survey outcomes, establishes an alcohol prohibited area in the park as a trial to be completed when the lighting trial ends and a report be made to Council as to its outcome and seek the NSW Police and seek NSW Police assistance in administering this area;**
- 3. Maintain the current alcohol restrictions (9am-9pm) in other areas within the park;**
- 4. Undertake a public education campaign within Camperdown Memorial Rest Park and Fleming Street Playground similar to the program which has been run by the City of Sydney;**
- 5. Note the public request for increased ranger patrols in Camperdown Memorial Rest Park after dark;**
- 6. Subject to future partner funding support or grant funding, the option of a Park Ambassador program be considered should anti-social problems continue to be a concern to park users;**
- 7. Receive a report by March 2019 with recommendations for the holistic management of Fleming Park, canvassing the range of options that have been previously raised by local residents including updating signage, repairs to the fence, and updated landscaping in addition to the two options canvassed in community engagement (community garden and removal of the picnic table)**
- 8. Receive a report by March 2019 with recommendations on how Council can facilitate a program of community run activations and events in Camperdown Rest Memorial park, as addressed in the meeting held at Newtown Neighbourhood Centre earlier this year;**
- 9. Officers provide a report back to Council on the outcome of all Parksafe activities at the conclusion of the lighting trial in 2019; and**
- 10. Review Lennox Street Lighting with the aim of reducing light spillage affecting residents.**

Motion Carried**For Motion:** Crs Byrne, Da Cruz, Drury, Hesse, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York**Against Motion:** Crs Iskandar and Kiat

Amendment (Kiat/Iskandar)

THAT point 2 be deleted in regards to the establishment of an alcohol free zone.

Motion Lost

For Motion: Crs Hesse, Iskandar and Kiat

Against Motion: Crs Byrne, Da Cruz, Drury, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Councillor Passas left the Meeting at 09:55 pm.

Councillor Macri left the Meeting at 10:00 pm.

Councillor Macri returned to the Meeting at 10:03 pm.

Councillor Passas returned to the Meeting at 10:06 pm.

C1218(1) Item 14 Pathway to Carbon Neutral Council

Motion: (York/Byrne)

THAT Council:

1. **Endorses the final draft *Pathway to a Carbon Neutral Council* for inclusion in the Draft Climate and Renewables Strategy;**
2. **Notes that the University of NSW has reviewed the technical report on which the Pathway to a Carbon Neutral Council is based, and found the report to be thorough, detailed, soundly based and practical;**
3. **Notes that the capital program for solar and energy efficiency projects will proceed to the detailed design and procurement phase with installation to commence in 2019/20;**
4. **Commence procurement for a second Power Purchase Agreement for renewable energy;**
5. **Notes the options for target dates and endorses a *100% carbon neutral* and *100% renewable electricity* target date of December 2025;**
6. **Write to SSROC seeking for them to prioritise the implementation of Stage 2 of the Street Lighting Improvement Project (SLIP) for main roads;**
7. **Dedicate the funds held in the Environment Reserve to infrastructure projects (such as on-site renewable energy) arising from the Carbon Neutral Council strategy, and real budget savings be returned to the Reserve to fund future renewable energy projects;**
8. **Begins investigating the transition to electric vehicles by working with the leaders in the field (such as the Electric Vehicle Council, Australian Renewable Energy Agency, the NRMA and their partners) to establish an e-vehicles plan for Council; and**
9. **Joins the Charge Together Fleet Program coordinated by the Electric Vehicle Council, which will give Council staff free access to workshops with experts, drive days where they can test drive electric vehicles, and access to a low emissions fleet vehicle portal.**

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York
Against Motion: Nil

Confidential Session

Motion: (Drury/McKenna OAM)

THAT Council move into Confidential session to consider Items of business containing Confidential Information.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York
Against Motion: Nil

Members of the public were asked to leave the Chamber.

Motion: (Byrne/McKenna OAM)

THAT Council return to open session to read out the recommendations from the Closed Session.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York
Against Motion: Nil

The Mayor read out to the Meeting the recommendation from the Closed Session of Council.

REPORTS WITH CONFIDENTIAL INFORMATION**C1218(1) Item 43 Organics Processing Tender**

Motion: (McKenna OAM/Drury)

THAT Council:

- 1. Acknowledges that a suitable tender for the processing of food and Garden organics was not provided;**
- 2. Accepts Veolia as the preferred service provider for the processing of Garden Organics (GO) including GO from parks operations, Food Organics Only (FOO) for multi-unit dwellings for the current service in the North (Leichhardt) Service Area;**
- 3. Includes in this contract a new Food Organics Only (FOO) service for multi-unit dwellings in the South (Marrickville Service Area) to commence as soon as practicable;**
- 4. Enters negotiations with Veolia as part of the contract to identify suitable solutions to:**

- a) process the Food Organics and Garden Organics (FOGO) stream for single unit dwellings across the Inner West as FOGO (not AWT processing); and
 - b) provide a FOO service to multi-unit dwellings in the West (Ashfield) Service Area as soon as practicable.
5. Consider Impacts on the Domestic Waste Charge during the 2019/2020 budget process;
 6. Approach the State and Federal Governments, including the NSW EPA, ARENA and relevant Ministers about the urgent need for investment in the food recycling plants and transfer stations in the Sydney Metropolitan Area; and
 7. Investigate the potential to establish a food recycling transfer station or procession plant in the Inner West Municipality. This should include seeking State and Federal Government Investment and an initial assessment of the commercial viability of such facilities.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

C1218(1) Item 44 Council Approval of the Licence of Leichhardt Oval No.1 to Sydney Football Club Pty Ltd

Motion: (McKenna OAM/Drury)

THAT:

1. Inner West Council as the Land Manager of Leichhardt Park (D500207) Reserve Trust:
 - a) Resolves to grant a one year Temporary Licence (Licence) of Leichhardt Park Oval to Sydney Football Club Pty Ltd (Sydney FC) for football matches and training; and
 - b) Authorises the General Manager (or Delegate) to negotiate terms and execute the Licence on Council's behalf.
2. Council work with the Leichhardt chamber of commerce to convene a meeting of local business in Leichhardt and Lilyfield to plan for joint promotion on the day of the games

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

C1218(1) Item 45 120C Old Canterbury Road, Summer Hill - VPA

Motion: (McKenna OAM/Drury)

THAT the proposed Voluntary Planning Agreement for 120C Old Canterbury Road, Summer Hill be:

- 1. Endorsed in principle, subject to The Yard 120C Pty Ltd (the proponent):**
 - a) Construct a park of approximately 300m² located within the Land and to provide rights of way for public access through the park to the Greenway corridor and the Lewisham Light Rail station from Old Canterbury Road and McGill Street;**
 - b) Provide 2 studio units which will be allocated to Affordable Housing units. The ownership of the units will be transferred to Inner West Council at the completion of the project;**
 - c) Community Office Space located within retail Ground Floor – 5 Year Rental Agreement \$1 Peppercorn rent per year – 35sqm office area; and**
 - d) Provide Council a payment of \$1,045,000 million to be used for public works in the community and surrounding area (Inner West Council will provide a summary of how this payment will be allocated at later date)**
- 2. Placed on public exhibition for a minimum of 28 days; and**
- 3. Reported back to Council after public exhibition.**

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

C1218(1) Item 46 Land & Property Strategy Initiatives

Motion: (McKenna OAM/Drury)

THAT Council:

- 1. Defer the proposal for Chester Street Carpark Petersham until the February 2019 Council Meeting;**
- 2. Undertake an Expression of Interest process and award the lease for the property known as Balmain Pump House;**
- 3. Undertake an Expression of Interest process and award the lease for the property known as New Marrickville Library Development – Commercial Tenancy;**
- 4. Undertake an Expression of Interest process and award the lease of the property known as New Marrickville Library Development – Café;**
- 5. Undertake an expression of Interest process for the Marrickville Town Hall Reuse and report to Council on the outcomes of the Expression of Interest;**

6. Prioritise the establishment of a premises for a reuse centre.**Motion Carried****For Motion:** Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York**Against Motion:** Nil**Extension of Time****Motion: (Drury/Lockie)****THAT Council extend the meeting for 15 Minutes.****Motion Carried****For Motion:** Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York**Against Motion:** Nil

Councillor York retired from the Meeting at 11:11 pm.

Extension of Time**Motion: (Drury/Da Cruz)****THAT the meeting be extended until 11.45pm.****Motion Carried****For Motion:** Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Passas, Porteous, Raciti, Stamolis and Steer**Against Motion:** Nil**Absent:** Cr York

Councillor Passas retired from the Meeting at 11:27 pm.

C1218(1) Item 47 Appointment of External Member to Audit, Risk and Improvement Committee (ARIC)**Motion: (McKenna OAM/Drury)****THAT:**

- 1. Council resolve to invite councillors to attend ARIC meetings, following advanced registration, as observers; and**
- 2. Request the chair of ARIC to brief councillors on a yearly basis to report to councillors on the work of the committee.**

Motion Carried**For Motion:** Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Porteous, Raciti, Stamolis and Steer**Against Motion:** Nil**Absent:** Crs Passas and York

**C1218(1) Item 48 Buruwan Park Annandale Compulsory Acquisition Under S175
Of The Roads Act Or Offer To Purchase The Lease Interest**

Councillor Byrne requested that the meeting consider an Urgency Motion with regards to Buruwan Park Annandale Compulsory Acquisition Under S175 Of The Roads Act Or Offer To Purchase The Lease Interest.

Motion: (Byrne/McKenna OAM)

THAT the motion be considered as a matter of urgency.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, McKenna OAM, Passas, Porteous, Raciti, Stamolis, Steer and York

Against Motion: Nil

Absent: Crs Passas and York

The Mayor declared this matter was urgent.

Motion: (McKenna OAM/Drury)

THAT:

- 1. The General Manager (or delegate) negotiate the terms and executes documents with TfNSW in relation to Council relinquishing its lease for property identified as Buruwan Park Annandale, Lot 31 / DP1055559; and**
- 2. The compensation funds be allocated to the maintenance or upgrade of Whites Creek Park.**

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Porteous, Raciti, Stamolis and Steer

Against Motion: Nil

Absent: Crs Passas and York

Suspension of Standing Orders

Motion: (Drury/Hesse)

THAT Council further Suspend Standing Orders to deal with Item 24.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Porteous, Raciti, Stamolis and Steer

Against Motion: Nil

Absent: Crs Passas and York

C1218(1) Item 24 Post Exhibition Report - Glebe Island Silos VPA

Motion: (Drury/Stamolis)

THAT Council enter into the Voluntary Planning Agreement for Glebe Island Silos provided ATTACHMENT 1.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Porteous, Raciti, Stamolis and Steer

Against Motion: Nil

Absent: Crs Passas and York

Amendment (Porteous/Hesse)

THAT Council notes that this Development Application has been approved, however that Council opposes the use of heritage buildings as billboards.

The Mayor ruled this amendment out of order as it would require the lodgement of a rescission motion with due notice for this amendment to be considered.

Suspension of Standing Orders

Motion: (McKenna OAM/Drury)

THAT Council further Suspend Standing Orders to deal with Item 29.

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri, McKenna OAM, Porteous, Raciti, Stamolis and Steer

Against Motion: Nil

Absent: Crs Passas and York

C1218(1) Item 29 Inner West Council Land and Property Policy and Strategy

Motion: (Drury/Lockie)

THAT:

- 1. The draft Land & Property Policy and Strategy be placed on public exhibition for a minimum period of 28 days;**
- 2. The results of the public exhibition and community engagement process be presented to Council recommending further action;**
- 3. Council note the outcomes of the Building audit will be incorporated into the 2019 Asset Management Plan;**
- 4. Council note the draft implementation plans;**
- 5. Council invite all of its existing tenants to make a submission during the exhibition period, with notification to include clear explanation of the proposed benchmarks in relation to cost neutrality; and**
- 6. Council receive a further report addressing the likely impact of achieving the proposed 'Cost Neutrality' benchmarks on existing our tenants (or similar types of tenants) and our ability to deliver community focused benefits.**

Motion Carried

For Motion: Crs Byrne, Da Cruz, Drury, Hesse, Iskandar, Kiat, Lockie, Macri,

Against Motion: McKenna OAM, Porteous, Raciti, Stamolis and Steer
Absent: Nil
Crs Passas and York

Amendment (Da Cruz/Steer)

THAT Council amend point 1 to:

1. The draft Land & Property Policy and Strategy be amended to incorporate the following into the Benchmarking:

- i. Social Benefits - provision of community land (open space and community building) within 400m of every dwelling;**
- ii. Contribution to active transport links for walking, cycling and access to public transport;**
- iii. Shortfalls in accommodation needs of current sporting groups, cultural groups, community groups, social enterprises, management etc;**
- iv. Heritage value of building and land; and**
- v. Property as component of council's investment strategy.**

waste

b) Placed on public exhibition for a minimum period of 56 days with a public briefing and enabling comprehensive submissions.

Motion Lost

For Motion: Crs Da Cruz, Hesse, Kiat, Porteous, Stamolis and Steer
Against Motion: Crs Byrne, Drury, Iskandar, Lockie, Macri, McKenna OAM and Raciti,
Absent: Crs Passas and York

Meeting closed at 11.46pm

The following Items will be considered at the Ordinary Council Meeting on 12 February 2018; Items 1, 2, 3, 7, 8, 9, 10, 11, 16, 18, 19, 20, 22, 23, 25, 26, 27, 28, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42.

PUBLIC SPEAKERS:

Item #	Speaker	Suburb
Item 12:	Nathan Smith	Newtown
	John Cruthers	Newtown
	Lindsey Chandler	Newtown
	Philip Swynny	Newtown
Item 14:	Behyad Jafari	Sydney
Item 15:	Brian Hood	Sydney
	Kate Bartlett	Sydney
	Joe Ingui	Rozelle
Item 29:	Naomi Brennan	Marrickville
Item 32	Peter Meldrum	Marrickville
Item 36:	Philip McCrea	Haberfield
Item 39:	Corey Mendonca	Marrickville
Item 46:	Mish Pony	Summer Hill
	David Haynes	Stanmore

Item No: C0219(2) Item 1

Subject: RECREATION NEEDS STUDY: A HEALTHIER INNER WEST - UPDATE ON PRIORITY ACTIONS.

Prepared By: Peter Montague - Recreation Planning and Programs Manager

Authorised By: Cathy Edwards-Davis - Group Manager Trees, Parks and Streetscapes

SUMMARY

This report provides an update on priority actions as identified by Council in the Recreation Needs Study: A Healthier Inner West 2018.

RECOMMENDATION

THAT the report be received and noted.

BACKGROUND

At the meeting of 30 October 2018 Council resolved:

THAT:

1. *Council endorse the Recreation Needs Study: A Healthier Inner West report;*
2. *The Recreation Needs Study: A Healthier Inner West report is used to inform the development of a Recreation Strategy, Section 7.11 Contributions Plan and other relevant Council planning documents;*
3. *All residents and stakeholders who expressed an interest are notified of Council's decision and thanked for their contribution; and*
4. *That a further report, outlining the implementation timeline and funding options for the following priority actions within the study, be reported to Council in February 2019:*
 - *Drafting of the recommended amendments to the Local Environment Plan and Development Control Plan to encourage provision of recreation facilities in new developments;*
 - *Confirmation of the timeline for completion of the artificial surfacing of sporting fields study;*
 - *Identification of a laneway or laneways where a pilot activation of the space for recreational use can be undertaken;*
 - *Increasing investment in the upgrades of pocket parks in areas identified as having relative open space deficiencies;*
 - *Review of the potential for partnerships with schools to improve sporting facilities and to make them available outside of school hours for community sport;*
 - *Providing a pilot nature based play space for children within an existing park; and*
 - *An audit of lighting across Council sporting facilities to identify where new lighting could increase the use, capacity and safety of sporting fields.*

Shortly after the *Recreation Needs Study: A Healthier Inner West (RNS)* was adopted, all residents and stakeholders who expressed an interest were notified of Council’s decision and thanked for their contribution.

The remainder of this report provides an update on the priority actions identified in point 4 above.

At the meeting of 9 October 2018 Council resolved:

Council commence investigations about the possible use of non-council sports fields and facilities such as at schools

The report also addresses this resolution.

Local Environmental Plan / Development Control Plan

Council’s Urban Strategy Team is currently preparing a draft Local Strategic Planning Statement, which will support the preparation of a consolidated LEP and DCP for the Inner West. It is envisaged that the new LEP and DCP will contain provisions to encourage (or require) the provision of appropriate recreational facilities in new developments. It will also support a consolidated Contributions Plan which will consider contributions towards public recreational facilities through s7.11/7.12 developer contributions. A draft Local Strategic Planning Statement is programmed to be considered by Council in the first half of 2019.

Feasibility Study for installation of synthetic turf sporting fields.

A project team has been formed with relevant stakeholders and a project plan developed and agreed. The project includes the following milestones and timelines:

Activity	Timeline
Preparation of consultant brief	November 2018
Engage consultant	January 2019
Feasibility study Explore partnerships (e.g. schools)	January 2019 – April 2019
Councillor briefing	March 2019
Community Engagement – Draft feasibility study findings and recommended site/s	March 2019
Report to Council – Feasibility study report, endorsement of recommended site/s for detailed design.	April 2019
Detailed design	April 2019 – June 2019

It is anticipated that the initial synthetic turf installation resulting from the project will be scheduled in 2019-2020. A preliminary budget has been included in the draft 2019-2020 capital program pending identification of and cost estimation for a suitable site through the planned feasibility study and community engagement.

Pilot laneway activation project

Engagement is currently being undertaken on potential locations for a ‘Play Streets’ pilot program to activate local streets or laneways. The pilot will inform a longer term position on community led street play programs for the LGA.

The anticipated timeline for the project is outlined below:

Activity	Timeline
Phase 1 – initial engagement gathering location suggestions via Your Say Inner West (YSIW).	current – 24 Feb 2019
Council officers to short-list 5-6 locations based on selection criteria for further resident engagement.	25 Feb – 1 Mar 2019
Update memo to Councillors.	11 March 2019
Phase 2 – engagement with residents around short listed location (YSIW, letterbox drop, site meetings).	11 March – 7 April 2019
Report to Council on outcomes of engagement with shortlisted locations and recommendation for pilot implementation at up to 3 locations.	30 April 2019
Pilot planning with local residents, and approvals process (including Traffic Committee).	May – July 2019
Pilot implementation.	Sept 19 – Feb 2020
Evaluation of pilot projects and report to Council on the outcomes of the projects.	March – May 2020

Costs are not anticipated to be significant and funded through the operational budget.

Upgrades of pocket parks in areas with an undersupply of open space

Pocket park upgrades included in the capital program for 2019-2020 include Elizabeth Street Playground, Ashfield, Bell Reserve (new park), Croydon and Rowe Playground, Dulwich Hill. The shade sail program will also provide improved shade at a number of pocket park playgrounds.

A prioritised program for pocket park upgrades will be developed in 2019-2020 and future generic Plan of Management for pocket parks. These plans will be prepared consistent with project specific community engagement, reference to the areas of undersupply identified in the Recreation Needs Study and park asset renewal requirements. The capital program will be reviewed to reflect the priorities identified through this planning and upgrades will be completed within existing budgets.

Potential partnerships to make school facilities available for community sport

School Infrastructure NSW (SI NSW) has established a dedicated work unit to oversee projects for the shared use of school facilities. Representatives from Tree Parks and Streetscapes, Community Services and Culture and Strategic Planning service units met with SI NSW in October 2018. SI NSW outlined their process to develop 'Joint Use' agreements with Councils with the intent of prioritising projects that have mutually beneficial outcomes for schools and communities. There are a number of facilities in NSW which have been built through this process with funding contributions proportionate to the level of use by school and community.

The anticipated timeline for the process for potential partnership projects with SI NSW is:

Activity	Timeline
Introductory meeting between Council and SI NSW to outline 'joint use' process.	Oct 2018
Enter into Joint Use Project Agreement (JUPA) – General Partnership Memorandum of Understanding (MOU) with NSW Department of Education.	Feb 2019
Planning workshop with SI NSW representatives to discuss potential projects and establish an investigation program.	Apr 2019
Undertake investigation program of potential projects.	Apr – Sep 2019

Project specific planning (project feasibility, design and assessment, costings etc.	Oct onwards
--	-------------

Item 1

Following adoption of the RNS, Officers have followed up leads with a number of local schools concerning potential joint use projects including Marrickville High School, Globe Wilkins Primary School and Ashfield Boys High School.

The cost of reviewing potential partnership opportunities with local schools is funded through the operational budget. Should an appropriate partnership project be identified, this will be considered as part of future capital works programs.

Pilot nature based play space

A number of nature play elements are included in the design of the inclusive play space at Steel Park, Marrickville and the Cooks River Kids Area at Warren Park. These projects are funded in the current capital works budget and are anticipated to be completed by June 2019.

Potential nature play locations have been identified in the Greenway Master Plan at Gadigal Reserve (implementation priority 'B'), at Hawthorne Canal (implementation priority 'C') precincts and another is being considered in the development of the Master Plan for Marrickville Golf Course.

Sports lighting audit

In 2018-2019 an audit of structural condition of all lighting towers will be completed as a priority to ensure the safety of Council lighting assets. A structural engineer has advised that for safety reasons, Council must urgently remove the lights at Pratten Park. The demolition will occur in February 2019 and a design will be commenced shortly. Funding for replacement lights has been included in the draft budget for 2019-2020. The clubs have been kept informed.

An audit of sports lighting levels and compliance with Australian Standards at all Council sporting grounds will be completed in 2019-2020. The lighting audit will be funded through existing budgets.

FINANCIAL IMPLICATIONS

The projects identified above include specific reference to funding. Future capital budgets will be informed by park masterplans, Plans of Management, the Recreation Needs Study findings, various specific strategies and the Asset Management Plans.

OTHER STAFF COMMENTS

This report has been prepared with input from teams within the Trees Parks and Streetscapes and Strategic Planning work units.

PUBLIC CONSULTATION

Relevant community engagement will be undertaken as outlined for each project.

ATTACHMENTS

Nil.

Item No: C0219(2) Item 2

Subject: PARKFIT-ALTERNATIVE SITES FOR FITNESS STATIONS IN PARKS

Prepared By: Aaron Callaghan - Parks Planning and Engagement Manager

Authorised By: Cathy Edwards-Davis - Group Manager Trees, Parks and Sports Fields

Item 2

SUMMARY

This report outlines the results of community engagement associated with the selection of alternative sites for fitness stations in parks in the Leichhardt and Balmain wards. Based on the outcomes of community engagement, the report recommends that Council proceed with the delivery of fitness stations at Ewenton Park in Balmain, 36th Battalion Park in Leichhardt and at Cohen Park in Annandale.

RECOMMENDATION

THAT:

- 1. Council proceed with the installation of Fitness Stations at Ewenton Park in Balmain, 36th Battalion Park in Leichhardt and at Cohen Park in Annandale; and**
- 2. Council note the potential for fitness station locations in the future at Birchgrove Park.**

BACKGROUND

At its Ordinary Meeting on the 14th August 2018 Council resolved the following:

THAT Council:

1. Not proceed with the proposed fitness stations at Gladstone Park and Smith, Hogan and Spindler's Park and instead bring a further report following consultation with ward councillors and residents on possible locations within the former Leichhardt Local Government Area where the stations could be located including:
 - Ewenton Park;
 - Cohen Park;
 - Adjacent to Leichhardt No. 3 ground (near Le Montage); and
 - 36th Battalion Park.
2. Endorse the former Leichhardt Councils opposition to locating a light rail station in Gladstone Park; and
3. Details criteria for where fitness stations should be put prior to the selection of any park.

REPORT

Proposed locations for fitness equipment

In line with the Council resolution, Council officers included the four locations which Council requested be included as part of the community engagement process. In addition to this, two other potential locations were also identified and included in the community engagement survey. The sites included in the survey are as follows:

1. 36th Battalion Park Leichhardt-near Mackenzie Street
2. Birchgrove Park - adjacent to the children's playground
3. Cohen Park - adjacent to the children's playground
4. Ewenton Park - adjacent to the car park
5. Mort Bay Park- Birchgrove-in the cul-de-sac
6. Leichhardt No. 3 Sporting ground (near La Montage)

Site 6, Leichhardt Number 3, has subsequently been ruled out of contention as a potential site due to the subsequent Council resolution pertaining to the development of a skate park facility on this site.

Key Criteria for Selecting Locations

As pursuant to the Council resolution, Council officers developed a number of key criteria around the selection of parks for where fitness stations should be installed prior to the selection of that park.

Council officers developed seven criteria to assess parks suitable for fitness equipment. The criteria which was developed is outlined as follows:

1. Best practice design principles - open and inclusive with good site surveillance
2. Located on a recreational trail or within close proximity to a bike path or bus route
3. Site already has physical activity associated with the use of the park
4. Potential for equipment to assist in activating an area of open space.
5. Size of the park and its capacity to support new recreational equipment
6. Potential impacts on local residents
7. No trees or tree protection zones impacted

The key criteria was utilised as a benchmark tool in the community engagement process. A public survey was developed to assess community support for fitness stations in parks in the subject locations and support for the criteria which Council officers developed. The community engagement process was widely advertised with 7,800 flyers distributed across neighborhood catchments within close proximity to the nominated park areas. A copy of the Fitness Stations in Parks flyer can be viewed in **Attachment 1**. In addition to the letter box drop, A3 posters were also displayed in each of the park areas.

Public Survey Results

The public survey was placed on Council's Your Say Inner West web site and was open for community input from the 24th October 2018 through to the 18th November 2018. Key highlights in terms of the web site survey are listed as follows:

- 135 people visited the survey page.
- 122 respondents made submissions on the public survey site.

The following highlights have been noted from the survey:

- 112 respondents support having fitness stations in parks.
- 106 respondents supported the seven criteria Council developed to assess potential locations in parks for fitness stations in parks.
- Out of the six parks listed, the top three parks which were viewed as most suitable locations were (*in priority order and excluding Leichhardt 3 –potential future skate park site*) were Ewenton Park in Balmain, Cohen Park in Annandale and 36th Battalion Park in Leichhardt.
- The greatest number of respondents were from Birchgrove with 43 respondents out of the total number of 114.

A graphical analysis of the survey results is provided in **Attachment 2**.

Public comments collated as part of the community engagement have been summarised in **Attachment 3**.

Following on from the outcomes of the community engagement process, detailed site plans have been developed for Cohen Park, 36th Battalion Park and Ewenton Park highlighting the locations for the proposed fitness stations. The locations recommended align with the key criteria which Council officers have developed in terms of the Key Criteria for selecting locations. The final and recommended design locations (*including a list of the equipment proposed*) are highlighted in **Attachment 4**.

FINANCIAL IMPLICATIONS

Council has a budget remaining of \$131,599.00 to deliver fitness station projects. Given the outcomes of the community engagement process and in order to address deficiencies in fitness equipment provision within the northern part of the LGA, Council staff are recommending that the equipment be equally distributed over the three top ranked sites highlighted in the community engagement process.

OTHER STAFF COMMENTS

Nil

PUBLIC CONSULTATION

Council has undertaken extensive community engagement as outlined in the body of the report.

CONCLUSION

Parks and open space areas are provided by Council to meet a wide range of community recreational, health and social wellbeing needs. Council's adopted Recreation and Needs Study, "A Healthier Inner West" highlights the short supply of open space within the Inner West and recommends that Council consider improving the recreational value of parks by adopting principles that support the key drivers of sharing, generosity, co-design and quality. Parks provide a range of health benefits for the community and strategically it is important that facilities which promote outdoor recreation are distributed equitably across the local government area. Improvements to open space should be focussed on the community needs as a whole, with the key consideration that "parks are for everyone." Council's community engagement process has highlighted support for fitness stations within parks within the

Leichhardt and Balmain ward areas. Three sites have rated highly, that of Cohen Park in Lilyfield, 36th Battalion Park in Leichhardt and Ewerton Park in Balmain. It is proposed that Council move forward with the delivery of fitness stations at these parks.

ATTACHMENTS

1. [↓](#) Attachment 1 Parkfit Flyer
2. [↓](#) Attachment 2 Public Survey Results
3. [↓](#) Attachment 3 Public Submissions/ Comments
4. [↓](#) Attachment 4 Site Locations and Fitness Selection

Fitness equipment in parks

your say
Inner West

Item 2



Council is planning to install two sets of outdoor fitness equipment in local parks and we want your help to decide on the locations.

Outdoor fitness stations in parks are a free and fun way to exercise and encourage greater community participation in physical activities.

Small fitness stations in local parks are suitable for:

- All ages and abilities
- People wishing to exercise and get fit
- People who have a customised training program
- People working with a personal trainer

Boot camps are not permitted to use fitness stations in local parks.

Guidelines for selecting locations

Council has developed seven criteria to assess which parks are suitable for fitness equipment:

1. Best practice design principles - open and inclusive with good site surveillance
2. Located on a recreational trail or within close proximity to a bike path or bus route
3. Site already has physical activity associated with the use of the park
4. Potential for equipment to assist in activating an area of open space.
5. Size of the park and its capacity to support new recreational equipment
6. Potential impacts on local residents
7. No trees or tree protection zones impacted

Attachment 1

Proposed locations for fitness equipment

Council is considering six potential locations for the two sets of fitness stations:

1. 36th Battalion Park Leichhardt - near Mackenzie Street
2. Birchgrove Park - adjacent to the children's playground
3. Cohen Park Annandale - adjacent to the children's playground
4. Ewenton Park Balmain - adjacent to the car park
5. Leichhardt number 3 sporting ground - adjacent to Le Montage function centre
6. Mort Bay Park Birchgrove - in the cul-de-sac



Have your say

Go to www.yoursayinnerwest.com.au to tell us which locations you prefer and whether you support the criteria for assessment.

Or write to Council at:
Inner West Council
PO Box 14
Petersham NSW 2049
Attention: Aaron Callaghan

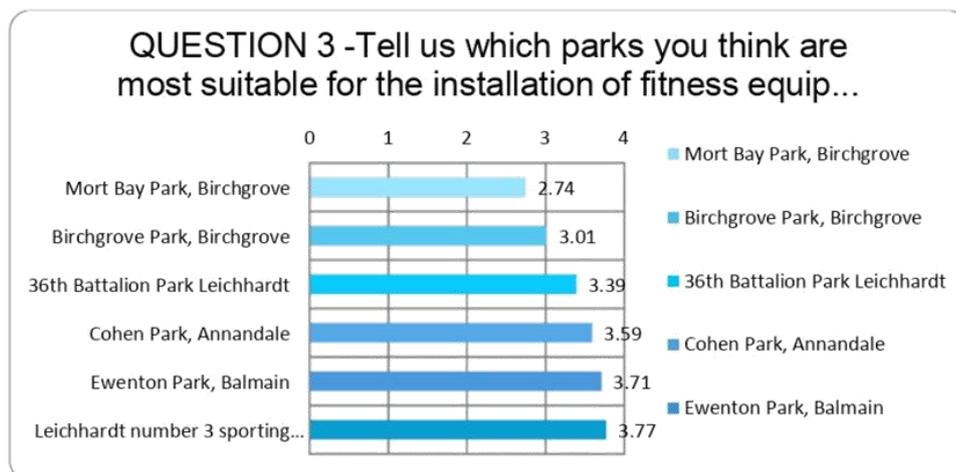
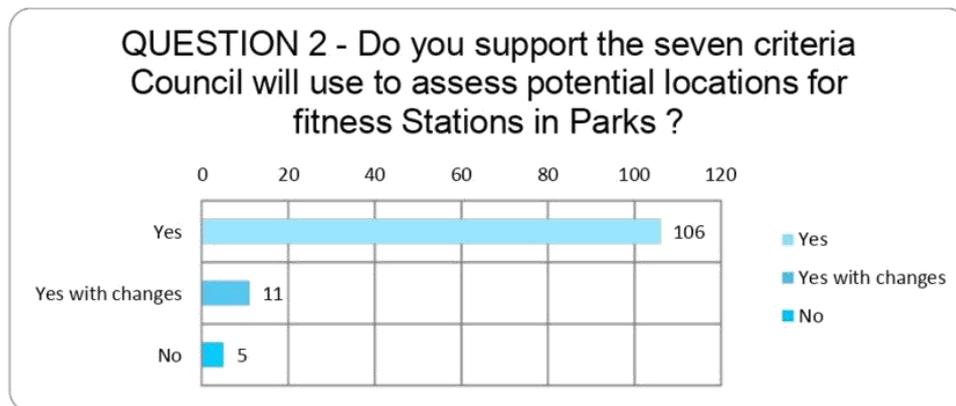
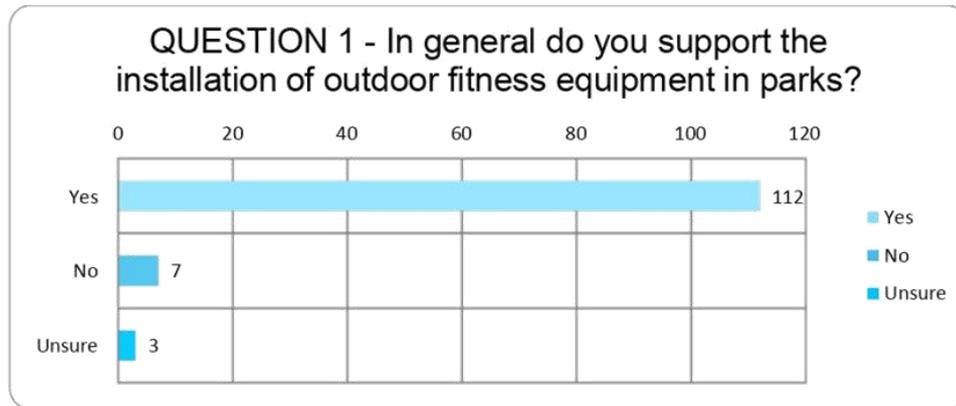
Comments close 18 November 2018

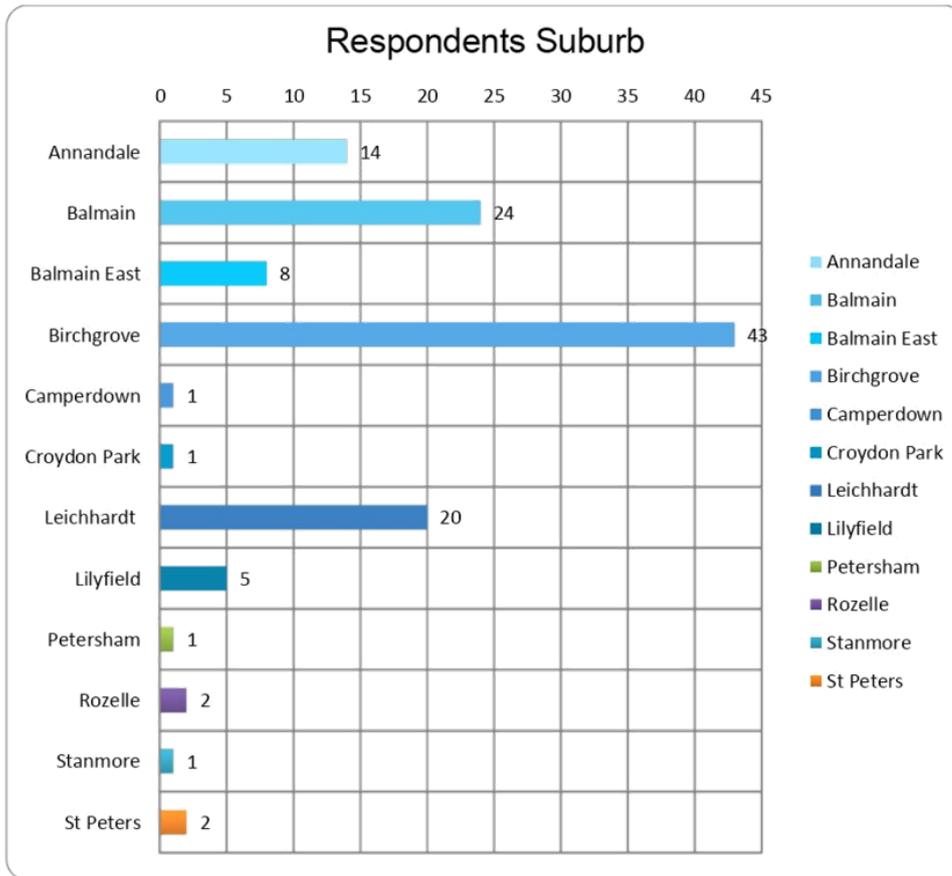
More information

Aaron Callaghan
Parks Planning and Engagement Manager
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E: aaron.callaghan@innerwest.nsw.gov.au

Attachment- 2 -Fitness Stations in Parks Survey Results.

A total of 122 respondents completed the survey





QUESTION 4 - Do you have other comments?

A really important addition for all the parks. Please try to find the funds. Enjoyed the fitness equipment in Camperdown and also at many, many parks in China. What could be better than trying to enhance fitness in the lovely outdoors at one's own pace - a great community asset and long Annandale desperately needs something like this. The park along Johnstons Creek (rear of Nelson Street) would be an ideal location (what happened to the work that started in that location?) as would Bicentennial Park

As a local resident, can say that Ewenton Park is not really appropriate. The road is busy with police change-overs between shifts in the morning. The park itself is lovely and quiet - as a relaxing place, which would be great to keep that way.

As above Weekly park Stanmore should be the number one as we have an elderly population which would benefit from the exercise also St Michaels school would benefit from this with fitness for the children

Balmain has none. Time to install

Birchgrove is crying out for such a facility. It is a beautiful park, adjacent to both bus and ferry public transport but it does not have enough facilities for people to use.

Birchgrove park is wildly inappropriate. It is a spot of to quietly sit and enjoy the view, or for small family picnics. etc

I have tried some of the fitness equipment in various areas including the one below Leichhardt Aquatic centre and in my opinion the moveable equipment is almost unusable, very user unfriendly. They have no traction, and move way too quickly, so there no chance any muscle activation. very frustrating. The static equipment is fine.

Cohen Park would be an ideal location as it is not near residents and is a major park for runners and walkers. there is now a large population nearby with the Harold Park development. it would be ideal to have more than one location in the area with fitness equipment - so we also support others being placed in Leichhardt or Balmain.

Consider placing an out door gym at Evan Jones Park in Leichhardt

Council needs to be very careful about spoiling open space with fitness stations that are permanent fixtures. The last thing we want is fitness stations to take valuable land and not be used, so council needs to be very clear that the areas actually have the demand for the stations. Interviews and site surveillance to see what the usage is would be desirable to ensure any spend of public money is actually well worthwhile.

Council should look at installing more sets so that we can increase the health and wellbeing of residents in each area.

Ewenton Park is at the extreme end of the municipality and therefore would in practical terms be inaccessible to most of the IWC community.
It would be an eyesore for local residents and reduce the amenity of the immediate area. Most people would, we expect drive to the facility, say in the early morning, resulting in driving and parking congestion given that access is via the cul-de-sac of Jubilee Place, which is busy with police shift change traffic (for the water police facility). Further the proposed site is on a slight down grade, so presumably construction would require carving into the park surface.
Great idea!
Great idea!
Great idea, well overdue !!
I would prefer more tables and chairs and bbq's and toilets. but tables and chairs are so helpful to disabled people like myself
I completed this survey earlier today however the website did not record my response to question 3 which was the only reason I responded. Please check your website is recording properly
I do not support the installation of fitness equipment. There are enough options already.
I have live in close proximity to Ewenton Park..I do NOT want the gym equipment in that park.
I have ranked Birchgrove Park last as after an exhaustive consultation process several years ago, the local residents decided that they were opposed to any further built structures in the park .
I think it's a great idea and really there are none in the balmain/ Birchgrove parks yet lots of people exercising
I think there are already enough fitness equipment options close by and no need to install more.
I would definitely use equipment in birchgrove park, probably every day
I'm so excited about this!!
If possible council should install in all the above parks due the benefits on community health
I'm impressed with this proposal - well done Inner West Council!
I'm in favour of Mort Bay Park- but not clustered near the play area. That will encourage children to use the exercise equipment inappropriately (then getting hurt).
Is the equipment the same in every park?
How did you work out which equipment to buy?
Was there community input into what equipment?
There doesn't seem to be an image for Battalion Park
It would be nice to do what Strathfield park has done - in the inner west.
It would make be very happy and hopefully fit to have the equipment installed at Ewenton Park. I live in a unit near this park so the equipment installation here would enable me to get fit and reduce my costs at the gym.
I've put Birchgrove Park last as the local community strongly agreed when the plan of management was negotiated to minimise new built environment in the park, something which Council appears to have forgotten or ignored.
Mort Bay Park is part of my regularly exercise run/walk route and would be the most likely location that I would use. I often see people doing circuit style exercises in this area and I think the equipment would be beneficial to them and may encourage the large number of people who walk/run past this area and use it for other fitness to use the equipment (including myself).
The location in closest proximity to where I live is Ewenton Park. However, I don't think the equipment will be utilised by the public in this location as there is not as much regular traffic through this area. It is a bit of a "dead end" spot.
Near the old tennis courts would be a good place in Birchgrove park
no
No
No

No point in having two in birchgrove. For birchgrove, mort bay park is the best of the two options. The location proposed for birchgrove park would take up the little flat space available so no good

Please not Ewenton Park. It's currently nice and quiet and great for dogs but could easily attract stupid kids at night.

Please not in Ewenton Park - it will be an eyesore.

'Strongly opposed to Birchgrove Park location for reasons stated in our email:

- heritage conservation area
- steeply sloping Land
- lack of parking
- noise and proximity to houses

Thank you Inner West Council. This is a great initiative. I personally know at least a dozen people who would use this facility if it were close by.

The fitness equipment that council has installed in a few places is very suited to either extremely aged or sedentary/unwell populations and is OK in that regard. However, council needs to put more emphasis on installing fitness equipment for a range of abilities - this generally means providing chinup bars, parallel bars and other equipment to allow fitter individuals and athletes to make use of the facility. Given that this sort of equipment is far cheaper and takes up very little space (and has less visual impact) it seems unreasonable that council has not installed such equipment everywhere (Camperdown Park is a glaring example of a place which needs a proper chin-up bar).

The proposed exercise area in Leichhardt Park would be suitable if closer to the road. At present the proposal seems to have it in the middle of green space

There is currently no outdoor fitness equipment on the Balmain peninsular. This is an important initiative as many people cannot afford gym membership.

This is a fabulous initiative. I note there are several fitness equipment places around The Bay Walk and in Lilyfield near Leichhardt so my preferences are in Balmain where there is nothing similar. I have been waiting for such an initiative for a long time as gym fees are expensive and due to work commitments I cannot always access the gym. Having local and public exercise equipment means people can exercise at times suitable to them and without fees. It means they can exercise individually or as a family. It may also introduce people to exercise because it is not intimidating gym

This is SUCH a wonderful idea. Balmain really needs a fitness park. My husband recommended this in a street survey with council and it's nice to see that council are listening to the suggestions of locals. Thank you!

We desperately need fitness equipment in our parks. Please please do this as soon as possible. There is nothing in Balmain.

We dont have any of these fitness equipment in Balmain or Birchgrove.

In Balmain, the best area would be in Mort Bay Park because more people visit and play there compare to the other options in Birchgrove and Balmain.

Ewenton Park in Balmain would not be a good option because usually nobody goes there.

We need to have this equipment as we all need to be fitter - and a lot of people use this park

We really need it in the 36th Battalion and there's plenty of room with lots of room, with plenty of people to use it. The park is used all the time and it would be a great new improvement.

Why are the stations restricted to only two sites. Maybe they could all have the equipment.

why isnt there an option on the eastern side of Johnston street? you are not offering any facility to what would be a huge chunk of your ratepayers. Its all focused on Balmain, Birchgrove and Leichhardt. the option for Annandale is closer to, Lillyfied and Leichhardt than the Majority of Annandale residents. once again council ignores this area. its bad enough that we have footpaths that are dangerous and parks that are in desperate need of upgrading, now you insult us more with these options. We have great spaces in this part of the area but you seem to have totally ignore the Would love to see a fitness station installed at Petersham Park, complementing the oval sports and also the pool fitness activity

Yes please provide this equipment in Cohen Park Annandale. The site next to the children's playground is an excellent choice for an adult fitness area and complements the other outdoor activities at this park including junior soccer, tennis etc.

Item 2

Attachment 3

Attachment 4-Site Locations and Equipment List

Cohen Park-Lilyfield (adjacent to the existing children's playground)



INVENTORY LIST DESCRIPTION'S

CHIN UPS

Develops biceps, triceps, laterals and abdominals.

Grasping overhead bar with both hands, pull your body up towards the bar, aiming to get your chin above it. Lower again to start position. <http://www.parkfitaust.com.au/video/chin-ups/>



LEG LIFT/DIP BAR

Develops chest, arms, shoulders and abdominals.

Leg lift – In a standing position with back against board, hold onto handles, raise legs to a horizontal position then lower again.

Dip Bar – Holding rails, lift body until elbows are straight. Lower body using arm strength and repeat. <http://www.parkfitaust.com.au/video/leg-lift-dip-bar>



OVERHEAD CHALLENGE

Develops arms, shoulders and co-ordination.

Progress from one end to the other, grasping rungs with alternate hands. <http://www.parkfitaust.com.au/video/overhead-challenge/>



STEP UP/BALANCE

Develops calves, hamstrings, quadriceps and glutes.

Stand straight on or side on to the step. Step up and down alternating legs. <http://www.parkfitaust.com.au/video/step-up/>



BENCH PRESS

Develops pectorals, deltoids and triceps.

Lie on the bench with head under the bar, hold onto the bar. Push the bar upwards using your arms then lower to the starting position. <http://www.parkfitaust.com.au/video/bench-press/>



Ewenton Park -Site Location adjacent to Car Park.



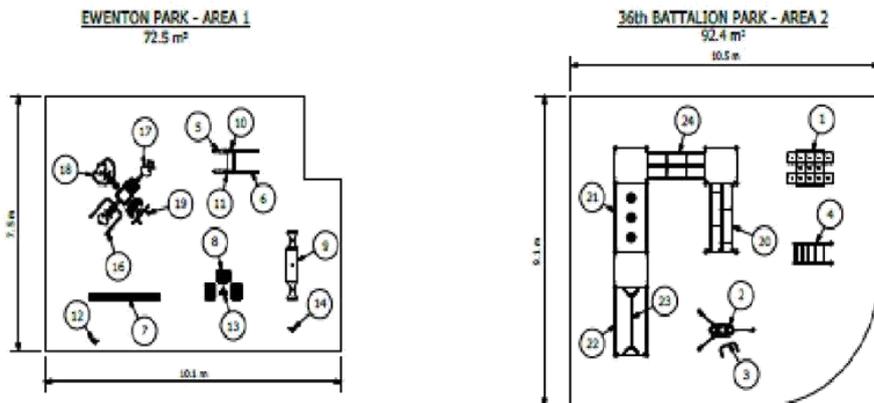
36th Battalion Park –Site Location adjacent to Hill Street.

Street Maps Properties



Ewenton Park and 36th Battalion Park Equipment Selection

Item 2



EQUIPMENT INVENTORY				EQUIPMENT INVENTORY			
ITEM	DESCRIPTION	QTY	FHF (mm)	ITEM	DESCRIPTION	QTY	FHF (mm)
1	SAB Razorback Ridge 600H	1	600	14	FITX Multi Bench - Sign	1	N/A
2	Wave Rider	1	200	15	FFP Central Column Quad	1	N/A
3	Wave Rider Support Rail	1	n/a	16	FFP Chest Press	1	580
4	PR Arched Ladder only 1200 Post Mounted	1	1200	17	FFP Leg Press	1	860
5	FITX Leg Raises (MG)	1	1240	18	FFP Pull Downs	1	590
6	FITX Body Dips (MG)	1	1205	19	FFP Pull Ups & Leg Raises	1	1965
7	FITX Balance Beam	1	220	20	PR Zig Zag Bridge 2000 (1x Rung)	1	400
8	FITX Step Up Station 150/300/450 (MG)	1	450	21	PR Stepping Stone Walk 2000 with support rails	1	550
9	FITX Multi Bench (MG)	1	350	22	PR Steady Rail 1873 x 48 OD	2	N/A
10	FITX Leg Raises - Sign	1	N/A	23	PR Balance Beam Suspended 2000 - 1 Rung	1	250
11	FITX Body Dip - Sign	1	N/A	24	PR Wobble Walk 2000 / 2 Platforms	1	420
12	FITX Balance Beam - Sign	1	N/A	25	PR Alum Pcoat Platform - Braced	3	400
13	FITX Step Up Station - Sign	1	N/A				

Indicative Image-Ewenton Park



Attachment 4

Indicative Image-36th Battalion Park



Item No: C0219(2) Item 3

Subject: LIBRARY FINES FOR LOST OR LATE ITEMS

Prepared By: Caroline McLeod - Group Manager Library and History Services

Authorised By: John Warburton - Deputy General Manager Community and Engagement

SUMMARY

The paper proposes that Council wipes the debt from existing Library customers for lost or overdue items as part of the launch of the new Library Management System. The paper recommends that fines only be charged for adults (18 years+) and that borrowing rights be suspended if a fine exceeds \$100. It recommends that a customer be referred to a collection agency if their fines exceeds \$100 and they have not responded to the Library after 90 days.

RECOMMENDATION

THAT Council endorses:

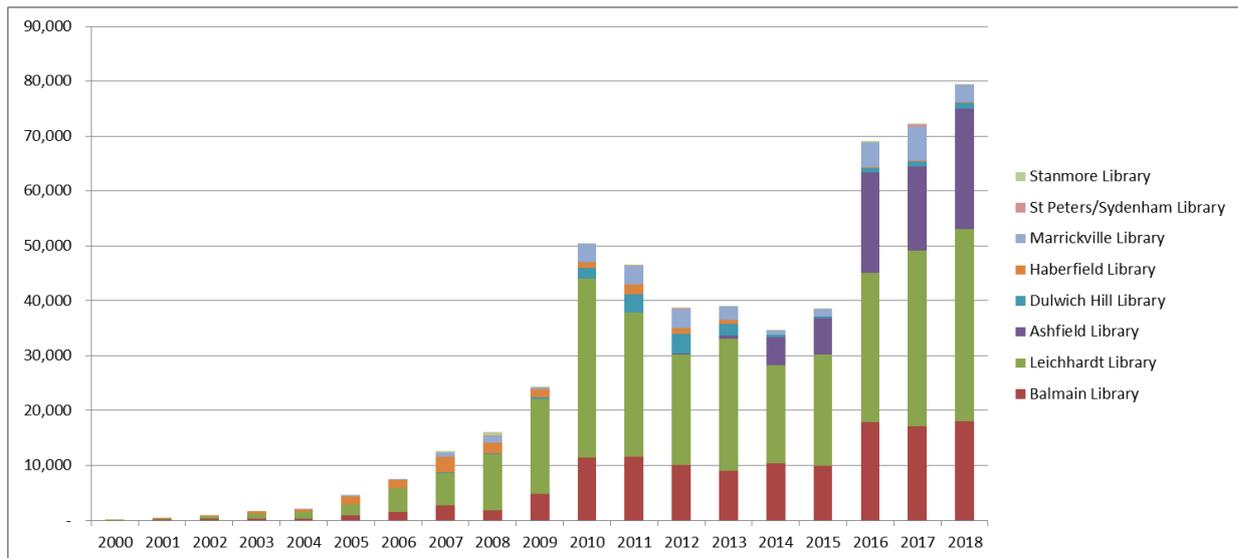
- 1. Writing off the existing Library late fines debt of \$538,792 as part of a fine amnesty to launch the new Library Management System and that all library accounts will be cleared.**
- 2. Late fines will only be charged for members 18 years and over.**
- 3. All library members, regardless of age, will need to cover the costs associated with lost or damaged items.**
- 4. If a library fine or total cost of overdue items exceeds \$100, the customer will be banned from borrowing and referred to a collections agency (following four notices being sent to the customer).**

BACKGROUND

Inner West Council charges library customers fees for overdue items in an effort to encourage Library users to return items within the three week borrowing period so the item is available for other members of the community and to cover the cost of lost items. Fines are not charged to raise revenue for the Council.

In the 2017-18 financial year Library & History received \$86,003.11 from late fees and charges for lost items. As at November 2018, the balance of overdue fines or lost items, dated from the year 2000 equalled \$538,792 from 28,944 users.

The table over provides a breakdown by Library overview of the existing fines to date.



Notes on table:

- 75% from Leichhardt and Balmain Branches
- 12,400 with balance >\$10 (\$478,231)
- \$319,511 Net recoverable amount from collection agency (balances >\$10)

An overview of the current borrowing conditions are listed below:

- Customers can borrow up to 40 items at a time for a 21 day period.
- If a customer would like to keep an item longer, and it has not been reserved by another library user, they are able to renew an item online, by phone or by a staff member in the library (up to three times).
- Children 12 years and under are not charged overdue fees, but are charged for lost or damaged items.
- Fees are capped at \$10 / item (as per the Library Act 1939)
- For a lost or damaged item, customers are charged the cost of the item plus a processing fee.
- The Branch Librarian and above are authorised to waive fines for compassionate reasons.
- There is category called a "Claims Returned" when a customer claims / insists they have returned the item. At the discretion of the Branch Librarian and above, this can be waived.
- If a customer owes more than \$20 in fines, their borrowing rights are suspended. However, the customer can pay a 10% of their fines per visit to the Library for the borrowing rights to be lifted.

Since amalgamation Library & History fees and charges have been harmonised, however, the process for notifying customers about late or lost items and the subsequent collection of unpaid fines has remained as per the three former Councils procedures due to the Library Management System encompassing differing policies and procedures.

It is recommended the following changes occur to the implementation of fees and charges:

- Only customers 18 years and older will be charged fines for overdue items (a raise in age from 12 to 18 years).
- All customers, regardless of age, will continue to be charged for lost or damaged items (once 60 days overdue).
- Library accounts are suspended when the fine reaches \$100 or more (raised from \$20).
- Customers receive four notices over a 90 day period advising their item/s is due / now overdue

- If the account is over \$100 that Council refer the account to a collections agency at a cost of \$12.50 / account.

The appointment of a collections agency will be new for the members of the former Ashfield and Leichhardt Council library services. It is an existing practice of the former Marrickville Council, noting that at Marrickville customers are currently referred to if they owe \$35 or more. The agency reports the process yields a return on investment at 9.18 to 1 and are cost effective for balances over a certain amount.

Implementation of new Library Management System and late / lost fines

To launch the new system and process for overdue / lost items it is recommended that all existing fees and charges be wiped and all customers start with a zero balance. The reasons for this include:

- To promote the new integrated system and encourage library customers to visit / borrow from one of Inner Council's eight libraries.
- The cost and effort of retrieving the unpaid funds (via a collection agency) is not equal to the amount of money Council would receive or the costs incurred would not cover the value of the amount owed.
- An unknown number of customers will have moved so would not be contactable.
- Given that some of the former Council's did not actively pursue fines, Council could appear very heavy handed.
- Items more than two years old may no longer be considered desirable as part of the library collection and therefore not worth pursuing.

FINANCIAL IMPLICATIONS

Council will be required to write-off \$538,792.

It is difficult to assess what the financial implications of these changes will be as there has not been a consistent approach to retrieving the fines. However, going forward Council could expect to see the outstanding library balances to be more in-line with the amounts indicated by the former Marrickville libraries in the graph above. It is recommended that this be assessed at the end of the 2019/20 financial year to assess the impact.

OTHER STAFF COMMENTS

Nil.

PUBLIC CONSULTATION

Nil.

CONCLUSION

A consistent approach to the management of lost or overdue items is required for Library and History services and Library customers.

ATTACHMENTS

Nil.

Item No: C0219(2) Item 4

Subject: HARMONISING OF LIBRARY OPERATING HOURS

Prepared By: Caroline McLeod - Group Manager Library and History Services

Authorised By: John Warburton - Deputy General Manager Community and Engagement

SUMMARY

As part of harmonising Library & History Services, it is proposed that Library operating hours be streamlined from 1 July 2019. The paper is seeking Council's approval to put the proposed operating hours for Council's branch and neighbourhood libraries on public exhibition for 28 days. Following the public exhibition, a further report will be brought back to Council.

RECOMMENDATION

THAT Council:

- 1. Place on public exhibition the proposed Library operating hours shown in Table 1, for 28 days;**
- 2. Notes that Library staff will conduct head counts at the four branch libraries at the beginning and end of the day and report back following the public exhibition over a four week period.**

BACKGROUND

Inner West Council delivers Library services across eight locations in the Inner West with various operating hours.

To ensure consistency of service across the LGA, to make it easier for customers to recall library operating hours and to assist with rostering / staffing, it is recommended library operating hours be harmonised.

The libraries are divided into two categories:

- **Branch Libraries - Ashfield, Balmain, Leichhardt and Marrickville**
These libraries have longer operating hours, larger collections, more programming, more staffing and behind the scenes functions such as collection development, home library etc.
- **Neighbourhood Libraries - Emanuel Tsardoulis, Haberfield, Stanmore, St Peters**
These libraries are staffed by two people. are smaller in size, with smaller collections and reduced hours. These libraries are significantly quieter than the branch libraries.

It is proposed the following library operating hours be placed on public exhibition.

Table one – Proposed library hours to go on exhibition

Opening days / hours	Branch Libraries	Neighbourhood Libraries
Monday – Wednesday	9am-7.30pm	10am-5.30pm
Thursday	9am-7.30pm	12pm-7.30pm
Friday	9am-5.30pm	10-5.30pm
Saturday	10am-5pm	10-4pm
Sunday	10am-5pm	Closed

Following the public exhibition, a further report would be bought back to Council for consideration.

Should the proposed Library operating hours go ahead, this would result in an increase of 19 openings hours across the service. **Attachment 1** provides an overview of the existing library operating hours and highlights what changes would occur at each location should the proposed operating hours be endorsed.

It is to be noted that should Library and History Services be conducting an author talk or event that goes beyond the proposed operating hours, the Libraries would remain open to the event.

Determining the hours

Library and History Services recently conducted community consultation with the community to prepare for the Library and History strategy (not yet reported to Council). When asked if they were happy with the existing opening hours:

- 507 respondents were happy
- 128 were not happy

Those that were not happy were asked what operating hours they would prefer (and had the opportunity to respond to more than one answer):

- 27 said the library should be open earlier Monday to Friday
- 58 said the library should be open later Monday to Friday
- 75 said the library should be open longer on Saturdays and
- 87 said the library should be open longer on a Sunday

Resulting from this feedback the recommended operating hours were established following discussions with the Library Operations Manager and the Branch Librarians. The Branch Librarians have reported that all libraries are generally quiet from 6.30pm.

The feedback from the Branch Librarians was given more weight when determining the operating hours than the door counts as the current available information only provides information on how many visitors pass through the door but does not indicate whether they are entering or exiting the library ie between 6.30pm and 7pm, we cannot determine whether a lot of people are visiting library or they are all exiting. To address this, Library staff will randomly monitor the number of people in (and entering the libraries) at the beginning and end of the day to assist with the decision making over a four week period. This information will be reported back following the public exhibition.

Implementation

Should the proposed hours be accepted, it would be proposed that the new operating hours for Marrickville, Haberfield and St Peters Libraries not be implemented until their new facilities have been completed.

FINANCIAL IMPLICATIONS

The current proposal would be possible within Library and History Service's existing budget.

Should Council wish to consider extending the Sunday operating hours for the neighbourhood libraries, the annual price would be approximately \$25,000 per neighbourhood library to operate for four hours on a Sunday totalling \$100,000. However, given the low numbers at the neighbourhood libraries, this is not recommended.

OTHER STAFF COMMENTS

Nil.

PUBLIC CONSULTATION

It is recommended the proposed operating hours be placed on public exhibition for 28 days. Following this a further paper will be brought to Council. .

ATTACHMENTS

1. [↓](#) Proposed Library Operating Hours

ATTACHMENT 1: Proposed Operating Hours of Library services

Neighbourhood Libraries	Days of the Week	Current Hours	Proposed	Change	Increase/Decrease Hours
Emanuel Tsardoulis / Dulwich Hill	Monday	10am - 5:30pm	10am - 5:30pm	No change	0
	Tuesday	10am - 5:30pm	10am - 5:30pm	No change	0
	Wednesday	10am - 5:30pm	10am - 5:30pm	No change	0
	Thursday	12pm - 7:30pm	12pm - 7:30pm	No change	0
	Friday	10am - 5:30pm	10am - 5:30pm	No change	0
	Saturday	9am - 12pm	10am - 4pm	Open 1 hour later, for 3 hours longer	3
	Sunday	Closed	Closed	No change	0
	Change / Week				
Haberfield	Monday	9am - 5:30pm	10am - 5:30pm	Open 1 hour later	-1
	Tuesday	9am - 5:30pm	10am - 5:30pm	Open 1 hour later	-1
	Wednesday	9am - 5:30pm	10am - 5:30pm	Open 1 hour later	-1
	Thursday	9am - 5:30pm	12pm - 7:30pm	Open 3 hours later, for 1 hour less	-1
	Friday	9am - 5:30pm	10am - 5:30pm	Open 1 hour later	-1
	Saturday	9am - 12pm	10am - 4pm	Open 1 hour later, for 3 hours longer	3
	Sunday	Closed	Closed	No change	0
	Change / Week				
Stanmore	Monday	10am - 5:30pm	10am - 5:30pm	No change	0
	Tuesday	10am - 5:30pm	10am - 5:30pm	No change	0
	Wednesday	10am - 5:30pm	10am - 5:30pm	No change	0
	Thursday	12pm - 7:30pm	12pm - 7:30pm	No change	0
	Friday	10am - 5:30pm	10am - 5:30pm	No change	0
	Saturday	9am - 12pm	10am - 4pm	Open 1 hour later, for 3 hours longer	3
	Sunday	Closed	Closed	No change	0
	Change / Week				
St Peters	Monday	10am - 5:30pm	10am - 5:30pm	No change	0
	Tuesday	10am - 5:30pm	10am - 5:30pm	No change	0
	Wednesday	10am - 5:30pm	10am - 5:30pm	No change	0
	Thursday	12pm - 7:30pm	12pm - 7:30pm	No change	0
	Friday	10am - 5:30pm	10am - 5:30pm	No change	0
	Saturday	9am - 12pm	10am - 4pm	Open 1 hour later, for 3 hours longer	3
	Sunday	Closed	Closed	No change	0
	Change / Week				
Total Changes to Branch Service					7

Branch Libraries	Days of the Week	Current Hours	Proposed	Change	Increase/Decrease Hours
Ashfield	Monday	9am - 7pm	9am - 7:30pm	Open 0.5 hours longer	0.5
	Tuesday	9am - 7pm	9am - 7:30pm	Open 0.5 hours longer	0.5
	Wednesday	9am - 7pm	9am - 7:30pm	Open 0.5 hours longer	0.5
	Thursday	9am - 7pm	9am - 7:30pm	Open 0.5 hours longer	0.5
	Friday	9am - 7pm	9am - 5:30pm	Close 1.5 hours earlier	-1.5
	Saturday	9am - 4pm	10am - 5pm	Open later for the same length of time	0
	Sunday	12pm - 4pm	10am - 5pm	Open earlier, for 4 hours longer	4
Change / Week					4.5
Balmain	Monday	9:30am - 8pm	9am - 7:30pm	Open and close 0.5 hours earlier, same length of time	0
	Tuesday	9:30am - 8pm	9am - 7:30pm	Open and close 0.5 hours earlier, same length of time	0
	Wednesday	9:30am - 8pm	9am - 7:30pm	Open and close 0.5 hours earlier, same length of time	0
	Thursday	9:30am - 8pm	9am - 7:30pm	Open and close 0.5 hours earlier, same length of time	0
	Friday	9:30am - 5pm	9am - 5:30pm	Open 0.5 hours earlier, close 0.5 hours later	1
	Saturday	10am - 4pm	10am - 5pm	Open 1 hour longer	1
	Sunday	10am - 4pm	10am - 5pm	Open 1 hour longer	1
Change / Week					3
Leichhardt	Monday	9:30am - 8pm	9am - 7:30pm	Open and close 0.5 hours earlier, same length of time	0
	Tuesday	9:30am - 8pm	9am - 7:30pm	Open and close 0.5 hours earlier, same length of time	0
	Wednesday	9:30am - 8pm	9am - 7:30pm	Open and close 0.5 hours earlier, same length of time	0
	Thursday	9:30am - 8pm	9am - 7:30pm	Open and close 0.5 hours earlier, same length of time	0
	Friday	9:30am - 5pm	9am - 5:30pm	Open 0.5 hours earlier, close 0.5 hours later	1
	Saturday	10am - 4pm	10am - 5pm	Open 1 hour longer	1
	Sunday	10am - 4pm	10am - 5pm	Open 1 hour longer	1
Change / Week					3
Marrickville	Monday	9am - 7:30pm	9am - 7:30pm	No change	0
	Tuesday	9am - 7:30pm	9am - 7:30pm	No change	0
	Wednesday	9am - 7:30pm	9am - 7:30pm	No change	0
	Thursday	9am - 7:30pm	9am - 7:30pm	No change	0
	Friday	9am - 7:30pm	9am - 5:30pm	Close 2 hours earlier	-2
	Saturday	9:30am - 5pm	10am - 5pm	Open 0.5 hours later	-0.5
	Sunday	1pm - 4pm	10am - 5pm	Open 3 hours earlier, for 4 hours longer	4
Change / Week					1.5
Total Changes to Branch Service					12

Item No: C0219(2) Item 5

Subject: DRAFT COMPLIANCE AND ENFORCEMENT POLICY

Prepared By: Simon Grierson - Environmental Health & Building Regulation Section

Authorised By: Harjeet Atwal - Group Manager Development Assessment and Regulatory Services

Item 5

SUMMARY

On 30 October 2018 Council resolved to place the draft Compliance and Enforcement Policy on public exhibition for 28 days. The draft Policy was placed on public exhibition from 17 November 2018 to 18 December 2018. This report provides a summary of the outcomes of the public exhibition and community engagement process and presents the final Compliance and Enforcement Policy for adoption.

RECOMMENDATION

THAT:

- 1. Council adopt the Inner West Council Compliance and Enforcement Policy.**
- 2. Council rescinds the Enforcement Policy of the former Ashfield Council and Compliance and Enforcement Policy of the former Leichhardt Council.**
- 3. The Compliance and Enforcement Protocol be received and noted.**

BACKGROUND

At the Council meeting on the 30 October 2018, the following was resolved:

“THAT:

- 1. The draft Compliance and Enforcement Policy be placed on public exhibition for a period of 28 days;*
- 2. The results of the public exhibition are presented to Council along with a final Compliance and Enforcement Policy for adoption; and*
- 4. The Compliance and Enforcement Protocol be received and noted.*
- 4. Council officers investigate and report to Council on:*
 - a) The use of technology in parking management and enforcement including:*
 - Mobile Phone Payment Solutions;*
 - Electronic Permit Systems;*
 - Vehicle Detection Sensor Systems;*
 - License Plate Recognition Systems.*
- 5. The process to integrate such technology within Council's existing parking infrastructure;*
- 6. A project plan which includes costings and timeframe to implement and deliver the technology; and*

7. *A Report come back to Council with Information on Council's Regulatory Services Including a Contact Phone Number to Report Issues, The Hours They Work And How Many Staff Are Employed In This Team."*

This report addresses points 1 to 3 of the above resolution. The draft Policy was placed on public exhibition from 17 November 2018 to 18 December 2018. This report provides a summary of the outcomes of the public exhibition and community engagement process and presents the final Compliance and Enforcement Policy for adoption.

In relation to points 4 to 6 Council Officers are currently preparing scopes and project plans to facilitate the investigation of technology in parking management and enforcement. This is a large project and requires extensive investigation and a report will be presented to Council of the outcomes.

In relation to point 7 Council Officers are currently preparing a report providing information on the matter.

POLICY DISCUSSION

Council is responsible for unlawful activity compliance and enforcement under various legislations with delegated/authorised officers responsible for the investigation of such matters.

The NSW Ombudsman's office encourages as best practice councils to have an adopted policy which covers this area and for that Policy and associated Protocol to be publically available.

The intent of the Compliance and Enforcement Policy (**Attachment 1**) is to establish:

- Council's compliance and enforcement principles;
- how reports alleging unlawful activity will be dealt with by Council;
- how Council's limited resources will be deployed in addressing allegations of unlawful activity;
- how confidentiality of people who report allegations of unlawful activity will be managed;
- what Council expects from people who report allegations of unlawful activity;
- what parties can expect from Council staff;
- how Council deals with complaints about Council's enforcement action; and
- how Council deals with anonymous reports.

The Policy also provides advice and guidance on the role of Councillors in compliance and enforcement.

The Policy and the Compliance and Enforcement Protocol (**Attachment 2**) are to be read together and provides a guide to officers responsible for unlawful activity compliance and enforcement to ensure that investigations are undertaken in a manner that is lawful, accountable and transparent, consistent, proportional and timely.

The Protocol addresses the resource limitations in Council's compliance and enforcement activities and how such resources are to be utilised.

The Protocol also outlines for the community matters to be considered at the various stages of the compliance and enforcement process from the receipt and investigation of reports alleging unlawful activity, through to what, if any, enforcement option Council will choose and whether to commence criminal or civil proceedings.

In certain circumstances Council will have shared compliance and enforcement responsibilities with other regulatory authorities. The Protocol sets out a cooperative approach to such

matters. Advice and guidance is also provided on the role of Council in building and construction compliance matters where there is a private certifier.

PUBLIC EXHIBITION: COMMUNITY COMMENTS AND OFFICER RESPONSE

The draft Compliance and Enforcement Policy was placed on public exhibition on Your Say Inner West from 17 November 2018 to 18 December 2018. The draft Policy exhibition was promoted via social media channels and on Council pages in Inner West Courier.

There were 61 aware participants who visited the Your Say project page with the draft Policy, with 43 downloaded documents. 2 submissions were made on the draft Policy through Your Say Inner West. 1 submission was anonymous and did not support the draft Policy and did not provide any comments. The other submission offered conditional support of the draft Policy and the comments provided are addressed below:

Community comments	Council officer response
<p>As part of the policy there should be a section dealing with how the policy is communicated appropriately including the mechanisms for reporting. Perhaps even an implementation plan or similar talking about how the policy will be implemented and link in with Council workflows. For example having appropriate information on the "report an issue" page.</p> <p>Can the policy also clarify the scope? For example does it refer to reports about possible council corruption? If so then it should be explicitly mentioned. If now then there should be a reference to the appropriate policy.</p>	<p>The policy will be available online on Councils website where all other adopted policies are located. In addition, links will be embedded at appropriate locations (including on the 'report an issue' page) throughout the Council website which direct customers who are interested to the policy.</p> <p>The 'report an issue' page on Council's website goes through step by step process to log unlawful activity for Council's investigation and action as defined by the Compliance and Enforcement Policy in Council's Customer Request Management System. The request system allows on-line tracking of the request.</p> <p>The policy outlines principles on how Council will implement the policy.</p> <p>Section 7.6 of the draft Policy deals with this and states that reports of this nature will be recorded separately and handled in accordance with Council's Complaints Handling Policy and Procedures.</p>

FURTHER AMENDMENTS

Following the public exhibition period, no comments were received which necessitated amendment of the policy with any changes only administrative in nature.

LEGACY COUNCIL/S' POLICIES TO BE RESCINDED

In developing this new Policy, the following policies were considered:

- Enforcement Policy of former Ashfield Council (**Attachment 3**)
- Compliance and Enforcement Policy of former Leichhardt Council (**Attachment 4**)

It is appropriate that on adoption of the new Policy, the former Ashfield and Leichhardt Policy be rescinded by Council.

It is noted that Marrickville Council did not have an adopted Policy on Compliance and Enforcement, rather an internal working protocol only. Hence no rescission is required.

FINANCIAL IMPLICATIONS

There are no financial implications arising from the Policy.

OTHER STAFF COMMENTS

Feedback from the following stakeholders was previously received, reviewed and incorporated where appropriate in the draft Compliance and Enforcement Policy and Protocol: Council's Trees, Parks and Sportsfields Group, Council's Footpaths, Roads, Traffic and Stormwater Group, Council's Environment and Sustainability Group, Council's Integration, Customer Service and Business Excellence Group, Council's Legal, Development Assessment and Regulatory Services Group and the NSW Internal Ombudsman.

CONCLUSION

- The purpose of Compliance and Enforcement Policy and Protocol are to guide Council officers responsible for unlawful activity compliance and enforcement in a manner that is accountable and transparent, consistent, proportional and timely and to assist the community in understanding its role and the role of Council in relation to unlawful activity compliance and enforcement.

-

This report is seeking Council's adoption of the Compliance and Enforcement Policy and the rescission of the two legacy policies.

ATTACHMENTS

1. [↓](#) Compliance and Enforcement Policy
2. [↓](#) Compliance and Enforcement Protocol
3. [↓](#) Enforcement Policy of Former Ashfield Council
4. [↓](#) Compliance and Enforcement Policy of Former Leichhardt Council



INNER WEST COUNCIL

Compliance and Enforcement Policy

Item 5

DOCUMENT PROFILE

Title	Compliance and Enforcement Policy
Summary	To guide officers responsible for unlawful activity compliance and enforcement in a manner that is accountable and transparent, consistent, proportional and timely and to assist the community in understanding its role and the role of Council in relation to unlawful activity compliance and enforcement.
Background	<p>Council is responsible for unlawful activity compliance and enforcement under various legislations with delegated/ authorised officers responsible for the investigation of such matters.</p> <p>The NSW Ombudsman's office encourages as best practice councils to have an adopted policy which covers this area and for that policy to be publically available.</p>
Policy Type	Council
Relevant Strategic Plan Objective	Strategic Direction 1: An ecologically sustainable Inner West Strategic Direction 2: Unique, liveable, networked neighbourhoods
Relevant Council References	<ul style="list-style-type: none"> ▪ Compliance and Enforcement Protocol ▪ Code of Conduct Policy ▪ Complaints Handling Policy and Procedure
Main Legislative Or Regulatory Reference	<ul style="list-style-type: none"> ▪ <i>Local Government Act 1993</i> ▪ <i>Environmental Planning and Assessment Act 1979</i> ▪ <i>Companion Animals Act 1998</i> ▪ <i>Roads Act 1993</i> ▪ <i>Food Act 2003</i> ▪ <i>Protection of the Environment Operations Act 1997</i> ▪ <i>Impounding Act 1993</i>
Applicable Delegation Of Authority	As per delegations' register
Other External References	NSW Ombudsman website
Attachments	Nil
Record Notes	External available document
Version Control	See last page

Attachment 1

1. PURPOSE

This Policy provides a guide to officers responsible for unlawful activity compliance and enforcement to ensure that investigations are undertaken in a manner that is lawful, accountable and transparent, consistent, proportional and timely. This Policy also addresses the resource limitations in Council's enforcement activities and how such resources are to be utilised.

The Policy also outlines for the community how reports alleging unlawful activity will be dealt with by Council, how Council treats the confidentiality of people who report alleged unlawful activity, what Council expects from people who report allegations of unlawful activity and the process for complaints about Council's enforcement action.

This Policy also sets out the role of Councillors in compliance and enforcement.

2. OBJECTIVE

The intent of this Policy is to establish:

- Council's compliance and enforcement principles;
- how reports alleging unlawful activity will be dealt with by Council;
- how Council's limited resources will be deployed in addressing allegations of unlawful activity;
- how confidentiality of people who report allegations of unlawful activity will be managed;
- what Council expects from people who report allegations of unlawful activity;
- what parties can expect from Council staff;
- how Council deals with complaints about Council's enforcement action; and
- how Council deals with anonymous reports.

The policy also provides advice and guidance on:

- the role of Councillors in compliance and enforcement.

3. SCOPE

This Policy applies to all areas within the Inner West local government area and the officers who are authorised to investigate unlawful activity including but not limited to:

- development and building control
- pollution control
- environmental health
- public health and safety
- weeds control (Biosecurity)
- companion animals
- roads and footpaths
- parks and reserves
- food safety
- fire safety
- tree preservation
- illegal dumping

4. DEFINITIONS

Complaint means an expression of dissatisfaction made about Council services, staff or the handling of a request for service/notification of unlawful activity, where a response or resolution is explicitly or implicitly expected or legally required.

For the purposes of this Policy, a complaint does not include:

- a report alleging unlawful activity (*see definition below*)
- a request for information about a Council policy or procedure
- a request for an explanation of actions taken by Council
- a request for internal review of a Council decision

Council means Inner West Council.

Enforcement means actions taken in response to serious or deliberate contraventions of laws.

Officer means a Council officer authorised to undertake unlawful activity compliance and enforcement investigations.

Regulation means using a variety of tools and strategies to influence and change behaviour to achieve the objectives of an Act, Regulation or other statutory instrument administered by Council.

Report alleging unlawful activity means an expression of concern or a request for service in relation to alleged unlawful activity, where a response or resolution is explicitly or implicitly expected or legally required.

Unlawful activity means any activity or work that has been or is being carried out contrary to and/or failure to take required action in order to be compliant with:

- the terms or conditions of a development consent, approval, permit or licence.
- an environmental planning instrument that regulates the activities or work that can be carried out on particular land.
- a legislative provision regulating a particular activity or work.
- a required development consent, approval, permission or licence.
- signage regulating a particular activity.

5. POLICY STATEMENT

This Policy covers all elected members of Council, all personnel employed by Council, any person or organisation contracted to or acting on behalf of Council, any person or organisation employed to work on Council premises or facilities and all activities of the Council.

This Policy does **not** confer any delegated authority upon any person. All delegations to staff are issued by the General Manager.

6. POLICY

6.1. *Compliance and Enforcement Principles:*

6.1.1. Lawful:

- a) Council will only engage in enforcement action where it has legislative authority to take such action.
- b) Any enforcement activity, including investigation methods, will be carried out in accordance with any legislative restraints.
- c) Enforcement activities will be carried out having regard to general principles of justice including the presumption of innocence and the need for evidence that proves, to the necessary standard, that enforcement action is lawfully available to Council.

6.1.2. Accountable and Transparent:

- a) Acting in the best interests of public health and safety and in the best interests of the environment.
- b) Ensuring accountability for decisions to take or not take action.
- c) Acting fairly and impartially and without bias or unlawful discrimination.
- d) Providing information about compliance and enforcement priorities and reasons for decisions to improve understanding and certainty and promote trust by the regulated community.
- e) Ensuring meaningful reasons for decisions are given to all relevant parties.

- f) Acting on any complaints or concerns about the conduct of Officers in accordance with Council's Complaints Handling Policy and Procedure advising people and organisations subject to enforcement action of any avenues available to seek an internal or external review of a decision.
 - g) Advising people and organisations subject to enforcement action of any avenues available to seek an internal or external review of a decision.
- 6.1.3. Consistent:
- a) Ensuring all compliance and enforcement action is implemented consistently as far as practicable.
 - b) Encouraging reports about possible unlawful activity by acting reasonably in response to the circumstances and facts of each matter.
- 6.1.4. Proportional:
- a) Ensuring the level of enforcement action is proportionate to the level of risk and seriousness of the breach.
 - b) Making cost-effective decisions about enforcement action noting the limited resources available to Council to address unlawful activity.
 - c) Taking action to address harm and deter future unlawful activity.
- 6.1.5. Timely:
- a) Ensuring responses to reports alleging unlawful activity and decision making in relation to those is timely.

6.2. How reports alleging unlawful activity will be dealt with by Council:

- 6.2.1. Council will record and assess every report alleging unlawful activity.
- 6.2.2. Council will respond to every such report unless the person raising the matter has indicated they do not wish to receive a response about Council's handling of the matter, or the report is anonymous.
- 6.2.3. Reports of unlawful activity will be processed in the order in which they are received, irrespective of the source of the report, and prioritised according to the risks associated with the activity under report. In particular, priority will be given to matters that pose serious risks including scenarios that are life threatening or constitute serious health situations, are associated with significant environmental harm or that repeatedly detrimentally affect a significant number of people.
- 6.2.4. Generally speaking, Council's objectives when dealing with reports alleging unlawful activity are to:
- a) maintain the collective good and welfare of the community;
 - b) prevent or minimise harm to health, welfare, safety, property or the environment;
 - c) consider the broader public interest having regard to Council's priorities and any resource limitations including the avoidance of deploying a disproportionate amount of resources to matters that are primarily of a private nature.
- 6.2.5. Not all reports will need to be investigated. A preliminary assessment of all matters will be made to determine the priority, and whether investigation or other action is required.
- 6.2.6. Anonymous reports will be recorded and assessed in accordance with this policy and associated procedure. However, because it is not possible to seek clarification or additional information about a matter, it may be more difficult to evaluate the allegations and therefore, if there is insufficient information, these reports are less likely to warrant investigation.

6.3. How confidentiality of people who report allegations of unlawful activity will be managed:

6.3.1. People who report allegations of unlawful activity should not expect that their identities will remain confidential from the subject of their report in all circumstances. Council may have to disclose information that identifies them in the following cases:

- a) the disclosure is necessary to investigate the matter;
- b) their identity has already been disclosed to the subject of their report directly or in a publicly available document;
- c) the individual was consulted following receipt of a Government Information (Public Access) Act 2009 application and did not object to the disclosure;
- d) the individual consents in writing to their identity being disclosed;
- e) the disclosure is required to comply with principles of procedural fairness;
- f) documents associated with the court process;
- g) the need for complainants to attend Court to provide evidence to assist in Council enforcement action; and
- h) other legislation requiring Council to provide the information.

6.3.2. Council will take seriously any concerns an individual may have about their physical safety being endangered as a result of making a report. However, this may limit Council's ability to investigate the matter.

6.4. What Council expects from people who report allegations of unlawful activity:

6.4.1. Council expects that people who report allegations of unlawful activity will cooperate and act in good faith in respect of any investigations conducted by Council.

6.4.2. If these expectations of the individual are not met, Council may need to set limits or conditions on the continuation of the investigation or may need to restrict any further communications with the individual. In particular, Council may not be able to take civil or criminal action if the individual does not agree to provide evidence in any Court action.

6.4.3. Any unreasonable conduct will be dealt with in accordance with the principles of the NSW Ombudsman's Managing Unreasonable Complainant Conduct – a model policy and procedure 2013 and any applicable Council policy.

6.5. What parties can expect from Council staff:

6.5.1. Parties who report alleged unlawful activity, as well as individuals or businesses that are subject to investigation and any enforcement action, can expect that Council staff will:

- a) treat them with courtesy and respect;
- b) advise them of the progress of an investigation at agreed intervals if the investigation is protracted, the outcome (if required) of the investigation, including an explanation of the reasons why that outcome was considered to be reasonable in the circumstances;
- c) make full and proper records in relation to the assessment and investigation of reported alleged unlawful activity, including reasons for any decisions;
- d) clearly explain decisions in plain English;
- e) provide information about any relevant internal and external appeal processes that may be available;
- f) carefully assess any new information provided by any party after a decision has been made and advise whether further action will be taken.

6.6.

Complaints about Council's enforcement action:

- 6.6.1. Any complaints about Council's handling of reports alleging unlawful activity will be recorded separately and handled in accordance with Council's Complaints Handling Policy and Procedure and as relevant, the Internal Ombudsman Shared Service Governance Charter.
- 6.6.2. Where a person or organisation subject to enforcement action merely disputes Council's decision to take enforcement against them, they will be directed to make representations in accordance with any relevant internal and external appeal processes.
- 6.6.3. Council staff will act on any complaints about the conduct of Officers in accordance with Council's Complaints Handling Policy and Procedure and the Council Code of Conduct and as relevant, the Internal Ombudsman Shared Service Governance Charter.

6.7. The role of Councillors in enforcement:

- 6.7.1. Decision making relating to the investigation of reports alleging unlawful activity and taking enforcement action is the responsibility of appropriately authorised Council staff or the Council itself.
- 6.7.2. In accordance with the Code of Conduct, individual Councillors do not have the right to direct Council staff in their day-to-day operational activities. Councillors can help individuals who raise concerns with them by satisfying themselves that their Council's policies are being carried out correctly, however they cannot ignore or alter a policy in order to satisfy the demands of special groups.
- 6.7.3. The General Manager may present certain decisions to be ratified by the elected Council if this is necessary or desirable, and the Councillors may also have the right to call for a report about particular issues to a Council meeting.

7. RESPONSIBILITIES

Council staff delegations for taking action under this policy are included in Council's Delegation Register.

8. ASSOCIATED PROCEDURES

Compliance and Enforcement Protocol

Version Control – POLICY HISTORY:

Governance Use only – The history of modifications and approval to the Policy must be detailed in the table below post adoption.

Governance Use only:

Version	Amended By	Changes Made	Date	TRIM #
1	Governance: Policy and Risk	New IWC Policy replacing pre-merged versions	June2017	74655.17
2				



INNER WEST COUNCIL

Compliance and Enforcement Protocol

DOCUMENT PROFILE

Title	Compliance and Enforcement Protocol
Summary	To guide unlawful activity compliance and enforcement in a manner that is accountable and transparent, consistent, proportional and timely and to assist the community in understanding its role and the role of Council in relation to unlawful activity compliance and enforcement
Background	<p>Council is responsible for unlawful activity compliance and enforcement under various legislations with delegated/ authorised officers responsible for the investigation of such matters.</p> <p>Council has an adopted Compliance and Enforcement Policy and the NSW Ombudsman’s office encourages as best practice Councils to have a protocol which covers this area and for that protocol to be publically available.</p>
Document Type	Protocol
Relevant Council References	<ul style="list-style-type: none"> ▪ Compliance and Enforcement Policy ▪ Code of Conduct Policy ▪ Complaints Handling Policy and Procedure
Applicable Delegation Of Authority	As per delegations' register
Other External References	NSW Ombudsman website
Attachments	See Appendixes
Record Notes	External available document
Version Control	See last page

1. PURPOSE

The Compliance and Enforcement Policy and this Protocol provides a guide to officers responsible for unlawful activity compliance and enforcement to ensure that investigations are undertaken in a manner that is lawful, accountable and transparent, consistent, proportional and timely. This Policy also addresses the resource limitations in Council's enforcement activities and how such resources are to be utilised.

The Policy and Protocol also outlines for the community how reports alleging unlawful activity will be dealt with by Council, how Council treats the confidentiality of people who report alleged unlawful activity, what Council expects from people who report allegations of unlawful activity and the process for complaints about Council's enforcement action.

2. OBJECTIVE

The intent of the Compliance and Enforcement Policy and this Protocol is to establish:

- Council's compliance and enforcement principles;
- how reports alleging unlawful activity will be dealt with by Council;
- how Council's limited resources will be deployed in addressing allegations of unlawful activity;
- how confidentiality of people who report allegations of unlawful activity will be managed;
- what Council expects from people who report allegations of unlawful activity;
- what parties can expect from Council staff;
- how Council deals with complaints about Council's enforcement action; and
- how Council deals with anonymous reports.

3. SCOPE

The Compliance and Enforcement Policy and this Protocol applies to all areas within the Inner West local government area and the officers who are authorised to investigate unlawful activity including but not limited to:

- development and building control
- pollution control
- environmental health
- public health and safety
- weeds control (Biosecurity)
- companion animals
- roads and footpaths
- parks and reserves
- food safety
- fire safety
- tree preservation
- illegal dumping

4. PROTOCOL STEPS**4.1. Responding to concerns about unlawful activity:**

- 4.1.1. How reports alleging unlawful activity will be dealt with by Council:
 - a) Council will record and assess every report alleging unlawful activity.
 - b) Council will respond to every such report unless the person raising the matter has indicated they do not wish to receive a response about Council's handling of the matter, the report is anonymous or it is obvious the matter has been resolved.
 - c) Reports of unlawful activity will be processed in the order in which they are received, irrespective of the source of the report, and prioritised according to the risks associated with the activity under report. In particular, priority will be given to matters that pose serious risks

including scenarios that are life threatening or constitute serious health situations, are associated with significant environmental harm or that repeatedly detrimentally affect a significant number of people.

- d) Generally speaking, Council's objectives when dealing with reports alleging unlawful activity are to:
 - maintain the collective good, safety and welfare of the community;
 - prevent or minimise harm to health, welfare, safety, property or the environment;
 - consider the broader public interest having regard to Council's priorities and any resource limitations;
 - consider the report fairly and impartially.
 - e) Not all reports will need to be investigated. A preliminary assessment of all matters will be made to determine the priority for a response, and whether investigation or other action is required.
 - f) An investigation of alleged unlawful activity may take a significant amount of time to complete, particularly where the issues are complex. If Council decides to investigate, staff will give the person who reported the alleged unlawful activity regular feedback on the progress of the investigation, and any reasons for delay. This does not mean that the individual can expect to be given details about every aspect of the investigation or information that would compromise the integrity of the investigation.
 - g) Decisions about what action should be taken by Council are made at the Council's discretion. This means the objective is that reports alleging unlawful activity will be resolved to the satisfaction of Council and its legislative and policy requirements, not necessarily the person raising the matter. Council will generally try to resolve matters as quickly and informally as possible so as to avoid the need to take formal action.
 - h) Council staff will endeavour to manage the expectations of people who report alleged unlawful activity, and in particular explain that in the absence of sufficient evidence of unlawful activity, Council may be unable to take further action. Staff will also explain that Council does not have unlimited resources and powers to deal with reports alleging unlawful activity. If Council is unable to fully investigate or take action on a matter because it is restricted by any legal, proportionality or resource limitations, this will be explained to the individual.
 - i) While there are certain statutory requirements that must be met in relation to notices and orders, Council staff will ensure that all explanatory communications are made in plain English and explain any technical language the law requires to be used.
- 4.1.2. Unlawful activity outside business hours:
- a) Unlawful activity can occur outside business hours. In particular, Council may receive reports about matters such as offensive noise, park and reserve usage and failure to comply with limitations on consents and permits of operation during nights and weekends.
 - b) Due to resource and operational capability restraints on Council, investigations into alleged unlawful activity outside business hours will be assessed on the basis of risk of harm to health, welfare, safety, property or the environment or it is otherwise in the public interest to take such action.

4.2. Neighbour disputes:

- 4.2.1. Council will at times receive reports from parties involved in neighbour disputes seeking Council's involvement. When a dispute between two neighbours is a civil matter, Council will often have no authority to resolve the issue in dispute. Some reports will raise several matters, some of which will require Council's involvement and some of which will be personal to the parties.
- 4.2.2. Council staff will thoroughly assess such reports to determine whether there is evidence of any possible unlawful activity requiring action by Council. Care will be taken to explain which aspects of a report Council can deal with and which cannot be dealt with and why. Where possible, individuals will be provided with information about how to resolve neighbour disputes including referral information resources such as LawAccess NSW and Community Justice Centres.
- 4.2.3. It is possible that one party will provide further information about a matter which changes Council's decision about whether it will become involved. In such circumstances, Council staff will carefully consider the matter before taking action and document reasons for the new decision. Relevant parties will be advised about the reasons Council has changed its position on a matter. Council staff will not change a decision about whether or not Council should be involved purely as a response to the conduct of an individual such as persistent demands or threats.

4.3. Investigating alleged unlawful activity:

- 4.3.1. Not all reports alleging unlawful activity will warrant investigation. A preliminary assessment of all matters will be made to determine whether investigation or other action is required. Council will prioritise matters on the basis of risk to public safety, human health and environment.
- 4.3.2. If there is insufficient information in the report to undertake a preliminary assessment, further information may need to be sought from the person who made the report or an inspection undertaken.
- 4.3.3. Circumstances where no action will be taken:
- a) Council will take no further action if, following a preliminary assessment, it is identified that:
 - Council does not have jurisdiction to investigate or is not the appropriate authority to take action on the issues raised. Where there is another appropriate authority or course of action, Council may bring the matter to the attention of the authority or provide information and contact details to the individual. For example, SafeWork NSW for workplace safety matters; the NSW Environment Protection Authority for possible environmental offences and Community Justice Centres NSW for personal disputes;
 - the report relates substantially to a matter previously determined by Council and no new or compelling information is presented which would cause Council to change its earlier decision. In this case, staff will acknowledge the report and advise that no further action will be taken as no new information had been provided (other than where the person has previously been advised they would receive no further response);
 - the allegations relate to a lawful activity (eg where there is an existing approval or the activity is permissible without Council approval or consent being required);
 - the report is not supported with evidence or appears to have no substance;

- the relevant Manager, Group Manager, Deputy General Manager or the General Manager determines that investigation or other action would have an unreasonable impact on resources and/or is unlikely to achieve an outcome sufficient to justify the expenditure of resources.
- 4.3.4. Relevant factors guiding decisions as to whether to take action:
- a) When deciding whether to investigate, Council will consider a range of factors including whether:
 - the activity is having a significant detrimental effect on the environment or it constitutes a risk to public safety;
 - the report is premature as it relates to some unfinished aspect of work that is still in progress;
 - the activity or work is permissible with or without permission;
 - all conditions of consent are being complied with;
 - much time has elapsed since the events the subject of the report took place;
 - another body is a more appropriate agency to investigate and deal with the matter;
 - it appears there is a pattern of conduct or evidence of a possible wide spread problem;
 - the person or organisation reported has been the subject of previous reports;
 - the report raises matters of special significance in terms of the Council's existing priorities;
 - there are significant resource implications in relation to an investigation and any subsequent enforcement action;
 - it is in the public interest to investigate the report.

The above are factors for Council to consider and weigh in making a determination. Council staff are not limited in their use of discretion by these considerations and may decide to investigate based on these and other factors.

- 4.3.5. The objective of the processes Council staff use when investigating incidents of alleged unlawful activity is to:
- a) determine the cause of the incident;
 - b) determine if there has been a contravention of law, policy or standards;
 - c) gather evidence to the required standard to support any required enforcement action;
 - d) determine any necessary action to mitigate the possibility of reoccurrence of similar incidents.
- 4.3.6. Any decision not to investigate an allegation of unlawful activity will be recorded and the reasons for that decision clearly stated.

4.4. Taking enforcement action:

- 4.4.1. When deciding whether to take enforcement action in relation to a confirmed case of unlawful activity, Council will consider the full circumstances and facts of the matter and the public interest.
- 4.4.2. The following common considerations will assist Council staff in determining the most appropriate response in the public interest:

Considerations about the alleged offence and impact:

- a) The nature, extent and severity of the unlawful activity, including whether the activity is continuing.

Consideration should be given to the nature, extent and severity of any actual or potential impact of the unlawful activity. If there is actual or potential detriment to the natural or built environment, to the health or safety of residents or the amenity of an area, this would normally warrant a decision to take action to remedy or restrain the breach. It is also important to consider whether the unlawful activity is ongoing or has ceased.

- b) The harm or potential harm to the environment or public health, safety or amenity caused by the unlawful activity.

Consideration should be given to whether the likely costs and benefits of any enforcement action is justifiable where breaches result in no material impacts upon any other party or the health, safety and amenity of the environment and community. A breach of a technical, inconsequential or minor nature, in the absence of any other aggravating factor, will generally not warrant a decision to take action to remedy or restrain the breach.

- c) The seriousness of the breach, including whether the breach is merely technical, inconsequential or minor in nature. Legislation may provide time limits in which to commence proceedings and take enforcement action, and sometimes prosecution will be statute barred despite good evidence that unlawful activity has taken place.
- d) The time period that has lapsed since the date of the unlawful activity.

In addition, consideration should be given to the time which the offence or breach occurred and the *reasonableness* of taking enforcement action if a significant time has lapsed since the time of the offence or breach.

Considerations about the alleged offender:

- a) Any prior warnings, instructions, advice that was issued to the person or organisation reported or previous enforcement action taken against them.

Consideration should be given to the previous history of the offender. If prior warnings, instructions or advice has been issued to the person or organisation reported which was not followed, a more formal and coercive enforcement approach would appear more appropriate.

- b) Whether the offender is, or at least should be expected to be, familiar with the law applicable to their circumstances due to their profession, training or expertise.
- c) Whether the offence was committed with intent.

Consideration should be given to whether the offence was committed deliberately, recklessly or with gross negligence. It may be appropriate that cases of this nature are more likely to result in prosecution. Where an offence was committed as a result of an accident or genuine mistake, providing education and guidance or a formal warning may be more suitable in achieving desired outcomes.

- d) Whether the person or organisation reported has been proactive in the resolution of the matter and assisted with any Council requirements and instructions.

Where the offender has been proactive in the resolution of the matter and has assisted Council in the resolution of the matter, it may be that the public interest would not be best served by prosecuting the offender, especially if the offending conduct or work has been rectified. If the offender has demonstrated a lack of contrition and is uncooperative with the investigation or remediation, a prosecution or monetary penalty would appear more appropriate.

- e) Any mitigating or aggravating circumstances demonstrated by the alleged offender. Any particular circumstances of hardship affecting the person or organisation reported, whether the person or organisation being reported is a community based non-for-profit.

Consideration should be given to any genuine mitigating circumstances of the offender such as age, physical or mental health, disability and any financial hardship of the offender resulting in an inability to pay.

Considerations about the impact of any enforcement action:

- a) The need to deter any future unlawful activity;
- b) Whether an educative approach would be more appropriate than a coercive approach in resolving the matter.

If there is evidence of a significant issue of unlawful activity and that matter can be easily remedied by some action on the part of the person the subject of the report, there is a less compelling case for enforcement action, depending on the other circumstances of the case such as the conduct of the offender.

If retrospective approval is possible, it may be reasonable to allow an opportunity to obtain this prior to taking other enforcement action. In some cases, compliance by informal means may be the most efficient way to resolve the matter and other enforcement action may not be necessary.

This needs to be balanced with other considerations such as the public interest in enforcing the law;

- c) The prospect of success if the proposed enforcement action was challenged in court;
- d) The costs and benefits of taking formal enforcement action as opposed to taking informal or no action;
- e) What action would be proportionate and reasonable in response to the unlawful activity;
- f) Whether Council is prevented from taking action based on earlier advice given, i.e. whether an estoppel situation has been created.

Considerations about the potential for remedy:

- a) Whether the breach can be easily remedied;
- b) Whether it is likely consent would have been given for the activity if it had been sought;
- c) Whether there is a draft planning instrument on exhibition that would make the unauthorised use legal.

Legal or technical issues:

- a) Where legal and/or technical issues are in question, Council staff will consider whether legal advice or professional advice (for example heritage, arborist, environmental, engineering etc) from duly qualified staff or other experts should be obtained and considered.
- b) Council may also require a person subject to possible enforcement action to obtain professional advice in relation to issues of concern to Council for assessment as to whether further action is required.

4.4.4. Requirements of Council staff considering enforcement action:

- a) Prior to taking enforcement action, Council staff will take into account the above considerations as well as the evidence gathered during their investigation. Council staff must act impartially, be mindful of their obligations under Council's Code of Conduct and not act as a decision-maker in relation to any matter in which they have a personal interest. Enforcement action will not be taken purely as a response to the conduct of an individual such as persistent demands or threats.
- b) Council staff are required to maintain records about critical thinking and decision-making processes in relation to reports alleging unlawful activity and any enforcement action, as well as records of interactions with relevant parties. Council staff will at all times adhere to Council's internal approval processes prior to the commencement of any enforcement action.
- c) Council staff will take steps to ensure that any enforcement action is taken against the correct person or organisation. Where there are multiple possible parties to an alleged unlawful activity, it will generally not be appropriate to take enforcement action against every person who may be liable for the alleged unlawful activity. In such circumstances, Council staff will be guided by legal advice in determining the appropriate person/s to pursue.

4.5. Options for dealing with confirmed cases of unlawful activity:

- 4.5.1. Council will try to use the quickest and most informal option to deal with unlawful activity wherever possible unless there is little likelihood of compliance with such options. Council staff will use discretion to determine the most appropriate response to confirmed cases of unlawful activity and may take more than one approach.

Any enforcement action taken by Council will depend on the full circumstances and facts of each case, with any decision being made on its merits.

4.5.2. At all times, Council's key concerns are:

- a) to prevent or minimise harm to health, welfare, safety, property or the environment;
- b) to influence behaviour change for the common good and on behalf of the community.

4.5.3. The following enforcement options to be considered by Council are ordered to reflect an escalation in response that is proportionate to the level of risk, the seriousness of the confirmed breach or the need for a deterrent:

- a) **Level of Risk/ Seriousness/ Need for Deterrent: Very Low**
Enforcement options:
 - take no action on the basis of minor technical issue with no impact or some other appropriate reason;
 - provision of information/advice on how to be compliant.

- b) **Level of Risk/ Seriousness/ Need for Deterrent: Low**
Enforcement options:
 - negotiating with the person to obtain voluntary undertakings or an agreement to address the issues of concern;
 - issuing a warning or a formal caution.
 - c) **Level of Risk/ Seriousness/ Need for Deterrent: Medium**
Enforcement options:
 - issuing a letter requiring work to be done or activity to cease in lieu of more formal action;
 - issuing a notice of intention to serve an order or notice under relevant legislation, and then serving an order or notice if appropriate.
 - d) **Level of Risk/ Seriousness/ Need for Deterrent: High**
Enforcement options:
 - issuing a penalty notice;
 - carrying out the works specified in an order at the cost of the person served with the order.
 - e) **Level of Risk/ Seriousness/ Need for Deterrent: Very High**
Enforcement options:
 - seeking an injunction through the courts to prevent future or continuing unlawful activity;
 - commence legal proceedings for an offence against the relevant Act or Regulation.
- 4.5.4. Following up enforcement action:
- a) All enforcement action will be reviewed and monitored to ensure compliance with any undertakings given by the subject of enforcement action or advice, directions or orders issued by Council.
 - b) Reports alleging continuing unlawful activity will be assessed and further action taken if necessary. If the unlawful activity has ceased or the work has been rectified, the matter will be resubmitted for follow up action to ensure compliance outcomes are met.
 - c) Should initial enforcement action be found to have been ineffective, Council staff will consider other enforcement options based on resources and public interest.

4.6. Taking legal action:

- 4.6.1. The Council and its delegated staff will be guided by legal advice in deciding whether to commence criminal or civil proceedings and will consider the following:
- a) whether there is sufficient evidence to establish a case to the required standard of proof;
 - b) whether there is a reasonable prospect of success before a court;
 - c) whether the public interest warrants legal action being pursued.

Whether there is sufficient evidence to establish a case to the required standard of proof:

- a) Council considers the decision to take legal action a serious matter, and as such will only initiate and continue proceedings once it has been established that there is admissible, substantial and reliable evidence to the required standard of proof.
- b) The basic requirement of any criminal prosecution is that the available evidence establishes a prima facie case. The prosecutor is required to prove the elements of the offence beyond reasonable doubt.

- c) In civil enforcement proceedings, Council will require sufficient evidence to satisfy the court that an actual or threatened breach has occurred on the balance of probabilities.

Whether there is a reasonable prospect of success before a court:

- a) Given the expense of legal action, Council will not take legal action unless there is a reasonable prospect of success before a court. In making this assessment, Council staff will consider the availability, competence and credibility of witnesses, the admissibility of the evidence, all possible defences, and any other factors which could affect the likelihood of a successful outcome.

Whether the public interest requires legal action be pursued:

- a) The principal consideration in deciding whether to commence legal proceedings is whether to do so is in the public interest. In making this determination, the same factors to be considered when taking enforcement action apply. (See Section 4.4 - *Taking Enforcement Action*).
- b) The following considerations relate more specifically to the decision to commence legal proceedings and will assist Council and its delegated staff in making this determination:
- the availability of any alternatives to legal action;
 - whether an urgent resolution is required (court proceedings may take some time);
 - the possible length and expense of court proceedings;
 - any possible counter-productive outcomes of prosecution;
 - what the effective sentencing options are available to the court in the event of conviction;
 - whether the proceedings or the consequences of any resulting conviction would be unduly harsh or oppressive.

Time within which to commence proceedings:

Council staff must be aware of legislative time limits in which enforcement proceedings must be commenced. Sometimes legal action will be statute barred despite good evidence that unlawful activity has occurred.

4.7. Shared enforcement responsibilities:

- 4.7.1. Some reports will raise matters involving shared regulatory responsibilities between Council and other authorities including the Environment Protection Authority; the NSW Police Force; the Office of Liquor, Gaming and Racing; NSW Fair Trading; NSW Food Authority and Crown Lands.
- 4.7.2. Council recognises that collaboration and cooperation between authorities to address issues of shared regulatory responsibility is the best approach. To this end, where there are shared legislative responsibilities, Council staff will liaise with relevant authorities to establish:
- a) which authority will take the leading role on any joint investigation;
 - b) which activities each authority will carry out;
 - c) responsibilities for updating an individual where relevant;
 - d) protocols for exchanging confidential information between the relevant authorities.
- 4.7.3. Council will reasonably endeavour to respond to requests for information or assistance on joint regulatory matters in a timely manner.

4.8.

Role of Council where there is a principal certifier:

- 4.8.1. Council retains its regulatory role and enforcement powers where a certifier has been appointed the principal certifier. However, a principal certifier is the first point of contact to take steps to address non-compliance with the consent.
- 4.8.2. Principal certifiers have limited enforcement powers. They have the power to issue a notice of intention to issue an order to the owner or builder to comply with the conditions of consent or rectify any breaches. A copy of any notice of intention issued by a principal certifier must be provided to Council for assessment as to whether Council will enforce the notice by issuing an order.
- 4.8.3. Council (when appropriate) and the principal certifier will work together to resolve any issues when they arise to achieve compliance with the development consent or complying development certificate. Council staff when contacted will take steps to ensure individuals are clear about which agency performs which role and when.
- 4.8.4. If a principal certifier has been notified of a non-compliance (when the reported issue clearly relates to the consent) and has had sufficient time to investigate but fails to act Council will investigate.

5. RELATED LEGISLATION, POLICIES AND PROCEDURES/ PROTOCOLS

- Compliance and Enforcement Policy
- Code of Conduct Policy
- Complaints Handling Policy and Procedure
- Internal Ombudsman Shared Service Governance Charter

6. DEFINITIONS

Complaint means an expression of dissatisfaction made about Council services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.

For the purposes of this policy, a complaint does not include:

- a report alleging unlawful activity (*see definition below*)
- a request for information about a Council policy or procedure/ protocol
- a request for an explanation of actions taken by Council
- a request for internal review of a Council decision

Council means Inner West Council.

Enforcement means actions taken in response to serious or deliberate contraventions of laws.

Estoppel is a legal principle that precludes a person from alleging facts that are contrary to his previous claims or actions. In other words, **estoppel** prevents someone from arguing something contrary to a claim made or act performed by that person previously.

Officer means a Council officer authorised to undertake unlawful activity compliance and enforcement investigations.

Prima facie means something that has been proven or assumed to be true unless there is evidence presented to the contrary.

Regulation means using a variety of tools and strategies to influence and change behaviour to achieve the objectives of an Act, Regulation or other statutory instrument administered by Council.

Report alleging unlawful activity means an expression of concern or a request for service in relation to alleged unlawful activity, where a response or resolution is explicitly or implicitly expected or legally required.

Unlawful activity means any activity or work that has been or is being carried out contrary to and/or failure to take required action in order to be compliant with:

- the terms or conditions of a development consent, approval, permit or licence.
- an environmental planning instrument that regulates the activities or work that can be carried out on particular land.
- a legislative provision regulating a particular activity or work.
- a required development consent, approval, permission or licence.
- signage regulating a particular activity.

Version Control – POLICY HISTORY:

Governance Use only – The history of modifications and approval to the Policy must be detailed in the table below post adoption.

Governance Use only:

Version	Amended By	Changes Made	Date	TRIM #
1	Governance: Policy and Risk	New IWC Policy replacing pre-merged versions	June2017	74655.17
2				

STRATEGIC PLANNING

Ashfield Municipal Council

Development Control Plan
2007



ENFORCEMENT POLICY

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1.0 OBJECTIVE

The aim of this policy is to establish clear guidelines for the management of Council's regulatory activities and implementation of enforcement action.

This policy aims to ensure that regulatory matters are managed in a consistent and transparent manner and the principles of procedural fairness and natural justice are followed.

This policy also provides guidelines on:

- The investigation of customer requests for action relating to regulatory matters.
- Options for dealing with unlawful activities and regulatory breaches.
- Matters for consideration and the exercise of discretion in dealing with regulatory action by Council
- Determining whether or not enforcement action is warranted.

Ashfield Council acknowledges that it has an obligation under section 8 of the *Local Government Act 1993* to ensure that the exercise of its regulatory power is carried out with consistency and without bias.

2.0 APPLICATION OF THE POLICY

The policy applies to all compliance and enforcement action where Council has regulatory responsibility under NSW legislation, including:

- Roads, footpaths and parking
- Pollution control
- Control of animals
- Unauthorised development (including non-compliance with consent conditions)
- Public health and safety issues
- Food safety
- Fire safety
- Tree preservation

3.0 RELEVANT LEGISLATION

This policy applies in relation to compliance and enforcement of all NSW Legislation administered by Council, including:

- Local Government Act 1993 & Regulations
- Environmental Planning and Assessment Act 1979 & Regulations

- Food Act 2003, Regulations & NSW Food Safety Standards
- Protection of the Environment Operations Act 1997 & Regulations
- Waste Avoidance & Resource Recovery Act 2001 & Regulations
- Noxious Weeds Act 1993
- Public Health Act 1991 & Regulations
- Companion Animals Act 1998 & Regulations
- Roads Act 1993 & Regulations
- Road Transport (Safety & Traffic Management) Act 1999, Regulations and Australian Roads Rules
- Impounding Act 1993 & Regulations
- Recreational Vehicles Act 1983
- Swimming Pools Act 1992
- Liquor Act 1982 & Regulations
- Fisheries Management Act 1994 & Regulations
- Tree (Disputes Between Neighbours) Act 2006 & Regulations

4.0 RESPONSIBILITY

The responsibility for implementing this policy rests with relevant Council officers, including the General Manager, Directors, Manager Environmental Health, Building Services, Development Services and relevant Authorised Officers (including; Environmental Health Officers, Building Surveyors, Development Compliance Officers, Community Enforcement Officers, Parking Patrol Officers and Development Assessment Officers).

Council consultants and contractors authorised to carry out functions on behalf of Council must also comply with this policy (as applicable).

5.0 INVESTIGATION OF ALLEGED OFFENCES AND BREACHES

Regulatory matters are generally initially identified via proactive programs and inspections carried out by Council officers or via customer request management (CRMs) or complaints received from residents or other parties.

All CRMs or complaints regarding regulatory matters are required to be investigated and acted upon promptly with the complainant kept regularly informed of progress in the matter in accordance with relevant legislative provisions and the standard procedures developed by the relevant Director or Manager.

Details of CRMs or complaints received by Council are required to be documented in Council's computerised data base and except in the case of urgent matters, CRMs or complaints relating to privately owned premises are required to be provided in writing wherever possible.

All complaints and alleged unlawful activities will be investigated by a relevant Council officer, except where:

- Advice has been provided to relevant parties and no further investigation is necessary,
- The matter has already been investigated and resolved to the satisfaction of the relevant Manager, Director or General Manager,
- Council is not the appropriate authority or has no jurisdiction to take regulatory action in relation to the particular matter (i.e. Matters under the jurisdiction of a State Authority such as Work Cover NSW or the NSW Department Environment & Climate Change, or internal matters in private Strata buildings),
- The activity is considered to be lawful without further investigation,
- The complaint is considered to be trivial, frivolous or vexatious,
- The relevant Manager, Director or General Manager has determined that investigation and/or regulatory action is not warranted (i.e. the extent of investigation requested would have an unreasonable impact upon the effective allocation of Council's resources or the investigation or taking of regulatory action would be unreasonable or not in the public interest).

Council must consider a range of factors when determining whether the particular matter will warrant further investigation, but if a decision is made not to investigate or act upon a complaint or matter, the decision must be recorded with clear reasons why. The complainant must then be advised of the decision and the reasons for not taking further action.

6.0 OPTIONS AND ENFORCEMENT

Following an investigation, there are a range of possible options available for Council to deal with a particular matter, depending on the nature of the matter or offence, relevant legislative provisions, circumstances of the case and the outcome desired.

Enforcement options may include:

- Take no further action due to the lack of documentary evidence of the offence or breach
- Take no further action having regard to the minor nature of the offence or breach and/or the circumstances of the case
- Counsel the person investigated to educate them on the relevant Council or regulatory requirements
- Refer parties to the Community Justice Centre (CJC) for mediation (i.e. in instances where it is considered that mediation would be more appropriate to resolve a particular matter

rather than enforcement)

- Issue a warning and advise the person that any further breaches may result in possible regulatory action or penalties
- Direct the person, or issue a letter requiring the person, to; cease specified activities; carry out specified works; provide specified information, documentation or certification; or obtain necessary approvals, within a specified timeframe
- Consult and negotiate with the parties and/or obtain undertakings, to achieve a reasonable outcome and resolution of a particular matter
- Issue a formal Notice of Intention to serve an Order under relevant legislation, which allows the person to make representations to Council, prior to determining any appropriate action
- Issue a formal Order or Notice under relevant legislation, requiring specified work to be undertaken or to provide specified documentation, certification or the like
- Issue a Penalty Infringement Notice (on-the-spot fine) for the offence or breach
- Implement legal proceedings for the offence or breach (i.e. Local Court or Land & Environment Court)
- Implement proceedings for a Court Order or Injunction (i.e. to remedy or restrain a breach of relevant legislative provisions)
- Carry out the works specified in a Council Order under relevant legislation, at the expense of the person served with the Order.

Council has discretion in determining whether or not enforcement action should be taken in relation to a particular matter having regard to evidence available; the nature, extent and impact of the offence or breach; the circumstances of the case and the public interest.

Further details on the use of discretion by regulatory authorities can be found in the Enforcement Guidelines for Councils published by the NSW Ombudsman and the NSW Department of Planning Practice Note – Exercising Discretion.

7.0 DETERMINING APPROPRIATE ACTION AND ENFORCEMENT

A range of matters are required to be taken into consideration when determining the appropriate course of action and any enforcement of a regulatory matter, including:

- 1) The nature, extent and severity of the offence or breach

- 2) The impact or potential impact of the offence or breach upon the natural or built environment
- 3) The impact or potential impact of the offence or breach upon the health, safety and amenity of the locality and community
- 4) Whether or not the breach is of a technical, inconsequential or minor nature
- 5) Whether or not Council is legally estopped from taking action
- 6) The time period that has lapsed since the date of the offence or breach
- 7) Whether or not the breach has been remedied or rectified
- 8) Whether or not an informal warning or provision of education would be appropriate in the circumstances
- 9) Whether or not the particular matter satisfies relevant regulations, standards and requirements (i.e. Building Code of Australia)
- 10) Whether or not the person has demonstrated contrition
- 11) Whether or not the person has been proactive in the resolution of the matter and assisted with any Council requirements and instructions
- 12) Whether or not a relevant development consent has been obtained or sought for the particular matter (i.e. variation to a consent)
- 13) Whether or not any previous warnings, instructions or advice was provided which has not been followed
- 14) Whether or not it is likely that consent would have been issued for the particular matter if consent had been sought
- 15) Whether or not any relevant requirements of Council have been or will be satisfied to address or minimise any potential impacts of the particular matter
- 16) Whether or not it was likely that the person was aware or should have been aware of the relevant regulatory provisions and requirements
- 17) Whether or not the person has demonstrated genuine mitigating circumstances or hardship

- 18) Whether or not the action would be reasonable and proportionate in the particular case
- 19) Whether or not the Council has sufficient admissible evidence to prove each element of the offence or breach
- 20) The likely chances of success if the enforcement action was challenged in Court
- 21) The costs and benefits of taking enforcement action or implementing proceedings (i.e. cost of proceedings, allocation of extensive resources compared to the likely outcome)
- 22) The circumstances of the particular case
- 23) The public interest

Further details on the matters to be taken into consideration when deciding whether or not to take enforcement action are provided in *Annexure 1*.

Examples of the key options available and possible courses of action for a number of regulatory scenarios are provided in *Annexure 2*.

8.0 LEGISLATIVE PROVISIONS AND REQUIREMENTS

Specific provisions are contained within each piece of legislation relating to the appointment of Authorised Officers, Powers of Entry, Inspections & Investigations, Search Warrants, Issuing of Notices & Orders, Issuing Penalty Infringement Notices, Legal Proceedings, Appeals, Court Orders, Penalties, Compensation and other associated activities.

Specific provisions are also contained in most legislation to restrict an Authorised Officers access to a residential premises, unless permission has been obtained accordingly or the inspection relates to a current approval, or Council has obtained a Search Warrant from the Court Magistrate.

Council officers are required to be duly authorised and carry out their regulatory functions fully in accordance with these provisions. Failure to do so may affect any potential proceedings or appeal and could result in a determination against Council or possible compensation.

8.1 Offences

Specific provisions for offences are contained within relevant legislation.
Offences include:

Failure to comply with a particular legislative or regulatory provision (i.e. a provision of the *Environmental Planning & Assessment Act*, *Local Government Act*, *Roads Act*, *Companion Animals Act*, *Protection of the Environment Operations Act*, *Food Act* etc)

- Failure to obtain the required development consent or a construction certificate for development and building works (where required)
- Carrying out development or other activity contrary to relevant legislative requirements, development consent or other approval (i.e. carrying out development contrary to a condition of consent)
- Failure to comply with the terms of a Council Order or Notice
- Parking a vehicle or driving a vehicle contrary to the Road Transport Regulation - Australian Roads Rules
- Failure to provide specified documentation or certification to Council (i.e. annual fire safety statement)

8.2 Notices of Intention to Serve an Order

Most of the legislation administered by Council, contains provisions requiring Council to issue a Notice of Intention prior to the service of a formal Order (except in the case of an emergency). The Notice of Intention must contain specific information and it, in effect, provides the person with the opportunity to make representations to Council, to demonstrate why Council should not issue a formal Order or commence proceedings or take other regulatory action.

This process follows the principles of *procedural fairness*. However, at times, it may also have the effect of prolonging the effective resolution of a particular matter.

Representations may be made by the subject person or their solicitor and any representations are required to be made in writing, to ensure that any representations are appropriately recorded and considered.

Any representations made within the specified timeframe are required to be considered by Council prior to determining the appropriate course of action.

Statistically, in the majority of cases, matters are often addressed or resolved to an acceptable level during the Notice of Intention and Representations stages and it may not be necessary to serve a formal Order (i.e. development consent has been obtained in relation to a previously unauthorised use of a premises or by the person carrying out certain works).

8.3 Orders

Council may issue an Order (or Notice in some legislation) directing a person to carry out specified works or to provide specified information, documentation or the like, within a specified timeframe.

The legislation contains specific provisions relating to the service of Orders, which must be strictly followed. Council is also only able to issue an Order directing a person to do the matters specified in the legislation.

It is an offence to fail to comply with an Order and the relevant legislation generally contains provisions for the implementation of legal proceedings, penalties and in some cases, the issuing of penalty infringements for the offence.

The legislation also allows Council to enter upon the property and give effect to the terms of an order, including the carrying out of any work required by the order and to recover Council's costs.

8.4 Appeals against an Order

The relevant legislation contains provisions for a person to lodge a formal Appeal against an Order in the Land & Environment Court within a specified timeframe.

Appeals are required to be considered on the merits of the case and the legality and scope of the Order. Matters relating to any initial offence (i.e. the undertaking of unauthorised work) are not relevant matters for consideration by the Court, as separate provisions are available for criminal sanctions in relation to any initial offence.

Therefore, detailed consideration must be given to the possible service of any Orders and the likely outcome in the event of an Appeal.

For example, a Notice of Intention and/or a Penalty Infringement Notice may be issued in relation to a particular breach (i.e. an unauthorised structure). However, following consideration of representations, provision of information and certain works being undertaken, it may not be appropriate to proceed to serve an Order, having considered the impacts upon the locality, compliance with relevant planning instruments and regulatory standards, etc, as the likelihood of success in Court may be minimal.

8.5 Penalty Notices

Many of the Acts of Parliament which Council administers provide the ability for Council officers to issue Penalty Notices for certain offences. The penalty notice system was introduced to provide an effective and efficient means to deal with those offences which are generally not serious enough to warrant instituting Court proceedings.

A Penalty Notice is served because it is apparent that an offence has been committed, but payment of the fine does not result in the recording of a criminal conviction. Non-payment of the fine is not dealt with by way of criminal sanctions, but is recoverable as a civil debt.

However, a person may elect to have the matter heard in proceedings in the criminal jurisdiction of the Local Court.

Penalty notices may be issued by designated authorised officers under the relevant legislation. In many instances, authorised officers are not only Council officers, but include officers from other agencies such as the Police and DEC.

Penalty notices are generally most appropriate where:

- the breach is minor,
- the facts are apparently incontrovertible,
- the breach is a one-off situation that can be remedied easily, and
- the issue of a penalty notice is likely to be a practical and viable deterrent.

It may not be appropriate to issue penalty notices where:

- the breach is on-going,
- the penalty prescribed in the penalty notice would be clearly inadequate for the severity of the offence,
- the extent of impact or the harm to the environment or locality cannot be assessed immediately,
- the evidence available may be insufficient and the matter may be unlikely to succeed in the event of a Court hearing,
- a significant period of time has elapsed since the alleged breach,
- negotiations to find a resolution to the problem which is the subject of the breach are being conducted,
- a direction has been issued to perform specified work (i.e. via a Notice of Intention to serve an Order) within a timeframe and the time limit for such performance has not expired,
- multiple breaches have occurred.

Penalty Notices are generally most suitable for immediate and straightforward offences or breaches, to uphold the objectives of the relevant regulatory requirements and to act as a deterrent against further similar breaches, including:

- Parking offences
- Roads and traffic offences
- Waste and littering offences
- Failure to comply with public notices
- Companion animal offences
- Public safety offences
- Low impact pollution incidents
- Minor fire safety offences
- Low impact development control offences
- Essential services certification offences

To ensure that Council manages the penalty infringement process and enforcement action in a consistent, transparent, accountable and unbiased manner, any requests or representations seeking reconsideration or waiving of a penalty infringement notice are required to be made directly to the NSW Office of State Revenue.

Requests to waive penalty infringement notices are not to be made directly to Council.

The decision to waive a penalty notice must be made by the NSW Office of State Revenue. In some cases, the Office of State Revenue may consult with Council prior to making a determination.

To maintain the integrity of the Council's regulatory and enforcement functions, Council will not support the waiving of a penalty infringement notice unless:

- it is evident that an error has been made in the issuing of the penalty notice, or
- the extent of evidence or circumstances may affect the successful defence of the infringement in the event of a Court hearing or appeal, or
- it is evident that Council has acted unreasonably in the issuing of the penalty notice, or
- legal advice has been obtained and it is considered appropriate to do so.
- having regard to relevant legal advice.

8.6 Follow-up of regulatory action

Council's investigating officers will follow up enforcement matters to determine compliance with Council's directions, Notices and Orders, to an acceptable level. If Council's Notices and Orders are not reasonably complied with, consideration will be given to taking further regulatory action, legal proceedings or penalties.

8.7 Education and Awareness

Council aims to take a proactive approach in preventing unauthorised development and other activities or breaches, including the provision of information to the public and applicants about planning and building requirements, conditions and regulatory requirements to be satisfied.

Council also aims to provide information to raise awareness and educate the community about compliance, enforcement and regulatory requirements.

Council recognises that advice, negotiation and mediation may achieve compliance or a reasonable solution for the parties without the need to take enforcement action in certain circumstances.

9.0 UNPROVEN USES

This component of the policy relates specifically to situations where, through investigative work under taken by Council officers, work programs initiated by Council or specific complaints made to the Council it becomes evident that an unauthorised use has been noted.

This could involve instances where additional dwellings (flats, units, etc) have been noted in an existing building or where a non-conforming use has been noted as operating without a relevant consent from the Council. In many instances these cases would relate to long terms situations where the non-conforming use or activity has been ongoing for some time.

Where non-conforming uses are identified they will generally be investigated and reported to the Council for appropriate action. In situations where public safety is an immediate concern, particularly in relation to fire safety matters under the BCA, Council officers will serve the required Orders necessary to ensure that public safety is immediately addressed. In taking such action this does not imply that the Council is endorsing the unauthorised use or activity and such action will not prevent the Council from taking further action in relation to the matter.

9.1 Matters for consideration

Safety – in the first instance the initial consideration needs to be whether or not the continuation of the use or activity constitutes a risk to public safety. If public safety is at serious risk then immediate action needs to be taken to address the risk above all other considerations. This can be undertaken through the issuing of emergency orders and/ or injunctive relief depending on the matter and circumstances. Where orders are served in relation to fire safety and BCA compliance the property owner is to be advised that compliance with the order does not imply

that the Council endorses the unauthorised use or activity nor will it prevent further action being taken by the Council in relation to the unauthorised use or activity.

Onus of proof – property owners will be given a reasonable opportunity to establish the bona fides of the activity or use and provide evidence as to the history of the use of the property and their understanding of the circumstances arising in relation to the activity and use under question. Council staff and its solicitors will examine all information received in relation to such matters and undertake a thorough check of Council records to establish all relevant background information and history of use of the property. Where the examination of such information establishes reasonable doubt as to the bona fides of the activity or use the Council will generally err on the side of caution and not accept claims that are not supported by verifiable evidence.

Personal circumstances – the personal circumstances of property owners will be taken into consideration in determining appropriate action, i.e. whether or not the property owner was directly responsible for the activity or use, how long the property has been owned by the current property owner, and any issues of personal hardship arising in relation to the matter.

As a general guide the Council will not tolerate property owners who are directly responsible for the unauthorised use or activity as opposed to those who may have unwittingly purchased a property unaware that the use or activity was unauthorised. In circumstances where the Council may have refused consent to a proposal to develop a property and the property owner subsequently proceeds to undertake the proposal without consent the Council will prosecute the property owner.

In terms of personal hardship the Council will take into consideration individual circumstances which includes:

- the income(s) of the property owner(s).
- personal circumstances of the property owner(s)
- how much income is derived from the unauthorised use or activity.
- the willingness of a property owner(s) to enter into legally binding arrangements with the Council to consider limits or restrictions on the unauthorised use or activity continuing and its potential for further intensification.

Length of time – after investigation of the matter and establishing the length of time an activity or use has been occurring consideration will be given as to whether or not there is a realistic prospect for a successful action to have the activity or use cease. Legal advice will be obtained before making a determination in such cases.

Existing use rights – consideration will be given as to whether or not a decision to take or not take further action will have potential implications on the existing use rights of a property. This assessment will include an examination of future development potential, if any, of the property; the use of legal agreements or instruments to restrict and/or limit the future use of the property

and its development potential or require its conversion to a conforming use at a later time. In resolving what form of action is appropriate Council staff will obtain appropriate legal advice.

9.2 Authority for determining enforcement action

The Director Planning & Environment and General Manager will be the responsible officers in determining what form of appropriate action to take under this section of the policy when matters are likely to go to Court. Where deemed appropriate the Director and/or General Manager will refer specific matters to Council for determination and further action.

10.0 RELATED GUIDELINES, POLICIES AND PROCEDURES

- Enforcement Guidelines for Council's - NSW Ombudsman
- NSW Department of Planning Practice Note – Exercising Discretion

This Policy is principally based on the 'Enforcement Guidelines for Councils, published by the Office of the NSW Ombudsman, June 2002.

ANNEXURE 1
EXAMPLES OF MATTER TAKEN INTO CONSIDERATION WHEN DETERMINING APPROPRIATE REGULATORY ACTION AND ENFORCEMENT

Considerations	Comments/Examples
1. Does Council have sufficient evidence to prove the alleged offence?	To be able to implement any enforcement action, Council is required to possess sufficient evidence of the alleged offence (which can be substantiated in Court if required), including evidence of the person responsible for the offence to be successful in the event of a hearing or appeal.
2. Is the offence or breach of a technical or inconsequential nature?	<p>Consideration is to be given to the nature, extent and severity of the offence or breach and any material impacts upon the health, safety and amenity of the environment and community.</p> <p>Consideration should be given to the likely costs and benefits of any enforcement action where breaches are solely of a minor technical nature or resulting in no material impacts upon any other party or the environment.</p>
3. How long has the unlawful activity or breach been occurring and is enforcement action statute barred?	<p>The legislation may provide time limits in which to commence proceedings or take enforcement action.</p> <p>In addition, consideration should be given to the time which the offence or breach occurred and the 'reasonableness' of taking enforcement action if a significant time has lapsed since the time of the offence or breach.</p>
4. Is the matter subject to estoppel?	Estoppel is a legal rule which prevents a person from later denying something which may have previously been relied upon by another person. For example Council may not be able to take action if Council has contributed in some way to the person acting upon a reasonable expectation that no action would be taken or if a matter had previously been brought to Council's attention and no action was taken at the time.
5. Has the offence or breach affected the natural or built environment and/or amenity of the area?	Consideration should be given to the nature and extent of any actual or potential impact that the breach has or may have upon the natural or built environment, or upon the amenity of the locality and community.

<p>6. Has the offence or breach affected or potentially affected the health, safety and well-being of the residents or community?</p>	<p>Offences or breaches which affect, or potentially affect, the health, safety and well-being of the residents or community would generally warrant affirmative and effective enforcement and remedial action.</p>
<p>7. Can the matter be resolved by seeking and obtaining the relevant approval from Council (i.e. development consent or a Section 96 amendment to an existing consent)?</p>	<p>If the legislation enables the particular matter to be resolved by obtaining the relevant approval (i.e. a development consent or a Section 96 amendment to an existing development consent), it may be appropriate to allow a reasonable period for the person to seek the necessary consent/s from Council, prior to taking any enforcement action, such as the service of possible orders to demolish unauthorised works or commencement of legal proceedings.</p> <p>Consideration should also be given to all other relevant factors, in particular, any current impacts upon the community and environment, which require the matter to be remedied expeditiously.</p> <p>If appropriate, having regard to the circumstances of the case, Council may still be able to issue a penalty infringement notice or commence legal proceedings for the initial offence or breach.</p>
<p>8. Has the relevant approval (i.e. development consent or section 96 amendment to the existing consent) already been obtained from Council in relation to the particular breach or offence?</p>	<p>If development consent (or Section 96 amendment to an existing consent) has been obtained from Council in relation to the particular matter, Council would not be able to issue further Notices or Orders in relation to the subject matter.</p> <p>Council may (if it has not already done so), issue a penalty infringement notice/s or implement legal proceedings for the initial offence or breach, following consideration of the circumstances of the case and the nature and severity of the offence.</p> <p>However, if consent has been obtained from Council in relation to a previous breach (i.e. a section 96 application) and the matter was of a minor nature, with minimal impact, consideration would need to be given to the likelihood of success and the likely outcome of any possible enforcement action or legal proceedings for the initial offence.</p>
<p>9. Could the non-compliance or breach be easily remedied by the person responsible?</p>	<p>Generally, where appropriate, Council will attempt to ensure compliance by informal means, however, there is a need to consider and balance the public interest in</p>

	<p>enforcing the law. Consideration is also to be given to whether or not it is possible to remedy a breach and at what cost.</p> <p>In some cases, upon being advised of the regulatory requirements or breach, the responsible person may be pro-active and remedy the matter, rather than being subject to possible enforcement action.</p>
10. Has the breach or unauthorised activity detrimentally affected a heritage item or the heritage significance of the area?	Where applicable, relevant Council officers will be consulted in assessing the detriment to the natural or built environment and possible remedies.
11. Does the unauthorised work or activity comply with relevant criteria and Standards?	<p>Consideration should be given to compliance with relevant criteria and Standards (i.e. Building Code of Australia and fire safety requirements) and the extent and suitability of evidence provided to confirm compliance.</p> <p>If relevant criteria and Standards are not satisfied, appropriate and affirmative enforcement action may be warranted.</p>
12. What is the intent and importance of the regulatory requirements?	Regulatory requirements which aim to ensure the health, safety and well-being of the community are considered to be of paramount importance and any offences or breaches of this nature would generally warrant affirmative and effective enforcement action.
13. Would the enforcement action be in the public interest?	<p>Public interest considerations include:</p> <ul style="list-style-type: none"> • Does the breach or unlawful activity affect the public interest (i.e. affect a number of people or the community generally), or does the breach primarily affect a private interest? • Would enforcement action be in the public interest or would it primarily benefit only a private interest? • Are there any circumstances of hardship applicable? • Would enforcement action by Council impact unreasonably on certain parties or population groups (i.e. disadvantaged or elderly residents)? • What other remedies are available to address the matter? For example, if a breach primarily affects a

		'private interest', the affected party should seek alternative remedies, such as civil action or mediation (i.e. disputes regarding trespass, alleged damage to premises or encroachments).
14.	Does the person or corporation exhibit contrition for the breach or offence?	In some cases, it will be appropriate to have regard to the behaviour of the offender and their willingness to remedy the breach or prevent a recurrence of the problem.
15.	Have any previous warnings, instructions or advice been provided to the person, which have not been followed?	If the investigation reveals that previous instructions, advice or a warning has been provided in relation to the particular matter, which has not been followed or complied with, a more formal enforcement approach is generally appropriate for any offences which have occurred.
16.	Is it likely that the person would generally have been aware, or should have been aware, of the relevant regulatory provisions, requirements or offence?	When deciding whether to take an educative approach or enforcement approach, consideration should be given to the following matters: <ul style="list-style-type: none"> <input type="checkbox"/> the reasonable likelihood that the person may have known or should have known the relevant requirements or rules, <input type="checkbox"/> level of contrition shown by the responsible person, <input type="checkbox"/> whether the parties have previously been advised of the regulatory requirements or provisions, <input type="checkbox"/> whether or not any previous warnings or instructions have been provided, <input type="checkbox"/> the apparent level of intent shown by the responsible person.
17.	Is the cost of enforcing likely to be excessive having regard to the nature and impact of the offence?	Consideration should be given to the relative costs and benefits of taking formal enforcement action as opposed to taking informal action or an educative approach. Council's action should be commensurate with the seriousness of the breach and any impacts or potential impacts on other parties and the environment.
18.	Is the particular requirement (i.e. condition of development consent) which has not been complied with	A condition that is unreasonable, ambiguous or <i>ultra vires</i> may be unenforceable and may preclude Council from taking enforcement action or issuing Orders or the

	unreasonable, ambiguous or <i>ultra vires</i> ?	like.
19.	Does the legislation provide for representations or submissions to be made in the matter?	<p>Certain legislation contains provisions for the person responsible to make representations to Council prior to Council taking certain enforcement action (i.e. service of an Order to do certain things), which must be considered on their merits.</p> <p>However, in most cases, the provisions do not provide for representations to be sought or made prior to taking enforcement action for the initial offence or breach of the legislation or regulations (i.e. failure to obtain an approval or comply with a particular requirement).</p>
20.	What are the chances of success if challenged?	<p>Council should take into consideration what the likelihood is of a successful appeal or court challenge against the proposed enforcement action.</p> <p>It may not be appropriate to take enforcement action (i.e. service of an Order or commencement of legal proceedings) if the chances of success, in the event of any appeal or hearing, are unlikely.</p>
21.	Is the proposed course of action reasonable and proportionate?	<p>The proposed course of action for a particular breach or offence should be reasonable and proportional to the nature and extent of the breach or offence and the circumstances of the case.</p> <p>The costs and benefits of particular enforcement action must also be considered and compared against other possible solutions or action.</p>
22.	Has consideration been given to other relevant factors and the circumstances of the case?	<p>To ensure that Council's enforcement action is appropriate, effective, reasonable and successful, particularly in the event of an appeal or Court hearing, consideration should be given to any other relevant factors and the circumstances of the particular case.</p>

ANNEXURE 2
EXAMPLES OF KEY OPTIONS AND POSSIBLE COURSES OF ACTION*

Offence Scenario	Act/Reg.	Details of the case	Warning/ Education	Penalty Infringem ent Notice	Notice &/or Order	Legal Action	LEC Class 4
Nuisance Dog Order	Companion Animals Act	Failure to comply with a Nuisance Dog Order (i.e. Possible danger to other people, unrestrained or barking dog)		✓			
Traffic/ Parking	Aust. Road Rules or LGA	Parking of vehicle in No Stopping signposted area		✓			
Traffic/ Parking	Aust. Road Rules	Parking of vehicle on footpath or nature strip		✓			
Pollution of stormwater drain	POEO Act	Soil, sand and other building waste entered stormwater system	✓	✓	✓		
Potential for pollution	POEO Act	Location of stockpile of sand may cause pollution incident (i.e. in rain)	✓				
Minor building works - Owner	EP&A Act	Construction of pergola awning by owner –Where there is no material impact on other parties and locality – No BCA issues	✓				
Site management	Local Govt. Act or EP&A Act	Articles located on footpath without approval – Possible		✓	✓		

Offence Scenario	Act/Reg.	Details of the case	Warning/ Education	Penalty Infringem ent Notice	Notice &/or Order	Legal Action	LEC Class 4
		safety hazard					
Building work outside of hours	EP&A Act	Carrying out building works outside of hours permitted in DA – Licensed. Builder		✓	✓		
Minor building works – Licensed Builder	EP&A Act	Construction of alterations or additions to rear of existing dwelling – BCA issues to be resolved		✓	✓		
Major building works	EP&A Act	Substantial alterations and additions to the existing building – Planning & BCA compliance issues			✓	✓	✓
Variation to DA - Major	EP&A Act	Major variation to DA (i.e. substantial changes to approved development or use)			✓	✓	✓
Variation to DA - Minor	EP&A Act	Minor variation to DA (i.e. relocation of door/window) – Section 96 obtained	✓				
Unauthorised Use - Major	EP& A Act	Unauthorised use of premises as backpacker accommodation, additional dwelling(s) or brothel			✓	✓	✓
Fire safety Minor	EP&A Act	Failure to submit an annual fire safety statement after due date		✓	✓		
Fire safety	EP&A Act	Fire safety upgrading					

Offence Scenario	Act/Reg.	Details of the case	Warning/Education	Penalty Infringement Notice	Notice &/or Order	Legal Action	LEC Class 4
Major		of existing multistorey development			✓	✓	✓
Tree Preservation Order Minor	EP&A Act	Tree covered by TPO lopped without approval – minor impact on tree / amenity of locality	✓				
Tree Preservation Order Major	EP&A Act	Tree covered by TPO removed without approval – significant impact on amenity of site/locality				✓	
Food Premises	NSW Food Act & Regulations	Unclean food premises.	✓	✓	✓	✓	
Vegetative Overgrowth and/or Noxious Weeds.	Local Gvt Act or Noxious Weeds Act	Vegetation causes, or is likely to cause, unsafe or unhealthy conditions.	✓	✓	✓	✓	
Accumulation of Rubbish	Local Gvt Act	Accumulation results in, or is likely to result in, unsafe or unhealthy conditions.	✓	✓	✓	✓	

* Notes:

- In some cases, the particular breach may be remedied or resolved prior to proceeding to the service of Notices, Orders or legal proceedings i.e. via negotiation or by promptly obtaining relevant approvals.
- Prior to determining an appropriate course of action, consideration is required to be given to the circumstances of the case and the courses of action contained in the above table may not be suitable or sufficient in all cases.

G:\STRATEGIC\DCP 2007\01.CURRENT & SUPERCEDED VERSIONS\01.CURRENT ADCP 2007 VERSION 1.02 - EFFECTIVE 16 OCT 2007\03. APPENDIX - POLICIES & CODES\MS WORD VERSIONS\ENFORCEMENT DRAFT.DOC



Leichhardt Municipal Council

COMPLIANCE & ENFORCEMENT POLICY

Commencement Date:	1 January 2016
Council or Corporate Policy	Council Policy
Responsible Division:	Environmental & Community Management Division Compliance & Enforcement Teams
Supporting documents, procedures & forms of this policy:	<p>This Policy is adapted for Council from the "Model Policy" published by the NSW Ombudsman in "An Enforcement Guideline for Council June 2002" and the "Compliance Policy" (September 2002) published by the NSW Department of Planning.</p> <p>This Policy sits within the broader NSW law enforcement policy context and is informed by relevant legislative obligations relating to privacy and access to information and emerging case law and other legal developments.</p> <p>Further reference material informing this Policy includes:</p> <ul style="list-style-type: none"> • <i>Compliance & Enforcement Policy</i> (1 December 2009), Department of Sustainability, Environment, Water, Population and Communities, Cth. • <i>EPA Prosecution Guidelines</i> (Revised 2004), Department of Environmental and Conservation (NSW) for the Environment Protection Authority. • <i>Model Litigant Policy for Civil Litigation</i> (2008), Attorney General's Department, NSW. • <i>Risk-Based Compliance</i>, (2008), Better Regulation Office, NSW. • <i>Exercising of Discretion</i> (April 2002), NSW Department of Planning Practice Note. • <i>A fact sheet discussing the meaning of "Public Interest"</i> published by the NSW Ombudsman; • <i>Enforcement Guidelines for NSW Councils</i> (June 2002), NSW Ombudsman. • <i>Mosman Council Compliance and Enforcement Policy</i> • <i>Warringah Council Policy No. PL 120 Compliance and Enforcement Policy</i> • <i>Canterbury Council Enforcement & Prosecutions Policy</i>
References & Legislation:	See Item 23 of Policy



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1 Policy Title

This Policy is the 'Leichhardt Municipal Council Compliance & Enforcement Policy'

2 Policy status

This policy was formally adopted by Leichhardt Council on 24 November 2015 and commences operation on 1 January 2016.

3 Policy review

This policy is to be reviewed on at least an annual basis and may be amended at any time.

Any amendments to this policy must be by a resolution of the Council.

4 Council position in relation to unlawful activity

Council is opposed to unlawful activity. Council is an Enforcement Agency under various legislation and will therefore initiate regulatory action in accordance with this policy to bring unlawful activity into compliance as appropriate.

5 Guiding Principles

When undertaking investigations or regulatory action. Council shall undertake functions in a manner that is consistent with the guiding principles detailed as follows:

- Investigate and take action consistently
- Act in a manner that is transparent
- Apply Natural Justice / Procedural fairness
- Providing a fair hearing
- Provide impartiality in the decision making
- Ensure decisions are based on evidence
- Act in good faith
- To the greatest extent possible be timely in finding solutions and outcomes
- Ensure accurate record keeping
- To the greatest extent possible provide feedback

6 Purpose of Policy

The purpose of this policy is to ensure that the Council:

- a) Upholds the law in relation to matters where Council is the Appropriate Regulatory Authority ('ARA') in a manner which is based on Risk and / or Impact
- b) Is outcome and resolution focused
- c) Provides a deterrent to Unlawful Activity
- d) Undertakes its Compliance and Enforcement functions in a manner that is consistent with the Guiding Principles of this policy.
- e) Makes reasoned and proportionate decisions in relation to the risk and / impact of the Unlawful Activity
- f) Provides appropriate feedback to relevant stakeholders
- g) Ensures that Authorized Officers exercise their discretion in relation to unlawful activity in an appropriate manner
- h) Undertakes regulatory functions in a manner consistent with the public interest through procedural fairness and natural justice. In this regard Council will:
 - Provide information on the substance of the complaint to the alleged offender.
 - Provide an opportunity for the alleged offender to put their case. This will not be necessary if there is an obvious and serious risk to personal or public safety or risk of obvious and serious environmental harm;
 - Consider any submission put forward by the parties to the matter;
 - Make reasonable inquiries or investigations before making a decision;
 - Ensure no person decides a case in which they have an interest, conflict; and
 - Otherwise act fairly and without bias.
 - Follow any procedural requirements set out in legislation

7 Application of Policy

- a) This policy applies to all Compliance and Enforcement functions associated with unlawful activity within the Leichhardt Municipal Council (LMC) Local Government Area for which LMC is the Appropriate Regulatory Authority (ARA)
- b) In the event this policy is inconsistent with any relevant Act or Regulation, the Act or Regulation will apply to the extent of that inconsistency
- c) For the avoidance of doubt, this is not a local orders policy for the purpose of section 159 of the Local Government Act 1993.
- d) Unless specified in the dictionary within this Policy, all terms used have the same meaning as in the Interpretations Act 1987 and the relevant Acts, Regulations, Environmental Planning Instruments for which Council is the ARA
- e) Whilst it is intended that the principles in this policy will have general application, there may be cases where the particular circumstances justify departure from these principles. Any departures will be subject to the authorisation of the Manager, Compliance and Enforcement.

8 Education and Awareness

Council aims to take a proactive approach in preventing unlawful activity, through the provision of information to the public.

Council also aims to provide information to raise awareness and educate the community about compliance, enforcement and regulatory requirements.

The approach Council will undertake is as follows:

- Integrate education into every process we undertake
- Provide information on Council website
- Provide checklists for operators who have regular audits
- Use Social Media to distribute information
- Hold public information sessions for big ticket items

9 Detecting Unlawful Activities

- a) The detection of unlawful activities can come to the attention of LMC in a variety of ways including:
 - i. LMC Elected Councillors
 - ii. General Public submissions
 - iii. Council Staff
 - iv. Council Authorised Officer Audits or Patrols
 - v. Referrals from other Authorities (e.g. Police, EPA, Food Authority etc.)
 - vi. Private Certifiers
- b) When alleged unlawful activities are reported to Council, all reports shall be recorded in Council's Electronic Data Management System (e.g. Dataworks ECM)
- c) All alleged unlawful activities will be reviewed by an Authorised Officer to undertake a preliminary assessment of the matter.

10 Appropriate Regulatory Authority (ARA)

- a) LMC is only empowered to undertake an investigation and take regulatory action where LMC is the ARA.
- b) Generally Council has regulatory responsibility under NSW legislation, including but not limited to the following:
 - i. Unauthorised Development / Land Use
 - ii. Unauthorised Tree removal / works
 - iii. Breaches of approvals / licences
 - iv. Fire Safety
 - v. Swimming Pool Safety
 - vi. Public Health (skin penetration premises, boarding houses, cooling towers, brothels etc.)
 - vii. Food Safety
 - viii. Environmental Pollution (air, water, land & noise)
 - ix. Road Related matters (footpath licencing, construction site hoardings)
 - x. Animal Control
 - xi. Parking Enforcement

- c) Where Council has a regulatory authority which may cross Local Government Boundaries (e.g. dangerous dog declarations), Council will liaise with the relevant government department to address and resolve.
- d) Where Council is not the ARA, the issues will be referred to the relevant Authority. The other relevant ARA could include:
- Sydney Harbour Foreshore Authority (SHFA)
 - NSW Police
 - NSW Office of Liquor, Gaming and Racing
 - NSW Environmental Protection Authority
 - NSW Department of Planning
 - NSW Local Lands Board / Chamber Magistrate
 - NSW Building Professionals Board
 - NSW Fair Trading
 - NSW Food Authority
 - NSW Workcover Authority
 - NSW Roads and Maritime Authority
 - NSW Health
 - Private Certifiers
 - Other Councils

11 Roles and Responsibilities of Councillors and Staff in relation to unlawful activity

11.1 Elected Council

Councillors have two distinct roles under s232 of the Local Government Act 1993: as a member of the governing body of the Council and as an elected person.

- 1) The Councillors, as members of the governing body of the Council, have the responsibility to adopt and review this Policy and monitor its compliance.
- 2) In the role of elected person, a Councillor represents the interests of the community with respect to the implementation of this Policy.

Notwithstanding, the Council's Code of Conduct sets the standard of conduct that is required of Councillors in the exercise of the above described roles. In particular, with respect to any suspected Unlawful Activity, Councillors must not:

- direct Council staff other than by giving appropriate direction to the General Manager in the performance of Council's functions by way of council or committee resolution or by the Mayor or administrator exercising their power under section 226 Local Government Act 1993;
- direct or influence or attempt to direct or influence Council staff at any public or private fora;
- contact a member of Council staff on Council related business unless in accordance with the policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the General Manager; and
- contact or issue instructions to any of Council's contractors or tenderers, including Council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Local Government Act 1993.

11.2 Council Authorised Officers

- a) The General Manager is responsible for ensuring this policy is enacted.
- b) The Manager Compliance and Enforcement is responsible to ensure Council Authorised Officers are appropriately carrying out their legislative responsibilities in accordance with this Policy.
- c) All Council staff who deal with unlawful activity are:
 - Responsible for implementing this Policy.
 - Required to comply with Council's Code of Conduct
 - Apply the principles of procedural fairness at all times
 - Always act within delegations
 - responsible for the investigation of a matter shall keep a full and complete record of their actions, including reasons for decisions made in relation to an investigation.
 - Use discretion in an appropriate manner

12 Responding to Complainants

- a) All Requests for Service with respect to a suspected Unlawful Activity will be managed in accordance with Councils Citizen Requests for Service Policy and procedures.
- b) Where appropriate all complainants and those who have had allegations made against them will be kept advised of the progress of the investigation.
- c) However, information on specific compliance and enforcement activities may not be released to members of the community or general public due to confidentiality and privacy restrictions under the relevant law, including the *Privacy and Personal Information Protection Act 1998*.

13 Privacy of Complainants

- a) The name, address and contact details of the person submitting the Request for Service will be recorded.

This information is critical as Council may need to rely on evidence from the complainant to prove any alleged offence and commence enforcement action.
- b) Council will take all reasonable measures to protect the privacy of the person submitting the complaint or action request and, generally, information that identifies, or could tend to identify this person will not be released. However, Council may be required to disclose this information in a variety of circumstances, including circumstances where:

- Access to the information is permitted under legislation, including the *Government Information (Public Access) Act 2009* or the *Local Government Act 1993*;
- Access to the information is permitted under another Council policy;
- Legal proceedings are commenced and the information is disclosed in evidence; and
- The nature of the allegation otherwise makes it a necessity.

In some circumstances it may be possible to ascertain the identity of the complainant by the nature of the allegation made in the complaint or action request.

- c) Council will accept anonymous complaints where there is potential risk to life, property or the environment. Anonymous complaints do make Council's regulatory role more difficult and the complainant will not be notified of the outcome of the issue.
- d) Council will advise any complainants who provide contact details of the enforcement action, if any, taken or the reasons why no action was taken in the circumstances.

14 Commencing a review of allegations of unlawful activity

- a) Not all Requests for Service warrant investigation. However, all complaints and actions requests will be subject to a preliminary assessment to determine whether there is sufficient evidence to warrant further investigation. Such preliminary assessment will require consideration of a range of factors, including:
 - i. Determining the appropriate ARA. If not Council, refer the submission in full to the relevant ARA and notify the submitter of the action
 - ii. Determine the priority of the matter. Council will always priorities matters that are considered by the Authorised Officer as a threat to life, property of the environment.
 - iii. If necessary, contact the submitter to obtain information as necessary to make a determination if the matter proceeds to an investigation stage
 - iv. Determine if the matter relates to a civil dispute. If yes, notify the submitter and provide contact details of the Community Justice Centre – www.cjc.nsw.gov.au
 - v. Determine if the matter relates to a current or potential future unlawful activity
 - vi. Determine if the allegation is unfounded without the need for further investigation
 - vii. Determine if the matter has already been dealt with, without the supply of any new information
 - viii. Determine if the allegation is trivial, frivolous or vexatious
 - ix. The Authorised Officer undertaking the preliminary review is to notify the submitter of the review outcome. This communication method can be via a multitude of ways including, a telephone call, an email or by letter. The Authorised Officer is required to notify in either one of the following ways:
 - i. If the matter is to proceed to investigation, formally acknowledge receipt of the submission and advise of the process that will be undertaken.
 - ii. If the matter is not to proceed to investigation, the Authorised Officer to advise of the reasons the matter is not progressing
- b) This preliminary assessment may provide sufficient information to determine whether there is an Unlawful Activity. Based on that the preliminary assessment, the Team Leader will determine the appropriate level, if any, of further investigation or enforcement response required,
- c) If a decision is made not to investigate a complaint or action request, this decision must be recorded with the reasons for that decision.

14A. Specific Procedure for dealing with trivial, frivolous or vexatious complaints

- a) A trivial, frivolous or vexatious complaint is when:
- i) The person making a complaint is not satisfied with the action taken or service provided despite the service or complaint procedure being properly implemented and fully exhausted. This is characterised by:
 - Unwilling to accept evidence relied on or agree with the determination
 - Denying having received an adequate response answering the questions raised
 - Continuing to demand the complaint be revisited
 - Focusing on trivial issues or procedural steps to assert the determination is invalidated
 - ii) The person makes unreasonable demands that significantly and unreasonably diverts Council's resources away from other functions or creates an inequitable allocation of resources to other customers. Such demands may result from the amount of information requested, the nature or scale of services sought or the number of approaches seeking information, assistance or service
- b) If during the preliminary assessment a complaint is identified as being a trivial, frivolous or vexatious complaint the Manager Compliance and Enforcement is to write to the customer restating Council's position on the matter and advising that if the customer continues to contact Council regarding the matter Council may:
- i) Require all further communication from the customer on the matter be put in writing
 - ii) Advise that if Council continue to receive correspondence on the matter Council will only place the matter on file for records purposes and not respond beyond an acknowledgement unless:
 - The customer provides significant new information relating to their complaint or concern;
 - The correspondence serious issues associated with impacts to life, property or the environment; or
 - The customer raises new issues which in the Manager Compliance and Enforcement's opinion, warrant fresh action or investigation
 - iii) Appoint a case manager who will be the customer's only point of contact at Council regarding the matter

This initial letter will inform the person that they may request a review of the Manager Compliance and Enforcements decision by Council's Director Community and Environmental Management within 21 days. A failure to make a representation or if the representation is rejected by the Director, the stipulated restrictions on service will be implemented.

15 Commencing an Investigation

- a) Where a preliminary assessment determines that an investigation is required. The matter will be allocated to an Authorised Officer to carry out the relevant inquiries.
- b) The relevant Authorised Officer will conduct an analysis of the available information, including Council records. This may be followed by a site visit and/or discussions with the complainant and the person(s) the subject of the complaint.
- c) The purpose of an investigation is to obtain sufficient evidence to establish whether or not a contravention of law has occurred.

The aim of an investigation is to:

- Gather evidence within a reasonable time and at a reasonable cost, according to legislative requirements and proportionate to the nature of the alleged Unlawful Activity;
- Gather evidence which would be admissible in civil proceedings or a criminal prosecution or which may facilitate appropriate administrative measures; and
- Improve public confidence in the integrity of the regulatory system.

Evidence collected in an investigation may take various forms including:

- Inspection notes
- Photographs
- Videos
- Samples and physical evidence
- Witness statements
- Records of interview

Evidence obtained from an investigation will inform whether:

- a) the matter will be closed from a lack of evidence
- b) the classification of significance of the unlawful activity which will guide the regulatory approach to having the issue resolved

In the event, Council requires access to a residential premises and it is refused, Authorised Officers may apply for a search warrant and will seek assistance from NSW Police in its execution.

16 Determining approach for confirmed cases of unlawful activity

Note: Part (a) and (c) of this section does not apply to Parking related matters. Parking Officers and Rangers who deal with traffic and parking matters work within a different timeframe, with decisions needing to be made on the spot and operate in accordance with specific guidelines when enforcing the Australian Road Rules.

- a) When determining the regulatory approach to having cases of unlawful activity addressed, Authorised Officers will take into consideration the following:

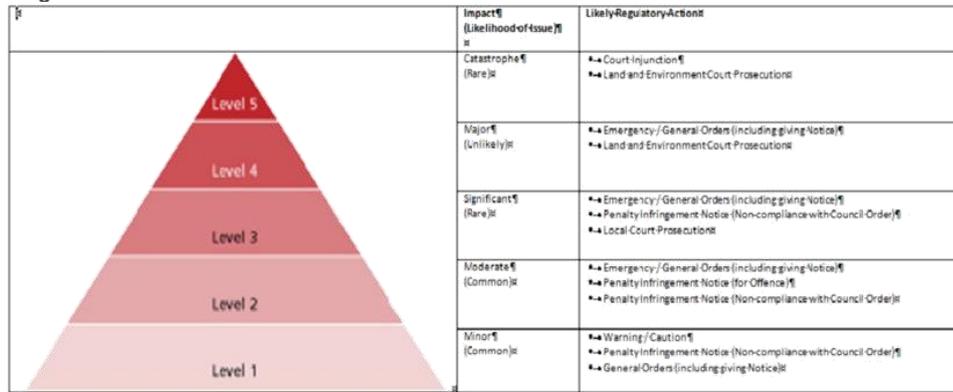
1	The severity of the Risk / Impact:	<p>Refer to Table 1 below.</p> <p>An overall higher classification will be applied to matters where there are elements of an issue crossing multiple Levels.</p>
2	The public interest:	<ul style="list-style-type: none"> • The standard of the evidence collected during the investigation • The time that has elapsed since the alleged Unlawful Activity occurred • The cost to the general community of the Unlawful Activity and the cost of taking further action in response to the Unlawful Activity • The need to deter the offender and the broader community from committing further breaches of a similar nature in the future • Whether pursuing the Unlawful Activity would be of little or no utility
3	Aggravating or mitigating factors:	<ul style="list-style-type: none"> • Whether the alleged offender committed the Unlawful Activity deliberately, recklessly or by mistake • Whether the alleged offender has co-operated with Council during the investigation of the Unlawful Activity • Whether the alleged offender has a history of prior Unlawful Activity • Whether the Unlawful Activity is continuing

Table 1

GUIDE-TO-DETERMINE-IMPACT-CLASSIFICATION					
	LEVEL 5 (Catastrophe)	LEVEL 4 (Major)	LEVEL 3 (Significant)	LEVEL 2 (Moderate)	LEVEL 1 (Minor)
Actual/Likely Impact to Human Health	• Deaths	• Long Term injury/health impacts	• Long Term injury/health impacts	• Discomfort or • First Aid Required	• No harms
Actual/Likely Impact to Property	• Damage/structural issues • No rectification possible • Immediate protection works required	• Damage/structural issues • Significant works required to rectify issues • Immediate remediation/protection works required	• Damage/structural issues • Immediate remediation/protection works required	• Moderate impact/damage/structural issues • Minor remediation/protection works required	• No impact/damage/structural issues • No remediation/protection works required
Impact → Environmental → Heritage → Amenity	• Long term harm • No rectification of breach possible • No mitigation measures possible	• Long term harm • No rectification of breach possible • Significant Mitigation measures required	• Significant effort to rectify breach to be undertaken • Significant Mitigation measures possible	• Moderate effort to rectify breach to be undertaken • Mitigation measures possible	• No impact • Minor mitigation measures possible
Community Interest	• Attention from National Media • Attention from State Media	• Attention from National Media • Attention from State Media	• Attention from State Media	• Attention from Local Media	• No media interest
Council Reputation or Regulators	• National Impacts	• State Impacts	• LGA wide impacts	• Local impacts	• No impacts

- b) Authorised Officers will not consider irrelevant matters including:
- The race, religion, sex, national origin or political associations, activities or beliefs of the alleged offender or other person whose interests may be affected by a decision.
 - The personal feelings of the investigating officers or individual Councillors concerning the alleged Unlawful Activity or the offender.
 - The possible political advantage or disadvantage to the Council, government or any political party, group or individual.
 - The possible effect of the decision on the personal or professional circumstances of those responsible for the investigation or otherwise involved in its conduct.
 - Possible media or community reaction to the decision.
- c) An indication of the likely outcome based on the consideration in 17(a) above is shown in diagram 1 below:

Diagram 1.



17 Private Certifiers – Development Sites only

- a) When an accredited certifier is appointed the PCA, by law they assume the role of Council. When a private PCA has been appointed, the Council generally becomes the “keeper of the records”
- b) When undertaking the certification function Private Certifiers take responsibility for the development site including compliance with the development consent and conditions
- c) The Environmental Planning and Assessment Act 1979 and associated Regulation identifies responsibilities of the private PCA and their discretion and where they may make decisions.
- d) Where Council receives a complaint regarding a Private Certifier site, Council will either provide the contact details to the complainant or make contact with the Private Certifier raising the concerns over the development
- e) As Private Certifiers have enforcement powers under the EP&A Act, including the power to issue a Notice of Proposed Order to rectify issues on development sites they have been engaged to certify, Council will only act on issues with a Private Certifier site where:
 - i. The Certifier has had an opportunity to have the issues addressed through issuing an Notice of Proposed Order. Following the expiry date of an NPO Council issues orders and fines
 - ii. The work immediately threatens life, safety or damage to property or the environment
 - iii. The complaint relates to breaches of ‘housekeeping’ or environmental conditions, including failing to display construction signage, hours of work, footpath and roadway obstructions, odours, fumes, noise, dust, sediment control and discharges
- f) Where an Authorised Officer is satisfied that the Private Certifier has failed to act in the public interest to have issues addressed, Council will make submissions to the Building Professionals Board for review.

18 Emergency Situations

It should be noted that in some instances where Council believes an imminent threat to the safety of the public or the environment exists Council may not have time to obtain the level of evidence normally collected during an investigation. In these situations Council must act quickly to address the threat and issue an Emergency Order to undertake certain actions. Emergency Orders differ from standard Orders in that representations from the recipient are not required prior to their service.

Where an Emergency Order has been issued and not complied with, Council may issue PIN's or seek Court Orders.

19 Issuing of Warnings / Cautions and using Discretion

Council has a responsibility to enforce the law. However, Council maintains its discretion as to what action it shall take, including not taking any action.

When Authorised Officers seek to issue a caution or use discretion to not take regulatory action, the Authorised Officer shall consider:

- Enforcement Guidelines for NSW Councils – NSW Ombudsman – June 2002
- NSW Department of Planning Practice Note – Exercising of Discretion
- Caution Guidelines under the *Fines Act 1996*

20 Representations on action

20.1 Notice of Proposed Orders

Notice of Proposed Orders are legal documents Council can issue under various pieces of legislation. There can be many reasons for the issuing of a Notice, these can include:

- i. legislative breach has occurred and is required to be remedied
- ii. there is a matter associated with the natural or built environments causing impact and is required to be remedied
- iii. there is a matter associated with public health or safety and is required to be remedied

Full details of the circumstances, reasons and requirements associated with the Notice of Proposed Order issued are detailed in the Notice.

A person who receives a Notice of Proposed Order has a right to make written representations to Council before an Order is given in relation to the following matters:

- i. why the proposed Order should not be given;
- ii. the terms of the proposed Order,
- iii. the period of compliance with the proposed Order.

After reviewing and considering any representations made concerning the proposed Order, Council may determine any of the following:

- i. issue the Direction without change from the Notice of Intention, or
- ii. modify the Direction from that proposed in the Notice of Intention, or
- iii. not give the Direction.

In the event a person feels that a Notice of Proposed Order or an Order have been unjustly issued, where the legislation permits, they can appeal the order to the Court (time restrictions apply) or seek a review by Council where a more senior officer will undertake that review.

20.2 Fines

Council understands that a person who has received an infringement may believe that this infringement was issued incorrectly or unfairly.

The State Debt Recovery Office (SDRO) adjudicates and administers the review of all infringement notices and fines issued by Council.

SDRO assesses submission against the Fines Act and SDRO Review Guidelines

The purpose of the SDRO undertaking the review is to:

- a) Achieve good governance
- b) Ensure openness and transparency in the decision making process with regard to Penalty Infringement Notice (PIN) appeals and representatives.
- c) Ensure a balanced assessment is made against each representation to a PIN and that State Guidelines are consistently and fairly considered and applied across the State;
- d) Ensure consistent outcomes on PIN matters
- e) Reduce accusations of impropriety on behalf of Council Staff

Any representations directly received by Council will not be considered by Council and will be forwarded to the SDRO for review. See <http://www.sdرو.nsw.gov.au/fines/>

21 Recovery of Legal Costs

The Council's policy for recovery of its costs associated with Compliance and Enforcement matters in the Land and Environment Court is:

- Council will seek to recover its fair and reasonable costs in all matters where costs are recoverable, either by consent or by order of the court;
- Council will seek to recover the penalty imposed by the court where such penalty is imposed; and
- Council will adopt the recommendations of its solicitors to accept a lesser amount than the full legal costs incurred by the Council if, in the circumstances, the acceptance of such an offer will result in the Council not incurring further legal costs.

The Council's policy for recovery of its costs associated with Compliance and Enforcement matters in the Local Court is:

- Council will seek to recover its fair and reasonable costs in all matters where costs are recoverable, either by consent or by order of the court; and
- Council will seek to recover the penalty imposed by the court where such penalty is imposed.

22 Dictionary

CAN	Means a Court Attendance Notice issued and filed in accordance with the Criminal Procedure Act 1986. A CAN may be used to commence summary proceedings in the local court. A CAN specifies the offence and its essential particulars as well as the address of the court where the matter is to be heard. If a person does not attend the court on the day specified in the CAN, a warrant may be issued for the arrest of the person or the matter may be dealt with ex-parte in the absence of the person.
Defendant	Means the accused person against whom the criminal proceedings are brought.
EPAA	Means the Environmental Planning & Assessment Act 1979
LGA	Means the Local Government Area
PIN	Means penalty infringement notice. Sometimes referred to as an "On the Spot Fine". PIN"s may only be issued for prescribed offences and the value of the fine is also prescribed.
POEO	Means the Protection of the Environment Operations Act 1997
Unlawful Activity	Means any activity or work that has been or is being carried out: <ul style="list-style-type: none"> • Contrary to a legislative provision regulating a particular activity or work. • Contrary to an environmental planning instrument that regulates the activities or work that can be carried out on particular land. • Without a required development consent, approval, permit or licence. • Contrary to the terms or conditions of a development consent, approval, permit or licence.
CAA	Means the Companion Animals Act
ARR	Means Australian Road Rules.
LMC	Leichhardt Municipal Council
EPA	Environmental Protection Authority

23 Related Policies and Legislation

This policy should be read in conjunction with the following Leichhardt Council policies:

- a) Code of Conduct
- b) Requests for Service and Complaint handling Policy
- c) Leichhardt Municipal Council Parking Infringement and Enforcement Policy
- d) Council Delegations

This Policy should be read in conjunction with the following legislation:

- *Boarding House Act 2012 and Boarding House Regulation 2013*
- *Local Government Act 1993 and Regulations*
- *Environmental Planning and Assessment Act 1979 and Regulations*
- *Food Act 2003, Regulations and NSW Food Safety Standards*
- *Protection of the Environment Operations Act 1997 and Regulations*
- *Waste Avoidance & Resource Recovery Act 2001 and Regulations*
- *Noxious Weeds Act 1993*
- *Public Health Act 2010 and Regulations*
- *Companion Animals Act 1998 and Regulations*
- *Roads Act 1993 and Regulations*
- *Road Transport (Safety & Traffic Management) Act 1999, Regulations and Australian Roads Rules*
- *Impounding Act 1993 and Regulations*
- *Recreational Vehicles Act 1983*
- *Swimming Pools Act 1992*
- *Liquor Act 1982 and Regulations*
- *Fisheries Management Act 1994 and Regulations*
- *Tree (Disputes Between Neighbours) Act 2006 and Regulations*
- *Fines Act 1996*

24 Acknowledgments

This Policy is adapted for Council from the “Model Policy” published by the NSW Ombudsman in “*An Enforcement Guideline for Council June 2002*” and the “*Compliance Policy*” (September 2002) published by the NSW Department of Planning.

This Policy sits within the broader NSW law enforcement policy context and is informed by relevant legislative obligations relating to privacy and access to information and emerging caselaw and other legal developments.

Further reference material informing this Policy includes:

- *Compliance & Enforcement Policy* (1 December 2009), Department of Sustainability, Environment, Water, Population and Communities, Cth.
- *EPA Prosecution Guidelines* (Revised 2004), Department of Environmental and Conservation (NSW) for the Environment Protection Authority.
- *Model Litigant Policy for Civil Litigation* (2008), Attorney General’s Department, NSW.
- *Risk-Based Compliance*, (2008), Better Regulation Office, NSW.
- *Exercising of Discretion* (April 2002), NSW Department of Planning Practice Note.
- *A fact sheet discussing the meaning of “Public Interest”* published by the NSW Ombudsman;
- *Enforcement Guidelines for NSW Councils (June 2002)*, NSW Ombudsman.
- *Mosman Council Compliance and Enforcement Policy*
- *Warringah Council Policy No. PL 120 Compliance and Enforcement Policy*
- *Canterbury Council Enforcement & Prosecutions Policy*

Item No: C0219(2) Item 6

Subject: LILYFIELD RD - ASSESSMENT OF SUPPLEMENTARY CYCLE ROUTES

Prepared By: Predrag Gudelj - Project Manager

Authorised By: Wal Petschler - Group Manager Footpaths, Roads, Traffic and Stormwater

SUMMARY

At its meeting of 13th November 2018, Council considered a report concerning the Lilyfield Rd Cycleway and subsequently requested a further report providing an assessment of the alternative proposals and the capacity of Council to undertake further planning for the project internally.

The report provides a preliminary assessment of options for a supplementary route presented by the Inner West Bicycle Coalition at the public meeting in May 2018. The majority of these supplementary routes are currently designated as cycle routes with varying levels of treatment. Preliminary assessment indicates that upgrades to these routes are generally feasible. The level of upgrade achievable is however likely to be variable due to differing site constraints and would be subject to design and engagement outcomes.

RECOMMENDATION

THAT the report be received and noted.

BACKGROUND

In considering concepts for the proposed upgrade of the Lilyfield Road cycleway Council, at its March 2018 meeting, adopted the Local Traffic Committee recommendation:

THAT:

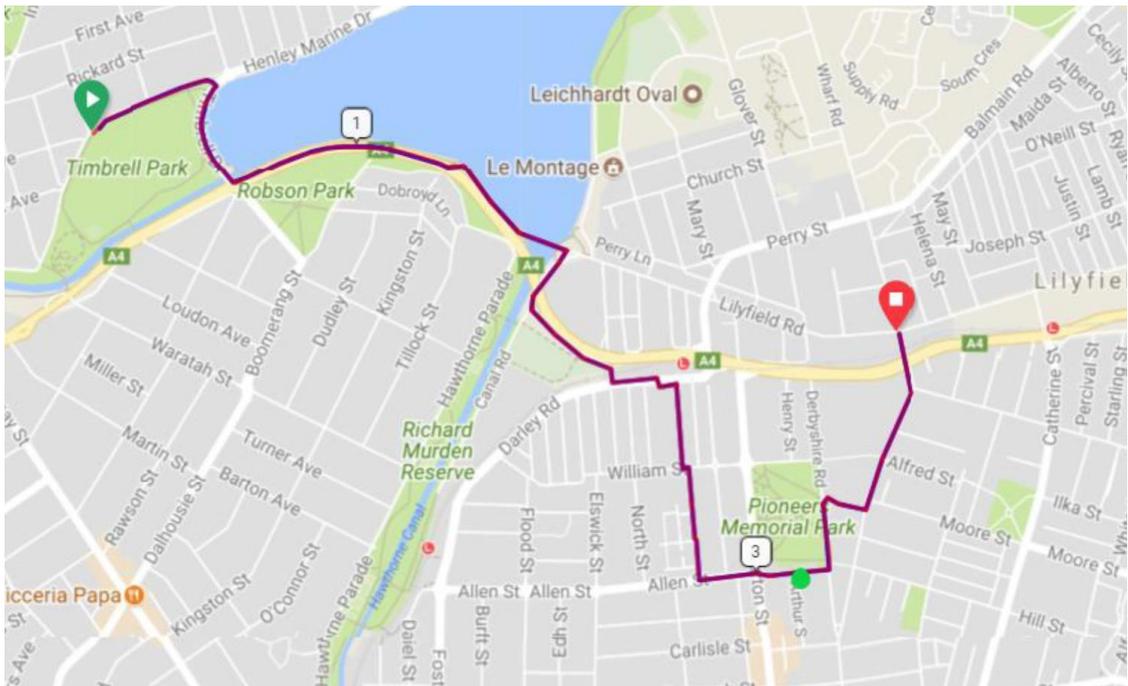
1. *In recognition of the level of objection to the project in its current form, the project not proceed to detailed design at this time;*
2. *A revised concept plan be developed for the Lilyfield Road Separated Cycleway (Route EW09) following investigation into the following options:*
 - a. *Investigation of an amendment to the proposed one-way restriction on Lilyfield Road between Gordon Street to Victoria Road from eastbound to westbound traffic.*
 - b. *Investigation of further treatments to discourage 'rat-running'.*
 - c. *Investigation of opportunities to relocate bicycle crossing to the signalised crossing of Balmain Road and Lilyfield Road.*
 - d. *Investigation of opportunities to increase parking supply.*
 - e. *Investigation of opportunities to retain left turn slip lane from Mary Street into Lilyfield Road.*
 - f. *Investigation of options to allow cyclists to enter mixed traffic treatment in the westbound direction from Mary Street to Canal Road whilst retaining the bidirectional bicycle treatment in this section.*
 - g. *Investigation of increasing width of cycle path where possible to 3.0m.*
3. *Alternative routes which address the issues raised during consultation be considered.*

In addition Council required a public meeting to inform changes that should be incorporated in the redesign and to look at possibility of using the Rozelle goods yards for the cycleway. The public meeting was held on 29 May 2018. At this meeting the Inner West Bicycle Coalition gave a presentation of alternate or supplementary options for part of the route essentially between the canal and Balmain Rd.

DISCUSSION

Inner West Bicycle Coalition presented three (3) supplementary routes for Iron Cove to Anzac Bridge, Rozelle cycleway. Site inspections were undertaken along the routes to provide a high level feasibility assessment which is detailed in **Attachment 1**. The routes can be summarized as follows:

- a. Route 1: Canal Road, Darley Road, Francis Street, Allen Street, Derbyshire Road and Balmain Road



The majority of this route is currently a designated cycle route and consists of:

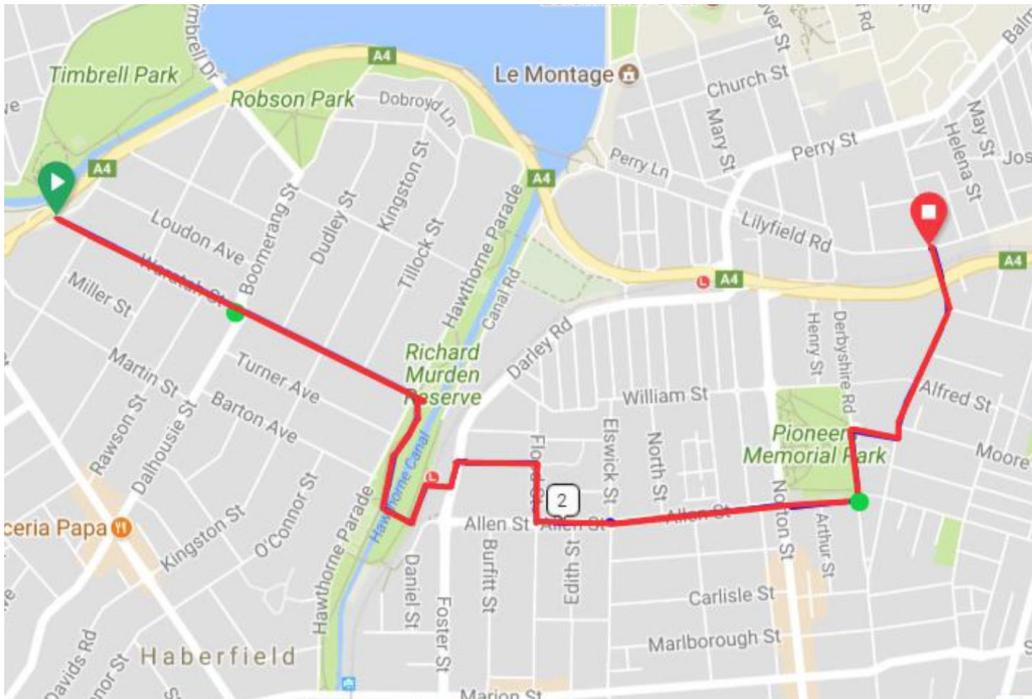
- I. Mixed traffic environment with marked pavement logos (Canal Rd north of City West Link; Darley Rd; Allan St between Norton St and Derbyshire St; Derbyshire St and Balmain Rd north of City West Link);
- II. On road, uni-directional cycleway lanes (Allen St between Francis St & Norton St); and
- III. Shared paths for cyclists/pedestrians (Canal Rd south of City West Link, Moore St, Balmain Rd between Moore St and City West Link).

Sections not currently marked as bike route include Francis Street.

An improvement to the existing cycleway treatments is feasible with renewal of existing infrastructure and wayfinding providing better cycleway facilities. Some short sections of the route have gradients approximating 5% providing less desirable cycling environment. The ability to upgrade existing treatments to a higher level of treatment such as uni-directional or separated cycleway will be constrained along the route in some sections due to existing traffic and parking environment and road reserve widths.

Further assessment would be required to determine if changes/upgrade of the existing traffic lights crossings along the route (Darley Rd and Balmain Rd) would be required. Further assessment would also be required for Allan St at Norton St crossing point where there is an existing pedestrian crossing at which cyclist are required to dismount the bike should they wish to use it.

- b. Route 2: Waratah Street, Hawthorne Parade, Greenway, Darley Road, Lyall Street, Flood Street, Allen Street, Derbyshire Road and Balmain Rd.



The majority of the route is currently a designated cycle route and consists of:

- I. Mixed traffic environment with marked pavement logos (Waratah St, Allen St between Norton St & Derbyshire St, Derbyshire St, and Balmain Rd north of City West Link);
- II. On road, uni-directional cycleway lanes (Flood St and Allan St between Flood St & Norton St); and
- III. Shared paths for cyclists/pedestrians (Richard Murden Reserve, Darley Rd, Moore St, and Balmain Rd between Moore St and City West Link).

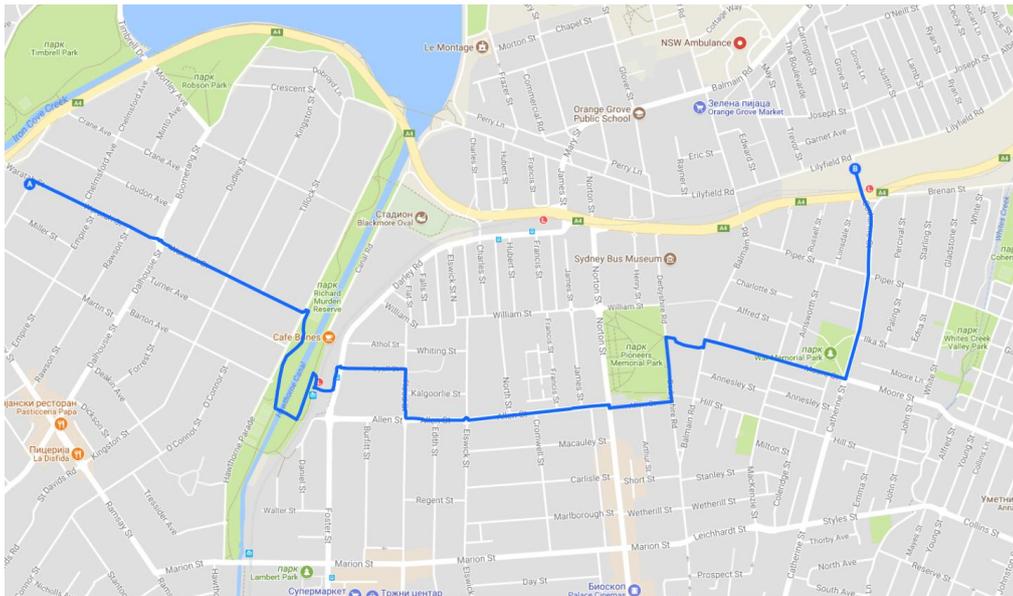
Sections not currently marked as bike route include Lyall Street.

Similarly for this route, there are some sections with longitudinal gradients approximating 5%. These include sections along Waratah St (Boomerang St to Hawthorne Pde); Lyall St, Flood St and part of Allan St.

This route intersects with light rail and at this crossing, cyclists have to dismount to cross the rail lines. The existing crossing point at Darley St may benefit from improvement to better accommodate the proposed route.

Comments made in Route 1 assessment for overlapping sections (Allan St to Lilyfield Rd) apply to Route 2 assessment.

- c. Route 3: Waratah Street, Hawthorne Parade, Greenway, Darley Road, Lyall Street, Flood Street, Allen Street, Derbyshire Road, Moore Street and Catherine Street.



This Route is essentially the same as outlined for Route 2 with a proposed extension along Moore Street and Catherine Street rather than Balmain Rd. Discussions with Bike Groups have confirmed that this is the least preferred of the three options presented given there is already a well established cycle route treatment along Balmain Rd.

RMS funding of up to \$300,000 has been allocated for the 2018/19 financial year to progress design review and development. This external funding enables Council to source the necessary additional resources externally to undertake the investigation and design work. It is intended that project management and review of the new design consultancy, management of public engagement activities and reporting will be undertaken with in-house resources. However detailed site investigations, survey and design services are proposed to be outsourced to make best use of the available funding and minimise impact on other project delivery. Existing in-house civil design resources are fully engaged on Council’s existing capital works program to achieve delivery within budget timeframes. With timeframes and resource allocation to complete planning, design, engagement and approvals for the proposed cycleway expected to cover some 12 months outsourcing of investigation and design phase is preferred so as not to impact on other capital projects. Specific expertise, not necessarily readily available inhouse, can also be brought to bear including urban/ landscape architecture, surveying, route lighting assessment and design, traffic signal modifications, quantity surveying, arborists and the like.

Should Council decide to undertake such planning and design work internally, the existing capital programs would be re-phased to free up the necessary in-house design resources.

FINANCIAL IMPLICATIONS

RMS funding of up to \$300,000 has been allocated for the 2018/19 financial year to progress design review and development.

OTHER STAFF COMMENTS

Nil.

PUBLIC CONSULTATION

Discussions have been held with Bike Group representatives to confirm the supplementary route options to be included in the next stage of planning and design. Further public engagement will be undertaken as part of project development.

ATTACHMENTS

1. [↓](#) Feasibility Review – Supplementary Cycle Routes to Lilyfield Rd

Item 6

Attachment 1

Feasibility Review – Supplementary Cycle Routes to Lilyfield Rd

INTRODUCTION

The “NSW Bicycle Guidelines” provide recommendations concerning the minimum desired separation treatment for bicycles based on traffic speeds and volumes. This has been utilised to provide a preliminary feasibility assessment of the supplementary routes proposed by Innerwest Bicycle Coalition.

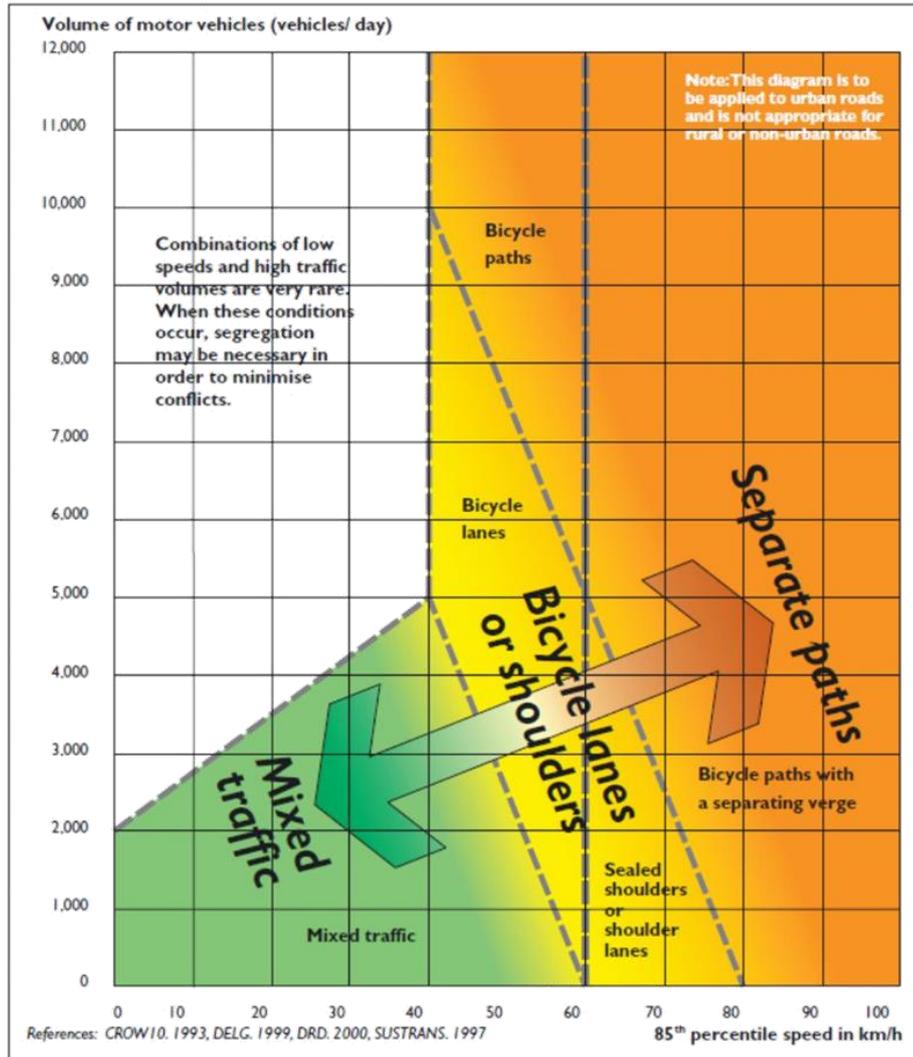


Figure A: Separation of bicycles and motor vehicles according to traffic speed and volume

The proposed supplementary routes have been analysed in sections having similar characteristics. This approach may lead to different sections within a route having different separation treatment recommendations. Further detailed consideration of treatments connecting the sections will be required. More recent traffic data will also be required to confirm suitability of treatments.

ROUTE 1: CANAL ROAD, DARLEY ROAD, FRANCIS STREET, ALLEN STREET, DERBYSHIRE ROAD AND BALMAIN ROAD

1. Canal Rd - Lilyfield Rd to Darley Rd

Road characteristics:

Road carriageway width (kerb to kerb):	
- north of City West Link Rd approx.	7.0 metres
- south of City West Link Rd approx.	6.0 metres
Annual Average Daily Traffic (AADT):	833
Speed limit:	40 km/h
Road class:	Local
Parking restrictions:	unrestricted

Current arrangement:

Canal Road is a currently a cycleway route consisting of:

- mixed cyclists and vehicles traffic arrangement - both north and south of City West Link Road.



- shared cyclists/pedestrian paths - short section of the route adjacent to and underneath City West Link Road bridge.



The current mixed traffic arrangement satisfies NSW Bicycle Guidelines.

Cycleway upgrade options:

- Option 1 - Enhance existing mixed cyclists and vehicles traffic arrangement.

Improve existing signage and linemarking, additional cycleway logos and resurface existing asphalt pavement where required.



Figure 1; typical example of enhancement work: new cycleway logos, linemarking and asphalt resurfacing in Canal Rd

- Option 2 –Upgrade to a separated unidirectional cycleway.

To accommodate separate unidirectional cycleway a change in road width would be required. Removal of existing parking on both sides of the road, removal of adjacent trees and stormwater adjustment would be required in addition to road resurfacing, signage and linemarking upgrade.

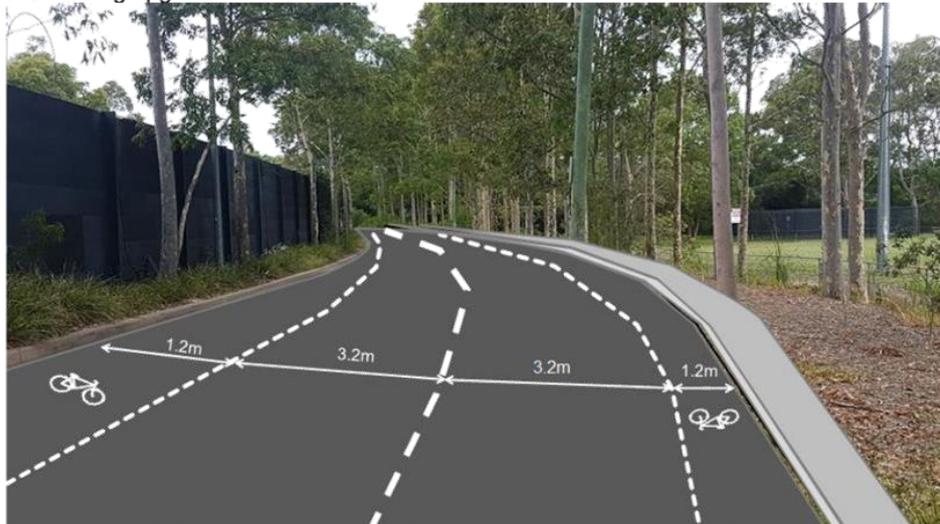


Figure 2: typical example of separated unidirectional cycleway in Canal Rd

- Option 3 - Upgrade to separated bi-directional cycleway.

To accommodate an upgrade to a separated bi-directional cycleway a removal of existing parking on both sides of the road, removal of adjacent trees and stormwater adjustment would be required in addition to road resurfacing, signage and linemarking upgrade.

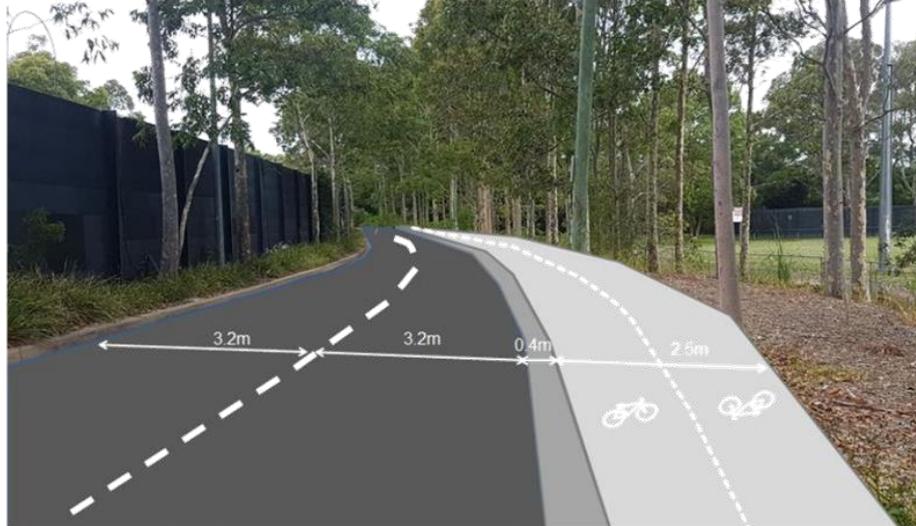


Figure 3: typical example of separated bi-directional cycleway and work required in Canal Rd

- Shared cyclists/pedestrian path section of the route, adjacent to and underneath City West Link Road bridge, could be retained. Option of separating pedestrians and cyclist would involve removal of existing adjacent trees and complete reconstruction of the existing shared cyclists/pedestrian path.



Figure 4: typical example of separated pedestrian path and bi-directional cycleway

Other issues affecting the route:

As part of the Greenway project currently being developed there is potential of changing a section of Canal Rd, north of City West Link bridge, into a shared zone.

It is to be noted that this section would be a supplementary route to the existing cycleway within adjacent Blackmore oval.

Feasibility:

An enhancement of the existing mixed traffic environment would provide the least impact on surrounding environment. An upgrade to a separated cycleway whilst feasible will require major work such road widening, stormwater adjustments and removal of the existing mature trees.

2. Darley Road

Road characteristics:

Road carriageway width (kerb to kerb):	12.8 metres
Annual Average Daily Traffic (AADT): approx	12,000
Speed limit:	50 km/h
Road class:	State
Parking restrictions:	Unrestricted with 'No Stopping' restrictions at traffic lights and intersections

Current arrangement:

Darley Road is currently a cycleway route consisting of an existing on-road cycleway mixed with vehicle traffic.



Generally it is very busy road, especially at the traffic lights near Dan Murphy's where queuing often occurs.



According to NSW Bicycle Guidelines, a separated cycleway path is the preferred treatment for this section of the route.

Cycleway upgrade options:

- Option 1 - Enhance existing mixed cyclists and vehicles traffic arrangement by improving existing signage and linemarking and additional cycleway logos.
- Option 2 - Upgrade to a separated unidirectional cycleway.

To accommodate a separated unidirectional cycleway a change in existing road carriageway width may be required. Existing parking on both sides of the road could potentially be retained. New signage and linemarking along with road resurfacing would be required. Generally a traffic lane width of 3.5m is required by RMS. As Darley Rd is a State Road, RMS agreement to a reduced width of 3.2 m would be required to avoid road carriageway widening.



Figure 5: typical example of separated unidirectional cycleway and work required in Darley Rd.

- Option 3 - Upgrade to separated bi-directional cycleway.

This option would not be feasible without removal of existing parking on at least one side of the road.

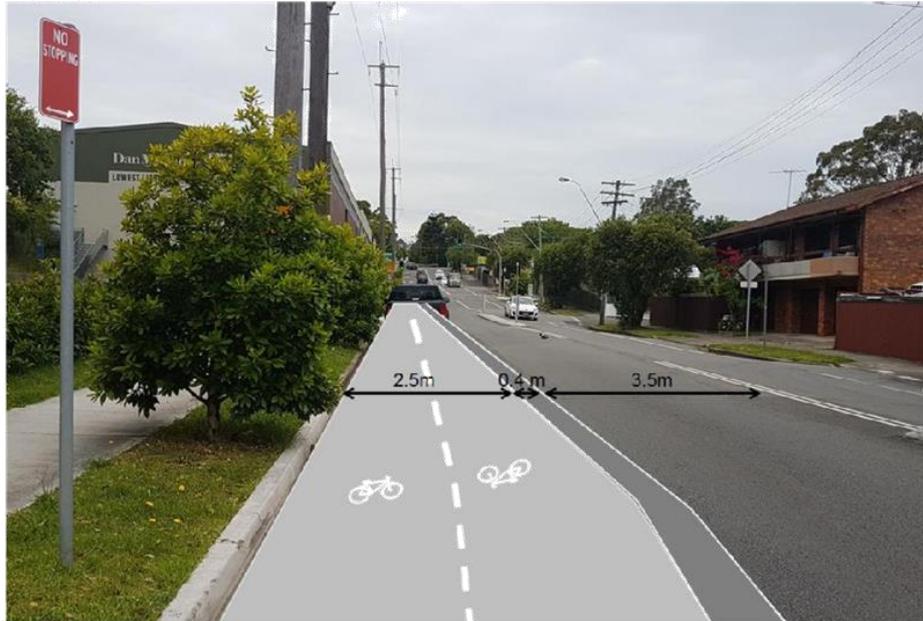


Figure 6: typical example of separated pedestrian path and bi-directional cycleway with removed parking.

- Option 4 - Upgrade to a shared cyclists/pedestrian path.

A potential alternative to Option 3 would be to create a shared cyclists/pedestrian path. To accommodate this, widening of the existing footpath and potential removal of footpath trees would likely be required. Also, further investigation needs to be undertaken to confirm available path width so no acquisition of the adjacent private land is required.

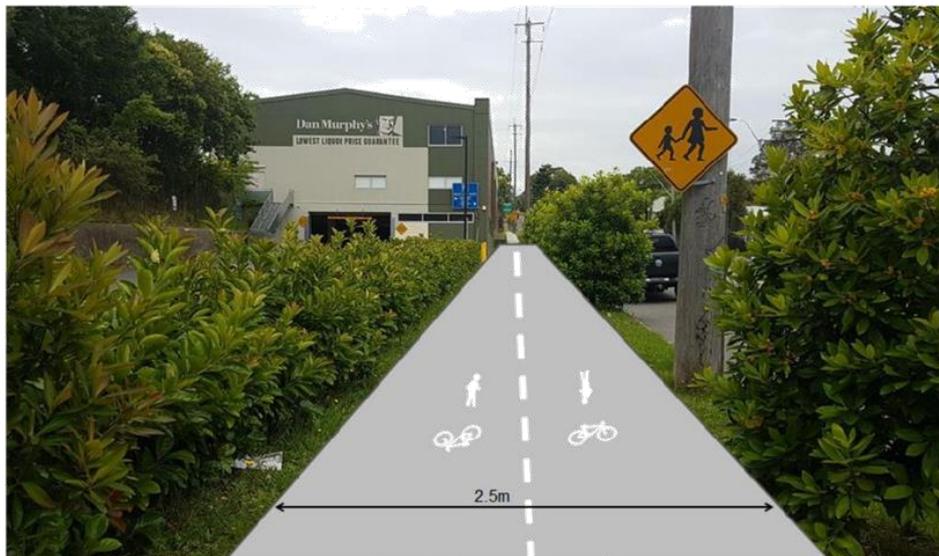


Figure 7: typical example of shared cyclists/pedestrian path.

Other issues affecting the route:

A section of Darley Road between Hubert St and Francis St, contains a 4-5% gradient over an approx. 90.0m length. Further detailed investigation is required to assess the feasibility of upgrading the existing cycleway arrangement at the traffic lights between Hubert St and Francis St.

Feasibility:

The preferred minimum treatment to meet industry guidelines is the provision of a separated unidirectional cycleway. The technical and financial feasibility of this option will be influenced by the RMS determination of minimum lane widths on the State Road.

3. Francis St

Road characteristics:

Road carriageway width (kerb to kerb):	12.8 metres
Annual Average Daily Traffic (AADT): approx	600
Speed limit:	50 km/h
Road class:	Local
Parking restrictions:	Unrestricted

Current arrangement:

Currently there is no marked cycleway along this section.



The provision of a mixed traffic arrangement satisfies NSW Bicycle Guidelines for this section of the route.

Cycleway upgrade options:

- Option 1 – Introduce new mixed cyclists and vehicles traffic arrangement by providing relevant signage and cycleway logos.
- Option 2 – Introduce new separated unidirectional cycleway.

To accommodate a separate unidirectional cycleway additional linemarking would be required. Existing parking on both sides of the road could potentially be retained. New signage and road resurfacing could be required.



Figure 8: typical example of separated unidirectional cycleway and work required in Francis St.

- Option 3 – Introduce new separated bi-directional cycleway.

Theoretically, a separated bi-directional cycleway would be feasible along this section. However further detailed investigation needs to be undertaken around the residential driveways and a crossing at William St. A trafficable two-way lane width of 5.8 m may be achievable in a low traffic environment. An increase to this width would potentially necessitate removal of the adjacent on-street parking which is unlikely to be supported by the residents.



Figure 9: typical example of separated bi-directional cycleway with retained parking.

Other issues affecting the route:

This section of the route is a quiet, flat and wide residential street. In any proposal, the narrow mid-block opening to provide bike access through Francis St, adjacent to No 33 Francis St may require widening.



Feasibility:

All options are potentially feasible with the provision of a separated unidirectional cycleway likely to be the highest level of treatment without significant impact on existing street use.

4. Allen St

Road carriageway width (kerb to kerb): west of Norton St approx. 13.6m east of Norton St approx. 6.9m	13.6 metres 6.9 m
Annual Average Daily Traffic (AADT): approx	3200
Speed limit:	50 km/h
Road class:	Local
Parking restrictions:	'2P' parking

Current arrangement:

Allen St is a current cycleway route consisting of:

- An existing separated unidirectional cycleway for the section of Allan St between Francis St and Norton St.



- An on-road cycleway mixed with vehicle traffic from Norton St to Derbyshire St.



According to NSW Bicycle Guidelines, a separated unidirectional cycleway lanes is the preferred minimum treatment for this section of the route. The section of Allen St between Norton St and Derbyshire St has observed lower traffic volumes suggesting a mixed traffic environment would be sufficient for that section.

Cycleway upgrade options:

- Option 1 - Allen St between Francis St and Norton St – maintain existing separated unidirectional cycleway.
- Option 2 - Allen St between Francis St and Norton St – Upgrade to separated bi-directional cycleway.

Theoretically, a separated bi-directional cycleway may be feasible along this section. However, further detailed investigation needs to be taken around the residential driveways and a crossing at Norton St. This would require a maximum two –way traffic lanes of 6.6m. An increase in this width, would require removal of the adjacent on-street parking.

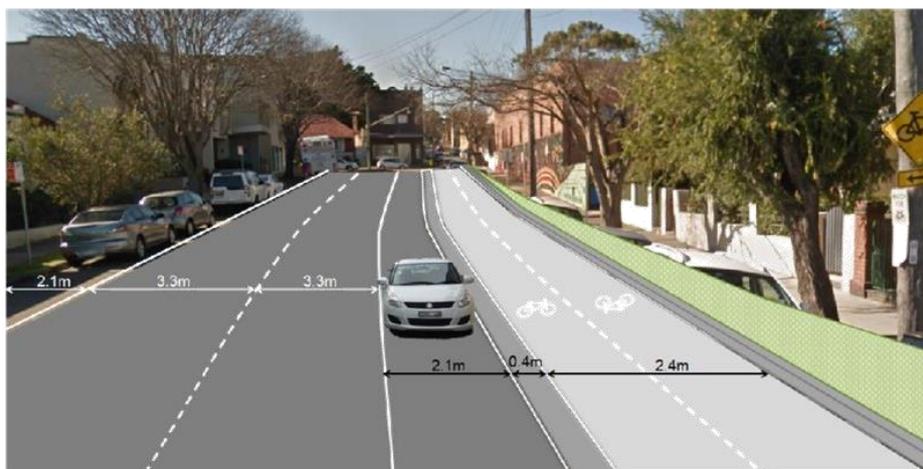


Figure 10: typical example of separated bi-directional cycleway with retained parking.

- Allen St between Norton St and Derbyshire St –Upgrade options are not considered feasible for this section of the route without removal of the existing parking due to narrow road width of 6.9m.

Other issues affecting the route:

The crossing point at Norton St currently does not accommodate for the cyclists without dismounting to use the existing marked foot crossing.



Figure 11: Crossing point at Norton St.

Alternative route for section of Allen St between Norton St and Derbyshire Street could be through adjacent Pioneers Memorial park which could provide less steep gradients. Considering the fact that section of Allen St between Francis St and Norton St is a bus route any option considered needs to be discussed and agreed by Sydney Busses.

Feasibility:

Allan St- Francis St to Norton St – this section has existing unidirectional cycleway well defined and linemarked with mild longitudinal gradient. This level of treatment currently meets industry guidelines. Any enhancement of this treatment which would require minimal work.

Although theoretically a separated bi-directional cycleway maybe feasible, as a bus route, generally minimum lane widths of 3.5 m are called for. Any reduction to accommodate a separated bi-directional cycleway would require agreement with Sydney Buses. Alternatively potential loss of on-street parking would result.

Allan St- Norton St to Derbyshire St – this section of the route is existing on-road cycleway mixed with vehicle traffic. Road is narrow with parking generally available on both sides. It is a steep section of the route with approx. 5.5% gradient over approximately 190.0m. It is in close vicinity of Sydney Secondary College, Leichhardt Campus and adjacent parks, and therefore parking within street is well utilised. It is considered that upgrade to separated bi-direction cycleway is not likely to be feasible.

5. Derbyshire Rd

Road characteristics:

Road carriageway width (kerb to kerb)	6.9 metres
Annual Average Daily Traffic (AADT): approx	400
Speed limit:	50 km/h
Road class:	Local
Parking restrictions:	'No Parking' restriction on western side of road

Current arrangement:

Derbyshire Rd is a current cycleway route consisting of on-road cycleway mixed with vehicle traffic from Allen St to Moore St.



The current mixed traffic arrangement satisfies NSW Bicycle Guidelines.

Cycleway upgrade options:

An on-road upgrade option would not be available without removal of parking on eastern side of the road due to the available road width of 6.9m. If parking is retained, currently available road width of 4.80m for two way traffic is already considered to be substandard. With parking removed substandard on-road cycleway options are available. However, parking is considered to be at premium at this location (adjacent to Sydney Secondary College Leichhardt Campus and Pioneers Memorial park).

The western footpath is approx. 2.5m wide with local restrictions causing reduction down to 2.0m in places. The Option to provide off-carriageway shared path along this footpath could be investigated.

Feasibility:

On-road upgrade of treatment options not considered feasible without removal of parking and major upgrade work. Option to provide off-carriageway shared path could be investigated.

6. Moore St

Road characteristics:

Road carriageway width (kerb to kerb)	4.8 metres
Annual Average Daily Traffic (AADT): approx	Road Closed
Speed limit:	NA
Road class:	Local
Parking restrictions:	NA

Current arrangement:

This section of the route is an existing shared cycleway/pedestrian path.



Cycleway upgrade options:

The only option which could be considered at this location is separating cycleway path from pedestrian path.



Figure 12: typical example of separated pedestrian path and bi-directional cycleway

Other issues affecting the route:

Existence of vehicle gates along the boundary suggests that the path maybe occasionally utilised by vehicles for access.

Feasibility

The existing arrangement is considered to be suitable. An option for a cyclist and pedestrian separation is potentially available..

7. Balmain Rd

Road characteristics:

Road carriageway width (kerb to kerb)	10 metres
Annual Average Daily Traffic (AADT): approx	11,000
Speed limit:	50 km/h
Road class:	Regional
Parking restrictions:	No Stopping' restriction on both sides of the road for majority of the route

Current arrangement:

Balmain Rd is a current cycleway route consisting of:

- shared pedestrian/cycleway path for section between Moore St and City West Link and
- on-road cycleway mixed with vehicle traffic from City West Link to Lilyfield Rd.



Figure 13: Photo showing shared pedestrian/cycleway path and on-road cycleway mixed with vehicle traffic.



Figure 14: Section of Balmain Rd between City West Link Road and Lilyfield Rd with on-road cycleway mixed with vehicle traffic.

The NSW Bicycle Guidelines recommend a separated bike path treatment for this level of traffic.

Cycleway upgrade options:

Existing constrained road widths will inhibit the provision of a separated bike path treatment. Enhancement of the existing shared pedestrian/cyclist path could be undertaken to better highlight the route.



Figure 15: typical example of cycleway and pedestrian logos and signage along shared path in Balmain Rd.

According to the available property data it is considered that sufficient space for separating pedestrian and cycleway path is not available.

Other issues affecting the route:

Council has recently upgraded traffic lights at the intersection between Balmain Rd and Alfred St to accommodate a traffic light phase for cyclists at this location.

Westconnex plans for proposals within Rozelle railyard are currently being developed by RMS.

This section of Balmain Rd is a Regional Road, containing a bus route. Currently there is no separate traffic light phase for cyclist at the crossing between City West Link and Balmain Rd. At the moment, to cross the intersection cyclists can dismount the bike and use the crossing along with the pedestrians or enter the mixed traffic with vehicles and use their traffic light phase to cross City West Link.

Feasibility:

Enhancement of the existing shared pedestrian/cyclist path could be undertaken to better highlight the route. Constrained road width inhibits provision of separated bi-directional cycleway.

Footpath on the eastern side of Balmain Rd bridge over railyards could potential be used as a shared pedestrian/cycleway path, however to use this path cyclists would need to cross two sets of lights along Balmain Rd/City West Link intersection.

ROUTE 2: WARATAH STREET, HAWTHORNE PARADE, GREENWAY, DARLEY ROAD, LYALL STREET, FLOOD STREET, ALLEN STREET, DERBYSHIRE ROAD AND BALMAIN RD

1. Waratah St

Road characteristics:

Road carriageway width (kerb to kerb)	12.8 metres
Annual Average Daily Traffic (AADT): approx	3,000
Speed limit:	50 km/h
Road class:	Local
Parking restrictions:	Generally unrestricted.

Current arrangement:

Waratah St is a current cycleway route consisting of separated unidirectional cycleway along this section of the route.



Figure 16: Photo showing unidirectional separated cycleway along Waratah St.

Either mixed traffic treatment or separated unidirectional cycleway treatment is recommended for this section of the route under the NSW Bicycle Guidelines

Cycleway upgrade options:

- Option 1 - Enhance existing unidirectional separated cycleway – improve existing signage and linemarking and additional cycleway logos.



Figure 17: typical example of separated unidirectional cycleway linemarking and logos.

- Option 2 – Upgrade to separated bi-directional cycleway



Figure 18: typical example of separated bi-directional cycleway and retained parking on both sides of the road.

Road width of 5.8m left for traffic might be considered insufficient. To increase this width, removal of the adjacent parking would be required, It should be noted that separation island between cycle lanes and vehicle lanes needs to be broken at residential driveways locations.

Other issues affecting the route:

Greenway projects is in close proximity of Waratah St.

There are numerous roundabouts and side streets which may affect feasibility of cycleway treatments. This needs to be further investigated. Detailed consideration needs to be given to cycleway design at private driveways locations. Waratah St between Boomerang St and Hawthorne Pde has a gradient of approx. 4-5% over approx. 450m.

Feasibility:

Two upgrade options are potentially available - enhancement of the existing separated unidirectional cycleway or provision of new separated bi-directional cycleway. Upgrading of the current separated unidirectional cycleway arrangement would provide least impact on existing road use.

2. Hawthorne Pde/ Greenway (Richard Murden Reserve)

Road characteristics:

Path width	2.1 metres
Annual Average Daily Traffic (AADT): approx	NA
Speed limit:	NA
Road class:	NA
Parking restrictions:	NA.

Current arrangement:

Currently, there is a shared pedestrian/cyclist path through Richard Murden Reserve.



Figure 19: Photo showing shared pedestrian/cycleway path through Richard Murden Reserve.

Cycleway upgrade options:

Cycleway options through Richard Murden Reserve is currently being considered as part of the Greenway project.

Other issues affecting the route:

Some tree pruning would be required on the approach ramp to the light rail crossing. At this crossing, cyclists have to dismount the bike to cross the rail lines. Cyclist and pedestrian separation at this crossing may not be feasible without major upgrade work.

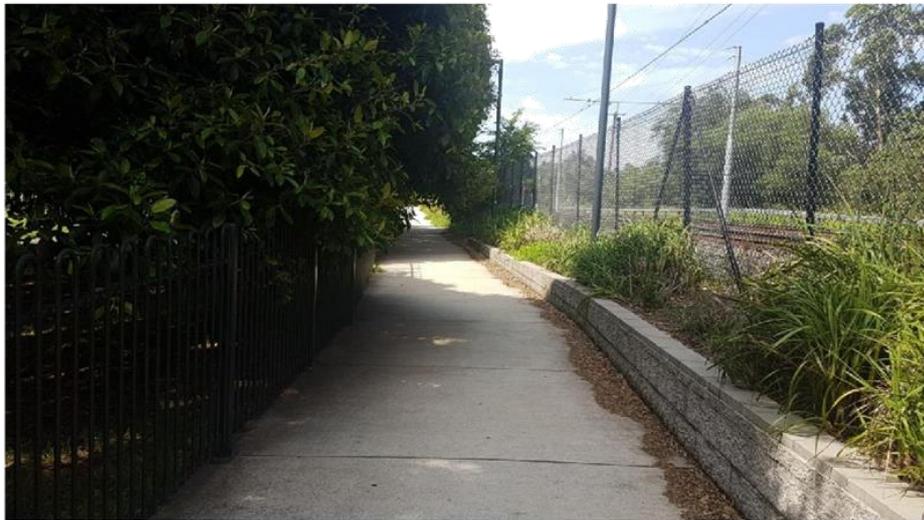


Figure 21: Photo showing shared pedestrian/cycleway ramp at light rail crossing.

Crossing point at Darley St would require upgrade to better accommodate the proposed route and better delineate the existence of the crossing. Attention should be paid to the road curvature on the northern side approach to the crossing which has sightline partially obstructed.



Figure 22: Photo showing shared pedestrian/cycleway path and crossing point at Darley St.

Feasibility:

This section is an existing shared cycleway/pedestrian path within the park. Consideration to the upgrade of the cycleway facilities within this area is being undertaken as part of Greenway proposal.

3. Lvall St

Road characteristics:

Road carriageway width (kerb to kerb)	12.9 metres
Annual Average Daily Traffic (AADT): approx	low
Speed limit:	50 km/h
Road class:	Local
Parking restrictions:	Angle parking on southern side. Unrestricted on northern side.

Current arrangement:

Currently there is no marked cycleway along this section.

Given there is "no through road" traffic volumes are low, a mixed traffic treatment would satisfy NSW Bicycle Guidelines.



Figure 23: Photo showing current arrangement in Lyall St

Cycleway upgrade options:

Options other than treatment as a mixed traffic environment will likely lead to loss of on-street residential parking which may not be warranted in a low traffic environment.

Other issues affecting the route:

Western end of Lyall St is currently closed for traffic and therefore upgrade works would be required to accommodate unobstructed cycleway access including potential tree removal. Lyall St has gradient of approx. 5.5% gradient over approx. 170.0m.



Figure 24: Photo showing current road closure at Western end of Lyall St.

Feasibility

Mixed traffic treatment considered the most feasible option.

4. Flood St

Road characteristics:

Road carriageway width (kerb to kerb)	13 metres
Annual Average Daily Traffic (AADT): approx	3600
Speed limit:	50 km/h
Road class:	Local
Parking restrictions:	Unrestricted

Current arrangement:

Flood St is a current cycleway route – separated unidirectional cycleway with parking available on both sides of the road.



Figure 25: Photo showing current separated unidirectional cycleway.

The current treatment as a separated unidirectional cycleway meets the recommended treatment standard of the NSW Bicycle Guidelines.

Cycleway upgrade options:

Potential upgrade to a separated bi-directional cycleway may be a feasible option.



Figure 26: typical example of separated bi-directional cycleway in Flood St.

Road width of 6.0m left for traffic may be considered insufficient. To increase this width, removal of the adjacent parking would be required if a larger trafficable lane width is considered necessary.

Other issues affecting the route:

Flood St has a moderate gradient of approximately 4 to 5% over a 140 m section of the route.

Feasibility:

Existing separated unidirectional cycleway meets minimum treatment standards with potential for an upgrade to separated bi-directional cycleway.

5. Allen St (Flood St to Francis St)

Road characteristics:

Road carriageway width (kerb to kerb)	13.4 metres
Annual Average Daily Traffic (AADT): approx	3200
Speed limit:	50 km/h
Road class:	Local
Parking restrictions:	2P parking' restriction both sides of the road

Current arrangement:

This section of Allen St is an existing separated unidirectional cycleway.



Figure 27: Photo showing existing separated unidirectional cycleway.

NSW Bicycle Guidelines recommend either mixed traffic treatment or separated unidirectional cycleway treatment for this traffic volume..

Cycleway upgrade options:

Similarly to previously assessed section of Allen St between Francis St and Norton St – upgrade to separated bi-directional cycleway is potentially feasible. However, special care and further detailed investigation needs to be taken around the residential driveways and side street crossing.



Figure 28: typical example of separated bi-directional cycleway in Allen St.

Road width of 6.4m left for traffic might be considered insufficient. To increase this width, removal of the adjacent parking may be required.

Feasibility:

Allan St- Flood St to Francis St – this section has existing unidirectional cycleway well defined and linemarked with mild longitudinal gradient. Adopted industry guideline recommends separated unidirectional cycleway as a preferred treatment. This is the treatment which would require minimal work and cost involved.

Theoretically a separated bi-directional cycleway is feasible. However, this option would require significant work and consultation with the stakeholders such as Sydney Busses and residents. Past experience with designs along routes with buses required minimum lane width of 3.5m which is also expected to be required at this project. Therefore, to accommodate separated bi-directional cycleway, residential parking may be removed unless approvals for 3.2m wide lanes are obtained.

6. Allen St (Francis St to Norton St), Allen St (Norton St to Derbyshire St), Derbyshire St, Moore St and Balmain Rd

This section of Route 2 is same as for Route 1. Refer to Route 1 assessment for details.

Item No: C0219(2) Item 7

Subject: PLANNING PROPOSAL - 67-75 LORDS ROAD, LEICHHARDT

Prepared By: Daniel East - Acting Manager Planning Operations

Authorised By: David Birds - Group Manager Strategic Planning

SUMMARY

This report contains an assessment of a Planning Proposal for 67-75 Lords Road, Leichhardt which seeks to amend the *Leichhardt Local Environmental Plan 2013* (LLEP 2013) to rezone the site from IN2 Light Industrial to R3 Medium Density Residential, increase the floor space ratio from 1:1 to 2.4:1 and introduce a maximum building height control of RL35. The Planning Proposal seeks to facilitate a redevelopment of the site including approximately 23,158sqm of residential floor space, comprising 235 dwellings, and 3,000sqm of non-residential floor space across five (5) buildings ranging from three to nine storeys, positioned around 1,650sqm of centrally located open space.

The report recommends that Council should not support the Planning Proposal. Accordingly, it is recommended that Council should not refer the planning proposal to the NSW Department of Planning and Environment (DPE) for a Gateway Determination in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The Planning Proposal fails the Strategic Merit test of DPE's "A Guide to Preparing Planning Proposals" and is inconsistent with key objectives, priorities and actions of State, District and Council plans and policies. The Planning Proposal is also inconsistent with all 6 criteria of the 'Out of Sequence' checklist of the Parramatta Road Corridor Urban Transformation Implementation Plan 2016-2023.

The site is located in the Taverners Hill Precinct of the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS), but is not earmarked for redevelopment until 2023 (i.e. medium to long term). This Planning Proposal has been submitted at a critical time in strategic and infrastructure planning for the Inner West Council (IWC) area and the Parramatta Road Corridor. There are several relevant strategic planning projects currently underway at local and State level, most notably the Comprehensive Inner West Local Environmental Plan and Development Control Plan, Local Housing Strategy, Employment Lands Review and the Local Infrastructure Contributions Plan.

These broad-scale strategic planning projects are considered to be the best means for reviewing the planning controls for the subject site and other sites in the Parramatta Road Corridor (PRC) and local government area (LGA).

RECOMMENDATION

THAT:

1. **Council not support the Planning Proposal for 67-75 Lords Road, Leichhardt for the reasons outlined in the report including that:**
 - a) **It fails the Strategic Merit Test of "A guide to preparing planning proposals" pursuant to Section 3.33(2)(c) of the *Environmental Planning and Assessment Act 1979*;**
 - b) **The proposal does not have merit and fails all of the six (6) criteria when assessed against the *Parramatta Road Implementation Plan 2016 - 2023 'Out of Sequence Checklist'*. In particular, the proposal:**

-
- i. Fails to satisfy Criteria 1 in that it does not adequately demonstrate that it meets the strategic, land use and development objectives outlined in the PRCUTS Implementation Plan and does not provide significant delivery, contribution or benefits for the Strategy's Corridor wide and Precinct vision. It is inconsistent with the recommended built form recommendations and does not demonstrate that the new development will achieve design excellence. The Proposal is also out of alignment with the short term growth projections identified in the strategy and does not demonstrate any significant net community, economic and environmental benefits for the Precinct;
 - ii. Fails to satisfy Criteria 2 in that the Integrated Infrastructure Delivery Plan (IIDP) is inadequate because it is based on a concept plan for 235 dwellings in 23,158sqm of residential floorspace which at average large residential flat building dwelling gross floor area sizes of 76.35sqm could produce 303 dwellings at the development application stage;
 - iii. Fails to satisfy Criteria 3 in that the community engagement is inadequate, has not demonstrated that there is an appropriate level of support or agreement for the proposal and has not demonstrated adequate readiness in terms of the extent of planning or business case development for key infrastructure projects;
 - iv. Fails to satisfy Criteria 4 in that there is no certainty that the proposal achieves or exceeds the sustainability targets identified in this Strategy;
 - v. Fails to satisfy Criteria 5 in that the proposal does not sufficiently demonstrate development feasibility analysis to meet this criterion given the Economic Impact Assessment and the feasibility advice is flawed and contains numerous assumptions, disclaimers and conclusions which are not supported; and
 - vi. Fails to satisfy Criteria 6 in that the proposal does not sufficiently demonstrate a land use and development scenario that aligns with and responds to market conditions for the delivery of housing and employment for 2016 to 2023.
- c) The Parramatta Road Corridor Transformation Strategy new dwelling targets for the Taverners Hill Precinct can readily be met and surpassed without rezoning this site;
- d) In the context of persistent demand and a low and decreasing supply of industrial land, a rezoning such as this would dilute Council's ability to provide sufficient industrial land to accommodate demand. The planning proposal would also result in:
- i. inconsistency with the *Leichhardt Industrial Lands Study 2014* (SGS, 2014), *Leichhardt Employment and Economic Development Plan* (EEDP) and the *Leichhardt Industrial Precincts Planning Report* (SGS, 2015);
 - ii. a net loss of jobs in the local government area;
 - iii. the loss of an economically viable employment precinct containing local services, light industrial and other non-industrial activities which contribute to the diversity of the economy, community activities and employment opportunities;
 - iv. a lack of merit when assessed against the criteria established by the *Leichhardt Employment and Economic Development Plan 2013-2023*; and
 - v. the lack of an appropriate Net Economic and Community Benefit Test as it does not address the wider issue of cumulative loss of
-

employment lands in the local government area.

- e) It is inconsistent with the infrastructure sequencing of the PRCUTS and the submitted Integrated Infrastructure Delivery Plan (IIDP) and the offer to enter into a Voluntary Planning Agreement (VPA) are unsatisfactory given the lack of adequate contributions;**
- f) It is inconsistent with numerous Ministerial Directions pursuant to Section 9.1 of the *Environmental Planning and Assessment Act 1979* including Directions 1.1 - Business and Industrial Zones, 7.1 - Implementation of A Plan for Growing Sydney and 7.3 - Parramatta Road Corridor Urban Transformation Strategy;**
- g) It is inconsistent with the Inner West Council Community Strategic Plan: Our Inner West 2036 – Direction 2: Unique, liveable, networked neighbourhoods and Strategic Direction 3: Creative communities and a strong economy;**
- h) It is inconsistent with the following elements of the Parramatta Road Corridor Urban Transformation Strategy:**
- Policy context and the Strategy's vision and key actions for the Corridor and Taverners Hill precinct including all seven (7) principles of the Strategy;
 - Implementation Tool Kit including the Implementation Plan 2016-2023, Planning and Design Guidelines (including the Corridor wide, built form and Taverners Hill Guidelines), Infrastructure Schedule and Urban Amenity Improvement Plan; and
 - Reference Reports including the Precinct Transport Report, Economic Analysis, Fine Grain Study and Sustainability Implementation Plan.
- i) It is premature in the light of the prospective outcomes of strategic planning studies and projects underway at State and Local Government levels, particularly having regard to the lack of the Precinct-wide traffic study and supporting modelling which is required under the PRCUTS to be completed to consider the recommended land uses and densities, as well as future WestConnex conditions, and identify the necessary road improvements and upgrades required as part of any proposed renewal in the Precinct;**
- j) It does not make an adequate contribution towards the provision of affordable housing as it is inconsistent with Council's *Affordable Housing Policy 2016* which seeks a 15% contribution of gross floor area of the development as affordable housing and dedicated to Council in perpetuity;**
- k) It exceeds the *Parramatta Road Corridor Urban Transformation Strategy* recommended density by 500m² without satisfactorily demonstrating that the proposal would achieve better built form outcomes or design excellence;**
- l) It fails to adequately assess the following matters given the insufficient or unsatisfactory supporting studies:**
- i. Flooding in that the proposal is currently located within the southwest corner of the site where the flood depth is greatest and other unresolved design issues associated with the flood hazard on the site;**
 - ii. Heritage in that the Heritage Impact Statement does not adequately consider the potential heritage value of the existing buildings or whether there will be any adverse impacts on the heritage value of the nearby heritage items including the item at Lambert Park and Kegworth**

Public School;

- iii. Land contamination and *State Environmental Planning Policy No 55 – Remediation of Land* requirements in that the submitted Remedial Action Plan does not locate the known contamination on the site and relies on outdated sampling information;
 - iv. Traffic impacts given an inadequate Traffic Report and supporting information is provided, particularly having regard to the likely impacts on Davies Lane of increased traffic generation;
 - v. Public domain works and connections given the lack of an adequate outline of the proposed works and satisfactory arrangements being made with the relevant stakeholders for connections and linkages within and outside the site;
 - vi. Economic analysis of the loss of employment land given the Economic Impact Analysis did not adequately justify this loss as it relied on the Regional and District Plans excluding the PRCUTS area from the overwhelming evidence contained in the relevant economic and industrial land literature on the loss of employment land; and
 - vii. Sustainability targets and measures given the Sustainability Report was a generic and theoretical analysis of potential measures and failed to demonstrate that the proposal complies with the sustainability targets of the PRCUTS.
- m) It fails to adequately demonstrate consistency with a number of design quality principles of *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* and subsequently results in a number of urban design concerns with subsequent adverse impacts on both internal amenity and the amenity of adjoining properties including:
- i. Adverse impact in terms of context having regard to the proposal being out of character within the surrounding low density residential area and therefore inconsistent with Design Quality Principle 1;
 - ii. Setback and separation, height and articulation of the built form concerns resulting in the proposal being inconsistent with the bulk form and scale requirements of Design Quality Principle 2;
 - iii. The proposed FSR exceeds the PRCUTS controls and the scale of residential floor space proposed on this site is not required to meet the PRCUTS projections, thereby being inconsistent with Design Quality Principle 3;
 - iv. The proposed height of the nine storey development (35m AHD or 32m) exceeds the PRCUTS recommended maximum height of 30m;
 - v. The proposal does not satisfy the sustainability requirements of the PRCUTS and is inconsistent with Design Quality Principle 4;
 - vi. Potential impacts on the amenity of the area and the site which is inconsistent with Design Quality Principle 6 including:-
 - visual impact from the bulk and scale of buildings,
 - overlooking of Davies Street properties,
 - inadequate location and quantity of common and public open space which lacks a sufficient interface with the public domain to be considered public space and overshadowing of open space.
2. Should the Proponent request a Rezoning Review by the NSW Department of Planning and Environment, delegation is given to the Group Manager Strategic Planning to lodge a submission to the review process in accordance with this
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report and Council's related resolution.

Item 7**1.0 BACKGROUND**

A pre-planning proposal application for 67-75 Lords Road, Leichhardt was submitted on 9 August 2018 by Platino Properties. It outlined the following amendments to *Leichhardt Local Environmental Plan 2013* (LLEP 2013):

- Rezone the site from IN2 Light Industrial to R3 Medium Density Residential
- Modify the FSR for the site from 1:1 to 2.4:1
- Introduce a maximum height of buildings of 30m
- Introduce a site-specific provision:
 - allowing a range of additional non-residential uses including recreation facility (indoor), office premises, business premises, light industry, industrial retail outlet, and restaurant or café;
 - requiring a minimum of 3,000sqm of non-residential uses to be provided on the site; and
 - enabling a multi-use facility associated with Lambert Park to be provided as an FSR bonus.

Council's response of 17 October 2018 identified a number of issues with the proposal, including:

- loss of industrial land;
- workability of a mixed use development;
- prematurity of a planning proposal for the site and the requirements of the Out of Sequence Checklist, contained within the PRCUTS Implementation Plan 2016-2023, not being satisfied;
- inadequate justification for the planning controls sought;
- inconsistency with the Inner West Affordable Housing Policy; and
- lack of contribution to open space and public domain.

Council received the subject Planning Proposal on 25 October 2018. A site-specific Development Control Plan (DCP) accompanied the Planning Proposal. The site is located in the Taverners Hill Precinct of the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS), released in November 2016. PRCUTS is the NSW Government's 30-year plan to drive and inform land use planning and development decisions as well as long-term infrastructure delivery programs in the Parramatta Road Corridor. In accordance with the PRCUTS Implementation Plan 2016 - 2023, the site is not earmarked for redevelopment until after 2023 (i.e. in the medium to long term). The key targets in the Strategy for the Taverners Hill Precinct are:

- 3,300 new people for 2050
- 1,300 new homes for 2050
- 4,100 new jobs for 2050.

2.0 OVERVIEW OF PROPOSAL

The Planning Proposal submitted to Council by Platino Properties Pty Ltd seeks to amend *Leichhardt Local Environmental Plan 2013* (LLEP 2013) to facilitate the redevelopment of 67-75 Lords Road, Leichhardt. The Planning Proposal is accompanied by a proposed amendment to *Leichhardt Development Control Plan 2013* (LDLP 2013) to include site specific controls for the property.

The key components of the Planning Proposal are:

- Rezoning the site from Light Industrial (IN2) to Medium Density Residential (R3);
- Amending the maximum Floor Space Ratio (FSR) for the site from 1:1 to 2.4:1;
- Introduction of a new maximum height control for the site of RL 35m;
- Introduction of a site-specific provisions to allow the following:

- A range of additional non-residential uses including recreation facility (indoor), office premises, business premises, light industry, industrial retail outlet, and restaurant or café;
- Requiring a minimum of 3,000sqm of non-residential uses to be provided on the site;
- Allowing the FSR to exceed 2.4:1 but only if the increase is provided as a public benefit in the form of a multi-use facility to be used in conjunction with Lambert Park; and
- Requiring a site-specific DCP to be endorsed by the Planning Proposal authority prior to any development approval.

The future redevelopment of the site seeks to provide approximately 23,158sqm of residential floor space comprising 235 dwellings across five (5) buildings located around the perimeter of the site ranging from three to nine storeys. The composition of apartments is proposed to include:

- 15-30% studio apartment,
- 25-45% one bedroom,
- 25-45% two bedrooms and
- 7-15% three or four bedroom apartments.

A central publicly accessible area of open space of approximately 1,650sqm and at least 3,000sqm of non-residential floor space to support a range of employment generating and community uses are also proposed. Affordable housing, in the form of 35 apartments, is also proposed. The proposal also includes an offer to enter into a Voluntary Planning Agreement (VPA) to provide:

- Public benefit items including a 500sqm multi-purpose space to be transferred to Council and to be directly accessible from Lambert Park (FSR is not to be included in the overall FSR for the site) and upgrade to the lighting in Lambert Park.
- Local infrastructure items including public art (near tunnel entrance under the adjoining railway reserve), publicly accessible open space (central open space on the site – 1,650sqm), shareway and through site links, railway land regeneration, streetscape planting along Kegworth Street and Lords Road and public domain upgrades, roadworks and landscaping.
- Affordable housing comprising 35 apartments (approximately 14.9%) to be owned and managed by Bridge Housing for a minimum of 10 years in a separate stratum.

3.0 SITE AND SURROUNDING CONTEXT

The site is located on the northern side of Lords Road, with public open space, public roads or railway land adjoining the site on all boundaries. The site is approximately 400 metres from Parramatta Road and 7km from the Sydney CBD. The location of the site is illustrated in Figure 1.

The site comprises two (2) allotments and is legally described as Lot 1 in DP 940543 and Lot 1 in DP 550608. The site is known as 67-75 Lords Road, Leichhardt and is a relatively regular shaped lot. It has a 77 metre frontage to Lords Road along the southern boundary and 76 metre northern boundary to Lambert Park. The eastern and western side boundaries comprise 111.3 metres and 133.24 metres respectively with a total site area of 10,691sqm (Figures 2 and 3).

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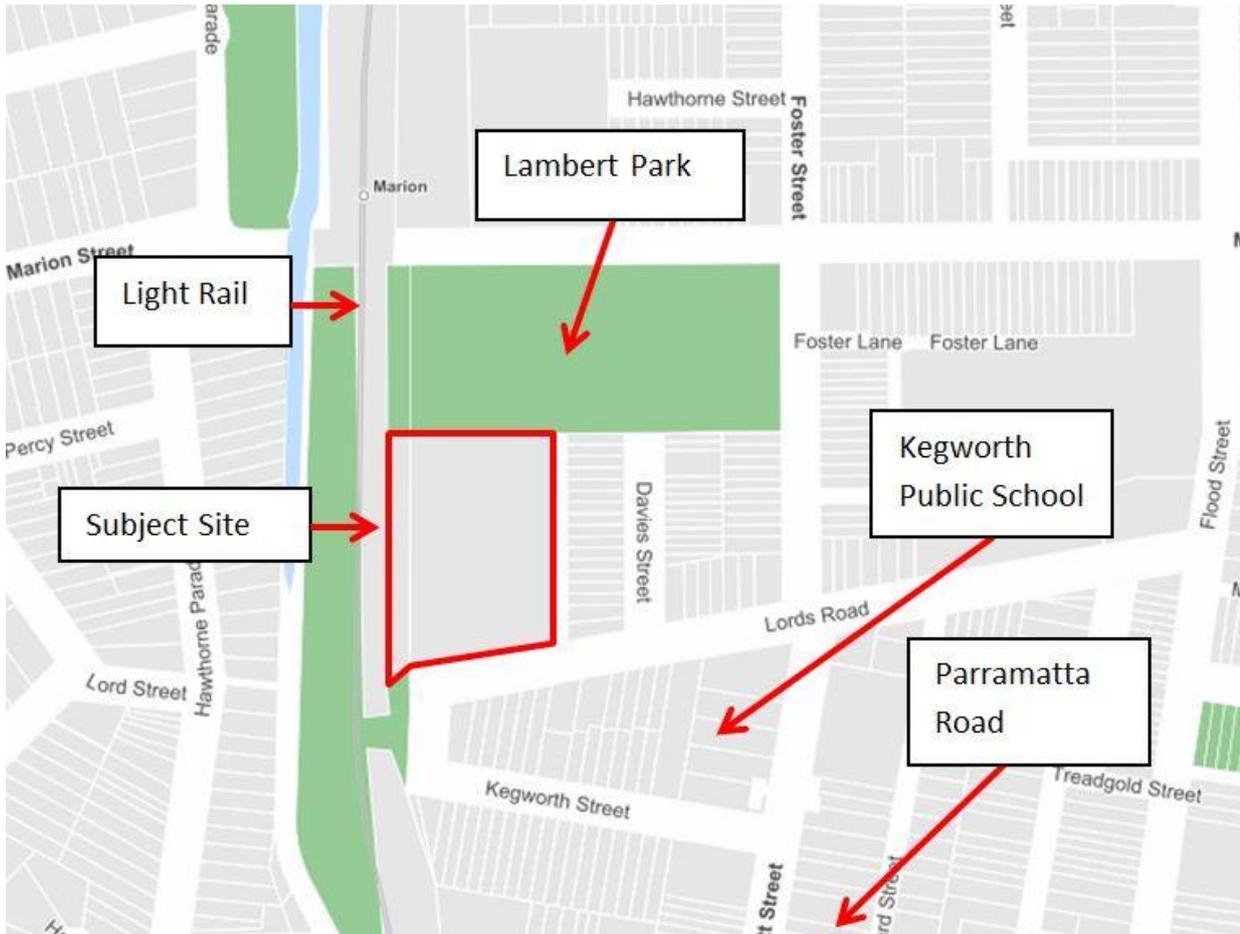


Figure 1: Location of the site with red outline



Figure 2: Subject site shaded red

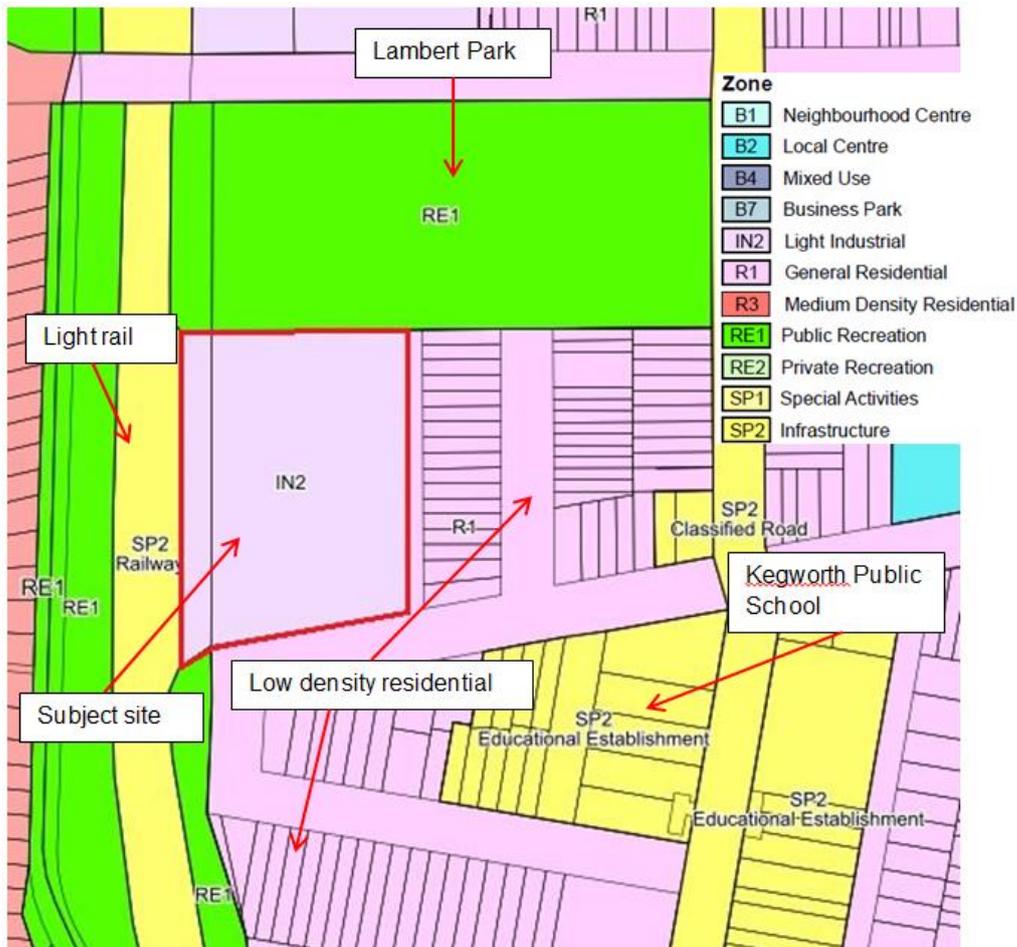


Figure 3 - Extract from the zoning map of Leichhardt LEP 2013

The site currently accommodates a range of light industrial and commercial uses including warehousing/storage, small scale manufacturing uses including furniture and joinery businesses as well as a private art school. As outlined in the social impacts of the Planning Proposal, the majority of these businesses are having difficulty finding alternative premises given the scarcity of industrial land within the IWC area, particularly as they are businesses which need to be proximate to their customers.

The existing buildings on the site comprise three (3) buildings directly adjoining each other, comprising two (2) storeys and of brick and metal construction and a detached single storey brick and metal roof building in the front eastern corner of the site. The maximum height of the existing buildings on the site is approximately 11.5 metres.

Various attached metal awnings also exist on the site as well as bitumen car parking areas on the eastern and western sides of the buildings. Vehicle access is currently obtained from two separate driveways from Lords Road. The site currently contains approximately 9,979sqm of floor space, consisting of 17 tenancies. The existing development on the site is illustrated in Figures 4 and 5.



Figure 4: Subject Site - lower, western side of existing industrial/commercial complex

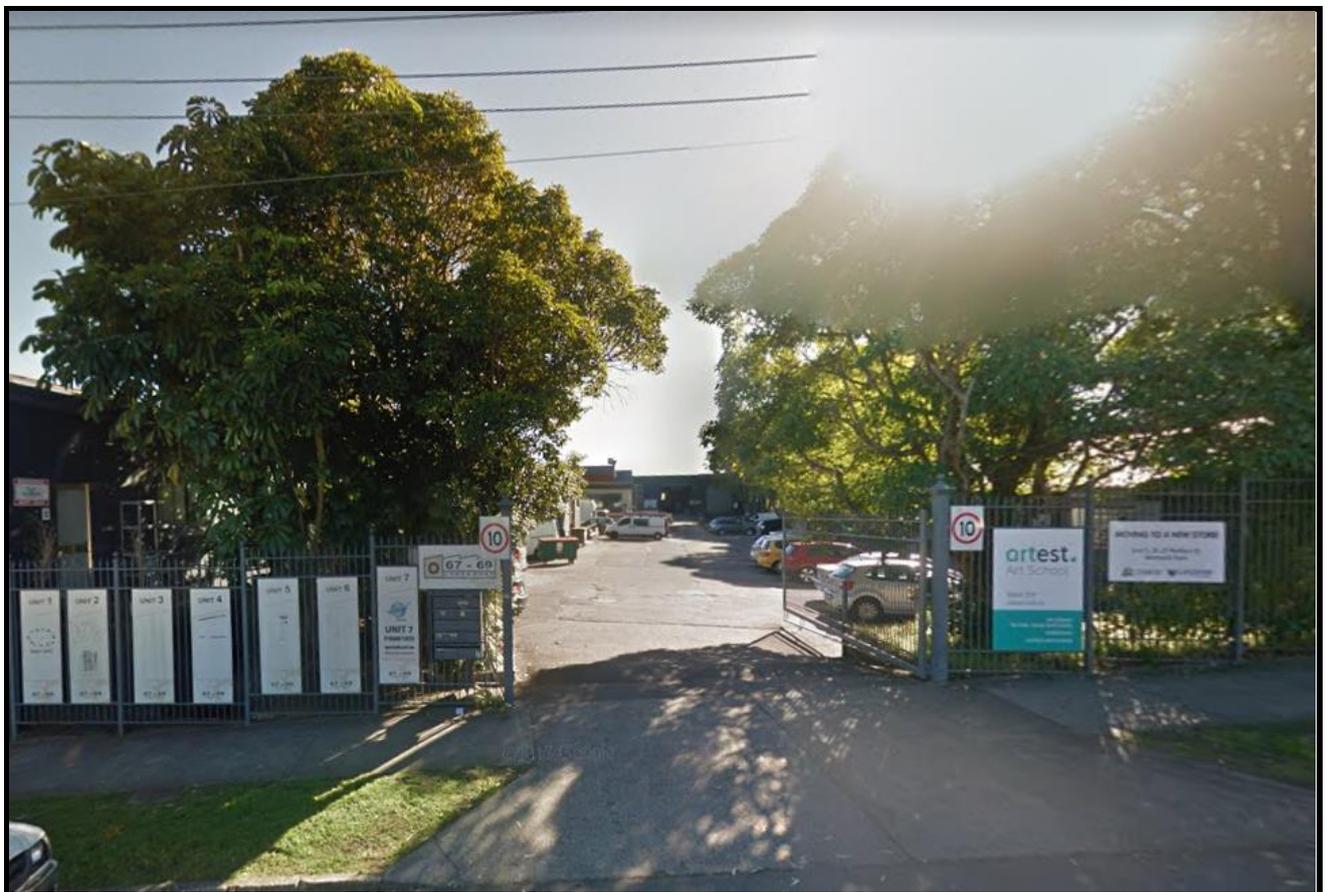


Figure 5: Subject site - Eastern higher side of existing industrial/commercial development

Directly adjoining the site to the north is Lambert Park, which is predominantly occupied by a soccer field used by the APIA Club, with the eastern end comprising a playground and Leichhardt Family Day Care (located in a former cottage).

The light rail corridor forms the western boundary with a steep vegetated embankment occurring along this boundary. The Hawthorne Canal is located beyond the light rail corridor which also contains a pedestrian and cyclist link to the nearby Marion Light Rail Stop, approximately 150 metres to the north beyond Lambert Park. This area also forms part of the GreenWay, a 5.8km environmental and active travel corridor linking the Cooks River at Earlwood with the Parramatta River at Iron Cove, largely following the route of the Inner West Light Rail and Hawthorne Canal.

The eastern boundary adjoins Davies Lane, a narrow laneway primarily used for access to the low density detached dwellings facing Davies Street. The area to the south beyond Lords Road comprises low density residential development as well as another light industrial use and Kegworth Primary School to the south-east. The adjoining development is illustrated below in Figures 6 to 11.



Figure 6: Adjoining to the north-east - Lambert Park playground



Figure 7: Adjoining to the north-west - Lambert Park Soccer Field



Figure 8: Adjoining to the west - GreenWay and Hawthorne Canal (looking south)



Figure 9: Marion Light Rail Stop to the north



Figure 10: Davies Lane - eastern boundary of the site to the left and rear of Davies Road properties to the right



Figure 11: Adjoining development to the south across Lords Road

The site falls approximately three (3) metres from the eastern boundary to the western boundary towards Hawthorne Canal. The eastern part of the site has significantly higher existing ground levels varying from RL 5m AHD to RL 8.5m with the majority of this area above RL 6.75m AHD.

The nearest water body is Hawthorne Canal, located approximately 70 metres to the west of the site, with surface water from the site flowing to the canal. The site is affected by the 1 in 100 year flood event along the western boundary, while the majority of the remainder of the site is affected by the Probable Maximum Flood (PMF). Only the south-east corner of the site is not affected by any flood hazard. The site has a Flood Planning Level (FPL) of RL 4.6m AHD.

The site is located in close proximity to a range of services including retail at Leichhardt Marketplace, 150 metres to the east, as well as other shops along Marion and Norton Streets. Kegworth Public School is located on the opposite side of Lords Road, while nearby public transport services include the light rail stops of Marion and Taverners Hill (400m) and heavy rail at Summer Hill and Lewisham approximately 800 metres to the south west of the site.

The site is zoned IN2 Light Industrial under LLEP 2013 which states the following objectives for the zone:

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*
- *To retain existing employment uses and foster a range of new industrial uses to meet the needs of the community.*
- *To ensure the provision of appropriate infrastructure that supports Leichhardt's employment opportunities.*
- *To retain and encourage waterfront industrial and maritime activities.*
- *To provide for certain business and office premises and light industries in the arts, technology, production and design sectors.*

The site currently has a maximum permissible FSR of 1:1 and no height control under LLEP 2013. The public reserve to the north of the site is zoned RE1 Public Recreation.

The site does not contain heritage items and is not within a heritage conservation area but is located adjacent to a heritage item, Lambert Park, and in close proximity to Kegworth Public School which is also listed as a local heritage item.

This site represents approximately 7% of the former Leichhardt LGA's industrial land supply and is one of only eleven (11) industrial precincts within the former LGA. Therefore, it is a highly strategic site in terms of the provision of industrial land in the Inner West.

The site is located in the West Leichhardt precinct of LDCP 2013.

4.0 STRATEGIC CONTEXT

The site is located in the Taverners Hill Precinct of the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS), a State Government endorsed strategy for the revitalisation of the Parramatta Road Corridor, given statutory force via a Section 9.1 Ministerial Direction (formerly s117) in November 2016. It is important to note that this Ministerial Direction is one of several which have direct relevance to the Planning Proposal.

PRCUTS is a plan to drive and inform land use planning and development decisions as well as long term infrastructure delivery programs in the Parramatta Road Corridor. The Strategy is supported by an Implementation Tool Kit and comprises the following documents:

- Parramatta Road Urban Transformation Strategy; and
- Implementation Tool Kit comprising the following:
 - Implementation Plan 2016 – 2023
 - Planning and Design Guidelines
 - Infrastructure Schedule
 - Urban Amenity Improvement Plan.

Delivery of the Strategy relies on the implementation of the principles in PRCUTS and will occur over 30 years in the following indicative timeframes:

- Short term – 2016 - 2023
- Medium term – 2023 - 2036
- Long term – 2036 - 2050

The site is outside the '2016 - 2023 Release Area' for the Taverners Hill Precinct which means that the redevelopment of the site should ideally be in the medium to long term between 2024 and 2054. The Strategy is to be implemented through:

- State Environmental Planning Policies for priority precincts (in the corridor to the west of the IWC local government area);
- Planning proposals prepared by landowners or developers;
- Comprehensive LEP reviews undertaken by councils.

The key targets in the Strategy for the Taverners Hill Precinct are:

- 3,300 new people for 2050
- 1,300 new homes for 2050
- 4,100 new jobs for 2050.

Figure 12 illustrates the broad PRCUTS land use policy directions for the Taverners Hill Precinct.

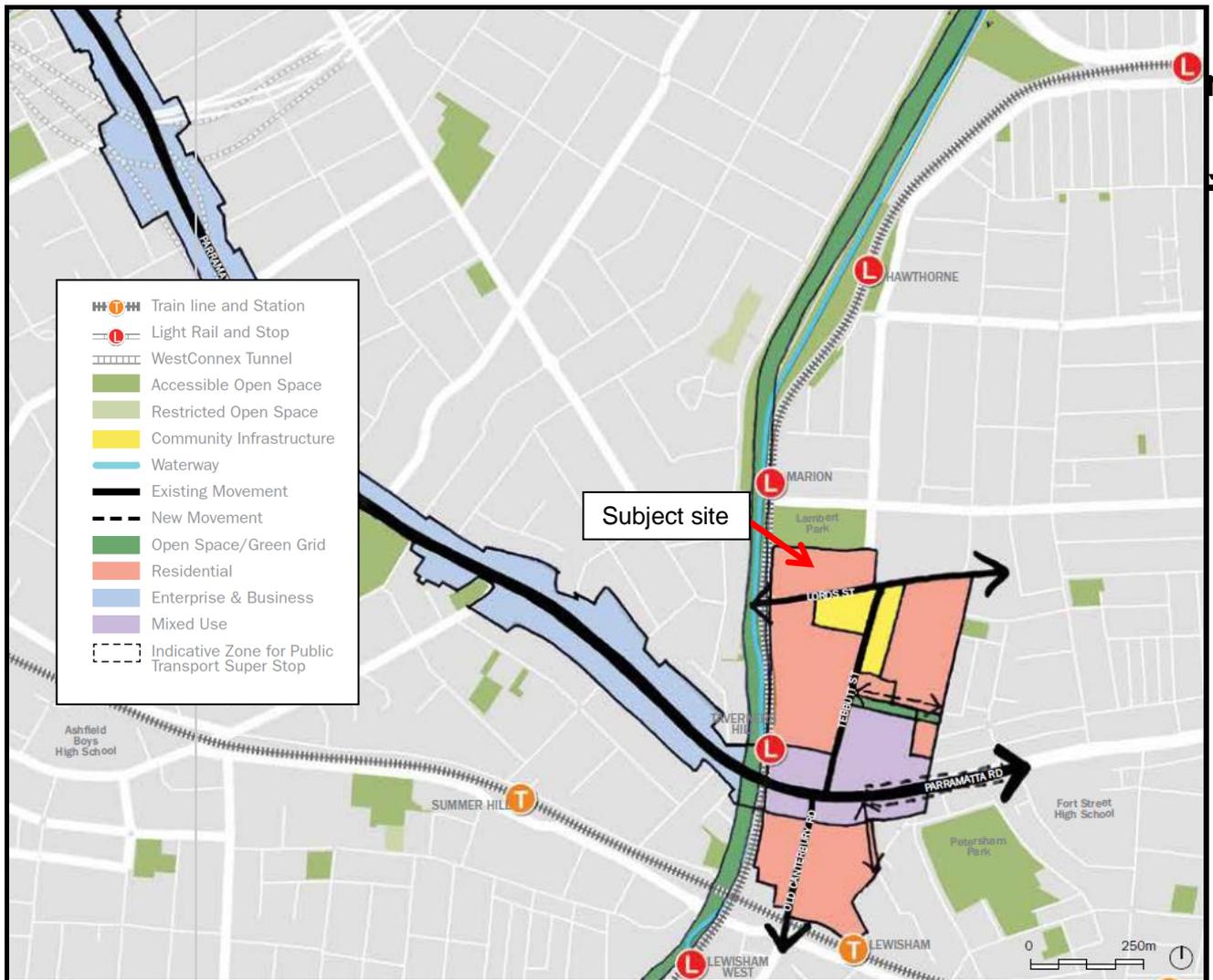


Figure 12: Structure Plan for the redevelopment of the Taverners Hill Precinct

PRCUTS sets out key actions associated with land uses; transport and movement; place-making; and open space, linkages and connections; and makes **recommendations** for future zoning, height and density controls to ensure a place-based approach for future development of the Corridor. Key actions related to the subject site and the Taverners Hill Precinct is considered in more detail later in this report.

The PRCUTS Implementation Plan 2016 - 2023 provides a methodological and sequential approach for growth and the alignment of infrastructure provision with that growth. As noted earlier, the subject site is outside the '2016 - 2023 Release Area' for the Taverners Hill Precinct which means that the redevelopment of the site should ideally be in the medium to long term between 2024 and 2054 and should not occur in the short term, up to 2023. This is illustrated in Figure 13 below.

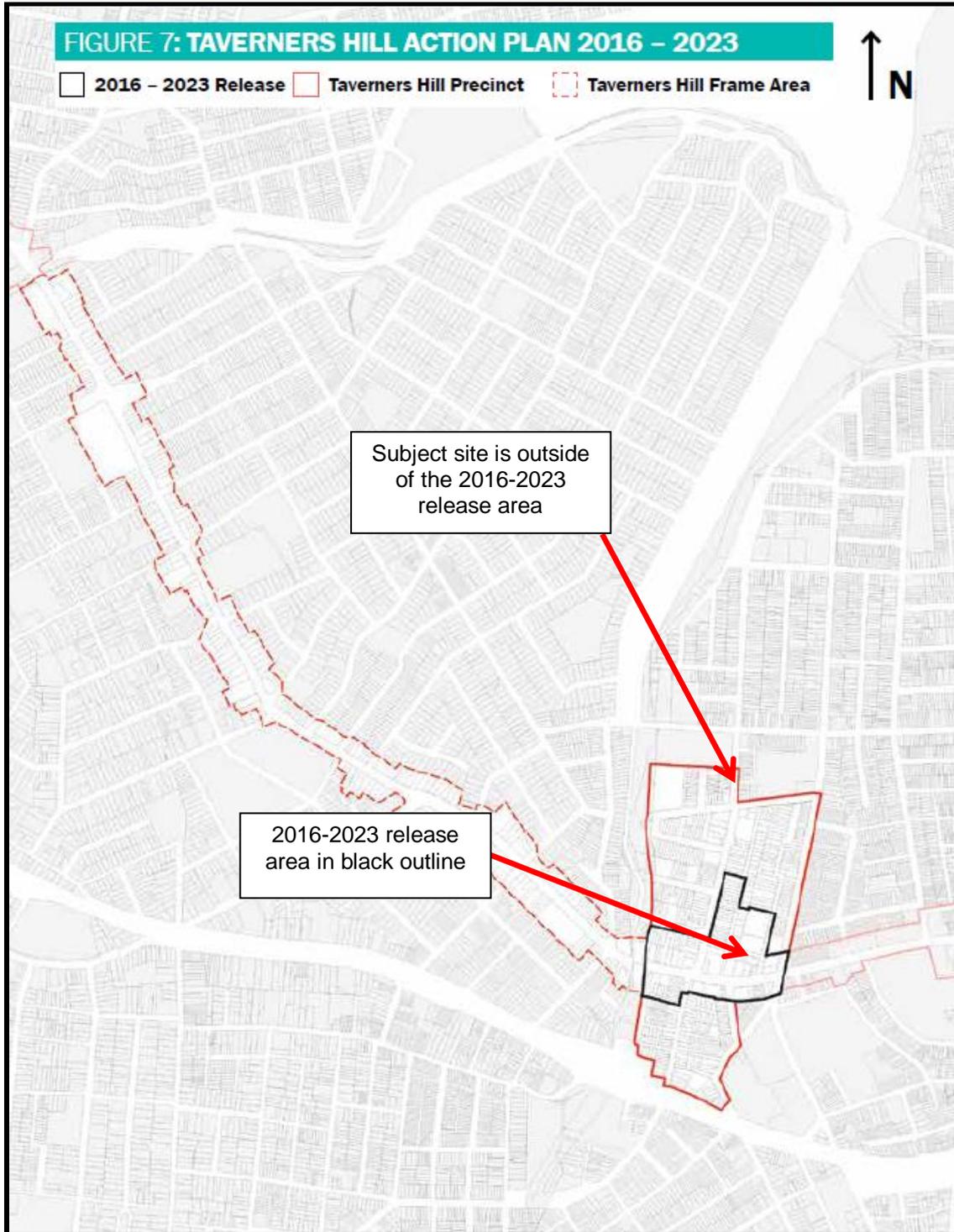


Figure 13: Extract from the PRCUTS Implementation Plan - Taverners Hill Precinct

Proposals that depart from this staging plan need to be assessed on their merit against the PRCUTS 'Out of Sequence Checklist' criteria to ensure that changes to the land use zones and development controls are timely and can be justified against the Principles and Strategic Actions of the Strategy. Council's assessment of the Planning Proposal against the Out of Sequence Checklist is included as Attachment 2.

The important aspects of the PRCUTS to note are that it is a Strategy that provides the long-term vision and framework to support co-ordinated employment and housing growth in the Corridor in response to significant transport and infrastructure investment, economic and demographic shifts, and industrial and technological advances.

The relationship between growth in population, housing, jobs and employment land is very closely associated with the provision of infrastructure. The importance of the timing of such growth is also highlighted via the Implementation Plan. This plan includes Action Plans for each Precinct which sets out when the growth is needed. This is so such growth can be tied to the infrastructure requirements.

The other key message is that the Strategy makes recommendations on future zoning and development controls, however, essentially leaves the implementation to local Council's when assessing planning proposals or undertaking amendments to local environmental plans (page 7 of the Implementation Plan). For these reasons, it is important to note that the PRCUTS and the associated Section 9.1 Ministerial Direction which gives the Strategy statutory force, is one consideration in this assessment along with the infrastructure readiness for such growth and whether such growth is needed in the short, medium or long terms.

It is also noted that there have been numerous studies and reports prepared by the former Leichhardt Council in relation to the supply of industrial land in the LGA. These reports and strategies are considered in light of the PP. The overwhelming evidence from these studies and strategies is that industrial lands are scarce and they are disappearing which directly contradicts the Eastern City District Plan which seeks to cast aside this evidence to support the rezoning of large areas of employment land to residential, as recommended by the PRCUTS.

PRCUTS recommendations and requirements as well as other strategic documents and plans have been taken into consideration in the assessment of this Planning Proposal as outlined in this report.

5.0 PREVIOUS PLANNING PROPOSAL

In May 2014, a Planning Proposal was submitted to Council which sought to rezone the site from IN2 Light Industrial to R3 Medium Density Residential and increase the maximum FSR from 1:1 to 2.4:1 to facilitate the redevelopment of the site. The Planning Proposal included the following:

- Four (4) residential blocks ranging from four (4) to eight (8) storeys containing approximately 315 units;
- A one-way shareway through the site, entering off Lords Road and exiting onto Davies Lane;
- A separate basement parking entrance and exit off Lords Road;
- Communal open space as a central feature of the site;
- Child care centre and café located within the southernmost building;
- VPA for the provision of 5% of total dwellings as affordable housing, public domain elements including streetscape enhancements and cycle paths etc and a pedestrian path benefitting Council.

Council officers met with the proponents on a number of occasions between 2012 and the lodgement of the Planning Proposal in 2014.

It is noted that the previous Planning Proposal was for 67-73 Lords Road while the current proposal relates to 67-75 Lords Road.

A report to the former Leichhardt Council of 26 August 2014 recommended not to support the Planning Proposal due to a range of issues, including:

- Loss of employment lands and the cumulative impact of the loss of employment lands;
- The inadequacy of the supporting specialist reports (including the Economic Justification Report and the Social Impact Assessment);

- The strategic fit of the proposal as assessed against the aims and objectives of various planning instruments, strategies and plans including the LLEP 2013, LDCP 2013 and the relevant Regional Strategies;
- Unsatisfactory design of the proposal including built form, height and bulk particularly from Lords Road and Davies Lane, potential amenity impacts including overshadowing and overlooking of adjacent properties, inadequate open space (size, location and overshadowing), traffic and parking impacts and inconsistencies with SEPP 65 and the then Residential Flat Design Code;
- Prematurity of the proposed rezoning given the uncertainty of the status of surrounding industrial lands within the LGA as a result of NSW Government announcements in relation to WestConnex Motorway and Urban Revitalisation Projects and the NSW Government Bays Precinct Urban Renewal Program.

In September 2014, a pre-Gateway review request was lodged with the DPE. The relevant planning authority was the Sydney Eastern City Planning Panel following the then Leichhardt Council refusing this role.

Following review by the then Joint Regional Planning Panel (JRPP), the DPE, as delegate for the Greater Sydney Commission, issued a gateway decision that the proposal should proceed subject to conditions in July 2016. These conditions included that the Planning Proposal was to be updated prior to public exhibition to address the following:

- Social impact of the proposal (capacity of existing, and future need for affordable housing, education, health and emergency services);
- Demonstrate consistency with s.117 Direction 4.1 Acid Sulfate Soils and Direction 4.3 Flood Prone Land,
- Include current and proposed Land Zoning and Floor Space Ratio maps; and
- Include satisfactory arrangements for contributions to designated State public infrastructure identified as part of a draft or final strategic planning review for the Parramatta Road corridor.

A further condition was that prior to finalisation, the planning proposal was to be amended to demonstrate consistency with any available findings of a draft or final strategic planning review for the Parramatta Road corridor.

On 31 August 2017, the Sydney Central Planning Panel determined that the proposed instrument in the Planning Proposal should not be made. The decision was not unanimous with the chair using her casting vote, to vote against the proposal. The compelling reason for not supporting the proposal was the loss of employment land (which was considered contrary to Ministerial Direction 1.1) and that the proposal was out of sequence with the Implementation Plan of the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS). The other panel members wanted to defer the matter to allow the Proponent to lodge an Out of Sequence Checklist.

On 16 March 2018, the DPE, as delegate for the Greater Sydney Commission, and consistent with the former Sydney Central Planning Panel's determination, decided not to make the plan. In this determination, the DPE stated that the Planning Proposal did not demonstrate the protection of employment land and did not meet the requirements of the PRCUTS.

6.0 THE PLANNING PROPOSAL

The subject Planning Proposal seeks to amend the provisions of LLEP 2013 for land use, FSR and height of building as they apply to the site. It proposes to rezone the site to R3 Medium Density Residential, increase the FSR to 2.4:1, introduce a maximum height control of RL 35 and allow a range of non-residential uses. The application is supported by information as follows:

- Urban Design Study by Hollenstein Pullinger for five (5) mixed use buildings of between two (2), three (3), five (5), six (6), seven (7) and nine (9) storeys and two levels of basement;
- Landscape Plan by Umbaco
- Site-specific LDCP 2013 amendment by FPD;
- Letter of offer for VPA;
- Economic Impact Assessment by AEC;
- Traffic Study by TTPP;
- Acoustic Assessment by Acoustic Logic;
- Flooding and Stormwater Management Report by Tooker & Associates;
- Contamination Report by Benviron Group;
- Social Impact Assessment by Cred Consulting;
- Affordable Housing Report by Housing Action Network;
- Sustainability Report by Northrop;
- Consultation Report by Chikarovski & Associates;
- Advice from Transport for NSW;
- Benefits of Urban Consolidation by Hill PDA;
- Draft LEP maps;
- Commercial 3 Zone Practice Note (Victorian Government);
- Utility Capacity advice by various agencies;
- Light Spill by Eco light;
- Heritage Impact Assessment by Architelle;
- Integrated Infrastructure Delivery Plan by Northrop;
- Survey;
- Feasibility advice by Cushman and Wakefield;
- PRCUTS Out of Sequence Checklist (within the PP document).

The application primarily relies on the land use and development controls recommended in the PRCUTS including zoning and height recommendations to justify the Planning Proposal. The Proposal heavily relies on the recommended height control (30m) in PRCUTS to justify the increased FSR of 2.4:1. The proposal would result in five (5) mixed use buildings of varying heights from two (2) to nine (9) storeys comprising 235 apartments and two levels of basement car parking (shown as indicative only). The following table (Table 1) provides a comparative analysis of the site's current controls, PRCUTS recommended controls and the proponent's proposed controls:

Table 1: Comparison of existing, PRCUTS and proposed planning controls for the site

Criteria	Current LEP controls	PRCUTS recommendations	Proposed Controls
Zoning	IN2 Light Industrial	R3 Medium Density Residential	R3 Medium Density Residential with a proposed site-specific provision to allow non-residential uses
FSR	1:1	2.4:1	2.4:1 (plus 500sqm for community uses)
Height	No control	30m (or 7-8 storeys)	RL 35m (or 9 storeys)

The Planning Proposal seeks to introduce a site-specific provision allowing a number of non-residential uses including recreation facility (indoor), office premises, business premises, light industry, industrial retail outlet, and restaurant or café; and requiring a minimum of 3,000sqm of non-residential floor space on site.

7.0 ASSESSMENT OF THE PLANNING PROPOSAL

The Proponent's Planning Proposal and supporting documentation have been assessed with regard to current planning strategies and controls at State and local level, strategic planning projects currently underway and the Department of Planning and Environment's 'A Guide to Preparing Planning Proposals'.

Overall, it is considered that adequate documentation has been provided for Council to determine whether the Planning Proposal has merit to proceed to the Gateway Stage. However there are key issues, discussed further in this report, which indicate that the Planning Proposal should not be supported in its current form. The tabulated analysis below assesses the adequacy of the supporting information supplied with the Planning Proposal and whether it meets the aims and objectives of the strategic framework in DPE's 'Guide to Preparing Planning Proposals'. A detailed assessment of the Planning Proposal is also provided in the Planning Proposal Assessment Checklist attached to this report (Attachment 1).

Part 1 Objectives and intended outcomes

Guideline Requirements	
2.1	Requires a concise statement setting out the objective or intended outcomes of the planning proposal.
	<p>The proponent's stated objectives or intended outcomes are unsatisfactory because:</p> <ul style="list-style-type: none"> • 'A Guide to Preparing Planning Proposals' requires a concise statement setting out the objectives or intended outcomes of the planning proposal. The proponent's statement is not specific enough to accurately reflect the desired outcome of the proposal as required by the Guidelines. • There are concerns with the following objectives: <ul style="list-style-type: none"> - <i>To facilitate redevelopment of an under-utilised site in close proximity to a range of services, open space and public transport options.</i> - <i>Remove heavy vehicles associated with existing industrial uses from the predominantly residential area.</i> <p>These objectives tend to indicate that the site is under-utilised and that the future uses of the site will not include any form of industrial development given the supposed removal of heavy vehicles. Firstly, the under-utilised status of the site is highly questionable. The site is better described as a fully tenanted light industrial precinct accommodating 160 jobs and at least 17 tenants which appear to be operating viable businesses. The removal of heavy vehicles tends to indicate that the proposed non-residential uses are likely to be much more commercial than industrial, which defeats the purpose of having such non-residential floor space on the site.</p> • The objective regarding the provision of 235 apartments comprising 23,158m² is also highly questionable and not supported. Such an apartment yield would result in the average unit size being 98.5m², which is unlikely when the proposal is said to mainly comprise 1 and 2 bedroom units and studio apartments. Only 7-15% of the units are likely to be 3 bedrooms (page 17 of the Planning Proposal Document). The average gross floor area of units in recent Leichhardt residential flat building is 73.6sqm. • In terms of overall strategic merit, the site is located in the PRCUTS area which has a recommendation for rezoning from industrial to medium density residential. However, the Planning Proposal is inconsistent with a number of other key recommendations of PRCUTS as detailed later in this report and consequently,

	<p>should not be supported.</p> <ul style="list-style-type: none"> The Planning Proposal suggests it would provide affordable housing via a Voluntary Planning Agreement. The Proponent's objective is misleading as affordable housing that might be provided at the rezoning stage is inconsistent with Council's Affordable Housing Policy. The Proposal also seeks to provide open space within the site as well as connections to Marion light rail stop and other nearby places. The Proponent's objective is considered acceptable; but no clear provision has been made in the Proposal to make this useable public open space (considered in detail later in this report).
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Part 2 Explanation of Provisions

Guideline Requirements	
2.2	Requires a more detailed statement of how the objectives or intended outcomes are to be achieved.
	The proponent has addressed this requirement but the Planning Proposal is not supported for the reasons expressed above and in other sections of this report.

Part 3 Justification

Guideline Requirements	
2.3	Requires adequate justification documentation to be provided for the specific land use and development standards proposed to the LEP.
2.3.1	Questions to consider when demonstrating the justification
Section A - Need for Planning Proposal	
Q1	Is the planning proposal part of any strategic study or report?
	<p>The subject site forms part of the PRCUTS which recommends future planning controls for the site. However, as detailed later in this report and within the attached checklists (Attachments 1 and 2), the Proposal is inconsistent with the requirements of PRCUTS, including the Implementation Plan 2016 - 2023 Out of Sequence checklist and Planning and Design Guidelines, and should not be supported.</p>
Q2	Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?
	<p>The PRCUTS includes the Parramatta Road Corridor Implementation Toolkit which recommends that one of the pathways to implement the recommended land uses and development controls identified within the Strategy is the LEP Gateway (Planning Proposal) process.</p> <p>However, this Planning Proposal departs from the staging identified under the Implementation Plan 2016 - 2023 and comes in advance of studies and strategies underway at the local and State government level to inform future development controls for the PRCUTS corridor and the new Inner West Council local government area.</p> <p>The future of the Proposal site should be considered as part of the broader strategic planning framework rather than an ad hoc Planning Proposal. This would ensure a systematic approach to determining the future development of the site and the surrounding area. It would be best, therefore, to defer any amendment of the planning framework for the site until the Local Housing Strategy and the Employment Lands Review and the precinct Wide Traffic study required by PRCUTS have been completed.</p> <p>It should be noted, in particular, that rezoning this site to residential is entirely unnecessary to meet the new dwelling objectives PRCUTS has for the Taverners Hill Precinct. These are 451 dwellings by 2023 and an additional 849-899 dwellings by 2050; 410 have already been built and occupied on the Kolotex/Labelcraft site at 22-40 George Street, Leichhardt. At an average dwelling size of 76.35sqm and using the PRCUTS 1350</p>

dwelling target, the Precinct only needs to provide another approximately 71,730sqm of residential gross floor area.

The average dwelling size of 76.35sqm is derived from the total number of dwellings and residential gross floor area of the four largest recent residential flat building consents in the Leichhardt Local Government Area at Terry Street, Rozelle, George Street and Allen Street, Leichhardt. The method of calculation used is simply to divide the total number of dwellings with the residential floor space and includes common areas.

The total projected additional residential gross floor area, including the Kolotex/Labelcraft site, that could be provided under the possible rezonings, floor space ratio and building height increases suggested by PRCUTS is 217,000sqm. Kolotex/Labelcraft has delivered 31,506sqm and 410 dwellings. This leaves the possibility of up to another 185,494sqm of additional residential floor area. It has already been established that only 71,730 sqm of this 185,494sqm is required to meet the PRCUTS dwelling target.

This also means that only 71,730sqm of additional residential floor area is required to demonstrate compliance with the Section 9.1 Direction for PRCUTS.

The clear consequence of this conclusion is that the rezoning of the Lords Road industrial and urban services site is not required to meet the objectives of PRCUTS. Indeed if the proposed 23,158sqm of residential floorspace at Lords Road was to be deducted from the post Kolotex/Labelcraft residual PRCUTS additional 185,494sqm there would still be the potential to provide an additional 162,336sqm of residential floor space. This figure means another 93,336sqm is potentially still available by 2050 over the 69,000sqm required to meet the PRCUTS total precinct dwelling target.

So even without the rezoning of Lords Road the remainder of the PRCUTS proposed planning controls can meet the PRCUTS dwelling targets and hypothetically provide an additional approximately 1220 dwellings in the Precinct, over and above the 1350 target.

Table 2: Analysis of whether Lords Road site is required to meet PRCUTS proposed dwelling projections and residential GFA

PRCUTS proposed dwelling projections and Council's estimated dwellings

	2023	2050
PRCUTS dwelling projections (total)	451	899 (in addition to 2023) 1350 total
Dwellings approved by Council heretofore including Kolotex/Labelcraft	410	-
Difference (Additional dwellings to be provided by Council to meet PRCUTS targets)	41	899

PRCUTS proposed indicative land use mix and Council's estimates for Taverners Hill Precinct and Frame Area

	2023	2050
PRCUTS proposed Residential GFA (additional)	47,000sqm for 451 dwellings	170,000sqm for 899 dwellings

Residential GFA built and occupied in 2018 including Kolotex/Labelcraft	31,506sqm for 410 dwellings	-
Difference (GFA/dwellings to be provided by Council to meet PRCUTS targets)	15,494sqm for 41 dwellings*	170,000sqm for 899 dwellings
Council estimated residential GFA to meet the remaining PRCUTS targets	3,130sqm for 41 dwellings**	68,600sqm for 899 dwellings**
Council estimated residential GFA required to meet overall PRCUTS targets	34,636sqm for 451 dwellings**	68,600sqm for 899 dwellings**
PRCUTS dwelling projections	1350 dwellings can be achieved by 2050 with 103,236sqm (34,636 + 68,600sqm) additional residential GFA without the Lords Road rezoning proposed residential of 23,158sqm	

* Note: This equates to an average dwelling size of 377.9sqm which is unrealistic for an inner city apartment.

** Note: these have been calculated on the basis of average dwelling size approved in recent large residential flat buildings in Leichhardt LGA which equates to 76.3sqm.

In addition, the Planning Proposal acknowledges that it does not fully comply with the PRCUTS, particularly in relation to the proposed land uses given the Strategy recommended purely residential development on the site. It is also noted that there is a disparity between the recommended controls as shown in the mapping and the text in the PRCUTS in that a maximum FSR of 2.4:1 and a maximum height of 30 metres is recommended yet the text refers to 'appropriately scaled residential uses' and 'town houses and terrace type dwellings' in this location.

Accordingly, it is considered that the Planning Proposal is not the best means of achieving the objectives or intended outcomes given the significant concerns in relation to housing yield, loss of industrial land and jobs and the inconsistencies with the Out of Sequence Checklist of the PRCUTS as outlined in this report.

Section B - Relationship to strategic planning framework

Q3a Does the proposal have strategic merit? Is it:

- i. Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment.**

The following regional/district/corridor plans apply to the site:

- Greater Sydney Region Plan 2018 (GSRP) - A Metropolis of Three Cities
- Eastern City District Plan (ECDP) 2018
- Parramatta Road Corridor Urban Transformation Strategy (2016)

The Planning Proposal is consistent with some of the objectives and actions of the GSRP and ECDP, but fails to achieve sufficient consistency with the following key objectives of

GSRP and priorities of ECDP. A detailed analysis of the Proposal against these directions, objectives and priorities is provided in Attachment 1.

Direction 1: A city supported by infrastructure

- *Objective 2: Infrastructure aligns with forecast growth - growth infrastructure compact.*
- *Strategy 2.1 - Align forecast growth with Infrastructure.*
- *Strategy 2.2 - Sequence infrastructure provision across Greater Sydney using a place-based approach.*
- *Planning Priority E1: Planning for a city supported by infrastructure.*
- *Action 3 - Align forecast growth with infrastructure.*
- *Action 4 - Sequence infrastructure provisions using a place-based approach*

Direction 3: A city for people

- *Objective 6: Services and infrastructure meets communities' changing needs.*
- *Strategy 6.1 - Deliver social infrastructure that reflects the needs of the community now and in the future.*
- *Strategy 6.2 - Optimise the use of available public land for social infrastructure.*
- *Objective 9: Greater Sydney celebrates the arts and supports creative industries and innovation.*
- *Strategy 9.1 - Facilitate opportunities for creative and artistic expression and participation, wherever feasible with a minimum regulatory burden, including:*
 - *arts enterprises and facilities and creative industries*
 - *interim and temporary uses*
 - *appropriate development of the night-time economy.*
- *Planning Priority E3: Providing services and social infrastructure to meet people's changing needs.*
- *Action 8 - Deliver social infrastructure that reflects the needs of the community now and in the future. Councils, other planning authorities and State agencies*
- *Action 9 - Optimise the use of available public land for social infrastructure.*
- *Planning Priority E4: Fostering healthy, creativity, culturally rich and socially connected communities.*
- *Action 14 - Facilitate opportunities for creative and artistic expression and participation, wherever feasible with a minimum regulatory burden, including:*
 - a. *arts enterprises and facilities, and creative industries*
 - b. *interim and temporary uses*
 - c. *appropriate development of the night-time economy.*

Direction 4: Housing the city

- *Objective 10: Greater housing supply.*
- *Action 3: Prepare housing strategies.*
- *Action 4: Develop 6-10 year housing targets.*
- *Planning Priority E5: Providing housing supply, choice and affordability with access to jobs and services.*
- *Action 16 - Prepare local or district housing strategies.*
- *Action 17 - Prepare Affordable Rental Housing Target Schemes following development of implementation arrangements.*

Direction 5: A city of great places

- *Objective 13: Environmental heritage is identified, conserved and enhanced.*
- *Strategy 13.1 - Identify, conserve and enhance environmental heritage by:*
 - *engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of the place*
 - *applying adaptive re-use and interpreting heritage to foster distinctive local places managing and monitoring the cumulative impact of development on the heritage values and character of places.*
- *Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage.*
- *Action 20 - Identify, conserve and enhance environmental heritage by:*
 - a. *engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of the place*
 - b. *applying adaptive re-use and interpreting heritage to foster distinctive local places*
 - c. *managing and monitoring the cumulative impact of development on the heritage values and character of places.*

Direction 7: Jobs and skills for the city

- *Objective 23: Industrial and urban services land is planned, retained and managed.*
- *Strategy 23.1 - Retain, review and plan industrial and urban services land in accordance with the principles for managing industrial and urban services land.*
- *Planning Priority E12: Retaining and managing industrial and urban services land.*
- *Action 51 - Retain and manage industrial and urban services land, in line with the Principles for managing industrial and urban services land in the Eastern City District by safeguarding all industrial zoned land from conversion to residential development, including conversion to mixed use zones. In updating local environmental plans, councils are to conduct a strategic review of industrial land.*
- *Action 52 - Facilitate the contemporary adaptation of industrial and warehouse buildings through increased floor to ceiling heights.*

Direction 8: A city in its landscape

- *Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced.*
- *Strategy 27.1 - Protect and enhance by:*
 - *supporting landscape-scale biodiversity conservation and the restoration of bushland corridors*
 - *managing urban bushland and remnant vegetation as green infrastructure*
 - *managing urban development and urban bushland to reduce edge effect impacts.*
- *Objective 30: Urban tree canopy cover is increased.*
- *Strategy 30.1 - Expand urban tree canopy in the public realm.*
- *Objective 31: Public open space is accessible, protected and enhanced.*
- *Strategy 31.1 - Maximise the use of existing open space and protect, enhance and expand public open space by:*
 - *providing opportunities to expand a network of diverse, accessible, high quality open spaces that respond to the needs and values of communities as populations grow*

- *investigating opportunities to provide new open space so that all residential areas are within 400 metres of open space and all high density residential areas (over 60 dwellings per hectare) are within 200 metres of open space*
 - *requiring large urban renewal initiatives to demonstrate how the quantity of, or access to high quality and diverse local open space is maintained or improved*
 - *planning new neighbourhoods with a sufficient quantity and quality of new open space*
 - *delivering shared and co-located sports and recreational facilities including shared school grounds and repurposed golf courses*
 - *delivering or complementing the Greater Sydney Green Grid*
 - *providing walking and cycling links for transport as well as leisure and recreational trips.*
- *Objective 32: The Green Grid links parks, open spaces, bushland and walking and cycling paths.*
 - *Strategy 32.1 - Progressively refine the detailed design and delivery of:*
 - *Greater Sydney Green Grid priority corridors*
 - *opportunities for connections that form the long term vision of the network*
 - *walking and cycling links for transport as well as leisure and recreational trips.*
 - *Planning Priority E15: Protecting and enhancing bushland and biodiversity.*
 - *Action 62: Protect and enhance biodiversity by:*
 - a. *supporting landscape-scale biodiversity conservation and the restoration of bushland corridors*
 - b. *managing urban bushland and remnant vegetation as green infrastructure*
 - c. *managing urban development and urban bushland to reduce edge-effect impacts.*
 - *Planning Priority E17: Increasing urban tree canopy cover and delivering Green Grid connections.*
 - *Action 65 - Expand urban tree canopy in the public realm.*
 - *Action 66 - Progressively refine the detailed design and delivery of:*
 - a. *Greater Sydney Green Grid priority corridors and projects important to the District*
 - b. *opportunities for connections that form the long-term vision of the network*
 - c. *walking and cycling links for transport as well as leisure and recreational trips.*
 - *Planning Priority E18: Delivering high quality open space.*
 - *Action 67. Maximise the use of existing open space and protect, enhance and expand public open space by:*
 - a. *providing opportunities to expand a network of diverse, accessible, high quality open spaces that respond to the needs and values of communities as populations grow.*
 - b. *investigating opportunities to provide new open space so that all residential areas are within 400 metres of open space and all high density residential areas (over 60 dwellings per hectare) are within 200 metres of open space.*
 - c. *requiring large urban renewal initiatives to demonstrate how the quantity of, or access to, high quality and diverse local open space is maintained or improved.*
 - d. *planning new neighbourhoods with a sufficient quantity and quality of new open space.*
 - e. *delivering shared and co-located sports and recreational facilities including shared school grounds and repurposed golf courses.*
 - f. *delivering or complementing the Greater Sydney Green Grid*

- g. providing walking and cycling links for transport as well as leisure and recreational trips.*

Direction 9: An efficient city

- *Objective 33: A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change.*
- *Strategy 33.1 - Support initiatives that contribute to the aspirational objective of achieving net-zero emissions by 2050 especially through the establishment of low-carbon precincts in Planned Precincts, Growth Areas and Collaboration Areas.*
- *Objective 34: Energy and water flows are captured, used and re-used.*
Strategy 34.1 - Support precinct-based initiatives to increase renewable energy generation and energy and water efficiency especially in Planned Precincts and Growth Areas, Collaboration Areas and State Significant Precincts.
- *Objective 35: More waste is re-used and recycled to support the development of a circular economy.*
- *Strategy 35.1 - Protect existing, and identify new, locations for waste recycling and management.*
- *Strategy 35.2 - Support innovative solutions to reduce the volume of waste and reduce waste transport requirements.*
- *Planning Priority E19: Reducing carbon emissions and managing energy, water and waste efficiently.*
- *Action 68: Support initiatives that contribute to the aspirational objective of achieving net-zero emissions by 2050, especially through the establishment of low-carbon precincts in Planned Precincts, Collaboration Areas, State Significant Precincts and Urban Transformation projects*

The Planning Proposal is inconsistent with Parramatta Road Corridor Strategy documents in the following ways:

Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) 2016

The Planning Proposal is inconsistent with all of the principles of the Strategy as outlined elsewhere in this Report and the Out of Sequence Checklist at Attachment 2.

The Planning Proposal does not adequately contribute towards achievement of the following Key Actions for the Taverners Hill Precinct:

Land Uses

- *appropriately scaled residential development in select locations to attract and retain people in the core of the Precinct* – The Planning Proposal is not considered to provide an appropriately scaled residential development given the urban design concerns with the proposal (outlined in Question 8).

Open space, linkages and connections

- *Leverage new development to provide new open space and high-quality and active public domains* – While the Planning Proposal provides open space in the centre of the site, it is unlikely that this will be utilised by the public given it has limited interface with the public domain. Such a location is unlikely to be used by the wider community.

- *Capitalise on the proximity to light rail by providing increased connectivity for pedestrians and cyclists where possible* – While improvements to the public domain for pedestrian linkages across the Lords Road frontage are proposed, there are no details of such linkages provided. Similarly, the Planning Proposal makes reference to facilitating a secondary GreenWay link on-site adjacent to the western boundary, however there has been no consideration by the relevant stakeholders and hence the likelihood of this eventuating is unknown.

The Planning Proposal is not required to meet the dwelling targets for the Taverners Hill Precinct (see Section 5 of this report Part 3 Justification Q2 Assessment).

PRCUTS Implementation Plan 2016 – 2023

The Planning Proposal departs from the staging/sequencing identified under the Taverners Hill Action Plan 2016 – 2023 (Chapter 8). It also does not meet the criteria of the Out of Sequence Checklist (as detailed in Attachment 2) and therefore, should not be supported.

The PP is inconsistent with the following:

- Strategic land uses - The prematurity of this PP may put at risk the immediate supply of industrial land given the only other area in the precinct which could provide employment is the mixed use area on Tebbutt Street and Parramatta Road.
- Road improvements and upgrades - The required Precinct-wide traffic study and supporting modelling have not been completed.
- Funding framework or satisfactory arrangements - The proponents Integrated Infrastructure Delivery Plan has applied out of date rates and costs; has not had any responses from key infrastructure agencies such as Sydney Local Health District to confirm their requirements; and has underestimated the likely number of dwellings and population in the proposed development at 235 dwellings rather than the more likely output of 300+ dwellings.

PRCUTS Planning and Design Guidelines

The PP is inconsistent with various aspects of the PRCUTS Planning and Design Guidelines, which are considered in detail in Attachment 1 and briefly outlined below. These issues are also further discussed in the urban design comments contained in this report.

The Planning Proposal is inconsistent with numerous requirements contained within Part 3: Corridor Guidelines, including the following:

- 3.1 – Urban Structure
- 3.2 – Heritage and Fine Grain
- 3.4 – Open Space and Public Domain
- 3.6 – Traffic and Transport
- 3.8 – Car Parking and Bicycle Parking
- 3.9 – Active Transport
- 3.10 – Sustainability and Resilience.

The Planning Proposal is inconsistent with the following sections of Part 4: Built Form Guidelines:

- 4.1 – Block Configuration and Site Planning
- 4.2 – Building Massing, Scale and Building Articulation
- 4.3 – Setbacks and Street Frontage Heights

- 4.4 – Transition Zones and Sensitive Interfaces
- 4.5 – Building Typologies
- 4.8 – Amenity

The large bulk and scale of the proposal, in association with its approach to urban design and relationship to the surrounding area make the Planning Proposal inconsistent with the following sections of the Taverners Hill Guidelines:

- 10.4 – Future Character and Identity
- 10.5 – Open Space, Linkages and Connections and Public Domain
- 10.7 – Fine Grain Study Requirements
- 10.8 – Green edge setbacks, Transitions and Activity and Commercial Zones
- 10.9 – Recommended Planning Controls
 - Land use (textual)
 - Building Heights (textual)
 - Densities (Map)

In particular, as already established in this report this site does not need to be rezoned to meet either the short term or long term additional dwelling targets identified in Section 10.4.

PRCUTS Infrastructure Schedule

The Planning Proposal is supported by an Integrated Infrastructure Delivery Plan (IIDP) prepared by Northrop dated October 2018 (Attachment 35) which attempts to populate the Infrastructure Schedule for the Taverners Hill Precinct. There are reservations about the methodology used, the formulas applied and conclusions of the IIDP. It is considered that the PRCUTS's Infrastructure Schedule cannot be readily applied to determine accurate infrastructure contributions as the Council and State Government have not yet completed the infrastructure, transport and traffic studies necessary to update the 2016 cost estimates or capture the costs of infrastructure not covered by the Schedule.

In this context, the Schedule acknowledges that it is based on a high level analysis of population, dwelling and employment projections for the Corridor and requires additional detailed investigation. Many projects included in the Schedule require further investigation and modelling. It is noted that the estimated costs included in the Schedule are frequently unrealistically low, out of date and have not been reviewed since June 2016.

To illustrate this point, the IIDP uses the PRCUTS Infrastructure Schedule "Prioritised Cycling Link" (this is for marked cycle ways on an existing road) costs of \$255.00 per linear metre for a 2.5m to 3m wide path. Even a basic path of this width costs \$1800 to \$2000 for design, lighting and construction. The Greenway Connections width design, lighting, landscaping, public art, recreation and public domain improvements have even higher construction rates. The link between Parramatta Road and Old Canterbury Road (excluding tunnels) will cost around \$8,000 per linear metre.

Overall, it is noted that the Proponent has underestimated the construction rates for projects listed, but not quoted in the Infrastructure Schedule. A detailed analysis of the proposed rates in the Infrastructure Schedule is provided below.

More broadly, Council's Property Capital Projects team has identified the following issues with the proposed construction rates (p.34 of the IIDP):

Active Transport Network

- **Items 1 –7:** These works cannot be precisely estimated as the scope of works is broad and generic. Notwithstanding, the proposed base rate of \$225/m is very low and the recommended rate should be approximately \$350/m with some works such as site establishment being as high as \$950/m.

Community Infrastructure:

- **Item 8 Meeting and cultural space:** Proponent's rate equates to \$2500/sqm for a new building. This is very low and should be approximately \$3,500/sqm or \$1.5m for a meeting space.
- **Item 10 & 12 Childcare:** Council recently completed a 60 places childcare building at Leichhardt Park for \$3.5mil. Using this rate would mean 36 places by 2023 equates to \$2.1mil and 114 places by 2054 equates to \$6.65mil. The rate quoted (\$1.4mil) for 36 places and \$4.56mil for 114 places is poor and probably excludes landscaping, furniture, fixtures and equipment.
- **Item 11 & 13 Outside of School hours:** Should be the same as above.
- **Item 16 Cultural Space:** The comments on Item 8 are likely to apply to Item 16.

Road/ Intersection Upgrade

- **Item 17:** This rate cannot be adequately determined until the completion of RMS's and Council's precinct wide traffic modelling.

Open Space and Recreation:

- **Item 18 – 21:** All the proposed rates are too generic and may apply to other areas of Sydney, however all IWC grounds usually have some form of contamination and the remediation costs are high. The rate should be almost double, approximately \$400/sqm.

Public Transport Network:

- **Item 22 Rail and Light Rail:** TfNSW in their comments (see Attachments 19 and 27) on the IIDP have pointed out that the PRCUTS required traffic study should be completed prior to any rezoning. The study is not complete and therefore the proposed rates in the IIDP have no reliable foundation.

Taverners Hill Urban Amenity Improvement Plan

- **Items 23 – 24:** See the comment above about actual Greenway Construction costs.

There are also gaps in this Schedule which cannot be adequately determined until such time as Council implements a new local Contributions Plan. As a part of amending/ updating of local contributions plans, councils are required to undertake additional analysis including audits of existing facilities and preparation of needs studies beyond the Corridor's boundaries.

This core work is currently underway within Council's Urban Strategy team. In the absence of this critical information, Council officers are currently not in a position to critically comment on the proponent's calculations and rates. Support of this Proposal will compromise the holistic and inclusive basis of wider strategic planning projects underway at local and state government levels and is likely to undermine the objectivity of Council's decision-making process.

Council is currently preparing its new developer contributions plan which will build financial capacity for provision of additional infrastructure in the Corridor and support future population growth in the Inner West LGA. In the absence of this critical information,

Council officers are not in a position to reliably confirm the Proponent's calculations and rates. Local infrastructure cannot be adequately levied for this type of proposed spot rezoning in the PRCUTS corridor until IWC adopts a new developer contributions plan. This indicates the general prematurity of the proposal and inappropriateness of bringing forward the redevelopment of the site, particularly given the additional burden on local infrastructure without an appropriate mechanism to recoup costs to Council.

Social Infrastructure

The PRCUTS Infrastructure Schedule is specific for Taverners Hill in that planning proposals are required to be contributing to:

- Embellishing an existing community centre
- Expanding a local library
- Supporting new childcare spaces
- Supporting out of school hours care
- An additional meeting room in a relocated Leichhardt Library or at Marketplace (not a strata community room in the development as suggested by the Proponent)
- A cultural space
- New intersections
- Hockey facilities at Lambert Park
- Embellish existing sportsground facilities (there is no evidence that APIA need a new 500sqm space)
- Embellish outdoor sportsground
- New linear park from Tebbutt to Upward Streets
- Improved heavy rail and light rail services
- Greenway connections
- Enhanced bus priority measures
- New primary and secondary school and classroom provision
- Hospital beds and services at RPA

The IIDP obfuscates the relationship between the proposal and the infrastructure requirements by asserting that essentially the development does not create enough demand to justify new or enhanced infrastructure. This justification fails to recognise that any development in the precinct and the PRCUTS corridor will have a cumulative impact. By avoiding making proportionate contributions now, the Proponent would simply be passing the responsibility down the line to future developers, State agencies and the Council.

The IIDP suggests that consultation requirements can be met by simply writing to agencies such as the Department of Education and Sydney Local Health District. The IIDP then assumes that if no comments are received, those agencies have no concerns or requirements. This is not the case and the IIDP needs to show a clear and transparent contribution towards each of the above list of infrastructure items.

None of the listed Council items above are covered in the existing s94 Plans so they need to cover these PRCUTS identified infrastructure items as additional items within the IIDP.

The IIDP proposed 500sqm multi use facility to be used by the neighbouring APIA soccer club does not meet any of the Infrastructure Schedule requirements listed above.

Support of this Proposal could compromise the holistic and inclusive basis for achieving wider strategic planning objectives at local and State government level. It is recommended that this Planning Proposal should not be supported.

PRCUTS Urban Amenity Improvement Plan (UAIP)

The UAIP is a \$198 million initiative attached to the Strategy, to be used to stimulate the transformation of the Corridor. The UAIP identifies a suite of early local amenity improvement works to be rolled out in various locations throughout the Corridor to help realise the vision and principles of the Strategy.

The UAIP identifies the following works for the Taverners Hill Precinct:

- Greenway connection under Parramatta Road; and
- Greenway connection under Longport Street.

Neither of these projects directly affects the site as shown in Figure 14 below.

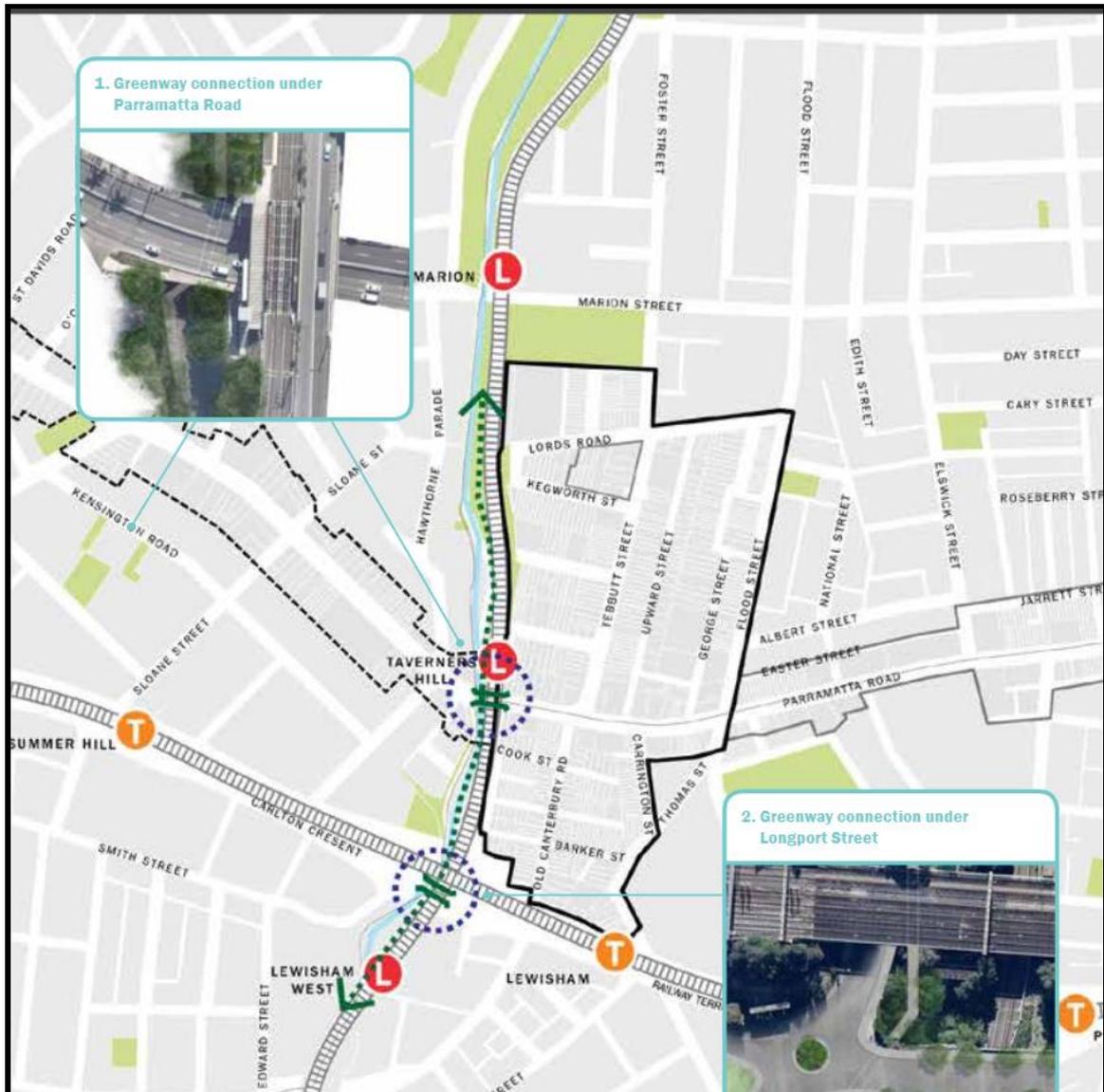


Figure 14 – Extract from the PRCUTS UAIP indicating the proposed works for Taverners Hill

Notwithstanding the lack of specific works for the subject site, the Planning Proposal should not be supported until such time as Council completes its Local Contributions Plan and other broader strategic planning works which would assist in making an informed decision regarding the redevelopment of this site.

PRCUTS Precinct Transport Report

The following matters require consideration under this Report:

Timing of Release/Rezoning

The redevelopment of the site is intended post-2023. The Report states that beyond 2023, population growth and transformation of the Corridor will need to be supported by longer term rail improvements and light rail options in order to proceed.

Furthermore, the Report notes that “further traffic modelling will be required for each Precinct as part of subsequent planning stages, including assessment of the cumulative impacts of the Strategy including working with TfNSW and the RMS to understand the changing Parramatta Road function and up-to-date opportunities to deliver or complement this” (p.22).

The Government is currently investigating public transport options which will be required to support the scale, timing, and staging of longer term land use changes. Given the PP is out of sequence, none of these issues have been satisfactorily resolved at this time.

Traffic Generation

From a transport and traffic perspective, based on information currently available, it is considered that the projected traffic volumes generated by the development (both the Proponent’s and Council’s estimates) are generally at an acceptable level for the adjacent street network. In addition, as the Precinct develops, public transport along Parramatta Road is likely to be enhanced and mode share should increasingly move towards more sustainable transport modes.

Car Parking

The Report considers the future parking requirements for the area and locates the site within category 1 (High Accessibility Location) land. The Report emphasises that parking should be minimised, decoupled and unbundled where possible. The Planning Proposal does not address these requirements and envisages a parking provision beyond the amounts outlined in the Leichhardt DCP 2013.

The proposed design is for 235 apartments with the following car parking requirements and proposed provision:

Unit Type	No. of units	Max. parking rates (Precinct Transport Report)	Proposed car parking
Studio	36	0	0
1 bed	60	0.3 (18)	Not shown
2 bed	103	0.7 (72.1)	Not shown
3 bed	36	1 (36)	Not shown
Commercial	3000m ²	1/150m ² (20)	20
Total	235	146	270-310

The Planning Proposal indicates that the PRCUTS (146 spaces required), LDCP 2013 (159-261 spaces required) and the RMS Guide to Traffic Generating Developments (320 spaces required) all outline different car parking requirements. It is proposed to provide 270-310 spaces in a basement on the site.

The Planning Proposal has not indicated that unbundled or decoupled parking has been considered to further reduce car parking provision, particularly in relation to the split between residential and non-residential uses on the site. The Proposal fails to demonstrate how reduced parking is to be provided, particularly as it is proposes more spaces than required by PRCUTS and the LDCP 2013.

Precinct Wide Traffic Study

The Report outlines future character and strategic transport network requirements for Taverners Hill (Sections 9.3 and 9.4) and requires the following:

Prior to any rezoning commencing, a Precinct wide traffic study and supporting modelling will be required to be completed which considers the proposed land uses and densities, as well as future WestConnex conditions, and identifies the necessary road improvements and upgrades that will be required to be delivered as part of any proposed renewal in the Taverners Hill Precinct.

Future rezoning proposals should also model the impacts of future development on the Flood Street/Parramatta Road intersection in this context, in addition to any other intersections likely to be impacted.

The Report also requires that Prioritised Walking Links are provided for Lords Road between light rail line and Flood Street.

While the Planning Proposal addresses the prioritised walking link in a general sense, there are no details, firm commitments or consideration of the relevant requirements of authorities with jurisdiction over the public domain in this area. In addition, the Precinct Wide Traffic Study is yet to be completed. This Planning Proposal comes in advance of this work being completed and therefore, should not be supported

PRCUTS Fine Grain Study

The Proposal has been assessed in detail against the requirements of the Fine Grain Study in Attachments 1 and 2 to this report.

The Planning Proposal does not adequately meet the PRCUTS Fine Grain Study and Planning and Design Guidelines, and therefore, should not be supported. The Planning Proposal is contrary to Key Guidelines 5 and 6 for Taverners Hill since the ground level setbacks do not respond to the established street alignments of surrounding streets and the setback of upper levels does not reduce the visual impact of the built form to the streetscape.

PRCUTS Sustainability Implementation Plan

The Sustainability Implementation Plan details the sustainability strategies and key development controls for the PRCUTS corridor and precincts. The Plan does this through built form sustainability strategies across building efficiency, renewable energy, strategic parking, public domain and sustainable infrastructure.

The Sustainability Planning Report provided with the Planning Proposal is a generic and theoretical description of the potential sustainability measures which could be provided in the future redevelopment of the site. There are very limited references to the site or the proposal.

In effect, the Planning Proposal relies on a future Development Application to demonstrate consistency with PRCUTS Sustainability and Resilience Principles. This is inconsistent with achieving the recommendations of the Strategy which requires a Planning Proposal to sufficiently demonstrate that it would achieve or exceed the sustainability targets identified in PRCUTS.

There is no referencing or consideration of the sustainability requirements under the Sustainability Implementation Plan, one of several PRCUTS reference reports. The Proponent's Sustainability Planning Report does not address the Precinct specific

	<p>sustainability targets nor does it address the car parking requirements of unbundled, decoupled and reduced car parking for the site. The Planning Proposal is inconsistent with this Plan.</p> <p>Economic Analysis Report</p> <p>This report does not specifically address the subject site but it does form the basis of the land uses and development controls recommended in PRCUTS. Importantly, the Report states that “any rezoning should be mindful of the displacement of existing businesses, particularly those who play a local service role and require a central location from which to service their key markets” (p.15). The Report indicates that many inner and middle ring suburban locations were experiencing an incremental rezoning of light industrial lands to facilitate mixed use residential, thereby reducing the pool of potential alternate locations for local service businesses that are displaced. This is particularly relevant to this Planning Proposal.</p> <p>The Report also highlights the demand for industrial floor space across the Parramatta Road Corridor, whilst modest in comparison to other land use categories, is nevertheless still important to support businesses that play a local service role. These businesses could include food manufacturers and suppliers, smash repairers, alarm and security system installers and technicians, construction businesses, etc. and in most cases require accessible locations proximate to their key markets and suppliers.</p> <p>The Report recommends that ‘destination commercial’ premises (where visibility and exposure is not as critical) are suitable in the Taverners Hill Precinct given the poorly connected layout and disparate configuration of the precinct. Uses which require high exposure and visibility are unlikely to be attracted to this area. The Report explains that there are pockets of industrial properties within the Precinct and although most are occupied, rents are modest, particularly those surrounded by residential uses.</p> <p>The report outlines that large gains in employment have been observed in health care & social assistance, accommodation & food services, construction, education & training and retail trade. This employment growth profile of the Corridor is considered a clear reflection of the response of industry to population growth. The Report also notes that the health care & social assistance industry is highly represented in Taverners Hill (18.8%).</p> <p>Generally, the Report emphasises making Taverners Hill a services precinct given its proximate location to other retail services and the movement of more heavy industry to Western Sydney. The Report also indicates that Taverners Hill would also be a logical location for a range of car showrooms, large format bulky and broad commercial office tenancies.</p> <p>The Planning Proposal is generally contrary to this Plan which emphasises that industrial land is still required and that the Taverners Hill Precinct can continue to accommodate destination commercial, or in this case light industrial, uses.</p> <p>The PP is considered to be generally inconsistent with the regional and district plans and the Parramatta Road Corridor Urban Transformation Strategy.</p>
ii.	<p>Consistent with a relevant local council strategy that has been endorsed by the Department.</p>
	<p>At this stage, there are no relevant local strategies that have been endorsed by the Department that are applicable to the site.</p> <p>Inner West Council is currently preparing a wide range of broader strategic planning work including, but not limited to:</p>

- Local Housing Strategy
- Local Strategic Planning Statement
- Employment Lands Review
- Local Infrastructure Contributions Plan
- Integrated Transport Plan
- Comprehensive IWC LEP and DCP
- Affordable Housing Contribution Scheme
- Camperdown Ultimo Collaboration area framework
- PRCUTS precinct wide traffic modelling

This work is currently underway and is likely to be endorsed by the Department over the next 1-3 years. This work will be the key to making informed decisions in relation to the future development and rezoning of this site and other sites in the Parramatta Road Corridor.

Given the significance and timing of this strategic planning work, it is recommended that a detailed analysis of PRCUTS and any implementation of recommendations be undertaken through the comprehensive LEP accelerated program as opposed to an progressing a planning proposal in an ad hoc manner. This will allow Council to apply an integrated land use and infrastructure approach across the local government area to deliver coordinated outcomes for housing, jobs, transport infrastructure, social infrastructure, open spaces and urban services land.

Support of this Proposal in its current form and timing would compromise the holistic and inclusive basis of this wider strategic planning exercise and weaken Council's decision making process.

It is recommended that the Planning Proposal should not be supported.

iii Responding to a certain change in circumstances, such as investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.

PRCUTS identifies changing demographic trends for the Corridor and provides possible future land use and built form controls to respond to these trends. The Planning Proposal comes in advance of any infrastructure improvements including public transport improvements in the Parramatta Road Corridor.

The Proposal is inconsistent with the projected demographic trends in the PRCUTS for the Taverners Hill Precinct. The Strategy forecasts that there would be 1,350 new dwellings and 4,110 jobs in the precinct by 2050. However, the largest increase in residential floor space is not proposed until the longer term in 2050 when it is expected to increase to 170,000sqm. The short term (to 2023) increase of 47,000sqm in residential floor space does not include the subject site. The employment floor space is proposed to increase by the same amount, 35,000sqm, in both the short and long term periods as shown in Figure 15 below:

Proposed Indicative Land Use Mix (additional)

	RESIDENTIAL GFA (M ²)		EMPLOYMENT GFA (M ²)	
	SHORT TERM (2023)	LONG TERM (2050)	SHORT TERM (2023)	LONG TERM (2050)
Precinct	47,000	170,000	35,000	35,000
Frame Area	0	0	0	315,000

Figure 15 - Extract from PRC Planning and Design Guidelines (p. 202)

Review of the PRCUTS Growth Projections for the Precinct of 451 new dwellings by 2023 and 1,350 by 2050 (see Section 5 of this report Part 3 Justification Q2 assessment Table 2) has demonstrated that residential development on this site is not required to meet

	<p>these targets.</p> <p>The demographic implications of the Planning Proposal are further assessed in the consideration of the social impacts.</p>
Q3(b)	Does the proposal have site-specific merit with regard to the following:
i.	the natural environment (including known significant environmental values, resources or hazards)
	<p>The Proposal is considered to be unsatisfactory in this regard. The site is affected by a flood hazard along the western boundary. The Flood Report notes that the site is impacted by flood storage along the western boundary in the 100 year ARI storm event. It is noted that this area also serves as a floodway through to Marion Street in the PMF event as water levels exceed the existing embankment levels of Lambert Park and overtop the embankment before continuing to flow downstream.</p> <p>Any proposed building footprint must be supported by additional flood modelling demonstrating no adverse impact to flood levels within Lords Road, against the railway embankment, and through Lambert Park during both the 100 year ARI and PMF events. The proposal to provide compensatory flood storage (within tanks or otherwise) within the building footprint to offset a loss of natural flood storage area within the site is not supported. This will likely require amendment to the proposed building footprint within the southwest corner of the site where the flood depth is greatest.</p> <p>All floor levels (residential and commercial) must be raised above the Flood Planning Level. All access to the basement (vehicle and pedestrian) should be provided clear of the flood affected area, or raised sufficiently above the PMF level. In this regard, the proposed DCP locates the basement access towards the east of the site, which is supported.</p> <p>The Flood Report recommends providing for vertical flood evacuation to higher levels within the building. Reliance on on-site evacuation as the sole means of evacuation protection, as outlined in the Planning Proposal, is not considered appropriate. An evacuation route should be provided to the eastern side of Lords Road.</p> <p>As currently proposed, the Planning Proposal is unacceptable in relation to flooding.</p>
ii.	the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal
	<p>The Proposal comes in advance of broader strategic planning work underway at local and state levels including the Local Housing Strategy and Employment Lands Review. These studies are fundamental to making an informed decision in relation to the future uses of the site and its rezoning. Until this work is complete, the Proposal cannot demonstrate that there is adequate site-specific merit to support rezoning.</p> <p>It is also considered that the loss of 9,979sqm of industrial floor space and the existing 160 jobs on the site is too great, given only token commercial uses, which may generate 96 to 128 jobs, is proposed.</p>
iii	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.
	<p>The Planning Proposal would result in increased population density which will place pressure on existing services and infrastructure. The Proposal is out of alignment with the proposed infrastructure delivery schedule for the Parramatta Road Corridor.</p> <p>The Proposal does offer to make financial contributions towards infrastructure provision at local and state level within the IIDP, but the contributions and scope of works are too</p>

	<p>limited. Refer to the detailed comments Section 5 of this report and Out of Sequence Assessment checklist in Attachment 2.</p> <p>It is clear however, that none of the proposed new, enhanced or expanded infrastructure required by the PRCUTS Infrastructure Schedule has been provided nor would it be by this proposed development.</p> <p>Council is preparing a new infrastructure contributions plan, which intends to build financial capacity for provision of additional infrastructure in the Corridor to support the future population in the Inner West. Local infrastructure cannot be adequately levied for this type of spot rezoning along the PRCUTS corridor until IWC completes this new contributions plan.</p> <p>In the absence of a contributions plan, Council cannot make a fully informed decision regarding the funding required to resource the future growth and provide additional infrastructure. Consequently the Proposal should not be supported until this work is completed by Council.</p>
	<p>Strategic and Site-Specific Merit Test Conclusion:</p> <p>Following a thorough consideration of the matters under the Strategic Merit and Site-Specific Merit tests, it is concluded that the Planning Proposal fails to meet both of these tests. In relation to the Strategic Merit test, the Planning Proposal is inconsistent with the GSRP, ECDP and PRCUTS, numerous local Council Strategies and does not respond to changes in infrastructure demand or demographic trends. The Planning Proposal also does not exhibit site-specific merit given the significant loss of industrial land, inconsistency with the existing and desired future character of the Precinct, mitigation of the flooding hazard on the site has not been satisfactorily demonstrated, and it has not been demonstrated that there will be adequate infrastructure for the proposal.</p>
Q4	Is the planning proposal consistent with a council's strategy or other local strategic plan?
	<p>In general, this question has been poorly addressed by the Planning Proposal. The Planning Proposal addresses only Council's Community Strategic Plan - <i>Our Inner West 2036</i> - and the Leichhardt Employment and Economic Plan (EEDP). This assessment concludes that the site is a run-down, fragmented industrial site which is now unviable and needs to be redeveloped. It addresses the criteria of the EDDP, essentially concluding that the rezoning is the best outcome for the site.</p> <p>This consideration lacks an assessment of the other Council Strategies and Strategic Plans including the following:</p> <ul style="list-style-type: none"> • Leichhardt Integrated Transport Plan • Inner West Council Affordable Housing Policy 2016 • Leichhardt Industrial Lands Study (2014) (this is considered in this report under the GSRP and ECDP) and the Leichhardt Industrial Precinct Planning (2016). <p>The Planning Proposal is inconsistent with the following local council strategies and plans:</p> <p><i>Inner West Council Community Strategic Plan – Our Inner West 2036</i> (See Attachment 1 for detailed assessment)</p> <ul style="list-style-type: none"> • <i>Strategic Direction 1: An ecologically sustainable inner west</i> <ul style="list-style-type: none"> ○ 1.1 The people and infrastructure of Inner West contribute positively to the environment and tackling climate change.

- 1.2 Inner West has a diverse and increasing urban forest that supports connected habitats for flora and fauna.
- *Strategic Direction 2: Unique, liveable, networked neighbourhoods*
 - 2.1 Development is designed for sustainability and makes life better.
 - 2.2 The unique character and heritage of neighbourhoods is retained and enhanced.
 - 2.3 Public spaces are high-quality, welcoming and enjoyable places, seamlessly connected with their surroundings.
 - 2.4 Everyone has a roof over their head and a suitable place to call home.
 - 2.5 Public transport is reliable, accessible, connected and enjoyable.
 - 2.6 People are walking, cycling and moving around Inner West with ease.
- *Strategic Direction 3: Creative communities and a strong economy*
 - 3.1 Creativity and culture are valued and celebrated.
 - 3.2 Inner West is the home of creative industries and services.
 - 3.3 The local economy is thriving.
 - 3.4 Employment is diverse and accessible.
- *Strategic Direction 5: Progressive local leadership*
 - 5.3 Government makes responsible decisions to manage finite resources in the best interest of current and future communities.

Leichhardt Integrated Transport Plan

The Planning Proposal comes in advance of the completion of traffic and transport studies underway to determine the cumulative traffic impacts that will arise from implementation of PRCUTS and other infrastructure and development projects.

There are concerns regarding the area-wide implications of the cumulative effect of PRCUTS developments. Support of this Planning Proposal ahead of the current IWC Parramatta Road Corridor traffic modelling would set an adverse precedent in the area and would be inconsistent with the requirements of Out of Sequence Checklist. Detailed comments are provided in Attachment 2.

Although the Proposal may not result in significant detrimental impacts on adjacent intersections, there are concerns regarding the potential cumulative effects of PRCUTS. Support of this Planning Proposal ahead of precinct wide traffic modelling would set an adverse precedent in the area and would be inconsistent with the requirements of Out of Sequence Checklist in the PRCUTS.

Leichhardt Economic and Employment Development Plan (EEDP) (2013)
(See Attachment 1 for detailed assessment)

Outcome 2 – Meet People’s Needs

The Report states that this objective is important because greater convenience, choice and diversity can benefit the wellbeing of the local community and the vitality of the local economy. The loss of industrial land as contemplated in this Planning Proposal will result in the reduction of land available for population-serving industries currently located on this site and similarly zoned industrial land.

Outcome 3 – Embrace the New Economy

Although the Planning Proposal suggests it will provide 3,000m² of non-residential floor space to offset the loss of the industrial site, on balance this loss would undermine the EEDP objectives to:

- *Support small businesses and start-ups (Strategy 3.1).*
- *Support the growth of creative industries (Strategy 3.3).*

Outcome 4 – Protect and Leverage Economic Assets

There are currently a number of contradictory policies at State and local level regarding the protection of industrial land. These include the Leichhardt EEDP. The Leichhardt EEDP complements the Leichhardt Industrial Lands Study 2014 by setting out a more detailed analytical methodology for the review of proposed rezoning of Employment Lands.

The Proponent acknowledges that there are currently a number of contradictory legislative measures and policies at State and local level regarding the approach to retain/transition industrial land, including Leichhardt EEDP. The proponent gives precedence to PRCUTS and the associated s9.1 Ministerial direction to make the case for rezoning from industrial to residential. The Planning Proposal proposes 2,500sqm of non-residential floor space that could create 97-128 jobs in community uses, light industrial and urban services, creative industries, health facilities, education uses, gymnasium, restaurant/cafes and local service business. Essentially, the Planning Proposal asserts that this will offset the loss of 160 jobs and almost 10,000sqm of industrial land. The functionality of such land, however, is questionable and it is unlikely that any significant ‘industrial activity’ is likely to be carried out on the site given the inherent problems with noise, servicing and the like.

The Planning Proposal’s justification for the loss of industrial land by providing 2,500sqm of non-residential floor space, creating fewer jobs in the area, is considered unsatisfactory. The industrial lands are required for their important employment and service functions and providing 2,500sqm of non-residential floor space, which is unlikely to be used for any industrial activity, is not an adequate replacement.

Furthermore, the PRCUTS recommendation to rezone the site to residential is in itself somewhat at odds with the Taverners Hill Precinct’s future role as a transit orientated development which encourages appropriately scaled residential uses and a mix of employment and non-residential uses precinct.

The EEDP advocates the use of standardised criteria which have been designed to qualify the suitability of sites from a quantitative perspective (i.e. is there enough industrial land to meet current and forecast demand), a qualitative perspective (i.e. does the industrial land have the attributes required by potential tenants) and from the perspective of economic viability (i.e. are industrial uses viable on the land). This standard criteria is considered in detail in Attachment 1 in the consideration of Planning Priority E12 of the Eastern City District Plan – Retaining and managing industrial and urban services land.

	<p>It is agreed that the Planning Proposal has some merit for rezoning in the context of Section 9.1 Ministerial Direction 7.3 ‘Parramatta Road Corridor Urban Transformation Strategy’ and policy direction for PRCUTS. However, Council has reservations regarding the loss of any industrial land in the Taverners Hill Precinct as discussed in the previous sections of this Report. In addition, the Proponent’s justification based on provision of non-residential (commercial) space is inadequate as it does not fully address the foremost issue of loss of urban services land given the inherent incompatibility between such uses and residential development. In this respect, retention of industrial land is required for employment and service functions rather than the number of jobs.</p> <p>Council’s support for this Proposal would be a departure from a consistently held evidence-based position to resist rezoning industrial lands for residential or mixed use purposes in the former Leichhardt Council LGA. Any form of residential development within the precinct may set an undesirable precedent for further development resulting in the loss of employment generating land.</p> <p>Council will be reviewing all its employment lands as part of the wider LEP integration work. The Planning Proposal is considered to be premature in this respect and should not be supported. The site and its future uses should be planned holistically in the context of the Taverners Hill Precinct’s contribution to the revitalisation of the Parramatta Road Corridor rather than in a fragmented manner.</p> <p>This Planning Proposal is inconsistent with Council’s intention to retain all industrial lands in response to the projected shortfall of urban services and employment land (discussed in detail later in the report) and therefore, should not be supported. The PP is also inconsistent with Strategy 4.1 of this Plan which requires proposals to protect and enhance key employment lands.</p> <p><i>Inner West Council’s Affordable Housing Policy 2016</i> (See Attachment 1 for detailed assessment)</p> <p>The Planning Proposal is inconsistent with this Policy given:</p> <ul style="list-style-type: none"> • it provides only 8% of total GFA as affordable housing and not the required 15% for this size and type of development; • the composition of the proposed affordable apartments is not provided and may not provide a spread of affordable units across the studio, 1, 2 and 3 bedroom unit types; and • The title is not transferred to Council in perpetuity
Q5	Is the planning proposal consistent with applicable State Environmental Planning Policies?
	<p>A detailed analysis of the Planning Proposal against the SEPPs has been provided in Attachment 1. The Planning Proposal fails to demonstrate consistency with the following:</p> <p><i>SEPP 55 – Remediation of Contaminated Land</i></p> <p>The Proponent has provided a Remedial Action Plan (RAP) prepared by Benviron Group, dated October 2018, which followed a preliminary investigation that identified some areas of contamination, including asbestos. The RAP concludes that the site can be made suitable for the proposed residential use subject to remediation being carried out as outlined in the plan. This includes following the “excavate and dispose” strategy given excavation for the basement is proposed on the site.</p> <p>There are numerous concerns with this RAP including the following:</p> <ul style="list-style-type: none"> • This RAP refers to an earlier study which was prepared by Environmental

Monitoring Services titled 'Detailed Site Investigation' (DSI), dated March 2006. The RAP states that this DSI undertook a sampling program in which 21 boreholes were carried out on the site and that two (2) were found to contain levels of Benzo(a)pyrene concentrations above the NSW EPA levels while another two (2) boreholes recorded fragments or loose bundles of Chrysotile asbestos. The RAP states that this DSI concluded that "...a RAP would be required to ensure the removal of the contamination was managed in accordance with the requirements of the NSW EPA".

- It is noted that the DSI was not provided with the RAP or Planning Proposal and the map provided in the RAP did not identify the location of the boreholes upon which the RAP is based and which was prepared for the DSI. Therefore the location of the earlier documented contamination is not shown in the RAP. Accordingly, the RAP cannot be used as evidence demonstrating that the issue of potential land contamination on the site can be adequately remediated for the proposed use.
- The data from the DSI, being from 2006, is considered to be outdated and should not be used for assessment purposes. It is unknown whether thresholds have changed in that time or that any new uses have occurred on the subject site in the intervening time period which may have led to further contamination. Accordingly, it is considered that the issue of potential land contamination has not been adequately considered in this Planning Proposal.

SEPP 65 – Design Quality of Residential Apartment Development

The Planning Proposal has not adequately considered any of the of the design quality principles of SEPP 65 and is unlikely to be consistent with the following:

- *Principle 1: Context and neighbourhood character*
- *Principle 2: Built form and scale*
- *Principle 3: Density*

A detailed analysis of the proposed design scheme is provided under Q8 in this report.

The Proponent has provided only a cursory assessment of the proposed design against the Apartment Design Guide (ADG) provisions. Overall, while the Planning Proposal attempts to address some of the design issues of the ADG, there is insufficient information and assessment against the ADG. This is particularly in relation to the public domain interface, communal and public open space, apartment size and layout, private open space & balconies, common circulation & spaces, storage and facades.

Furthermore, the Planning Proposal does not consider the proposal against the design quality principles of SEPP 65 with only a few diagrams illustrating setbacks, solar access, cross ventilation, communal open space and deep soil zone and two references in the Urban Design Report referring to SEPP 65 and the ADG.

From the information provided, it is considered that the Planning Proposal is contrary to the following controls of the ADG:

- *3B Orientation* and *4A Solar and daylight access* – Insufficient analysis of potential building envelopes with respect to potential overshadowing of adjoining properties as well as within the development. Availability of solar access to the units is inadequately demonstrated.
- *4S Mixed use* – It is unlikely that the non-residential uses which have been proposed, including employment uses, will be compatible with the residential development on the site. These impacts are likely to arise from noise, servicing and parking. There is insufficient information on layout and configuration of the non-

	<p>residential uses to adequately consider if the commercial areas are appropriately configured.</p> <p>A review of the urban design aspects of the proposal identified various concerns having regard to the ADG and other related design issues, including:</p> <ul style="list-style-type: none"> • Building height (2C) • Floor space ratio (2D) • Building separation (2F) • Visual Privacy (3F) • Facades (4M) • Communal open space (3D) • Solar and daylight access (4A) • Landscape design (4O) • Vehicle access (3H) <p>SEPP 70 – Affordable Housing (Revised Schemes)</p> <p>IWC has recently been included in the SEPP 70 application area to secure affordable housing in accordance with the Policy. To apply IWC's Affordable Housing Policy under SEPP 70, Council will need to prepare an affordable housing contribution scheme to support each new Planning Proposal where contributions for affordable housing are required. This work has not yet been completed.</p> <p>While the Planning Proposal includes a commitment to affordable housing under the proposed VPA, such affordable housing is inconsistent with Council's Affordable Housing Policy. Support of this Planning Proposal in the absence of Council's broader strategic planning work and a commitment consistent with Council's Policy, may compromise Council's ability to exercise integrated planning for affordable housing.</p>
Q6	<p>Is the planning proposal consistent with applicable Ministerial Directions (s. 117 Directions)?</p>
	<p>A detailed analysis of the Planning Proposal against the relevant Section 9.1 Directions (formerly section 117 directions) has been undertaken in Attachment 1.</p> <p>It is important to note that Section 9.1 Directions comprise only one matter to be considered in the assessment of planning proposals, pursuant to Section 3.33(2) of the EP&A Act. In particular, Section 3.33(2)(c) states (emphasis added):</p> <p><i>(2) The planning proposal is to include the following:</i></p> <p><i>(a) a statement of the objectives or intended outcomes of the proposed instrument,</i></p> <p><i>(b) an explanation of the provisions that are to be included in the proposed instrument,</i></p> <p><i>(c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1),</i></p> <p><i>(d) if maps are to be adopted by the proposed instrument, such as maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument,</i></p> <p><i>(e) details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.</i></p> <p>The justification forms a significant part of the Planning Proposal however, making it clear that it must comply with relevant directions under section 9.1. What is not abundantly</p>

clear, is the hierarchy of these Directions given the two which have the most relevance to this Planning Proposal are in total contradiction. Direction 1.1 requires that employment land in business and industrial zones is to be protected, while Direction 7.3 requires that the Planning Proposal gives effect to the PRCUTS. In this case, the PRCUTS envisages a medium density residential zoning on the site.

On balance, it is considered that Direction 1.1 takes precedence in this matter. It was issued most recently and is consistent with the vast majority of Council and District studies which encourage the retention and protection of all industrial land. There are numerous studies which suggest that industrial land, particularly land which can be used for urban services and population-serving light industrial uses in close proximity to the population are not only important but are diminishing. Coupled with the other inconsistencies that the proposal exhibits in relation to the PRCUTS, it is considered that the loss of industrial land is too great and the out of sequence nature of the Planning Proposal makes the proposal unsatisfactory.

Furthermore, the development of the site for residential purposes is premature and unwarranted given that IWC is currently developing a comprehensive LEP and DCP, to be completed within the next two years.

The Planning Proposal fails to demonstrate consistency with the following Section 9.1 Directions:

1.1 Business and Industrial Zones

This Section 9.1 Direction intends to retain the business and industrial zones but it contradicts Section 9.1 Direction 7.3 in relation to implementation of Parramatta Road Corridor Urban Transformation Strategy which recommends rezoning of the site from industrial to residential.

Former Leichhardt Council's policies and draft strategies oppose loss of existing industrial land because of the high demand for such land and its critical function in supporting a growing population and economy. Recently completed employment lands peer reviews for industrial land rezoning proposals in IWC confirmed that there is now an even higher demand for, and a shortfall of, available industrial land in South Sydney and North Shore industrial markets (Inner West is in the South Sydney industrial submarket). This is reflected by current high rents and market prices of industrial land in the area.

In the context of this shortfall of employment land at a sub-regional level, as acknowledged in the GSRP and ECDP, and the Section 9.1 Direction 1.1 in relation to protection of employment land in business and industrial zones; it is recommended that the Planning Proposal is not supported.

7.1 Implementation of A Plan for Growing Sydney

A Plan for Growing Sydney has been superseded by the Greater Sydney Region Plan 2018. As discussed earlier in this report, the Planning Proposal is inconsistent with the Region Plan and therefore with this Direction 7.1.

7.3 Parramatta Road Corridor Urban Transformation Strategy

As discussed under Q1, the proposal does not fully comply with PRCUTS in the following ways:

- It does not adequately address the Strategic Key Actions (of the Strategy) relating to Land uses and Open spaces, linkages and connections for the Taverners Hill Precinct.
- It departs from the staging identified in the PRCUTS Implementation Plan 2016 – 2023 for the Taverners Hill Precinct.
- It does not adequately meet the requirements of the Out of Sequence Checklist:

- It fails to demonstrate that it can **significantly** contribute towards the Strategy's corridor wide and Precinct specific vision.
- It is inconsistent with elements of all seven land use and transport planning principles of the Strategy and does not **and cannot** fulfil all the relevant Strategic Actions for each Principle.
- It fails to demonstrate any **significant** net community, economic and environmental benefits for the Corridor and the Taverners Hill Precinct.
- It is inconsistent with the land uses and building height recommendations in the text of the PRCUTS Planning and Design Guidelines as well as the density, open space, active transport and built form plans for the Taverners Hill Precinct.
- It fails to demonstrate that it can achieve outcomes aligned with the desired future character and growth projections for the area identified in the Strategy.
- It does not achieve satisfactory design excellence in relation to built form, density and sustainability outcomes.
- It cannot make an appropriate contribution towards the provision of local and state infrastructure as it comes in advance of the Council's new local contributions plan and the State Government's State Infrastructure Contribution levy.
- It does not demonstrate that it can achieve the sustainability targets of PRCUTS. As an out of sequence proposal, it should **exceed** the targets stipulated in the Strategy.
- It does not provide a thorough land use and development scenario to demonstrate economic feasibility with regard to the likely costs of infrastructure and the proposed funding arrangements for its delivery in the Taverners Hill Precinct area.
- It does not demonstrate a land use and development scenario that aligns with and responds to the market conditions for the delivery of housing and employment.
- It is inconsistent with the built form envisaged in the Planning and Design Guidelines for both the Corridor as a whole and the Taverners Hill Precinct.
- It is inconsistent with the type of residential uses recommended in the PRCUTS which should be low density housing such as townhouses and terrace houses.

A detailed assessment of the Planning Proposal against the PRCUTS has been provided previously in this table under Q3 and an assessment against the Out of Sequence Checklist is included in Attachment 2.

The Proposal is inconsistent with the following objectives of this direction:

- a) *facilitate development within the Parramatta Road Corridor that is consistent with the Parramatta Road Corridor Urban Transformation Strategy (November, 2016) and the Parramatta Road Corridor Implementation Tool Kit,*
- b) *provide a diversity of jobs and housing to meet the needs of a broad cross - section of the community, and*
- c) *guide the incremental transformation of the Parramatta Road Corridor in line with the delivery of necessary infrastructure.*

As outlined in the discussion in relation to Q3, the PP does not adequately meet the following requirements of Clause 4 of the Ministerial Direction:

- a) *give effect to the objectives of this Direction,*
- b) *be consistent with the Strategic Actions within the Parramatta Road Corridor Urban Transformation Strategy (November, 2016),*
- c) *be consistent with the Parramatta Road Corridor Planning and Design Guidelines (November, 2016) and particularly the requirements set out in Section 3 Corridor-*

	<p><i>wide Guidelines and the relevant Precinct Guidelines,</i></p> <p>d) <i>be consistent with the staging and other identified thresholds for land use change identified in the Parramatta Road Corridor Implementation Plan 2016 – 2023 (November, 2016),</i></p> <p>e) <i>contain a requirement that development is not permitted until land is adequately serviced (or arrangements satisfactory to the relevant planning authority, or other appropriate authority, have been made to service it) consistent with the Parramatta Road Corridor Implementation Plan 2016 – 2023 (November, 2016)</i></p> <p>f) <i>be consistent with the relevant District Plan.</i></p> <p>The Proposal also fails to meet the merit tests of the Out of Sequence Checklist in the Parramatta Road Corridor Implementation Plan 2016 – 2023 to support its rezoning ahead of the staging plan as discussed in detail in Attachment 2. There are also concerns regarding the proposed design and layout of the proposal which is inconsistent with the recommendations of the PRCUTS Planning and Design Guidelines and would potentially result in an adverse precedent for the surrounding area in terms of built form, setbacks and transitions.</p> <p>The Proponent has prepared this Planning Proposal in response to the PRCUTS, but it fails to satisfactorily meet all the requirements of the Strategy. In particular, it is noted that PRCUTS requires a substantial contribution towards the Strategy's wider vision for proposals outside the 2016 - 2023 Release Area, yet the submitted IIDP is unsatisfactory.</p> <p>The most appropriate way to review the development controls for the site is considered to be at the IWC comprehensive LEP/ DCP stage. Work on this has commenced. This will also align with the staging sequence recommended in the PRCUTS Implementation Plan.</p> <p>The Planning Proposal is inconsistent with this Direction and therefore should not be supported.</p>
Q7	Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats will be adversely affected as a result of the proposal?
	<p>There are no critical known habitat, threatened species, populations or ecological communities or their habitats on the subject site.</p> <p>There are several trees and other vegetation along the eastern and southern boundaries of the site adjoining the Davies Lane and Lords Road which contribute to the leafy streetscape character of the area.</p> <p>The GreenWay is located in close proximity to the western boundary which includes large areas of vegetation, which contribute to the green corridor.</p> <p>The Proponent's concept design provides a 6 metre setback on the ground level to the GreenWay boundary. Greater setbacks are required to provide the green corridor along the GreenWay and enhance the environmental value of this area. There are also some trees proposed to be removed at the Lords Road and Davies Lane corner of the site which should be retained. These issues are considered below.</p>
Q8	Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?
	<p>A detailed analysis of the Proposal's environmental effects is provided below:</p> <p>Urban Design and Built form</p> <p>The Planning Proposal envisages a large-scale residential development on the site which is of a significantly larger bulk and scale than the surrounding residential development. Council commissioned an external consultant to undertake a peer review of the proposed</p>

urban design scheme accompanied with the Planning Proposal. Conybeare Morrison International (CM+) were engaged to undertake an independent peer review of the proposed urban design scheme (Appendix 4). The scope of the peer review for external consultants was limited to assessing the proposed design with regard to the recommendations of Parramatta Road Corridor Urban Transformation Strategy 2016, Parramatta Road Corridor Implementation Plan 2016 - 2023 and the Parramatta Road Corridor Urban Transformation Strategy Planning and Design Guidelines. This was to ensure that a thorough analysis of the proposed design is carried out since the proponent intends to realise the recommendations of PRCUTS through this proposal.

Council's own analysis of the proposed urban design scheme alongside peer review by CM+ concludes that there are several urban design issues relating to building bulk, height, setbacks and access, and there are a number of areas where the information supplied by the Proponent is insufficient; and therefore, the proposed design cannot be supported. These issues have been discussed in detail in the peer review (Appendix 4) and Council's own analysis below.

Whilst the proposal seeks to partially implement the recommendations of PRCUTS in terms of zoning, building height and density, the proposal fails to adequately demonstrate that the proposed development controls are acceptable due to non-compliances with SEPP65, ADG and PRCUTS Planning and Design Guidelines. It is also noted that the proposal seeks to vary the recommendations of the PRCUTS relating to maximum building height of 30 metres by putting forward a proposal with building height over 32 metres without adequately justifying the need for additional height or any such variation.

In terms of adequacy of the documentation, the Planning Proposal does not consider the proposal against the design quality principles of SEPP 65. Only a few diagrams are provided, illustrating setbacks, solar access, cross ventilation, communal open space and deep soil zone and two references in the Urban Design Report (UDR) referring to SEPP 65 and the Apartment Design Guide (ADG). In this way, the Planning Proposal is also inconsistent with Section 4.5: Building Typologies of the PRCUTS Planning and Design Guidelines (Part 4.5; page 59) which require that development complies with the ADG. There is insufficient information and assessment against the ADG, particularly in relation to the public domain interface, communal and public open space, apartment sizes and layout, private open space & balconies, common circulation & spaces, storage and facades.

The main urban design issues with the Planning Proposal include the following:

- **Context** – Contextually, whilst the current low-scale houses to the east and south of the site will over time likely increase in height and density, in the short-to-medium term it will be important for any development on the site to transition in height and overall built form to this current low-scaled adjoining areas. These adjoining areas are also outside the 2016 - 2023 release area and as such are likely to remain a low-density residential area until at least that time.

This contextual relationship between the proposal and the existing area is illustrated in Figures 16 and 17 below.



Figure 16: Existing residential development (Davies Road) Figure 17: Proposed building envelope (UDR, Page 22)

It is also noted that whilst the surrounding area is proposed to be upzoned from low density residential to R3 Medium Density Residential in the medium to long term, PRCUTS envisages these medium density buildings to be town houses and terrace type dwellings. This is confirmed in the Land Use recommendations in the PRCUTS Planning and Design guidelines which have been reiterated below:

‘Low density residential uses are recommended for the remainder of the Precinct, however a R3 Medium Density zone is shown in recognition of the need to permit town houses and terrace type dwellings given the good proximity to public transport.’ (PRCUTS Planning and Design Guidelines, pg. 214)

In this regard, whilst the Planning Proposal may be consistent with the PRCUTS ‘mapped’ recommendations for zoning, and density, the proposed nine storey redevelopment is extremely inconsistent with the envisaged/ desired future character of the area which would predominantly consist of town houses and terrace type dwellings.

The inconsistencies in the PRCUTS text and map recommendations pose a conundrum for Council to directly translate the controls and support spot-zonings which are seeking to implement these recommendations. Council is yet to undertake a detailed analysis of PRCUTS and is likely to implement the recommendations through the comprehensive LEP accelerated program. The site should be looked at holistically in terms of its relationship with the surrounding area and the desired built form. Support of this Planning Proposal without detailed consideration of the future desired context would result in adverse impacts on the streetscape and amenity of the neighbourhood notwithstanding the loss of industrial and urban services.

In addition, Design quality principle 1 (Context and neighbourhood character) of SEPP 65 states that good design responds and contributes to its context. Context comprises the key natural and built features of an area, their relationship and the character they create when combined. Responding to this context involves identifying the desirable elements of an area’s existing or future character. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

In this instance, while it is acknowledged that the area is to undergo a transition to a medium density residential area in the future, the proposal is out of sequence with the PRCUTS Action Plan for Taverners Hill and will not achieve this context, certainly in the short term. The proposal also needs to consider that the recommended FSR and height controls for the adjoining areas are significantly lower and as such it needs to have greater regard for the transitions to the areas to the south and east in particular. The lack of articulation and inadequate

setbacks (discussed below) further exacerbate the adverse impacts of this proposal on the surrounding area. An adequate contextual relationship with the surrounding area has not been achieved by the Planning Proposal.

The Planning Proposal is also inconsistent with the Block Configuration and Site Planning controls of the PRCUTS Planning and Design Guidelines (Part 4.1, pg. 51). The Proposal does not respond to the scale of surrounding buildings given the height exceeds the 30 metre maximum height and is not compatible with surrounding development, which would be a maximum of 17 metres or 4 storeys, stepping down to 2 and 3 storeys further from the site.

The Planning Proposal does not protect or enhance the valued character of the corridor as the excessive height and scale of the buildings and the lack of articulation and setbacks would adversely impact the area. Buildings 2 and 4 are 55 metres long and Building 3 is 87 metres long without any proposed articulations. The proposed buildings along the Lords Road frontage have no street setbacks and comprise up to 7 storeys. The Planning Proposal does not arrange building forms to reinforce the future desired structure and character of the area and as such the height and scale of the development is unacceptable.

The Planning Proposal is unacceptable in terms of defining the street edge with low rise buildings to create a pedestrian scale at the street. The street frontage height of 3 and 5 storeys on a nil front setback in a future low-medium density residential area is unacceptable. While the upper levels are setback and larger buildings are towards the rear and adjoining the light rail corridor, the distribution of bulk across the site is unacceptable in the context.

The Planning Proposal does not provide an adequate contextual response and fails to provide alternate development scenarios for testing the proposed built form controls, therefore it cannot be supported in its current form.

- **Built form and scale** – The proposal involves five (5) separate buildings with the number of storeys varying from 2 storeys (Building 3) through to 9 storeys (Building 2), with the remainder varying in height from 2/3/5/6 and 7 storeys (Buildings 1, 4 and 5). The proposed built form is illustrated in Figure 18.

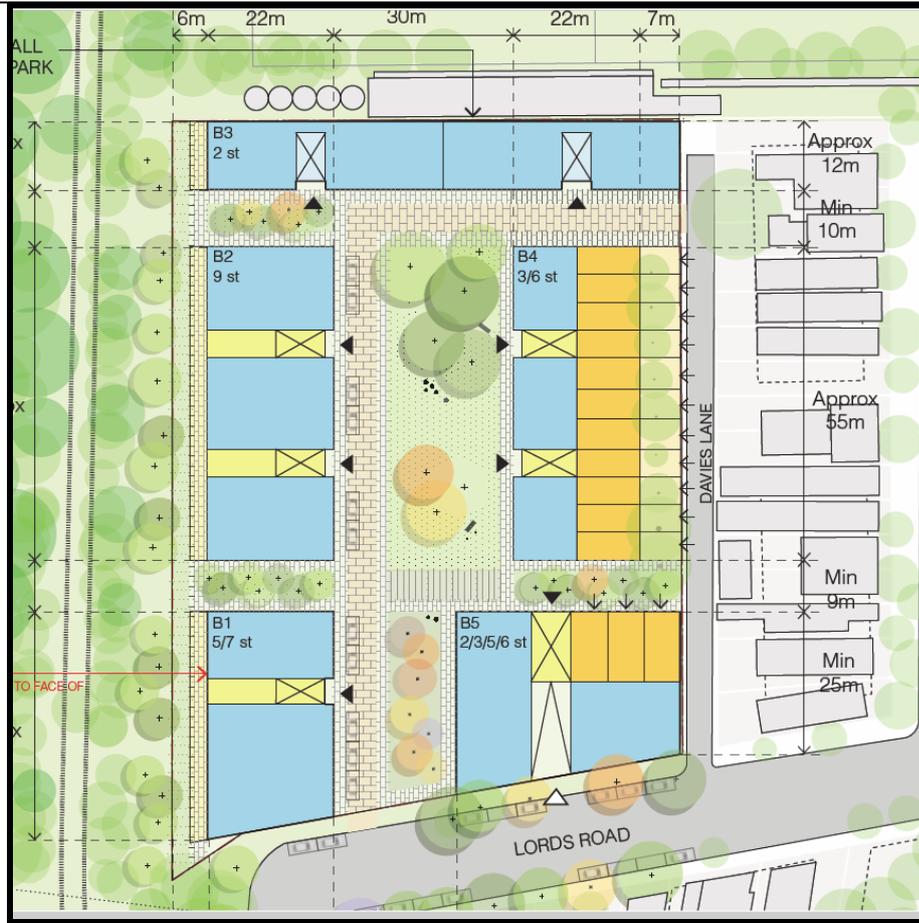


Figure 18: Proposed Master Plan for the site (Source: UDR, page 19)

Design quality principle 2 (built form and scale) of SEPP 65 states that good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Having considered this design principle in relation to the design of the proposal, there are a number of concerns with the setbacks, height and articulation. These concerns include the following:

- i. *Setback and separation* – There are several proposed setbacks and building separation distances which are inadequate in the proposal, including:
 - The general level of amenity for the ground floor apartments of Building 5 is likely to be relatively low given they face directly on to the adjoining Building 4 and are unlikely to receive adequate solar access. There are also visual privacy and amenity concerns due to insufficient separation distance between the habitable rooms of buildings which is also inconsistent with the minimum requirements of the ADG as shown in the Figure - 19 below.

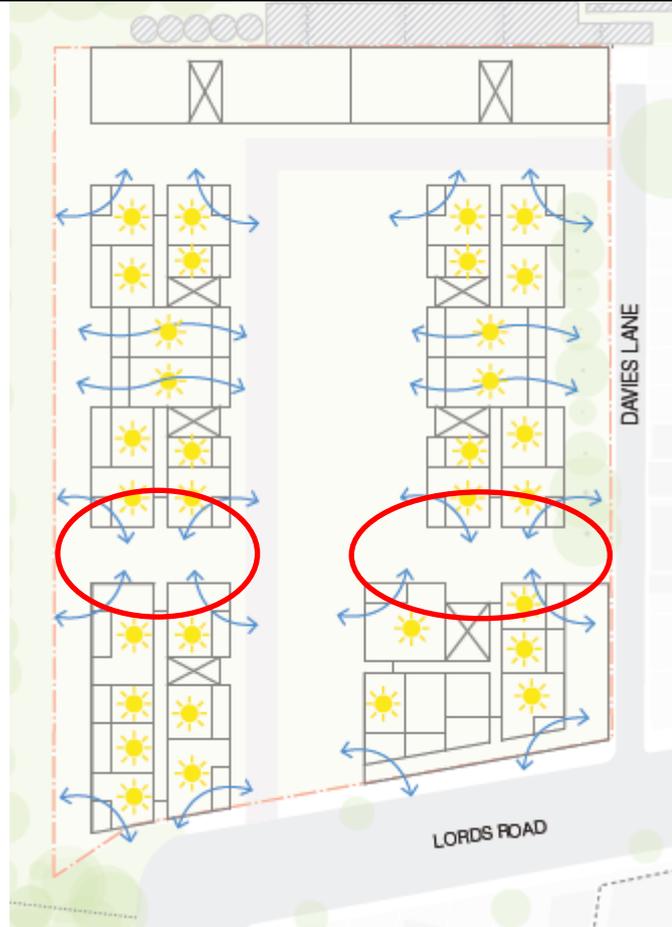


Figure 19: Proposed solar access and cross ventilation (Extract from page 24 of UDR)

- Breaks between Buildings 1 and 2 and Buildings 4 and 5 should be shown as indicated on Page 32 of the Proponent’s UDR (Figure 20), and not as shown in Figure 21. This would result in inadequate building separation and likely visual and acoustic privacy concerns. The controls of Part 3F visual provisions of the ADG are also of relevance in this instance.
- Further setbacks are required at the corner of Lords Road and Davies Lane to mitigate the scale. This would require setting the building back between 3 metres and 7 metres from the Davies Lane boundary. This would also provide sufficient width for a footpath and landscaping along this laneway. A setback along Lords Road of 6 metres is required to protect the existing mature trees along this frontage.
- Should the Planning Proposal proceed, the building form and scale should be redesigned to avoid hard edge environmental outcomes and to ensure that the built form is not overwhelming for the residential dwellings to the east and south and for the users of the GreenWay public domain corridor.
- The proposal is also considered to be inconsistent with the setbacks and street frontage height controls of the PRCUTS Planning and Design Guidelines (Part 4.1, pg. 51). In this regard, the Planning Proposal is inconsistent with the building setbacks and street frontage heights of Table 4.1 given the Lords Road frontage street wall height is 5 storeys on a nil front setback (when 3-6m is required). As discussed above, the frontage on the corner of Davies Lane and Lords Road has a 3 to 6 storey street wall height on a nil front setback, also contrary to the Guidelines. There is limited pedestrian amenity due to lack of adequate street setbacks and excessive street wall height for a low to medium density area.

- The Planning Proposal is inconsistent with the Transition Zones and Sensitive Interfaces controls of the PRCUTS Planning and Design Guidelines (Part 4.4, pg. 57). These controls state that changes in height and scale will require transitions at the corridors edges, to heritage buildings and conservation areas and to adjoining existing low scale neighbourhoods. New development will be required to respond to the overall scale and form of existing elements or Precincts to preserve visual scale and to avoid overshadowing or loss of amenity. The Planning Proposal is considered to be inconsistent with these controls as outlined below:
 - Lords Road – requires compliance with PRCUTS Table 4.1 (Local Street – all other conditions) – maximum street frontage height of 18m and front setback of 3-6m is required. The Planning Proposal is inconsistent with these controls given nil front setback has been provided. PRCUTS Planning and Design Guidelines (PRCUTS P&DG) also provide an example of transition of Local Street – heritage and all other conditions in Figure 4.13 – street frontage height of 14m and front setback of 3-6m. The Planning Proposal is inconsistent with this figure and the preferred street frontage height/setbacks.
 - Davies Lane – requires compliance with PRCUTS P&DG Figure 4.8 (transition to low rise across a lane) – street frontage height of 9m (3 storeys) and front setback of 3m. The Planning Proposal inconsistent with these controls given the proposed buildings exceed the recommended height of 9m and the corner building at Lords Road and Davies Lane intersection provides no street setback.
 - Greenway - requires compliance with PRCUTS P&DG Table 4.1 (Local Street - all other conditions) - maximum street wall frontage of 18m and street frontage setback of 3 - 6m, upper level setback 0-6m. The Planning Proposal is inconsistent with this requirement as it proposes a 9 storey building facing the Greenway with nil secondary setback.
 - Greater transitions and setbacks to the street are required as outlined above. Furthermore, the Planning Proposal is not complementary in scale to existing surrounding lower density development as well as future surrounding development which is to be around 2-4 storeys.

Having considered these issues, it is evident that the proposal is inconsistent with the design quality Principle 2 (built form and scale) of SEPP 65

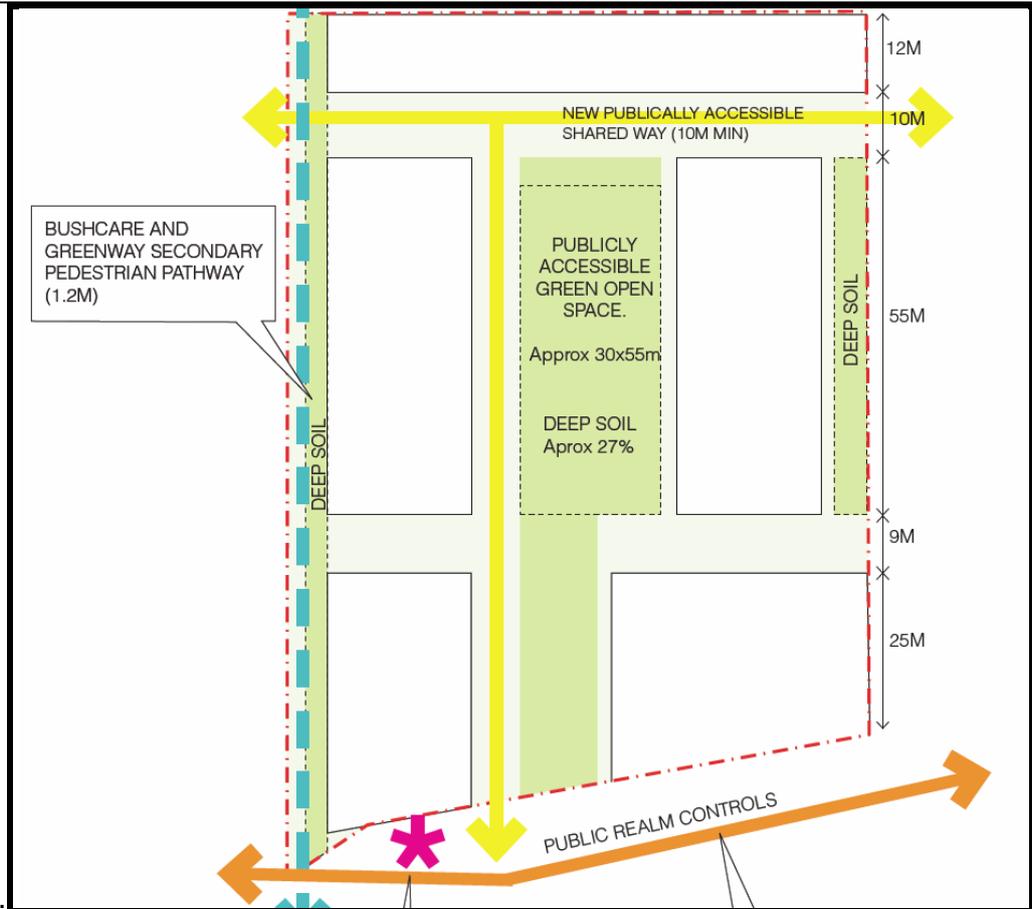


Figure 20: Proposed Public Domain Diagram (Source: UDR, page 32)

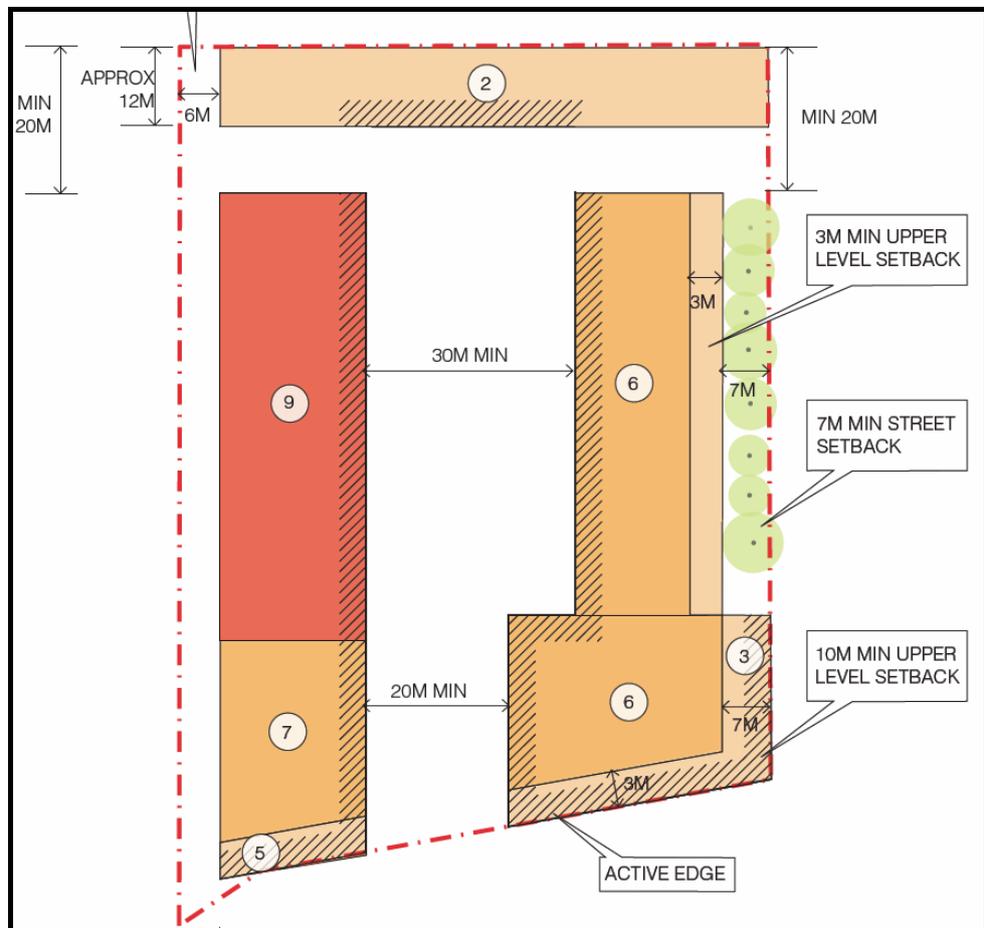


Figure 21: Proposed setbacks and separation distance (Source: UDR, page 31)

- **Setback to western side boundary and GreenWay:** The proposed design does not contribute towards the enhancement of the adjoining GreenWay corridor as it only provides a minimal (6m) setback to the western site boundary and nil secondary setbacks to the proposed nine storey development. The proposed building setback is also insufficient to mitigate flooding impacts as outlined elsewhere in this report.

The site's interface with the western side boundary is highly significant as it could potentially form a new pedestrian connection to Marion light rail stop to the north. The Proposal has the potential to contribute towards the enhancement of this corridor by providing adequate setbacks and building transition, however, fails to do so. The upper levels of the proposed building in this portion of the site should also be appropriately setback to create a better transition towards this western boundary to reduce any potential visual and overshadowing impacts.

- ii. **Height** –The current proposal involves an overall height of 9 storeys (proposed height control 35m AHD or 32.4m), exceeding the PRCUTS maximum height limit of 30m (refer to Figures 22 & 23). Furthermore, the Planning Proposal should follow the standard LEP definition of building height which is a maximum height for all building elements from natural ground level. The flooding hazard on the site will need to be accounted for within the maximum height limit.

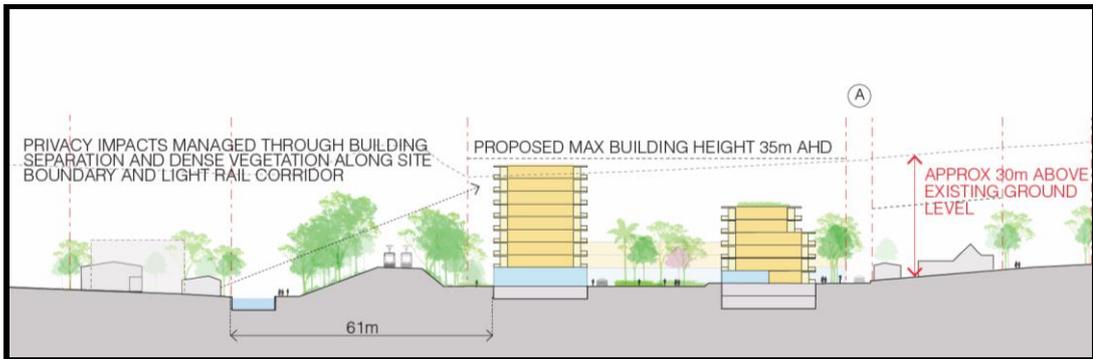


Figure 22: Height of the Proposal exceeding the PRCUTS recommended height (Source: UDR, page 28)

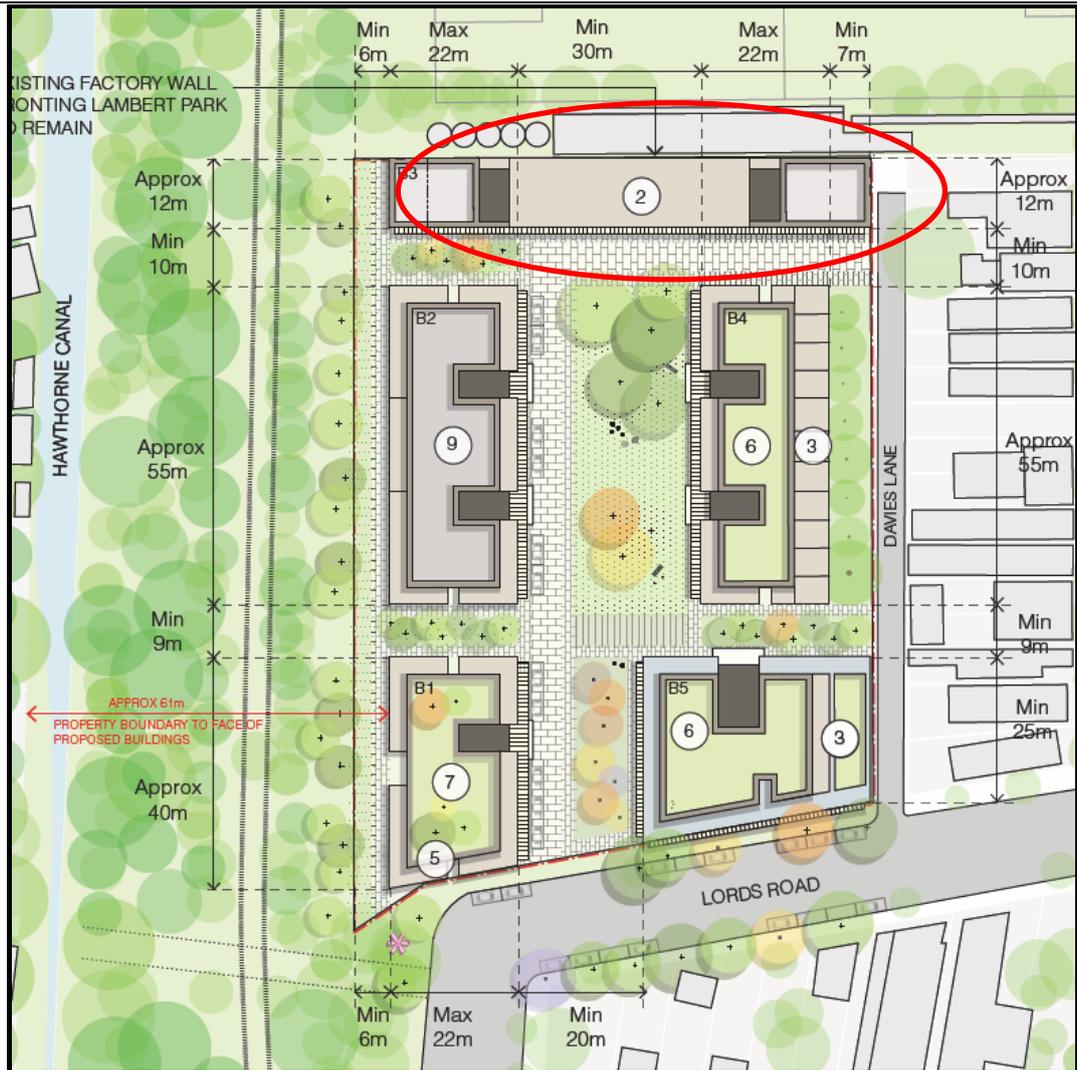


Figure 23: Proposed building heights and setbacks (Source: UDR, page 20)

iii. *Articulation* – There are concerns with the lack of articulation of some of the building forms including the following:

- The scale of the southern elevation of Building 3 (adjoining Lambert Park) is unacceptable and requires further recessing or other articulation measures. This building is 87 metres long with no changes in alignment or modulations. This is also inconsistent with the Building Articulation Principles of PRCUTS which recommend that the maximum building length should not exceed 60m and that the maximum wall length without articulation should be 45m.
- Building 2 (adjoining the western boundary), the tallest building on the site, is also unacceptable in its current form given the 55m long wall of nine (9) storeys facing the GreenWay, resulting in a brutal hard-edge to this green corridor. Further articulation along its long western façade is required and a reduction in the height of this building. The extent of building articulation proposed is unclear. A well-articulated built form, including an upper-level setback, should be considered to reduce the scale of this building which will help soften its appearance and impact on the Greenway corridor. This building will also be visible from the Haberfield Conservation Area on the western side of Hawthorne Canal.

In its current form, the proposed development would result in a bulky building block facing the GreenWay without adequate transitions or articulations. The proposed building elements which appear to have limited articulation result in a poor urban design outcome.

- The Planning Proposal is also inconsistent with Building Massing, Scale and Building Articulation controls of the PRCUTS Planning and Design Guidelines (Part 4.2, pg. 52-55). The Planning Proposal envisages a maximum height of up to 35 metres AHD and 9 storeys, which exceeds the maximum height of 30m or around 7 storeys recommended in the PRCUTS. The proposed design is considered to be incompatible with the surrounding context which under the PRCUTS would comprise of buildings in the range of 4 storeys or 17 metres, stepping down to 2 and 3 storeys only one block from the site.
- There are inconsistencies in PRCUTS in relation to the maximum height recommended for Lords Road. Whilst the map recommends a maximum height of 30m (U1 on pg. 217 Planning and Design Guidelines), the supporting text on page 216 identifies a height control of 32m or 8 storeys for the site. Furthermore, page 214 states that “low density residential uses” are recommended for this location, including town house and terrace type dwellings. PRCUTS is inconsistent in many ways when making recommendations for this site and the Planning Proposal is anyhow inconsistent with these recommendations.

In addition, the controls contained in PRCUTS are only recommendations, and any future built form is still required to respond to the scale of surrounding buildings and protect and enhance the character of the Corridor, particularly those elements that contribute to a sense of place and identity. The proposed buildings are not appropriately scaled to address and define the surrounding character of the area. Floor plates above 8 storeys are likely to exceed 750sqm for Building 2 (9 storeys), inconsistent with the PRCUTS building massing and scale requirements (Planning and Design Guidelines, pg. 52).

The Planning Proposal is also inconsistent with a number of the building articulation principles of the indicative site layout for buildings east of Hawthorne Canal (Figures 4.5 & 4.7) of the Planning and Design Guidelines:

- Communal open space on 6-7 storey buildings instead of on low-rise buildings;
- Upper level setback occurs at 3 storeys instead of 2 storeys;
- Poorly defined street edge to Lords Road given nil front setback;
- Setback above 3-4 storeys is not provided for Buildings 1 and 2;
- Length of Building 2 is 87m contrary to maximum building length of 60m;
- Length of Building 2 (55m) which exceeds the recommended maximum tower length of 45m;
- Building 2 and 4 both exceed the maximum wall length without articulation of 45m (except for stairs). This limited articulation increases the bulk and scale of the buildings;
- Insufficient information on materials and façade treatments.

Given these concerns outlined above, it is considered that the proposal

does not achieve Design quality principle 2 (built form and scale) of SEPP 65.

- **Density** – While a maximum FSR of 2.4:1 is recommended by PRCUTS, the FSR needs to be responsive to the site and be designed such that the proposal achieves the other design requirements such as open space, building bulk and scale and overshadowing. There is no evidence that alternative built form outcomes have been tested (apart from the location of the open space) to arrive at the best outcome for the site in terms of density. It may be the case in this instance that this maximum FSR recommended by PRCUTS may not be achievable on this site, based on the urban design concerns outlined in this report.

Design quality Principle 3 of SEPP 65 relates to density. It states that good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. As outlined below, the potential solar access requirements and other amenity considerations such as private open space, apartment size and the like cannot be assessed in detail given the lack of information provided with the Planning Proposal. The potential amenity of the individual units, therefore, cannot be ascertained.

Appropriate densities are those that are consistent with an area’s existing or projected population and that can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment. Given this proposal is out of sequence with the 2016 - 2023 Action Plan for Taverners Hill and the supporting IIDP is inadequate, this proposal does not achieve this principle of SEPP 65.

Furthermore, the proposed density is 500m² over the recommended density of 2.4:1 under PRCUTS. In addition, the proposal also underestimates the FSR calculations as the proposed additional parking spaces which exceed the LDCP parking requirements have not been accounted in the FSR calculations. The FSR calculations are also based on the assumption that Gross Floor Area (GFA) would be 85% of the Gross Building Area (GBA) which is against the PRCUTS recommendation that GFA is to be no more than 75% of the building envelope. As a result this would lead to a proposal that is considerably above 2.4:1. Accordingly, it is considered that the Planning Proposal represents an inappropriate density for the site as proposed and is inconsistent with Principle 3 of SEPP 65.

In addition, such a GFA to GBA ratio will result in a tight building envelope with minimal articulations and modulations. Building envelopes should allow for a ‘loose fit’ and room for articulation and modulation as built form massing and articulation is fundamental to the character and identity of streetscapes and neighbourhoods. The proposal is unsatisfactory in this regard and will result in poor built form outcomes due to its ‘tight fit’. This is an additional reason that the proposed density on the site may not be achievable and therefore, cannot be supported.

- **Sustainability and Ecology** – The Planning Proposal does not achieve the sustainability targets and requirements outlined in PRCUTS. Such consistency with these sustainability targets would also assist the proposal to comply with Principle 4: Sustainability of SEPP 65. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents (considered below in the amenity context). The proposal currently does not satisfy Principle 4 of SEPP 65. There is also no certainty in the proposed LEP amendment that the development will implement any of the sustainability and

ecology measures discussed in the report. Criteria 4 of the Out of Sequence Checklist requires that proposals departing from the staging outlined in the Implementation Plan 2016 - 2023 are to achieve or exceed the sustainability targets identified in the Strategy.

- **Landscape** – Principle 5 of SEPP 65 requires landscape and buildings to operate as an integrated and sustainable system, resulting in attractive developments with good amenity. It is unclear from the Planning Proposal whether there will be roof top gardens and the location of the planting strip along the western boundary which varies between the UDR and the Landscape Masterplan (both indicated against the building and offset from the building).

In relation to Part 40 of the ADG, it is recommended that should the Planning Proposal proceed, the row of trees at the Lords Road and Davies Lane corner be retained to provide screening of any new development. There are also numerous ecological concerns which are outlined in the Checklist in Attachment 1. The landscape regime requires further consideration having regard to the other concerns raised in this report including the potential connections to Marion light rail stop and the prioritised pedestrian linkage along the Lords Road frontage of the site.

- **Amenity** – Principle 6: Amenity of SEPP 65 states that good design positively influences internal and external amenity for residents and neighbours and achieving good amenity contributes to positive living environments and resident well-being. Appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility all result in good amenity.

The aspects of amenity which are important in this proposal include the following:

- *Access to sunlight for the proposed apartments* – a solar access study has been provided with the Planning Proposal which provides 3D diagrams of the likely overshadowing of the proposed apartments and central communal open space. This is shown in Figure 24 below.

The Planning Proposal has failed to demonstrate, as required by the ADG, that the percentage of proposed units that cannot receive any sunlight between 9am and 3pm in mid-winter is less than 15%. This appears to have been complied with given the UDR indicates that 80% of units receive at least 2 hours of sunlight. It would be more useful for the shadow study being provided in a plan view format for further assessment. Furthermore, a shadow study should be provided in a plan view format for further assessment of the open space in the central portion of the site. The Planning Proposal needs to demonstrate that the proposal is consistent with Part 4A of the ADG.

The proposed communal open space on the ground level of the development is unlikely to receive adequate solar access as it is completely overshadowed in mid-winter between 9am and 10am and again with the majority in shadow from around 1.30pm in the afternoon as shown in the image below. Accordingly, there is likely to be less 2 hours of sunlight to this area in mid-winter. This would adversely impact the amenity of the future residents of the development. Part 4.8 of the PRCUTS Planning and Design Guidelines outlines the relevant amenity controls including that communal open space receives adequate sunlight. This has not been adequately demonstrated in this case.

05 SOLAR ACCESS STUDIES

These diagrams illustrate the site as viewed from the south east corner of the site with the APIA soccer club to the north.

An assessment of the impacts created by the preferred development strategy indicates that building separation, privacy and overshadowing are all within acceptable limits.

The study also demonstrates the preferred development strategy is capable of satisfying key aspects of the Apartment Design Guide – namely solar access to dwellings and communal open space.

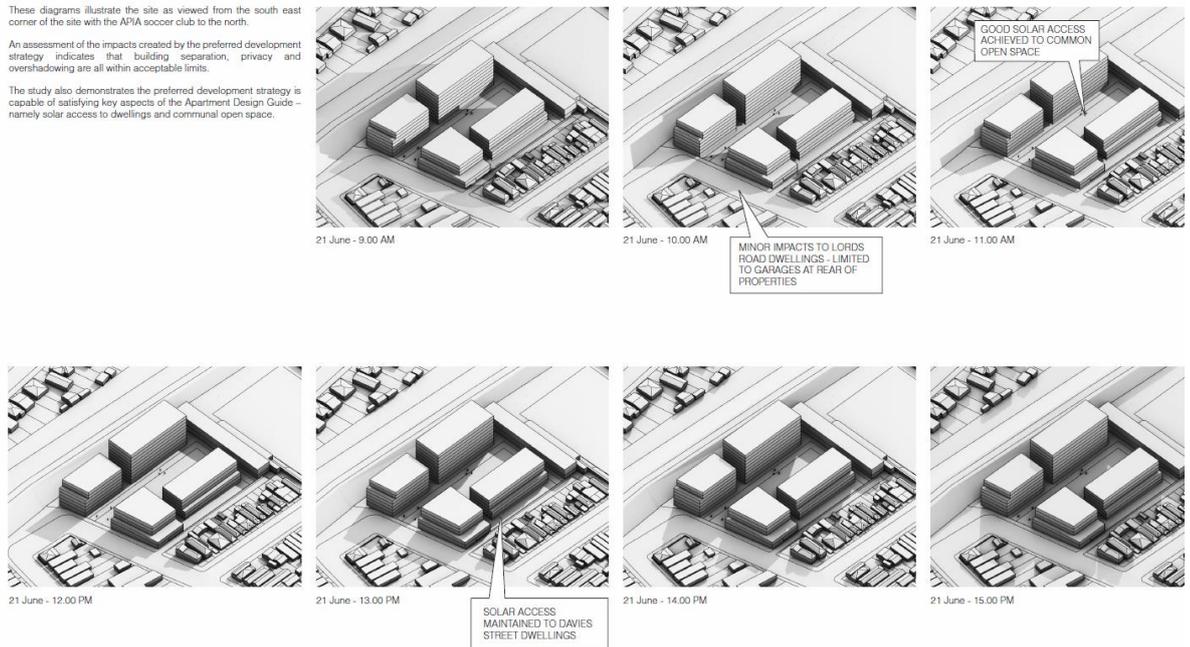


Figure 24: Overshadowing analysis of the proposal (Source: UDR, page 29)

- **Orientation** – In relation to Part 3B Orientation of the ADG, there is insufficient analysis of potential building envelopes and orientation with respect to potential overshadowing of adjoining properties and access to sunlight for the proposed apartments within the development. Availability of solar access to the units is inadequately demonstrated. The overshadowing analysis should outline the testing of different layouts and scenarios which seek to reduce overshadowing both within and external to the site and which have been designed to maximise solar access.
- **Overlooking** – As discussed previously, the proposal will result in visual privacy and overlooking impacts on the surrounding properties and the development itself as it proposes insufficient setbacks and separation distances.
- **Cross ventilation** – The Planning Proposal provides an indicative high level plan of the units stating that 65% of the apartments achieve natural cross ventilation. It is unlikely that such an estimation could be made given the layout of the apartments is not provided nor apartment widths or depths dimensioned.
- **Communal Open Space** – The proposal does not adequately identify the location of the communal open space as it vaguely comments in the UDR that since the site coverage is only 50%, the proposal would be able to easily achieve the minimum communal open space ADG requirement. Due to this, it is also hard to confirm whether the communal open space would receive adequate sunlight in accordance with the minimum requirements of the ADG. As also discussed previously, the proposal does not provide plan view of the overshadowing diagrams (solar access study is in 3D) to determine the solar access/overshadowing of communal open space.
- **Access** – The Planning Proposal does not clearly outline the traffic circulation strategy including providing the minimum clear width required for the shared path

with regard to standard vehicles, delivery trucks, garbage trucks, and if required by authorities, emergency vehicles. It is also unclear if the shared ways are for one or two way traffic and whether these would be available for community use. There are also numerous inconsistencies between the Landscape Concept Plan and the UDR. The potential connection to the Marion Light rail stop is also poorly outlined as discussed elsewhere in this report.

- **Mixed use** – It is unlikely that the type of non-residential uses which have been proposed, including employment uses, will be compatible with residential development on the site. These impacts are likely to arise from noise, potential odour and/or smoke/exhaust, servicing and parking. There is insufficient information on the layout and configuration of the non-residential uses to adequately consider if the commercial areas are appropriately configured. In this way, it is unlikely to comply with Part 4S Mixed Use of the ADG.
- **Consistency of urban design documents** – There are numerous inconsistencies in the documentation across the UDR and the Planning Proposal and DCP. All documents, diagrams, plans and 3D illustrations should be consistent in their dimensioning of the proposed setbacks.
- **Roof form and materials** – The Draft DCP should provide development controls which address the design of roof forms and building materiality, in line with the Guidelines.
- **Visual impact** – The Proponent has not provided any visual impact assessment to determine the built form impact on the neighbouring area. In the absence of this information, the proposed building height of 9 storeys cannot be supported.
- **Proposed location of ‘publically accessible open space’** – A ‘publically accessible open space’ is proposed at the centre of the development. Whilst this location is appropriate to serve the open space requirements of the future residents of the development itself, it would act as an enclosed green space and not a ‘public space’ and would not offer public benefits as claimed by the proponent. Its public use is likely to be limited to people visiting the businesses, offices, studios and community facilities and is unlikely to be visited by the neighbouring residents.

The Proponent has failed to demonstrate consistency with PRCUTS Planning and Design Guidelines, Apartment Design Guide, SEPP 65 and that the proposed density and height can be achieved without negatively impacting the character of the local area. In order to resolve the urban design issues, the proposal will have to be revised to provide appropriate scale, setbacks, transitions and articulations which would reduce the building height and density. The proposed scale of the planning proposal is considered to be out of character with the local area which, at least in the short term envisioned under PRCUTS, will remain a low density residential area until at least 2023 as outlined in the Action Plan for the Taverners Hill Precinct.

At this stage, even if the rezoning from IN2 Light Industrial to R3 Medium Density Residential was to be supported, an appropriate FSR/ height for the site cannot be arrived at in the absence of alternate built form scenario testing and other urban design issues outlined in this report.

In addition to the numerous urban design issues with the proposal, Council officers have serious concerns regarding the PRCUTS density and height recommendations which seem to be excessive for this site. The proponent has failed to provide an appropriate built form to implement the PRCUTS density and height recommendations. CM+'s peer review alongside Council's own assessment indicates that the recommended FSR of

2.4:1 may not be achievable on this site particularly given that there is a mismatch within PRCUTS between the recommendations for FSR and built form guidelines.

Council's analysis and the CM+ peer review are limited to providing recommendations with regard to the merit of the proposal in consideration of the PRCUTS guidelines. Given the inconsistencies in PRCUTS relating to density, height, building typology recommendations for this site; it cannot be relied upon in its entirety despite the associated Ministerial Direction. Council is yet to undertake a merit analysis of the PRCUTS recommendations and intends to do this as a part of the accelerated LEP program for the Inner West LGA.

Council has not yet undertaken an independent urban design analysis to determine the most appropriate controls for the site irrespective of the PRCUTS built form recommendations. Should the Planning Proposal proceed to the Gateway Determination Stage, it is highly recommended that further urban design work be undertaken to establish appropriate built form controls for the site which sensitively respond to the nature of the surrounding area rather than solely relying on the PRCUTS recommendations which seem to be inconsistent for this site in any case.

Accordingly, it is considered that the Planning Proposal is unsatisfactory having regard to urban design and cannot be supported.

Traffic and Transport

Prior to any rezoning commencing, the PRCUTS Implementation Plan requires the completion of a precinct-wide traffic study and supporting modelling which considers the recommended land uses and densities, as well as future Westconnex conditions, and identifies the necessary road improvements and upgrades required to be delivered as part of any proposed renewal in the Precinct. The above-mentioned study is being undertaken in collaboration with the Department of Planning and Environment (DPE) and its completion is not anticipated until the end of March 2019. Consultation outlined in the Planning Proposal indicates that both Transport for NSW and the Traffic and Parking Impact Report prepared by TTPP, dated September 2018, acknowledge this requirement.

It is unlikely that a planning proposal could be supported prior to the completion of this study as there are concerns regarding the potential area-wide implications of a cumulative rezoning/up zoning of sites in the Parramatta Corridor in the absence of adequate public transport infrastructure improvements.

In future, as the Precinct develops and Parramatta Road is enhanced and mode share moves more towards sustainable transport modes, the Proponent's projected traffic volumes which are generally acceptable for the adjacent street network will tend to fall further.

Streets in the area are frequented by a mix of traffic and many of the footpaths are narrow and/or in poor condition. This is likely to result in increased pedestrian/vehicle conflict associated with pedestrian's using the carriageway rather than footpaths. Consequently, care should be taken to ensure pedestrian (and cyclist) safety in the neighbourhood, if new residential developments were to proceed.

In general, there are several areas of concern having regard to the traffic and transport issues for this Planning Proposal, which include the following:

- Increased use of Davies Lane and the possibility that vehicles associated with the new dwellings fronting Davies Lane may try to park (even temporarily) in Davies Lane, severely restricting access to the rear garages of properties fronting Davies Street. This would be further exacerbated by the internal road exiting onto Davies

Lane.

- While the active transport link through Lambert Park is discussed, there is no formal commitment to this from either party. This connection is unlikely to be achieved unless Lambert Park is reconfigured.
- Car share facilities should be provided on-site and accessible to the public rather than on a nearby site.
- The proposed vehicular access point is located in close proximity to the 90 degree road bend in Lords Road which may result in unsafe conditions for vehicles turning right in/ right out of the site.
- The current proposal will generate additional pedestrian traffic in Davies Lane. To ensure pedestrian safety, provision of a 1.5m wide footpath would need to be considered. This would require the dedication of land along the length of Davies Lane.
- To enable vehicles to exit Davies Lane in a forward direction, a "Y" turning head may be required at the northern end of the lane.
- Concern is raised regarding the potential for additional right turn movements at the Foster/Tebbutt/Kegworth Street intersection, particularly during school peak period.

There are numerous concerns with the *Traffic and Parking Impact Assessment* prepared by The Transport Planning Partnership dated 25 September 2018. These concerns include:

- "Scenario 3" indicates Level of Service F at the Marion/Foster intersection for 2028, however no assessment of the public transport impacts (either delay due to the LoS F, or the increased population) on spare public transport capacity by 2028.
- The intersection surveys raw data have not been provided.
- An overall rate of 1.69 trip per 100sqm was applied to all office/community space type uses. The RMS guide specifies 1.6 trips (AM peak) and 1.2 trips (PM peak) per 100sqm for offices. Traffic generation rates should be revised in accordance with the RMS guide.
- Table 6.1 notes that the traffic generation of the existing development is estimated using the RMS guidelines. An overall rate of 1 trip per 100sqm was applied to all light industrial type uses which result in a higher generation rate for 'warehouse and storage' use. The RMS guide specifies 0.5 trips per 100sqm for warehouses and 1 trip per 100sqm for factories. Traffic generation rates should be revised in accordance with the RMS guide.
- Notwithstanding the overall reduction in the peak traffic generation identified, the most critical times for the location are during school pick-up and set down. As such, the likely traffic movements at these times should be demonstrated (through surveys of similar developments in the inner west). As a minimum, the intersection analysis for AM Peak should be analysed coincide with the morning school peak.
- The report used RMS (TDT2013/04) Sydney Average traffic generation rate for high density residential flat dwellings of just 0.19 peak vtpm per unit. The surveys used to derive this rate include those from St Leonards and Chatswood, which have very different traffic generation rates than the inner west. The traffic generation rates shall be amended to use a rate of 0.3 peak vtpm per unit which is derived from the RMS survey data, excluding St Leonards and Chatswood.
- Both Figure 6.1 and Figure 6.2 show the PM peak hour traffic volume generated from the study area. AM peak is not presented. The raw data for both 2013 and 2018 has not been provided. The raw data can further justify the existing heavy vehicle volumes accessing the site that may be reduced by the proposed development.
- Further justification regarding the traffic distribution for the traffic generated by the proposed development at the Lords Road/Foster Street intersection and

Kegworth/ Tebutt Street intersection is required. It appears that the existing turn distribution had been used, however, for the change in type of land use journey to work data should be used in determining the traffic distribution.

- Concerns with Section 7: Intersection Capacity Analysis include the requirement to clarify and outline the growth rate that was used in the analysis and the SIDRA calibration and validation report has not been provided for review (Model intersection layout, evidence that signal phasing and timing used in the analysis is as per existing).

Given these inherent traffic and transport concerns and the lack of a precinct-wide traffic study and supporting modelling, it is considered that the Planning Proposal is unacceptable in its current form and timing and therefore cannot be supported.

Public Domain

The scale of this proposal requires consideration of the connection with the public domain. The potential improvements to the public domain are given only a cursory description in this Planning Proposal. There are, for example, various references to the “*improved street connection*” along Lords Road and other references to a greater emphasis for pedestrians along this strip. This connection is outlined in the PRCUTS and would allow for greater pedestrian safety and comfort by linking Kegworth Public School and other locations to the east of the site with the Hawthorne Canal underpass and subsequently to the GreenWay. This concept is supported by Council in principle, however is inadequately described and outlined in the Planning Proposal. The document simply states in Section 5.2 Urban Design, “*a low traffic/pedestrian priority publicly accessible shareway linking Lords Road to Davies Lane*”. A graphic is included on the Landscape Plan in Appendix E of the Planning Proposal with a large arrow which states ‘*Improved Street Connection*’.

There are no drawings which indicate whether the current road layout, particularly in terms of width, is sufficient to accommodate any potential public domain works which may need to be undertaken to this area to enable the connection. Lords Road is fairly wide and opportunities for traffic calming measures incorporating WSUD elements within the road reserve should be explored. In addition, the option of providing angled parking in Lords Road should also be investigated.

The proposal also includes ground floor residential entries with pedestrian access directly onto Davies Lane. To provide for pedestrian safety a 1.5m footpath would need to be investigated in Davies Lane.

As well as the lack of detail of any potential public domain works likely to be required for the proposal, there has been no discussion with Council as to the carrying out of such works. Accordingly, the proposed public domain interface with the proposal has been inadequately considered in the Planning Proposal. This matter was a reason for refusal (Reason I) of the previous planning proposal (Resolution C263/14).

Heritage

The subject site is located adjacent to a heritage item located within Lambert Park and within close proximity to Kegworth Primary School. It is also proximate to the Haberfield Heritage Conservation Area located to the west of the site beyond the Hawthorne Canal. The Planning Proposal does not adequately demonstrate that there will be no adverse impacts on the heritage value of the adjoining and nearby heritage items and conservation areas, failing to even identify Kegworth Primary School as a nearby item. It does not detail or illustrate the impact of the proposed development on views to or from the heritage items.

The heritage impact statement incorporates a 1943 aerial photograph showing the existing buildings on the site which are proposed for demolition, but it does not address the history or significance of these buildings.

Noise impact

The site is located adjoining or in close proximity to various noise sources including:

- Light rail line (adjoining to the west);
- Lambert Park and the APIA Club (adjoining to the north);
- Road traffic noise from Marion Street (located to the north-west of the site);
- Aircraft noise (the site is beyond the ANEF 20 Contour and accordingly is not required to be assessed).

The Planning Proposal was accompanied by a *Noise Impact Assessment* prepared by Acoustic Logic dated 9 August 2018 (Acoustic Report). The Acoustic Report concluded the following:-

The proposed development includes measures to mitigate noise impacts including:

- *The residential building proposed along the northern site boundary will have a solid façade facing Lambert Park. For this building, the orientation of the openings away from the Park addresses noise impacts from the Park, and the building also largely screens the remainder of the site from this noise source.*
- *Other dwellings will have wintergardens that will act as a noise buffer to habitable spaces.*
- *Acoustically rated glazing is proposed in addition to the above measures.*

The Acoustic Report states that with these measures in place, “*the requirements of all relevant noise-related planning instruments will be satisfied, and the future dwellings will provide an acceptable level of acoustic amenity. In particular, noise from the operation of Lambert Park will not adversely impact any of the proposed dwellings*”. If the Planning Proposal proceeds, detailed consideration of these potential acoustic impacts having regard to the final design of the proposal will be required.

In terms of the proposed land uses and their potential to generate acoustic impacts for existing surrounding development, this issue can be considered at the detailed design stage.

Stormwater Management and Flooding

The subject site is impacted by the 1 in 100 year ARI level (average recurrence interval) along the western boundary in the southwestern portion of the site. It is noted that this area along the western site boundary also serves as a floodway through to Marion Street in the PMF event as water levels exceed the existing embankment levels of Lambert Park and overtop the embankment before continuing to flow downstream. The Probable Maximum Flood (PMF) also affects the majority of the remainder of the site with the exception of the southeast corner at the intersection of Lords Road and Davies Lane. The flood hazard on the site is illustrated below.

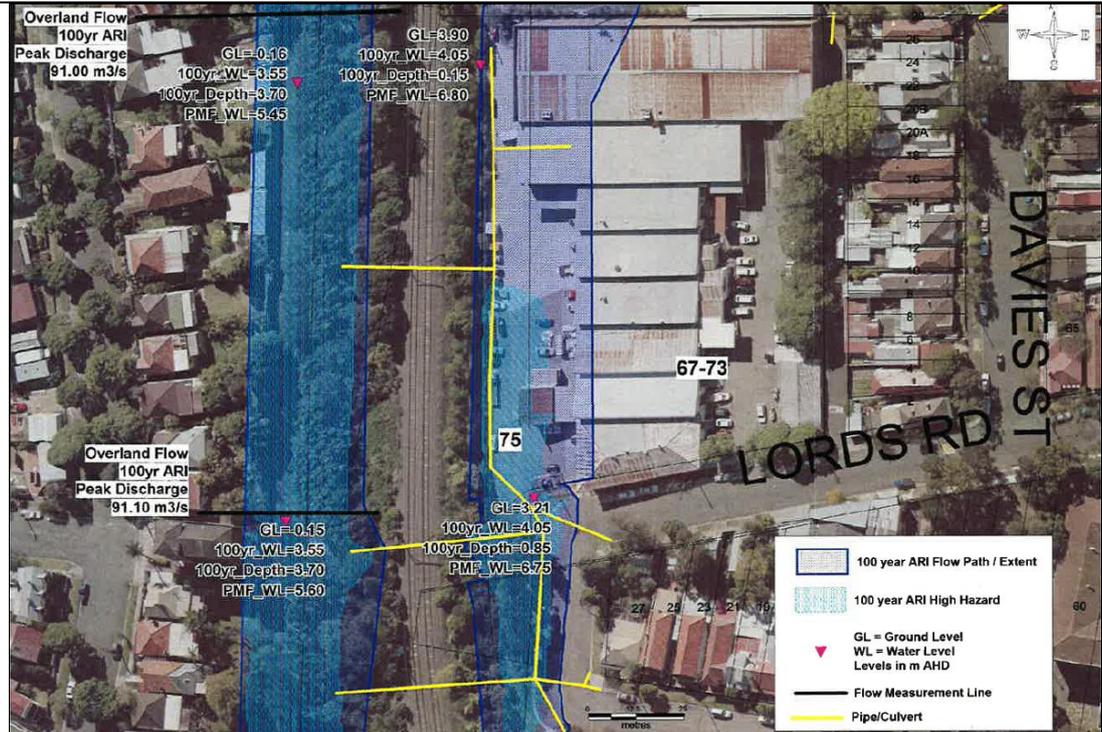


Figure 25: Flooding Hazards on the site (Source: IWC Flood Certificate dated 24 October 2018)

Any proposed building footprint must be supported by additional flood modelling demonstrating no adverse impact to flood levels within Lords Road, against the railway embankment, and through Lambert Park during both the 100 year ARI and PMF events. Note that the proposal to provide compensatory flood storage (within tanks or otherwise) within the building footprint to offset any loss of natural flood storage area within the site is not supported. This will likely require amendment to the proposed building footprint within the southwest corner of the site where the flood depth is greatest.

All floor levels (residential and commercial) must be raised above the Flood Planning Level which for this site is RL 4.6m AHD. All access to the basement (vehicle and pedestrian) should be provided clear of the flood affected area, or raised sufficiently above the PMF level. In this regard, the proposed DCP locates the basement access towards the east of the site, which is supported.

The Flood Report recommends providing for vertical flood evacuation to higher levels within the building. Reliance on evacuation on site as the sole measure of evacuation protection, as outlined in the Planning Proposal, is not appropriate. Such an evacuation route should be provided to the eastern side of Lords Road.

In terms of stormwater management, Council's trunk stormwater drainage passes through the site adjacent to the western boundary. Any structures on the western side of the property, including basement excavation, must be sufficiently set back from the pipeline such that it does not impose loads within the zone of influence of Council's drainage system, and continues to provide sufficient access for maintenance and potential replacement. The pipeline should be fully surveyed and located to determine the required setback. Note that the proposed western boundary setback may need to be increased to accommodate this requirement.

Any stormwater quality targets, discharge rates, and water reuse targets should be in accordance with the general requirements of the Leichhardt DCP2013. In this regard it is noted that the report prepared by Tooker and Associates, dated 11 September 2018, indicates that on-site detention (OSD) would not be required as part of this development as the existing site cover is fully impermeable. This is contrary to the requirements of the

Leichhardt DCP2013, which requires OSD for all developments except for minor alterations and additions only.

Should the Planning Proposal proceed, any future development must respond appropriately to these environmental and associated flooding issues.

Landscape

The site contains a number of existing trees along the eastern and south-eastern boundaries of the site adjoining Davies Lane and Lords Road. These trees are important in maintaining the leafy character of the surrounding streets and currently assist in screening the existing development from the street and the surrounding low density residential area. It is recommended that the proposal be amended to retain and protect the existing trees as per Part C Section 1 C1.14 of Leichhardt DCP 2013. The position of the deep soil area in the proposal reduces the potential for increasing urban forest canopy and augmenting the GreenWay corridor to the west of the site.

Should the Planning Proposal proceed to Gateway stage, the following design amendments would have to be made to the proposal:

- Setback to the GreenWay increased, overshadowing reduced and wide native plant buffer provided.
- An urban forest canopy target for the site of 25% should be achieved. This reflects the Draft Regional and District Plans goals of increasing urban forest canopy, and also those of the urban forest policies of Inner West Council. 25% is considered an appropriate target for inner city multi-storey residential development.
- Compliance with the deep soil zone requirements of the Apartment Design Guide.

Contamination

The subject site has been associated with industrial uses and accordingly potential land contamination must be considered in this assessment. The Proponent has provided a Remedial Action Plan (RAP) prepared by Benviron Group, dated October 2018, which concludes that the site can be made suitable for the proposed residential use. This RAP refers to an earlier study which was prepared by Environmental Monitoring Services titled Detailed Site Investigation (DSI), dated March 2006. The RAP states that the DSI undertook a sampling program in which 21 boreholes were carried out on the site and that two (2) were found to contain levels of Benzo(a)pyrene concentrations above the NSW EPA levels, while another two (2) boreholes recorded fragments or loose bundles of Chrysotile asbestos. The RAP states that the DSI concluded that *"...a RAP would be required to ensure the removal of the contamination was managed in accordance with the requirements of the NSW EPA"*.

It is noted that this DSI was not provided with the RAP or Planning Proposal and that the map provided in the RAP did not identify the location of the boreholes upon which the RAP is based and which was prepared for the DSI (notwithstanding that there is a key on this map referencing the boreholes). Therefore the location of the earlier documented contamination is not located for the purposes of this RAP. The RAP cannot be used as evidence demonstrating that the issue of potential land contamination on the site can be adequately remediated for the proposed use when there is no location plan of the earlier contamination.

The data from the DSI, being from 2006, is outdated and should not be used for assessment purposes. It is unknown whether thresholds have changed in that time or that any new uses have occurred on the subject site in the intervening time period which may have led to further contamination. Accordingly, it is considered that the issue of

	<p>potential land contamination has not been adequately considered in this Planning Proposal.</p> <p>Conclusion</p> <p>The proposal in its current form is likely to result in unreasonable environmental impacts including setting an adverse built form precedent for the surrounding area. The proposal's built form may also be an impediment to achieving the vision of PRCUTS in relation to a new prioritised pedestrian link along Lords Road and the provision of low density and appropriately scaled residential development in the Precinct.</p> <p>Whilst it is acknowledged that some of these issues can be resolved by amending the FSR in the Planning Proposal and the proposed built form envelope in the DCP; given the broader strategic planning issues relating to the land use, traffic studies and the inconsistency of the Planning Proposal with the Out of Sequence Checklist requirements of PRCUTS, it would be inappropriate to investigate these issues further as part of this report.</p>
Q9	Has the planning proposal adequately addressed any social and economic effects?
	<p>Social impact</p> <p>As outlined earlier in the report, the Planning Proposal does not make adequate contribution towards the provision of affordable housing. There are concerns regarding the availability of sufficient social and community infrastructure if the redevelopment of the corridor occurs out of alignment with the recommended PRCUTS Implementation Plan.</p> <p>The social impacts of the proposal have been considered in the Social Impact Assessment (SIA) prepared by Cred Consulting, dated 26 September 2018. This SIA outlines the positive and negative social impacts which are described in the context of the changes made to the proposal following the community consultation and local needs.</p> <p>The <u>positive social impacts</u> arising from the proposal as cited in the SIA include the provision of:</p> <ul style="list-style-type: none"> • Increased housing supply; • Affordable housing; • Relocation of Art Est; • Public open space including a 1,650m² internal publicly accessible park and small corridor green spaces of between 115m² and 400m²; • Multi-purpose room to be dedicated to Council for the use of the APIA Club (500m²); • Non-residential floor space comprising approximately 2,500m² and the creation of 87-119 jobs; • New LED lighting at Lambert Oval (to reduce energy costs and light spill); • Improved pedestrian connection from light rail underpass to Kegworth Public School; • Central through site link and secondary GreenWay link with potential to connect to Marion light rail stop; • Improved pedestrian connection along Lords Road (between light rail tunnel and Kegworth Public School); • Commitment to a contribution toward regeneration along the Greenway; • Highly connected and walkable neighbourhood. <p>The positive social impact of increased housing supply, including a mix of diverse</p>

housing in line with Inner West's affordable housing targets of 5% studio and 5% one bedroom strata area to increase housing affordability in line with Council and State government strategies, is unclear. The Planning Proposal does not outline or indicate the mix of the apartment types for affordable housing as discussed below.

The increase in housing supply through the provision of 23,158m² as a positive social impact is also questionable. The PRCUTS outlines the following proposed growth projections for Taverners Hill:

Proposed Growth projections

	2023	2050
Population	900	3,265
Dwellings	451	1,350
Jobs	3,720	4,110

Proposed indicative land use mix (additional)

	2023	2050
Residential GFA (m ²)	47,000	170,000
Employment GFA (m ²)	35,000	35,000

The proposal includes 23,158m² of residential floor space (given 3,000sqm is proposed for non-residential and community uses) which represents 49.3% of the total residential floor space required by 2023 under PRCUTS for the Taverners Hill Precinct (i.e. of the 47,000sqm) in the short term, notwithstanding that this site is not required until the medium to long term (post 2023 and up to 2050).

In addition, with recent residential flat building average dwelling gross floor areas at 76.4sqm, this development could actually provide up to 300 dwellings or 65 more than the proposal puts forward.

The Kolotex/Labelcraft development, comprising approximately 410 units (31,506sqm of residential floor space), was granted consent in parallel with the preparation of the PRCUTS and has almost met the PRCUTS target for the Taverners Hill first stage up to 2023 of 451 dwellings. The dwellings and their residential population are not included in the PRCUTS 2011 Census Taverners Hill baseline dwelling numbers and therefore contribute to PRCUTS targets.

Consequently Kolotex/Labelcraft already comprises 91% of the projected growth in dwellings by 2023. This means that only 41 additional dwellings are required in the Taverners Hill Precinct by 2023 to meet the housing target. This is likely to be accounted for over the next five (5) years elsewhere in the Precinct.

If this Planning Proposal was to be implemented, it would, in conjunction with the Kolotex/Labelcraft site, provide for between 645 and 710 dwellings for the Precinct either with consent or built and occupied by 2020/2021, which exceeds the short term growth projection for the Precinct by between 194 and 259 dwellings prior to 2023. Not only is this housing growth ahead of time, it is likely to be without the necessary infrastructure. The necessary infrastructure which may be required over and above the dwelling projections of 451 dwellings by 2023 has not been planned for at this stage.

Looking at the longer term projections to 2050, this would result in only 705 dwellings being needed and if 300 dwellings were built at Lords Road, rather than 235, only 640 dwellings being needed in addition to Kolotex/Labelcraft and Lords Road by 2050 or in 32 years. It is considered that the Precinct's dwelling target of 1,350 dwellings (or 1300 in the actual Strategy document, pg. 106) in the long term up to 2050 would translate to the need for around 900 new dwellings without this Planning Proposal (i.e. 1,300 minus Kolotex/Labelcraft site at 410 = 890). This is likely to be met elsewhere in the Precinct

without losing this site and its intrinsic value to the supply of industrial and urban services land/floor space.

The proposed indicative land use projection to 2050 of 217,000sqm of residential floor space (which is the sum of the short term residential GFA and long term figures of 47,000sqm and 170,000sqm respectively) and a projected growth in dwellings of 1,350 by 2050 equates to an approximate dwelling size of 160.7sqm per dwelling. This appears to be excessive, given the vast majority of these future dwellings will be within a medium density setting, within either the R3 medium density zone as townhouses or apartments or as apartments above ground level as part of a mixed use development. The average size of GFA of recent large residential flat building units in Leichhardt is 76.3sqm.

In conclusion, the proposed development is not needed to satisfy the PRCUTS Taverners Hill dwelling targets of 451 to 2023 and 1350 to 2050.

In terms of the employment floor space and jobs projections, the Taverners Hill Precinct has a target of 3,720 jobs by 2023 and 4,110 jobs by 2050. The employment floor space projections to 2023 are 35,000sqm by 2023 and a further 35,000sqm by 2050. Having considered these figures in detail, the projections for jobs and employment floor space do not match up, with the likely workspace ratio (WSR) being very low for this inner city location at 9.4sqm and 8.5sqm of floor area per employee for 2023 and 2050 respectively. A more appropriate WSR to use would be between 37.9sqm (City of Sydney's figure) and 51sqm (derived for the Leichhardt Precinct). This would result in a jobs projection of between 686 and 923 jobs for 2023 and 4,110 jobs for 2050 but with an employment floor space between 155,679m² and 209,610m² (instead of 35,000m²).

Retaining the Lords Road IN2 zoning will help to redress this imbalance and to achieve these employment targets.

Given the extensive loss that would be suffered to the supply of industrial land and the loss of potential for employment by rezoning this site to residential, coupled with the fact that the site is not required for residential floor space, the social and economic cost is too great to support this proposal. Further contributing to the inappropriateness of the proposal at this time is the lack of strategic studies and plans which are still being drafted. The housing targets are likely to be met elsewhere in the Precinct with the cost of supplying more housing at inappropriate times not worth the loss to industrial and employment floor space which would eventuate under this proposal.

In terms of these other reported positive impacts, there are concerns with the proposed provision of affordable housing given it is inconsistent with Council's Policy in terms of the percentage of floor space as well as the lack of dedication to Council in perpetuity. It is also unclear how targeted the dwellings are towards meeting local housing needs. There are many studios and 1 bed apartments but no larger size apartments or allocation to families for affordable housing. The Affordable Housing report prepared by Housing Action Network, dated September 2018, labels the affordable housing targets set by Council's Policy as "ambitious", being much higher than other policies, however, does not attempt to contradict Council's analysis or policy with any other alternative study.

The relocation and/or removal of Art Est from the site is considered in the SIA as a positive impact since the Proponent is to 'investigate ways' to retain them on the site both during the construction and operational phases of the proposal. This seems at odds with the fact that this use is an education and employment generator benefiting the local community and stimulating economic development through the use of creative spaces. "Every year the school gives work to more than 60 local artists, hosts more than a thousand students, holds exhibitions that attract hundreds of visitors, and is instrumental in building an immaterial network of creativity" (*Cultural Creation and Production in the Inner West LGA draft study*, Western Sydney University). The school has educated

almost 16,000 students since 2008, with 2,208, 2,406 and 2,861 students in 2016, 2017 and 2018 respectively. The school hosts art exhibitions and has resources such as a gallery, kiln and other equipment, and is currently connecting with the community and contributing to the local economy. It is also inconsistent with the knowledge that this business, along with other existing businesses on the site, is experiencing difficulties in finding alternative locations either in the short and/or long terms in which to establish their businesses. It is considered that this consequence of the proposal is inadequately detailed and considered in the Planning Proposal.

Even temporary displacement of the art school would create great upheaval to the community networks and to local economy. This disruption is likely to be around two years during construction which is a significant time frame for a business. This is an essential community and economic resource for the area as well as a hub for creative expression and connection. The commitment for continuity of tenancy on the site for the Art Est. School is another aspect of this proposal which is supported by Council in principle yet lacks a firm commitment and an actual agreement by the Proponent to finding the school a temporary location during the construction period so this poses a serious economic and cultural risk.

The Planning Proposal simply states “the applicant is committed to negotiating a commercial agreement that will allow Art Est to return to the site when the development is completed”. The short term disruption and the uncertainty surrounding the long term retention of this use on the site are both significant concerns with this proposal in terms of such an important creative arts use of the site and its prominence in the local community.

The loss of industrial floor space, and particularly the loss of creative arts uses, is a major adverse impact arising from the proposal and cannot be considered to be a positive impact. Furthermore, the loss cannot be mitigated under the current proposal given the inherent incompatibility between industrial and residential uses. The likely non-residential uses which are being proposed in this Planning Proposal include community uses, light industrial and urban services, creative industries, health facilities, education uses, gymnasium, restaurants/café and local service business. Such uses are quite distinct from light industrial uses which are currently undertaken (and permissible) on the site.

It is also unclear how the proposed 500sqm multi-purpose rooms, for use in association with the APIA Club and Lambert Park, will benefit the incoming community on this site. Correspondence from the Proponent (Platino) to the APIA Soccer Club, dated 1 August 2018, and submitted with the pre-planning proposal states “we propose that an internal area of 500m² is set aside for the exclusive use of the club’s members within the existing building that adjoins the boundary in perpetuity at no cost to the Club”. This suggests that the 500sqm multi-purpose room, for which an FSR bonus is being sought, is unlikely to have any true community benefit.

In relation to the public open space and improved connections to the Marion light rail stop (both to the north and via Lords Road and the School), neither of these initiatives, while supported by Council in principle, have been adequately detailed nor provided for in terms of land tenure arrangements and layout. These cannot be counted as positive social impacts until such items are fully documented and agreed with the relevant stakeholders. The positive impact of the site being located within a highly connected and walkable neighbourhood is supported although is not attributed to the proposal.

The negative social impacts outlined in the SIA include:

- Increased population (additional 446 residents placing pressure on existing social infrastructure);
- Change in land use from industrial to residential;
- Impact on pre-existing areas and uses;

- Late night operation of APIA club.

The SIA states that the negative impact of increased population on the site is mitigated through the provision of open space, communal open space on the rooftops and the contributions proposed via the Integrated Infrastructure Delivery Plan to accommodate the final PRCUTS increased population. While the SIA states that this population growth is minimal, it also states that it will result in demand for 5 childcare places, 11 primary school places, 6 high school places and 40sqm of community centre space. The SIA purports that existing infrastructure has capacity to support this growth, and communal meeting space will be provided in residential blocks. These could be used for music, study, or gathering spaces. There are no details provided of these rooms.

The concerns with these mitigation measures are that, as outlined elsewhere in this report, the open space areas are not sufficiently detailed and are inappropriately located and the IIDP is not supported. Furthermore, the site and the Planning Proposal are out of sequence with the Taverners Hill Action Plan of the PRCUTS and accordingly it is unclear as to whether the existing infrastructure (social, physical and transport related) is sufficient for the proposal.

It is also considered that confining the communal open space for the proposal to the rooftops, to satisfy the need for social gatherings and to reduce impact on existing social infrastructure, is an acknowledgement that recreation space is limited and space to gather is getting more cramped as the population increases. There is also acknowledgment by the Proponent that the current allocation of publicly accessible open space on the site (which is assumed to be referring to the open space area in the centre of the site) falls below the current benchmark of 13.3m² per person. While some mitigations are proposed, it is not clear whether opportunities to collaborate with the nearby Kegworth Public School on joint use of the playing field has been (or are being) considered and how the shared use of space would be designed and negotiated.

The late night operation of the APIA club, and its potential negative impact on the future population on the site, is addressed in the Acoustic Report. The proposed Building 3 has also been designed to mitigate potential future noise issues. This issue could be addressed at the detailed design stage if appropriate.

The largest negative impact is that the Planning Proposal will result in a loss of jobs and industrial floor space. The site currently contains 9,979sqm of industrial floor space, houses approximately 17 tenants and provides around 160 jobs (2017 on-site audit).

The Planning Proposal includes 2,500sqm of non-residential floor space, which would represent a loss of around 7,500sqm of industrial floor space. Using figures from PRCUTS on the WSR of 9.4sqm/employee for the Taverners Hill Precinct, this would result in the loss of 797 jobs. While it is considered that some of the PRCUTS figures and calculations are relatively inaccurate, it seems clear that the reduction in this amount of floor space results in less space for new employment opportunities. In this way, the proposal does not protect affordable commercial and industrial spaces and local jobs and is inconsistent with the economic policies of Council which have all recommended the retention of existing industrial land. Ideally, the provision of large, versatile, unembellished and preferably affordable non-residential spaces at the site which could help support and grow the creative industries which the Inner West Light Rail/GreenWay corridor is already known for should be encouraged.

Notwithstanding that the Planning Proposal indicates that it will create between 87 and 119 jobs, the nature of these jobs and the proposed future non-residential floor space will result in a change to the type of jobs and floor space created. For example, the Planning Proposal will result in the loss of around 70 teacher/artists jobs which is up to 45% of the workforce currently on the site, among other employment losses. This significant negative

impact will have a ripple effect on the local economy and wellbeing of these residents and their families and it is unclear as to whether these jobs can be retained on the site in the future. While the 2,500sqm of non-residential uses could be used for creative industries as outlined in the Planning Proposal, such uses are not necessarily going to be undertaken on the site, and may require larger and more affordable spaces than the proposal will facilitate.

Furthermore, the servicing of these non-residential uses are likely to be problematic given the narrow shared ways which traverse the site and the likely incompatibility of larger trucks to service the site with pedestrian areas, open space and residential uses adjoining these future 'commercial' uses.

Even if the proposed future employment figures are accurate, which is unlikely given the layout of the proposed non-residential floor space is not provided, not only will there be less jobs created on the site, but the nature of these jobs are likely to be very different. The proposed uses of the non-residential floor space is described as more commercial in nature, co-sharing work spaces and the like, however, what is needed in the area is light industrial land for urban services and population-serving light industrial uses.

Given the inherent incompatibility of residential and commercial and light industrial uses and the amenity impacts which may arise, it is likely that these non-residential uses will be eroded over time.

At a minimum, there is a need to retain and attract industrial space for the creative industries and create jobs in keeping with the local population which has a higher than average interest and employment in the creative arts.

It is quite clear that there is significant community opposition to this proposal and despite both Council and the Department of Planning and Environment requiring extensive engagement with residents, the community engagement is still inadequate. In general, the Planning Proposal does not demonstrate that the negative social and economic impacts (discussed below) are outweighed or addressed through positive impacts and is not supported on the social impact grounds. This outcome is not in the spirit of the IWC's vision of working together in a way that is creative, caring and just as required by the Council's Community Strategic Plan, Our Inner West 2036. Put simply, these social and economic concerns justify the retention of the current industrial land use on the site.

Economic Impact

The Proponent provided an Economic Assessment Impact (EIA) report prepared by AEG, dated September 2018. The EIA concludes that the Planning Proposal will respond to housing and employment needs by:

- Catering to an observed industry growth in services employment, given the decline in manufacturing and wholesaling sectors;
- Addressing a market gap by providing co-shared work spaces on the site;
- Contributing to housing by providing housing close to transport and services.

The EIA presents the following positive economic impacts:

- A range of net increases in economic activity through the direct flow-on impacts including the creation of 84 to 116 jobs;
- Increase to household expenditure which will support additional economic activity;
- The construction phase bringing jobs and investment;
- The Planning Proposal being consistent with the ECDP by providing greater housing supply and concentrating new development within centres to maximise use of existing infrastructure; and

- The Planning Proposal being consistent with the Out of Sequence Checklist of PRCUTS.

There are numerous economic and industrial lands policies which have relevance to this Planning Proposal which have generally not been considered by the EIA and the Planning Proposal in general. These include the following:

- Leichhardt Employment and Economic Development Plan (2013-2023);
- Leichhardt Industrial Lands Study (2014);
- Subregional Industrial Precinct Review (2015);
- Leichhardt Industrial Precincts Planning Report (2016);
- Sydney's Urban Services Land: Establishing a Baseline Provision (2017)
- Metropolis that Works (2018);
- GSRP and ECDP (2018)

All of these studies and reports recommend the retention of industrial land and are discussed in detail in Question 3 of the Planning Proposal Checklist (Attachment 1). Interestingly, the Planning Proposal ignores the Leichhardt Industrial Lands Study and does not consider its recommendations for the retention of industrial lands. While the Subregional Industrial Precinct Review identifies potential for rezoning, by rating the site low importance due to its small size and location within Leichhardt, all of the other documents outline the importance of industrial land, particularly urban services land and population-serving industrial lands in close proximity to the population.

The Leichhardt Industrial Lands Study indicates that even under various scenarios, testing degrees of development within the former LGA's industrial precincts, Leichhardt is projected to have a shortfall of between 7,570sqm and 54,965sqm of industrial land by 2036. Leichhardt saw a net loss of almost 5 hectares of industrial land, or 4.5% of the LGA's 2011 total, in just the following four years to 2015. This site, representing 7% of this total industrial land, would significantly add to these losses. Therefore, a precautionary approach should be applied, as once a rezoning occurs there is no reversion.

The current policy direction identified in these studies (PRCUTS aside) supports a retain and manage approach for industrial and urban service lands in the Eastern District by recognising the value of industrial lands and the pressure to retain these uses due to a reduction, particularly in the Eastern City District. The PRCUTS comes into direct conflict with all of these industrial land supply reports and strategies as well as local strategic policy where Inner West Council seeks to retain its industrial lands. While some non-residential land is proposed, there are significant concerns with this floor space given it is often described as 'adaptable', has generally been described as commercial rather than industrial, and is likely to be inherently incompatible with residential development.

Contrary to this overwhelming evidence for the need to retain and protect industrial land and the predicted shortfall in such land in the future, the Planning Proposal advocates for the rezoning based solely on the recommendations of the PRCUTS. It does this by relying on the Section 9.1 Ministerial Direction 7.3 which requires planning proposals to give effect to the PRCUTS.

The Ministerial Directions are for consideration and are a statutory guidance via Section 9.1 of the EP&A Act. The PRCUTS clearly states in the Implementation Plan 2016 – 2023 (page 7) in relation to 'Who will use the Implementation Plan', that local councils (or other relevant planning authorities) will use the plan when assessing planning proposals or undertaking amendments to local environment plans. The Planning and Design Guidelines also indicate that they will '*assist planning professionals in local and State Government to inform changes to Local Environmental Plans and Development Control Plan*'.

Accordingly, the Section 9.1 Ministerial Direction No. 7.3 compels Council to consider PRCUTS, however the onus is on Council to decide on how to best meet the Strategy based on local requirements.

Council commissioned SGS Economics and Planning (SGS) to undertake a peer review (Attachment 3) of the Proponent's Economic Impact Assessment (EIA) and to consider the Planning Proposal against Criteria 5 (Feasibility) and Criteria 6 (Market viability) of the Out of Sequence Checklist.

In summary, the peer review identifies the following issues with the Planning Proposal:

- Loss of industrial and urban service lands
- The adaptable nature of the non-residential component
- Potential for future land use conflict between residential land uses and certain non-residential land uses
- Selective data use.

There are numerous criticisms of the EIA which include the following:

- The EIA did not explore the loss of industrial land in any depth, but simply stated that lands within the PRCUTS are not subject to the industrial land strategies and actions of the Region Plan (page v and 32). This appears to ignore the significant evidence within the various economic and industrial lands policies outlined above, that all industrial land should be retained and protected for its employment generating potential and provision of land for urban services.

Interestingly, the Economic Analysis Report, dated November 2016, one of the reference reports to the PRCUTS, indicates that any rezoning should be mindful of *'the displacement of existing businesses, particularly those who play a local service role and require a central location from which to service their key markets'*. The report further notes that many inner and middle ring suburban locations are experiencing an incremental rezoning of light industrial lands to facilitate mixed use residential, thereby reducing the pool of potential alternate locations for local service businesses that are displaced. The Report states that "the demand for industrial floor space across the PRC whilst modest in comparison to other land use categories, is nevertheless still important to support businesses that play a local service role" (p. 96). This is further evidence of the importance of industrial land in the Corridor.

- The EIA did not consider the likely amenity impacts of the proposed non-residential uses on the site and the likely erosion of any light industrial/urban services uses due to conflict with residential. The proposed industrial and urban services land uses seem almost a token consideration of the Proposal, included because of the policy context, history and stakeholder comments that have shown support for these uses.
- The EIA did not consider that the flexible and adaptable nature of the non-residential space provides no guarantee that light industrial or urban services would be located in this space. Therefore, the development could result in a total loss of industrial and urban services land for the area.
- In relation to the assessment of the Leichhardt Employment and Economic Development Plan (2013-2023) in the EIA, the following points are relevant:
 - The decline of industrial related employment in the area could simply be attributed to the re-zoning of light industrial and urban services land in the area to other uses, rather than an actual decline in demand for such

services. There appears to be a case of mixing observed demand and underlying demand. The fact that the ECDP and the GSRP both promote the *'retain and manage industrial land'* argument, it seems that the retention for the current land use is valid.

- The EIA does not make any reference to the Leichhardt Industrial Lands Study (2014) (LILS) when considering the strategic context of the proposal. Council policy falls under the LILS that supports retention of the small, fragmented industrial lands in Leichhardt. The response also does not directly answer the question about what impact the re-zoning would have on Council's employment targets.
 - The site currently operates with some industrial uses and accordingly the characteristics of the site do continue to align with the characteristics required by light industrial uses.
- The EIA concluded that the proposal is feasible based on the lack of any proposed developments or significant market activity occurring in recent times within large portions of the Taverners Hill 2016-2023 Release Area, and that due to this lack of development or sales activity, that the subject site *"represents a valuable opportunity to achieve the objectives of the PRCUTS for the Precinct"*. In essence, the EIA argues that since no other sites have been developed (or sold) that it makes this site more attractive for development. This suggestion seems at odds with the approval of the significant development at the Kolotex/Labelcraft site which resulted in 410 apartments being approved within the Precinct. It would seem that this development should qualify as *'development activity'*.

To arrive at this conclusion regarding a lack of market or development activity, however, the EIA makes two assumptions both of which have no basis and are not supported. The first is that since there has been little development activity elsewhere in the Precinct up until this time, this trend will continue and there will be limited development in the area in the short term, 2016 - 2023, making way (and capacity) for this Planning Proposal. The reason for the lack of uptake of these lands was stated as being that the required densities for feasible development are higher than those proposed under PRCUTS while the other reason was that there were difficulties with site consolidation with the majority of sites being sized between 300sqm and 600sqm.

While the subject site does not suffer from the site consolidation issues being a large site of 10,691sqm, the EIA states that sites require a density (FSR) greater than 1.4:1 to make it feasible to redevelopment from existing uses. This last point is not an argument for feasibility given the majority of the 2016 - 2023 Release Area comprises land which has a recommended FSR of 2.15:1 or above.

The second assumption inferred in the EIA is that this will allow for the current Planning Proposal to utilise infrastructure that is already provided for in the 2016 - 2023 Infrastructure Schedule. That is, as a consequence of this lack of development activity and/or uptake of the rezoning potential of the PRCUTS, no additional infrastructure over and above that already proposed in the Infrastructure Schedule will be required for the Planning Proposal. This argument and assumption fails on two accounts. The first is that there has been no assessment of whether the infrastructure items (or required contributions) within the 2016 - 2023 release area are suitable for the proposal given the Planning Proposal is out of sequence. The second concern is that there is no definite method to ascertain if or when any uptake of these lands that could potentially be rezoned will occur in the next few years (up to 2023).

In essence, an uptake of these lands, whether gradual or rapid, is possible and therefore cannot be discounted. That is, should there be one or numerous

planning proposals submitted to rezone land which takes up this 'spare infrastructure capacity', then in theory there would then be a shortfall of infrastructure which may not cover this Planning Proposal, which is out of sequence. This justification is not supported given there are many factors which may influence property sales. To assume that there will be no significant residential development undertaken in the area in the short term (up to 2023) when the Action Plan for the precinct clearly sets out a maximum of 47,000sqm of gross floor area, seems implausible and unsupported.

- The catchment used for the employment profile is considered too small, resulting in several concerns. The first is that the growth and/or decline of a particular industry can be significantly impacted by changes to one site. In this case, the conversion of 1.5Ha at the nearby Kolotex/Labelcraft site (former industrial precinct) is likely to significantly change the employment profile in the catchment between census periods. This enables inferences about decline in jobs in the EIA which suggest industry is declining when, in fact, it could be that those jobs have just been displaced due to the rezoning of the site.

The second concern is that by including an established centre in this area, like Leichhardt Marketplace, it can demonstrate that growth in one sector, such as population-driven services like retail, is occurring much faster. The inference here is that demand is therefore higher. While this may be the case, the small catchment is subject to micro-changes that do not provide a sufficiently robust analysis. Similarly, the inclusion of the Sydney Catholic Schools Central Office in Renwick Street is likely to skew the data towards more jobs in education than if this site was not included.

Finally, this small catchment doesn't align with the one used for the socio-demographic catchment used in this study, which defined a wider catchment. As the focus of much of the later analysis is on the importance of providing local services in the proposal, it would be logical to undertake both the socio-demographic profile and the economic profile at the same consistent geography. An LGA scale (or at least the former Leichhardt LGA) would be more appropriate as it would allow comparison with a previously defined and analysed catchment and would likely capture the loss of industrial land and jobs which has been occurring in the area and the significant forecast deficit of industrially-zoned land over the next twenty years. It would also resolve site-specific impacts as identified above and provide a stronger base for comparison.

- Market and business activity – This discussion contains several contradictory and unsubstantiated assumptions and conclusions made in relation to the types of uses which are now in demand, having regard to the uses currently on the site. The analysis indicates that demand has evolved from traditional industrial occupiers (automotive users, warehousing, and trades) towards more service-based and/or creative users, particularly small-scale food and drink manufacturing, gyms and fitness studios. The analysis then outlines that local agents note many traditional industrial occupiers have found it difficult to compete in the current market given they typically require lower rents to be commercially viable compared to these newer uses which are now in demand. Interestingly, this analysis does not indicate that demand for other non-traditional industries is low, with demand from this sector also potentially high.

It would appear that this reasoning supports retaining this industrial land on the subject site and not rezoning it. Interestingly, all these 'new' uses referred to in the analysis as requiring floor space, such as gyms and food and drink manufacturers are uses which are permissible on the site under its current IN2 light Industrial zoning and which generally require such zoning for their space, parking and rent

conditions. It is also worth noting that the difficulty the 'traditional industrial occupiers' are experiencing competing in the current market is likely to be related to the lack of supply of industrial land, which will be exacerbated by this proposal.

This discussion simply highlights that there is demand, even at the very limited local scale which has been assessed (refer to discussion on catchment size above), for the type of land currently provided for under the existing zoning on the site.

The analysis also investigated the supposed demand and supply for commercial and industrial floor space by reviewing the sales and leasing activity in the area. Conclusions are then drawn that the lack of sales activity is due to the 'imminent rezoning' under the PRCUTS. The analysis then states that while sales activity has been slower, the leasing of premises has shown more activity, with numerous examples provided of recently granted leases to uses which are currently permissible, and likely to be more suited, to the current zoning of the subject site. These include non-traditional industrial users, notably food producers, craft breweries and commercial businesses. The analysis does not explain how (or why) the subject site under its current arrangement cannot provide for these uses, given the flexibility of the existing buildings on the site to accommodate such a range of uses.

Similarly, the discussion on development activity also appears to imply that since there has been limited development applications lodged, that there is no interest or activity in the area. This observation is not discussed, but appears to be inferring it is further evidence of a lack of demand, and therefore justifying the need for the rezoning. It is also important to identify that a lack of development does not explicitly infer that there is no demand, without evidence being provided. The scenario whereby perhaps the existing buildings in the area are suitable for their currently uses has not been explored, since small businesses often just adapt to the space without the need for re-development or even benefit from the lower rents that older stock provide *because* redevelopment has not occurred.

This discussion could just as easily be interpreted that the problem is with the supply of industrial land, and not that there is a lack of interest in this precinct. The potential reason for this could perhaps be that existing businesses are holding on to their properties and/or lease agreements due to there being an insufficient supply of alternatives in the area. A further concern with this discussion is that there has been limited consideration or analysis of whether the rents that such new uses may be seeking are higher than what are currently available in the existing premises, or indeed in other nearby industrial precincts. The risk is that if the proposed (and other future) development incurs higher rents; those exact businesses that are seeking to locate in the area may be priced out. An analysis of the rents that these businesses may seek, compared with potential market rents that the new commercial floor space may seek, to ensure that the demand in the system can be met with this supply should have been undertaken.

The addressing of the catchment issue (above) will better support this, however there are still concerns about the interpretation of demand for uses currently observed (such as food and beverage manufacturing) that could operate on the site in its current zone.

Further concerns are noted in the economic impact assessment in Chapter 4 of the analysis, which provides an overview of the economic impacts arising from the base case and the proposal case under two scenarios. While such a modelling exercise is supported, an additional case of 'full development under current controls' (or at least comparisons made with the current status to provide clearer

comparisons of marginal differences between the two) should have been undertaken. This would have provided a clearer analysis, particularly in relation to job creation and/or losses, as there is no clear understanding of the overall *net* change to employment on the site.

This analysis also considered the housing impacts and concluded that the proposal would maximise the development potential of the site and that it would deliver ‘much needed’ residential development. This conclusion is disputed, particularly having regard to the tenuous population, dwelling and jobs projections contained in the PRCUTS, which is further discussed in the social impacts of this Planning Proposal in this report. This analysis also concluded that since PRCUTS recommended that the site be rezoned to residential, notwithstanding the displacement of existing businesses and employment, consideration of these and other impacts ‘were satisfied as part of the statutory process’ under the Section 9.1 Ministerial Direction. This conclusion lacks any detailed analysis as to why residential development was must happen on this site aside from the PRCUTS recommendations.

The review undertaken by SGS identified four key issues with the Planning Proposal:

- **Loss of industrial and urban service lands** – The Proposal has acknowledged the intent of the GSRP to retain and manage industrial and urban service lands in the District, however the Planning Proposal focuses on all other benefits that the development provides to the area. The Planning Proposal also suggests that the inclusion of industrial and urban services as a land use for the non-residential component is supportive of State and local strategies. However, the actual inclusion of this land use is unclear and seems unlikely given the potential for land use conflict, current design concepts and omissions in support of these land uses in the Proposal. The strategic intent of Inner West Council to retain industrial lands has not been addressed. The Proposal also heavily rests on the statutory authority of the PRCUTS that land that falls under the PRCUTS is not subject to objectives of the GSRP and ECDP to retain industrial and urban services land.

The submission does not address either the Leichhardt Industrial Lands Study or Marrickville Employment Lands Study when considering existing local policy direction and evidence regarding the impact of loss of industrially-zoned land. The importance of this site, as highlighted by the LILS, is that in a ‘predominantly residential area, this lot and building size, coupled with its relative isolation from surrounding residential uses, makes it an important precinct to accommodate the future industrial demands within the LGA’.

The LILS identifies there will be a shortfall of between 7,570sqm and 54,965sqm of such space by 2036. As mentioned above and identified in the GSRP and the ECDP these lands fulfil an important operational role and function within a city. These aspects strengthen the maintenance of current uses.

While the planning proposal contains a quantum of floorspace that may be suited to certain light industrial uses, it is not afforded the protection of zoning as the proposal seeks an R3 zoning.

- **The adaptable nature of the non-residential component** – The inadequate description or details on the configuration of the intended use of the proposed non-residential spaces makes it difficult to assess the extent to which the development would contribute to the overall strategic direction for the Eastern District to retain and manage industrial and urban service land and whether it would contribute to further loss of these spaces. The risk is that this flexible, adaptable non-residential space may just be a use that makes the residential

component more attractive and does not retain or protect employment generating land and does not satisfy the greater objectives of the area or retaining needed uses for the area. This concern is exacerbated by the fact that the proposal seeks a residential zoning, rather than a mixed-use zoning.

Given the potential for land use conflict, current design concepts and the particular inclusions/omission of analysis and consultation it seems the site would result in an overall loss of industrial and urban services land use.

- **Potential for future land use conflict between residential land uses and certain non-residential land uses** – The Proposal has not addressed the potential for land use conflict between residential and non-residential components of the development.

The introduction of residential uses creates a land use conflict risk if the industrially-related businesses that seek the new floorspace are permitted to operate. On the one hand, certain businesses that do locate there may have extended operating hours, require truck access or create noise. This may lead to issues with residential units directly above and limit their operability. It is noted, however, that the site does currently operate adjacent to a residential area and that the introduction of new ‘noisy’ businesses may be limited. A more likely scenario may be that these businesses that seek to locate in the area cannot and are forced to look elsewhere. As the Leichhardt and Marrickville studies indicate however, supply is low in the surrounding areas.

Another major concern is that the non-residential component is proposed under a residential zoning (R3). The lack of protection afforded by the residential zoning raises a concern about the long-term nature of this Proposal’s intent to retain these uses. This has flow on effects with the value that is placed on the new floor space and the inherent risks that redevelopment floor space is likely to attract higher rents which in turn may price-out numerous local businesses. A risk is that if the development incurs higher rents, those businesses that are seeking to locate in the area may be priced out.

- **Selective data use** – The Proposal appears to have made selective use of data to support the development, while also appearing to cater to objectives and comments made by State, local and community authorities. Selective data use has been included in strategic plan analysis, site analysis and functionality, employment and market demand analysis and representation of stakeholder comments. This strengthens the argument to transition the site to residential and reduce industrial and urban service at the subject site. This selective use of data includes a lack of consideration of Inner West Council strategies for economic development and industrial land, urban design tending towards non-industrial uses, employment demand suggesting trends to service employment for the area and representation of stakeholder comments that support non-industrial uses.

In concluding, the peer review notes that “retaining (the) current use of this site is of value to the Inner West and Greater Sydney. A precautionary principle, therefore, should be applied, as once a rezoning occurs there is no reversion”.

As outlined in the preceding sections of this report and the attached checklists (Attachments 1 and 2), Council is currently preparing or participating in the formulation of wider strategic planning policies including a Local Housing Strategy, Local Strategic Planning Statement, Employment Lands Review, Local Infrastructure Contributions Plan and a comprehensive IWC LEP/DCP. This core work is imperative in determining the future land use controls for the site. Whilst the change of zoning for the subject site is supported by PRCUTS, it is believed that an informed decision cannot be made until

	<p>such time as Council completes this broader suite of strategic planning work.</p> <p>Whilst Council officers broadly accept PRCUTS and its recommendations in relation to rezoning, development controls and implementation; there are key concerns regarding rezoning any part of Taverners Hill Precinct to allow residential or non-industrial uses. Encroachment of non-industrial uses would be inconsistent with the Leichhardt Industrial Lands Study and other plans and policies which are outlined above, which recommend retention of industrial uses. The Leichhardt Industrial Precinct Planning report formed the basis of Council's comments to UrbanGrowth (now Landcom) in relation to the Strategy.</p> <p>Council support for this Proposal would be a departure from the consistently held strategic planning position to resist rezoning industrial lands for residential or mixed use purposes in the former Leichhardt Council LGA as outlined above. Any form of residential development within the site is likely to set a precedent for further development resulting in loss of urban services and employment generating land. Council will be reviewing all its employment lands as part of the wider LEP integration work.</p> <p>In the context of imminent outcomes of strategic planning projects currently underway at both State and local level including the IWC Employment Lands Review and IWC Local Housing Strategy, the Planning Proposal is considered to be premature and therefore, should not be supported. The site and its future uses should be planned holistically in the context of its contribution to the revitalisation of Parramatta Road Corridor.</p> <p>The conclusions of the GSRP, ECDP and LILS strongly support protection of Leichhardt's industrially-zoned precincts for their important employment and service function. Having regard for Leichhardt's projected shortfall of industrial land by 2036, rezoning this site is likely to have an adverse cumulative impact on the area and will progressively deteriorate as other sites are picked off for rezoning in a similar fashion, particularly if falling under the PRCUTS.</p> <p>Accordingly, it is considered that on balance the economic impacts are too great in terms of the loss of industrial land for the proposal to be supported. Furthermore, the EIA is not supported due to the numerous concerns with this analysis as outlined above.</p>
Q10	Is there adequate public infrastructure for the planning proposal?
	<p>As outlined above, there are critical issues with the timing of this Planning Proposal as it comes in advance of any public infrastructure improvements along the Corridor including provision of open space, schools, public transport, hospital beds etc. The Planning Proposal is considered to be inadequate in this regard and therefore, should not be supported.</p>
Q11	What are the views of State and Commonwealth public authorities consulted in accordance with Gateway Determination?
	<p>There has been some consultation with local and state public authorities for this proposal. Should the Planning Proposal proceed further, a favourable Gateway determination would identify a full list of public authorities to be consulted as part of the exhibition process.</p>
2.4	Mapping
	<p>The Planning Proposal includes amendments to the zoning, FSR and Height of Building Maps of the LLEP 2013.</p> <p>Given the broader strategic issues and insufficient support for the Proposal, the proposed mapping amendments are not supported. In the case that Council decides to proceed with the Gateway process, it is recommended that the Planning Proposal be revised.</p>
2.5	Community Consultation
	<p>If the Planning Proposal was to be supported, given a Gateway Determination and</p>

	Council was the Planning Proposal Authority; the Proposal would be formally exhibited in accordance with the requirements of the Gateway Determination and Council's Community Engagement Framework.
2.6	Project timeline
	The Planning Proposal provides a timetable as required, however this would have to be updated if Council decides to submit the Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination. The Gateway Determination, if granted, would determine the actual milestones and maximum timeline required to complete the LEP amendment.

8.0 ASSESSMENT OF AMENDMENTS TO LEICHHARDT DEVELOPMENT CONTROL PLAN 2013

As discussed in the previous sections, there are significant concerns with the proposed building envelope, setbacks, separation distances and incompatibility of the proposal with the surrounding low density residential area. The high-level assessment of the proposed controls in the draft DCP is synonymous with the assessment of environmental impacts under Question 8 (justification) in the table above in relation to the urban design, built form, landscaping, traffic and transport and flooding impacts.

The draft DCP amendment is not supported in its current form. It is considered that the most appropriate way to amend the development controls for the site would be to do so in conjunction with the Council's broader strategic planning work, comprising the Local Character Statements, Local Housing Strategy and a Comprehensive IWC LEP and DCP to deliver coordinated outcomes for land use and infrastructure and to appropriately manage potential amenity impacts.

9.0 VOLUNTARY PLANNING AGREEMENT (VPA)

Platino Properties has submitted a Letter of Offer (Attachment 17) to enter into a Voluntary Planning Agreement (VPA) and make monetary contributions for the provision of local infrastructure. The draft Planning Agreement suggests that the owners of the site, Lord Sixty Seven Pty Ltd, would make contributions to public domain items and local infrastructure items to support the Planning Proposal.

This VPA states that it is expected that the Proponent will either pay a future Special Infrastructure Contribution or negotiate a separate VPA with the State Government should one be required having regard to Section 7.24 of the EP&A Act. The VPA also states that the Proponent would like to discuss an appropriate offset for local infrastructure items pursuant to Sections 7.11 and 7.12 (contributions required by a condition of development consent) of the EP&A Act.

The Proponent's calculations for infrastructure contributions are based on its own Integrated Infrastructure Delivery Plan (IIDP) prepared by Northrop consultants (Attachment 34). There are reservations about the methodology used, formulas applied and conclusions of the IIDP. As discussed previously, the PRCUTS infrastructure schedule methodology cannot be readily deployed to determine accurate infrastructure contribution rates. The PRCUTS Schedule is based on a high level analysis of population, dwelling and employment projections for the Corridor and requires a much more detailed and transparent analysis than provided in the IIDP.

The inadequacies of the IIDP are underlined by the Proponent's own independent assessment of the likely costs of infrastructure by Cushman and Wakefield. It states "our feasibility assessment is decidedly subjective and based upon numerous assumptions". It is noted that the estimated costs included in the Schedule are out of date and haven't been reviewed since June 2016. There are also gaps in this Schedule which cannot be adequately determined until

such time as Council implements a new local contributions plan. As a part of amending/ updating its local contributions plan, the Council will be required to undertake additional analysis, including audits of existing facilities and the preparation of needs studies beyond the Corridor's boundaries.

In addition, it is noted that while the Proposal intends to make contributions towards affordable housing comprising 35 apartments, this allocation and use of a local housing provider (and not the Council) are inconsistent with Council's Affordable Housing Policy and the objectives of the Sydney Region Plan and District Plan (being inconsistent with Council's Policy).

If Council were to enter into negotiations on a potential VPA, the negotiations should seek the provision of:

- An adequate affordable housing contribution in accordance with the provisions of Council's Affordable Housing Policy (2016);
- Public domain improvements along the western side boundary (adjoining the light rail to augment the GreenWay) with connection to the Marion light rail stop and the eastern and southern boundaries adjoining Davies Lane and Lords Road including the provision of prioritised pedestrian connection along Lords Road and a widening of the footpath along Davies Lane;
- Sustainability provisions in accordance with the requirements of PRCUTS; and
- GreenWay Masterplan items in close proximity to the site, potentially including the following:
 - Item 1.39 Informal path linking Marion, Walter and Loftus Streets
 - 1.41 relocation of Marion St traffic lights and narrow to 3 lanes
 - 1.42 explore potential for public toilets in Lambert Park
 - 2.17 upgrade pedestrian bridge across canal and footpaths to shared paths
 - 2.08 retention of existing vegetation and staged understorey planting to maintain habitat value + maintenance of existing Lords Rd GreenWay bush care site
 - 2.01 create informal path and vegetation from Hathern to Beeson to Kegworth to Marion (utilising the existing rail corridor/easement on the western edge of the Lords Rd Estate site)

It is considered that the proposed VPA currently has too much of a focus on the internal community open space, which is of limited benefit to the broader community, rather than on other relevant items from the PRCUTS Infrastructure Schedule for Taverners Hill

Should the proposal proceed to Gateway determination stage and be approved for exhibition, the VPA would have to be negotiated by Council and exhibited concurrently with the Planning Proposal. Council can only negotiate a VPA relating to the Planning Proposal if it is the Planning Proposal Authority.

10.0 INNER WEST LOCAL PLANNING PANEL

A version of this report was presented to the Inner West Local Planning Panel for advice on 17 December 2018. This referral is required under section 2.19 of the EP&A Act and must be carried out in accordance with the section 9.1 Local Planning Panels Direction for Planning Proposals.

The Panel concurred with the conclusions of the Council officer's report, and in advising Council that it does not support the Planning Proposal made additional recommendations. These can be summarised as follows:

- a) Noted Council's long standing position of preserving industrial land and that this Planning Proposal would diminish Council's past efforts to retain this site for industrial uses.

- b) Noted Council's intention to review all its employment and residential lands as part of the wider comprehensive LEP work and the studies currently underway. As such, investigations are incomplete for the future cumulative social and physical infrastructure needs of this PRCUTS precinct.
- c) The Planning Proposal is considered to be premature in relation to the completion of these strategic planning projects. The site and its future uses should be planned holistically in the context of the Taverners Hill Precinct and its contribution to the revitalisation of Parramatta Road Corridor.
- d) That Council draws the Department of Planning and Environment's attention to the need to update the PRCUTS particularly indicative land uses in light of more recent information in relation to employment lands. The Panel notes that PRCUTS will ultimately be replaced by Council's accelerated timeframe Comprehensive Inner West LEP and DCP.

The Panel's advice (Attachment 5) has been taken into consideration when making a recommendation to Council in this report.

11.0 OVERALL ANALYSIS

The Planning Proposal for 67-75 Lords Road, Leichhardt has been reviewed taking into consideration:

- The *Parramatta Road Corridor Urban Transformation Strategy* endorsed by the State Government in November 2016 and then given statutory force through Section 9.1 Ministerial Direction in December 2016;
- Principles of the NSW Department of Planning document '*A guide to preparing planning proposals*' and '*A guide to preparing local environmental plans*'; and
- Applicant's justification to support the Planning Proposal with a timing that varies from the recommendations of PRCUTS Planning and Design Guidelines and Implementation Plan 2016 - 2023.

Council officers acknowledge the overarching recommendations of PRCUTS for the site including:

- R3 Medium Density Residential Zone
- Maximum height of 30 metres; and
- Maximum FSR of 2.4:1.

It is noted that there are several discrepancies in the recommendations of PRCUTS as the proposed maps and corresponding text do not match up. In this regard, whilst the site has been recommended for rezoning to R3 Medium Density Residential; the Key Actions in the Strategy and Planning and Design Guidelines emphasise that these residential uses should focus on low density housing and appropriately scaled residential uses.

The Strategy also envisages a seven storey development with a 30m height control which would create a higher development given its proximity to the light rail line. There are also minor anomalies relating to the short-term growth projections for proposed dwelling numbers and residential gross floor area targets in the Taverners Hill precinct.

Most critically, however, as demonstrated at various points throughout this report, the PRCUTS dwelling targets for the Taverners Hill Precinct can be easily met and surpassed without rezoning this site.

Overall, the Planning Proposal fails the Strategic Merit Test as demonstrated in this report and is inconsistent with a number of key objectives, priorities and actions of the Greater Sydney Region Plan, Eastern Harbour City District Plan and PRCUTS.

Whilst the redevelopment of site could potentially contribute towards more housing and diversity in the local area, its rezoning at this point in time is not crucial (or required) to meet the short term housing supply for Inner West LGA and would result in the loss of a very valuable light industrial precinct.

This Planning Proposal has been prepared as a response to the PRCUTS but it fails to adequately address the Strategy's Vision and Key Actions. It departs from the staging identified under the PRCUTS Implementation Plan 2016 – 2023, fails to meet the Out of Sequence Test and is inconsistent with the recommended density in the Planning and Design Guidelines.

The Planning Proposal does not provide any '**significant net community, economic and environmental benefits for the Corridor Area**' nor contribute '**significantly towards the Strategy's Corridor wide and Precinct Specific vision**'. It would result in net loss of jobs and reduce the availability of employment lands and urban services as it would rezone a light industrial zoned site to residential. The Planning Proposal is also inconsistent with the PRCUTS Principle 2 – Diversity and Economy which recommends the use of innovative mechanisms when rezoning sites to broaden the role of urban support service industries.

In fact, as outlined in this Report and accompanying checklist, the Planning Proposal **fails to achieve** all of the seven (7) principles of the PRCUTS comprising housing choice and affordability, diverse and resilient economy, accessible and connected., vibrant community places, green spaces and links, sustainability and resilience and delivery.

The Strategy in conjunction with the *Greater Sydney Region Plan* and the *Eastern Harbour City District Plan* underlines the importance of the Taverners Hill Precinct as reinforcing its existing mix of warehouse and service industries interspersed with residential dwellings with the potential to contribute towards employment. In this regard, PRCUTS recommends rezoning of a large part of the Taverners Hill precinct on the north side of the Parramatta Road for medium density residential uses. The northernmost part of the precinct which includes the subject site has been recommended for rezoning from industrial to residential uses which is inconsistent with the wider objectives of GSRP, ECDP and Leichhardt Council's Leichhardt's Industrial Lands Study, EEDP and Industrial Precincts Planning Report.

In particular, the ECDP also noted that research prepared for the Greater Sydney Commission identified a benchmark requirement of 3sqm of industrial land per capita for urban services activities. The current and projected per capita level of provision in the Eastern Harbour City is already well below this benchmark. For these reasons, it is considered that a precautionary approach should be taken to this site, notwithstanding that the PRCUTS essentially excludes this part of the Plan from applying given the significant loss of industrial land which has been occurring in recent years as outlined in this report.

Further studies emphasising the need to retain and protect industrial land includes the Greater Sydney Commission's thought paper, '*A Metropolis that Works*' (2018), *Sydney's Urban Services Land Establishing A Baseline provision* (2017) and the Section 9.1 Ministerial Direction 1.1 - Business and Industrial Zones (May 2017). Therefore, the planning proposal is contrary to an overwhelming literature basis of plans and strategies supporting the retention and protection of industrial lands, particularly those lands located in close proximity to the local population for urban services uses and population-serving uses.

Whilst Council officers broadly accept PRCUTS and its recommendations in relation to rezoning, development controls and implementation; there are key concerns regarding rezoning this parcel of land within the Taverners Hill Precinct to allow residential or non-industrial uses as encroachment of non-industrial uses which could compromise Council's ability to realise the vision for job creation and employment land targets in the wider LGA. Furthermore, supporting this proposal would be contrary to Council's long standing position of preserving industrial land and would diminish Council's past efforts to retain this site for industrial uses comprising two separate planning proposals since 2014.

Council intends to review all its employment lands as part of the wider comprehensive LEP work. Council in collaboration with the State Government is also undertaking a range of broader Strategic planning work and studies including but not limited to:

- Local Housing Strategy
- Local Strategic Planning Statement
- Employment Lands Review
- Local Infrastructure Contributions Plan
- Integrated Transport Plan
- Comprehensive IWC LEP and DCP
- Affordable Housing Contribution Scheme
- PRCUTS precinct wide traffic modelling

The Planning Proposal is considered to be premature in relation to the completion of these strategic planning projects. These projects will provide comprehensive evidence based strategies and innovative visions to direct future strategic planning documents and design parameters for land uses, infrastructure, public domain works, urban design and place making community/social benefits; economic development and appropriate distribution of development uplift for long term sustainable changes throughout the IWC. The site and its future uses should be planned holistically in the context of the Taverners Hill Precinct and its contribution to the revitalisation of Parramatta Road Corridor rather than in an ad hoc piecemeal manner such as via this planning proposal.

Support of this Planning Proposal in its current form and timing, in advance of this broader strategic planning work and specifically the Local Housing Strategy and Employment Lands Review would compromise Council's ability to exercise integrated land use and infrastructure planning for the delivery of coordinated outcomes for housing, jobs, transport infrastructure, social infrastructure, open spaces and urban services land.

The Parramatta Road Section 117 Ministerial Direction and Strategy explicitly states that *'Consent authorities must not approve planning proposals or development applications that are inconsistent with the Corridor Strategy or Implementation Tool Kit unless the consent authority considers that such a decision is justifiable in light of the circumstances of the case'*. This Planning Proposal is inconsistent with the Corridor Strategy and the Implementation Tool Kit; and it fails to adequately justify the variations from the Strategy that it proposes.

The significant loss of this industrial land proposed in this planning proposal, being around 10,000m² of industrial floor space and 160 jobs existing on the site, is too great to support this proposal. This site represents approximately 7% of the IWC areas industrial land supply and is one of only eleven (11) industrial precincts within the Leichhardt area. The Industrial lands studies reviewed in this report indicate that even within various scenarios that test degrees of development within these precincts, Leichhardt is projected to have a shortfall of between 7,570sqm and 54,965sqm of industrial land by 2036.

Although already small, Leichhardt's industrially-zoned lands are continuing to reduce. The overwhelming evidence is that industrial lands are scarce and they are disappearing which directly contradicts the ECDP which seeks to cast aside this evidence to support large areas of employment lands under the PRCUTS to be rezoned to residential.

Between 2011 and 2015, Leichhardt saw a net loss of almost 5 hectares, 4.5% of the LGA's 2011 total which, coupled with Leichhardt's small amount of industrial land has meant that continued demand, in particular for population-serving industries such as self-storage services or automobile maintenance and repairs, are facing increasing pressures.

The types of uses on this site, including creative industries and local population-serving uses such as the construction industry, cannot be replaced on the site in the current proposal given the likely smaller spaces and the encroachment of residential uses which are inherently incompatible with light industry uses. Furthermore, it has been well documented from the existing industrial tenants on this site that they are finding it difficult to find alternate accommodation for their businesses. The references to the proposed non-residential spaces on this site under this proposal are described as 'flexible' and is more likely to be commercial in nature than industrial.

The planning proposal is also considered to be out of character with the local area which, at least in the short term, will remain a low density residential area until at least 2023 as outlined in the Action Plan for the Taverners Hill Precinct.

The Inner West Local Planning Panel concurred with the Council officer conclusions and strengthened their opposition to the Planning Proposal through additional recommendations in their advice to Council.

It is recommended that the Planning Proposal for 67-75 Lords Road, Leichhardt should not be supported by Council. There are also several significant urban design issues with the proposal which result in the current design scheme being unacceptable.

12.0 FINANCIAL IMPLICATIONS

The Proponent has paid fees for the Council's consideration of a Planning Proposal (\$100,000) and DCP amendment (\$35,000) in accordance with IWC's 2018/2019 Fees & Charges. In accordance with the Fees & Charges, costs associated with the peer review of the Proponent's documentation and referral to the Inner West Planning Panel will be recovered from the Proponent.

13.0 PUBLIC CONSULTATION

The Proponent has undertaken community consultation to comply with the PRCUTS Out of Sequence Checklist criteria for stakeholder engagement (Criteria 3).

As a part of his stakeholder engagement process, the Proponent undertook an online survey to understand the issues of concern to the Community. The Proponent, through their consultant, Chikarovski & Associates, provided letters to the surrounding business owners, residents and landowners via a letter box drop and placed a newspaper advertisement in the Inner West Courier on 26 June 2018 advising them of the online survey. Residents who expressed strong opposition to the earlier proposal were also notified of the survey and direct notification was provided to existing tenants encouraging them to forward the survey onto their staff and patrons.

A total of 26 responses were received to the online survey. The survey asked, among other things, what the community wanted to see result from the proposal. Creative arts space and green space (both 20% of responses) were the most wanted uses followed by 16% who wanted to the site to remain in its current use. Cafes/restaurants (12%), retail (11%) and childcare and a gymnasium (both 7%) were further responses. The fact that 16% of respondents wanted the site left in its current zone and use has not been emphasised in the Planning Proposal.

A community information (drop-in) session was also held on 22 September 2018 in Haberfield, which was attended by 22 people. This session was advertised in the Inner West Courier and by letter box drop to approximately 50 dwellings in Lords Road, Davies Street and Kegworth Street.

While it was noted that three (3) people indicated support for the proposal, it would appear from the Consultation report that the vast majority of people objected to the proposal. The main issues raised by the submissions included the following:

- Overdevelopment
- Noise
- Traffic and parking
- Height and overshadowing
- Loss of local employment particularly warehousing spaces
- Lack of green space.

It was also noted that existing tenants were having trouble finding alternative premises. Again, this aspect of the Planning Proposal has not been emphasised, and has been glossed over by the fact that the Planning Proposal will provide 2500sqm of non-residential floor space. This floor space is considered to be tokenistic and in response only to objections raised in relation to the Planning Proposal.

The above issues have been taken into consideration in the assessment of this Proposal.

Should the Planning Proposal proceed to the Gateway Determination Stage, any Council community consultation would be undertaken in accordance with the conditions of the Gateway Determination and Council's Community Engagement Framework.

14.0 CONCLUSION

This report contains an assessment of the Planning Proposal for 67-75 Lords Road, Leichhardt and recommends that Council should not refer the planning proposal to the NSW Department of Planning and Environment for a Gateway Determination in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

A Strategic Merit assessment has been carried out against the Department of Planning and Environment's (DPE) "*A Guide to preparing Planning Proposals*" (dated August 2016).

The Planning Proposal fails to meet the requirements of this strategic merit test. It is also inconsistent with the key objectives of Greater Sydney Region Plan 2018, Eastern City District Plan 2018 and the recommendations of the PRCUTS.

There is overwhelming evidence highlighting the need to retain industrial and urban service lands in the LGA, Eastern City and Greater Sydney. Given the extensive loss to the supply of industrial and urban service land that would be suffered by rezoning this site to residential, coupled with the fact that the site is not required for residential floor space, the social and economic costs are too great to support this proposal.

This Planning Proposal has been submitted at a critical time in strategic and infrastructure planning for the broader Inner West Council (IWC) area and the Parramatta Road Corridor (PRC). There are several relevant strategic planning projects currently underway at local and State level, most notably the Comprehensive Inner West Local Environmental Plan and Development Control Plan, Local Housing Strategy, Employment Lands Review and the Local Infrastructure Contributions Plan.

These broad-scale strategic planning projects are considered to be the best means for reviewing the planning controls for the subject site and other sites in the PRCUTS area and local government area (LGA).

15.0 LIST OF ATTACHMENTS

Available as hard copy in Council agenda:

1. Council's Planning Proposal Assessment Checklist
2. Council's Out of Sequence Checklist
3. SGS Economic Impact Assessment Peer Review
4. CM+ Urban Design Peer Review
5. Minutes of Inner West Planning Panel 17 December 2018

Available online as electronic attachments - Please follow the link below to directly access the relevant attachment:

6. [Application Form](#)
7. [Response to Council Comments on Pre-Planning Proposal](#)
8. [Pre-lodgement Matters](#)
9. [Planning Proposal](#)
10. [Pre-Planning Proposal Advice](#)
11. [Appendix A - Consideration against the Eastern City District Plan](#)
12. [Appendix B - Urban Transformation Strategy - Vision](#)
13. [Appendix C - Urban Transformation Strategy - Principles and Strategic Actions](#)
14. [Appendix D - Urban Design Study](#)
15. [Appendix E – Landscape Plan](#)
16. [Appendix F – Draft Development Control Plan](#)
17. [Appendix G – VPA letter of offer](#)
18. [Appendix H – Economic Impact](#)
19. [Appendix I – Traffic Study & Green Travel Plan](#)
20. [Appendix J – Acoustics Report](#)
21. [Appendix K – Flooding and stormwater advice](#)
22. [Appendix L – Contamination advice](#)
23. [Appendix M – Social Impact Assessment](#)
24. [Appendix N – Affordable Housing Report](#)
25. [Appendix O – Sustainability Report](#)
26. [Appendix P – Consultation report](#)
27. [Appendix Q – Advice from Transport for NSW](#)
28. [Appendix R – Benefits of Urban Consolidation](#)
29. [Appendix S – Draft LEP maps](#)
30. [Appendix T – Commercial 3 zone practice note](#)
31. [Appendix U - Utility Providers Letters](#)
32. [Appendix V - Light Spill](#)
33. [Appendix W - Heritage](#)
34. [Appendix X - IIDP](#)
35. [Appendix Y - IIDP Advice Letter](#)
36. [Appendix Z - Infrastructure Schedule](#)

ATTACHMENTS

1. [↓](#) Council's Planning Proposal Assessment Checklist
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ATTACHMENT 1 - PLANNING PROPOSAL ASSESSMENT CHECKLIST

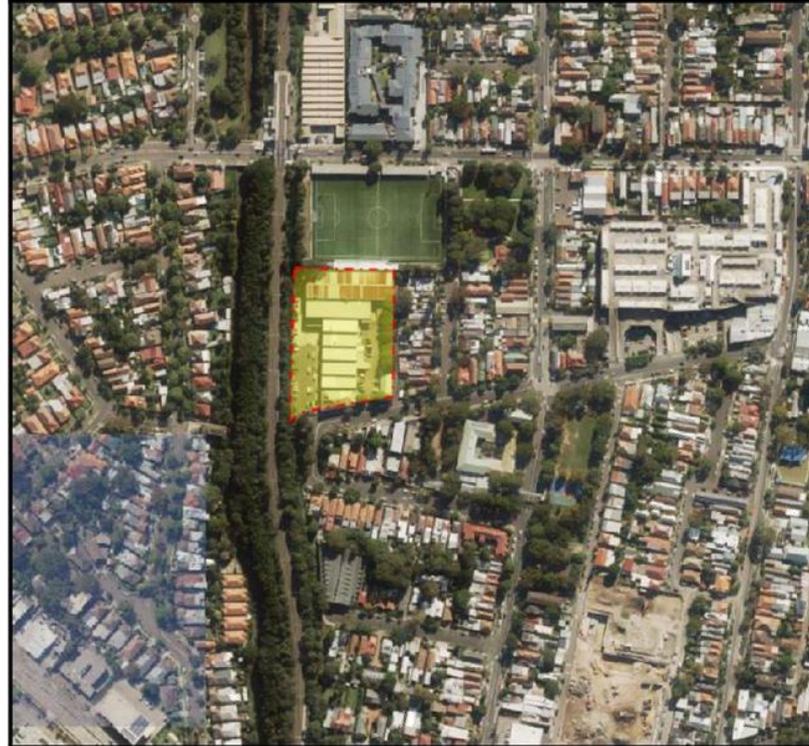
PLANNING PROPOSAL APPLICATION No. IWC_PP_2018_04

67-75 Lords Road, Leichhardt

1. Planning Proposal (LEP Amendment Request) Application Details	
Planning Proposal Application Number:	IWC_PP_2018_04
Property Address:	67-75 Lords Road, Leichhardt
Legal Description:	LOT 1 DP 940543 & LOT 1 DP 550608 (includes easements)
Date of Lodgement:	25 October 2018
Type of Planning Proposal (Minor/ Major/ Complex):	Complex LEP Amendment
Fees Paid:	\$135,000.00 (Complex LEP fee and DCP fee)
Pre-Planning Proposal meeting Minutes (If attended):	Attached to the Planning Proposal report. Letter dated 17 October 2018.
Proponent:	Platino Properties Pty Ltd
Owner/s of the property Notification (Written and signed):	Yes
Current zoning:	Light Industrial IN2
Description of Proposal:	To amend Leichhardt Local Environmental Plan 2013 to enable the redevelopment of 67-75 Lords Road, Leichhardt by rezoning the site from IN2 Light Industrial to R3 Medium Density Residential, introducing a maximum height of building of RL 35, increase the maximum FSR to 2.4:1 and inclusion of a site-specific provision for additional non-residential uses on the site and bonus FSR for a multi-use community use. A draft Voluntary Planning Agreement offer is also included as part of the proposal including public domain works and affordable housing.
Does it propose to reclassify public land?	No
Description of all existing uses and existing development on the land:	Light industrial and commercial uses comprising 9,979sqm of floor space and 17 tenants. Current uses include warehousing/storage, furniture restoration and joinery businesses, private art school and private recreation facilities.
Site area:	10,691sqm
History of subject site (if required):	Detailed in Council report: <ul style="list-style-type: none"> • Planning Proposal (May 2014) - Rezoning the site from IN2 Light Industrial to R3 Medium Density Residential; • Pre-Planning Proposal (August 2018) - Rezoning the site from IN2 Light Industrial to R3 Medium Density Residential and inclusion of some non-residential uses.
Description of surrounding properties:	The northern boundary of the site adjoins Lambert Park. To the east and south of the site are one and two storey single residential terrace dwellings. To the west is the light rail and

1. Planning Proposal (LEP Amendment Request) Application Details	
	Hawthorne Canal.
Any former Council resolutions:	Yes. The former Leichhardt Council previously refused to support a similar Planning proposal on the site in August 2014. This previous Planning Proposal only included residential uses and only related to 67-73 Lords Road Leichhardt. The reasons for refusal of this previous Planning Proposal have been considered in the assessment of this proposal.
Related projects or similar Planning Proposals (any that would impact upon the outcome of this project for e.g. Strategic Sites and Corridor Study):	Parramatta Road Corridor Urban Transformation Strategy 2016; Leichhardt Industrial Land Study 2014; Leichhardt Industrial Precinct Planning 2016
Site visit undertaken:	27 August 2018 and 1 November 2018
Site Description/Context	<p>67-75 Lords Road, Leichhardt is a regular shaped lot, 10,691sqm in area and located in the West Leichhardt precinct of Leichhardt Development Control Plan 2013. The site comprises two allotments and is located on the northern side of Lords Road, with public open space, public roads or railway land adjoining the site on all boundaries. The site has a 77m frontage to Lords Road along the southern boundary and 76m northern boundary to Lambert Park. The eastern and western side boundaries comprise 111.3m and 133.24m respectively.</p> <p>The site is approximately 400m from Parramatta Road and 7km from the Sydney CBD. The site currently accommodates a range of light industrial and commercial uses including warehousing/storage, small scale manufacturing including furniture and joinery businesses as well as a private art school.</p> <p>The existing buildings on the site comprise three (3) buildings directly adjoining each other comprising two (2) storey brick and metal roof buildings as well as a detached single storey brick and metal roof building in the front eastern corner of the site. The maximum height of the existing buildings on the site is approximately 11.5 metres. Vehicle access is currently obtained from two driveways accessing the various businesses from Lords Road. The site is zoned IN2 Light Industrial under the <i>Leichhardt Local Environmental Plan 2013</i> (LLEP 2013) and the maximum FSR for the site is 1:1. LLEP does not stipulate a height control for the site.</p>
Aerial photographs	

1. Planning Proposal (LEP Amendment Request) Application Details



1. Planning Proposal (LEP Amendment Request) Application Details	
Site photos/photomontage	

2. Site Affectations (affecting whole or part of the site)	Y	N	Comments
Is the site a Heritage Item? If so insert Item Number(s).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Is the site a Draft Heritage Item?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Is the site Listed on the State Heritage Register?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Is the site subject to an Interim Heritage Order?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Is the site Listed as a Heritage Item in a State Environmental Planning Policy (includes SREPs)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Is the site located within Conservation Area? If so insert name of the conservation area.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Is the site in the vicinity of any Heritage Items? If so insert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The site adjoins heritage item I655 (House at 20-22 Foster Street)

2. Site Affectations (affecting whole or part of the site)	Y	N	Comments
Heritage Item Number(s) and descriptions.			including interiors – in Lambert Park) and Item No I689 (Kegworth Public School including interiors) is located in close proximity to the site, being located across the road to the south-east.
What Acid Sulfate Soils Class(es) affects the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Class 5 area with Class 3 adjoining to the west (Hawthorne Canal).
Is the site Flood affected? (This includes tidal inundation)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The site is a flood control lot affected by a 1 in 100 year level and the PMF.
Is the site located within the foreshore area (Foreshore building line)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Is the site reserved for a public purpose?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
What Australian Noise Exposure Forecast contour located within?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No affectation, located outside ANEF 20.
Is the site affected by any road widening or realignment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Is the site or any part of the site reserved for acquisition?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Is there an order under the Tree (Disputes Between Neighbours) Act 2006?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No
Is there a site compatibility certificate (Seniors Housing, Infrastructure, Affordable Rental Housing)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Is the site a Boarding House?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Does Council have information on the subject land relating to contamination and /or is the site identified on Council's GIS Contamination Layer on latitude? If so provide details.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Council has advice suggesting 67-73 Lords Road is potentially contaminated.
Is the site located within close proximity to Port or Railway Land or any other land uses that could have adverse impacts upon the amenity of the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The inner west light rail line, zoned SP2 Railway, adjoins the site to the west. Issues of noise and vibration can be considered in detail at DA stage.
Is there any site specific provisions (additional permitted uses) applying to the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Development Applications	Y	N	
Are there any recent or contentious development applications for the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A

2. Site Affectations (affecting whole or part of the site)	Y	N	Comments
Outstanding Notices			
Are there any outstanding notices and orders applying to the subject site? Contact Rates.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No
Caveats or other property restrictions			
Are there any caveats or other property restrictions affecting the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Lot 1 DP 550608 is burdened by easements – ‘Easement for Electricity Supply’ and ‘Easement for Drainage and Access for Maintenance 6 Wide’. This affects the southwestern portion of the site.
S94 Contributions – Identify applicable plans			
Developer Contributions Plan No 1 – Open Space and Recreation (In operation from 18.1.05)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Refer to Infrastructure discussion.
Developer Contributions Plan No 2 – Community Facilities and Services (In operation from 23.8.05)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Refer to Infrastructure discussion.
Transport and Access Contributions Plan (In operation from 3.11.99)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Refer to Infrastructure discussion.

3. Department of Planning and Environment’s Guide to Preparing Planning Proposals Information Checklist	Satisfactory			Comments
	Y	N	N/A	
REQUIREMENTS FOR ALL PLANNING PROPOSALS – A Guide to preparing Planning Proposals - Section 3.33 (2) of the EP&A Act				
Part 1 - Objectives and Intended Outcomes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
The proponent's stated objectives or intended outcomes are considered to be unsatisfactory as discussed below: <ul style="list-style-type: none"> • <i>'A guide to preparing planning proposals'</i> requires a short, concise statement setting out the objectives or intended outcomes of the planning proposal. It is a statement of what is planned to be achieved, not how it is to be achieved and written to allow it to be easily understood. • In this instance, the proponent's statement is considered to be descriptive and is not specific enough to accurately reflect the desired outcome of the proposal as required by the Guidelines. 				

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
<ul style="list-style-type: none"> The site is located in the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) area which recommends rezoning of the site from industrial to medium density residential. However, the Planning Proposal is inconsistent with a number of key recommendations of PRCUTS as detailed later in this report and consequently, should not be supported. 					
Part 2 - Explanation of Provisions		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The explanation of provisions is a more detailed statement of how the objectives or intended outcomes are to be achieved and should identify what zones or development standards are being proposed.</p> <p>While the proponent has addressed this requirement, the Planning Proposal is not supported for the reasons above and others detailed elsewhere in this report.</p>
Part 3 - Justification		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The Planning Proposal does not provide sufficient justification for Council officers to support the Proposal as discussed below:</p>
Q1	Is the Planning Proposal a result of any strategic study or report?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The subject site forms part of the Parramatta Road Corridor. In December 2016, the State Government endorsed the Parramatta Road Corridor Transformation Strategy (PRCUTS) to facilitate renewal of the land in the Corridor.</p> <p>However, as discussed in detail further in this report, the Proposal is inconsistent with the requirements of PRCUTS including the Implementation Plan 2016 - 2023, Out of Sequence Checklist and Planning and Design Guidelines and therefore, should not be supported.</p>
Q2	Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The PRCUTS includes the Parramatta Road Corridor Implementation Toolkit which recommends that one of the pathways to implement the recommended land uses and development controls identified within the Strategy is the LEP Gateway (Planning Proposal) process.</p> <p>However, this Planning Proposal departs from the</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
					<p>staging identified under the Implementation Plan 2016 – 2023 and comes in advance of studies underway at local and state government to inform future development controls for the Inner West Council local government area.</p> <p>The Proposal is considered premature in light of the imminent outcomes of strategic planning projects including the IWC Employment Lands Review, IWC Local Housing Strategy and comprehensive IWC LEP/DCP.</p> <p>Given that outcomes of the State and local strategic planning are anticipated in the short term, it is recommended that the land use future of the site be considered as part of this broader framework rather than as an ad hoc Planning Proposal. This would ensure an informed approach when determining the future development of the site and surrounding area. This should also align with the staging recommended in PRCUTS Implementation Plan 2016 - 2023.</p>
Q3	Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy including any exhibited draft plans or strategies? Consistency with relevant Strategies is demonstrated below:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal has been considered against the priorities and objectives of the <i>Greater Sydney Region Plan 2018 (GSRP)</i> , <i>Eastern City District Plan 2018 (District Plan)</i> and <i>Parramatta Road Urban Transformation Strategy (PRCUTS)</i> . The Planning Proposal is inconsistent with numerous objectives, Planning Priorities and requirements contained in these strategic planning documents. These issues are discussed in further detail below.
Greater Sydney Regional Plan 2018 (GSRP) – A Metropolis of Three Cities					
Direction 1: A city supported by infrastructure					
	Objective 1: Infrastructure supports the three cities.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A for this site.

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
Objective 2: Infrastructure aligns with forecast growth - growth infrastructure compact		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The GSRP emphasises a methodological and sequential approach. In particular, this Objective states that aligning infrastructure with growth requires a <i>methodical and sequenced approach to development</i>. It requires a whole-of-government approach and a place-based understanding of sequencing of infrastructure delivery, which is considered to enable planning to support infrastructure alignment with areas of growth and transformation before areas are rezoned and ready for development. This approach results in the staging plan for each of the Precincts of the PRCUTS.</p> <p>The PRCUTS Implementation Plan 2016 - 2023 guides and informs land use planning and development decisions in the short term.</p> <p>The subject site is outside the '2016 - 2023 Release Area' for the Taverners Hill Precinct which means that the redevelopment of the site is expected to be in the medium to long term between 2024 and 2054. Proposals that depart from this staging and sequencing need to be considered against an 'Out of Sequence Checklist'. This Checklist aims to ensure that changes to the land use zone and development controls do not occur without meeting the underlying Principles and Strategic Actions of the Strategy, such as enhanced public transport, services and social infrastructure to service a new population. The Checklist also aims to ensure the established benchmarks for the quality of development and public domain outcomes desired for the Corridor are achieved.</p> <p>An assessment of the proposal against the Out of Sequence Checklist is contained in Attachment 2.</p>
<ul style="list-style-type: none"> Strategy 2.1 - Align forecast growth with Infrastructure. Strategy 2.2 - Sequence infrastructure provision across Greater Sydney using a place-based approach. 					

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
					The Proposal should not be supported as it is inconsistent with the Checklist criteria and would result in a development that is out of alignment with infrastructure provision which is contrary to this Plan.
	Objective 3: Infrastructure adapts to meet future needs. <ul style="list-style-type: none"> Strategy 3.1 - Consider the adaptability of infrastructure and its potential shared use when preparing infrastructure strategies and plans. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	This objective aims to "future proof" the provision of infrastructure. The provision for car sharing and plug in areas for electric cars would satisfy this objective which can be included in any redevelopment of the site.
	Objective 4: Infrastructure use is optimised. <ul style="list-style-type: none"> Strategy 4.1 - Maximise the utility of existing infrastructure assets and consider strategies to influence behaviour changes, to reduce the demand for new infrastructure, including supporting the development of adaptive and flexible regulations to allow decentralised utilities. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal supports the use of existing infrastructure being located in close proximity to transport, public open space and commercial services.
Direction 2: A collaborative city					
	Objective 5: Benefits of growth realised by collaboration of governments, community and business.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The subject site is located in the Eastern City District Plan and is not within a Collaboration Area.
Direction 3: A city for people					
	Objective 6: Services and infrastructure meets communities' changing needs. <ul style="list-style-type: none"> Strategy 6.1 - Deliver social infrastructure that reflects the needs of the community now and in the future. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proponent offers to make financial agreements for infrastructure provision at local and state level through a draft letter of offer to enter into a VPA, however the contributions and scope of works are considered to be too limited. The Planning Proposal comes in advance of Council's

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
	<ul style="list-style-type: none"> Strategy 6.2 - Optimise the use of available public land for social infrastructure. 				<p>new s7.11 (formerly s94) contributions plan which intends to build financial capacity for provision of additional infrastructure in the Parramatta Road Corridor (PRC) and support the future population in the Inner West LGA. Local infrastructure cannot be adequately levied for spot rezonings in the PRCUTS corridor until such time as IWC completes this new Section 7.11 Developer Contribution Plan.</p> <p>In the absence of this information, Council cannot make an informed decision regarding the redevelopment of the site or any site along the PRC. It is recommended that the Proposal not be supported until such work has been completed by Council.</p> <p>It is also noted that State Infrastructure Contributions (SIC) cannot be adequately determined at this stage as the Department has not yet introduced a State levy for redevelopments along PRC. At this stage the Department has no plan to prepare a SIC Plan for the corridor.</p> <p>Should the Planning Proposal proceed to Gateway Stage, the Proposal must be conditioned to include satisfactory arrangement provisions for both State and Local contributions.</p>
	<p>Objective 7: Communities are healthy, resilient and socially connected.</p> <ul style="list-style-type: none"> Strategy 7.1 - Deliver healthy, safe and inclusive places for people of all ages and abilities that support active, resilient and socially connected communities by: 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The Planning Proposal will result in a residential development which is close to public transport facilities, parks, services and open spaces.</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
	<ul style="list-style-type: none"> ▪ providing walkable places at a human scale with active street life ▪ prioritising opportunities for people to walk, cycle and use public transport ▪ co-locating schools, health, aged care, sporting and cultural facilities ▪ promoting local access to healthy fresh food and supporting local fresh food production. 				
	Objective 8: Greater Sydney's communities are culturally rich with diverse neighbourhoods. <ul style="list-style-type: none"> • Strategy 8.1 - Incorporate cultural and linguistic diversity in strategic planning and engagement. • Strategy 8.2 - Consider the local infrastructure implications of areas that accommodate large migrant and refugee populations. 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not directly applicable to the site.
	Objective 9: Greater Sydney celebrates the arts and supports creative industries and innovation. <ul style="list-style-type: none"> • Strategy 9.1 - Facilitate opportunities for creative and artistic expression and participation, wherever feasible with a minimum regulatory burden, including: <ul style="list-style-type: none"> ▪ arts enterprises and facilities and creative industries ▪ interim and temporary uses ▪ appropriate development of the night-time economy. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Proposal is considered to be inconsistent with this objective as it will result in loss of industrial land and creative uses that it currently houses, and has the potential to house in the future, under the existing zoning provisions of LLEP 2013. The site currently includes Art Est as well as other light industrial uses which contribute to the creative industries sector.
Direction 4: Housing the city					
	Objective 10: Greater housing supply <ul style="list-style-type: none"> • Action 3 Prepare housing strategies 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	This objective allows councils to deliver greater housing supply by preparing housing strategies, developing 6 - 10 year housing targets and identifying areas suited for

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
	<ul style="list-style-type: none"> Action 4 Develop 6–10 year housing targets 				<p>urban renewal/ local infill development.</p> <p>To inform the preparation of housing strategies by councils, district plans provide housing supply targets for a 0-5 year timeframe by local government area. These five-year targets reflect the existing development pipeline and provide a focus for infrastructure delivery. This Plan sets a target of 46,550 homes for the 0-5 year target for the Eastern City while the Eastern City District Plan sets a 0–5 year housing supply target (2016–2021) of 5,900 dwellings for the IWC area.</p> <p>Councils are to work with the Greater Sydney Commission and State agencies to establish agreed 6-10 year housing targets for their local government area.</p> <p>The 6-10 year housing targets will build on the five-year targets and will be agreed with councils over the next 18-24 months in collaboration with the Greater Sydney Commission as councils develop their housing strategies and identify the right locations to meet their housing needs (i.e. proximity to transport and strategic and local centres for walkable neighbourhoods with access to jobs, schools and open space and opportunities to optimise existing infrastructure).</p> <p>Planning for housing supply beyond 2026 is more strategic to allow for a range of changing circumstances and industry responses to market changes. Therefore the 20-year strategic housing targets at the district level provide the longer-term context for housing strategies.</p> <p>PRCUTS envisages the following growth for the Taverners Hill precinct:</p> <ul style="list-style-type: none"> No. of dwellings by 2023: 451

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
					<ul style="list-style-type: none"> No. of dwellings by 2050: 1,350 <p>The subject site is recommended for rezoning from IN2 to R3 Medium Density Residential. However, as discussed in the previous sections, the site is outside the 2016 - 2023 Release Area which means that the development of the site should occur over the medium to long term rather than in the short term.</p> <p>The rezoning of the site is not required to meet the Plan's short term housing supply target for Inner West LGA and in the absence of a housing strategy for the 6-10 year housing targets for the IWC area, it is considered that this Planning Proposal cannot be supported at this time. Good strategic planning links the delivery of new homes in the right locations with local infrastructure which cannot happen when sites are developed out of sequence as proposed.</p>
	Objective 11: Housing is more diverse and affordable. <ul style="list-style-type: none"> Strategy 11.1 - Prepare Affordable Rental Housing Target Schemes, following development of implementation arrangements. Strategy 11.2 - State agencies, when disposing or developing surplus and for residential or mixed-use projects include, where viable, a range of initiatives to address housing diversity and/or affordable rental housing. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The Planning Proposal involves the provision of affordable housing through a VPA. This involves the provision of 35 apartments within the development to be owned and managed by Bridge Housing for a minimum of 10 years.</p> <p>This is considered to be generally consistent with this GSRP objective which sets a minimum affordable housing target of 5% of new residential floor space created as a result of a rezoning. Notwithstanding, the proposed amount of affordable housing and tenure arrangement is inconsistent with Council's Affordable Housing Policy.</p>
Direction 5: A city of great places					

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
Objective 12: Great places that bring people together.	<ul style="list-style-type: none"> • Strategy 12.1: Using a place-based and collaborative approach throughout planning, design, development and management, deliver great places by: <ul style="list-style-type: none"> ▪ prioritising a people-friendly public realm and open spaces as a central organising design principle ▪ recognising and balancing the dual function of streets as places for people and movement ▪ providing fine grain urban form, diverse land use mix, high amenity and walkability in and within a 10-minute walk of centres ▪ integrating social infrastructure to support social connections and provide a community hub ▪ recognising and celebrating the character of a place and its people. • Strategy 12.2: In collaboration Areas, Priority Precincts and planning for centres.... 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The proposal will contribute towards the redevelopment of a site for residential dwellings which would be located close to public open spaces and transport services, thus contributing to the development of a great place.</p> <p>In general, the Planning Proposal achieves this Objective however, at this time it is considered out of sequence and with significant urban design issues to be addressed.</p> <p>The site is not located in any Collaboration Area, Priority Precincts or centres.</p>
Objective 13: Environmental heritage is identified, conserved and enhanced.	<ul style="list-style-type: none"> • Strategy 13.1: Identify, conserve and enhance environmental heritage by: <ul style="list-style-type: none"> ▪ engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of the place ▪ applying adaptive re-use and interpreting heritage to foster distinctive local places ▪ managing and monitoring the cumulative impact of development on the heritage values and 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The site is not located within a Heritage Conservation area nor does it contain a heritage item, however, a heritage item adjoins the site to the north (former dwelling within Lambert Park). A Heritage Impact Statement has been provided with the Planning Proposal which concludes that there will be no adverse impacts on this heritage item.</p> <p>The Heritage Impact Statement does not adequately consider whether there will be any adverse impacts on the heritage value of the nearby heritage items including the item at Lambert Park and Kegworth Public School, nor does it consider the potential significance of the</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
	character of places.				buildings on the site which are to be demolished.
Direction 6: A well connected city					
	Objective 14: A metropolis of three cities- integrated land use and transport creates walkable and 30-minute cities.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposal will result in a residential development which is close to public transport facilities, parks, services and open spaces and can potentially contribute to the creation of a walkable place.
	Objective 15: The Eastern, GOP and Western Economic Corridors are better connected and more competitive.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to the site and the Planning Proposal is not inconsistent with this Objective.
	Objective 16: Freight and logistics network is competitive and efficient.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to the site and the Planning Proposal is not inconsistent with this Objective.
	Objective 17: Regional transport is integrated with land use.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to the site and the Planning Proposal is not inconsistent with this Objective.
Direction 7: Jobs and skills for the city					
	Objective 18: Harbour CBD is stronger and more competitive.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not located in the Harbour CBD.
	Objective 19: Greater Parramatta is stronger and better connected.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not located in this area.
	Objective 20: Western Sydney Airport and Badgery's creek Aerotropolis are economic catalysts for Western Parkland City.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not located in this area.
	Objective 21: Internationally competitive health, education, research and innovation precincts.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not located in any of these precincts.
	Objective 22: Investment and business activity in centres.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not located in this area.
	Objective 23: Industrial and urban services land is planned, retained and managed.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Plan outlines three different approaches to manage industrial and urban services land including retain and manage, review and manage and plan and manage. The Plan recommends the 'retain and manage' approach for all existing industrial land in the Eastern City District. This
	Strategy 23.1: Retain, review and plan industrial and urban				

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
	services land in accordance with the principles for managing industrial and urban services land.				<p>approach states (emphasis added):</p> <p><i>"Retain and Manage - All existing industrial and urban services land should be safeguarded from competing pressures, especially residential and mixed-use zones. This approach retains this land for economic activities required for Greater Sydney's operation, such as urban services. Specifically, these industrial lands are required for economic and employment purposes. Therefore the number of jobs should not be the primary objective rather a mix of economic outcomes that support the city and population."</i></p> <p>This retain and manage approach applies across the Eastern Harbour City.</p> <p>While it is acknowledged that the land subject of the PRCUTS is not subject to the industrial land strategies and actions of the ECDP, the Plan does also indicate that councils will be required to undertake a strategic review of industrial and employment activities as part of their review of their local environmental plan, to be approved by the Greater Sydney Commission. The Greater Sydney Commission will monitor the performance of the principles to manage industrial and urban services land, including a formal review every five years.</p> <p>The Plan also states that the management of industrial and urban services land requires ongoing monitoring of changing industry needs, trends and new technologies. From time to time, controls may need to be reviewed to support the evolution of economic functions on industrial</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
					<p>and urban services land and the diversity of activities within precincts.</p> <p>The Plan also notes that research prepared for the Greater Sydney Commission identified a benchmark requirement of 3sqm of industrial land per capita for urban services activities. The current and projected per capita level of provision in the Eastern Harbour City are already well below this benchmark. For these reasons, it is considered that a precautionary approach should be taken to this site, despite the exclusion of the PRCUTS area, given the significant loss of industrial land which has occurred in recent years.</p> <p>This objective has been assessed in detail in the report under the corresponding Priority of the ECDP.</p>
	Objective 24: Economic sectors are targeted for success.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to this Planning Proposal, with the exception of creative industries being a targeted sector, and the loss of such land capable of including creative industries. This is discussed in the context of Objective 23.
Direction 8: A city in its landscape					
	Objective 25: The coast and waterways are protected and healthier.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not located on the coast and will not adversely impact on any waterways.
	Objective 26: A cool and green parkland city in the South Creek corridor.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not located in this catchment area.
	Objective 27: Biodiversity is protected, urban bushland and remnant vegetation is enhanced.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The site is located near Hawthorne Canal and the GreenWay which is an urban green corridor. While the proposal provides an approximate setback of 50m to the

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	Y	N	N/A	
<p>Strategy 27.1 - Protect and enhance biodiversity by:</p> <ul style="list-style-type: none"> • supporting landscape-scale biodiversity conservation and the restoration of bushland corridors • managing urban bushland and remnant vegetation as green infrastructure • managing urban development and urban bushland to reduce edge-effect impacts. 				<p>Canal and GreenWay, the setback to the western boundary is considered to be insufficient to accommodate medium to large size trees and vegetation to augment the GreenWay. This setback is considered essential to provide soft landscaping and deep soil planting in order to enhance the outlook of the biodiversity corridor and public domain and to reduce the impact of the hardscape built form on the surrounding area.</p> <p>The Proponent's concept design provides a 6m setback at ground level to the western side boundary of the site. Greater setbacks are required to provide the green corridor along the GreenWay and enhance the environmental value of this area. There are also some trees proposed to be removed at the Lords Road and Davies Lane corner of the site which should be retained. These issues are considered below.</p>
<p>Objective 28: Scenic and cultural landscapes are protected.</p> <p>Strategy 28.1 - Identify and protect scenic and cultural landscapes.</p> <p>Strategy 28.2 - Enhance and protect views of scenic and cultural landscapes from the public realm.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>The site is not located in an area of high scenic or cultural landscape.</p>
<p>Objective 29: Environmental, social and economic values in rural areas are protected and enhanced.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>The site is not located within the Metropolitan Rural Area (Figure 49 of GSRP).</p>
<p>Objective 30: Urban tree canopy cover is increased.</p> <p>Strategy 30.1 - Expand urban tree canopy in the public realm.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>While the concept design provides additional landscaping opportunities both within and surrounding the site, including street tree planting, there are some concerns with the current planting regime. The proposal needs to</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
					<p>comply with Leichhardt DCP 2013 C1.12 Landscaping, C1.13 Open Space Design within the Public Domain and C1.14 Tree Management as minimum standards. It is also considered that all existing trees on the site should be retained under the proposal. Further street trees with verge planting along Lords Road should be established.</p> <p>In essence, Council supports 'Strategy 1 – Augment Greenway Corridor' of the Proponent's Urban Design Study.</p>
	<p>Objective 31: Public open space is accessible, protected and enhanced.</p> <p>Strategy 31.1 - Maximise the use of existing open space and protect, enhance and expand public open space by:</p> <ul style="list-style-type: none"> • providing opportunities to expand a network of diverse, accessible, high quality open spaces that respond to the needs and values of communities as populations grow • investigating opportunities to provide new open space so that all residential areas are within 400 metres of open space and all high density residential areas (over 60 dwellings per hectare) are within 200 metres of open space • requiring large urban renewal initiatives to demonstrate how the quantity of, or access to high quality and diverse local open space is maintained or improved • planning new neighbourhoods with a sufficient quantity and quality of new open space • delivering shared and co-located sports and 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The Proposal in its current form does not sufficiently contribute towards the enhancement of public open space in the area. While the centrally located open space area on the site is to be publicly accessible, the lack of public interface is likely to result in it being a private space only.</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
	recreational facilities including shared school grounds and repurposed golf courses <ul style="list-style-type: none"> • delivering or complementing the Greater Sydney Green Grid • providing walking and cycling links for transport as well as leisure and recreational trips. 				
	Objective 32: The Green Grid links parks, open spaces, bushland and walking and cycling paths. Strategy 32.1 - Progressively refine the detailed design and delivery of: <ul style="list-style-type: none"> • Greater Sydney Green Grid priority corridors • opportunities for connections that form the long term vision of the network • walking and cycling links for transport as well as leisure and recreational trips. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Proponent claims that open space and linkages will be provided along the site's western edge as part of a secondary GreenWay link with possible connection to the Marion Light rail stop. However, this has not been considered by the relevant authorities and therefore the likelihood of this eventuating is unknown. The Proponent considers that the setback along this boundary would be part of this open space network. No provision has been made to ensure that this open space would actually be accessible for community use. The proposal in its current form does not make a sufficient contribution towards achieving this vision.
Direction 9: An efficient city					
	Objective 33: A low-carbon city contributes to net-zero emissions by 2050 and mitigates climate change. Strategy 33.1 - Support initiatives that contribute to the aspirational objective of achieving net-zero emissions by 2050 especially through the establishment of low-carbon precincts in Planned Precincts, Growth Areas and Collaboration Areas.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal provides a Sustainability Report which details how a future proposal could achieve sustainability outcomes on the site. The site-specific Draft DCP also includes sustainability controls, including the following: <p><i>a. Development on the site is to target a Green Star Design and As Built v2.1 (2018) rating tool designed by the GBCA.</i></p>
	Objective 34: Energy and water flows are captured, used and re-used.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p><i>b. Vegetation, green roofs, green walls and materials</i></p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
	<p>Strategy 34.1 - Support precinct-based initiatives to increase renewable energy generation and energy and water efficiency especially in Planned Precincts and Growth Areas, Collaboration Areas and State Significant Precincts.</p>				<p><i>with a high solar reflectance index are encouraged on at least 50% of the surfaces of all buildings, with particular focus on western and northern building facades.</i></p>
	<p>Objective 35: More waste is re-used and recycled to support the development of a circular economy.</p> <p>Strategy 35.1 - Protect existing, and identify new, locations for waste recycling and management.</p> <p>Strategy 35.2 - Support innovative solutions to reduce the volume of waste and reduce waste transport requirements.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The Sustainability Report provided with the Planning Proposal is a generic and theoretical description of the potential sustainability measures which could be provided in the future redevelopment of the site. There are very limited references to the site or the proposal.</p> <p>There is no referencing or consideration of the sustainability requirements under the Sustainability Implementation Plan, one of several PRCUTS reference reports. The Proponent's report does not address the Precinct specific sustainability targets nor does it address the car parking requirements of unbundled, decoupled and minimised car parking for the site.</p> <p>For the Planning Proposal to be consistent with this Objective and PRCUTS, adequate provisions would have to be made in the LLEP 2013 or the associated VPA letter of offer to ensure that these sustainability targets would be achieved at the DA stage.</p>
Direction 10: A resilient city					
	<p>Objective 36: People and places adapt to climate change and future shocks and stresses.</p> <p>Strategy 36.1 - Support initiatives that respond to the impacts of climate change.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>The Planning Proposal is not contrary to this provision.</p>
	<p>Objective 37: Exposure to natural and urban hazards is reduced.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>There are some natural hazards affecting the site including flooding and acid sulfate soils. These are</p>

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		Y	N	N/A	
	<p>Strategy 37.1 - Avoid locating new urban development in areas exposed to natural and urban hazards and consider options to limit the intensification of development in existing urban areas most exposed to hazards.</p> <p>Strategy 37.2 - Respond to the direction for managing flood risk in the Hawkesbury-Nepean Valley as set out in <i>Resilient Valley, Resilient Communities – Hawkesbury-Nepean Valley Flood Risk Management Strategy</i>.</p>				<p>considered to be adequately addressed in the studies and reports provided with the Planning Proposal.</p> <p>The site is not located in the Hawkesbury-Nepean river catchment.</p>
	<p>Objective 38: Heatwaves and extreme heat are managed.</p> <p>Strategy 38.1 - Mitigate the urban heat island effect and reduce vulnerability to extreme heat.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal provides additional tree cover and in this way would contribute to reducing the heat island effect. Tree cover is addressed elsewhere in this report.
Implementation					
	Objective 39: A collaborative approach to city planning	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to this Planning Proposal.
	Objective 40: Plans refined by monitoring and reporting.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to this Planning Proposal.
Eastern City District Plan (ECDP) 2018					
Direction 1: A city supported by infrastructure					
	<p>E1: Planning for a city supported by infrastructure.</p> <p>Action 3: Align forecast growth with infrastructure.</p> <p>Action 4: Sequence infrastructure provisions using a place-based approach.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Same as comments under GSRP Direction 1 (Objective 2). The Planning Proposal involves development on a site which is out of sequence with the PRCUTS and which does not satisfy the infrastructure provision requirements of the out of sequence checklist contained within the PRCUTS Implementation Plan 2016 - 2023.
Direction 2: A collaborative city					
	<p>E2: Working through collaboration.</p> <p>Action 7: Identify, prioritise and deliver Collaboration Areas.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Same as comments under GSRP Direction 2. While the PRCUTS, initially developed by UrbanGrowth NSW, is described in the Plan as being a collaboration between councils implementing the Strategy, and supported by

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		Y	N	N/A	
					the Commission, the site is not in a Collaboration Area.
Direction 3: A city for people					
	E3: Providing services and social infrastructure to meet people's changing needs. Action 8: Deliver social infrastructure that reflects the needs of the community now and in the future Action 9: Optimise the use of available public land for social infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Same as comments under GSRP Direction 3 (Objective 6). The Planning Proposal comes in advance of Council's new s7.11 (previously called s94) contributions plan which intends to build financial capacity for provision of additional infrastructure in the PRC and support the future population in the Inner West LGA. Local infrastructure cannot be adequately levied for spot rezonings in the PRC until such time as IWC completes this new Section 7.11 Developer Contribution Plan. In the absence of this information, Council cannot make an informed decision regarding the redevelopment of the site or any site along the PRC. It is recommended that the Proposal not be supported until such work has been completed by Council.
	E4: Fostering healthy, creativity, culturally rich and socially connected communities. Action 10: Deliver healthy, safe and inclusive places for people of all ages and abilities that support active, resilient and socially connected communities by: <ol style="list-style-type: none"> providing walkable places at a human scale with active street life prioritising opportunities for people to walk, cycle and use public transport co-locating schools, health, aged care, sporting and cultural facilities promoting local access to healthy fresh food and 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal will result in a residential development which is close to public transport facilities, parks, services and open spaces which satisfies Action 10. Actions 11, 12, 13 and 15 have not directly been catered for within the Planning Proposal, although the Planning Proposal is not necessarily inconsistent with them. The Planning Proposal is considered to be inconsistent with Action 14 given it will result in the loss of industrial land that currently houses, and has the potential to house in the future, creative industries or uses under the

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		Y	N	N/A	
	<p>supporting local fresh food production.</p> <p>Action 11: Incorporate cultural and linguistic diversity in strategic planning and engagement</p> <p>Action 12: Consider the local infrastructure implications of areas that accommodate large migrant and refugee populations</p> <p>Action 13: Strengthen the economic self-determination of Aboriginal communities by engagement and consultation with Local Aboriginal Land Councils to better understand and support their economic aspirations as they relate to land use planning.</p> <p>Action 14: Facilitate opportunities for creative and artistic expression and participation, wherever feasible with a minimum regulatory burden, including:</p> <ol style="list-style-type: none"> arts enterprises and facilities, and creative industries interim and temporary uses appropriate development of the night-time economy. <p>Action 15: Strength social connections within and between communities through better understanding of the nature of social networks and supporting infrastructure in local places.</p>				existing zoning provisions of LLEP 2013 (Objective 9 in the GSRP). The site currently includes Art Est as well as other light industrial uses which contribute to the creative industries sector. While the Planning Proposal suggests that such uses could be retained under the amended planning framework, compatibility with residential development (in terms of hours of operation, servicing, car parking and potential noise impacts) is unclear and unlikely.
Direction 4: Housing the city					
	E5: Providing housing supply, choice and affordability with access to jobs and services.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Same as comments under GSRP Direction 4 (Objective 10).

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		Y	N	N/A	
	Action 16: Prepare local or district housing strategies Action 17: Prepare Affordable Rental Housing Target Schemes following development of implementation arrangements				Good strategic planning links the delivery of new homes in the right locations with local infrastructure which cannot happen when sites are developed out of sequence. While the Planning Proposal provides affordable housing consistent with Action 17, in general the Planning Proposal is out of sequence and ahead of the Council's Housing Strategy, and is therefore inconsistent with this District Plan and the GSRP.
Direction 5: A city of great places					
	E6: Creating and renewing great places and local centres, and respecting the District's heritage. Action 18: Using a place-based and collaborative approach throughout planning, design, development and management, deliver great places... Action 19: In Collaboration Areas, Planned Precincts and planning for centres.... Action 20: Identify, conserve and enhance environmental heritage Action 21: Use place-based planning to support the role of centres as a focus for connected neighbourhoods. Action 22: Use flexible and innovative approaches to revitalise high streets in decline.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Same as comments under GSRP Direction 5 (Objective 12). The proposal will contribute towards the redevelopment of a site for residential dwellings which would be located close to public open spaces and transport services, thus potentially contributing to the development of a great place (Actions 18 & 21). The Planning Proposal is considered out of sequence and with significant urban design issues to address. The site is not located in any Collaboration Area, Priority Precincts or centres (Action 19). The Planning Proposal does not adequately address whether there are any adverse impacts to the heritage value of the adjoining and nearby heritage items and is therefore inconsistent with Action 20. The site is not located on a high street (Action 22)
Direction 6: A well connected city					
	E10: Delivering integrated land use and transport planning	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Refer below.

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		Y	N	N/A	
	and a 30-minute city.				
Direction 7: Jobs and skills for the city					
	E7: Growing a stronger and more competitive Harbour CBD.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not located in the Harbour CBD.
	E8: Growing and investing in health and education precincts and the Innovation Corridor.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not located in any health or education precincts or an innovation corridor.
	E9: Growing international trade gateways.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not located in any trade gateway.
	E 10: Delivering integrated land use and transport planning and a 30-minute city.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Same as comments under GSRP Direction 6.
	E11: Growing investment, business opportunities and jobs in strategic centres.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not located in a strategic centre.
	E12: Retaining and managing industrial and urban services land. Action 51: Retain and manage industrial and urban services land, in line with the Principles for managing industrial and urban services land in the Eastern City District by safeguarding all industrial zoned land from conversion to residential development, including conversion to mixed use zones. In updating local environmental plans, councils are to conduct a strategic review of industrial land. Action 52: Facilitate the contemporary adaptation of industrial and warehouse buildings through increased floor to ceiling heights.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No. See below.
The Planning Proposal is inconsistent with the key objective of the ECDP which recommends that all industrial and urban services land in the Eastern District be protected from conversion to residential development including any form of mixed uses. The Plan however, excludes the Parramatta Road Corridor Urban Transformation Strategy area from implementation of this objective as it					

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	Y	N	N/A	
				<p>notes that extensive work has been undertaken to develop PRCUTS and therefore rezoning of industrial lands in the PRC can proceed. This poses a conundrum in relation to the approach of protecting existing industrial land across the Eastern District.</p> <p>Industrial lands across Greater Sydney are increasingly experiencing pressure for residential rezoning. This has become a challenge across the metropolitan area, particularly in the Eastern City where higher land values and proximity to transport and employment centres have driven the conversion of many inner city industrial precincts. The NSW Government have identified the need for a more 'protectionist' approach to industrial lands in response to deal with any further contractions in supply.</p> <p>Consequently, the GSRP and ECDP advocate a "retain and manage approach" for industrial land in the Eastern City District area except for the PRC. The District Plan elaborates on this point with a requirement that councils pursuing this approach should undertake a strategic review of industrial land as part of updating local environmental plans. This review is imminent, but will take some time for IWC to complete. Supporting a Planning Proposal which rezones industrial land to residential without such a review process having been completed is considered premature.</p> <p>The GSRP states that in the Eastern Harbour City, there are many smaller industrial precincts which have a higher than average proportion of urban services activities. The Plan states that while these smaller industrial precincts may appear to be only a small part of the industrial land supply, they are important for providing urban services and, in some cases, creative industries (pg. 130). This is the case for the subject site. Interestingly, the GSRP also highlights that research identified a benchmark requirement of 3sqm of industrial land per capita for urban services activities was needed, however, the current and projected per capita provision in the Eastern Harbour City is already well below this benchmark.</p> <p>In the interim, a number of methods and existing policies can be deployed to assess industrial land rezoning proposals. These include Council's policies such as <i>Leichhardt Employment and Economic Development Plan (EEDP) (2013)</i>, <i>Leichhardt Industrial Lands Study (SGS, 2014)</i>, and the <i>Leichhardt Industrial Precincts Planning Report (SGS, 2016)</i>. The <i>Subregional Industrial Precinct Review</i> prepared by HillPDA on behalf of the DPE as background to the GSRP and District Plans is also relevant. These plans and reports are considered in detail below.</p> <p><u><i>Leichhardt Employment and Economic Development Plan 2013-2023 (EEDP)</i></u></p> <p>The Leichhardt Employment and Economic Development Plan (EEDP) is a 10-year strategy for the future economic development of the Leichhardt LGA. Its purpose is to identify initiatives that can make a fundamental improvement to Leichhardt's economy. It should be noted that studies that have been completed since the preparation of the EEDP, including the Leichhardt Industrial Lands Study 2014, have a revised policy position and are therefore, of greater relevance.</p> <p>The EEDP identifies significant barriers to renewing the LGA's industrial precincts, including:</p> <ul style="list-style-type: none"> the ongoing shift of light industrial, manufacturing and logistical businesses to Western Sydney locations that can offer better value

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	Y	N	N/A	
				<p>premises that suit their needs (e.g. larger floorplates, better access for trucks)</p> <ul style="list-style-type: none"> • a mismatch between the needs of contemporary light industrial businesses and the characteristics and quality of the available space in the LGA • relatively small lots and fragmented land ownership • limited feasibility of making improvements to existing industrial sites due to low rental returns and significant capital expenditure requirements. <p>The Plan identifies seven Objectives for improving the vitality and viability of the local economy:</p> <ul style="list-style-type: none"> • Objective 1: Make place matter • Objective 2: Meet people's needs • Objective 3: Embrace the new economy • Objective 4: Protect and leverage economic assets • Objective 5: Make business and employment easier • Objective 6: Communicate and connect with partners • Objective 7: Tell the world <p>In terms of the current Planning Proposal, Objective 4 to protect and leverage economic assets is particularly relevant. This objective is important because it is essential that the LGA retains enough industrial land to meet the current and future needs of the local area.</p> <p>The Plan suggests that Council can help the LGA's industrial areas adapt to changing market forces by permitting a broader range of uses in them, however any policy decisions on increasing the flexibility of uses in nominated industrial precincts should be approached strategically and informed by thorough market research. Other factors such as amenity, privacy, traffic generation and urban design also require full consideration being given to the protection of key industrial lands. These issues are fundamental to the assessment of this Planning Proposal given it involves a variety of uses which may not necessarily be compatible.</p> <p>This Plan recognises that a more focused analysis of fragmented industrial lands in the LGA with respect to their suitability for a range of employment generating uses and in the context of the LGA's broader economic trends and needs is needed. This recommendation has three key components:</p> <ol style="list-style-type: none"> 1. A co-ordinated approach to reviewing sites (and where possible concurrent approach) to ensure an LGA wide perspective is maintained particularly in relation to the need for, and suitability of, the sites for various uses both today and in the future; 2. A consistent approach is achieved by reviewing the sites against standard criteria

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3. Where sites are found to be surplus to requirements and proposed to be rezoned, their suitability against a range of alternative uses is considered. For example, their potential rezoning and use for creative industries, commercial office space or affordable housing.				<p>The Plan advocates the use of standardised criteria which has been designed to qualify the suitability of sites from a quantitative perspective (i.e. is there enough industrial land to meet current and forecast demand), a qualitative perspective (i.e. does the industrial land have the attributes required by potential tenants) and from the perspective of economic viability (i.e. are industrial uses viable on the land).</p> <p>The Plan establishes such criteria against which proposed rezoning of industrial land should be assessed with rezoning proposals that can best respond to the criteria considered to have merit. For this Planning Proposal, consideration of this criteria found the following:</p> <ul style="list-style-type: none"> <i>Would the rezoning result in insufficient industrial land being available for current and future demand for industrial land in the LGA, at a minimum?</i> - Former Leichhardt Council's Industrial Lands Study 2014 and Industrial Precincts Planning Report 2016 recommend protection and intensification of industrial sites in the local area due to a shortage of industrial land at the sub-regional level as outlined above. It was forecast that the LGA would not have sufficient land within existing precincts to accommodate the future demand of 63,094sqm by 2036. The area is projected to have a shortfall of between 7, 570sqm and 54,965sqm by 2036. <p>While the Planning Proposal advocates that given industrial uses have steadily declined and/or moved further west, that only land for 'services employment' is now needed in these types of locations, this ignores the land required for population serving services such as motor mechanics, joiners, panel beaters and the like. Such uses are still required close to the population which this site can provide. It is clear that there has been a shift to a service style employment structure, however other industrial land, albeit light industrial, is still needed in city locations such as this site.</p> <p>As noted in the peer review of the Proponent's Economic Impact Assessment (EIA) (discussed later), in interpreting the decline in industrial related employment observed in ABS statistics, there appears to be a case of mixing observed demand and underlying demand. The decline could simply be attributed to the rezoning of light industrial and urban service land in the catchment, rather than an actual decline in demand for such uses.</p> <p>The rezoning of the site under this Planning Proposal would contribute to this loss of industrial land and fails to adequately protect industrial land to accommodate this unmet future demand. Accordingly, the Planning Proposal does not achieve this criterion.</p> <ul style="list-style-type: none"> <i>Would the rezoning of the site result in the fragmentation of a larger industrial precinct or erode the viability of a locally or regionally significant industrial precinct?</i> – The Planning Proposal would result in the total loss of this locally significant industrial precinct. Removing it entirely would erode the LGA's industrial land supply. The Planning Proposal does not achieve this criterion.

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	Y	N	N/A	
				<ul style="list-style-type: none"> • <i>Would the rezoning be consistent with adopted Council and/or State Government Policy regarding the future role and demand for industrial land? What impact would it have on Council's employment targets?</i> – The loss of the site for industrial is contrary to Council's policies on industrial land including Leichhardt Council's Industrial Lands Study 2014 and Industrial Precincts Planning Report 2016. The Proponent's EIA makes no mention of these policies. The Planning Proposal would also significantly constrain the achievement of Council's employment targets. While the Planning Proposal advocates that this site is not required to achieve the PRCUTS employment targets, this is incorrect. This land is needed until at least 2024 (that is, in the medium to long term) as employment land. The Planning Proposal does not achieve this criterion. • <i>Does the site(s) have characteristics required by light or high tech industrial uses and other uses permitted in the zone/seeking floor space in the LGA or subregion (e.g. floor space, access, proximity to economic infrastructure, parking, infrastructure, storage, building configuration and land value)?</i> - The site is a highly valued site for industrial development given its proximity to transport, services and the population. Given its isolated nature, being located adjoining public open space, laneways and roads and the light rail corridor, it is likely to have minimal impact on surrounding residential development. <p>The Council-commissioned peer review by SGS (discussed later) also notes the following:</p> <p><i>The site currently operates with some industrial uses. Therefore, the characteristics of the site do continue to align with the characteristics requires by light industrial uses.</i></p> <p><i>The site has two driveways for access and parking on the east and west sides of the main buildings, as described in the site description of the Proposal and the Traffic and Parking Impact Assessment. The Traffic Assessment also notes there are 120 car parking spaces on site and unrestricted kerbside parking generally available on both sides of Lord Road.</i></p> <p><i>The Traffic Assessment also states Foster Road, a State road, which runs north-south nearby the site is noted as providing 'good connectivity' to the wider arterial road network including Parramatta Road and the City West Link – both of which are classified State roads. It is also documented in both the Proposal and the Traffic Assessment that the site is quite accessible to several modes of public transport (within five to 15-minute walk time).</i></p> <p><i>Therefore, the site does have reasonable access for users of the site, whether they be current business owners, current clients or future residents.</i></p> <p><i>The Proposal has used the argument that 'poor access' means the site should not operate for industrial uses. However, the site</i></p>

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				<p><i>currently facilitates light industrial land uses and site context suggests overall reasonable access. The site does not appear to have 'poor accessibility' as the Proposal states.</i></p> <p>The Planning Proposal does not achieve this criterion.</p> <ul style="list-style-type: none"> • <i>Would it be economically viable to improve the site to attract new tenants or to adapt to changing industry requirements and to ensure that the land uses on the site address compatibility with surrounding uses?</i> – The site could be redeveloped to cater for the continuation of the existing uses on the site. It is considered that the existing industrial use of the site has limited impacts on the surrounding residential area as outlined in the Industrial Precincts Planning Report and would assist in meeting the future industrial land demand in the LGA. The Planning Proposal does not achieve this criterion. • <i>Would the retention of industrial uses on the site result in a positive net benefit to the community as a whole?</i> – Yes, the retention of industrial uses on the site would result in a net benefit to the community given it would provide a location for urban services and population-serving industrial uses close to the population and provide local employment opportunities. As noted in the Council-commissioned peer review of the EIA, net benefits “are benefits that <i>are in addition to</i> those that the site currently delivers. Arguing that the removal of and then replacement of non-residential floorspace as a net community benefit is misleading”. The Planning Proposal does not achieve this criterion. <p>Accordingly, it is considered that the Planning Proposal is inconsistent with the EEDP and therefore should not be supported.</p> <p><u>Leichhardt Industrial Lands Study (2014)</u></p> <p>The <i>Leichhardt Industrial Lands Study (2014)</i>, undertaken for the former Leichhardt Council by SGS Economics and Planning (SGS), recommended protection and intensification of industrial sites in the local area due to a shortage of industrial land at the sub-regional level. Given Leichhardt's relatively low provision of industrial land, it is forecast that the LGA will not have sufficient land within existing precincts to accommodate the future demand of 63,094sqm by 2036. Even within various scenarios that test degrees of development within these precincts, Leichhardt is projected to have a shortfall of between 7,570sqm and 54,965sqm by 2036. Leichhardt's proximity to the Sydney CBD, improving transport links and identified development possibilities within the Bays Precinct and the Parramatta Road Corridor, means that the LGA's remaining industrial land is under increased pressure to develop for non-industrial uses, in particular residential. While residential development is important right across Metropolitan Sydney, so too is the protection of industrial land to service a growing population.</p> <p>The Study was endorsed by Leichhardt Council on 10 February 2015.</p>

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	Y	N	N/A	
				<p>The Study makes a number of recommendations including that all of Leichhardt's industrial lands are to be retained and protected from rezoning, that additional industrial floor space be provided and that Council's planning controls be revised to facilitate the protection and growth of industrial precincts.</p> <p>In relation to the Lords Road site, this Study recommends protection of the industrial nature of the Lords Road precinct from rezoning to residential or permitting any sort of non-industrial activity. It further states that any proposed rezoning would result in the loss of floor space which would impact on the LGA's capacity to achieve the subregion/region and LGA employment capacity targets and employment objectives and place pressure on other limited industrial and business zones to deliver employment increases.</p> <p>This Study states the following in relation to this site:</p> <p><i>"The precinct backs onto a sports field and the light rail line, meaning that its industrial functions have minimal impact on the surrounding residential area. This makes the site ideal for a range of industrial functions.</i></p> <p><i>Although small, the Lords Road Precinct contributes a large floorplate site to the light industrial make up of Leichhardt's employment lands. In a predominantly residential area, this lot and building size, coupled with its relative isolation from surrounding residential uses, makes it an important precinct to accommodate the future industrial demands within the LGA".</i></p> <p>There were two recommendations which are relevant to the current PP and associated actions which include:</p> <ul style="list-style-type: none"> • <i>Recommendation 1: Protect Leichhardt's industrially-zoned precincts for their important employment and service functions.</i> <ul style="list-style-type: none"> ▪ <i>Action 1.1 - Refuse any proposal to rezone land from Council's small pool of industrial land within any of the industrial precincts.</i> • <i>Recommendation 4: Ensure adequate provision of industrial land for population-serving industries</i> <ul style="list-style-type: none"> ▪ <i>Action 4.1 - Maintain current provision of IN2-zoned land</i> <p>Accordingly, this Study recommends retaining the industrial zoning on the site.</p> <p><u><i>Industrial Precincts Planning Report (2016)</i></u></p> <p>SGS Economics and Planning (SGS) was subsequently engaged by the former Leichhardt Council in 2015 to undertake an investigation into Leichhardt's industrial precincts and provide recommendations for their future planning and management.</p> <p>Leichhardt (former LGA) has a relatively small amount of industrially-zoned land, with approximately 100 hectares or 7% of the subregion's total. Although already small, Leichhardt's industrially-zoned land is continuing to reduce. Between 2011 and 2015, Leichhardt saw a net loss of almost 5 hectares, 4.5% of the LGA's 2011 total which, coupled with Leichhardt's small amount of industrial land and neighbouring</p>

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				<p>Marrickville's similar amount (170 hectares in 2015) has meant that continued demand, in particular for population-serving industries such as self-storage services or automobile maintenance and repairs, are facing increasing pressures.</p> <p>The Report identified four key issues that impact on Leichhardt's industrial precincts:-</p> <ol style="list-style-type: none"> 1. There is a shortage of industrial land at a subregional level. 2. There is a shortage of local services within Leichhardt. 3. There is a need to provide sufficient floor space and appropriate built form configurations to support emerging uses. 4. Industrial precincts are under threat from other uses. <p>This report considered that the PRCUTS will place significant pressure on Leichhardt's existing industrial lands given the Strategy (which was draft at the time of this report) proposed to replace with more mixed use and residential land use. This study presented two options for Council to consider in managing its industrial precincts. Option 1 was a 'business as usual' approach which assumed that the risk of precinct fragmentation and land use conflicts from rezoning industrial land was too great and therefore all industrial land was protected. Option 2 was a policy change for key precincts, which assumed a scenario where pressure from the State Government to redevelop the Parramatta Road Corridor (under the PRCUTS) required Council to take a lead in considering alternative land use arrangements or Council wishes to consider options that may deliver additional floor space. This option was not without risk and it sought to safeguard the remaining smaller precincts across the LGA from redevelopment.</p> <p>Strategy Five (under Option 2) included being proactive in aligning Tebbutt Street/Parramatta Road precinct with the future of the PRCUTS. The subject site was not affected by the draft Strategy at this time as it was located outside the Taverners Hill Precinct.</p> <p>In relation to the Lords Road site, both options recommended the retention of the industrial zoning on the site, contained in Strategy 1 (Action 1.1) and Strategy 6 (Action 6.1).</p> <p>The Study provided the following summary of the site in terms of land use and built form (emphasis added), also noting that the dominant class of industry are local services:</p> <p><i>The Lords Road precinct is comprised of two lots and two buildings, one being a large floorplate development with a local light BLC. The 11,111sqm of local light floor space equates to 7% of the local supply.</i></p> <p><i>The trees along Lords Road effectively screen the precinct from the street. Current uses are predominantly local service industrial (warehousing, small scale manufacturing) with some 'dispersed' activities (such as a martial arts school, church, arts auction rooms). The precinct backs onto a sports field and the light rail line, meaning that its industrial functions have minimal impact on the surrounding residential area. This makes the site ideal for a range of industrial functions.</i></p> <p><i>Although small, the Lords Road Precinct contributes a large floorplate site to the light industrial make up of Leichhardt's employment lands. In a predominantly residential area, this lot and building size, coupled with its relative isolation from surrounding residential uses, makes it an important precinct to accommodate the future industrial demands within the LGA.</i></p>

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	Y	N	N/A	
				<p><u>Subregional Industrial Precinct Review (Hill PDA, 2015)</u></p> <p>In 2015, Hill PDA was commissioned by the Department of Planning and Environment (DPE) to undertake a review of a number of industrial precincts across Sydney to support the development of the district plans for the North, Central and the South Subregions. These subregions accommodate 135 key industrial precincts, of which the Lords Road site is included. The report scored the precincts across three criteria including investment and business, location, function, and connections and economic output and jobs. This Study did not purport to forecast future demand for industrial land by Subregion but rather was to contribute to the evidence base by assessing the economic value and 'health' of the precincts as employment generating clusters. By undertaking this assessment, a comprehensive subregional and in turn local approach could be prepared to either enhance the industrial success of each precinct or re-address them through appropriate planning controls.</p> <p>Accordingly, a Precinct that scored well with respect to economic output and employment generation may not necessarily be the largest in scale or best located and therefore may not rank as well across the three criteria as other precincts. However, these precincts can be considered of value owing to the role they play in supporting a given locality.</p> <p>The Lords Road site was identified as an 'Inner City Fragment' site and was scored as below average across all three categories (scoring 2.5 in each category) for a total of 7.5. However, looking at the criteria, this site scored low due to its small size and location within Leichhardt which was highlighted as a very small industrial pocket, which was in lower demand by larger users. This was largely due to the high price barrier, and difficult access and manoeuvrability in and out of the Precinct. The Study indicated that small local industries (furniture storage and renovation, printeries, food production and creative industries) would however flourish in this location, given the nearby local demographic, but the cost of land would be a key challenge.</p> <p>Demand for industrial space across the North, Central and South Subregions was greatest for smaller factory and office/warehouses (under 500sqm). Users typically ranging from small service industrial businesses to non-regular, non-specialised industries such as small printers, car repairs, builders and wholesalers. These types of premises were in demand for purchase by both owner occupiers and investors, typically for small and medium superannuation fund (SMSF) purposes, the latter favoured strata title units rather than stand-alone factories.</p> <p>The Study noted that smaller parcels of industrial land had been rezoned, which had placed such sites (like the subject site) under greater pressure to be rezoned, resulting in land speculation. This has then made some areas unviable for industrial uses when in fact they still provide a strong service to the local community and the Subregion. The study also found that the industrial area at Leichhardt was highlighted as a potential area by Agents for rezoning, due to its small size and residential surroundings. This appears contrary to another finding of this Study which was that the Central Subregion contained a stronger price-driven demand for smaller industrial space (under 500 sqm), with larger spaces (over 2,000sqm) moving further west for manufacturing and larger warehousing types of uses.</p>

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				<p>In this regard the Study found that the size of a local industrial precinct is an important factor in its long-term success. Smaller precincts have tended to suffer from a lack of demand whilst redevelopment is more viable in areas with larger land sizes per block. It appears from this study that since this site scored poorly, it should be rezoned to residential under the PRCUTS. However, such an outcome seems to be contrary to the other main findings of this Study which included that demand for industrial space across the subregions was greatest for smaller factory and office/warehouses (under 500sqm) and that urban services and employment serving uses were in great demand, particularly in locations close to the local population. In this way, this Study suggests that the site should not be rezoned.</p> <p><u><i>Sydney's Urban Services Land: Establishing A Baseline Provision (July 2017)</i></u></p> <p>This Study was prepared by SGS for the Greater Sydney Commission for the purpose of regional and district planning. The Study outlines the term 'Urban Services', which is used to describe a wide range of industries that locate in cities. This study defined Urban Services as a collection of industries that <i>enable the city to develop and its businesses and residents to operate</i>. Urban Services tend to have particular land use, floor space, operational or accessibility characteristics that require them to locate in specialised areas.</p> <p>Unlike some industrial uses such as manufacturing or freight and logistics, which often choose to locate on the urban fringe, urban services often serve a local population or support a nearby commercial centre. Consequently, they rely on proximity to these markets. They serve a wide range of functions but broadly, they enable other businesses and industries to operate, infrastructure to be maintained and residential populations to be supported. While they are not always high employers, their value is not held in how many jobs they directly provide, but in the operational role and function they play throughout the city.</p> <p>In relation to the Central region, the Study stated the following (emphasis added):</p> <p><i>Central is already below the benchmark of three square metres of urban services land per capita, and this provision is expected to fall by 2036. It also has more urban services jobs outside of these precincts than in. The District's industrial and business zones that accommodate urban services are already constrained – the District has the second-lowest provision of urban services-focused industrial land in the Metropolitan region. It faces competition from a range of other land uses seeking to benefit from their CBD proximity and transport accessibility. Many of the District's precincts are also home to non-urban services industries that seek proximity to major infrastructure (airport and port) and the CBD. Many require these locations for their business operations and will compete for the District's finite industrial land. Central's remaining industrial lands must be carefully managed to ensure sufficient space for urban services and other location-sensitive industries to grow.</i></p>

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	Y	N	N/A	
STATUS: UNDER PRESSURE				
<p>The Study also stated that industrial precincts which house urban services varied in size, however stressed the importance of the smaller industrial precincts for these urban services. The Study also outlined that land values play a role in the availability of zoned land, with high land values increasing rents which can lead to businesses making trade-offs between floor space and location. However, across Greater Sydney, and particularly in the eastern Districts of the Central, North and South, these smaller precincts support a high proportion of urban service jobs that often support local populations and economies. Precincts between 750sqm and 10,000sqm have a high percentage of their land attributed to urban service jobs. As precincts increase in size, this proportion reduces. Therefore, this Study indicates that the subject site is the appropriate size for urban services and is located within an area which already has a shortfall in this type of land use.</p> <p>The Study concludes by stating that the demand for urban services is closely linked to population and business location and that this analysis demonstrates that in Sydney's East (Central, North and South Districts), relatively low supply and high populations requires a cautious approach to industrial land management. The Study emphasises that a 'one size fits all' approach is too broad and that:</p> <p><i>"...a cautious approach, particularly in the Eastern and Central Cities, is urged to ensure that there is sufficient zoned land to meet not just the future demand within these precincts, but to safeguard against rising land prices and land use conflicts driving urban services and other industries away from the areas that they support".</i></p> <p>Accordingly, this Study supports retention of the current zoning and use of the site, particularly for the provision of urban services land given its size, location within the Central region and the proximity to the surrounding population.</p> <p><u><i>Metropolis that Works (2018)</i></u></p> <p>The GSC has prepared a thought leadership paper in relation to the challenges Greater Sydney faces in best managing its industrial and urban services lands. The Paper states that Sydney's industrial precincts are valuable and strategic places that need to be recognised as such in regional, district and local environment plans. The paper expands on the industrial lands policy that has been adopted under the Greater Sydney Region Plan and explains the need to find a balance between competing land use needs to ensure that not only are we meeting housing demand, but jobs, industry and urban services are maintained to keep the city working. The Paper responds to the changing nature of industrial urban services and their spatial requirements, their strategic value and the essential role they play in Greater Sydney as set out in Objective 23 of the GSRP which states "<i>Industrial and urban services land is planned, retained and managed</i>".</p> <p>Key considerations highlighted by the Paper which are of relevance to this Planning Proposal include:</p>				

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				<ul style="list-style-type: none"> • <i>A growing city needs to be a working city. It needs spaces that allow it to function, make and create</i> – The paper explains that there is a the need to value industrial land for its purpose which is to serve the growing population, since jobs and places to make, fix and repair things is needed. It is less coherent in accommodating the complexities of spatial dependences and networks, displacement and the role of industrial places as strategically significant spaces and places. Importantly, the Paper also outlines that industrial precincts in Greater Sydney remain in demand. This is also illustrated in the HillPDA report for the GSRP and District Plans outlined above in which such areas, large and small, are required across the wider metropolitan area. The Paper also outlines the importance of these industrial areas for creative industries and the need to make these places affordable and the importance of connections to local markets across all parts of the city. The likely incompatibility of mixed uses and encroaching residential development into 'working spaces' is also raised. This is due to the likely impacts arising from hours of operation, noise, servicing and the like as well as land pricing which will undermine retention of employment uses over time. • <i>The value of industrial and urban services land should not be based only on the volume and types of jobs generated, but to the operational role and function it plays throughout the city - the Paper points out that industrial spaces are vital to the function of cities, however, the market often does not value them appropriately.</i> The Paper states that zoning can be seen as subsidising those spaces, and if the rationale is market failure, then urban economists' follow-up question is often, "are there other ways (i.e. not through zoning) in which those failures can be corrected". In essence the Paper says that these spaces need to be valued for the role they play in the city and not necessarily by land value or the zoning mechanisms. This seems at odds with the Hill PDA study (2015) which seemed to rank precincts on their output, job creation and size rather than what they contributed to the area. This is concerning given that the study was used as a basis for recommending rezoning of the subject site to residential. In accordance with this Paper, the subject site would be ascribed a higher value given it's intrinsically useful to the local area given the local jobs and services it creates. Accordingly, it is likely that this Paper would recommend against rezoning the site from industrial to residential. • <i>The provision of sufficient industrial land with access to markets and users across the whole metropolitan area is integral to delivering the 30-minute city - the Paper requires that greater strategic consideration is to be given to precincts as networked places, operating across and deeply embedded within a range of spatial scales. This refers to the need to retain industrial land across a range of places given the importance of such services being closer to population and other networks for their businesses. Further, the Paper states that the spatial scale of operation and locational imperatives has remained firmly anchored, and indeed the importance of local proximity has heightened. This extends to the Lords Road site, in which both the Leichhardt Industrial Precincts Planning Report and the Industrial Lands Study acknowledged that this site was primarily providing local services and accordingly, its proximity to the population and its local position remains vital.</i> • <i>Industrial precincts should be identified as valuable and strategic places in Region, District and Local Environment Plans</i> – the Paper

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist	Satisfactory			Comments
	Y	N	N/A	
				<p>makes it clear that all cities need an intelligent approach to land use decisions which support a functioning city, indicating that industrial and urban services land is an integral component of the city. Relinquishing it in the face of shorter-term imperatives is likely to be costly in the long term because once the land has moved to a higher value use; it is highly unlikely ever to be converted back. The Paper goes so far to say that industrial and urban services are an integral component of a healthy, functioning and productive urban system, where we build, fix and repair things, supply the goods required for all these activities as locally as possible. <i>We need to hold onto them.</i> This Planning Proposal is contrary to this major theme of this paper as is the PRCUTS insofar as it proposes to rezone the site to residential. The Paper also raises the point that the rezoning of industrial land is also happening due to their undervalued nature as opposed to residential.</p> <ul style="list-style-type: none"> A 'no regrets' approach is required in any decisions affecting industrial and urban services land, with the ramifications of any displacement of activity fully understood and strategically managed – the Paper makes it clear that a 'no regrets' decision making principle needs to drive all levels of decision making, highlighting that once industrial lands are lost in high land-value cities, they are hard to get back. In such circumstances, the Paper indicates that it makes good sense to retain, manage and plan for those lands. This decision making model is particularly important when lands are placed under pressure, or strategic arguments can be upheld in support of rezoning, then the 'no regrets' principle needs to drive all levels of decision-making. This principle needs to be applied in this case of this Planning Proposal since the site cannot function effectively as an industrial site once residential uses are permissible. <p>It is considered that the Planning Proposal should not be supported given it is contrary to the key considerations outlined in this Paper as outlined above.</p> <p><u>Peer Review</u></p> <p>Council commissioned SGS Economics and Planning (SGS) to undertake a peer review of the Proponent's Economic Impact Assessment (EIA) and to consider the Planning Proposal against Criteria 5 (Feasibility) and Criteria 6 (Market viability) of the Out of Sequence Checklist. The peer review is attached to the Council report.</p> <p>In summary, the peer review identifies the following issues with the Planning Proposal:</p> <ul style="list-style-type: none"> Loss of industrial and urban service lands The adaptable nature of the non-residential component Potential for future land use conflict between residential land uses and certain non-residential land uses Selective data use.

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist	Satisfactory			Comments
	Y	N	N/A	
				<p>The review makes the following conclusions:</p> <p><i>The conclusions of the GSRP, ECDP and LILS, local planning strategies and Ministerial Directives strongly supports protection of Leichhardt's industrially-zoned precincts for their important employment and service function.</i></p> <p><i>Leichhardt (former LGA) is projected to have a shortfall of between 7,570 sqm and 54,965 sqm by 2036. This shortage, and the loss of this site, will affect surrounding areas and will progressively deteriorate as other sites are picked off for rezoning in a similar fashion, particularly if falling under the PRCUTS.</i></p> <p><i>As the GSC states, urban services lands are not always high employers but their value is held in the operational role and function they play throughout the city. Hence, the current State policy for the Eastern District is to retain and manage these sites. Equally, a Metropolis that Works acknowledges the importance of these sites to the functioning of 'working cities'.</i></p> <p><i>Retaining current use of this site is of value to the Inner West and Greater Sydney. A precautionary principle, therefore, should be applied, as once a rezoning occurs there is no reversion.</i></p> <p><i>The Proposal demonstrates the provision of some flexible non-residential floorspace that could somewhat align with what is currently on-site and meet future demand for non-retail and non-office uses in the local area. It is, however, a significant reduction in floorspace for industrial uses.</i></p> <p><i>A key consideration is whether the redevelopment of the site is required to deliver this new floorspace. The review of the EIA raises some questions about the way in which the argument has been presented and lacks comparison to the current state of the site to make a more informed decision about the merits of the Proposal from an economic perspective.</i></p> <p><i>A major concern is that the non-residential component is proposed under a residential zoning (R3). While the Proposal appears to provide a 'replacement' quantum of floorspace to what is there already (albeit significantly less than what is currently there) and is seeking tenants who are likely to be attracted to the precinct as it stands, the lack of protection afforded by the residential zoning raises a concern about the long-term nature of this Proposal's intent to retain these uses.</i></p> <p><i>This has flow on effects with the value that is placed on the new floorspace. A risk is that if the development incurs higher rents, those businesses that are seeking to locate in the area may be priced out.</i></p> <p><i>A Metropolis that Works states 'Where change does occur, there is a need to retain ownership of the terms on which those changes are</i></p>

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	Y	N	N/A	
				<p><i>made. Determinations should have recourse to displacement policies which would instil a requirement for no net loss of land and businesses'. It is also suggested that a nuanced approach is needed to better plan and manage these lands as they transition.</i></p> <p><i>There is a need for Council to take precaution. Negotiation should seek to retain employment and land uses as close to current use and quantum as possible. This may take the form of a mixed-use zone or a compartmentalisation of the site to accommodate a range of uses.</i></p> <p>A Peer Review in March 2018 of an EIA accompanying a planning proposal to rezone industrial land to residential at 21-35 John Street, Leichhardt indicated that a significant amount of floor space has already been rezoned or removed from availability in the four years since 2014, being a total of 164,500sqm, or 12 per cent of total supply in 2014. This is largely due to the rezoning of the Victoria Road precinct which comprises approximately 114,400sqm, or 8.7 per cent of all industrial floor space within the LGA. Furthermore, a significant amount of industrial floor space is subject to planning proposals currently being assessed with 103,500sqm currently subject to planning proposals and 168,300sqm impacted by the PRCUTS. This represents 20 per cent of total supply in 2014 (23 per cent of current supply).</p> <p><u>Summary</u></p> <p>PRCUTS recommends rezoning of this site to Medium Density Residential (R3) (refer to the image below) which is inconsistent with the objectives of GSRP, ECDP and Council's Industrial Precincts Planning Report.</p> <p>There are key concerns regarding rezoning any part of Taverners Hill Precinct to allow residential or non-industrial uses. Encroachment of non-industrial uses would be inconsistent with Council's industrial land studies and other plans and policies are outlined above, which recommend retention of industrial uses. The Industrial Precinct Planning Report (2016) formed the basis of Council's comments to UrbanGrowth in relation to the draft PRC strategy.</p> <p>Council support for this Proposal would be a departure from the consistently held strategic planning position to resist rezoning industrial lands for residential or mixed use purposes in the former Leichhardt Council LGA as outlined above. Any form of residential development within the site is likely to set a precedent for further development resulting in loss of urban services and employment generating land. Council will be reviewing all its employment lands as part of the wider LEP integration work.</p> <p>In the context of imminent outcomes of strategic planning projects currently underway at both State and local level including the IWC Employment Lands Review and IWC Local Housing Strategy, the Planning Proposal is considered to be premature and therefore should not be supported. The site and its future uses should be planned holistically in the context of its contribution to the revitalisation of Parramatta Road Corridor.</p>

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	Y	N	N/A	
E13: Supporting growth of targeted industry sectors.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is discussed above.
Direction 8: A city in its landscape				
E14: Protecting and improving the health and enjoyment of Sydney Harbour, and the District's waterways.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly related to the Planning Proposal.
E15: Protecting and enhancing bushland and biodiversity.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The site is located near Hawthorne Canal and the GreenWay, an urban green corridor. The setback to the western site boundary needs to be greater to allow augmentation of the GreenWay in this area, including provision of a secondary/informal GreenWay link to Marion Light rail stop. This setback is considered essential to provide soft landscaping and deep soil planting, accommodating medium to large size trees and vegetation, in order to enhance the outlook of the biodiversity corridor and public domain and to reduce the impact of the hardscape built form on the surrounding area.
E16: Protecting and enhancing scenic and cultural landscapes.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly related to the site.
E17: Increasing urban tree canopy cover and delivering Green Grid connections. Action 65: Expand urban tree canopy in the public realm. Action 66: Progressively refine the detailed design and delivery of: a. Greater Sydney Green Grid priority corridors and projects important to the District	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Same as comments under GSRP Direction 8 (Objective 30). The concept design provides additional landscaping opportunities both within and surrounding the site including street tree planting. The Planning Proposal also includes adding to the GreenWay by proposing additional landscaping long the western side of the site adjoining the GreenWay. However, in terms of Objective 32 outlined above, the open space and linkages to be provided along the site's western edge as part of a secondary GreenWay link, with possible connection to the Marion Light rail stop, have

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		Y	N	N/A	
	<p>b. opportunities for connections that form the long-term vision of the network</p> <p>c. walking and cycling links for transport as well as leisure and recreational trips.</p>				not been adequately considered with the relevant authorities and therefore the likelihood of this eventuating is unknown. The Proponent considers that the setback along this boundary would be part of this open space network. No provision has been made to ensure that this open space would actually be accessible for community use. The proposal in its current form does not make a sufficient contribution towards achieving this vision.
	<p>E18: Delivering high quality open space.</p> <p>67. Maximise the use of existing open space and protect, enhance and expand public open space by:</p> <p>a. providing opportunities to expand a network of diverse, accessible, high quality open spaces that respond to the needs and values of communities as populations grow.</p> <p>b. investigating opportunities to provide new open space so that all residential areas are within 400 metres of open space and all high density residential areas (over 60 dwellings per hectare) are within 200 metres of open space.</p> <p>c. requiring large urban renewal initiatives to demonstrate how the quantity of, or access to, high quality and diverse local open space is maintained or improved.</p> <p>d. planning new neighbourhoods with a sufficient quantity and quality of new open space.</p> <p>e. delivering shared and co-located sports and recreational facilities including shared school grounds and repurposed golf courses.</p> <p>f. delivering or complementing the Greater Sydney Green Grid</p> <p>g. providing walking and cycling links for transport as well as leisure and recreational trips.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Same as comments under GSRP Direction 8 (Objective 31). The Proposal in its current form does not sufficiently contribute towards the enhancement of public open space in the area. While the centrally located open space area on the site is to be publicly accessible, the lack of public interface is likely to result in it being a private space only.

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		Y	N	N/A	
Direction 9: An efficient city					
	E19: Reducing carbon emissions and managing energy, water and waste efficiently. Action 68: Support initiatives that contribute to the aspirational objective of achieving net-zero emissions by 2050, especially through the establishment of low-carbon precincts in Planned Precincts, Collaboration Areas, State Significant Precincts and Urban Transformation projects	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Same as comments under GSRP Direction 9 (Objectives 33, 34 & 35). Further provision is to be made to ensure that the sustainability measures outlined in the Planning Proposal would translate to the detailed design/DA stage. The Sustainability Planning Report provided with the Planning Proposal is a generic and theoretical description of the potential sustainability measures which could be provided in the future redevelopment of the site. There are very limited references to the site or the proposal. There is no referencing or consideration of the sustainability requirements under the Sustainability Implementation Plan, one of several PRCUTS reference reports. The Proponent's Sustainability Planning Report does not address the Precinct specific sustainability targets nor does it address the car parking requirements of unbundled, decoupled and minimised car parking for the site. The Planning Proposal is inconsistent with this Plan.
Direction 10: A resilient city					
	E20: Adapting to the impacts of urban and natural hazards and climate change.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) 2016					
Policy Framework					
	Urban Transformation Strategy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal is inconsistent with Chapter 3 Vision and principles of the Strategy including the following:

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			Y	N	N/A	
						<ul style="list-style-type: none"> <i>Principle 1: Housing Choice and Affordability</i> – The proposal will contribute towards housing choice and diversity with a mix of 1, 2 and 3 bedroom dwellings, however no specific provisions have been made to provide 'diverse housing' as required under the PRCUTS (refer to the Strategic actions below). The Planning Proposal does not adequately contribute towards the provision of permanent affordable housing as outlined in the Report. <p>In general, the proposal is considered to be premature as it comes ahead of Council's Local Housing Strategy which is to be finalised by mid-2019 to inform the appropriate mix of housing on rezoning sites. It is recommended that any increased density should only be considered after a strategic review of the Inner West housing market area including demand/supply analysis rather than be considered in the context of individual sites/ad hoc proposals.</p> <ul style="list-style-type: none"> <i>Principle 2: Diverse and resilient economy</i> – the Strategy acknowledges that there is an insufficient supply of well-located industrial land in the Corridor for certain kinds of demand and that there will also be a strong role for employment and economic activity in the Corridor, given its strategic location and position within the heart of a growing population and close to the CBD. The Strategy also states that there is a need to review any barriers to job creation and consider policy levers at the local scale that may be available to

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			Y	N	N/A	
						<p>accelerate or unlock job growth. The Strategy also notes the important role of urban support services, which should be incorporated into proposals.</p> <p>The site is an important source of employment land and is well located being essentially an isolated site adjoining the light rail, public open space and roads and laneways on the other boundaries. The site is therefore suitable to retain its largely light industrial use, with proximity to the population while also reducing potential amenity.</p> <p>Therefore, it is considered that the Planning Proposal is contrary to this Principle given it removes industrial land.</p> <ul style="list-style-type: none"> <i>Principle 3: Accessible and Connected</i> – This principle highlights that the Strategy will be implemented in two distinct stages, being 2016 - 2023 and post 2023 with land use change prior to 2023 being guided by the Parramatta Road Corridor Implementation Plan 2016 - 2023. Such land use change will be accommodated within planned improvements to Western Line rail frequencies and a rapid bus solution from Burwood to Sydney. Investment such as longer term light rail or heavy rail solutions, currently being investigated, would be required to support the land use change beyond 2023. This principle outlines that this short term staged approach allows for the land use change to move in sync with the available transport capacity, whilst

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			Y	N	N/A	
						<p>ensuring the scale, timing, and staging of longer term land use changes respond to Government transport investment.</p> <p>The Planning Proposal is inconsistent with this staging given it is out of sequence with the action plan for Taverners Hill. The transport infrastructure is not in place to sustain this development at this time. Furthermore, the Precinct Wide Traffic Study required by the Taverners Hill Action Plan has not been completed.</p> <p>While the Planning Proposal has potential to contribute towards the achievement of sustainable travel by a shared pathway (pedestrian and cycle link) along the western site boundary to connect the site with the Marion Light Rail Stop, such a link has not been adequately demonstrated. There has been no consultation with the relevant landowners as to the acceptability of this link and there is no information on the dimensions of this connection or its location having regard to the GreenWay, vegetation removal and the like.</p> <ul style="list-style-type: none"> <i>Principle 4: Vibrant Community Places</i> – There are a number of concerns with the built form proposed under the Planning Proposal and there is a lack of detail regarding the proposed linkage to the Marion Light rail stop. There are also insufficient details regarding the prioritised pedestrian linkage along the Lords Road frontage

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			Y	N	N/A	
						<p>of the site. The Planning Proposal is also incompatible with the surrounding residential context which, in the short term (defined by the Strategy as up to 2023) will remain a low density residential area. Even in the medium term, between 2023 and 2036, the immediate area will comprise development comprising two, three and four storeys. The lack of adequate setbacks to the corner of Davies Lane and Lords Road and the removal of trees in this portion of the site results in an inadequate relationship with the surrounding development. There are numerous urban design concerns raised as outlined in the Council report.</p> <p>The likely private nature of the central open space area will result in very limited public open space being provided on the site. It is also unclear as to the potential impact of the Planning Proposal on the nearby heritage items located in Lambert Park and Kegworth Public School given the unsatisfactory nature of the Heritage Impact Statement.</p> <ul style="list-style-type: none"> • <i>Principle 5: Green Spaces and Links</i> – The Planning Proposal does not sufficiently demonstrate that the proposed public open space on the site and local connection to other open spaces and public transport has been provided. The removal of various trees on the site due to inadequate building setbacks, particularly in the south-east corner, does not achieve the required greening of the corridor as envisaged by PRCUTS.

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			Y	N	N/A	
						<ul style="list-style-type: none"> • <i>Principle 6: Sustainability and Resilience</i> - The Sustainability Planning Report provided with the Planning Proposal is a generic and theoretical description of the potential sustainability measures which could be provided in any future redevelopment of the site. There are very limited references to the site or the proposal. There is no referencing or consideration of the sustainability requirements under the PRCUTS reference report Sustainability Implementation Plan. The Report does not address the Precinct specific sustainability targets nor does it address the car parking requirements of unbundled, decoupled and minimised car parking for the site. There are also significant trees to be removed under the current proposal. • <i>Principle 7: Delivery</i> – This Principle outlines that the Strategy aims to make decisions are made in a timely, transparent and coordinated way. The subject site is outside the Taverners Hill Release Area identified in the Implementation Plan 2016 - 2023. Therefore, the Planning Proposal is out of sequence and ahead of numerous important strategies studies. This Planning Proposal will not result in decisions being made in a coordinated way and is therefore contrary to the Principle of the Strategy. <p>The Planning Proposal does not adequately contribute towards the following Key Actions:</p> <p><u>Land Uses</u></p>

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			Y	N	N/A	
						<ul style="list-style-type: none"> Encourage appropriately scaled residential development in select locations to attract and retain people in the core of the Precinct – The Planning Proposal will not provide an appropriately scaled residential development in this location given the urban design concerns with the proposal. <p><u>Open space, linkages and connections:</u></p> <ul style="list-style-type: none"> Leverage new development to provide new open space and high-quality and active public domains – While the Planning Proposal provides open space in the centre of the site, it is unlikely that this will be utilised by the public given it has limited interface with the public domain. Such a location is unlikely to be used by the wider community. Capitalise on the proximity to light rail by providing increased connectivity for pedestrians and cyclists where possible – While the Planning Proposal proposes to make improvements to the public domain for pedestrian linkages across the Lords Road frontage of the site, there are no details of such linkages provided.
		Implementation Tool Kit				
		Implementation Plan 2016 - 2023	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal departs from the sequencing identified under the Taverners Hill Action Plan 2016 - 2023 (Chapter 8). It also does not meet the criteria of the Out of Sequence Checklist as detailed in Attachment 2 to the Council report and therefore, should not be supported.

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			Y	N	N/A	
						<p>The Planning Proposal is inconsistent with the following:</p> <ul style="list-style-type: none"> • Strategic land uses – The out of sequence status of this Planning Proposal may put at risk the immediate supply of industrial land given the only other area in the precinct which could provide employment is the mixed use area on Tebbutt Street and Parramatta Road. • Road improvements and upgrades – The Precinct-wide traffic study and supporting modelling required have not been completed. • Funding framework or satisfactory arrangements – The Proponent's Integrated Infrastructure Delivery Plan has applied out of date rates and costs; has not had any responses from key infrastructure agencies such as Sydney Local Health District to confirm their requirements; and has underestimated the likely number of dwellings and population in the proposed development at 235 dwellings rather than the more likely output of 300+ dwellings.
		Planning and Design Guidelines	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The Planning Proposal is inconsistent with the following sections of the Part 3: Corridor Guidelines:-</p> <ul style="list-style-type: none"> • 3.1: Urban Structure – It is considered that the Planning Proposal does not provide additional open space north of Parramatta Road as the location of the proposed open space will result in limited use by the public. • 3.2: Heritage & Fine Grain – the Heritage Impact Statement provided with the Planning Proposal does not adequately consider whether the

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			Y	N	N/A	
						<p>proposal, which is in the vicinity of heritage items, is designed and sited to protect heritage significance.</p> <ul style="list-style-type: none"> • 3.4: Open Space & Public Domain – the Planning Proposal does not adequately demonstrate consistency with these requirements given the proposed public open space is unsatisfactory in its current location and is not connected to the existing Green Grid network which in this instance is the GreenWay. • 3.6: Traffic and Transport – while the Planning Proposal involves proposed upgrades to the public footpath along the Lords Road frontage, these measures are inadequately detailed in the proposal. • 3.8 Car Parking & Bicycle Parking – The Planning Proposal does not satisfactorily consider the unbundled and/or decoupled parking arrangements contemplated under the PRCUTS and provides more car parking beyond the maximum outlined in this Strategy. • 3.9: Active Transport – The proposed connection to Marion light rail stop is supported, however, is inadequately demonstrated in the proposal. • 3.10: Sustainability & Resilience – The Sustainability Planning Report provided with the

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			Y	N	N/A	
						<p>Planning Proposal is a generic and theoretical description of the potential sustainability measures which could be provided in any future redevelopment of the site. There are very limited references to the site or the proposal. There is no referencing or consideration of the sustainability requirements under the Sustainability Implementation Plan, one of several PRCUTS reference reports. The Proponent's Sustainability Planning Report does not address the Precinct specific sustainability targets nor does it address the car parking requirements of unbundled, decoupled and minimised car parking for the site. The Planning Proposal is inconsistent with this Plan.</p> <p>The Planning Proposal is inconsistent with the following sections of the Part 4: Built Form Guidelines:-</p> <ul style="list-style-type: none"> • 4.1: Block Configuration and Site Planning (page 51) – The Planning Proposal does not respond to the scale of surrounding existing buildings, exceeds the recommended maximum height of 30m and is not compatible with the future surrounding development, which would be approximately 17 metres or 4 storeys. Furthermore, the recommended planning controls in Section 10.9 of the P&DG require that the area comprise low density residential including townhouses and terrace type dwellings. <p>The Planning Proposal does not protect or enhance the valued character of the Corridor as the excessive height of the buildings and the lack</p>

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			Y	N	N/A	
						<p>of articulation adversely affects the area. Buildings 2 and 4 are 55 metres long and Building 3 is 87 metres long. The proposed buildings along the Lords Road frontage have no street setback and comprise up to 7 storeys.</p> <p>The Planning Proposal does not arrange building forms to reinforce the future desired structure and character of the area as the height and scale of the development is unacceptable.</p> <p>The Planning Proposal is unacceptable in terms of defining the street edge with low rise buildings to create a pedestrian scale at the street. The street frontage height of 3 and 5 storeys on a nil front setback in a future residential zone is unacceptable. While the upper levels are setback and larger buildings are towards the rear and adjoining light rail corridor, the distribution of bulk across the site is unacceptable in the context of the low density residential area.</p> <p>The Planning Proposal raises potential issues for development on the southern side of Lords Road and eastern side of Davies Lane in terms of solar access and privacy.</p> <ul style="list-style-type: none"> • 4.2: Building Massing, Scale and Building Articulation (p 52-55) – The Planning Proposal envisages a maximum height of up to 35 metres AHD and 9 storeys (or 32m), which exceeds the maximum height under PRCUTS which is 30 metres or around 7 storeys. The Planning Proposal is considered to be incompatible with the surrounding context which under the

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			Y	N	N/A	
						<p>PRCUTS would comprise buildings up to 4 storeys or 17 metres. While the PRCUTS sets a maximum height of 30 metres, this is only a maximum height and still requires that future development responds to the scale of surrounding buildings and protects and enhance the character of the Corridor, particularly those elements that contribute to a sense of place and identity.</p> <p>The proposed buildings are not appropriately scaled to address and define the surrounding character of the area.</p> <p>Floor plates above 8 storeys (Building 2 – 9 storeys) are likely to exceed 750sqm, inconsistent with the controls. The Planning Proposal also exceeds the maximum tower length of 45m for Building 2 (55 metres long).</p> <p>The Planning Proposal exceeds the maximum building length of 60m for Building 3 (87 metres long) while Buildings 4 is close at 55 metres.</p> <p>The Planning Proposal is also inconsistent with a number of the building articulation principles for the indicative site layout for buildings east of Hawthorne Canal (Figures 4.5 & 4.7):</p> <ul style="list-style-type: none"> • Communal open space on 6-7 storey buildings instead of low-rise buildings; • Upper level setback occurs at 3 storeys instead of 2 storeys; • Poorly defined street edge to Lords Road given nil front setback;

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			Y	N	N/A	
						<ul style="list-style-type: none"> Setback above 3-4 storey is not provided for Buildings 1 and 2; Length of Building 2 is 87m contrary to maximum building length of 60m; Building 2 and 4 both exceed the maximum wall length without articulation of 45m (except for stairs). This limited articulation increases the bulk and scale of the buildings; Insufficient information on materials and façade treatments. <p>• 4.3: Setbacks and Street Frontage Heights (p56) – The Planning Proposal is inconsistent with the building setbacks and street frontage heights of Table 4.1 given the Lords Road frontage street wall height is 5 storeys on a nil front setback (when 3-6m is required), which is unsatisfactory and inconsistent with the guidelines. The frontage on the corner of Davies Lane and Lords Road has a 3 to 6 storey street wall height on a nil front setback also contrary to the Guidelines.</p> <p>The Proposal also results in limited pedestrian amenity due to a lack of adequate street setbacks and excessive street wall height for a low to medium density area.</p> <p>• 4.4: Transition Zones and Sensitive Interfaces (p57) - The Planning Proposal is inconsistent with these controls which state that changes in height and scale will require transitions at the Corridor's edges, to heritage buildings and conservation</p>

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			Y	N	N/A	
						<p>areas and to adjoining existing low scale neighbourhoods. New development will be required to respond to the overall scale and form of existing elements or Precincts to preserve visual scale and to avoid overshadowing or loss of amenity. The Planning Proposal is inconsistent with these controls as outlined below:</p> <ul style="list-style-type: none"> • Lords Road – requires compliance with PRCUTS Table 4.1 (Local Street – all other conditions) – maximum street frontage height of 18m and front setback of 3-6m is required. The Planning Proposal is inconsistent with these controls given a nil front setback has been provided. The P&DG also provide an example of transition of Local Street – heritage and all other conditions in Figure 4.13 – street frontage height of 14m and front setback of 3-6m. The Planning Proposal is inconsistent with this figure and the preferred street frontage height/setbacks. • Davies Lane – requires compliance with PRCUTS P&DG Figure 4.8 (transition to low rise across a lane) – street frontage height of 9m (3 storeys) and front setback of 3m. The Planning Proposal inconsistent with these controls given the proposed buildings exceed the recommended height of 9m and the corner building at Lords Road and Davies Lane intersection provides no street setback. • Greenway – requires compliance with

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
						<p>PRCUTS P&DG Table 4.1 (Local Street - all other conditions) - maximum street wall frontage of 18m and street frontage setback of 3 - 6m, upper level setback 0-6m. The Planning Proposal is inconsistent with this requirement as it proposes a 9 storey building facing the Greenway with nil secondary setback</p> <p>Greater transitions and setbacks to the street are required as outlined above. Furthermore, the Planning Proposal is not complementary in scale to surrounding lower density development currently existing as well as future surrounding development which is to be around 4-6 storeys.</p> <ul style="list-style-type: none"> • 4.5: Building Typologies (p59) – These controls require that development complies with the Apartment Design Guide. There is insufficient information and assessment of the ADG in this Planning Proposal, particularly in relation to the public domain interface, communal and public open space, apartment size and layout, private open space & balconies, common circulation & spaces, storage and facades. <p>It is also considered that the Planning Proposal is contrary to the following controls of the ADG:</p> <ul style="list-style-type: none"> ▪ <u>3B Orientation</u> and <u>4A Solar and daylight access</u> – Insufficient analysis of potential building envelopes with respect to potential overshadowing of adjoining properties as well as within the development (Overshadowing analysis has been provided only in 3D format

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
						<p>and not plan view). Availability of solar access available to the units inadequately demonstrated.</p> <ul style="list-style-type: none"> ▪ <u>4S Mixed use</u> - It is unlikely that the non-residential uses which have been proposed, including employment uses, will be compatible with the residential development on the site. These impacts are likely to arise from noise, servicing and parking. There is insufficient information on layout and configuration of the non-residential uses to adequately consider if the commercial areas are appropriately configured. • 4.8: Amenity – the Planning Proposal is inconsistent with some of these controls including that the central courtyard appears to be overshadowed for the majority of the day, with sunlight only reaching this area at 11am and 12pm in midwinter. There is also insufficient information provided to assess visual privacy for adjoining properties and within the site. <p>The Planning Proposal is inconsistent with the following sections of the Taverners Hill Precinct Guidelines:</p> <ul style="list-style-type: none"> • 10.4: Future Character and Identity - it does not encourage appropriately scaled residential uses nor retain the fine grain industrial character of the site. It is also unclear how this Planning Proposal will affect the proposed growth projections for homes and jobs and the proposed additional indicative land use mix balance of residential and

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
						<p>employment GFA when it is out of sequence;</p> <ul style="list-style-type: none"> • 10.5: Open Space, Linkages and Connections and Public Domain - the Planning Proposal does not provide connected open space areas since the proposed centrally located public open space area has limited frontage to the public domain. The prioritised walking link across the Lords Road frontage of the site, while envisaged in this proposal, there is insufficient detail as to how it will be achieved given that the proposed development provides nil setbacks to Lords Road; • 10.7: Fine Grain Study Requirements - the Planning Proposal is inconsistent with the siting and setback controls of Key Guidelines 5 and 6 for Taverners Hill since the ground level setbacks do not respond to the established street alignments of surrounding streets and the setback of upper levels does not reduce the visual impact of the built form to the streetscape; • 10.8 Green edge setbacks, Transitions and Activity and Commercial Zones - the Planning Proposal is inconsistent with Sections 4.3 and 4.4 for setbacks and transitions of the Guidelines. • 10.9 Recommended Planning Controls <ul style="list-style-type: none"> ▪ Land use - The site is intended to be for medium density residential such a townhouses and terrace houses, however RFBs are proposed up to nine (9) storeys. ▪ Building Heights - The text states the

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
						<p>height limit to be 32 metres however the map (pg. 215) indicates 30 metres. The Planning Proposal is inconsistent with this height limit in that Building 2 exceeds this 30m height limit.</p> <ul style="list-style-type: none"> Density - The Planning Proposal involves 23,158sqm of residential floor space, 2,500sqm of non-residential floor space and 500sqm of community floor space for a multi-use facility to be used in association with the APIA club. This is a total of 26,158sqm over a site comprising an area of 10,691sqm. The resulting FSR is 2.44:1 which is inconsistent with the recommended FSR control in the PRCUTS. In addition, the proposal underestimates the FSR calculations as the proposed additional parking spaces which exceed the LDCP parking requirements have not been accounted in the FSR calculations. The FSR calculations are also based on the assumption that Gross Floor Area (GFA) would be 85% of the Gross Building Area (GBA) which is against the PRCUTS recommendation that GFA is to be no more than 75% of the building envelope.
		Infrastructure Schedule	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See below.
		The Planning Proposal is supported by an <i>Integrated Infrastructure Delivery Plan</i> (IIDP) prepared by Northrop, dated October 2018, (attached to the Council report) which attempts to populate the Infrastructure Schedule for the Taverners Hill Precinct. There are reservations about the methodology used, the formulas applied and conclusions of the IIDP. It is considered that the PRCUTS				

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist	Satisfactory			Comments
	Y	N	N/A	
				<p>Infrastructure Schedule cannot be readily applied to determine accurate infrastructure contributions as the Council and State Government have not yet completed the infrastructure, transport and traffic studies necessary to update the 2016 cost estimates or capture the costs of infrastructure not covered by the Schedule.</p> <p>In this context, the Schedule acknowledges that it is based on a high level analysis of population, dwelling and employment projections for the Corridor and requires additional detailed investigation. Many projects described and listed in the Schedule require additional investigation and modelling. It is noted that the estimated costs included in the Schedule are frequently unrealistically low, out of date and have not been reviewed since June 2016.</p> <p>To illustrate this point, the IIDP uses the PRCUTS Infrastructure Schedule "Prioritised Cycling Link" (this is for marked cycleways on an existing road) costs of \$255.00 per linear metre for a 2.5m to 3m wide path. Even a basic path of this width costs \$1800 to \$2000 for design, lighting and construction. The GreenWay Connections width design, lighting, landscaping, public art, recreation and public domain improvements have even higher construction rates. The link between Parramatta Road and Old Canterbury Road (excluding tunnels) will cost around \$8,000 per linear metre.</p> <p>Overall, it is noted that the Proponent has underestimated the level of construction rates for projects listed, but not quoted in the Infrastructure Schedule. A detailed analysis of the proposed rates in the Infrastructure Schedule is provided below:</p> <p>More broadly, Council's Property Capital Projects team has identified the following issues with the proposed construction rates (p.34 of the IIDP):</p> <p>Active Transport Network</p> <ul style="list-style-type: none"> Items 1 –7: These works cannot be precisely estimated as the scope of works is broad and generic. Notwithstanding, the proposed base rate of \$225/m is very low and the recommended rate should be approximately \$350/m with some works such as site establishment being as high as \$950/m. <p>Community Infrastructure</p> <ul style="list-style-type: none"> Item 8 Meeting and cultural space: Proponent's rate equates to \$2500/sqm for a new building. This is very low and should be approximately \$3,500/sqm or \$1.5m for a meeting space.

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist	Satisfactory			Comments
	Y	N	N/A	
				<ul style="list-style-type: none"> Item 10 & 12 Childcare: Council recently completed a 60 place childcare building at Leichhardt Park for \$3.5mil. Using this rate would mean 36 places by 2023 equates to \$2.1mil and 114 places by 2054 equates to \$6.65mil. The rates quoted (\$1.4mil for 36 places and \$4.56mil for 114 places) is poor and probably excludes landscaping, furniture, fixtures and equipment. Item 11& 13 Outside of School hours: Should be the same as above. Item 16 Cultural Space: The comments on Item 8 are likely to apply to Item 16. <p>Road/ Intersection Upgrade</p> <ul style="list-style-type: none"> Item 17: This rate cannot be adequately determined until the completion of RMS's and Council's precinct wide traffic modelling. <p>Open Space and Recreation</p> <ul style="list-style-type: none"> Item 18 – 21: All the proposed rates are too generic and may apply to other areas of Sydney, however all IWC grounds usually have some form of contamination and the remediation costs are high. The rate should be almost double at around \$400/sqm. <p>Public Transport Network</p> <ul style="list-style-type: none"> Item 22 Rail and Light Rail: TfNSW in their comments on the IIDP (pg. 30 of Appendix 2 of the IIDP) have pointed out that the PRCUTS required traffic study should be completed prior to any rezoning. The study is not complete and therefore, the proposed rates in the IIDP have no reliable foundation. <p>Taverners Hill Urban Amenity Improvement Plan</p> <ul style="list-style-type: none"> Items 23 – 24 – See the comment above about actual GreenWay construction costs. <p>There are also gaps in this Schedule which cannot be adequately determined until such time as Council implements a new local contributions plan. As a part of amending/updating their local contributions plan, councils are required to undertake additional analysis including audits of existing facilities and preparation of needs studies beyond the Corridor's boundaries.</p> <p>This core work is currently underway within Council's Urban Strategy team. In the absence of this critical information, Council officers are</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
	<p>currently not in a position to comment on the Proponent's calculations and rates. Support of this Proposal will compromise the holistic and inclusive basis of wider strategic planning projects underway at local and state government level and is likely to undermine the objectivity of Council's decision-making process.</p> <p>Council is currently preparing its new developer contributions plan which will build financial capacity for provision of additional infrastructure in the Corridor and support future population growth in the Inner West LGA. In the absence of this critical information, Council officers are not in a position to reliably confirm the proponent's calculations and rates. Local infrastructure cannot be adequately levied for this type of proposed spot rezoning in the PRC until IWC adopts a new developer contributions plan.</p>				
	Urban Amenity Improvement Plan (UAIP)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	See below.
	<p>The UAIP is a \$198 million initiative attached to the Strategy, to be used to stimulate the transformation of the Corridor. The UAIP identifies a suite of early local amenity improvement works to be rolled out in various locations throughout the Corridor to help realise the vision and principles of the Strategy.</p> <p>The UAIP identifies the following works for the Taverners Hill Precinct:-</p> <ul style="list-style-type: none"> • Greenway connection under Parramatta Road; and • Greenway connection under Longport Street. <p>Neither of these projects directly affects the site.</p>				
	Reference Reports				
	Precinct Transport Report	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The following matters require consideration under this Report:</p> <p><u>Timing of Release/rezoning</u> The Planning Proposal is located outside of the staging area for 2016-2023 with this Report stating that investment such as longer term light rail or heavy rail solutions, currently being investigated, would be required to support the land use change beyond 2023 (Section 1.4).</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
						<p>Furthermore, the Report indicates that further traffic modelling will be required for each Precinct as part of subsequent planning stages, including assessment of the cumulative impacts of the Strategy and working with TfNSW and the RMS to understand the changing Parramatta Road function and opportunities to deliver or complement this.</p> <p>The Report also indicates that beyond 2023, population growth and transformation of the Corridor will need to be supported by longer term rail improvements and light rail options in order to proceed. The Government is currently investigating public transport options which will be required to support the scale, timing, and staging of longer term land use changes. Given the Planning Proposal is out of sequence, none of these issues have been satisfactorily resolved at this time.</p> <p><u>Traffic Generation</u> From a transport and traffic perspective, based on information currently available, it is considered that the projected traffic volumes generated by the development (both the Proponent's and Council's estimates) are generally at an acceptable level for the adjacent street network. In addition, as the Precinct develops, public transport along Parramatta Road is likely to be enhanced and mode share should increasingly move towards more sustainable transport modes.</p> <p><u>Car Parking</u> The Report considers the future parking requirements for the area and locates the site within category 1 (High Accessibility Location) land. The Report emphasises that</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments																												
			Y	N	N/A																													
						<p>parking should be minimised, decoupled and unbundled where possible. The Planning Proposal does not address these requirements and envisages a parking provision beyond the amounts outlined in Council's controls.</p> <p>The proposed design is for 235 apartments with the following car parking requirements and proposed provision:</p> <table border="1"> <thead> <tr> <th>Unit Type</th> <th>No. of units</th> <th>Max. parking rates (Precinct Transport Report)</th> <th>Proposed car parking</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>36</td> <td>0</td> <td>0</td> </tr> <tr> <td>1 bed</td> <td>60</td> <td>0.3 (18)</td> <td>Not shown</td> </tr> <tr> <td>2 bed</td> <td>103</td> <td>0.7 (72.1)</td> <td>Not shown</td> </tr> <tr> <td>3 bed</td> <td>36</td> <td>1 (36)</td> <td>Not shown</td> </tr> <tr> <td>Commercial</td> <td>3000m²</td> <td>1/150m² (20)</td> <td>20</td> </tr> <tr> <td>Total</td> <td>235</td> <td>146</td> <td>270-310</td> </tr> </tbody> </table> <p>The Planning Proposal indicates that the PRCUTS (146 spaces required), LDCP 2013 (159-261 spaces required) and the RMS Guide to Traffic Generating Developments (320 spaces required) all outline different car parking requirements. It is proposed to provide 270-310 spaces in a basement on the site.</p> <p>The Planning Proposal has not indicated that unbundled or decoupled parking has been considered to further</p>	Unit Type	No. of units	Max. parking rates (Precinct Transport Report)	Proposed car parking	Studio	36	0	0	1 bed	60	0.3 (18)	Not shown	2 bed	103	0.7 (72.1)	Not shown	3 bed	36	1 (36)	Not shown	Commercial	3000m ²	1/150m ² (20)	20	Total	235	146	270-310
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			Y	N	N/A	
						<p>reduce car parking provision. The Proposal fails to demonstrate how reduced parking is to be provided, particularly as it proposes more spaces than required by PRCUTS and the LDCP 2013.</p> <p><u>Precinct Wide Traffic Study</u> The Report outlines future character and strategic transport network requirements for Taverners Hill (Sections 9.3 and 9.4) and requires the following:</p> <p><i>Prior to any rezoning commencing, a Precinct wide traffic study and supporting modelling will be required to be completed which considers the proposed land uses and densities, as well as future WestConnex conditions, and identifies the necessary road improvements and upgrades that will be required to be delivered as part of any proposed renewal in the Taverners Hill Precinct.</i></p> <p>Future rezoning proposals should also model the impacts of future development on the Flood Street/Parramatta Road intersection in this context, in addition to any other intersections likely to be impacted.</p> <p>This Planning Proposal comes in advance of this work being completed and therefore, should not be supported</p> <p>The Report also requires that Prioritised Walking Links are provided for Lords Road between the light rail line and Flood Street. While the Planning Proposal addresses the link in a general sense, no details, firm commitments or consideration of the relevant requirements of</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
						authorities with jurisdiction over the public domain in this area
		Fine Grain Study	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The Proposal has been assessed in detail against these requirements in Attachment 2 Out of Sequence Checklist.</p> <p>The Planning Proposal does not adequately meet the PRCUTS Fine Grain Study and therefore, should not be supported. The Planning Proposal is contrary to the Key Guidelines 5 and 6 for Taverners Hill since the ground level setbacks do not respond to the established street alignments of surrounding streets and the setback of upper levels does not reduce the visual impact of the built form to the streetscape.</p>
		Social Infrastructure Analysis Report	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>The additional social infrastructure required for the Taverners Hill Precinct as identified in the Social Infrastructure Analysis Report forms part of the PRCUTS Infrastructure Schedule.</p> <p>This report does not directly affect the subject site and notes that the Taverners Hill Precinct is one of the smaller precincts along the Parramatta Road Corridor with a projected population of 5,516 by 2054. This additional community will only have slight impact on social infrastructure within the surrounding area.</p>
		Sustainability Implementation Plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Sustainability Implementation Plan details the sustainability strategies and key development controls for the PRCUTS corridor and precincts. The Plan does this through built form sustainability strategies across building efficiency, renewable energy, strategic parking, public domain and sustainable infrastructure.

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
						<p>The Sustainability Planning Report provided with the Planning Proposal is a generic and theoretical description of the potential sustainability measures which could be provided in the future redevelopment of the site. There are very limited references to the site or the proposal.</p> <p>In effect, the Planning Proposal relies on a future Development Application to demonstrate consistency with PRCUTS Sustainability and Resilience Principles. This is inconsistent with the Strategy which requires a Planning Proposal to sufficiently demonstrate that it would achieve or exceed the sustainability targets identified in PRCUTS.</p> <p>There is no referencing or consideration of the sustainability requirements under the Sustainability Implementation Plan, one of several PRCUTS reference reports. The Proponent's Sustainability Planning Report does not address the Precinct specific sustainability targets nor does it address the car parking requirements of unbundled, decoupled and minimised car parking for the site. The Planning Proposal is inconsistent with this Plan.</p>
		Economic Analysis Report	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>This report does not specifically address the subject site but it does form the basis of the land uses and development controls recommended in PRCUTS.</p> <p>Importantly, the Report states that any rezoning should be mindful of the displacement of existing businesses, particularly those who play a local service role and require a central location from which to service their key markets. The Report indicates that many inner and middle ring suburban locations were experiencing an</p>

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			Y	N	N/A	
						<p>incremental rezoning of light industrial lands to facilitate mixed use residential, thereby reducing the pool of potential alternate locations for local service businesses that are displaced. This is particularly relevant to this Planning Proposal.</p> <p>The Report also highlights the demand for industrial floor space across the PRC, whilst modest in comparison to other land use categories, is still important to support businesses that play a local service role. These businesses could include food manufacturers and suppliers, smash repairers, alarm and security systems installers and technicians, construction businesses, etc. and in most cases require accessible locations proximate to their key markets and suppliers.</p> <p>The Report recommended that 'destination commercial' premises (where visibility and exposure is not as critical) were suitable in the Taverners Hill Precinct given the poorly connected layout and disparate configuration of the precinct. Uses which require high exposure and visibility are unlikely to be attracted to this area. The Report explained that there are pockets of industrial properties within the precinct and although most are occupied, rents are modest, particularly those surrounded by residential uses.</p> <p>The Report outlined that large gains in employment were primarily observed in health care & social assistance, accommodation & food services, construction, education & training and retail trade. This employment growth profile of the Corridor was considered a clear reflection of the response of industry to population growth. The</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
						<p>Report also noted that the health care & social assistance industry is highly represented in Taverners Hill (18.8%).</p> <p>The Report indicated that employment activity in Taverners Hill appeared to be focused around Marketplace where retail and other population based services are thriving. Growth in employment in retail trade, health care & social assistance, education & training were observed which were considered to be consistent with the local service role that this precinct plays. Opportunities for retail facilities were considered more limited given the close proximity to larger existing retail facilities.</p> <p>Generally, the Report emphasises making Taverners Hill a services precinct given its proximate location to other retail services and the movement of more heavy industry to Western Sydney. The Report also indicates that Taverners Hill would also be a logical location for a range of car showrooms, large format bulky and broad commercial office tenancies.</p> <p>The Report underlines the previous discussion that the wider Taverners Hill Precinct should focus on providing service uses.</p> <p>The Planning Proposal is generally contrary to this Plan which emphasises that industrial land is still required and that the Taverners Hill Precinct can continue to accommodate destination commercial or in this case light industrial, uses.</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
	Sydney CBD to Parramatta Strategic Transport Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This plan does not directly affect the subject site.
STRATEGIC MERIT TEST					
Q3	Does the proposal have strategic merit? Is it:				
(a)	Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As outlined above, the Proposal fails to meet the Strategic Merit test as it is inconsistent with GSRP, ECDP and PRCUTS and therefore should not be supported.
	Consistent with relevant local council strategy that has been endorsed by the Department.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	At this stage, there are no relevant local strategies that have been endorsed by the Department and applicable to the site.
	Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The Planning Proposal comes in advance of any infrastructure improvements including public transport improvements in the PRC.</p> <p>PRCUTS identifies changing demographic trends for the Corridor and provides future land use and built form controls to respond to these trends.</p> <p>The Proposal is inconsistent with the projected demographic trends in the PRCUTS for the Taverners Hill Precinct. The Strategy forecasts that there would be 1,350 new dwellings and 4,110 jobs in the Precinct by 2050. However, the largest increase in residential floor space is not proposed until the longer term (to 2050) when it is expected to increase to 170,000sqm. The short term (to 2013) increase of 47,000sqm in residential floor space does not include the subject site. The employment floor space is proposed to increase by the same amount, 35,000sqm, in both the short and long term periods as</p>

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			Y	N	N/A																				
						<p>shown in Figure 1 below:</p> <p>Proposed Indicative Land Use Mix (additional)</p> <table border="1"> <thead> <tr> <th rowspan="2"></th> <th colspan="2">RESIDENTIAL GFA (M²)</th> <th colspan="2">EMPLOYMENT GFA (M²)</th> </tr> <tr> <th>SHORT TERM (2023)</th> <th>LONG TERM (2050)</th> <th>SHORT TERM (2023)</th> <th>LONG TERM (2050)</th> </tr> </thead> <tbody> <tr> <td>Precinct</td> <td>47,000</td> <td>170,000</td> <td>35,000</td> <td>35,000</td> </tr> <tr> <td>Frame Area</td> <td>0</td> <td>0</td> <td>0</td> <td>315,000</td> </tr> </tbody> </table> <p><i>Figure 1 - Extract from PRCUTS Planning and Design Guidelines (p. 202)</i></p> <p>Review of the PRCUTS growth projections for the Precinct of 451 new dwellings by 2023 and 1350 by 2050 has demonstrated that this site does not need to be rezoned to meet these targets.</p>		RESIDENTIAL GFA (M ²)		EMPLOYMENT GFA (M ²)		SHORT TERM (2023)	LONG TERM (2050)	SHORT TERM (2023)	LONG TERM (2050)	Precinct	47,000	170,000	35,000	35,000	Frame Area	0	0	0	315,000
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Q3	Does the proposal have site-specific merit, having regard to the following:																								
	(b)	The natural environment (including known significant values, resources or hazards).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The Flood Report notes that the site is impacted by flood storage along the western boundary in the 100 year ARI storm event. It is noted that this area also serves as a floodway through to Marion Street in the PMF event as water levels exceed the existing embankment levels of Lambert Park and overtop the embankment before continuing to flow downstream.</p> <p>Any proposed building footprint must be supported by additional flood modelling demonstrating no adverse impact to flood levels within Lords Road, against the railway embankment, and through Lambert Park during both the 100 year ARI and PMF events. Note that the proposal to provide compensatory flood storage (within tanks or otherwise) within the building footprint to offset any loss of natural flood storage area within the site is not supported. This will likely require amendment to the</p>																			

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
						<p>proposed building footprint within the southwest corner of the site where the flood depth is greatest.</p> <p>All floor levels (residential and commercial) must be raised above the Flood Planning Level. All access to the basement (vehicle and pedestrian) should be provided clear of the flood affected area, or raised sufficiently above the PMF level. In this regard, the proposed DCP locates the basement access towards the east of the site, which is supported.</p> <p>The Flood Report recommends providing for vertical flood evacuation to higher levels within the building. Reliance on evacuation on site as the sole measure of evacuation protection as outlined in the Planning Proposal is not appropriate. An evacuation route should be provided to the eastern side of Lords Road.</p> <p>As currently proposed, the Planning Proposal is unacceptable in relation to flooding.</p>
		The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The Proposal comes in advance of broader strategic planning work underway at local and state level including Local Housing Strategy and Employment Lands Review. These studies are fundamental to making an informed decision in relation to the future uses of the site and its zoning. Until this work is complete the Proposal cannot demonstrate it has adequate site-specific merit to support rezoning.</p> <p>It is also considered that the loss of 9,979sqm of industrial floor space and the existing 160 jobs generated on the site under existing conditions is too great, given only token commercial uses, which may generate around 96 to 128 jobs, are proposed.</p>

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			Y	N	N/A	
		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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The Planning Proposal would result in increased population density which will place pressure on existing services and infrastructure. The Proposal is out of alignment with the proposed infrastructure delivery schedule for the PRC.</p> <p>The Proposal does offer to make financial agreements for infrastructure provision at local and state level within the IIDP, but the contributions and scope of works offered are too limited. Refer to the detailed comments in the Council report and Out of Sequence checklist in Attachment 2.</p> <p>It is clear however that none of the proposed new, enhanced or expanded infrastructure required by the PRCUTS Infrastructure Schedule has been provided nor would it be by this proposed development.</p> <p>Council is also preparing a new infrastructure contributions plan, which intends to build financial capacity for provision of additional infrastructure in the Corridor area to support the future population in the Inner West. Local infrastructure cannot be adequately levied for this type of spot rezoning along the PRCUTS corridor until IWC completes this new contributions plan.</p> <p>In the absence of a contributions plan, Council cannot make a fully informed decision regarding the funding required to resource the future growth and provide additional infrastructure. Consequently the Proposal should not be supported until this work is completed by Council.</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
Q4	Is the planning proposal consistent with a council's strategy or other local strategic plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	There are a number of local strategies and local strategic plans which have been endorsed by Council and need to be considered including: <ul style="list-style-type: none"> • <i>Inner West Council Community Strategic Plan: Our Inner West 2036 (June 2018)</i> • <i>Integrated Transport Plan – Leichhardt</i> • <i>Leichhardt Economic and Employment Development Plan;</i> • <i>Inner West Council Affordable Housing Policy 2016</i> These are considered in detail below.
Inner West Council Community Strategic Plan (CSP) <i>Our Inner West 2036 (June 2018)</i>					Overall as is clear from the assessment of the Proposal in the table below that it fails to adequately address or make a sufficient substantial contribution to the implementation of the direction and strategies of the CSP. The CSP is structured around the guiding principle of "To work together in a way that is creative, caring and just".
Strategic Direction 1: An ecologically sustainable inner west					
	1.1 The people and infrastructure of Inner West contribute positively to the environment and tackling climate change. <ul style="list-style-type: none"> • <i>Develop planning controls to protect and support a sustainable environment.</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not sufficiently demonstrate that the proposal achieves the sustainability criteria of the PRCUTS which is considered further in the PRCUTS consideration in this checklist.
	1.2 Inner West has a diverse and increasing urban forest that supports connected habitats for flora and fauna. <ul style="list-style-type: none"> • <i>Support people to protect, restore, enhance and connect with nature in Inner West.</i> • <i>Maintain and increase Inner West's tree canopy</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal provides some additional landscaping opportunities within the site, however does not sufficiently demonstrate that the tree canopy will enhance biodiversity corridors or protect, conserve and enhance existing natural area sites for species richness and diversity. There are limited details regarding the

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
		<i>and urban forest, and enhance biodiversity corridors.</i>				proposed bushland regeneration to be undertaken within the GreenWay.
		1.3 The community is water sensitive, with clean, swimmable waterways.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to this Planning Proposal.
		1.4 Inner West is a zero emissions community that generates and owns clean energy.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to this Planning Proposal.
		1.5 Inner West is a zero waste community with an active share economy.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to this Planning Proposal. Relevant conditions can be applied to future DAs.
Strategic Direction 2: Unique, liveable, networked neighbourhoods						
		2.1 Development is designed for sustainability and makes life better. <ul style="list-style-type: none"> <i>Pursue integrated planning and urban design across public and private spaces to suit community and environment needs.</i> <i>Improve the quality, and investigate better access and use of existing community assets.</i> <i>Develop planning controls that protect and support a sustainable environment and contribute to a zero emissions and zero waste community.</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not achieve integrated planning and urban design across public and private spaces nor respond to the complex urban planning and transport issue of developing land out of sequence as outlined in the PRCUTS. There is a lack of detail in relation to the proposed linkages to Marion light rail stop and other pathways through the site. As such, improving the quality of access and use of existing community assets is not attained. The Planning Proposal also does not incorporate the sustainability practices required by the PRCUTS.
		2.2 The unique character and heritage of neighbourhoods is retained and enhanced. <ul style="list-style-type: none"> <i>Manage change with respect for place, community history and heritage.</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not manage change with respect to heritage as outlined in this checklist.
		2.3 Public spaces are high-quality, welcoming and enjoyable places, seamlessly connected with their surroundings. <ul style="list-style-type: none"> <i>Ensure private spaces and developments</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not provide adequate public open space on the site. The central location of the proposed open space will mean it is likely to be used only by residents, employees and customers of the site and not the wider community.

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
		<i>contribute positively to their surrounding public space.</i>				
		2.4 Everyone has a roof over their head and a suitable place to call home. <ul style="list-style-type: none"> • <i>Ensure the expansion of social, community and affordable housing, distributed across Inner West, facilitated through proactive policies.</i> • <i>Encourage diversity of housing type, tenure and price in new developments.</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not provide adequate affordable housing in accordance with Council's policy as outlined in this checklist.
		2.5 Public transport is reliable, accessible, connected and enjoyable.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not allow transport infrastructure that aligns to population growth given it is proposed out of sequence.
		2.6 People are walking, cycling and moving around Inner West with ease. <ul style="list-style-type: none"> • <i>Deliver integrated networks and infrastructure for transport and active travel.</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not sufficiently demonstrate or provide the relevant land tenure arrangements for the proposed linkages to the Marion light rail stop.
Strategic Direction 3: Creative communities and a strong economy						
		3.1 Creativity and culture are valued and celebrated. <ul style="list-style-type: none"> • <i>Grow Inner West's reputation as a leading creative and cultural hub, celebrating and supporting diverse creative industries and the arts.</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal removes industrial land from the Inner West which can, and currently is, being used for creative uses. The removal of this industrial land and creative space is contrary to the strategy of growing Inner West's reputation as a leading creative and cultural hub. While it is acknowledged that the Planning Proposal is attempting to rehome Art Est on the site, this has not been sufficiently demonstrated. Furthermore, once it is relocated it is unlikely to return to the site.
		3.2 Inner West is the home of creative industries and services. <ul style="list-style-type: none"> • <i>Encourage the establishment of new enterprises in</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As outlined above, the Planning Proposal removes industrial land from the Inner West which can, and currently is, being used for creative uses. The removal of this industrial land and creative space is contrary to the

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		<i>Inner West.</i> <ul style="list-style-type: none"> Facilitate the availability of affordable spaces for creative industries and services. 				strategy of encouraging the establishment of new enterprises in Inner West and facilitating the availability of affordable spaces for creative industries and services.
		3.3 The local economy is thriving. <ul style="list-style-type: none"> Support business and industry to be socially and environmentally responsible. Strengthen economic viability and connections beyond Inner West. Promote Inner West as a great place to live, work, visit and invest in. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal is contrary to this outcome given the it removes industrial land from the LGA thereby reducing and not strengthening economic viability and connections beyond Inner West. The Planning Proposal does not promote Inner West as a great place to live, work, visit and invest in.
		3.4 Employment is diverse and accessible. <ul style="list-style-type: none"> Support local job creation by protecting industrial and employment lands. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal is contrary to this outcome given the it removes industrial land from the LGA thereby reducing and not supporting local job creation and the protection of industrial and employment lands. The Planning Proposal also does not encourage social enterprises and businesses to grow local employment.
		3.5 Urban hubs and main streets are distinct and enjoyable places to shop, eat, socialise and be entertained.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not relevant to the Planning Proposal as it is not located on a main street or within an urban hub.
Strategic Direction 4: Caring, happy, healthy communities						
		4.1 Everyone feels welcome and connected to the community.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to this Planning Proposal.
		4.2 The Aboriginal community is flourishing, and its culture and heritage continues to strengthen and enrich Inner West.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to this Planning Proposal.
		4.3 The community is healthy and people have a sense of wellbeing.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to this Planning Proposal.
		4.4 People have access to the services and facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to this Planning Proposal.

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
	they need at all stages of life.				
Strategic Direction 5: Progressive local leadership					
	5.1 People are well informed and actively engaged in local decision making and problem solving.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Proponent has undertaken preliminary community consultation for this Planning Proposal to comply with the Out of Sequence Checklist criteria. The adequacy of this consultation and the outcomes are discussed in Attachment 2. Detailed community consultation would be undertaken by Council if the Planning Proposal proceeds to the Gateway Stage and receives a positive Gateway Determination.
	5.2 Partnerships and collaboration are valued and recognised as vital for community leadership and making positive changes.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not directly relevant to this Planning Proposal.
	5.3 Government makes responsible decisions to manage finite resources in the best interest of current and future communities. <ul style="list-style-type: none"> <i>Undertake visionary, integrated, long term planning and decision making, reflective of community needs and aspirations.</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal is out of sequence with respect to the PRCUTS Action Plan for the Taverners Hill Precinct and is inconsistent with the Out of Sequence Checklist criteria. Accordingly, the Planning Proposal is considered to be inconsistent with this outcome and strategy given it lacks the required integrated and long term planning and decision making required by the PRCUTS.
	Leichhardt Community and Cultural Plan 2011 - 2021	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This Plan has been superseded by the <i>Our Inner West 2036 (June 2018) Community Strategic Plan</i> .
	Integrated Transport Plan - Leichhardt	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal comes in advance of traffic and transport studies underway to determine the cumulative traffic impacts that will arise from implementation of PRCUTS and other infrastructure and development projects. Although the Proposal may not result in significant detrimental impacts on adjacent intersections, there are concerns regarding the potential cumulative effects of PRCUTS. Support of this Planning Proposal ahead of

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		Y	N	N/A	
					precinct wide traffic modelling would set an adverse precedent in the area and would be inconsistent with the requirements of Out of Sequence Checklist in the PRCUTS.
	Leichhardt Economic and Employment Development Plan	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	Outcome 1 - Make Place Matter	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Outcome 2 - Meet People's Needs	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Plan states that Council believes that this objective is important because greater convenience, choice and diversity can benefit the wellbeing of the local community and the vitality of the local economy. The loss of industrial land as contemplated in this Planning Proposal will result in the reduction of land available for population-serving industries currently located on this site and similarly zoned industrial land.
	Outcome 3 - Embrace the New Economy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Although the Planning Proposal suggests it will provide 3,000sqm of non-residential floor space to offset the loss of the industrial site, on balance this loss would undermine the EEDP objectives to: <ul style="list-style-type: none"> • Support small businesses and start-ups (Strategy 3.1) • Support the growth of creative industries (Strategy 3.3).
	Outcome 4 - Protect and Leverage Economic Assets	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See below.
	<p>The Leichhardt EEDP complements the Leichhardt Industrial Lands Study 2014 by setting out a more detailed analytical methodology for the review of proposed rezoning of Employment Lands.</p> <p>In practical terms, this approach has three key steps:</p> <ol style="list-style-type: none"> 1. A coordinated approach to reviewing sites (and where possible a concurrent approach) to ensure an LGA wide perspective is maintained particularly in relation to the need for, and suitability of, the sites for various uses both today and in the future. 				

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		Y	N	N/A	
	<p>2. A consistent approach is achieved by reviewing the sites against the standard criteria.</p> <p>3. Where sites are found to be surplus to requirements and proposed to be rezoned, their suitability against a range of alternative uses discussed in this Plan is considered. For example, their potential rezoning and use for creative industries, commercial office space or affordable housing.</p> <p>Step 2 above refers to standard criteria for assessing the suitability of an employment site for rezoning. In detail, this Plan advocates the use of standardised criteria which have been designed to qualify the suitability of sites from a quantitative perspective (i.e. is there enough industrial land to meet current and forecast demand), a qualitative perspective (i.e. does the industrial land have the attributes required by potential tenants) and from the perspective of economic viability (i.e. are industrial uses viable on the land). This standard criteria is considered in detail above in the consideration of Planning Priority E12, Retaining and managing industrial and urban services land, under the Eastern City District Plan consideration of this Checklist.</p> <p>The Proponent acknowledges that there are currently a number of contradictory legislative measures and policies at State and local level regarding the approach to retain/transition the industrial land, including Leichhardt EEDP. The Proponent gives precedence to PRCUTS and the associated s9.1 direction to make the case for rezoning from industrial to residential. The Proponent also proposes 3,000sqm of commercial floor space that could create 97-128 jobs in community uses, light industrial and urban services, creative industries, health facilities, education uses, gymnasium, restaurant/cafes and local service business. The functionality of such land, however, is questionable and it is unlikely that any significant 'industrial activity' is likely to be carried out on the site given the inherent problems with noise, servicing and the like.</p> <p>It is agreed that the Planning Proposal has some merit for rezoning in the context of s9.1Direction 7.3 'Parramatta Road Corridor Urban Transformation Strategy' and policy direction for PRCUTS. However, Council has reservations regarding loss of any industrial land in the Taverners Hill Precinct as discussed in the previous sections. In addition, the Proponent's justification based on provision of commercial space is inadequate as it does not fully address the foremost issue of loss of urban services land given the inherent incompatibility between such uses and residential development. In this respect, retention of industrial land is required for economic and employment purposes rather than the number of jobs. Notwithstanding, the Proposal would result in a net loss of jobs.</p> <p>This Planning Proposal is inconsistent with Council's intention to retain all industrial lands in response to the projected shortfall of urban services and employment land and therefore, should not be supported. The Planning Proposal is also inconsistent with Strategy 4.1 of this Plan which requires proposals to protect and enhance key employment lands.</p>				
	Outcome 5 - Make Business and Employment easier	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not relevant to the Planning Proposal.
	Outcome 6 - Communicate and Connect with Partners	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not relevant to the Planning Proposal.
	Outcome 7 - Tell the World	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This is not relevant to the Planning Proposal.

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		Y	N	N/A	
	Inner West Council Affordable Housing Policy 2016	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Council's Affordable Housing Policy (2016) outlines evidence that indicates there is clear justification for Council to actively seek to increase the supply of affordable housing through its planning instruments and policies. The amount of unearned land increment (land value uplift) created through the operation of Council's planning and approvals processes, some of which may reasonably be contributed to affordable housing as key infrastructure or a public purpose under a voluntary planning agreement or other legal mechanism, is also acknowledged.</p> <p>This Policy principally focuses on strong interventions through the planning system and the direct creation of affordable housing on public land through development and management partnerships as these are virtually the only way to create affordable housing in most areas of the Inner West Council area</p> <p>The Policy outlines that there are a number of reasons why affordable housing needs to be provided, including that there are a large, disproportionate and growing number of local people in housing stress; the displacement of historical populations through ongoing gentrification and non-replacement of affordable housing lost; and current and projected levels of unmet need for affordable housing including for very low, low and moderate income households together with other more vulnerable groups.</p> <p>Section 2.5.2 of this Policy requires the following:</p> <ul style="list-style-type: none"> • 15% of the GFA of the development (as a Major

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		Y	N	N/A	
					<p>Planning Agreement as it is for a rezoning with a development of >20 dwellings and a GFA of > 1,700m²).</p> <ul style="list-style-type: none"> Where the share of land value uplift is provided as apartments, Council will determine the size and number of bedrooms in accordance with its strategic priorities, and seek a mix of dwellings sizes and bedroom numbers. Title to apartments will be transferred to Council in perpetuity. <p>The Planning Proposal involves providing 35 apartments as affordable housing to be managed by a Community housing Provider (Bridge Housing) for 10 years.</p> <p>This represents 14.89% of the proposed apartments, with the Planning Proposal stating that this equates to approximately 8% of total gross floor area. However, the composition of these proposed affordable apartments is unclear as the breakdown of the types of apartments is not provided (i.e. studio, 1, 2 or 3 bedroom apartments).</p> <p>Accordingly, the Planning Proposal is inconsistent with this Policy given:</p> <ul style="list-style-type: none"> it provides only 8% of total GFA as affordable housing and not the required 15% for this size and type of development ; the composition of the proposed affordable apartments is not provided and may not provide a spread of affordable units across the studio, 1, 2 and 3 bedroom unit types; and

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		Y	N	N/A	
					<ul style="list-style-type: none"> The title is not transferred to Council in perpetuity.
Q5	Is the planning proposal consistent with applicable State Environmental Planning Policies?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	SEPP No 1 - Development Standards	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable to the current Planning Proposal.
	SEPP 55 - Remediation of Land	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The proponent has provided a Remedial Action Plan (RAP) prepared by Benviron Group, dated October 2018, which followed an earlier preliminary investigation which noted that there were some areas of contamination including asbestos. This is not unexpected given the past and current industrial use on the site.</p> <p>The RAP concludes that the site can be made suitable for the proposed residential use subject to the remediation being carried out as outlined in the plan. This includes following the "excavate and dispose" strategy given excavation for the basement is proposed on the site.</p> <p>There were numerous concerns with this RAP including the following:</p> <ul style="list-style-type: none"> This RAP refers to an earlier study which was prepared by Environmental Monitoring Services titled Detailed Site Investigation (DSI), dated March 2006. The RAP states that the DSI undertook a sampling program in which 21 boreholes were carried out on the site and that two (2) were found to contain levels of Benzo(a)pyrene concentrations above the NSW EPA levels while another two (2) boreholes recorded fragments or loose bundles of Chrysotile asbestos. The RAP states that the DSI concluded

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		Y	N	N/A	
					<p>that "...a RAP would be required to ensure the removal of the contamination was managed in accordance with the requirements of the NSW EPA".</p> <ul style="list-style-type: none"> It is noted that the DSI was not provided with this RAP or Planning Proposal and that the map provided in the RAP did not identify the location of the boreholes upon which the RAP is based and which was prepared for the DSI (notwithstanding that there is a key on the map referencing the boreholes). Therefore the location of the earlier documented contamination is not shown in the RAP. Accordingly, the RAP cannot be used as evidence demonstrating that the issue of potential land contamination on the site can be adequately remediated for the proposed use. The age of the data used from the DSI, being from 2006, is considered to be outdated and should not be used for assessment purposes. It is unknown whether thresholds have changed in that time or that any new uses have occurred on the subject site in the intervening time period which may have led to further contamination. Accordingly, it is considered that the issue of potential land contamination has not been adequately considered in this Planning Proposal.
	SEPP 64 - Advertising and Signage	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable to the current Planning Proposal.
	SEPP 65 - Design Quality of Residential Apartment Development	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The Proponent has provided a cursory assessment of the proposed design against the Apartment Design Guide (ADG) provisions.</p> <p>Overall, it is considered that while the Planning Proposal</p>

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		Y	N	N/A	
					<p>attempts to address some of the design issues of the ADG, there is insufficient information and assessment of the ADG. This is particularly in relation to the public domain interface, communal and public open space, apartment size and layout, private open space & balconies, common circulation & spaces, storage and facades where there is insufficient information to assess these aspects of the Guide.</p> <p>Furthermore, the Planning Proposal does not consider the proposal against the design quality principles of SEPP 65 with only a few diagrams illustrating setbacks, solar access, cross ventilation, communal open space and deep soil zone (pages 23-25) and two references in the Urban Design Report referring to SEPP 65 and the ADG.</p> <p>From the information provided, it is also considered that the PP is contrary to the following controls of the ADG:</p> <ul style="list-style-type: none"> • <u>3B Orientation</u> and <u>4A Solar and daylight access</u> – Insufficient analysis of potential building envelopes with respect to potential overshadowing of adjoining properties as well as within the development. Availability of solar access available to the units is inadequately demonstrated. • <u>4S Mixed use</u> - It is unlikely that the non-residential uses which have been proposed, including employment uses, will be compatible with the residential development on the site. These impacts are likely to arise from noise, servicing and parking. There is insufficient information on layout and configuration of the non-residential uses to

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		Y	N	N/A	
					<p>adequately consider if the commercial areas are appropriately configured.</p> <p>The peer-review of the urban design aspects of the proposal considered that there were various concerns with the proposal having regard to the ADG and other related design issues, including:</p> <ul style="list-style-type: none"> • Visual Privacy (3F) – a review of the building-to-building separation with regard to the buildings on the site is required and amendments made to the design accordingly. Review Building 5 ground floor apartments for general amenity; • Facades (4M) – Should the planning proposal proceed, greater attention to the articulation of the proposed buildings is required. The scale of the southern elevation of Building 3 is required to be broken down with recesses or by other architectural means given it is approximately 87 metres long. Building 2 also requires greater articulation to the western boundary and requires additional upper level setbacks to reduce impact to the GreenWay. Further setbacks are to be introduced for the proposed building at the corner of Lords Road and Davies Lane, to mitigate the scale and to protect the existing mature trees along the Lords Road frontage. A ground level setback of between 3m and 7m to Davies Lane is recommended for Building 5 to accommodate a minimum 3m footpath and landscaping. It is also recommended that 'before' and 'after' photomontages of the proposal is prepared from

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		Y	N	N/A	
					<p>key vantage points to assess the visual impact.</p> <ul style="list-style-type: none"> • Communal open space (3D) – clarification as to whether there will be roof top gardens; • Solar and daylight access (4A) – A shadow study should be provided in a plan view format for further assessment, particularly of the open space in the central portion of the site; • Landscape design (4O) – It is recommended that the rows of trees at the Lords Road and Davies Lane corner are retained by the proposal to provide screening of the new development. • Vehicle access (3H) - It is recommended that the traffic circulation strategy and review the minimum clear width required for the shared path (potential problem with servicing of non-residential spaces).
	SEPP 70 - Affordable Housing (Revised Schemes)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>IWC LGA has recently been included in the SEPP 70 application area to secure affordable housing. To apply IWC's Affordable Housing Policy under SEPP 70 Council will need to prepare an affordable housing contribution scheme to support each new Planning Proposal where contributions for affordable housing are required. This work has not started.</p> <p>While the Planning Proposal includes a commitment to affordable housing under the proposed VPA, such affordable housing is inconsistent with Council's Affordable Housing Policy. Support of this Planning Proposal in the absence of Council's broader strategic planning work and with a commitment in the proposed VPA being inconsistent with Council's Policy, would</p>

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		Y	N	N/A	
					compromise Council's ability to exercise integrated planning for affordable housing.
	SEPP 71 - Coastal Protection	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not affected by this Plan.
	SEPP (Affordable Rental Housing) 2009	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not contain provisions that contradict or hinder the application of this SEPP.
	SEPP (Building Sustainability Index - BASIX) 2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not contain provisions that contradict or hinder the application of this SEPP.
	SEPP (Exempt and Complying Development Codes) 2008	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not contain provisions that contradict or hinder the application of this SEPP.
	SEPP (Housing for Seniors or People with a Disability) 2004	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable to the current Planning Proposal.
	SEPP (Infrastructure) 2007	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not contain provisions that contradict or hinder the application of this SEPP. Should the Planning Proposal proceed, future development must comply with the requirements of this SEPP. In particular, consideration of the acoustic provisions will be required by any future development application due to the location of the site adjacent to the light rail. The Acoustic report submitted with the proposal also addresses this aspect of the proposal.
	SEPP (State and Regional Development) 2011	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	SEPP (State Significant Precincts) 2005	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	SEPP (Sydney Drinking Water Catchment) 2011	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	SEPP (Sydney Region Growth Centres) 2006	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	SEPP (Three Ports) 2013	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	SEPP (Urban Renewal) 2010	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A

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		Y	N	N/A	
	SEPP (Western Sydney Employment Area) 2010	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	Sydney (Western Sydney Parklands) 2009	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	Sydney REP No 26 - City West	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	SEPP (Educational Establishments and Childcare facilities) 2017	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	SEPP (Vegetation in Non-Rural Areas) 2017	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not contain provisions that contradict or hinder the application of this SEPP.
	Draft SEPP (Competition) 2010	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	Draft SEPP (Infrastructure) Amendment (Review) 2016	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	Draft Environment SEPP 2017	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal does not contain provisions that contradict or hinder the application of this SEPP.
Q6	Is the planning proposal consistent with applicable Ministerial Directions (s. 117 Directions)?				
	Employment and Resources				
1.1	Business and Industrial Zones	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See below
	<p>Objectives:</p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> a) Encourage employment growth in suitable locations; b) Protect employment land in business and industrial zones; and c) Support the viability of identified centres. <p>Clause (4) of Direction 1.1 includes what a relevant planning authority must do if this direction applies.</p> <p>What a relevant planning authority must do if this direction applies?</p> <p>(4) A planning proposal must:</p> <ul style="list-style-type: none"> a) Give effect to the objectives of this Direction; b) Retain the areas and locations of existing businesses and industrial zones; c) Not reduce the total potential floor space area for industrial uses in industrial zones; and 				

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
	<p>d) Ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.</p> <p>Clause (5) of Direction 1.1 outlines when a planning proposal may be inconsistent with the terms of this directions as follows:</p> <p>Consistency</p> <p>(5) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are:</p> <ul style="list-style-type: none"> a) justified by a strategy which: <ul style="list-style-type: none"> i. gives consideration to the objective of this direction, and ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and iii. is approved by the Secretary of the Department of Planning and Environment, or b) justified by a study (prepared in support of the planning proposal) which gives consideration to the objective of this direction, or c) in accordance with the relevant Regional Strategy, Regional Plan or Sub - Regional Strategy prepared by the Department of Planning and Environment which gives consideration to the objective of this direction, or d) of minor significance <p><u>Officer's response:</u></p> <p>This s9.1 Ministerial Direction (formerly 117 directions) does not align with the s9.1 Direction 7.3 for implementation of the Parramatta Road Corridor Urban Transformation Strategy which recommends rezoning of the site from industrial to residential.</p> <p>The Proponent claims that implementation of PRCUTS takes precedence over the other instruments and strategies as it was informed by relatively recent detailed analysis and stakeholder engagement. Interestingly, this Direction was issued (or updated) on 1 May 2017, after the issue of Direction 7.3 for the implementation of the PRCUTS on 9 December 2016.</p> <p>Former Leichhardt Council's policies strongly oppose loss of existing industrial land in response to demand for such land and its critical function in supporting a growing local population and economy. A recently (2018) completed independent peer review of an economic impact assessment supporting a planning proposal to rezone an industrial site in the former Leichhardt LGA, again confirmed that there is currently high demand for, and a shortfall of, available industrial land in the South Sydney and North Shore industrial market areas (Inner West is in the South Sydney industrial submarket). This is reflected in current high rents and market prices.</p> <p>In the context of this critical shortfall of employment land at the sub-regional level, also acknowledged in the GSRP and ECDP and is relevant to the s9.1 Direction to protect employment land in business and industrial zones. It is, therefore, recommended that the Planning Proposal should not be supported.</p>				

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist				Satisfactory			Comments
				Y	N	N/A	
1.2	Rural zones	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A		
1.3	Mining, Petroleum Production and Extractive Industries	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A		
1.4	Oyster Aquaculture	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A		
1.5	Rural Lands	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A		
Environment and Heritage						N/A	
2.1	Environment Protection Zones	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A		
2.2	Coastal Protection	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A		
2.3	Heritage Conservation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. While the site is proximate to heritage items, the potential impact on these items is discussed elsewhere and it is considered that this Direction relates to heritage items only.		
2.4	Recreation Vehicle Areas	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A		
2.5	Application of E2 and E3 zones and Environmental Overlays in Far North Coast LEPs	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A		
Housing Infrastructure and Urban Development							
3.1	Residential Zones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal is consistent with this Direction as it would provide additional housing opportunities in an area located close to jobs and existing services.		
3.2	Caravan Parks and Manufactured Home Estates	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A		
3.3	Home Occupations	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Proposal does not contravene this direction.		
3.4	Integrating Land Use and Transport	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Proposal does not contravene this direction.		
3.5	Development Near Licensed Aerodromes	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is located beyond the ANEF 20 contour and accordingly is not affected by aircraft noise.		

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
3.6	Shooting Ranges	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A	
Hazard and Risk						
4.1	Acid Sulphate Soils	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The subject site is located on Class 5 Acid Sulfate soils land and in close proximity to Class 3 land being the Hawthorne Canal. The Planning Proposal is supported by a Remediation Action Plan which concludes that the site can be made suitable for residential purposes. However, this Plan does not address acid sulfate soils.</p> <p>If the Planning Proposal proceeds past the gateway and/or to the Development Application Stage, the proposal will be required to provide a detailed Remediation and Management plan to ensure that there are no significant environmental impacts from the reuse of this land.</p>	
4.2	Mine Subsidence and Unstable Land	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A	
4.3	Flood Prone Land	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The objectives of this Direction include ensuring that development of flood prone land is consistent with the NSW Government's <i>Flood Prone Land Policy</i> and the principles of the <i>Floodplain Development Manual 2005</i>. The other objective is to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p> <p>This Direction requires that a planning proposal must not impose flood related development controls above the residential flood planning level for residential development and must include provisions that give effect to and are consistent with the <i>NSW Flood Prone Land Policy</i> and the principles of the <i>Floodplain Development Manual 2005</i> (including the Guideline on Development</p>	

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
						<p>Controls on Low Flood Risk Areas).</p> <p>The subject site is affected by the 1 in 100 year flood level, with the Flood Report provided with the Planning Proposal noting that the site is impacted by flood storage along the western boundary in the 100 year ARI storm event. It is noted that this area also serves as a floodway through to Marion Street in the PMF event as water levels exceed the existing embankment levels of Lambert Park and overtop the embankment before continuing to flow downstream.</p> <p>The Planning Proposal is generally consistent with this direction in that it does not propose any controls which are contrary to these flood management documents and policies. Furthermore, the Planning Proposal does not propose any provisions which would be contrary or in conflict with Clause 6.3 of the LLEP 2013 in relation to Flood planning.</p>
4.4	Planning for Bushfire Protection		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The site is not bushfire prone land.
	Regional Planning					
5.1	Implementation of Regional Strategies		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
5.2	Sydney Drinking Water Catchments		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
5.4	Commercial and Retail Development along the Pacific Highway, north Coast		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
5.8	Second Sydney Airport: Badgerys Creek		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
5.9	North West Rail Link Corridor Strategy		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
5.1	Implementation of Regional Plans		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
0					
	Local Plan Making				
6.1	Approval and Referral Requirements	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
6.2	Reserving Land for Public Purposes	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
6.3	Site Specific Provisions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.</p> <p>This direction requires that a planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> a) allow that land use to be carried out in the zone the land is situated on, or b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. <p>In relation to (a) and (c), it is considered inappropriate to allow residential flat development and commercial premises in a light industrial zone (IN2) and accordingly,</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
						<p>this option is not suitable for the current proposal.</p> <p>In this case, the Planning Proposal involves a rezoning of the site to R3 Medium Density Residential which is an existing zone within the LLEP 2013. The Planning Proposal also seeks to impose revised development standards in that the height and FSR development standards will require amendments. This can be achieved by amending the relevant LEP maps.</p> <p>There are some of the proposed provisions within Part 2 of the Planning Proposal (Explanation of Provisions) which are considered to be site-specific which include the following:</p> <ol style="list-style-type: none"> 1. <i>The objective of this clause is to facilitate the provision of at least 3,000m² of non-residential uses at 67-75 Lords Road to ensure the ongoing employment and urban services function of the site;</i> 2. <i>This clause applies to 67-75 Lords Road being Lot 1 DP 940543 and Lot 1 DP 550608.</i> 3. <i>A minimum of 3,000m² of non-residential uses must be provided on the land to which this clause applies.</i> 4. <i>Despite any other provision of this plan development consent may be granted for the following uses: recreation facility (indoor), office premises, business premises, light industry, industrial retail outlet, and restaurant and café.</i> 5. <i>Despite any other provision of this plan development consent may be granted for an FSR greater than 2.4:1, but only if the increase is provided as a public benefit in the form of a 500m² multi-use facility to be used in conjunction</i>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist			Satisfactory			Comments
			Y	N	N/A	
						<p><i>with Lambert Park.</i></p> <p>6. <i>Development consent must not be granted for development on the site unless a site specific DCP has been endorsed by the planning proposal authority.</i></p> <p>In particular, items (3), (4) and (5) impose requirements in addition to those already contained in that zone in that these requirements are not standard requirements in the R3 zone. However, it is considered that such clauses are similar to adopted clauses 6.15, 6.17, 6.18, 6.19 and 6.20 of the LLEP 2013.</p> <p>While these proposed provisions do not strictly comply with Clause 4 of this Direction, they are considered to be of minor significance given they will provide floor space for non-residential and community uses. Therefore, the Planning Proposal satisfies Clause 6 of this Direction which allows a Planning Proposal to vary the requirements of this Direction if such variations are of minor significance. It is considered that this criteria has been satisfied in this instance.</p> <p>The Planning Proposal is generally consistent with this Direction.</p>
	Metropolitan Planning					
7.1	Implementation of a Plan for Growing Sydney		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	A Plan for Growing Sydney has been superseded by the <i>Greater Sydney Region Plan 2018</i> . As discussed previously, the Planning Proposal is inconsistent with the Region Plan and therefore with this Direction 7.1 (refer to the discussion outlined above).
7.2	Implementation of Greater Macarthur Land Release Investigation		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
7.3	Parramatta Road Corridor Urban Transformation Strategy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See below. The Planning Proposal is subject to the provisions of the PRCUTS and accordingly, this Direction is a relevant consideration.
	<p>Objectives</p> <p>(1) <i>The objectives of this Direction are to:</i></p> <ul style="list-style-type: none"> a) <i>facilitate development within the Parramatta Road Corridor that is consistent with the Parramatta Road Corridor Urban Transformation Strategy (November, 2016) and the Parramatta Road Corridor Implementation Tool Kit,</i> b) <i>provide a diversity of jobs and housing to meet the needs of a broad cross - section of the community, and</i> c) <i>guide the incremental transformation of the Parramatta Road Corridor in line with the delivery of necessary infrastructure.</i> <p>Clause (4) of Direction includes what a relevant planning authority must do if this direction applies.</p> <p>(4) <i>A planning proposal that applies to land within the Parramatta Road Corridor must:</i></p> <ul style="list-style-type: none"> a) <i>give effect to the objectives of this Direction,</i> b) <i>be consistent with the Strategic Actions within the Parramatta Road Corridor Urban Transformation Strategy (November, 2016),</i> c) <i>be consistent with the Parramatta Road Corridor Planning and Design Guidelines (November, 2016) and particularly the requirements set out in Section 3 Corridor-wide Guidelines and the relevant Precinct Guidelines,</i> d) <i>be consistent with the staging and other identified thresholds for land use change identified in the Parramatta Road Corridor Implementation Plan 2016 – 2023 (November, 2016),</i> e) <i>contain a requirement that development is not permitted until land is adequately serviced (or arrangements satisfactory to the relevant planning authority, or other appropriate authority, have been made to service it) consistent with the Parramatta Road Corridor Implementation Plan 2016 – 2023 (November, 2016)</i> f) <i>be consistent with the relevant District Plan.</i> <p>Clause (5) of Direction outlines when a planning proposal may be inconsistent with the terms of this directions as follows:</p> <p>Consistency</p> <p>(5) <i>A planning proposal may be inconsistent with the terms of this Direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning & Environment (or an officer of the Department nominated by the Secretary) that the planning proposal is:</i></p> <ul style="list-style-type: none"> a) <i>consistent with the Out of Sequence Checklist in the Parramatta Road Corridor Implementation Plan 2016 – 2023 (November, 2016), or</i> b) <i>justified by a study (prepared in support of the planning proposal) that clearly demonstrates better outcomes are delivered than identified in the Parramatta Road Corridor Urban Transformation Strategy (November, 2016) and Parramatta Road Corridor</i> 				

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist	Satisfactory			Comments
	Y	N	N/A	
				<p><i>Implementation Plan 2016-2023 (November, 2016) having regard to the vision and objectives, or</i> c) <i>of minor significance.</i></p> <p><u>Officer's comment:</u> A detailed assessment of the Planning Proposal against the PRCUTS has been provided previously in this table under Question 3.</p> <p>The Proposal is inconsistent with the following objectives of this direction:</p> <ul style="list-style-type: none"> a) <i>facilitate development within the Parramatta Road Corridor that is consistent with the Parramatta Road Corridor Urban Transformation Strategy (November, 2016) and the Parramatta Road Corridor Implementation Tool Kit,</i> b) <i>provide a diversity of jobs and housing to meet the needs of a broad cross - section of the community, and</i> c) <i>guide the incremental transformation of the Parramatta Road Corridor in line with the delivery of necessary infrastructure.</i> <p>As outlined in the discussion in relation to Question 3, the Planning Proposal does not adequately meet the following requirements of Clause 4:</p> <ul style="list-style-type: none"> a) <i>give effect to the objectives of this Direction,</i> b) <i>be consistent with the Strategic Actions within the Parramatta Road Corridor Urban Transformation Strategy (November, 2016),</i> c) <i>be consistent with the Parramatta Road Corridor Planning and Design Guidelines (November, 2016) and particularly the requirements set out in Section 3 Corridor-wide Guidelines and the relevant Precinct Guidelines,</i> d) <i>be consistent with the staging and other identified thresholds for land use change identified in the Parramatta Road Corridor Implementation Plan 2016 – 2023 (November, 2016),</i> e) <i>contain a requirement that development is not permitted until land is adequately serviced (or arrangements satisfactory to the relevant planning authority, or other appropriate authority, have been made to service it) consistent with the Parramatta Road Corridor Implementation Plan 2016 – 2023 (November, 2016)</i> f) <i>be consistent with the relevant District Plan.</i> <p>The Proposal also fails to meet the merit tests of the Out of Sequence Checklist in the Parramatta Road Corridor Implementation Plan 2016 - 2023 to support its rezoning ahead of the staging plan (discussed in detail in Attachment 2). There are also concerns regarding the proposed design and layout of the proposal which is inconsistent with the recommendations of the PRCUTS Planning and Design Guidelines and would potentially result in an adverse precedent for the surrounding area in terms of built form, setbacks and transitions.</p> <p>The Proponent has prepared this Planning Proposal in response to the PRCUTS, but it fails to satisfactorily meet all the requirements of the Strategy. In particular, it is noted that PRCUTS requires a substantial contribution towards the Strategy's wider vision for proposals outside the 2016 - 2023 Implementation area, yet the IIDP is unsatisfactory.</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments	
		Y	N	N/A		
		<p>The most appropriate way to review the development controls for the site is considered to be at the IWC comprehensive LEP/DCP stage. Work on this has begun. This will also align with the staging sequence recommended in the PRCUTS Implementation Plan.</p> <p>The Planning Proposal is inconsistent with this direction and therefore should not be supported.</p>				
	7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Q7	Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats will be adversely affected as a result of the proposal?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>There are no critical known habitat, threatened species, populations or ecological communities or their habitats on the subject site.</p> <p>There are several trees along the eastern and southern boundaries of the site which contribute to the leafy character of the street. The GreenWay is located adjacent to the western boundary and includes large areas of vegetation, which contribute to the green corridor.</p> <p>The Proponent's concept design provides a 6m setback to the GreenWay boundary at ground level. Greater setbacks are required to facilitate provision of the GreenWay and enhance the environmental value of this area. There are also some trees proposed to be removed at the Lords Road and Davies Lane corner of the site which should be retained. These issues are considered below.</p>
Q8	Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?					

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
	Urban Design, Built form & Apartment Design Guide	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Planning Proposal has been assessed against the requirements of SEPP 65 and Apartment Design Guide. This has identified significant urban design shortcomings.
	Existing site plan (buildings vegetation, roads, etc.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The urban design report submitted with the Planning Proposal provides sufficient information relating to the existing site plan and surrounding development.
	Building mass/block diagram study (changes in building height and FSR)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See Council report.
	Overshadowing impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See Council report.
	Development yield analysis (potential yield of lots, houses, employment generation)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See Council report. This is discussed in the social impact consideration.
	Traffic and Transport	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>See Council report.</p> <p>In general, prior to any rezoning commencing, the PRCUTS Implementation Plan 2016 - 2023 requires the completion of a precinct-wide traffic study and supporting modelling which considers the recommended land uses and densities, as well as future WestConnex conditions, and identifies the necessary road improvements and upgrades required to be delivered as part of any proposed renewal in the Precinct.</p> <p>The above mentioned study is being undertaken in collaboration with the Department of Planning and Environment (DPE) and its completion is not anticipated until the end of March 2019. It is unlikely that a planning proposal could be supported prior to completion of this study.</p> <p>There are concerns regarding the potential area-wide implications of a cumulative rezoning/up zoning of sites in the PRC in the absence of adequate public transport infrastructure.</p>

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
					<p>In addition to these strategic considerations, the proposal also presents numerous traffic and access concerns, including in Davies Lane, the provision of car share facility being provided off-site and the proposed vehicle access point into the site being located in close proximity to the 90 degree bend in Lords Road. The potential for pedestrian conflict given the narrowness of Davies Lane may require the provision of a 1.5m wide footpath along the length of Davies Lane. Further concerns include the potential for additional right turn movements at the Foster/Tebbutt/Kegworth Street intersection, particularly during school peak period and numerous concerns with the Traffic Report as outlined in the Council report.</p> <p>While the active transport link through Lambert Park is discussed, there is no formal commitment to this from either party. This connection is unlikely to be achieved unless Lambert Park is reconfigured.</p> <p>Given these inherent traffic and transport concerns and the lack of the precinct-wide traffic study and supporting modelling for the Precinct, it is considered that the Planning Proposal is unacceptable in its current form and timing and therefore cannot be supported.</p>
	Public Domain	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Public domain improvements should be considered as outlined in the Planning Proposal report.
	Heritage	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The subject site is not a heritage item nor located in a heritage conservation area, however it is adjacent to a heritage item within Lambert Park and in close proximity to the listed Kegworth Primary School. A Heritage Conservation Area is located to the west of the site beyond the Hawthorne Canal.

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
					The Planning Proposal does not adequately demonstrate that there will be no adverse impacts on the heritage value of the adjoining and nearby heritage items, nor does it consider if the existing buildings on site are of significance.
	Bushfire hazard	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
	Acid Sulfate Soil	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	See Council report
	Noise impact	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	See Council report
	Landscape	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See Council report
	Soil stability, erosion, sediment, landslip assessment, and subsidence	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Can be considered in detail in future development applications.
	Water quality	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	A stormwater plan has been provided. It is considered that this issue can be considered at the detailed design/DA stage.
	Stormwater management and Flooding	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See report. There are several concerns with the flooding and stormwater aspects of the proposal.
	Land/site contamination (SEPP55)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	See report
	Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining) Sea level rise	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A
Q9	Has the planning proposal adequately addressed any social and economic effects?				
	Social Impacts	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See report. In general, the Planning Proposal does not demonstrate that the negative social and economic impacts are outweighed or addressed through positive impacts and is not supported on social impact grounds. This outcome is not in the spirit of the Inner West vision of working

3. Department of Planning and Environment's Guide to Preparing Planning Proposals Information Checklist		Satisfactory			Comments
		Y	N	N/A	
					together in a way that is creative, caring and just as required by the Council's Community Strategic Plan Our Inner West 2036.
	Economic Considerations	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	Economic Impact Assessment (EIA)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The EIA is not supported given the numerous concerns with the analysis and the use of selective data; the loss of industrial and urban service lands; the lack of information provided in relation to the adaptability of the non-residential floor space; and the potential for future land use conflict between residential land uses and certain non-residential land uses.
	Employment land	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See Council report
Q10	Is there adequate public infrastructure for the planning proposal?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See Council report
Q11	What are the views of State and Commonwealth public authorities consulted in accordance with Gateway Determination?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	See Council report
	Part 4 - Mapping (including current and proposed zones/changes etc.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See Council report
	Part 5 - Recommended community consultation (including agencies to be consulted)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	See Council report
	Part 6 - Project timeline (anticipated timeframes)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	See Council report

**ATTACHMENT 2 - PRCUTS IMPLEMENTATION PLAN OUT OF SEQUENCE COMPLIANCE TABLE
67-75 Lords Road, Leichhardt**

The subject site is outside the PRCUTS '2016 - 2023 Release Area' which means that the redevelopment of the site should be in the medium to long term between 2024 and 2054. Proposals that depart from this staging need to be considered against the PRCUTS 'Out of Sequence Checklist' to ensure that changes to the land use zones and development controls can be justified against the underlying Principles and Strategic Actions of the Strategy. These include provision of necessary transport, services and social infrastructure to service a new population. The Checklist also aims to ensure the established benchmarks for the quality of development and public domain outcomes desired for the Corridor are achieved.

For a Planning Proposal to be consistent with the Out of Sequence Checklist, it must demonstrate (without relying on any future development application) that it will:

- Satisfactorily meet **all** the underlying Principles and Strategic Actions of the Strategy; and
- Achieve the established benchmarks for the quality of development and public domain outcomes desired for the Corridor.

Table 1 provides an analysis of the Planning Proposal against the criteria outlined in the Out of Sequence Checklist. Table 2 provides a detailed consideration of the Planning Proposal against the requirements of the checklist.

Table - 1 Summary of the Out of Sequence compliance checklist

Out of Sequence checklist criteria		Consistency	Comment**
** Note- For detailed analysis, refer to the comments in the subsequent table.			
Criteria 1 Strategic objectives, land use and development:			
1.	The planning proposal can demonstrate significant delivery or contribution towards the Strategy's Corridor wide and Precinct specific vision.	X	The PRCUTS dwelling targets for Taverners Hill can be met and surpassed through the rezonings recommended for other parts of the precinct without rezoning this site. The Planning Proposal does not adequately demonstrate that it meets the strategic, land use and development objectives outlined in the PRCUTS Implementation Plan. It does not provide significant delivery, contribution or benefits for the Strategy's Corridor wide and Precinct vision. It is inconsistent with the recommended built form recommendations and does not demonstrate that the new development will achieve design excellence. The Proposal is also out of alignment with the short term growth projections identified in the strategy and consequently, should not be supported.
2.	The planning proposal satisfies the Strategy's seven land use and transport planning principles and fulfils the relevant Strategic Actions for each Principle.	X	
3.	The planning proposal can demonstrate significant net community, economic and environmental benefits for the Corridor and the Precinct or Frame Area within which the site is located.	X	
4.	The planning proposal is consistent with the recommended land uses, heights, densities, open space, active transport and built form plans for the relevant Precinct or Frame Area.	X	
5.	The planning proposal demonstrably achieves outcomes aligned to the desired future character and growth projections identified in the Strategy.	X	
6.	The planning proposal demonstrates design excellence can be achieved, consistent with councils adopted design excellence strategy or the design excellence provisions provided in the Parramatta Road Corridor Planning and Design Guidelines.	X	
Criteria 2 Integrated Infrastructure Delivery Plan			
	An Integrated Infrastructure Delivery Plan, which identifies advanced infrastructure provision and cost recovery for the local and regional infrastructure identified in the Infrastructure Schedule, must support the planning	X	The Planning Proposal is accompanied by an Integrated Infrastructure Delivery Plan

Out of Sequence checklist criteria	Consistency	Comment**
<p>proposal. The Integrated Infrastructure Delivery Plan must demonstrate a cost offset to council and agency costs for a set period that aligns with the anticipated timing for land development identified in the Implementation Plan 2016 - 2023. Infrastructure to be considered includes:</p> <ul style="list-style-type: none"> • Public transport • Active transport • Road upgrades and intersection improvements • Open space and public domain improvements • Community infrastructure, utilities and services. 		<p>(IIDP) prepared by Northrop which provides a methodology for calculating the local and state infrastructure contributions. The Proponent has offered to make contributions towards hard and soft infrastructure as part of the Planning Proposal process.</p> <p>The State and local infrastructure contributions included in the Proponent's IIDP are limited in scope. Council officers have reservations in relation to populating the 2016 PRCUTS Infrastructure Schedule without having undertaken associated work to update and determine the required local and State infrastructure contributions. There are also reservations about the methodology used; formulas applied and conclusions of the Proponent's IIDP.</p> <p>The IIDP clearly underestimates the true costs of providing a range of infrastructure projects required by PRCUTS. The Planning Proposal should, therefore, not be supported.</p>
Criteria 3 Stakeholder engagement		
<p>1. Consultation and engagement with relevant stakeholders (council, government agencies, business, community, adjoining properties and user or interest groups, where relevant) have been undertaken, including any relevant pre-planning proposal engagement processes required by local council.</p>	×	<p>The Proponent has undertaken preliminary stakeholder consultation as a part of the Planning Proposal process including online surveys, letterbox drop and drop knocking, newspaper advertisement and a public drop-in session to advice nearby residents of the Planning Proposal. Meetings have also been held with various Government and community stakeholders including IWC, DPE, the APIA club and existing tenants. However, the Proponent has been unable to make contact with key government agencies including RMS, Sydney Local Health District and the Department of Education.</p> <p>Council officers consider the community engagement inadequate, despite informing the Proponent throughout the pre-planning</p>

	Out of Sequence checklist criteria	Consistency	Comment**
			Proposal stage that such consultation was imperative.
2.	An appropriate level of support or agreement is documented.	×	<p>There is insufficient evidence that there is an appropriate level of support for the Planning Proposal in its current form. While it is clear that the Proponent has attempted to address the issues of concern, it is evident that there is still a significant level of opposition to this Planning Proposal, particularly shown in the letter from the South Haberfield Action Group.</p> <p>The issues of concern included:-</p> <ul style="list-style-type: none"> • Loss of industrial land • Out of character with local area • Additional population will strain local services (schools, light rail etc) • Increased traffic generation and congestion (particularly around the school and pedestrian/bike areas) • Loss of privacy and sunlight to Haberfield residents • Potential impact on heritage value of Haberfield Conservation Area due to height.
3.	Provision of documentary evidence outlining the level of planning or project readiness in terms of the extent of planning or business case development for key infrastructure projects.	×	The Proponent has been unable to provide an adequate level of documentary evidence defining the level of project readiness for the delivery of key infrastructure projects.
Criteria 4: Sustainability			
	The planning proposal achieves or exceeds the sustainability targets identified in this Strategy.	×	The Planning Proposal provides a generic and theoretical Sustainability Report, resulting in the proposal inadequately addressing the sustainability targets specified in Principle 6 of PRCUTS. The Planning Proposal also does not adequately outline how the future redevelopment of the site would be sustainable. This is unacceptable as it does not provide any certainty that the sustainability targets and requirements of PRCUTS would be

Out of Sequence checklist criteria	Consistency	Comment**
		<p>achieved in the future.</p> <p>This is inconsistent with the criteria which require that the Planning Proposal achieves or exceeds the sustainability targets identified in the Strategy. The Proposal is inconsistent with this criterion and therefore, should not be supported.</p>
Criteria 5: Feasibility		
<p>The planning proposal presents a land use and development scenario that demonstrates economic feasibility with regard to the likely costs of infrastructure and the proposed funding arrangements available for the Precinct or Frame Area.</p>	×	<p>The Planning Proposal does not provide a detailed development feasibility analysis to meet this criterion. The Economic Impact Assessment (AEC, September 2018) and the feasibility advice from Cushman & Wakefield (October 2018) is flawed and contains numerous assumptions, disclaimers and conclusions which are not supported.</p>
Criteria 6: Market viability		
<p>The planning proposal demonstrates a land use and development scenario that aligns with and responds to market conditions for the delivery of housing and employment for 2016 to 2023. Viability should not be used as a justification for poor planning or built form outcomes.</p>	×	<p>The Planning Proposal does not provide a thorough needs assessment of the existing/ future market conditions to support rezoning in the current context.</p>

Table - 2: Detailed analysis of Planning Proposal against the Out of Sequence criteria

Out of Sequence Checklist analysis	
Criteria 1: Strategic objectives, land use and development	<p>1. The planning proposal can demonstrate significant delivery or contribution towards the Strategy's Corridor wide and Precinct specific vision.</p> <p>The Strategy's Corridor wide vision contained in the Strategy document states: <i>Incremental renewal of the Corridor will occur over the long term to deliver a high quality, multi-use corridor with improved transport choices, better amenity, and balanced growth of housing and jobs.</i></p> <p>The Precinct specific vision for Taverners Hill is contained in the Planning and Design Guidelines and states: <i>Taverners Hill will be an urban village with walking and cycling links via the GreenWay, access to many public transport modes and many neighbourhood parks, squares and leafy streets.</i></p> <p><u>Proponent's comments:</u></p> <p>The Planning Proposal addresses each of the individual principles comprising housing choice and affordability, diverse and resilient economy, accessible and connected, vibrant community places, green spaces and links, suitability and resilience and delivery. The Planning Proposal asserts that the proposal is consistent with these principles and vision given it provides additional housing with a mix of dwelling sizes and affordable housing close to transport and services. Further reasons given are that the proposed non-residential uses will provide for economic activity and the through-site links and public open space will achieve the accessibility and green areas principles.</p> <p>The Proponent claims that the Planning Proposal is consistent with the following Taverners Hill Precinct Guidelines recommended in the PRCUTS:</p> <ul style="list-style-type: none"> • Existing Character and Identity • Opportunities and Constraints • Future Character and Identity • Open Space, Linkages and Connections and Public Domain • Street function and Precinct Transport • Fine Grain • Green Edge Setbacks, Transition and Activity and Commercial Zones • Recommended Planning Controls <ul style="list-style-type: none"> ○ Land use ○ Building Heights <p><u>Officer's Comments:</u> The Proponent's justification against the Precinct Guidelines is not supported. The following points outline Council officer's analysis:</p> <ul style="list-style-type: none"> • Commentary against the guidelines under the 'Future Character and Identity' of the Precinct is provided below: <ul style="list-style-type: none"> ○ <i>Positioning Taverners Hill as a transit oriented development to capitalise on the existing rail service provision and the rapid transit network along Parramatta Road</i> – It is acknowledged that the Planning Proposal is located in close proximity to transport (light rail, bus stops along Parramatta Road and heavy rail further to the south) and in this way would be considered to be a transit-orientated development. However, the Planning Proposal is considered premature as it comes in advance of any improvements being made to public transport services along Parramatta Road. The PRCUTS Implementation Plan 2016 - 2023 recommends that the rezoning of this site be considered in the post 2023 phase to align with infrastructure improvements and development growth. There are concerns, therefore, about the timing of this Planning Proposal as it comes in advance of the studies underway at local and State government levels to inform the future works in the Corridor area including the preparation of a precinct wide traffic study to determine the cumulative traffic impacts of a growing population and large infrastructure projects such as WestConnex. In this way, it is considered that the Planning Proposal is unacceptable.

- *Encouraging appropriately scaled residential uses and a mix of employment and non-residential uses and a variety of creative industries* – The Planning Proposal is considered contrary to this vision given it is replacing creative industries with residential development and the proposed non-residential floor space is unlikely to be capable of accommodating any significant light industrial activity. Furthermore, the proposed density and design of the development in the current form is inappropriately scaled having regard to the surrounding residential area.
- *Retaining the heritage and fine grain industrial character and appropriately transitioning new, higher-density development to existing areas and conservation areas* – The Planning Proposal does not adequately retain the industrial character of the area given the removal of these uses from the site. Furthermore, it is unknown if there are any adverse impacts on the heritage value of the nearby heritage items due to the Heritage Impact Statement being inadequate. As outlined in the Report, the Planning Proposal also fails to adequately comply with the siting and setbacks and amenity provisions of the Key Guidelines of the Fine Grain Study for the Taverners Hill Precinct required by Clause 10.7 of the Planning and Design Guidelines of the PRCUTS.

The site is located in the Character Area 8 of Parramatta Road Corridor Fine Grain Study which recommends the following objectives for the area:

1. *Opportunity to establish village character focused at the junction of Lords Road and Flood Street* – This is not relevant to the site.
1. *New development adjacent to heritage listed school Kegworth Public School must respond sensitively to interface* – This is not relevant to the site.
2. *Opportunity for development to step up in height towards the Greenway, along the western edge of the Precinct* – While it is acknowledged that the site can accommodate an increase in height towards the GreenWay, the proposal in its current form lacks sufficient setbacks and exceeds the maximum height as set out in the PRCUTS to adequately satisfy this objective. The urban design review is considered further in the report.



Figure 1 - Extract from Proponent's urban design scheme indicating the proposed building envelope

Criteria 1: Strategic objectives, land use and development
Criteria 1: Strategic objectives, land use and development

- *Providing clearly defined, high quality and safe pedestrian and cycling linkages to both light and heavy rail stations and across Parramatta Road – The Planning Proposal attempts to provide linkages to the Marion Light Rail Stop and throughout the site as well as along Lords Road, however these proposals are not adequately outlined in the Planning Proposal. The shared pedestrian/cycle pathway along the edge of the site (minimum pathway width 3.5 metres) is desirable which would help provide a connection between the site and other sites to the south to the light rail stop in future. The proposal does little to address this vision of PRCUTS. This green link is imperative in Council's vision to achieve a connected network of local and regional open spaces as it would provide a connection throughout the area.*

It is also considered that the proposed public open space should be provided along the western side boundary to add to the GreenWay. The ground level setback from the western side boundary is insufficient to allow this public open space to function appropriately as part of this open space network. Further, the pedestrian access along Lords Road has not been adequately prioritised given the lack of an adequate setback of the development along this frontage of the site. Accordingly, the Planning Proposal is considered to be contrary to this vision.

- *Enhancing access to open space areas to the north, the GreenWay as well as Leichhardt (Norton Street) in the east – As outlined above, there is insufficient information to assess the proposed open space linkages and pedestrian links along the Lords Road frontage. Setbacks to the western boundary would need to be increased to allow augmentation of the GreenWay.*
- *Creating pockets for urban spaces and high pedestrian activity by introducing new laneways and pedestrian prioritised linkages which enhance permeability provide activated streetscapes, and link new developments, key uses and activities across the Precinct – As outlined above, the Proposal does not contribute towards providing an improved streetscape along Lords Road and does not provide the required prioritised linkages along this frontage. The proposed residential development will result in additional visitor traffic in the area. While the Planning Proposal has the potential to contribute towards public domain improvements such as footpath widening along Lords Road (to make it more pedestrian friendly), and new street trees, this has not been adequately addressed in this Proposal. Furthermore, it is also considered that pedestrian access along Lords Road is not prioritised given the lack of an adequate setback of the development along this frontage of the site.*
- *Completing missing links along the GreenWay at Parramatta Road and Longport Street – this is not applicable to the site or the Planning Proposal.*
- *Designing for the impact of major through-traffic roads – Lords Road is not a major through-traffic road and accordingly, this is not relevant to the Planning Proposal.*
- *Addressing aircraft noise - this is not applicable to the site or the Planning Proposal.*

2. The planning proposal satisfies the Strategy's seven land use and transport planning principles and fulfils the relevant Strategic Actions for each Principle.

Proponent's comments: The Proponent claims that the Planning Proposal is consistent with the Strategy's seven land use and transport planning principles as listed below and fulfils the relevant Strategic Actions for each Principle.

- Housing choice and affordability
- Diverse and resilient economy
- Accessible and connected
- Vibrant community places
- Green spaces and links
- Sustainability and resilience
- Delivery

Officer's response: The proposal is considered to be inconsistent with the following land use and transport planning principles:

Principle 1: Housing choice and affordability - The proposal will contribute towards housing choice and diversity as it proposes a residential development with a mix of 1, 2 and 3 bedroom dwellings. However, no specific provisions have been made to provide 'diverse housing' as required under the PRCUTS (refer to the Strategic actions below). The Planning Proposal does not adequately contribute towards the provision of permanent affordable housing. While it includes affordable housing units, the proposal to provide such units through Bridge Housing is contrary to Council's Affordable Housing Policy. This policy requires that such units are owned by Council for the long term. Further inconsistencies included the affordable housing being :

- The Social Impact Statement says that 15% of dwellings or 8% of GFA are allocated to affordable housing dwellings but it does not indicate how targeted the dwellings are towards meeting local housing needs. There are many studios and 1 bed apartments but no larger size apartments or allocation to families.
- It is not clear which SEPP or policy will be followed after 10 years when Bridge Housing is no longer managing the dwellings.

In addition, the following concerns with the proposal are listed below:

The proposal is considered to be premature as it comes ahead of Council's Local Housing Strategy which is to be finalised by mid-2019 to inform the appropriate mix of housing on rezoning sites. It is recommended that any increased density should only be considered after a strategic review of the Inner West housing market area including demand/ supply analysis rather than be considered in the context of individual sites/ad hoc proposals.

Consequently, the Proposal is inconsistent with the following strategic actions:

Housing Diversity:

- *Review, update or prepare a new Local Housing Strategy that implements the Parramatta Road Corridor Urban Transformation Strategy's Principles and Strategic Actions, taking into account changed economic and demographic characteristics, new transport opportunities and population projections.*
- *Provide 'diverse housing' for both purchase and rental markets that satisfies the objectives and Design Criteria of the Apartment Design Guide, that may include:*
 - *lower cost market housing for rent or purchase, including new generation boarding houses with high quality shared spaces;*
 - *moderately priced housing that is affordable to purchase for households earning up to \$150,000 or 80-190% of the median income;*
 - *rental properties with long-term tenures and optional extensions in place;*
 - *housing that uses design innovations, resulting in new products such as decoupled/optional car parking, which are suited to essential service workers, young 'city makers' early in their careers looking for 'starter homes', families with children, and downsizers/seniors;*
 - *student accommodation;*
 - *aged-care housing;*
 - *housing that promotes innovation in other ways across type, tenure, construction methodology or other mechanisms to make such housing more attainable to a diversity of income groups.*
- *Explore incentives such as value sharing where rezoning is necessary to achieve renewal of private sites to capture a proportion of the increased land value to fund affordable, diverse and social housing projects.*

Affordable Housing:

- *Provide a minimum of 5% of new housing as Affordable Housing, or in-line with Government policy of the day.*

- *Principle 2: Diverse and Resilient economy* - The Planning Proposal will result in loss of existing jobs as it would rezone the site from Industrial to Residential. Notwithstanding, it is consistent with the proposed land use recommended under the PRCUTS.

The PRCUTS as well as the GSRP and District Plans emphasise the importance of employment lands and urban services in Sydney and in particular, in the Parramatta Road Corridor for its proximity to the city and surrounding residential areas. This concept of retaining industrial land is also reinforced through various economic and industrial land studies as outlined in the Report. This Principle states that there will always be a strong role for employment and economic activity in the Corridor, given its strategic location and position within the heart of a growing population. PRCUTS recommends consideration of innovative mechanisms to broaden the role of urban support service industries to enable existing occupiers to remain, yet allow an intensification of use. This can be realised by including transitioning zoning controls to allow existing businesses to continue to operate, permitting a variety of new business occupiers or providing incentives to incorporate urban support services industries into the proposal.

This has not been achieved by the Planning Proposal given it results in a loss of between 8,000m² and 10,000m² of industrial floor space from the site. In addition, the Social Impact Statement specifically indicates that there will be a reduction of the existing non-residential floor space by more than double from 7,142m² to 3,000m² (approximately). The usability of this non-residential floor space is also highly questionable given its layout under the upper level residential apartments and lack of adequate servicing etc.

The proposal to provide 2,500m² of non-residential floor space (500m² is proposed for community uses) is unlikely to result in any significant industrial or employment uses being carried out on the site given the inherent noise, parking, servicing and hours of operation impacts likely to be generated for future residents on the site. The proposed non-residential land uses do not resolve the issue of the loss of urban services land and does not contribute to employment or economic activity which is being lost under the Planning Proposal.

The Planning Proposal provides less space for new employment opportunities. The site currently provides approximately 160 jobs with the Planning Proposal proposing around 97-120 jobs. As outlined above, it is unlikely that such uses will be compatible with the future residential uses on the site and it is questionable as to the likely number of jobs given the proposed non-residential spaces have not been outlined at this stage.

Therefore, the proposal is inconsistent with the following strategic actions:

Planning for jobs:

- *Implement the built form controls identified in the Parramatta Road Corridor Planning and Design Guidelines to encourage new typologies that overcome these challenges and facilitate evolving and innovative employment uses.*
- *Principle 3: Accessible and connected* - This Principle is concerned with reshaping and better connecting places and associated movement networks to better serve customers and encourage sustainable travel. This principle also highlights that the Strategy will be implemented in two distinct stages, being 2016 – 2023 and post 2023 with land use change prior to 2023 being guided by the Parramatta Road Corridor Implementation Plan 2016 – 2023. Such land use change will be accommodated within planned improvements to Western Line rail frequencies and a rapid bus solution from Burwood to Sydney. Investment such as longer term light rail or heavy rail solutions, currently being investigated, would be required to support the land use change beyond 2023. This principle outlines that this short term staged approach allows for the land use change to move in sync with the available transport capacity, whilst ensuring the scale, timing, and staging of longer term land use changes respond to Government transport investment.

The Planning Proposal is out of sequence with the Action Plan for Taverners Hill hence it's being assessed against this checklist. The transport infrastructure is not in place to sustain this development at this time. Furthermore, the Precinct Wide Traffic Study required by Taverners Hill Action Plan has also not been completed.

Notwithstanding this, the Planning Proposal has the potential to contribute towards the achievement of this sustainable travel by a shared pathway (pedestrian and cycle link) along the western site boundary to connect the site, and other land to the south, with the Marion Light Rail Stop. While the Planning Proposal indicates that such a link will be provided, and which is encouraged by the GreenWay Master Plan 2018, such a link has not been adequately demonstrated. There has been no consultation with the relevant landowners as to the acceptability of this link and there is no information on the dimensions of this connection or its location having regard to the Greenway, vegetation removal and the like. Accordingly, the Planning Proposal is also inconsistent with the following Strategic Actions:

Integrated Transport Network:

- o *Implement the Sydney CBD to Parramatta Strategic Transport Plan:* The Planning and Design Guidelines for Taverners Hill (Clause 10.5) require that Lords Road is prioritised for pedestrians as well as the need to provide connected open spaces.

For Lords Road to function as a successful prioritised walking link (refer to figure below), public domain improvement works such as footpath widenings, new streetscape plantings to enhance its amenity and streetscape are desirable. The Planning Proposal is inadequate in this regard as it does not contribute to making Lords Road as a street for pedestrians lacking the necessary details and commitments to undertake this.

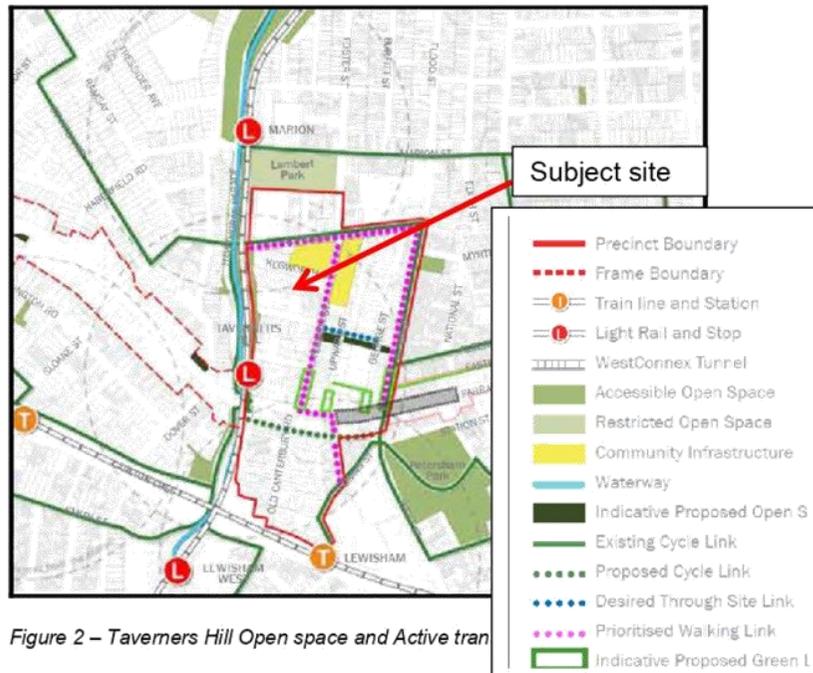


Figure 2 – Taverners Hill Open space and Active transport

On-street rapid transit for Parramatta Road:

- *Amend the State Environmental Planning Policy (Infrastructure) 2007 to identify Parramatta Road between Burwood and the Sydney CBD as a strategic corridor, inserting provisions that require planning proposals and development applications along the Corridor to be referred to Transport for NSW for comment, particularly at and around future super stop locations - This work is yet to be undertaken by DPE. There are concerns with the timing of this Planning Proposal as it comes in advance of these studies underway at local and State government levels to inform the future infrastructure provision in the Corridor area including the preparation of a PRCUTS Inner West corridor traffic study to determine the cumulative traffic impacts of implementation of the Strategy. This collaborative DPE, Council and TfNSW study will help inform the preparation of IIDP for Out of Sequence Planning Proposals in the PRCUTS area and shape infrastructure considerations for future public transport and road upgrades and intersection works that will be required to service new developments in the corridor. The proposed increase in density in this Proposal should not be supported until the traffic modelling has been completed.*

TfNSW and Department's SIC team have alerted Council that this Planning Proposal is unlikely to be supported until the completion of Corridor wide Traffic Modelling Study. This is currently an unresolved matter.

Principle 4: Vibrant Communities and Places – This Principle requires the promotion of quality places and built form outcomes that will transform the Corridor over time. As outlined in the Report, there are a number of concerns with built form proposed for the site under the Planning Proposal and there is a lack of detail regarding the proposed linkage to the Marion Light rail stop. There is also insufficient detail regarding the prioritised pedestrian linkage along the Lords Road frontage of the site. The Planning Proposal is also considered to be incompatible with the surrounding residential context which, in the short term, defined by the Strategy as up to 2023, will remain a low density residential area. Even in the medium term, between 2023 and 2036, the immediate area will comprise development only up to 17 metres in height. The lack of adequate setbacks to the corner of Davies Lane and Lords Road and the removal of trees in this portion of the site results in an inadequate relationship with the surrounding development. There is numerous urban design concerns raised as outlined in the accompanying report.

The likely private nature of the central open space area will result in very limited public open space being provided on the site. It is also unclear as to the potential impact of the Planning Proposal on the nearby heritage items located in Lambert Park and Kegworth Public School given the Heritage Impact Statement is unsatisfactory.

The Planning Proposal is inconsistent with the following strategic actions:

15 minute neighbourhoods:

- *Deliver each Precinct along the Corridor as a '15 minute neighbourhood' through land use changes that implement the following principles:*
 - *improved walkability, cycling and safety to support healthier communities*
 - *improved housing choice and diversity*
 - *increased usability of, and access to, safe open space*
 - *improved local economic opportunities*
 - *adequate local services and infrastructure*

Design Excellence:

- *Prepare and implement a design excellence strategy*

- *Principle 5: Green spaces and links* - This Principle requires that proposals embellish existing open spaces and provide new active and passive open

spaces to support the recreational needs of the community and to encourage healthy and active lifestyles. The Strategy details that one of the key features of liveability is the nexus between the built environment, infrastructure and open space. Open space underpins the social, environmental and economic benefits that are essential to the healthy functioning of the built environment. An interconnected network of high quality public domain spaces in employment and residential areas, which also connect seamlessly to local and regional active transport links, is desired for the area.

The Planning Proposal does not sufficiently demonstrate that the proposed public open space on the site and local connection to other open spaces and public transport has been provided. The removal of various trees on the site due to inadequate building setbacks, particularly in the south-east corner, does not achieve the required greening of the corridor as envisaged by the plan.

Based on the discussions elsewhere in this report, the Planning Proposal is inconsistent with the following strategic actions:

Neighbourhood parks and open space:

- *Strategically rezone parts of the Corridor for open space purposes, with a view to allocating land to create a high quality interconnected network of publicly accessible open space throughout the Corridor.*
- *Provide a diverse range of connected, high quality open space and public domain areas to each Precinct in accordance with the Precinct Plans that ensures linear parks and trails linked to waterways, vegetation corridors and road reserves within 1 km of 95% of all dwellings.*

Greening the Parramatta Road Corridor:

- *Implement building setbacks as identified on the Precinct Plans within the Parramatta Road Corridor Planning and Design Guidelines....*

- ***Principle 6: Sustainability and Resilience*** – This Principle requires that proposals create liveable local Precincts along the Corridor that are sustainable, resilient and which make Sydney a better place. The Sustainability Planning Report provided with the Planning Proposal is a generic and theoretical description of the potential sustainability measures which could be provided in any future redevelopment of the site. There are very limited references to the site or the proposal. There is no referencing or consideration of the sustainability requirements under the PRCUTS reference report Sustainability Implementation Plan. The Proponent's Sustainability Planning Report does not address the Precinct specific sustainability targets nor does it address the car parking requirements of unbundled, decoupled and minimised car parking for the site. There are also significant trees to be removed under the current proposal. The Planning Proposal is inconsistent with this Plan. This is unacceptable given the Checklist explicitly requires a Planning Proposal to sufficiently demonstrate that it would achieve or exceed the sustainability targets identified in the Strategy.

Consequently, the Proposal is inconsistent with the following:

Adaptive sustainability practices:

- *Implement comprehensive built form strategies for building efficiency, renewable energy, strategic parking, public domain and sustainable infrastructure to target the long-term achievement of:*
 - *20% reduction in greenhouse gas emissions*
 - *renewable energy installation*
 - *30% reduction in peak electricity demand*
 - *30% reduction in water consumption*
 - *>15% of water delivered by non-potable sources, including rainwater or recycled water*

- 30% reduction in car use
- 10-15% car share take-up rate

- **Principle 7: Delivery** – This Principle requires the delivery and facilitation of action and aims to consolidate the planning and management of urban renewal in the Corridor into a single point of reference, owned and administered by a single, overarching body with the capacity to drive and deliver change in the Corridor. The Planning Proposal is inconsistent with the following Strategic Actions:

Effective Governance:

- *Implement the Implementation Plan 2016 - 2023:* As discussed previously, the PP is out of sequence and fails on several aspects of this checklist.
- *Establish a robust funding mechanism to apply to new rezoning/development proposals that will fund the local and regional infrastructure demands required to service the future population growth in the renewed Corridor:* The Planning Proposal comes in advance of any such work being completed by Council or the State Government. There is an existing shortfall of industrial lands and community infrastructure in the local area. Whilst it is unrealistic to expect that the proposal can fund all the desired infrastructure owing to its size, Council officer's analysis indicates that the proposal has the potential to contribute towards a range of public domain works and it has not adequately addressed these opportunities. Some of these works are listed in the following discussion.
- *Advise and assist councils in the revision of local contributions plans to address funding of local infrastructure and services in the Corridor -* The proponent has provided a schedule of public works and an associated offer to enter into a Voluntary Planning Agreement in conjunction with the Planning Proposal to demonstrate how the proposal will contribute to the Local and State infrastructure. The proposed local works have a total value of \$4,068,000 (excluding GST and excluding the affordable housing component) and include the following:

Public Benefit Items

- Multi-purpose space to be transferred to Council to comprise a stratum titled with a gross floor area of 500sqm with a minimum floor to ceiling height of 3.6m, constructed of brick and roof. It will be directly accessible from Lambert Park. The offer is made on the basis that the space that is the subject of the VPA will not form part of the floor area for the purpose of calculating the FSR of the site.
- Upgrade to lighting in Lambert Park - Upgrade lighting on Lambert Park, which is leased by Council to the APIA Club, including design, engineering and project management (Value - \$160,000 ex GST).

Local Infrastructure Items

- Public art - Public art in the form of a sculpture and water feature near the entrance to the tunnel under the railway (Value - \$130,000 ex GST);
- Public open space –
 - The central open space area comprising 1,650sqm which will be accessible to members of the public via a Public easement for recreation (Value - \$1,680,000);
 - Shareway and through site links and provision of a pedestrian path (1,832sqm) via a Right of Carriageway and footway with the potential to connect to the Marion Street Light Rail Station on the eastern side of the light rail corridor (should access through Lambert Park eventuate) (Value - \$1,860,000)
 - Maintenance of central open space for the life of the building (80 years) (Value - \$60,000 ex GST)
- Railway land bush regeneration - Clear out weeds, remove privet, and provide self-maintaining planting (area of 780 sqm) to the satisfaction of Council's landscape officers, and Transport for NSW, including negotiations for access with and subject to permission of

Transport NSW (Value - \$188,000);

- Streetscape planting - Improved streetscape with plantings of street trees on Kegworth Street and Lords Road (Value - \$50,000 ex GST);
- Public domain - Public domain upgrades, roadworks, landscaping works (Value - \$100,000 ex GST);

Affordable Housing

- Affordable housing provision - A total of 35 affordable apartments within the development, to be owned and managed by Bridge Housing, for a minimum of 10 years. The apartments will be located in a separate stratum as required by Bridge.

These proposed local infrastructure works are considered to be too limited. The Proposal could potentially contribute towards provision of more **'significant'** benefits, including but not limited to:

- New open space along the western boundary of the site which would act as extension of the existing GreenWay;
- Road upgrades along Lords Road including footpath widening, cycleway and new street trees.
- Adequate affordable/ key workers housing

These works could potentially considerably enhance the public domain and deliver community benefits on the site and adjoining area which will be vital to realising the vision of PRCUTS.

3. The planning proposal can demonstrate **significant** net community, economic and environmental benefits for the Corridor and the Precinct or Frame Area within which the site is located.

Proponent's comments: The proponent asserts that the Planning Proposal would provide net community, economic and environmental benefits by:

- Economic benefits including the provision of between 96 and 128 jobs within the proposed 2,500m² (500m²) non-residential spaces;
- Community benefits including the provision of 235 residential apartments with a mix of unit sizes and including 35 affordable housing apartments. Public open space, connections to the Marion Light rail stop, a community facility to be used in association with Lambert Park and the upgrading of lighting to Lambert Park were further community benefits noted by the Planning Proposal; and
- Environmental benefits were listed as the provision of sustainable buildings (under 5 Star Green Building Council), increased tree canopy on the site and along Lords Road, contributions towards the GreenWay, remediation of potentially contaminated land, improve water quality through the provision of deep soil zones on the site, reduction in truck movements given the loss of the industrial uses and increased use of public and active transport.

Officer's response: There are concerns with the economic, community and environmental benefits outlined above by the Proponent:

- Economic benefit – The Economic Impact Assessment prepared by AEC dated September 2018 (EIA) was lacking in a number of crucial elements which make its case for a net economic benefit unsatisfactory and not supported:
 - The EIA did not compare or consider the case whereby the site was retained as industrial land. This should have represented the base case being the continuation of the existing uses on the site which appear to be viable (given they still exist on the site). Instead, the EIA compared only the base case, being the development of the land strictly in accordance with PRCUTS which is 100% residential, to the proposal which was considered as two scenarios. These scenarios comprised minor differences in the composition of this non-residential space, split between co-working spaces and commercial spaces suitable for offices and technical/scientific/education services. Interestingly, neither of these scenarios accounts for light industrial uses and urban services land even though these uses are listed as potentially ones of the uses of the non-residential space;

- The EIA did not consider the cumulative impact to the remainder of the LGA in terms of the loss of the industrial land and jobs.
- The EIA did not consider the likely amenity impacts arising from the close proximity of non-residential and residential uses, such as noise, operating hours, parking and servicing and the like. The long terms impacts of this proximity are likely to result in the removal of uses which result in noise or other amenity problems. This aspect was not considered in this EIA.

Other criticisms of this justification are that the Planning Proposal indicated that once operational, the site would create between 96 and 128 jobs under the various scenarios. In terms of jobs produced, the proposal is only resulting in slightly less or slightly more, or very similar, job numbers to the current situation. None of which are 'significant' in impact.

The Proposal also states a key benefit of the development is the opportunity to have more jobs on-site through the non-residential component, which in turn generates more economic activity to support additional jobs in the wider LGA. Understanding true economic value requires a wider view - a combination of job numbers, output per job, as well as the broader economic contribution of the activity. This broader contribution requires an understanding of business-business relationships and business-customer relationships in the local economy. Input-output modelling is only focussed on business-business linkage and is usually based on average business-business relationships. Furthermore, input-output modelling is not spatial and the issue in this case is a spatial problem. Therefore, the economic cost of transitioning from the industrial use of this site would be complex and include on-site effects (such as the change in on-site jobs, change in on-site output), multiplier effects (change in jobs in linked industries and change in output in linked industries) and broader economic spatial effects (the economic cost on business and supplier linkages with the next available source and business relocation costs). The broader economic and spatial effects in this area requires more industry research, hence the grey area that surrounds industrial land value and policy. Therefore, the figures in these sections should be a consideration in the assessment of the Proposal but not the driving factor.

It is therefore considered that the EIA is fundamentally flawed and the loss of important industrial land is not supported as outlined in the accompanying report. No intrinsic economic benefits would arise from the Planning Proposal. Instead, it would result in loss of employment generating and urban services land without deploying any innovative mechanisms that might broaden the role of employment generating and urban services land. Accordingly, the Planning Proposal does not result in a net economic benefit.

- Community benefit – the Planning Proposal outlines various positive and negative social outcomes arising from the Proposal. It is evident that the Proposal has overstated the positive and underrated the negative impacts which are considered in more detail in the Report. The Planning Proposal involves connections to the Marion Light rail stop as well as public domain improvements along Lords Road to provide the required prioritised pedestrian link in this area. These aspects of the proposal however, are insufficiently demonstrated and accordingly cannot be used as justification of net community benefit. The inconsistency of the proposed affordable housing with Council's Affordable Housing Policy is also evidence which fails to achieve the net community benefit test. Furthermore, the provision of new residential apartments at market rate is not considered to be a 'net community' benefit.

Also, the Planning Proposal does not contribute adequately towards the provision of publically accessible open space given the location of this open space is central on the site and poorly connected with the existing public domain such that this space is unlikely to be used as public open space. The Planning Proposal is also out of sequence for the PRCUTS with the requisite infrastructure and other strategic planning policies and precinct wide traffic study still incomplete.

The significant difficulty that the existing tenants are having in relocating also results in an adverse impact on the community. The loss of jobs, and in all likelihood, local jobs is a loss for the community. This has been understated in the Planning Proposal. Accordingly, having considered all of the above matters; it is considered that the Planning Proposal does not result in a net community benefit.

- Environmental benefit – the Planning Proposal does not provide net environmental benefits given the lack of commitment or documentation to meet

Criteria 1: Strategic objectives, land use and development	<p>the sustainability targets outlined under the PRCUTS as well as the lack of any significant public open space on the site given the open space in the central portion of the site does not constitute true public open space as outlined above. The lack of adequate details regarding the public connections linkages to public and active transport further exacerbate the inadequate environmental benefits of the Planning Proposal. Accordingly, there are minimal net environmental benefits arising from the Planning Proposal.</p> <p>As discussed previously in various sections of this report, the Planning Proposal fails to demonstrate 'significant net community, economic and environmental' benefits and therefore, should not be supported.</p>										
	<p>4. The planning proposal is consistent with the recommended land uses, heights, densities, open space, active transport and built form plans for the relevant Precinct or Frame Area.</p>										
	<p><u>Proponent's comments:</u> The Proponent claims that the Planning Proposal is consistent with the recommended land use, height and FSR recommendations for the relevant Precinct Area. The Planning Proposal also points out that the Planning and Design Guidelines of the PRCUTS do not require any open space or active transport linkages for the site, notwithstanding some are provided in the Planning Proposal.</p> <p><u>Officer's response:</u> The following table provides a detailed analysis of the Proposal against the PRCUTS recommended controls. The Proposal is generally consistent with the recommended land use but inconsistent with all the other built form controls as discussed below:</p>										
	<table border="1"> <thead> <tr> <th>Control</th> <th>PRCUTS recommendation</th> <th>Proposed</th> <th>✓ or X</th> <th>Officer's comments</th> </tr> </thead> <tbody> <tr> <td>Land use</td> <td> <ul style="list-style-type: none"> R3 Medium Density Residential (CI 10.9(A) P&D Guidelines - map); Low density residential uses are recommended for the remainder of the Precinct, however, a R3 Medium Density zone is shown in recognition of the need to permit townhouses and terrace type dwellings given the good proximity to public transport (10.9(A) P&D Guidelines - text) Retain the existing low-density character across the remainder of the precinct (Key Action – Land Uses 2, Taverners Hill Precinct, Page 109 PRCUTS) </td> <td> <ul style="list-style-type: none"> R3 Medium Density Residential High density mixed use – commercial and residential flat development </td> <td style="text-align: center;">X</td> <td> <p>The Proposal is consistent with the recommended land use 'R3 Medium Density Residential' as coloured on the land use map. However, the supporting text in PRCUTS Strategy encourages the retention of the existing low-density character and provision of townhouses and terrace type dwellings in this location. This has not been adequately considered by the Proposal.</p> <p>The Planning Proposal states that the Council '....supports the inclusion of non-residential uses in this location to retain employment and urban services on the site' (page 25). However, there are substantial limitations and assumptions to this claim including the following:</p> <ul style="list-style-type: none"> At a fundamental level Council would lose 7,479sqm of current light industrial and urban services space if the development went ahead. The development may provide at a maximum 2,500sqm of light industry use. Council may be supportive of this use however <i>the overriding issue</i> is that Council would lose a substantial amount of light industrial space (7,479sqm) in the first instance, which goes against their current, endorsed policy to retain industrial lands. Industrial and urban service uses are not guaranteed </td> </tr> </tbody> </table>	Control	PRCUTS recommendation	Proposed	✓ or X	Officer's comments	Land use	<ul style="list-style-type: none"> R3 Medium Density Residential (CI 10.9(A) P&D Guidelines - map); Low density residential uses are recommended for the remainder of the Precinct, however, a R3 Medium Density zone is shown in recognition of the need to permit townhouses and terrace type dwellings given the good proximity to public transport (10.9(A) P&D Guidelines - text) Retain the existing low-density character across the remainder of the precinct (Key Action – Land Uses 2, Taverners Hill Precinct, Page 109 PRCUTS) 	<ul style="list-style-type: none"> R3 Medium Density Residential High density mixed use – commercial and residential flat development 	X	<p>The Proposal is consistent with the recommended land use 'R3 Medium Density Residential' as coloured on the land use map. However, the supporting text in PRCUTS Strategy encourages the retention of the existing low-density character and provision of townhouses and terrace type dwellings in this location. This has not been adequately considered by the Proposal.</p> <p>The Planning Proposal states that the Council '....supports the inclusion of non-residential uses in this location to retain employment and urban services on the site' (page 25). However, there are substantial limitations and assumptions to this claim including the following:</p> <ul style="list-style-type: none"> At a fundamental level Council would lose 7,479sqm of current light industrial and urban services space if the development went ahead. The development may provide at a maximum 2,500sqm of light industry use. Council may be supportive of this use however <i>the overriding issue</i> is that Council would lose a substantial amount of light industrial space (7,479sqm) in the first instance, which goes against their current, endorsed policy to retain industrial lands. Industrial and urban service uses are not guaranteed
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Criteria 1: Strategic objectives, and development				<p>in the 2,500sqm allocation as the space is to be 'adaptable'. Therefore, Council could lose all of the industrial uses on this site.</p> <p>Therefore, if this space resulted in light industrial and urban services uses, it would only be 2,500sqm at a maximum.</p>	
	Density/ FSR	<ul style="list-style-type: none"> • 2.4:1 (CI 10.9(C) P&D Guidelines – map); • Rather than completely filling sites, this strategy aims at creating flexibility to respond to the existing scale and character conditions present throughout the Taverners Hill Precinct and Frame Area (CI 10.9(C) P&D Guidelines – text);. 	2.44:1	×	<p>The Planning Proposal involves 23,158sqm of residential floor space, 2,500sqm of non-residential floor space and 500sqm of community floor space for a multi-use facility to be used in association with the APIA club and offered top Council. This is a total of 26,158sqm over a site comprising an area of 10,691sqm. The resulting FSR is 2.44:1 which is inconsistent with the recommended FSR control in the PRCUTS.</p>
	<p>Open Space, Linkages & Connections & Public Domain</p> <p>(CI 10.5 of the P & D Guidelines page 204)</p> <p>Street Function & Precinct Transport (CI 10.6 of P & D Guidelines, page 206)</p>	<ul style="list-style-type: none"> • Leverage new development to provide new open space and high-quality and active public domains (Key Action page 109 of Strategy; • Capitalise on the proximity to light rail by providing increased connectivity for pedestrians and cyclists where possible. • Wherever possible, provide a series of connected open spaces through future development to achieve a diverse sequence of open spaces, uses and active frontages. • Prioritise Lords Road, Tebbutt 	<ul style="list-style-type: none"> • Development incorporates open space within the centre of the site. • The proposal encourages active transport through being located in close proximity to existing and future public transport services, existing parks and educational establishments. • The proposal encourages a new linkage to Marion Light Rail stop to the north. 	×	<p>There are concerns regarding the extent of the proposed open space and its integration with the surrounding area as it is unlikely that the community would use this space given it is located centrally within the site, surrounded by future buildings with limited frontage to the public domain.</p> <p>Also, the Planning Proposal does not contribute adequately towards improving Lords Road to provide improved prioritised pedestrian link along the Street given the lack of details provided and the lack of an adequate setback of proposed Building 5 along this frontage.</p>

Criteria 1: Strategic objectives, and development		<p>Street north of Parramatta Road and Carrington Street for pedestrians.</p> <ul style="list-style-type: none"> Street trees along should be protected and enhanced. All other streets through the Precinct and Frame Area will perform a Local Street function. Any new streets or laneways will also perform a Local Street function. 			
	<p>Built form</p> <p>Block Configuration and Site Planning (CI 4.1 of P & D Guidelines, page 51)</p> <p>Building Massing, Scale and Building Articulation (CI 4.2 of the P&D Guidelines)</p> <p>Setbacks & Street Frontage Heights CI 4.3 of the P&D Guidelines)</p> <p>Transition Zones and Sensitive Interfaces (CI 4.4 of the P&D Guidelines)</p> <p>Fine grain (CI 10.7 of P & D Guidelines, page 208) and Green Edge Setbacks, Transitions and Activity and Commercial Zones</p>	<ul style="list-style-type: none"> Respond to the scale of surrounding buildings and definition of the street networks and public spaces. Protect and enhance the rich, distinctive and valued character of the Corridor, particularly those elements that contribute to a sense of place and identity. Arrange building forms (including heights and massing) to reinforce the future desired structure and character of the area as set out in the relevant Precinct and Frame Area Guidelines Reduce heights, increase setbacks or provide appropriate transitions to heritage buildings and places or sensitive uses. Floor plates above 8 storeys should be limited to 750m² GFA to create slender tower forms. 	<p>The proponent claims that the proposal is consistent with the recommended built form controls.</p>	×	<p>The Planning Proposal is inconsistent with a number of the key guidelines of the fine grain study in relation to the nearby heritage items given the Heritage Impact Assessment does not adequately demonstrate that there will not be an adverse impact on the heritage item.</p> <p>The Planning Proposal is inconsistent with the building setbacks and street frontage heights of Table 4.1 given the Lords Road frontage of Building 1 has a street wall height of 5 storeys on a nil front setback (when 3-6m is required), which is unsatisfactory and inconsistent with the guidelines. The frontage on the corner of Davies Lane and Lords Road has a 3 to 6 storey street wall height (Building 5) on a nil front setback also contrary to the Guidelines.</p> <p>There is limited pedestrian amenity due to a lack of adequate street setbacks and excessive street wall height for a low to medium density area.</p> <p>The Planning Proposal is inconsistent with these controls which state that changes in height and scale will require transitions at the corridors edges, to heritage buildings and conservation areas and to adjoining existing low scale neighbourhoods. New development will be required to respond to the overall scale and form of existing elements or Precincts to preserve visual scale and to avoid overshadowing or loss of amenity (CI 4.4 of the P&D Guidelines).</p> <p>The PP is considered to be inconsistent with these controls as outlined below:</p>

<p>Criteria 1: Strategic objectives, and development</p>	<p>(CI 10.8 of P & D Guidelines, page 208)</p>	<ul style="list-style-type: none"> • Apply the relevant building articulation principles illustrated in Figures 4.2 - 4.7, based on location. • Provide building setbacks and street frontage heights in accordance with Table 4.1. • The maximum wall length without articulation is 45m. • Demonstrate consistency with the objectives and key guidelines for the relevant character area as set out in the PRC Fine Grain Study, September 2016. Character areas are shown in Figure 10.12. • Provide setbacks consistent with Section 4 of the Guidelines in all other areas of the Precinct and Frame Area. • Provide a built form transition consistent with Figure 10.14 to edge of Precinct. • Provide a built form transition consistent with Figure 10.15 to heritage items and heritage conservation areas. 		<ul style="list-style-type: none"> • Lords Road – requires compliance with PRCUTS Table 4.1 (Local Street – all other conditions) – maximum street frontage height of 18m and front setback of 3-6m is required. The Planning Proposal is inconsistent with these controls given nil front setback has been provided. P&DG also provide an example of transition of Local Street – heritage and all other conditions in Figure 4.13 – street frontage height of 14m and front setback of 3-6m. The Planning Proposal is inconsistent with this figure and the preferred street frontage height/setbacks. • Davies Lane – requires compliance with PRCUTS P&DG Figure 4.8 (transition to low rise across a lane) – street frontage height of 9m (3 storeys) and front setback of 3m. The Planning Proposal is inconsistent with these controls given the proposed buildings exceed the recommended height of 9m and the corner building at Lords Road and Davies Lane intersection provides no street setback. • Greenway - requires compliance with PRCUTS P&DG Table 4.1 (Local Street - all other conditions) - maximum street wall frontage of 18m and street frontage setback of 3 - 6m, upper level setback 0-6m. The Planning Proposal is inconsistent with this requirement as it proposes a 9 story building facing the Greenway with nil secondary setback. <p>The proposed development would establish a new precedent for the area of a bulky residential block with no street level or upper level setbacks. This is inconsistent with the objective of reflecting the existing character area.</p> <p>Greater transitions and setbacks to the street are required as outlined above. The PP is not complementary in scale to surrounding lower density development currently existing as well as future surrounding development which is to be around 4-6 storeys.</p> <p>The Planning Proposal would result in a nine (9) storey development with a 6m setback and building frontage of 55</p>
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Criteria 1: Strategic objectives, land use and development				metres to the land in close proximity to the GreenWay. Beyond this area is the Haberfield Conservation Area C42 (nominated area of State significance) listed under the Ashfield LEP 2013. The proposal does not provide appropriate bulk, scale and transitions to these areas or the adjoining Haberfield Heritage Conservation area.
	Transport and Movement (Key Actions for Taverners Hill– Urban Transformation Strategy (Page 109)	<ul style="list-style-type: none"> • Capitalise on the improved, high-capacity public transport connections along Parramatta Road to the Sydney CBD. • Capitalise on the good access to three major transport modes: light rail, heavy rail and frequent buses along Parramatta Road. 	The PP satisfies this key action.	✓
5. The planning proposal demonstrably achieves outcomes aligned to the desired future character and growth projections identified in the Strategy.				
<p><u>Proponent's comments:</u> The Proponent claims that the new development is consistent with the desired future character as it will provide 3,000m² of non-residential space, will provided an active frontage along Lords Road and will provide new north-south connections to the Marion light rail stop. The Planning Proposal also states as that it will provide 23,158m² of residential floor space and 235 dwellings to the Precinct, contributing to the growth projections for dwellings.</p> <p><u>Officer's response:</u> The Planning Proposal states that the new development will align with the Future Character Requirement of the PRCUTS, '<i>Taverners Hill existing mix of warehouse and service industries interspersed with residential dwellings will be reinforced</i>' (Planning and Design Guidelines, p. 202), due to the inclusion of the 3,000sqm non-residential uses and affordable housing provision. While in theory, the Proposal <i>would</i> present a <i>mix of uses</i> within the site itself and in relation to the Taverners Hill Precinct given the residential/non-residential components of the development, the more important issue is over the term, 'existing mix'. The Proposal, in essence, changes the 'existing mix' by reducing the overall land use of industrial and urban services and raises the level of residential use in the Precinct. This change promotes greater uniformity of the site with its immediate surroundings towards residential use, rather than 'reinforcing' the 'existing mix' of the site's current light industrial land use juxtaposed with the surrounding (mostly) residential land use of Taverners Hill.</p> <p>Therefore, it could be argued that the current land use and composition of the subject site better aligns with the Future Character Requirement of the PRCUTS and provides a <i>greater mix</i> of warehouse and service industries/residential uses that retains and <i>reinforces</i> the existing mix. The Proposal has also been assessed previously under Criteria 1 'Future Character and Identity' guidelines above.</p> <p>The following section evaluates the Proposal against the PRCUTS Proposed Growth Projections and Proposed Indicative Land Use Mix (CI 10.4 Future Character and Identity of the P&D Guidelines, page 202):</p>				

Proposed Growth Projections

	2023	2050
Population	900	3,265
Dwellings	451	1,350
Jobs	3,720	4,110

Proposed Indicative Land Use Mix (additional)

	RESIDENTIAL GFA (M ²)		EMPLOYMENT GFA (M ²)	
	SHORT TERM (2023)	LONG TERM (2050)	SHORT TERM (2023)	LONG TERM (2050)
Precinct	47,000	170,000	35,000	35,000
Frame Area	0	0	0	315,000

Figure 3 - Extract from the PRCUTS Planning and Design Guidelines indicating the proposed growth projections and indicative land use mix for Camperdown precinct (p. 202)

PRCUTS anticipates that 47,000sqm of additional residential GFA would be developed or needed in the short term until 2023 as well as an additional population of 900 people in 451 new dwellings. In terms of employment land, the Strategy envisages the creation of 3,720 new jobs and 35,000sqm of employment floor space. As evidenced by the Action Plan (Figure 7 on page 37 of the Implementation Plan), the majority of the land included in the short term area is comprised of the B4 Mixed Use zone with only small parts of this area comprising the R3 Medium Density zoning. Clearly, the Strategy envisages that the majority of this additional short term residential land is to be provided as part of a mixed use development, along Parramatta Road and extending up Tebbutt Street, bounded by Hathern Street and in the Kolotex/Labelcraft development.

In the longer term, defined in the Strategy as 2036-2050 and including the site of this Planning Proposal, further residential and employment floor space is expected (170,000sqm and 35,000sqm respectively) along with an additional population of 3,265 people, 1,350 new dwellings and an additional 4,110 jobs. The Proposal is inconsistent with the proposed future growth projections in the short term as the site is not included in the short term projections being outside the 2016-2023 Action Plan. The growth projections are further discussed in the report.

A significant magnitude of investment in infrastructure is required to enable the successful transformation of the Corridor. This includes major new public transport infrastructure, roads and extensive community infrastructure. Rezoning land too early could result in inefficient growth outcomes. Each of the Precincts and Frame Areas has a logical phasing as outlined above in the growth and floor space projections, based on infrastructure availability or major land use issues. Decisions on phasing should take into account heritage, low-density areas, environmental overlays, and efficient infrastructure rollout and market considerations. Phasing of employment nodes should balance impacts on other employment nodes with the need to establish employment opportunities early on.

The action plan requires both residential and employment floor space which, while provided in the Planning Proposal, is out of sequence. This out of sequence status of this Planning Proposal may put at risk the immediate supply of industrial land given the only other area in the precinct which could provide employment is the mixed use area on Tebbutt Street and Parramatta Road. Furthermore, the Strategy does not envisage that stand alone residential development, like that proposed for this site, is required until the medium and long term time periods. It is unknown when this B4 mixed use land will be development to provide employment, particularly the jobs lost on this site, which is not envisaged to development until then, this cannot be guaranteed once a rezoning has been gazetted. Accordingly, the Planning Proposal is unacceptable and cannot be supported in this basis.

6. The planning proposal demonstrates design excellence can be achieved, consistent with councils adopted design excellence strategy or the design excellence provisions provided in the Parramatta Road Corridor Planning and Design Guidelines.

Proponent's comments: The Proponent claims that the proposed development achieves design excellence through being designed by award winning architects and that the proposal would be subject to the Inner West Architectural Excellence Panel. The Planning Proposal was accompanied by an Urban Design Study claiming that the proposal is consistent with the design provisions of PRCUTS.

Criteria 1: Strategic objectives, land use and development

Attachment 2

Officer's response: Design excellence fosters design outcomes that go beyond statutory requirements to achieve innovative, liveability, sustainability, aesthetic and functionality outcomes in buildings and the public domain. Principle 4 in relation to vibrant communities and places (page 64 of the Strategy) highlights the importance of design excellence, with one of the purposes of the Planning and Design Guidelines being to ensure future development achieves high design quality and design excellence (1.1 of the P&D Guidelines Page 5).

One of the mechanisms mentioned in the PRCUTS to deliver design excellence includes reporting of the PP to independent and expert design review panels. Council commissioned an external consultant to undertake a peer review of the proposed urban design scheme accompanied with the Planning Proposal. The scope of the peer review for external consultants was limited to assessing the proposed design with regard to the recommendations of Parramatta Road Corridor Urban Transformation Strategy 2016, Parramatta Road Corridor Implementation Plan 2016 - 2023 and the Parramatta Road Corridor Urban Transformation Strategy Planning and Design Guidelines. This was to ensure that a thorough analysis of the proposed design is carried out since the proponent intends to realise the recommendations of PRCUTS through this proposal.

Council's own analysis of the proposed urban design scheme alongside peer review by CM+ concludes that there are several urban design issues relating to building bulk, height, setbacks and access, and there are a number of areas where the information supplied by the proponent is insufficient; and therefore, the proposed design cannot be supported. These issues have been discussed in detail in the supporting attachment and Council's main report.

The Planning Proposal was also reported to the Inner West Planning Panel which provided independent advice on the Planning Proposal. The Panel supported the Council officer's conclusions not to support the subject Planning Proposal due to varying reasons outlined in councils' report including the proposed urban design scheme which is inappropriate and inconsistent with the design recommendations of PRCUTS.

Another mechanisms identified in the Strategy in relation to Principle 4 is to prepare and implement a design excellence strategy. Council has not yet formulated any design excellence strategy and therefore, the proposal should satisfy the design provisions recommended in the PRCUTS to ensure that the future development would result in a high design quality. In this case, such design provisions have not been complied with by the Planning Proposal.

As discussed in various sections of this report, it is considered that the proposal is inconsistent with a number of the design and built form provisions recommended under PRCUTS and does not *'go beyond statutory requirements to achieve innovative, liveability, sustainability, aesthetic and functionality outcomes in buildings and the public domain'* as required by the Strategy. Council's peer-review of the Urban Design Study also revealed various concerns with the urban design aspects of the Planning Proposal including:

- Excessive building height and inconsistency with the PRCUTS maximum building height recommendations of 30m;
- Inconsistent with the maximum permissible FSR recommendation of PRCUTS of 2.4:1. The proposal also fails to demonstrate that the maximum density can be achieved without negatively impacting the surrounding area;
- A thorough analysis of the proposed design indicates that the maximum density recommended in PRCUTS may not be achievable on the site;
- Inappropriate setbacks, building transitions and articulations at various locations of the proposed development which is inconsistent with the PRCUTS Planning and Design Guidelines and ADG requirements;
- Inconsistencies with the objectives and controls of SEPP 65 and ADG;
- The proposal does not provide any significant community benefits - the proposed central open space claimed as 'community benefit' by the Proponent is questionable as it would mostly cater to the residents and businesses of the proposed development itself;
- Insufficient information has been provided in relation to the potential land use conflict between the proposed light industrial uses and residential uses. There is also not much information regarding how these light industrial/ non-residential uses would be serviced without impacting the surrounding area;
- Insufficient information has been provided to assess the overshadowing impacts and visual impacts; and
- There is uncertainty as to whether Water Sensitive Urban Design has been considered, and whether the proposal would be able to meet the Energy and Water targets, and whether these would be achieved at the DA stage.

	<p>For these reasons and others as outlined in Council's report, the proposal in its current form does not comply with the design excellence provisions in the Planning and Design Guidelines and has failed to demonstrate that design excellence can be achieved.</p>
Criteria 2: Integrated, Infrastructure Delivery Plan	<p>An Integrated Infrastructure Delivery Plan, which identifies advanced infrastructure provision and cost recovery for the local and regional infrastructure identified in the Infrastructure Schedule, must support the planning proposal. The Integrated Infrastructure Delivery Plan must demonstrate a cost offset to council and agency costs for a set period that aligns with the anticipated timing for land development identified in the Implementation Plan 2016 - 2023. Infrastructure to be considered includes:</p> <ul style="list-style-type: none"> • Public transport • Active transport • Road upgrades and intersection improvements • Open space and public domain improvements • Community infrastructure, utilities and services.
Criteria 2: Integrated, Infrastructure Delivery Plan	<p>The Planning Proposal is accompanied by an Integrated Infrastructure Delivery Plan (IIDP) which provides a methodology for calculating the local and State infrastructure developer contributions. The Proponent has offered to make contributions towards local and state infrastructure as part of the Planning Proposal.</p> <p>There are concerns with the timing and sequencing of this Planning Proposal as it comes in advance of studies underway at local and State government levels to define what future infrastructure works will be necessary in the Corridor area. This includes preparation of a precinct wide traffic study to determine the cumulative traffic impacts that will follow from implementation of the Strategy. This joint DPE, Council and TfNSW study provide detailed consideration of future infrastructure works including public transport and road upgrades; and intersection works to be undertaken as part of new developments in the corridor.</p> <p>Council is yet to prepare an Inner West s7.11 (previously s94) contributions plan for the Parramatta Road Corridor to determine the level of monetary contributions required for infrastructure works including delivery of new open space, active movement corridors, road upgrades, provision of recreational, community and cultural facilities etc.</p> <p>The State and local infrastructure developer contributions included in the proponent's IIDP are considered to be limited. Council officers have reservations regarding how the Proponent has populated the PRCUTS Infrastructure Schedule without Council/State Government having undertaken associated work to determine the infrastructure contributions.</p> <p>The Proponent claims that the proposed development incorporating 235 residential apartments will have limited impact on existing infrastructure as it can be adequately serviced because the site is already in a developed urban location. The proponent's IIDP concludes that 'upgrades in existing infrastructure are not required to support the demand created by specific development'. This inference is not supported by an adequate analysis and consequently, cannot be accepted. The Planning Proposal would result in additional dwellings which would generate pressure on existing infrastructure, utilities and services. The development should, therefore, contribute a pro-rata share of the total level of developer contributions that will be required across the entire Taverners Hill precinct.</p> <p>Council officers are of the view that the PRCUTS Infrastructure Schedule cannot be readily applied to determine accurate infrastructure contributions as the Council and State Government have not yet completed the studies necessary to update the 2016 cost estimates or capture the costs of infrastructure not covered by the Schedule.</p> <p>In this context, the Schedule acknowledges that it is based on a high level analysis of population, dwelling and employment projections for the Corridor that will require additional detailed investigation. There are also gaps in this Schedule which cannot adequately be addressed until such time as Council implements a new local Contributions Plan. Its preparation will require additional analysis including audits of existing facilities and preparation of needs studies for the wider local government area beyond the Corridor.</p>

Overall, it is noted that the Proponent has underestimated the level of construction rates for projects listed, but not quoted in the Infrastructure Schedule. A detailed analysis of the proposed rates in the Infrastructure Schedule is provided below:

More broadly, Council's Property Capital Projects team has identified the following issues with the proposed construction rates (p.34 of the IIDP):

Active Transport Network

- Items 1 –7: These works cannot be precisely estimated as the scope of works is broad and generic. Notwithstanding this the proposed base rate of \$225/m are very low and the recommended rate should be approximately \$350/m with some works such as site establishment being as high as \$950/m.

Community Infrastructure

- Item 8 Meeting and cultural space: Proponent's rate equates to \$2500/sqm for a new building. This is very low and should be approximately \$3,500/sqm or \$1.5mil for a meeting space.
- Item 10 & 12 Childcare: Council recently completed a 60 places childcare building at Leichhardt Park for \$3.5mil. Using this rate would mean 36 places by 2023 equates to \$2.1mil and 114 places by 2054 equates to \$6.65mil. The rate quoted (\$1.4mil) for 36 places and \$4.56mil for 114 places is poor and probably excludes landscaping, furniture, fixtures and equipment.
- Item 11& 13 Outside of School hours: Should be the same as above.
- Item 16 Cultural Space: The comments on Item 8 are likely to apply to Item 16.

Road/ Intersection Upgrade

- Item 17: This rate cannot be adequately determined until the completion of RMS's and Council's precinct wide traffic modelling.

Open Space and Recreation

- Item 18 – 21: All the proposed rates are too generic and may apply to other areas of Sydney, however all IWC grounds usually have some form of contamination and the remediation costs are high. The rate should be almost double at around \$400/sqm.

Public Transport Network

- Item 22 Rail and Light Rail: TfNSW in their comments (Page 30 Appendix 2 Attachment 15) on the IIDP have pointed out that the PRCUTS required traffic study should be completed prior to any rezoning. The study is not complete and therefore, the proposed rates in the IIDP have no reliable foundation.

Taverners Hill Urban Amenity Improvement Plan

- Items 23 – 24 – See the comment above about actual Greenway Construction costs.

There are also gaps in this Schedule which cannot be adequately determined until such time as Council implements a new local Contributions Plan. As a part of

amending/ updating of local contributions plans, councils are required to undertake additional analysis including audits of existing facilities and preparation of needs studies beyond the Corridor's boundaries.

This core work is currently underway within Council's Urban Strategy team. In the absence of this critical information, Council officers are currently not in a position to critically comment on the proponent's calculations and rates. Support of this Proposal will compromise the holistic and inclusive basis of wider strategic planning projects underway at local and state government levels and is likely to undermine the objectivity of Council's decision-making process.

Council is currently preparing its new developer contributions plan which will build financial capacity for provision of additional infrastructure in the Corridor and support future population growth in the Inner West LGA. In the absence of this critical information, Council officers are not in a position to reliably confirm the Proponent's calculations and rates. Local infrastructure cannot be adequately levied for this type of proposed spot rezoning in the PRCUTS corridor until IWC adopts a new developer contributions plan. This indicates the general prematurity of the proposal and inappropriateness of bringing forward the redevelopment of the site, particularly given the additional burden on local infrastructure without an appropriate mechanism to recoup costs to Council.

Support of this Proposal could compromise the holistic and inclusive basis for achieving wider strategic planning objectives at local and State government level. Accordingly, it is considered that the Planning Proposal does not satisfy these criteria.

Criteria 3: Stakeholder Engagement	<p>1. Consultation and engagement with relevant stakeholders (council, government agencies, business, community, adjoining properties and user or interest groups, where relevant) have been undertaken, including any relevant pre-planning proposal engagement processes required by local council.</p> <p>The Proponent has undertaken preliminary stakeholder consultation as a part of the Planning Proposal process.</p>
	<p>2. An appropriate level of support or agreement is documented.</p> <p>The Planning Proposal is accompanied by documentation which outlines the stakeholder engagement undertaken by the proponent as part of the Planning Proposal process. It is noted that a number of key concerns raised by Council and State Government agencies including Transport for NSW, Roads and Maritime Services and residents remain unresolved.</p>
	<p>3. Provision of documentary evidence outlining the level of planning or project readiness in terms of the extent of planning or business case development for key infrastructure projects.</p> <p>No documentary evidence has been provided in this regard. The Precinct wide Traffic Study required by the PRCUTS has not been completed and accordingly it is difficult to comply with these criteria.</p>
	<p>The planning proposal achieves or exceeds the sustainability targets identified in this Strategy.</p> <p>The Planning Proposal is accompanied by a <i>Sustainability Planning Report</i> prepared by Northrop dated 25 September 2018. This Report however, does not address the sustainability targets specified in Principle 6 of PRCUTS nor does it outline how the future redevelopment of the site would be sustainable given this report is a generic, theoretical outline of such measures. This is unacceptable as it does not provide any certainty that these targets would be achieved in future. If the Planning Proposal proceeds to the Gateway Stage, the Sustainability provisions should be part of the future LEP amendment clause to ensure that the development achieves these sustainability targets.</p> <p>The following sustainability and resilience requirements would have to be built into the Planning Proposal:</p> <ul style="list-style-type: none"> • Future development must satisfy the Adaptive sustainability practices and targets outlined in Principle 6: Sustainability and resilience set out on page 70-71 of the PRCUTS Strategy document; • Future development must satisfy the energy and water target requirements as set out in the Table 3.6 (pg. 49) and Clause 3.10 of the PRCUTS Planning and Design Guidelines. • Future development must demonstrate consistency with the smart parking strategies and design principles outlined in section 3.8 - Car Parking and Bicycle Parking of PRCUTS Planning and Design Guidelines and agreed with Council. • Public domain and building should be designed to reduce any localised urban heat island effect by: <ul style="list-style-type: none"> ○ providing new moderate/ large sized street trees along the site's Lords Road frontage. ○ Providing vegetation, green roof, green walls and materials with a high solar reflectance index of at least 50% of all building surfaces. Western and northern building facades should be a particular area of focus. • Stormwater run-off flow rates from the site should not be more than predevelopment site discharge rates. • Stormwater run-off quality should reduce annual loads of: <ul style="list-style-type: none"> ○ Total nitrogen by 45% ○ Total phosphorus by 65% ○ Total suspended solids by 85%. • Provide additional publically available open space along the site's western edge and contribute towards the provision of a new linear connection including shared pedestrian and cycleway towards the Marion Light Rail Stop. • Incorporate Water-Sensitive Urban design treatment along the site's western boundary.
Criteria 4: Sustainability	

<p>Criteria 5: Feasibility</p>	<p>The planning proposal presents a land use and development scenario that demonstrates economic feasibility with regard to the likely costs of infrastructure and the proposed funding arrangements available for the Precinct or Frame Area.</p>
	<p><u>Proponent's response:</u> The Proponent states that the Planning Proposal is feasible based on the conclusions of both the Economic Impact Assessment prepared by AEC dated September 2018 (EIA) and the separate feasibility advice prepared by Cushman & Wakefield dated 24 October 2018. Both of these reports indicated that the proposal is feasible.</p> <p><u>Officer's response</u> - There are concerns with both of these sources of information which are detailed below.</p> <p>The EIA concluded that the proposal is feasible based on the lack of any proposed developments or significant market activity occurring in recent times within large portions of the 2016-2023 release area, and that due to this lack of development or sales activity, that the subject site <i>"represents a valuable opportunity to achieve the objectives of the PRCUTS for the Precinct"</i>. In essence, the EIA argues that since no other sites have been developed (or sold) that it makes this site more attractive for development. To arrive at this conclusion, however, the EIA makes two assumptions both of which have no basis and are not supported.</p> <p>The first is the EIA concludes that since there has been such little development activity elsewhere in the Precinct up until this time, that this trend will continue and there will be limited development in the area in the short term, being between 2016 and 2023, making way (and capacity) for this Planning Proposal. The reason for the lack of uptake of these lands was stated as being that the required densities for feasible development are higher than those proposed under PRCUTS while the other reason was that there were difficulties with site consolidation with the majority of sites being sized between 300m² and 600m². While the subject site does not suffer from the site consolidation issues being a large site of 10,691m², the EIA states that sites require a density (FSR) greater than 1.4:1 to make it feasible to redevelopment from existing uses. This last point is not an argument for feasibility given the majority of the 2016-2023 release area comprises land which has a recommended FSR of 2.15:1 or above and therefore are, according to this argument, feasible to development are therefore have the potential to be rezoned and developed.</p> <p>The second assumption inferred in the EIA is that this will allow for the current Planning Proposal to utilise infrastructure that is already provided for in the 2016-2023 Infrastructure Schedule. That is, as a consequence of this lack of development activity and/or uptake of the rezoning potential of the PRCUTS, no additional infrastructure over and above that already proposed in the Infrastructure Schedule will be required for the Planning Proposal. This argument and assumption fails on two accounts. The first is that there has been no assessment of whether the infrastructure items (or required contributions) within the 2016-2023 release area are suitable for the proposal given the Planning Proposal is out of sequence. The second concern is that there is no definite method to ascertain if or when any uptake of these lands that could potentially be rezoned will occur in the next few years (up to 2023). In essence, an uptake of these lands, whether gradual or rapid, is possible and therefore cannot be discounted. That is, the scenario where there is either one or numerous planning proposals submitted to rezone land which takes up this "spare infrastructure capacity", then in theory there would then be a shortfall of infrastructure which may not cover this Planning Proposal, which is out of sequence. This justification is not supported given there are many factors which may influence property sales and to assume that there will be no significant residential development undertaken in the area in the short term (i.e. up to 2023) when the Action Plan for the precinct clearly sets out a maximum of 47,000m² of gross floor area seems implausible and unsupported.</p> <p>The second source of justification for the Proponent's assertion that the Planning Proposal is feasible is the advice from Cushman & Wakefield. This advice has been provided in support of this Criteria and concludes:</p> <p><i>"Our analysis suggests that even with the noted infrastructure charges the project will return economically feasible return metrics (Profit and Risk and Internal Rate of Return) based upon our current understanding of the market and acceptable return metrics"</i>.</p> <p>However, this feasibility advice uses significant disclaimers, judgements and restrictions. The advice states (emphasis added):</p> <p><i>"We comment that the proposal is at the very early stages of the development lifecycle and as such, our feasibility assessment is decidedly subjective and based</i></p>

Criteria 5: Feasibility	<p><i>upon numerous assumptions. Where possible we have verified these costs against industry benchmarks however, in some instances it has been necessary to use our professional judgement in the absence of benchmarks or appropriate advice</i>”.</p> <p>Without any evidence or factual information to support this opinion and with such a multitude of disclaimers, assumptions and judgements and the acknowledgment that the Planning Proposal is in the very early stages, it is considered that this feasibility advice is inadequate to demonstrate compliance with these criteria.</p> <p>The absence of an appropriate funding analysis also results in this Planning Proposal not being appropriate and therefore the feasibility cannot be adequately considered. The PRCUTS Taverners Hill Action Plan 2016 - 2023 provides an outline for funding framework or satisfactory arrangements for provision of new roads, community facilities and open space which would be delivered by new developments and funded through s94 (now S7.11) contributions, the SIC levy and/or works in kind. In this regard, the Planning Proposal has not provided a feasibility study to demonstrate economic feasibility for these infrastructure works or of what the proposed funding of these works will be. Only a feasibility letter report was provided which was flawed as outlined above.</p> <p>The Action Plan envisages an increase in residential GFA in the precinct in the short and long term and provides a list of key actions if future land uses permit affordable housing. These include:</p> <ul style="list-style-type: none"> • Provision of a minimum of 5% of new housing as affordable housing or in line with the Government policy of the day and a range of housing diversity types as identified within the Strategy; • Implementation of <i>Sydney CBD to Parramatta Strategic Transport Plan</i> and operation of a rapid bus service along Parramatta Road; • Provision of monetary contributions towards: <ul style="list-style-type: none"> ○ Medium and long term open space facilities; ○ Community facilities; ○ Primary and Secondary Schools; ○ Proportion of child care and Out of School Hours places; ○ Satisfactory arrangements with Sydney Local Health District for its assets at Royal Prince Alfred Hospital. <p>The proposal has not satisfactorily addressed the above requirements and therefore, cannot be supported having regard to feasibility.</p> <p>The Planning Proposal does not provide a thorough and acceptable economic analysis to demonstrate feasibility with regard to the likely costs of infrastructure and the proposed funding arrangements available for the Precinct and Frame Area. The Integrated Infrastructure Delivery Plan (prepared by Northrop) accompanying the Planning Proposal provides a methodology to calculate contributions for State and Local Infrastructure. Council officers have reservations about the methodology used; formulas applied and conclusions of the IIDP.</p> <p>Accordingly, the EIA and feasibility advice is considered to be flawed and therefore the Planning Proposal is considered not to satisfy these criteria.</p>
	<p>The planning proposal demonstrates a land use and development scenario that aligns with and responds to market conditions for the delivery of housing and employment for 2016 to 2023. Viability should not be used as a justification for poor planning or built form outcomes.</p>
	<p><u>Proponent's response:</u> The Proponent states that the Planning Proposal is viable based on the conclusions of the EIA. The EIA considers that the Inner West has high demand for housing, noting that population growth has historically outstripped housing growth in the Inner West, which has resulted in prices experiencing sustained and significant growth from 2006 to 2016. The EIA states that this is indicative of an under supplied market. The location of the proposal close to services including Leichhardt Marketplace, Parramatta Road and the Marion Light rail stop make it likely to be “<i>well-met by the market</i>”. In relation to the proposed employment space, the EIA also indicates that since the industrial and manufacturing sector has declined, the proposed employment spaces for the services industries on the site are justified.</p>
	<p><u>Officer's response:</u></p>

Criteria 6: Market viability

The Planning Proposal does not provide a thorough land use and development scenario or any needs assessment to demonstrate that it responds to the market conditions for delivery of housing and employment. The EIA provides a generic analysis of supply and demand for housing and simply extends that to the Planning Proposal being 'viable'. Sustained and significant growth in house prices should not be primarily attributed to an undersupply of housing as there are other factors likely playing a role in such pricing.

The Planning Proposal does not provide sufficient information to demonstrate capacity for additional residential floor space growth in the corridor as the subject site is being proposed to be developed ahead of time and out of sequence with the Taverners Hill Action Plan in PRCUTS. This must take into account the existing/ future market conditions and capacity of transport and other infrastructure such as schools, child care facilities, public open space etc. The Planning Proposal also does not consider the potential viability of this proposal in the event that land is developed in line with the 2016-2023 Action Plan sequencing.

In reality, this Planning Proposal intends to create a development ahead of the recommendations of PRCUTS without putting forward a strong case to justify this in terms of demand and supply of housing and employment. There are concerns that the development would result in loss of employment and urban services land which PRCUTS envisages being retained until at least 2023. There has been no analysis of the potential impact of removing this important industrial land from the supply of employment land ahead of schedule and potentially without other employment land becoming available as per the sequencing of land use and additional gross floor area as outlined in the Action Plan for the Taverners Hill Precinct under PRCUTS. The District and Regional Plans also strongly advocate the retention of all industrial lands. Relying on the GSRP and ESDP which excludes the land under PRCUTS from the industrial lands polices does not negate the adverse impacts this proposal would have on the supply of industrial land. The proposal is inadequate in demonstrating that the existing business is unviable to support its rezoning in the current market conditions.

As confirmed by the peer review undertaken by SGS Economics and Planning, there are several deficiencies with the Proponent's justification demonstrating market viability:

- The EIA provides two examples of properties being marketed for lease in the Taverners Hill Precinct. One has received offers from a microbrewery and electrical wholesaler; and the other from food manufacturers and general office users. This type of market interest justifies the current use of the subject site for industrial and urban service uses. The GSRP also highlights that while these land uses tend to not be high employers, the value lies in the operational and functional role they play for the city.
- The EIA rests on the uncertainty of the need for industrial land to support a shift towards more service-based uses for the site. *'Demand for business premises within the Taverners Hill Precinct has been relatively muted in recent times given a dearth of purchase and lease opportunities. The Precinct is observed to [be] tightly held amid expectations of imminent rezoning'*. The shift towards service employment is justified in part based on anecdotal evidence from local commercial agents that only land for services employment is needed. This is a weak evidence base since this shift towards service employment in the area could come as a consequence of a reduction of industrial land uses rather than a shift in population demand.
- The existence of creative uses on the site currently appears to support the retention of the current uses on the site, despite the EIA inferring that service employment is the only in-demand industry in terms of floor space.
- The EIA also states: *'local agents note many traditional industrial occupiers have found it difficult to compete in the current market given they typically require lower rental rates to be commercially viable compared to the abovementioned uses'*. If traditional industrial occupiers are already finding it difficult to find lower rental sites, then a reduction of potentially 7,479 sqm of industrial and urban space via this Proposal would only exacerbate the problem.

"While the EIA and planning proposal acknowledge the need to continue to provide housing in Sydney (including the Inner West) to meet future population needs (and additional information to support this could have been provided) this should not be argued in an 'either/or' way with regards to the retention of industrial lands. The argument that residential development is needed so industrial land is therefore not is a reductive one that does not acknowledge the nexus between population growth and the need for increased population-serving industries. The Leichhardt Industrial Lands Strategy identifies a forecast shortfall of population-serving industrial lands in the former LGA by 2036" (SGS, p.20).

Further, Council and relevant State agencies are yet to undertake associated work including preparation of Local Housing Strategies, Character Area statements, completion of the new Inner West Council LEP/ DCP and Traffic Modelling. The Planning Proposal comes in advance of this work and would compromise the holistic and inclusive basis for implementation of the PRCUTS and the IW LEP and DCP and therefore, should not be supported.

SGS
Economics
& Planning



Item 7

PEER REVIEW 67-75 LORDS ROAD PLANNING PROPOSAL

FINAL
JANUARY 2019

Prepared for
Inner West Council

Independent
insight.

Attachment 3



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180507 - Lord Road Peer Review- revision - 190115 - LC comments 21 Jan_RPsecond revision21012019

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EXECUTIVE SUMMARY

SGS Economics and Planning has been commissioned by Inner West Council to undertake an independent peer review of the Planning Proposal & Out of Sequence Checklist prepared by Platino Properties for 67-75 Lords Road, Leichhardt in October 2018.

The Planning Proposal seeks to rezone the 10,691 sqm site to allow for approximately 235 dwellings and at least 3,000sqm of non-residential floor space to support a range of employment generating and community uses.

The report is structured as follows:

- Chapter 1 provides an overview of the relevant State and Local Council strategic planning policies and objectives
- Chapter 2 contains the peer review of the Economic Impact Assessment
- Chapter 3 provides strategic planning commentary
- Chapter 4 comments on the Out of Sequence Checklist 5 and 6.

In summary, the peer review identifies the following issues with the Planning Proposal:

- Loss of industrial and urban service lands
- The adaptable nature of the non-residential component
- Potential for future land use conflict between residential land uses and certain non-residential land uses
- Selective data use.

The overarching policy context related to this subject site and the opposing intent of stakeholders for the future of industrial and urban service lands creates significant tension and complexity when assessing this site.

The conclusions of the Greater Sydney Region Plan, Eastern City District Plan, Leichhardt Industrial Land Study, Leichhardt Industrial Precinct Planning Study and Our Inner West 2036 strategy strongly supports protection of Leichhardt's industrially-zoned precincts for their important employment and service function. This shortage, and the loss of this site, will affect surrounding areas and will progressively deteriorate as other sites are picked off for rezoning in a similar fashion.

A major concern is that the non-residential component is proposed under a residential zoning. While the Proposal appears to provide a 'replacement' quantum of floorspace to what is there already and is seeking tenants who are likely to be attracted to the precinct as it stands, the lack of protection afforded by the residential zoning raises a concern about the long-term nature of this Proposal's intent to retain these uses.

While the EIA and planning proposal acknowledge the need to continue to provide housing in Sydney (including the Inner West) to meet future population needs, this should not be argued in an 'either/or' way with regards to the retention of industrial lands. The argument that residential development is needed so industrial land is therefore not a reductive one that does not acknowledge the nexus between population growth and the need for increased population-serving industries. The Leichhardt Industrial Lands Strategy identifies a forecast shortfall of population-serving industrial lands in the former LGA by 2036.

A precautionary principle (or 'no regrets' approach to reflect the GSC's 'A Metropolis that Works' thought leadership paper), therefore, should be applied, as once a rezoning occurs there is no reversion.

1. POLICY OVERVIEW

This chapter reviews the strategic planning and policy context.

1.1 Greater Sydney Region Plan

The *Greater Sydney Region Plan* (GSRP) is a metropolitan strategy that responds to the current and future planning challenges of the Greater Sydney region. The aim of the GSRP is to transform Greater Sydney into a metropolis of three cities: Western Parkland City, Central River City and the Eastern Harbour City over the next 40-year period. This vision will be progressed via a series of objectives centred on infrastructure and collaboration, liveability, productivity and sustainability.

Inner West Council area is located in the Eastern Harbour City District. The focus for this District is innovation and global competitiveness to underpin its continued growth.

The GSRP includes *Objective 23: industrial and urban services land is planned, retained and managed* which recognises the value of industrial lands within a city where it is not necessarily the number of jobs provided, but the operational role and function industrial lands play that is of importance.

Industrial lands support and enable a city to develop and businesses to grow. Industrial lands can include a range of activities from major freight and logistics, heavy manufacturing, light industry, to urban services and creative uses.

The principles for managing industrial and urban services land across Greater Sydney, as identified in the GSRP, includes:

- Retain and manage – all existing industrial and urban services land should be safeguarded from competing pressures, particularly residential and mixed-use zones
- Review and manage – review all industrial and urban services land under this approach to either confirm its retention or manage uses to allow sites to transition to higher-order employment activities and seek appropriate controls to maximise business and employment outcomes.
- Plan and manage – in land release areas identify additional industrial and urban service land.

The principles above relate to Ministerial Directions issued under 9.1 of the Act - 1.1 Business and Industrial Zones that states the objectives of the direction are to protect employment land in business and industrial zones. In preparation of a planning proposal that relates to land within an existing or proposed business or industrial zone, the relevant planning authority must give effect to the direction of the objective and retain the areas and locations of existing business and industrial zones and not reduce the total potential floor space area for industrial uses in industrial zones. The direction was issued May 2017, after the Parramatta Road Corridor Urban Transformation Strategy (2016).

The GSRP notes that land subject to the *Parramatta Road Corridor Urban Transformation Strategy* is not subject to the industrial lands strategies and actions of the GSRP.

1.2 Eastern City District Plan

The *Eastern City District Plan* (ECDP) is a 20-year strategy, linked to the GSRP, that aims to manage growth in the District. The ESDP informs local level strategic planning, assessment of planning proposals and gives effect to the GSRP.

The ECDP include the following planning priorities:

Planning Priority E9 – growing international trade gateways

To grow our international trade gateways, it is identified that industrial precincts and essential transport corridors must be protected and supported for growth.

Planning Priority E12 – retain and managing industrial and urban services land

Directly supporting objective 23 from the GSRP, this planning priority acknowledges the contribution these lands provide to businesses and trade in the District and Greater Sydney. For small, inner-city industrial precincts, it is stated the value of these sites should not be underestimated due to the relatively affordable rent of the site and the significant proportion of urban service that is provided to the local community.

It is expected future employment growth in urban services will require more floor space or additional land. As urban services are less likely to locate in multi-storey buildings or increase their floor space efficiency, this could become a future pressure point.

A benchmark of three-square metres of urban services land per person has been identified in the ECDP, however it is noted that the District per person amount is below the benchmark. The per capita amount is expected to decrease between 2016 and 2036 for the Eastern City District.

The principle of ‘retain and manage’ is specifically identified for this District, where all existing industrial land and urban services should be safeguarded from competing pressures, especially residential and mixed-use zones.

The ECDP encapsulates this principle in two actions that state:

- Action 51: retain and manage industrial and urban services land, in line with the Principles for managing industrial and urban services land in the Eastern City District by safeguarding all industrial zoned land from conversion to residential development, including conversion to mixed use zones. In updating local environmental plans, councils are to conduct a strategic review of industrial land.
- Action 52: facilitate the contemporary adaptation of industrial and warehouse buildings through increased floor to ceiling heights.

It is noted in the ECDP that the land subject to the *Parramatta Road Corridor Urban Transformation Strategy* is not subject to the industrial land strategies and directives of the ECDP.

The need for collaboration in planning has been recognised under the ECDP. Planning Priority E2 Working Through Collaboration identifies the *Parramatta Road Corridor Urban Transformation Strategy* as a project that involved a collaborative process between various agencies.

1.3 A Metropolis that Works, GSC Thought Leadership Series

The paper responds to Objective 23 of the GSRP that industrial and urban services land be planned, retained and managed and acknowledges the changing nature of industrial and urban services and their spatial requirements and strategic value.

Great cities are acknowledged as also being working cities - more than just residential neighbourhoods where residents have improved travel times but where industrial or

employment precincts play an important and equitable role in the day-to-day functioning of a city. Spaces are needed in the city where people can function, make and create.

It is recognised only eight per cent of land across Greater Sydney is zoned for non-residential uses such as industrial and urban services yet, 19 per cent of all jobs across Greater Sydney are classed as industrial.

The paper highlights the sector is evolving from its traditional manufacturing, service, repairs, transport and warehousing association to higher order industrial, technology, creative and logistic uses. It is stated that research indicates there is often a mismatch between businesses operating in the industrial and urban services lands and standard land use definitions.

The paper suggests that strategic planners need to plan for a multi-layered city that provides creative interfaces; facilitates 'ordinary' functions; and has space that services future population needs. If change does occur, there is a need to retain ownership of the terms on which those changes are made, and determinations should require no net loss of land or businesses and seek additional allocations relative to population growth.

Land use conflict from mixed use zoning is recognised, as well as pervasive actions which allows uses such as cafes and restaurants and downgrades productive industrial and urban service land.

The paper highlights a nuanced approach is needed for the evolving uses of these spaces – how to support the emergence of organic creative enterprises and local networks and avoiding the risks of 'creative led' gentrification. This approach is underpinned by a 'no regrets' approach to decision making regarding industrial and urban services land.

It is noted better planning and management of these lands is needed that is also responsive to the market and community needs.

1.4 Parramatta Road Corridor Urban Transformation Strategy

The *Parramatta Road Corridor Urban Transformation Strategy* (PRCUTS) identifies a vision for the long-term growth of the Parramatta Road Corridor. Principles aim to integrate land use, built form and transport planning and public domain improvements for the Corridor.

The Strategy and Implementation Tool Kit were given statutory weight through a 9.1 Ministerial Direction under the EPA Act 1979 (previously s 117).

The vision for the Corridor is for 'a balanced, high quality multi-use corridor with improved amenity, better transport choices, more job opportunities and an increased quantity and diversity of housing'. Principles to achieve this vision is to plan for, and position, the Corridor to attract new business and to support existing business to create a diversity of jobs and promote jobs closer to homes; create liveable local Precincts along the Corridor that are sustainable, resilient and which make Sydney a better place.

The subject site is located inside the Taverners Hill Precinct Area. Actions under the PRCUTS are related to Precinct Areas informed by a range of factors including natural features, barriers, built form or land use change and subdivision patterns; and also Frame Areas which are portions of the Corridor located between the identified Precincts and have direct frontage to Parramatta Road.

Transformation and redevelopment should occur in both the Precinct and Frame Areas to deliver combined renewal. The Strategy states the future Taverners Hill Precinct Character will reinforce the 'existing mix of warehouse and service industries interspersed with residential dwellings' and will be an 'urban village with strong green, water and active transport links via the adjoining Greenway; traffic calmed road network; a revitalised neighbourhood centre around a pedestrianised Parramatta Road intersection; and enhanced accessibility to nearby multiple public transport modes and high amenity neighbourhood parks, squares and leafy streets just off Parramatta Road'.

The structure plan designates the subject site as residential (figure 57).

Land use directives state:

- Maintain an employment focus on both sides of Parramatta Road, Tebbutt Street, Upward Street and George Street
- Retention of the existing low-density character across the remainder of the Precinct
- Encourage appropriately scaled infill residential development in select locations to attract and retain people in the core of the Precinct.

1.5 Our Inner West 2036

The *Our Inner West 2036* Plan is a community strategy for the new Inner West Local Government Area. The guiding principle for the Plan is to 'work together in a way that is creative, caring and just'. Creativity is defined as creative industries, creative spaces, creative talent to generate socio-economic growth.

Via a number of strategic objectives, the Plan aims to create an inclusive, vibrant and progressive community that supports a creative and harmonious way of life.

Strategic Direction Three focuses on building creative communities and a strong economy in the Inner West council area. Outcomes and strategies include:

3.2 Inner West as the home of creative industries services

- Position Inner West as a place of excellence for creative industries and services and support them to thrive
- Facilitate links to programs and services to help businesses grow, innovate and improve their competitiveness
- Encourage the establishment of new enterprises in Inner West
- Facilitate the availability of affordable spaces for creative industries and services

3.4 Employment is diverse and accessible.

- Support local job creation by protecting industrial and employment lands
- Encourage social enterprises and businesses to grow local employment.

The Plan also seeks to build the Inner West as the home of creative industries and services via strategies that encourage the establishment of new enterprises in the Inner West and facilitate the availability of affordable spaces for creative industries and services.

1.6 Leichhardt Local Environmental Plan 2013

The subject site is zoned IN2 Light Industrial under the *Leichhardt Local Environmental Plan 2013*. This zone has the following objectives:

- To provide a wide range of light industrial, warehouse and related land uses
- To encourage employment opportunities and to support the viability of centres
- To minimise any adverse effect of industry on other land uses
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area
- To support and protect industrial land for industrial uses
- To retain existing employment uses and foster a range of new industrial uses to meet the needs of the community
- To ensure the provision of appropriate infrastructure that supports Leichhardt's employment opportunities
- To retain and encourage waterfront industrial and maritime activities
- To provide for certain business and office premises and light industries in the arts, technology, production and design sectors.

1.7 Leichhardt Industrial Land Study

In 2014, SGS Economics and Planning were commissioned by Leichhardt Council to conduct an industrial lands study for the Leichhardt Local Government Area (LGA). The study included all land zoned IN2 Light Industrial under the *Leichhardt Local Environmental Plan 2013*.

The aim of the study was to provide Council with baseline information against which to assess future planning proposals to rezone industrial land, in relation to the State and local planning policy context, changing economy, infrastructure and demographics.

At the time, Leichhardt had eleven identified industrial precincts throughout the LGA. They varied in size and use, however the predominant characteristic was that they serviced local industrial needs.

Due to Leichhardt's close proximity to Sydney CBD and improving transport links and identified development possibilities in the Bays Precinct and Parramatta Road Corridor, the LGA's remaining industrial land is under pressure to develop for non-industrial uses, in particular residential.

State Government strategic planning objectives at the time sought to retain significant strategic industrial lands and use policy to effectively prevent the loss of industrial land where it cannot be clearly justified.

It was forecast that the LGA would not have sufficient land within existing precincts to accommodate future demand of industrial space. Leichhardt was projected to have a shortfall of between 7,570 sqm and 54, 965 sqm by 2036.

The study concluded that all of the LGA's industrial lands be retained and protected from re-zoning and that additional industrial floorspace be provided, and that Council's planning controls be revised to facilitate the protection and growth of industrial precincts.

Recommendations from the study included:

- Protect Leichhardt's industrially-zoned precincts for their important employment and service functions
- Develop a profile and plan for each industrial precinct
- Develop clear vision for the future of the Camperdown precinct and maintain industrial zoning
- Ensure adequate provision of industrial land for population-serving industries
- Ensure the vision for Leichhardt's industrial lands considers possible impacts of the Bays Precinct redevelopment
- Work with neighbouring councils to ensure a sub-regional approach to industrial land provision.

1.8 Leichhardt Industrial Precinct Planning Study

In 2016, SGS Economics and Planning were engaged by Leichhardt Council to undertake an investigation into Leichhardt's industrial precincts, providing recommendations for the future planning and management of the local government area's industrial-zoned (IN2) land. The report built on the Industrial Lands Study from 2014.

The report included five key components that shaped the recommendations:

- Overview of the economic context and influences on industrial lands in the LGA and inner-Sydney
- Detailed profile of each precinct
- High-level feasibility analysis of built form options
- Multi-criteria assessment of development options within three key precincts
- Assessment of risk that considered the implications of multiple land use scenarios within each of the key precincts.

Specifically assessing Leichhardt's industrial precincts, the following key issues were identified:

- There is a shortage of industrial land at a subregional level
- There is a shortage of local services within Leichhardt
- There is a need to provide sufficient floorspace and appropriate built form configurations to support emerging uses
- Industrial precincts are under threat from other uses.

The study recommended there is a need to provide additional industrial floorspace in the LGA. The study also suggests the risks, if new zones and land uses are introduced to Leichhardt's existing industrial precincts, must be considered.

Recommendations from the study suggested two options for the LGA. The first being a business as usual approach with retention of IN2 categories in the majority of the industrial precincts. The second recommended option assumed that with continued pressure to redevelop industrial precincts, driven by development aspirations such as those contained in the Parramatta Road Corridor Strategy, Council should take the lead in considering alternative land use arrangements or consider options that may deliver additional floorspace. Strategy Five included being proactive in aligning Tebbutt Street/Parramatta Road precinct with the future of the PRCUTS; and Strategy Six retain and protect all other industrial precincts. Both options supported the maintenance of the IN2 zoning of the Lords Road site.

1.9 Marrickville Employment Lands Study

In 2014, SGS Economics and Planning were engaged by Marrickville Council to review the Marrickville Employment Lands Study (2008).

The review recognised that inner urban industrial land use is changing, and traditional industrial uses are moving away from the inner urban area. There is a presence of urban manufacturers in Marrickville however, innovative and creative businesses attracted to industrial and urban services sites due to low rents, lack of neighbour complaints, short supply chains and close proximity to the CBD. The mix of uses was noted to add character to the area.

The review suggested it is important that a coordinated and strategic approach to planning in Inner Sydney employment lands be undertaken.

Concluding strategies from the review included:

- Protect sub-regionally significant industrial lands
- Ensure sufficient stocks of industrial land to meet requirements of the local population
- Explore economic development opportunities in some industrial precincts
- Consider residential conversion opportunities
- Encourage the development of Princes Highway strategic corridor.

2. ECONOMIC IMPACT ASSESSMENT REVIEW

This chapter reviews the method and assumptions provided in the Economic Impact Assessment (EIA) undertaken by AEC Group, that forms part of the Planning Proposal. It focuses on the relevant analytical chapters of the EIA – Chapters 3 (Baseline Research) and 4 (Economic Impact Assessment)

2.1 Chapter 3 – Baseline research

Employment profile

This section provides an overview of the industries of employment and occupation in a defined local catchment. It does this using three census periods (2006, 2001 and 2016) to present a time series of the changes identified in the catchment.

SGS response:

The EIA identifies a very small catchment of approximately 60 hectares. The rationale for such a small catchment is unclear. A catchment of the size chosen poses two concerns:

1. The growth/decline of a particular industry can be significantly impacted by changes to one site. In this instance, the conversion of 1.5 hectares of former industrial precinct between George and Upward Street is likely to significantly change the employment profile in the catchment between census periods. This enables inferences about decline in jobs by ANZSIC categories in the EIA to be made that suggest industry is declining when, in fact, it could be that those jobs have been displaced due to rezoning of that site.
2. By including within this catchment an established centre (Leichhardt Marketplace and surrounds), it can suggest that growth in one sector (population-driven services such as retail) are occurring much faster. The inference here is that demand is therefore higher. While this may be the case, the small catchment is subject to micro-changes that do not provide a sufficiently robust analysis.

SGS recommends that an LGA scale (or a former LGA scale in the case of the former Leichhardt LGA) would be more appropriate as it would allow comparison with a previously defined and analysed catchment. In this case, zooming out would allow the precinct to be seen in the light of a significant forecast deficit of industrially-zoned land over the next twenty years. It would also iron out site specific impacts as identified above and provide a stronger base for comparison.

The trends observed in the report reflect the industry and occupational data presented.

Socio-demographic profile

This section defines a wider catchment than the employment profile and provides data and commentary on the composition and change of the population and households over the same three-census period. It also provides analysis on household income and dwelling type.

SGS response:

The trends observed in the report do reflect presented data and the commentary is noted.

It is not clearly explained however why the catchment differs from that used in the Employment Profile (3.1). The report notes that the SA2 used is the smallest ABS statistical area that provides this time series data. However, as the focus of much of the later analysis is on the importance of providing local services in the proposal, it would be logical to undertake both the socio-demographic profile and the economic profile at the same consistent geography. This would also avoid the risk of perception that different boundaries have been chosen to reflect evidence in different ways. As above, SGS would recommend that the boundaries be consistent at an LGA level, or at least comparable and of sufficient size.

Market and business activity

This section reports on the market activity of various land use types and specific sites by both sale and lease and makes inferences about how these align with demand for the current land use in the area.

SGS response:

This section provides several contradictory or unsubstantiated perspectives.

3.3.1 notes that demand for 'business premises in the precinct has been relatively muted in recent times given a dearth of purchase and lease opportunities; the Precinct is observed to [be] tightly held amid expectations of imminent rezoning'. The use of low supply as a means of establishing that there is no demand is not a strong argument, given low vacancy rates generally in inner city precincts.

3.3.1 also notes that 'traditional' industrial uses find it difficult to compete with newer uses such as gyms. This observation is seen elsewhere and is noted. However, it does not indicate that demand for other non-traditional industries is low. This is further challenged by the use of 'small-scale food and drink manufacturing' as an example of these newer uses. These are exactly the type of emerging use that does require industrial floorspace to operate. This indicates that there is in fact demand, even at the local scale.

This is supported further on under 'Leasing Activity' (p21) that indicates 'warehouse space is being driven by non-traditional industrial users, notably food producers, craft breweries and commercial businesses.... The example of Unit 1/10-12 George Street is also been sought by '...a number of enquiries from food manufacturers...' Combined, this evidence provided in the EIA suggests that there *is* in fact demand for the type of land currently provided for under the existing zoning.

Further in this section, under 'Development Activity', the EIA appears to infer that the lack of development of industrial products in the local area is further evidence of a lack of demand. Beyond this contrary evidence discussed above, it is important that a lack of development does not explicitly infer no demand, without evidence being provided. Often these precincts are home to small businesses who adapt to the space without the need for re-development or even benefit from the lower rents that older stock provide *because of* the fact that redevelopment has not occurred.

3.3.2 provides an overview of the residential land uses and change over time in the surrounding suburbs. This is noted. It does not provide a direct rationale for why the current zoning should be removed.

While the analysis indicates demand for a range of industrial businesses, such as food and beverage production, it is not clear whether the rents that such a new development may seek are higher than what are currently available in the existing premises, or indeed in other nearby industrial precincts. The risk is that if the development incurs higher rents, those exact businesses that are seeking to locate in the area may be priced out.

SGS recommends an analysis of the rents that these businesses may seek, compared with potential market rents that the new commercial floorspace may seek, to ensure that the demand in the system can be met with this supply.

Implications for the site

This section summarises the findings presented in chapter three. It presents three points for consideration:

1. The proposal caters to observed industry growth
2. It addresses a market gap
3. It contributes to housing

SGS response:

It is noted that within the small catchment, as defined in the EIA, the proposal seeks to accommodate the uses that appear to be growing. There is a need to expand the catchment, to better understand what the actual local industrial profile is and what industries may require floorspace in the locality. This would better define the specific employment need for the site and what uses should be considered.

The rise in demand for co-working spaces is noted, as is the need for flexible workshop and studio spaces. While this is a good opportunity within the development, it is unclear how the site under its current arrangement cannot provide that already, given the flexibility of the built form to accommodate a range of uses.

It is noted that the proposal will indeed contribute to the delivery of housing. This is considered a separate issue for the purposes of an EIA and should be considered once there is clear evidence that the site's current zoning is not required, now or into the future.

2.2 Chapter 4 – Economic Impact Assessment

Introduction

This section introduces the two cases tested in the EIA – the Base case (full residential under the PRCUTS) and the Proposal Case (residential with the inclusion of some co-working and commercial space). Both proposals include the provision for the APIA Leichhardt Football Club, a fitness studio, art studio and café.

The section also introduces the fact that an Input-Output (I-O) model has been used, with the LGA as a catchment

SGS response:

The use of both a base case and proposal case is supported and an important part of any economic impact modelling. The variation through the use of different scenarios is also supported.

While the proposal assumes that the PRCUTS is fait accompli, it is recommended that an additional case be tested – full development under current controls, or at least, comparisons made with the current status to provide clearer comparisons of marginal differences between the two.

The use of the Inner West LGA as the catchment for the I-O model is noted and in accordance with standard practice.

Drivers of economic impact

This section provides a standard explanation of the components of the I-O modelling.

SGS response:

Noted. These are standard processes. AEC Group acknowledge the limitation of the I-O modelling process. The reliance on the economic impact figures in latter sections should be taken with caution due to these limitations, however the I-O model is a useful tool when comparing the relative differences of the various cases.

Economic Activity and Impacts

This section summarises the economic impacts for each case by both Construction Phase and Operational Phase. It indicates that during the construction phase, the Base and Proposal cases do not have any material differences in their economic contribution. The major differences are during operations when, under the proposal case, there is significantly higher economic impacts (both in FTE and GRP) than under the base case.

SGS response:

The findings in the economic impact assessment align with SGS's expectations of how the two cases would compare. The case with higher jobs during operations would, through an I-O modelling process, lead to higher economic impacts.

The lack of comparison to the current status however means that there is no clear understanding of the overall *net* change to employment on the site. The EIA in Section 2.2 indicated that there are approximately 106 jobs currently on site, although research undertaken by Council indicates that this could be as high as 160. Depending on the scenario put forward, the *direct jobs* (i.e. those created on-site) would either reduced by 10 (Scenario 2) or increase by 22 (Scenario 1).

SGS recommends that a clearer comparison of the economic impact, particularly in terms of FTE benefits, be compared with current site operations. This would assist in a more balanced consideration of the proposal against current uses.

Housing impacts

This section assesses the economic impact that new residents would have in the local economy. This has been done using the ABS Household Expenditure dataset. The section then goes on to discuss the contribution that the proposed development would make to housing supply in the area, including with affordable housing and housing choice.

AEC notes that this should not be combined with the economic impacts identified in Section 4.3.

SGS response:

The need to consider these impacts separately is noted and supported. The data sources used are also valid.

The method however does not justify why residential development must happen on this site and should be used to compare the relative strengths of the various cases to one another only.

It is noted that that the proposal will contribute to the supply of housing. This is not considered relevant to the EIA. While demand for housing will likely continue to grow in the Inner West, as it will elsewhere in Sydney, this is not to be considered an argument for the rezoning of other uses to residential, as there is clear evidence that demand for the current land uses is also forecast to grow in the future. Alternative land uses should only be considered once there is clear evidence presented that the current zoning is not required now or in the future. The 2014 Leichhardt Industrial Lands Study and current State and local government policy direction indicates that this is not the case.

Conclusion

This section summarises the relative merits of each case (Base and Project) against one another.

SGS response:

The comparison between the two cases is noted. However, as discussed, the need to compare this to the current situation would present a more coherent picture of the marginal impact of the redevelopment.

2.3 Summary of findings

The Economic Impact Assessment takes a standard approach to the assessment of economic impacts. However, SGS provides several recommendations regarding the methodology and assumptions used:

- **Catchment definition.** It is unclear why different catchments are used in this study and why in particular, the economic catchment is so small. SGS recommends aligning this with pre-defined catchments to better understand the context and lower the impact that individual site rezoning has on the data used to prosecute the case for change. SGS recommends either the use of the previous Leichhardt LGA to align with other studies and data sets or at least a collection of SA2 or travel zones that sufficiently define a local catchment.
- **Data assumptions.** Several incorrect, unsubstantiated or slightly misleading inferences have been made with regards to the demand for the type of uses currently on site. The addressing of the catchment issue (above) will better support this, however there are concerns about the interpretation of demand for uses currently observed (such as food and beverage manufacturing) that could go on the site in its current zone.
- **Certainty regarding floorspace values.** The redevelopment of the site may mean that the 'new' floorspace is considered premium and therefore rents are positioned higher than the market in the local area for industrial units. This risks out-pricing the industries the development proposes to attract while simultaneously removing 'cheaper' floorspace from the system.
- **Compare to current scenario.** It is important that the proposal be compared to the current situation, particularly with regards to the anticipated jobs it will create.
- **Lack of zoning protection.** Perhaps the biggest concern is the long-term likelihood of these uses remaining once the site is rezoned from its current industrial zone to residential. While the proposal may well deliver this floorspace, a residential zone affords no long-term protection if the developer were to change their minds. In this instance, rather than a mixed-use development supporting the retention of jobs AND delivering residential, it would simply defer the loss of jobs. It is noted however that this is not a critique of the EIA but of the proposed rezoning itself.

3. STRATEGIC CONTEXT

This chapter looks at Chapter 4 of the Planning Proposal and considers how the Proposal relates to the Strategic Context for industrial and urban services.

3.1 Chapter 4 Strategic Context

Greater Sydney Region Plan

This section describes the overall vision of the GSRP and specific intent to provide ongoing housing supply and a range of housing types in the right places in Greater Sydney.

The section then links the Proposal to this intent stating the development will help increase housing supply in an area that is accessible to public transport and therefore, other amenities.

The section also identifies that the GSRP seeks to plan, retain and manage industrial and urban services land, but notes, land related to the PRCUTS is not subject to the industrial land actions of the GSRP.

It is noted that while PRCUTS has designated the site as future residential, provision has been included in the development for 3,000 sqm of flexible non-residential floor space. It is stated that this space is adaptable to changing demands, and therefore, supports the GSRP by retaining employment and urban service uses on site.

The section states advice from Hill PDA about economic and social benefits of urban consolidation therefore, justifies the proposal as it aligns to Objective 10 of the GSRP to provide ongoing housing supply in the right locations.

SGS response:

This section has highlighted the inherent tension surrounding this site due to the current policy context for Eastern District.

Objective 10 of the GSRP supports provision of greater housing supply and a range of housing types in the right locations to create more liveable neighbourhoods.

The 'right location' is considered to be homes that are linked to local infrastructure. 'Liveability' for the Eastern District is broadly defined in the GSRP as urban renewal with increased infrastructure and services, open spaces and public places, sympathetic infill development that focuses on improved local connections.

The Proposal has demonstrated in section 2.2 that the site is accessible to several modes of public transport, as well as some retail and open space. Therefore, it is a reasonable link that the development meets Objective 10 of the GSRP to increase housing in the right location.

The loss of up to 10, 691 sqm of IN2 zoned land is highly problematic.

The Proposal states that light industrial and urban services use could be considered in the 'flexible' space, noting it would only ever be a maximum of 2,500 sqm as 500 sqm is designated for the APIA club.

The Proposal is very loose in its use of terminology around 'industrial' and 'urban services', 'light industrial' and 'employment and urban services'.

'Urban services', as defined by the GSC, could include concrete batching, waste recycling and transfer, printing, motor vehicle repairs, construction depot and utilities. 'Light industry' is

defined by the GSRP as warehousing, freight and logistics, construction and building supplies and domestic storage.

Such uses co-located with residential use has the potential for land use conflict.

Parramatta Road Corridor – Implementation Plan 2016-2023

This section describes the sequencing strategy and redevelopment details for each of the eight precincts in the PRCUTS.

The Proposal states the Implementation Plan supports delivery of 'a minimum of 35,000 sqm of commercial GFA by 2023'.

The section states the Economic Impact Assessment concluded:

- Large portions of the Taverners Hill Precinct allocated for 2016-2023 release are unlikely to be developed in the timeframe.
- Therefore, it is inferred that by developing the Lords Road site prior to its release of 2023, the development would not result in unreasonable demands on infrastructure, or a greater level of growth in the Precinct than was otherwise allocated under the Implementation Plan.

It is stated the Proposal is considered to meet the requirements of the Out of Sequence Checklist.

SGS response:

The wording in the Proposal has been selective to suggest commercial uses are required only.

The Implementation Plan *actually* states 'a minimum of 35,000 sqm employment gross floor area of predominantly light industrial, enterprise, commercial, and community uses' is earmarked for the Taverners Hill precinct (p.38).

This statement gives greater weight to the retention of the existing light industrial land uses on the Lords Road site.

Our Inner West 2036

This section describes the vision and objectives of Inner West Council's community strategy.

SGS response:

The Proposal states the development meets ecologically sustainable, liveable, creative, caring and progressive objectives of the LGA. The Proposal states the development will support creative industries. These broadly align with the vision and objectives of Council.

However, other requirements for Council include Strategic Direction 3 (as discussed above in 1.4) to support local job creation through the protection of industrial and employment lands (3.4.1).

The Proposal has not addressed this clause and the Proposal is reducing industrial land in the LGA which goes against Council policy.

Leichhardt Employment and Economic Development Plan

This section describes the Leichhardt Employment and Economic Development Plan (LEEDP).

The section states the LEEDP identified the subject site as one of several industrial sites in Leichhardt that is typically run down, underutilised and facing barriers to renewal. It is stated the LEEDP recommended analysis be undertaken on such industrial sites to evaluate their suitability as 'fragmented employment lands to accommodate a range of employment generating uses'.

The section then assesses the subject site against the six industrial land rezoning criteria from the LEEDP and concludes:

1. The re-zoning will not result in insufficient industrial land being available to meet current or future demand because there is growth in other sectors, as identified in the Economic Impact Assessment, and the flexible non-residential space could meet this alternate market demand.
2. The re-zoning would not fragment a large industrial site.
3. The re-zoning is consistent with State Government Policy and PRCUTS, GSRP and ECDP.
4. The site does not have characteristics suitable to light industrial uses, as it is small, has poor access and is close to sensitive residential uses.
5. It is not economically viable to renew the site for solely light industrial or associated uses due to remediation, redevelopment costs and low rental returns, however the inclusion of the flexible non-residential space will retain employment and urban services uses on the site.
6. Retaining the use and zoning of the site would not create a positive net benefit to the community, as demand for traditional light industrial uses is in decline (with the exception of food manufacturing) and the flexible non-residential space would better meet community need.

SGS response:

It is noted the LEEDP is no longer available on the Inner West Council website. Studies that have been completed post-LEEDP, including the Leichhardt Industrial Lands Study (LILS), have a revised policy position and are therefore, of greater relevance.

The LILS was commissioned for two reasons:

- To assist in establishing a strategic land use framework for the Parramatta Road Corridor as part of the Strategic Sites, Centres and Corridors project.
- To assist Council in responding to rezoning applications for industrial land.

The LILS was endorsed by Council on 10 February 2015.

The LILS concludes that all of Leichhardt's industrial lands should be retained and protected from re-zonings. The Proposal does not support this conclusion. The Proposal has not addressed Leichhardt Industrial Land Study in this section.

As already discussed, even though the Proposal does not support the current policy direction of Council under the Leichhardt Industrial Lands Study (LILS), the complex policy context surrounding this site means that other overarching policy considerations have to be taken into account.

The Proposal's responses to the six LEEDP industrial land rezoning criteria have been reviewed regardless:

1. The Economic Impact Assessment states services employment in Taverners Hill is growing in response to population need – particularly for health, education, retail, arts and recreation and that wholesaling and manufacturing have declined, with the exception of food manufacturing.

Use of ABS statistics in the Assessment shows a decline for the Industrial industry employment (-55.81 per cent) and population-serving and health and education up by 67.56 per cent and 37.29 per cent respectively for the Catchment Area.

The Proposal links these inclines and declines in employment with observed industry growth and business demand for the area.

'It is evident that the nature of business occupier demand within the Taverners Hill Precinct has and is continuing to shift to accommodate services employment in response to population need. Significant growth in health and education, retail activity, arts and recreation activity, etc. are testament to this shifting employment structure. Industrial sectors such as wholesaling and manufacturing have steadily declined' (EIA, p. 22-23).

Yet, the decline of industrial related employment in the area could simply be attributed to the re-zoning of light industrial and urban service land in the SA2 to other uses, rather than an actual decline in demand for such services. There appears to be a case of mixing observed demand and underlying demand.

The inclusion of the 'retain and manage' industrial lands policy in the GSRP and ECDP would reinforce this assumption that demand is still present.

Given the shift in policy to 'retain and manage' industrial and urban servicing lands in this area (Greater Sydney Commission and Inner West Council strategy objectives as discussed above) and combining this with the decline in industrial jobs in the area – retention of current land use of the subject site is valid.

The Economic Impact Assessment also suggests the development is catering to the needs of the population towards services employment and highlights that service employment growth specifically includes health, education, retail and arts and recreation.

It is noted the Economic Impact Assessment states anecdotal evidence from local agents has suggested market demand has evolved from traditional industrial occupiers to service or creative uses which is a weak basis.

The site currently provides arts and recreation employment. Therefore, again, given the shift in policy to 'retain and manage' such land uses in the area, combined with the fact the land use already fulfils some of the service employment needs of the local population, as indicated in the EIA – the direction to retain the current land zoning of the subject site bears weight. It is important to understand too that the merits of the site's function should not simply be defined by what is on site *now* but would *could* locate there under the current zoning.

The Proposal and Economic Impact Assessment have identified that the subject site is serviced by Norton Street and Marion/Flood St for retail needs and both areas are in close proximity to the subject site. Therefore, using the subject site for land use other than retail, such as retention of industrial uses, would be reasonable.

2/3. The Proposal is correct in stating the rezoning meets objectives of the PRCUTS, GSRP and EDCP. However, the response makes no mention of Council's policy, as the question asks. Council policy falls under Ministerial Direction 1.1 and the LILS that supports retention of the small, fragmented industrial lands in Leichhardt. The response also does not directly answer the question about what impact the re-zoning would have on Council's employment targets. The response also states it would not result in fragmentation of any industrial precinct. While this is technically correct, as the proposal proposes to fully rezone (and therefore not fragment), the proposal does lead to an erosion of the locally significant industrial precinct by removing it entirely from the LGA's industrial land supply.

4. The site currently operates with some industrial uses. Therefore, the characteristics of the site do continue to align with the characteristics requires by light industrial uses.

The site has two driveways for access and parking on the east and west sides of the main buildings, as described in the site description of the Proposal and the Traffic and Parking Impact Assessment. The Traffic Assessment also notes there are 120 car parking spaces on site and unrestricted kerbside parking generally available on both sides of Lord Road.

The Traffic Assessment also states Foster Road, a State road, which runs north-south nearby the site is noted as providing 'good connectivity' to the wider arterial road

network including Parramatta Road and the City West Link – both of which are classified State roads. It is also documented in both the Proposal and the Traffic Assessment that the site is quite accessible to several modes of public transport (within five to 15-minute walk time).

Therefore, the site does have reasonable access for users of the site, whether they be current business owners, current clients or future residents.

The Proposal has used the argument that ‘poor access’ means the site should not operate for industrial uses. However, the site currently facilitates light industrial land uses and site context suggests overall reasonable access. The site does not appear to have ‘poor accessibility’ as the Proposal states.

5. The Economic Impact Assessment has calculated remediation/construction costs using two scenarios: base case of residential redevelopment (as under PRCUTS) and a proposal case (as per the Proposal for mixed-use). Remediation of the site for solely light industrial use was not a scenario. It is recommended that Council require this as any scenario should consider a full build out under current planning controls.

6. As discussed above, traditional light industrial uses may have only declined in the area due to a loss of sites rather than a decline in demand as the response suggests. The response also suggests that the inclusion of the non-residential floor space would result in a positive net community benefit. The current land use may then already serve this outcome. As the term indicates, a net community benefit should consider *net* benefits. These are benefits that *are in addition to* those that the site currently delivers. Arguing that the removal of and then replacement of non-residential floorspace as a net community benefit is misleading.

Other studies

As identified in Chapter 1, additional studies and papers that support the retention and management of industrial and urban services lands in the Eastern District include the Eastern City District Plan and Metropolis that Works Thought Leadership paper. Neither of these studies have been included in discussion of the Proposal.

Strategic Planning Commentary

The policy context surrounding this site is complex.

The current policy direction identified in these studies (PRCUTS aside) supports a retain and manage approach for industrial and urban service lands in the Eastern District by recognising the value of industrial lands and the pressure to retain these uses due to a reduction, particularly in the Eastern City District.

A benchmark of three-square metres of urban services land per person has been identified in the ECDP, however it is noted that the District per person amount is below the benchmark. The per capita amount is expected to decrease between 2016 and 2036. Therefore, current policy direction is to retain and manage these uses:

- Objective 23: industrial and urban services land is planned, retained and managed which recognises the value of industrial lands within a city where it is not necessarily the number of jobs provided, but the operational role and function industrial lands play that is of importance (GSRP, p. 128).
- Planning Priority E12 – retain and managing industrial and urban services land - directly supporting objective 23 from the GSRP, this planning priority acknowledges the contribution these lands provide to businesses and trade in the District and Greater Sydney. For small, inner-city industrial precincts, it is stated the value of these sites should not be underestimated due to the relatively affordable rent of the site and the significant proportion of urban service that is provided to the local community (ECDP, p. 90).

The Proposal does not meet these requirements by reducing the industrial and urban service uses at site and contributes to further loss of industrial and urban service land for the District and reduces the quantum of floorspace for industrial uses which does not support Ministerial Direction 1.1 and outcomes of the LILS.

The PRCUTS however, designates the site as medium density residential.

The PRCUTS comes into direct conflict with local strategic policy where Inner West Council seeks to retain its industrial lands:

- 3.4 Employment is diverse and accessible: support local job creation by protecting industrial and employment lands (Our Inner West 2036).
- Protect Leichhardt's industrially-zoned precincts for their important employment and service functions (Leichhardt Industrial Land Study).

Council should seek further clarification on the non-residential component of the Proposal, how land use conflict would be minimised and ensure that there is no net loss of employment land as indicated by the *Metropolis that Works*.

A key consideration here is to what extent will the Proposal support particular non-residential uses given several uses have been designated for the space and it will be 'adaptable'.

9.2 Section B Relationship to the strategic planning framework

SGS response:

Question Three asks whether the Proposal is consistent with the objectives and actions of applicable regional strategies.

The Proposal does not retain and manage industrial and urban service lands as designated by the GSRP and ECDP. The Proposal largely supports the PRCUTS with its residential component.

Question Four asks whether the Proposal is consistent with the local council's strategy.

This has been poorly addressed by the Proposal.

The Proposal has listed that it has been considered against *Leichhardt 2020+* and *Leichhardt Employment and Economic Development Plan 2013*.

Neither of these plans are available on the Inner West Council website. It appears the Proposal was not considered against the *Leichhardt Industrial Lands Study*. Again, the method appears to be selectively choosing evidence that would support the development.

9.3 Section C Environmental, social and economic impacts

This section summarises outcomes from supporting studies and re-iterates how the development addresses the issues.

SGS response:

Question Nine asks whether the planning proposal adequately addresses any social or economic effects.

It is noted, the Economic Impact Assessment acknowledges the resident population is quite young, most in their reproductive years (65 per cent are 44 years or younger). Family households account for the greatest household composition in the area at 60.3 per cent (EIA, p. 18).

The current site provides the following uses that could cater to children or families: Art Est, Head Academy Kung Fu and The Sports Pit (Social Impact Assessment, p. 10).

All other businesses are light industry related.

It has been established earlier in this report that employment structures in the area *may not* be turning towards service industries and that demand for light industry may still be relevant to the area – given current State Government and local council policy to 'retain and manage'.

Together these two aspects could add weight to the retention of current land uses on site rather reducing the floor space allocation within the development.

4. OUT OF SEQUENCE CHECKLIST

This chapter reviews the response to the Out of Sequence Checklist that is part of the *PRCUTS Implementation Plan 2016-2023*.

Planning Proposals that depart from land use sequencing as designated in the Implementation Plan need to satisfy the criteria of the PRCUTS Out of Sequence Checklist. It is a merit based assessment process to help determine whether the proposal should proceed.

Criteria 5 Feasibility

The planning proposal presents a land use and development scenario that demonstrates economic feasibility with regard to the likely costs of infrastructure and proposed funding arrangements available for the Precinct or Frame Area.

This section states there has been little development in the area towards PRCUTS targets as many properties are small with modest floor space ratios and that advice confirms the project is feasible in relation to contributions and the Integrated Infrastructure Delivery Plan.

SGS response:

This section of the planning proposal has not clearly demonstrated the costs of infrastructure and how proposed funding arrangements will meet these costs. This section relies on EIA evidence that large portions of the Precinct will not be developed between 2016-2023, therefore, it is then inferred that the Proposal is then economically feasible. This is a weak justification for the Proposal.

The planning proposal includes feasibility advice prepared by Cushman & Wakefield (Appendix Z). The advice does not provide conclusive evidence that the proposal is economically feasible in relation to costs of infrastructure and funding arrangements. The advice states that because the proposal is in its early stages, feasibility assessment is subjective and based on numerous assumptions.

Information provided by Council indicates the Integrated Infrastructure Delivery Plan has provided an undercount which would affect feasibility modelling and would require revision.

Criteria 6 Market Viability

The planning proposal demonstrates a land use and development scenario that aligns with and responds to market conditions for the delivery of housing and employment for 2016 to 2023. Viability should not be used as a justification for poor planning or built form outcomes.

This section describes the market viability of the Proposal in relation to findings in the Economic Impact Assessment.

The section states there is high demand in the Inner West LGA for new housing.

The section states business occupier demand within the Taverners Hill Precinct is shifting towards service employment, where growth is in health, education, retail, arts and creative activity employment.

SGS response:

It is noted that the Proposal highlights the development's contribution to new housing which the EIA has identified as being a viable, in-demand market.

While the EIA and planning proposal acknowledge the need to continue to provide housing in Sydney (including the Inner West) to meet future population needs (and additional information to support this could have been provided) this should not be argued in an 'either/or' way with regards to the retention of industrial lands. The argument that residential development is needed so industrial land is therefore not a reductive one that does not acknowledge the nexus between population growth and the need for increased population-serving industries. The Leichhardt Industrial Lands Strategy identifies a forecast shortfall of population-serving industrial lands in the former LGA by 2036.

The analysis focuses on the market viability of employment floorspace. In this regard, there are several deficiencies with the market viability criteria, outlined below that could support retention of current uses.

The Economic Impact Assessment provides two examples of properties being marketed for lease in the Taverners Hill Precinct. One has received offers from a microbrewery and electrical wholesaler; and the other from food manufacturers and general office users.

This type of market interest indicates demand for the *current* use of the subject site for industrial and urban service uses.

The GSRP also highlights that while these land uses tend to not be high employers, the value lies in the operational and functional role they play for the city.

'The property economics behind these zones are also a core attribute which allow urban services to locate close to markets in line with their operational needs and therefore supply the higher order economics activities of the city. If uncertainty is created, in terms of rezoning potential, speculation will impact on the property economics of the industrial zones resulting, potentially, in the loss of these important services' (GSRP, p. 129).

The EIA rests on this uncertainty to support a shift towards more service-based uses for the site. 'Demand for business premises within the Taverners Hill Precinct has been relatively muted in recent times given a dearth of purchase and lease opportunities; the Precinct is observed to [be] tightly held amid expectations of imminent rezoning'.

As discussed in an earlier section above, the shift towards service employment is justified in part based on anecdotal evidence from local commercial agents. This is a weak evidence base; the change in industrial-related jobs is likely, at least in part, a consequence of a reduction of industrial land uses.

The Assessment also states: 'local agents note many traditional industrial occupiers have found it difficult to compete in the current market given they typically require lower rental rates to be commercially viable compared to the abovementioned uses'.

If traditional industrial occupiers are already finding it difficult to find lower rental sites, then a reduction of potentially 7,479 sqm of industrial and urban space via this Proposal would only exacerbate the problem. The lack of certainty about the potential rents for the future employment floorspace makes it difficult to ascertain whether the proposed floorspace will be financially viable for new (or even existing) uses to relocate.

The same issue applies to current creative uses which aligns to growth of arts and creative activity employment as identified in the Economic Impact Assessment. This could support retention of current uses at the subject site.

Finally, the following clause has been included in this section of the Proposal:

'This proposal seeks to deliver commercial floorspace to accommodate a range of service-based and destination businesses who seek a central location from which to service their markets. These businesses will be those that do not require heavy or frequent truck access' and is followed by discussion about the opportunities for shared work spaces, studio space, creative uses and the Victorian Government's inclusion of Commercial 3 zone to cater for mixed-use employment zones to facilitate creative industry growth.

This tends to suggest that even though the range of possible uses for the non-residential space could be: 'community uses, light industrial and urban services, creative industries, health facilities, education uses, gymnasium, restaurants/cafes and local service business' as listed in the Proposal, it is more than likely uses will not include light industrial.

5. REVIEW OF FINDINGS

This chapter considers the overall findings of the review.

5.1 Recommendations

The following key issues have been identified with the Planning Proposal:

Loss of industrial and urban service lands

The Proposal has acknowledged the intent of the GSRP to retain and manage industrial and urban service lands in the District, however the Proposal focuses on all other benefits that the development provides to the area.

The Proposal is also suggestive that the inclusion of industrial and urban services as a land use for the non-residential component is supportive of State and local strategies. However, the actual inclusion of this land use is not clear and seems unlikely given potential for land use conflict, current design concepts and omissions in support of these land uses in the Proposal. The strategic intent of Inner West Council to retain industrial lands has not been addressed.

The Proposal also heavily rests on the statutory authority of the PRCUTS that land that falls under the PRCUTS is not subject to objectives of the GSRP and ECDP to retain industrial and urban services land.

SGS response:

It is noted there are some merits to this development in achieving other outcomes as designated for the area. But there are also strong aspects to this development that support the retention of current land uses on site.

The submission does not address either the Leichhardt Industrial Lands Study or Marrickville Employment Lands Study when considering existing local policy direction and evidence regarding the impact of loss of industrially-zoned land.

The importance of this site, as highlighted by the LILS, is that in a 'predominantly residential area, this lot and building size, coupled with its relative isolation from surrounding residential uses, makes it an important precinct to accommodate the future industrial demands within the LGA'.

The LILS identifies there will be a shortfall of between 7,570sqm and 54,965sqm of such space by 2036. As mentioned above and identified in the GSRP and the ECDP these lands fulfil an important operational role and function within a city. These aspects strengthen the maintenance of current uses.

While the planning proposal contains a quantum of floorspace that may be suited to certain light industrial uses, it is not afforded the protection of zoning as the proposal seeks an R3 zoning.

The adaptable nature of the non-residential component

The Proposal states 3,000 sqm of flexible, non-residential space in the development could include a range of uses including community, industrial and urban service, restaurants, retail, gymnasium to creative spaces.

SGS response:

The lack of clarity around the intended use of this space makes it difficult to assess the extent to which the development would: contribute to the overall strategic direction for the Eastern District to retain and manage industrial and urban service land or whether it would contribute to further loss of these spaces; whether the development would contribute to the vision for Taverners Hill Precinct under the PRCUTS; and to assess the level of land use conflict for the site.

The risk is that this flexible component will be used to make the residential component more attractive – rather than meeting greater objectives of the area or retaining needed uses for the area. This concern is exacerbated by the fact that the proposal seeks a residential zoning, rather than a mixed-use zoning.

Given the potential for land use conflict, current design concepts and the particular inclusions/omission of analysis and consultation it seems the site would result in an overall loss of industrial and urban services land use.

Greater clarity around the nature of this space and how its non-residential function will be protected over the long-term would help further assessment on the development.

Potential for future land use conflict between residential land uses and certain non-residential land uses

The Proposal has not addressed the potential for land use conflict between residential and non-residential components of the development.

SGS response:

Greater clarity about the use of the non-residential component will help determine the potential level of land use conflict. Resolution to these land use conflicts should then be investigated and site opportunities maximised.

The introduction of residential uses creates a land use conflict risk if the industrially-related businesses that seek the new floorspace are permitted to operate. On the one hand, certain businesses that do locate there may have extended operating hours, require truck access or create noise. This may lead to issues with residential units directly above and limit their operability. It is noted, however, that the site does currently operate adjacent to a residential area and that the introduction of new 'noisy' businesses may be limited. A more likely scenario may be that these businesses that seek to locate in the area cannot and are forced to look elsewhere. As the Leichhardt and Marrickville studies indicate however, supply is low in the surrounding areas.

Selective data use

The Proposal appears to have made selective use of data to support the development, while also appearing to cater to objectives and comments made by State, local and community authorities. Selective data use has been included in strategic plan analysis, site analysis and functionality, employment and market demand analysis and representation of stakeholder comments.

SGS response:

The selective use of data strengthens the argument to transition the site to residential and reduce industrial and urban service at the subject site such as lack of consideration of Inner West Council strategies, urban design tending towards non-industrial uses, employment demand suggesting trends to service employment for the area and representation of stakeholder comments that support non-industrial uses.

This is a concern given the policy context to retain and manage such land uses.

5.2 Conclusions

The overarching policy context related to this subject site and the opposing intent of stakeholders for the future of industrial and urban service lands creates significant tension and complexity when assessing this site.

The conclusions of the GSRP, ECDP and LILS, local planning strategies and Ministerial Directives strongly supports protection of Leichhardt's industrially-zoned precincts for their important employment and service function.

Leichhardt is projected to have a shortfall of between 7,570 sqm and 54,965 sqm by 2036. This shortage, and the loss of this site, will affect surrounding areas and will progressively deteriorate as other sites are picked off for rezoning in a similar fashion, particularly if falling under the PRCUTS.

As the GSC states, urban services lands are not always high employers but their value is held in the operational role and function they play throughout the city. Hence, the current State policy for the Eastern District is to retain and manage these sites.

Equally, a *Metropolis that Works* acknowledges the importance of these sites to the functioning of 'working cities'.

Retaining current use of this site is of value to the Inner West and Greater Sydney. A precautionary principle, therefore, should be applied, as once a rezoning occurs there is no reversion.

The Proposal demonstrates the provision of some flexible non-residential floorspace that could somewhat align with what is currently on-site and meet future demand for non-retail and non-office uses in the local area. It is, however, a significant reduction in floorspace for industrial uses.

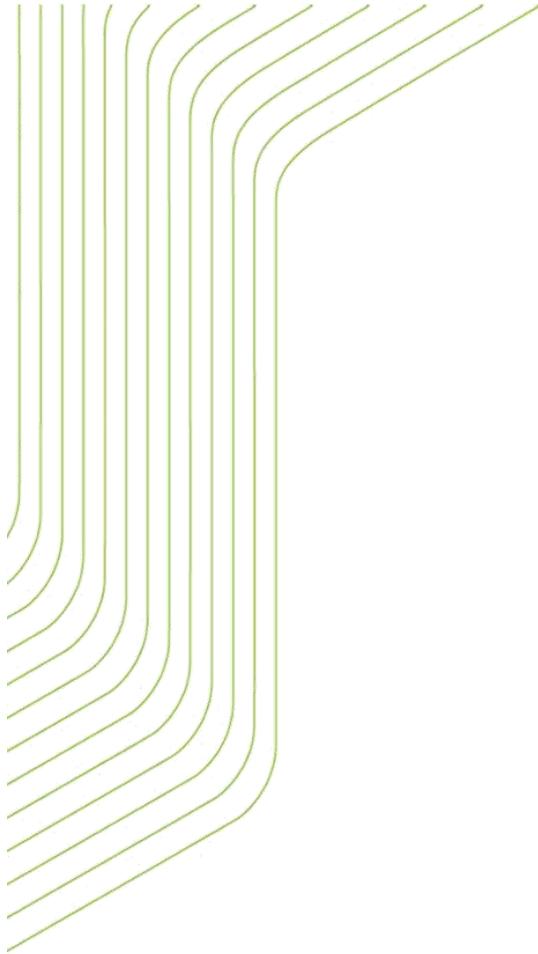
A key consideration is whether the redevelopment of the site is required to deliver this new floorspace. The review of the EIA raises some questions about the way in which the argument has been presented and lacks comparison to the current state of the site to make a more informed decision about the merits of the Proposal from an economic perspective.

A major concern is that the non-residential component is proposed under a residential zoning (R3). While the Proposal appears to provide a 'replacement' quantum of floorspace to what is there already (albeit significantly less than what is currently there) and is seeking tenants who are likely to be attracted to the precinct as it stands, the lack of protection afforded by the residential zoning raises a concern about the long-term nature of this Proposal's intent to retain these uses.

This has flow on effects with the value that is placed on the new floorspace. A risk is that if the development incurs higher rents, those businesses that are seeking to locate in the area may be priced out.

A *Metropolis that Works* states 'Where change does occur, there is a need to retain ownership of the terms on which those changes are made. Determinations should have recourse to displacement policies which would instil a requirement for no net loss of land and businesses'. It is also suggested that a nuanced approach is needed to better plan and manage these lands as they transition.

There is a need for Council to take precaution. Negotiation should seek to retain employment and land uses as close to current use and quantum as possible. This may take the form of a mixed-use zone or a compartmentalisation of the site to accommodate a range of uses.



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67-75 Lords Road, Leichhardt
Urban Design Peer Review

Prepared for Inner West Council

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Project No. 18117

Item 7



Attachment 4

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Revision	Date	Description	By	Chk	App
01	21/11/2018	Draft Peer Review	DA/ WW		DA
02	29/11/2018	Peer Review	WW		DN
03	4/12/2018	Final Peer Review	DA/WW		



1.0 Introduction

Conybeare Morrison International (CM⁺) is engaged by Inner West Council (the Council) to conduct an independent peer review of the Planning Proposal for 67-75 Lords Road, Leichhardt. The review assesses the Planning Proposal with regard to the Parramatta Road Corridor Implementation Plan 2016-2023, the Parramatta Road Corridor Urban Transformation Strategy, and the Parramatta Road Corridor Urban Transformation Planning and Design Guidelines and also assessed the proposal on its Urban Design merits. The review focusses on the following aspects of the proposal:

- Urban Design
- Height, Scale and Density
- Likely impacts on surrounding residents and open spaces

The site is currently zoned IN2 Light Industrial with no height control and a permissible FSR of 1:1 under Leichhardt Local Environmental Plan 2013. The Planning Proposal seeks to capture the zoning, height and FSR nominated in the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) by former UrbanGrowth NSW, now Landcom. This will result in changing the IN2 Zone to R3 Medium Density Zone, having a maximum height of 30m and a maximum FSR of 2.4:1 for the site.

2.0 Overview

The proposal provides the site and the locality with some positive outcomes, including improved site permeability, a new residential offering and landscape and access initiatives. However, several urban design issues of concern have been identified with regard to building bulk, height, setbacks and access, and there are a number of areas where the information supplied is insufficient and additional information is required in order to provide a response and recommendation. The following peer review provides details and recommendations with regard to the Urban Design of the proposal.

3.0 Review of Site + Proponent's Documents

To inform the peer review, CM⁺ has studied the site and its surrounding context. A site inspection was conducted on the 14th of November 2018. Site photos were recorded and key vantage points identified - refer to Appendix A. The relevant controls, strategies and plans reviewed for the study include:

- Eastern City District Plan by Greater Sydney Commission
- Parramatta Road Corridor Implementation Plan 2016-2023
- Parramatta Road Corridor Urban Transformation Strategy (PRCUTS)
- Parramatta Road Corridor Urban Transformation Planning and Design Guidelines
- Parramatta Road Corridor Urban Transformation Fine Grain Study
- Leichhardt Local Environmental Plan 2013 (LLEP 2013)

- Leichhardt Development Control Plan 2013 (LDGP 2013)
- State Environmental Planning Policy No. 65 (SEPP 65) and the Apartment Design Guide (ADG)
- Our Inner West 2036
- GreenWay Master Plan
- Pre-Planning Proposal – 67-75 Lords Road, Leichhardt Comments by Inner West Council, issued on the 17th of October 2018

We have also reviewed the following Planning Proposal documents:

- Urban Transformation Strategy – Vision by FPD
- Urban Transformation Strategy – Principles and Strategic Actions by FPD
- Urban Design Report prepared by Stewart Hollenstein + Matthew Pullinger Architect dated October 2018
- Justification of Open Space Location by Stewart Hollenstein + Matthew Pullinger Architect dated October 2018
- Landscape Plan by Umbaco Landscape Architects dated September 2018
- Draft Development Control Plan by FPD dated September 2018 (the Draft DCP)
- DCP Diagrams by Stewart Hollenstein + Matthew Pullinger Architect dated September 2018
- Flooding Report by Tooker + Associated, dated 11 September 2018
- Statement of Heritage Impact by Architelle dated 16 October 2018

4.0 Site + Context

The subject site is located at 67-75 Lords Road, Leichhardt, and is bounded by Lords Road to the south, Davies Lane to its east, and the APIA soccer field to the north; which is listed as a Local Heritage item under the LLEP 2013. The Inner West Light Rail is elevated on an embankment which runs along the west of the site. The Light Rail sits within the GreenWay corridor; a pedestrian and bicycle pathway, and environmental and community connector which links Sydney's bays, Hawthorne Canal, parks and residential neighbourhoods.

The site falls from Davies Lane at the east boundary, to the GreenWay on the west boundary by between 2.3m and 5.6m. The Marion Light Rail Station is within a short two minute walk of the site. The site is also within close proximity of Lambert Park and playground, the heritage listed Kegworth Public School, and the Leichhardt Marketplace shopping centre.

CM⁺ Conybeare Morrison | 67-75 Lords Road, Leichhardt

5.0 Contextual Response

Generally low-scale single-storey detached houses form the site's current context (along with the APIA Soccer Field to the north). The PRCUTS identifies a planned change in the current zoning for the area surrounding the site – from the current R1 General Residential, to R3 Medium Density Residential.

Whilst the current low-scale houses to the east and south of the site will over time likely increase in height and density, in the short-to-medium term it will be important for development on the site to transition in height and overall built form to the current low-scaled adjoining areas.

6.0 Zoning

The Planning Proposal requests a change in zoning to R3 Medium Density Residential, in accordance with the PRCUTS, and a provision to include community and employment generating uses at the ground floor level.

The proposal will provide a mix of uses within the site. The proposed ground floor level plates can accommodate non-residential uses such as retail shops, SOHOs, medical centres and the like, which can generate some employment opportunities and activate the ground level. We are aware that the site is currently occupied by some light industrial uses; however, industrial uses may be removed from the site if the rezoning of the site is successful as they are not permitted within R3 zone under the LLEP 2013. We suggest Council to comment on the potential loss of industrial land in this regard.

The current R1 General Residential Zone to the east and south of the site are envisioned in PRCUTS to be rezoned to R3 Medium Density Residential, they will remain as R1 zone in short to medium terms. The Planning Proposal will result in a R3 zone sitting within a R1 zone in short to medium terms. Considering the site's proximity to public transport, shopping centre as well as amenities, we believe that the site has its potential to accommodate a higher density as suggested in PRCUTS. However, as mentioned in Section 5 of this report, it is important for development on the site to provide built form and height transition to the adjoining areas.

We concur with the proposed change of zoning – given the alignment with the PRCUTS.

7.0 Density

The Planning Proposal requests a change in density from the current FSR of 1:1 to FSR 2.4:1; in accordance with the PRCUTS. The Planning Proposal states that it can achieve an FSR of 2.4:1 based on the built form envelopes illustrated in the Proponent's UDR. However, by implementing the urban design recommendations of this report; including a reduction in building height, additional building setback requirements and other comments from Council, the 2.4:1 FSR would likely not be achievable.

Recommendation

The proposed 2.4:1 FSR would likely not be achieved if the recommended reduced height, and increased setback and separation distances are applied to the Proponent's design proposal and proposed DCP built form envelopes. Therefore, the proposal in its current form is not supportable. We suggest the Proponent test an amended development built form (DCP building envelopes) based on the recommendations of this report to establish an achievable FSR for the site.

8.0 Built Form + Scale

The proposal steps up from the east (Davies Lane) and south (Lords Road) edges to the tallest proposed building, set within the site, situated along the west, Light Rail/GreenWay, edge. This approach to the distribution of the built form is in principle supported. It will provide a progressive stepping up in building height across the site, providing a lower height and scale development transition at the south and east edges where there are low scale residential interfaces.

The development massing is broken down in scale by creating five smaller buildings rather than one or two larger ones. This approach also provides good permeability through the site, and enhances access of workplaces and apartments to natural light and ventilation. A central garden court space is provided, visually open to Lords Road.

Further, the apparent scale of the built form is reduced by lowering the height of buildings along the Lords Road and Davies Lane frontages. The scale of the new development is further mitigated by setting back one of the buildings along the Davies Lane frontage. It is proposed to retain a row of existing mature trees along this frontage – which would provide a transition in scale and partially screen the new development.

Mid or upper level setbacks of 3m are proposed for buildings along the Lords Road and Davies Lane frontages which would reduce the apparent scale of these building elevations.

A new two storey building is proposed along the APIA Club soccer field to the north, re-using the brick boundary wall of the existing factory building, maintaining the existing height and, when viewed from the north, the appearance of the current factory building.

Recommendation

It is recommended that further setbacks are introduced for the proposed building at the corner of Lord Road and Davies Lane; to mitigate the scale at this corner through setting the building back 3m from the Davies Lane boundary; to provide sufficient width for a footpath along the laneway; and 6m from Lords Road to protect the existing mature trees along the frontage.

9.0 Height of Building

The Proponent has responded to the sensitivity of the various site frontages in the proposed height of the various buildings on the site. The buildings are of lower height – Building 4 is two and three storeys, stepping back to six storeys along the Davies Lane frontage, and Buildings 5

and 1, are three and five storeys, stepping back to six and seven storeys along the Lords Road frontage.

Along the APIA Club frontage, Building 3 is of two storeys, proposed to the height of the existing factory boundary wall, with large commercial floor-to-floor height. This is a long building of more than 80m length.

Recommendation

It will be important to break down the scale of the south elevation of this building with recesses as indicated on Page 19 of the UDR, and by other architectural means.

Setback from all of these frontages, along the west, Light Rail/GreenWay frontage is the tallest building, proposed to be nine storeys in height. The PRCUTS sets a maximum building height for the site of eight storeys.

Recommendation

It is recommended to retain the maximum height limit for the site at eight storeys. This aligns with the PRCUTS and also is in keeping with the scale of the surrounding tree canopy along the adjoining GreenWay which would screen the building when viewed from the Heritage Conservation Area to the west and northwest.

In regard to site levels, the Proponent is requesting a maximum building height for the site be set according to Australian Height Datum (AHD) at RL 35 AHD.

Recommendation

It is recommended to follow the standard LEP template definition of building height which is a maximum height for all building elements. Taking this approach, a 30m height limit as indicated in the PRCUTS would provide adequate height to accommodate an eight storey apartment building with the proposed 5m floor-to-floor height ground floor level. The Apartment Design Guide (ADG) requires a 2.7m floor-to-ceiling height (3.1m floor-to-floor height). Seven apartment levels at 3.1m plus a 5m ground floor height totals 26.7m. This would allow an additional 3.3m at the top of the building to accommodate, lift over runs, solar panels, roof articulation, balustrade, or perhaps planters or pergolas to make the roof top suitable for communal uses.

10.0 Articulation

Residential ground level frontages are proposed along Davies Lane to reflect the current fine-grain residential lot pattern to the east of the site. Ground floor units with individual accesses are proposed.

Recommendation

This design approach should be reflected in the Draft DCP.

We note that conflicting information has been provided by the Proponent in relation to the built form massing. The Model Development Control Diagram (Page 31 of the UDR) indicates two continuous built forms in plan and a single continuous 'U' shaped built form in 3D. Also the

numbers of levels illustrated in 3D for Building 3 and 5 are inconsistent with the number of levels indicated in the plan diagram.

Recommendation

Breaks between Buildings 1 and 2, and 4 and 5 should be shown as indicated on Page 32 of UDR, and elsewhere in the report. Numbers of building levels in the 3D should be consistent with that shown elsewhere in the report.

11.0 Setback + Separation

ADG building-to-building separation distances and boundary setbacks are essential to reduce the proposal's impacts on neighbours, local streets, the adjoining GreenWay reserve, and heritage sites. Setbacks improve residential amenity and will assist in maintaining the leafy trees along the Inner West Light Rail, Lords Road and Davies Lane.

The proposal provides a 7m ground level setback (it is assumed that the 6m setback shown in the Draft DCP Fig. 3 is a mistake) and a 3m upper level setback to Davies Lane, protecting an existing row of trees on the site. The setback provides a landscape buffer between the medium density residential buildings on the site and the relatively low density residential area to the east.

Building 5 has a zero ground level setback to Davies Lane and Lords Road, removing a row of trees along the Lord Road frontage and placing a three storey building hard up against the laneway and current narrow footpath. This proposal would impact on the safety of the laneway, maintaining the current very narrow footpath, and would pose privacy concerns, with the new building overlooking the back yards of residents backing onto the east of the laneway. Building 5 also has a 7m upper level setback to Davies Lane (notation on Page 31 of the UDR seems to incorrectly state a 10m setback, and it is assumed that the 6m setback shown in the Draft DCP Fig. 3 is a mistake) and a 3m setback to Lords Road.

Recommendation

A ground level setback between 3m and 7m to Davies Lane is recommended for Building 5 to accommodate a minimum 3m footpath and landscaping.

The proposal provides a 9m separation distance between Buildings 1 and 2, and Buildings 4 and 5. To satisfy the ADG requirements for building-to-building separation these walls would need to be blank; 'non-habitable to non-habitable' rooms/balconies. However, UDR page 24 shows these apartments with habitable rooms and balconies along these building frontages. Also, the solar access and natural cross ventilation plan diagram relies on natural ventilation along these building edges.

Further, Building 5 has ground floor apartments with only a northern outlook – refer Page 19 and 24 of the UDR. A minimum of 12m separation between Building 5 and 4 is required to provide adequate residential amenity in this situation.

Building 2, the tallest building on the site, needs to provide sufficient articulation along its 55m long west façade – it is not clear in the documents the extent of building articulation that is



proposed. A well-articulated built form will help to reduce the building's large size and length and will mitigate the visual impacts to the GreenWay.

Recommendation

The Proponent's proposal fails to provide a compliant ADG building-to-building separation distance in two locations. The Proponent should review ADG building-to-building separation with regard to the buildings on the site and increase the proposed separation distance between Buildings 1 and 2, and Buildings 4 and 5 to 12m. For Building 2 an upper-level setback (minimum 3m to the top storey) should be provided to mitigate the scale of the building to the west GreenWay frontage, and to the east, to minimise overshadowing of the central court garden. The Proponent is to ensure all documents (UDR and Draft DCP), diagrams, plans and 3D illustrations are consistent in their dimensioning of the proposed setbacks.

12.0 Roof Form + Materiality

The site is within the West Leichhardt Distinctive Neighbourhood as identified in the Leichhardt DCP 2013 (LDCP 2013). The LDCP 2013 states that: 'building materials in West Leichhardt are generally red or brown smooth face brick with terracotta roof tiles, or timber weatherboard with corrugated iron roofing. Roof forms are mainly hipped or gabled with a pitch of between 30° to 45°'.

The Parramatta Road Corridor Urban Transformation Planning and Design Guidelines (the Guidelines) require that development should enhance the character of the locality. It is important for the new development to contribute to the current and evolving character of the area in a contemporary architectural language.

Recommendation

The Draft DCP should provide development controls which address the design of roof forms and building materiality, in line with the Guidelines.

13.0 Landscape, Communal Open Space + Deep Soil Area

An Open Space Location Study was undertaken by the Proponent and we concur with the conclusion that the primary open space is best located centrally on the site; with buildings on all sides defining its shape, with significant breaks between buildings providing a network of pedestrian connections, and with a generous gap between buildings on the Lord Road frontage to open views from the street into the new green courtyard space.

We note that the site is in close proximity to three public open spaces: the soccer field adjoining to the north (a formal soccer sports facility open at designated times), Lambert Park an attractive local park with a children's playground and mature trees, lawn and seating areas, the GreenWay corridor adjoining the west of the site, with mature tree planting and a shared pathway which extends north and south along the canal system, and the Kegworth Public School sports and play fields situated 200m to the east.

The proposal includes a 6m wide setback along the western boundary, to be landscaped; effectively widening the GreenWay through this section.

A 'Publically Accessible Green Open Space' is proposed at the centre of the development (UDR page 32). This green space is also provided to satisfy ADG requirement for a 'communal open space' (UDR page 24). This central green space would likely be used jointly by the ground floor 'creative employment and community' users and by the residents of the apartments above.

It is not a public space, in the sense of being an extension of Lord Street or of the GreenWay recreational corridor. Its public use is likely to be limited to people visiting the businesses, offices, studios and community facilities, and it is unlikely the space would be visited by people simply walking off the street.

The proposed central open space is connected to Lords Road by the proposed shared pathway through the development, which connects through to Davies Lane, and by a 20m gap between the proposed buildings. The safety of the proposed central open space will be enhanced by the residential apartments overlooking above and by active ground floor commercial and community uses, providing passive surveillance.

The ADG communal open space requirement is provided on the ground level in the central court garden and potentially on the roofs of the Buildings 1, 4 and 5. The communal open space area complies with the ADG requirement for minimum 25% of the site area. More than 50% of the ground floor open space will receive more than 2 hours sunlight access in mid-winter according to the Urban Design Report provided by the Proponent, which would comply with the ADG.

Deep soil areas are provided in the central court garden, corresponding with the row of mature trees retained along Davies Lane, and in a planting strip along the west boundary. A Landscape Masterplan, typical landscape details and proposed Plant Species Schedules are provided by the Proponent.

Recommendation

The Proponent is to clarify the intended users of the central court garden, whether there will be roof top gardens or not, and the location of the planting strip along the west boundary which varies between the UDR and the Landscape Masterplan (shown located both against the building and offset from the building). It is assessed that the central open space of the development would solely benefit the residents and the proposed ground level commercial and community users of the site. It would not benefit the broader community, as it is unlikely to be used by the wider community, or bring broader environmental benefits – it should not be seen in this light, and should not be presented as such by the Proponent. It is recommended that Council's landscape officer review the proposed Plant Species for suitability with regard to Council policy and in terms of the GreenWay masterplan.

14.0 Access

The proposed east-west pedestrian linkages will increase the site's permeability, from and to the GreenWay corridor, which will benefit local residents. The design of the east-west linkages respond well to the sloping topography of the site.

The proposed 'L' shape shared path links from Lords Road through to Davies Lane and potentially opens up the site to the general public, and will also provide addresses for the proposed businesses and apartments. It is not clear whether the shared path or Davies Lane is intended to be one-way or two-way. The shared path appears to be narrow at only about 3m wide when the parallel parking spaces indicated are occupied.

It is also unclear how the commercial and residential waste collection will be managed – will a garbage truck need to access the site via the shared path and Davies Lane? Is fire truck or ambulance access required to the centre of the development in an emergency? How are heavy deliveries delivered to each business in the complex?

The secondary pathway along the west boundary of the site is supported from an Urban Design perspective – however a concern has been raised by Council's ecologist as to whether this is consistent with the principles of the GreenWay masterplan.

The Urban Design Report identifies that the ground floor units at the northeast corner of Building 5 will have direct access to the east-west pathway (Page 24 of the UDR), whereas the landscape masterplan show landscaped planters and pergolas in front of these apartments.

Recommendation

It is recommended that the Proponent clarify the traffic circulation strategy and review the minimum clear width required for the shared path with regard to providing adequate clearances for standard vehicles, delivery trucks, garbage trucks, and if required by authorities, emergency vehicles. Confirm with the GreenWays Coordinator whether a narrow footpath along the west boundary of the site is desirable. Address inconsistencies between the Landscape Concept Plan and the UDR.

15.0 Amenity

The proposal complies with the ADG recommended solar access and cross ventilation percentages according to the UDR. Approximately 80% of the proposed units can receive more than 2 hours sunlight access between 9am and 3pm in mid-winter, and approximately 65% of the proposed units can achieve natural cross ventilation according to the Urban Design Report.

The solar access to the ground floor central court garden communal open space should be maximised in winter, especially during lunchtime hours. The shadow study provided by the Proponent shows that the green space will receive sunlight at 12 noon, and partially at 1pm, however will be significantly overshadowed at 2pm. The shadow study views are difficult to assess when illustrated in a 3D view.

Recommendation

The Proponent should demonstrate, as required by the ADG, that the percentage of the proposed units that cannot receive any sunlight between 9am and 3pm in mid-winter is lesser than 15%. The shadow study should be provided to Council in a plan view format for further assessment.

16.0 Visual Impact

The Guidelines require that new developments 'should not impede key views from the public domain to important public places, parks, heritage buildings and monuments'. The site adjoins Lambert Park which includes the APIA Club soccer field and a house of local heritage significance. A Statement of Heritage Impact has been prepared by Architelle Architecture and Interiors, and recommends approval of the development. Architelle states that 'the new development will form a contemporary backdrop to the local heritage item and will be of a higher form than existing development on the site', and then states that the proposal will not have detrimental impact on the views from Lambert Park and the APIA Club soccer field.

Recommendation

It is recommended that 'before' and 'after' photomontages of the proposal are prepared from key vantage points to assess the visual impact of the development on the surrounding public domain – eight important vantage points have been identified; refer to Appendix A.

17.0 Affordable Housing

The proposal provides an apartment mix, including studios, one-bedroom, two-bedroom and three-bedroom apartments, which provides housing choice. 15% of the total units are provided as Affordable Housing, which is in line with the vision for the Parramatta Road Corridor.

18.0 Trees on Site

The Proponent proposes the retention of a row of mature trees along Davies Lane, and the removal of a row of trees near the intersection of Lords Road and Davies Lane. These leafy trees currently screen the site from the local streets.

Recommendation

It is recommended to retain the row of trees at the Lords Road-Davies Lane corner to provide screening of the new development and to assist in the transition of scale. Arboricultural advice should be sought to confirm the conditions for longevity.

19.0 Sustainability + Ecology

The Draft DCP provides sustainability guidance for the future development of the site.

**Recommendation**

The proposed development should target Energy and Water Targets by Use described in Section 3.10 Sustainability & Resilience of the Guidelines (page 49). Council's urban ecology officer has also commented on the proposal, and the Proponent should address the comments provided.

20.0 Employment

The redevelopment of the site may result in a net loss of industrial and commercial employment. Council has also raised this concern in the Pre-Planning Proposal comments issued on the 17th of October 2018.

Recommendation

We suggest the Proposal is reviewed from a socioeconomic viewpoint, as Criteria 1 of the Out of Sequence Checklist requires that 'the planning proposal can demonstrate significant net community, economic and environmental benefits for the Corridor and the Precinct or Frame Area with which the site is located'.

21.0 Flooding

We note that the site is subject to flooding. A raised ground floor height has been provided for buildings on the site. A Flood Planning Level of RL 4.55 is indicated in the UDR.

Recommendation

We recommend that Council's hydraulic engineer provide comment on the proposal.

22.0 Conclusion

The site contains a lively multi-small business community and is situated in a quiet, fine grained, low density 'leafy' residential context with direct interface with the heritage Lambert Park and APIA Club soccer field and the GreenWay environmental corridor. This calls for a highly sensitive urban design, architectural and landscape design response.

The proposal addresses many of the challenges and achieves a number of positive design outcomes, including:

- Retention of some employment generated uses on the site;
- Improved site permeability;
- A new residential offering; and
- Landscape and access initiatives.

The proposal in its current form presents a number of urban design issues of concern, including building bulk, height, setbacks and access. And there are a number of areas where the information supplied is insufficient and additional information is required in order to provide

a response and recommendation. The main urban design issues identified during the review include:

1. Further setbacks are to be introduced for the proposed building at the corner of Lord Road and Davies Lane; to mitigate the scale and to protect the existing mature trees along the Lords Road frontage.
2. It is recommended to retain the maximum height limit for the site at eight storeys.
3. A 30m height limit as indicated in the PRCUTS would provide adequate height to accommodate an eight storey apartment building.
4. A ground level setback between 3m and 7m to Davies Lane is recommended for Building 5 to accommodate a minimum 3m footpath and landscaping.
5. Review ADG building-to-building separation with regard to the buildings on the site and amend the built form design and DCP development controls to satisfy the minimum ADG building-to-building separation dimensions. Amend the Building 5 ground floor apartment design to achieve ADG compliance with regard to building-to-building separation, solar access and natural cross ventilation.
6. It is recommended that once the Proponent has amended the built form design and DCP development controls to address all the comments, that a revised FSR is calculated to test whether the 2.4:1 FSR is still appropriate for the site.
7. The Proponent is to clarify the intended users of the central garden court, amend references to the public use of the central garden court and to clarify whether there will be roof top gardens for communal use.
8. It is recommended that the Proponent clarify the traffic circulation strategy and review the minimum clear width required for the shared path.
9. Confirm with the GreenWays Coordinator whether a narrow footpath along the west boundary of the site is desirable.
10. A shadow study should be provided to Council in a plan view format for further assessment.
11. It is recommended that 'before' and 'after' photomontages of the proposal are prepared from key vantage points to assess the visual impact.
12. It is recommended to retain the row of trees at the Lords Road-Davies Lane corner to provide screening of the new development.
13. The proposed development should target Energy and Water Targets.
14. We suggest the Proposal is reviewed from a socioeconomic viewpoint.
15. We recommend that Council's hydraulic engineer provide comment on the proposal.

Following the study of the site and its context and the urban design peer review of the Planning Proposal, CM⁺ concludes that the proposal should address the abovementioned urban design concerns, together with the other issues raised by Council, to arrive at a best practice design outcome for this important site.

CM⁺ Conybeare Morrison | 67-75 Lords Road, Leichhardt

Item 7

Appendices

Please find attached the following appendices:

- Appendix A – Vantage Points
- Appendix B – Wireframe Photomontages
- Appendix C – PRCUTS Compliance Table

Attachment 4





View B



View C



View D



View G



View H



View Location

Please note that the wireframe images are estimated only as no detailed survey information is provided



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Chapter No.	Section	Guideline	Comment
3 - Corridor Guidelines	3.1 Urban Structure (Corridor East)	<i>Opportunities will be leveraged through the development of the Taverners Hill Precinct to unlock local streets and improve permeability and provide more open space north of Parramatta Road.</i>	The site is within Taverners Hill Precinct and has approximately 90m frontage along Lords Road. The site is not currently publicly accessible as it is occupied by light industrial uses. The proposed north-south and east-west pedestrian linkages will increase the site's permeability, from and to the GreenWay corridor, which will benefit local residents.
	3.2 Heritage & Fine Grain	<i>a Ensure that development in the vicinity of heritage items is designed and sited to protect the heritage significance of the item.</i>	The site adjoins Lambert Park which includes the APIA Club soccer field as a local heritage item. The proposal provides a built form transition to the heritage item with a 2-storey building, re-using the brick boundary wall of the existing factory building, and maintaining the existing height. An existing row of tall and dense trees is located in the GreenWay to the west of the site which would screen the development from the HCA further west.
		<i>b New development in heritage conservation areas must be designed to respect neighbouring buildings and the character of the area. Infill development should enhance and complement existing character but not replicate or mimic the architectural style, detailing or materiality of listed heritage/historic buildings.</i>	Not in a HCA.
		<i>c Maintain architectural, streetscape and interpretive building elements that contribute to heritage conservation areas.</i>	Subject to detailed design at DA stage.
		<i>d In appropriate locations, enable the consolidation of small individual lot into larger lots, but ensure the original subdivision pattern is represented or interpreted, where it is assessed as being significant.</i>	N/A
		<i>e Encourage fine grain subdivision for large sites undergoing renewal.</i>	The mixed-use development is divided into five individual buildings – a more 'fine grain' approach. The proposal responds to the fine grained pattern to the east of the site by providing smaller scale buildings along Davies Lane. The scale of the new development is further mitigated by setting back one of the buildings along the Davies Lane frontage. Residential ground level frontages are proposed along Davies Lane to reflect the current fine-grain residential lot pattern to the east of the site. Ground floor units with individual accesses are proposed.
		<i>f Maintain the prominence and legibility of heritage items, contributory buildings and streetscapes while appropriately siting and designing new development.</i>	The proposal provides built form transition to the APIA club heritage item by providing a 2-storey building, re-using the brick boundary wall of the existing factory building, and maintaining the existing height.
		<i>g Ensure that new developments are of a compatible scale with the surrounding heritage items, contributory buildings or for the heritage conservation area.</i>	The buildings transition in height with landscape setbacks to the surrounding residential context. The development is screened from the HCA by dense tall trees to the west, in the GreenWay corridor.
		<i>h Retain the prominence of heritage landmark buildings in the immediate streetscape, in the surrounding area, and from key vantage points.</i>	
		<i>i Ensure that new developments are of an appropriate form and mass adjacent to or in the vicinity of heritage items, contributory buildings or heritage conservation areas.</i>	
<i>j Ensure new development does not physically overwhelm or</i>			

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Chapter No.	Section	Guideline	Comment
		<i>dominate heritage items and heritage conservation areas by providing appropriate transitions from new development sites to existing buildings, structures and streetscapes of heritage value.</i>	
		<i>k Use sympathetic materials, colours and finishes that reflect and harmonise with original materials to maintain the character of heritage items and contributory buildings.</i>	Subject to detailed design at DA stage.
		<i>l Ensure design resolution is considered in totality, and in particular at the pedestrian scale.</i>	Mid or upper level setbacks are proposed for buildings along Lords Road and Davies Lane which would reduce the scale of these building elevations. Building 5 has a zero ground level setback to Davies Lane and Lords Road, removing a row of trees along the Lord Road frontage and placing a three storey building hard up against the laneway and current narrow footpath. This would negatively impact pedestrian scale. Additional setback is recommended in the report.
		<i>m Reinforce and enhance the distinctive character of the historic retail strips along Parramatta Road.</i>	N/A
		<i>n Retain, conserve and interpret significant historic signs.</i>	
		<i>o Protect the significant characteristics of buildings, streetscapes, vistas and the city skyline, while encouraging well-designed and well positioned signs which contribute to the vitality of the roadway and locale.</i>	
		<i>p Signage design and location must conserve the heritage significance of an item or heritage conservation area.</i>	
		<i>q Retain, conserve and/or reuse historic fabric in historic areas, where appropriate.</i>	A new two storey building is proposed along the north APIA Club boundary, re-using the brick boundary wall of the existing factory building.
		<i>r Promote characteristic and desirable landscape treatments in different character areas.</i>	A Landscape Masterplan, typical landscape details and proposed Plant Species Schedules are provided by the Proponent. It is recommended that Council's landscape officer review the proposed Plant Species for suitability with regard to Council policy and in terms of the GreenWay masterplan.
	3.3 Creek & Watercourses	-	Hawthorne Canal is located to the west of the Inner West Light Rail embankment. There are no creeks and watercourses on or adjoin the site. However, we recommend that Council's hydraulic engineer provide comment on the proposal regarding flood management.
	3.4 Open Space & Public Domain (A. Open Space Requirements)	<i>a Protect and improve the quality, access and safety of existing open space.</i>	The GreenWay corridor adjoins the west of the site. A 6m landscape setback to the western boundary and a new footpath is proposed. The proposed secondary pathway contributes to the GreenWay, and is supported from an Urban Design perspective. However a concern has been raised by Council's ecologist as to whether this is consistent with the principles of the GreenWay masterplan. The Proponent should confirm with the GreenWays Coordinator whether a narrow footpath along the west boundary of the site is desirable.
		<i>b Provide new public open space that is:</i> <i>i. part of a legible Green Grid network within and beyond the Corridor</i> <i>ii. landscaped and includes substantial areas for high quality and sustainable landscaping</i> <i>iii. an appropriate size to accommodate a variety of uses</i>	A 6m widening of the GreenWay (a new open space) is proposed along the western boundary and a central open space is provided in the site. Please refer to the Section 13 1.0 Landscape, Communal Open Space + Deep Soil Area in the Peer Review Report for detailed comments. The PRCUTS recommends new open spaces in the south of the Taverners Hill Precinct; however, none are identified for this site, or in the vicinity.



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Chapter No.	Section	Guideline	Comment
		iv. suitably dimensioned and designed for the intended use in terms of quality and orientation v. flexible and easily adapted to different uses in response to changing community activity and passive recreational preferences and are useable in a range of weather conditions vi. vibrant, inclusive, accessible and safe vii. linked to pedestrian and cycle paths to encourage reduced car dependency viii. integrated with the public domain, creeks, watercourses, or other encumbered land, if appropriate ix. designed to achieve sharing of space between sports x. located with access to, or makes provision for, recycled or other sustainable water supply xi. capable of being well maintained.	
	3.4 Open Space & Public Domain (B. Public Domain Principles)	a Increase canopy cover and provide for greenery within the public domain. b Build local character and identity through existing site qualities and natural landscape features. c Ensure public domain and common or shared spaces are functional and attractive for their intended users and accessible to all. d Create public domain that promotes recreation and public engagement. e Increase the quality and usability of the public domain through innovative built form, wider footpaths and new connections. f All new streets should implement water sensitive urban design treatments at the point source across all catchment areas. g Provide permeable ground surfaces, where appropriate, to allow rainwater to penetrate the soil.	A Landscape Masterplan, typical landscape details and proposed Plant Species Schedules are provided by the Proponent. It is recommended that Council's landscape officer review the proposed Plant Species for suitability with regard to Council policy and in terms of the GreenWay masterplan. A 6m landscape setback is provided along the GreenWay edge of the site. Communal open space is provided on the ground level in the central court garden and potentially on the roofs of the Buildings 1, 4 and 5. More than 50% of the ground floor open space will receive more than 2 hours sunlight access in mid-winter according to the Urban Design Report provided by the Proponent. The shadow study provided by the Proponent shows that the green space will receive sunlight at 12 noon, and partially at 1pm, however will be overshadowed at 2pm. The shadow study views are difficult to assess when illustrated in a 3D view. They should be provided to Council in a plan view format for further assessment. The proposed north-south and east-west pedestrian linkages will increase the site's permeability, from and to the GreenWay corridor, which will benefit local residents. The proposed 'L' shape shared path from Lords Road through to Davies Lane potentially opens up the site to the general public. There is insufficient information to assess whether water sensitive urban design treatments are considered. Deep soil areas are provided in the central court garden, corresponding with the row of mature trees retained along Davies Lane, and in a 6m wide planting strip along the west boundary.

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Chapter No.	Section	Guideline	Comment
	3.5 Community Facilities	<p><i>a Consider providing high quality specialised spaces that are shared by developments rather than treating each development as a stand alone proposal.</i></p> <p><i>b Provide opportunities for a variety of experiences and social interaction.</i></p> <p><i>c Provide opportunities for structured and unstructured activities and cater to a diverse range of users.</i></p> <p><i>d Create diverse 24 hour activity by providing facilities and spaces for public activity outside regular business hours.</i></p> <p><i>e Provide varied spaces for social interaction.</i></p>	The Proponent mentions in the UDR that community uses will be provided on site; however, no details have been submitted. Further information is to be provided to conduct the assessment.
	3.6 Traffic and Transport	-	A new shared path is proposed through the site and the Lords Road streetscape is reinforced by the development massing and frontage treatments.
	3.7 Street Function	-	
	3.8 Car Parking & Bicycle Parking	-	The Proponent demonstrates in the UDR that the required parking spaces can be achieved within the proposed basement levels. However, detailed design has not been provided. Further assessment is needed in the DA stage.
	3.9 Active Transport	-	Additional footpaths and links are proposed that would enhance the access network.
	3.10 Sustainability & Resilience	-	The Draft DCP provides sustainability guidance for the future development of the site. However, the proposed development should target Energy and Water Targets by Use. Council's urban ecology officer has also commented on the proposal, and the Proponent should address the comments provided.



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Chapter No.	Section	Guideline	Comment
4 – Built Form Guidelines	4.1 Block Configuration and Site Planning	<p><i>a Respond to the scale of surrounding buildings and definition of the street networks and public spaces.</i></p> <p><i>b Protect and enhance the rich, distinctive and valued character of the Corridor, particularly those elements that contribute to a sense of place and identity.</i></p> <p><i>c Arrange building forms (including heights and massing) to reinforce the future desired structure and character of the area as set out in the relevant Precinct and Frame Area Guidelines.</i></p> <p><i>d Ensure that buildings address the street, laneway, new through-site link or open space.</i></p> <p><i>e Define street edges with low rise buildings or appropriately scaled podiums to create a pedestrian scale at street level. Sleeve larger buildings with finer grain active frontages to the street and public domain.</i></p> <p><i>f Provide appropriate building separation to protect privacy and solar access to private and public property.</i></p> <p><i>g Emphasise building corners on key streets to signify key intersections and enhance public domain legibility.</i></p> <p><i>h Consider possible future development on adjoining sites.</i></p>	<p>The current low-scale houses to the east and south of the site are planned in the long-term to increase in height and density. In the short-to-medium term it will be important for development on the site to transition in height and overall built form to the current low-scaled adjoining context.</p> <p>The proposal steps up from the east (Davies Lane) and south (Lords Road) edges to the tallest proposed building, set within the site, situated along the west, Light Rail/GreenWay, edge. It provides a progressive stepping up in building height across the site, providing a lower height and scale development transition at the south and east edges where there are low scale residential interfaces. Upper level setback to Davies Lane is provided; The setback provides a landscape buffer between the medium density residential buildings on the site and the relatively low density residential area to the east.</p> <p>The proposed 'L' shape shared path from Lords Road to Davies Lane will provide addresses for the proposed businesses and apartments. Building 5 has a zero ground level setback to Davies Lane and Lords Road, removing a row of trees along the Lord Road frontage and placing a three storey building hard up against the laneway and current narrow footpath. An additional setback is recommended to transition in scale and to preserve existing trees at this corner which would help screen the new development from Lords Road.</p> <p>The proposal provides a 9m separation distance between Buildings 1 and 2, and Buildings 4 and 5. To satisfy ADG requirements for building-to-building separation these walls would need to be blank; 'non-habitable to non-habitable' rooms/balconies. However, Building 5 has ground floor apartments with only a northern outlook – refer Page 19 and 24 of the UDR. A minimum of 12m separation is required by the ADG to provide adequate residential amenity in this situation.</p> <p>Please refer to Sections 5, 6 and 8 in the Peer Review Report for detailed comments. Please refer to the comments above.</p>
	4.2 Building Massing, Scale and Building Articulation (A. Building Massing and Scale Requirements)	<p><i>a Relate building height to street width and intended character.</i></p> <p><i>b Buildings, or their individual elements, should be appropriately scaled to address and define the surrounding character.</i></p> <p><i>c Reduce heights, increase setbacks or provide appropriate transitions to heritage buildings and places or sensitive uses.</i></p> <p><i>d Changes in scale should be explored to create interest and enhance the relationship with the public domain.</i></p> <p><i>e The GFA is to be no more than 75% of the building envelope.</i></p> <p><i>f Floor plates above 8 storeys should be limited to 750m² GFA to create slender tower forms.</i></p> <p><i>g The maximum building length should not exceed 60m.</i></p>	<p>The Proponent is using 85% of GBA to calculate the GFA. All building area and FSR calculations should be amended accordingly.</p> <p>The tallest building proposed is nine storeys in height. The PRCUTS sets a maximum building height for the site of eight storeys.</p> <p>It is recommended to retain the maximum height limit for the site at eight storeys. In this case this requirement would not apply.</p> <p>Along the APIA Club frontage, Building 3 is of two storeys, proposed to the height of the existing factory boundary wall, with large commercial floor-to-floor height. This is a long building of more than 80m length. It will be important to break down the scale of the south elevation of this building with recesses as indicated on Page 19 of the UDR, and by other architectural means.</p>

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		<p><i>h The maximum tower length should not exceed 45 metres and is to be considered in conjunction with tower floor plate controls.</i></p> <p><i>i Identify and express street frontage heights with an upper level tower to create an appropriate streetscale, sky views, and minimise wind down draft.</i></p>	<p>N/A</p> <p>Mid or upper level setbacks are proposed for buildings along the Lords Road and Davies Lane frontages which would reduce the apparent scale of these building elevations.</p> <p>For Building 2 an upper-level setback should be considered to mitigate the scale of the building to the GreenWay frontage, and to minimise overshadowing of the central court garden.</p>
	4.2 Building Massing, Scale and Building Articulation (B. Building Articulation Principles)	<p><i>a Apply the relevant building articulation principles illustrated in Figures 4.2 - 4.7, based on location.</i></p> <p><i>b The maximum wall length without articulation is 45m.</i></p> <p><i>c Articulate building facades in plan and elevation to reduce the appearance of building bulk and to express the elements of the building's architecture.</i></p> <p><i>d Interpret and respond to the positive attributes of a Precinct or Frame Area by incorporating dominant patterns, textures and compositions into the built form.</i></p> <p><i>e Provide a sense of address and visual interest from the street through the use of insets and projections that create interest and, where relevant, the appearance of finer grain buildings, however avoid recesses that undermine the safety of the public domain.</i></p> <p><i>f Integrate ventilation louvres and car park entry doors into facade designs where located on street frontages.</i></p> <p><i>g Buildings on corners should address both streets.</i></p>	<p>Building 3 should incorporate recesses and articulation to break down the scale of the south elevation as it is 80m in length.</p> <p>Building 2, the tallest building on the site, needs to provide sufficient articulation along its 55m long west façade – it is not clear in the documents the extent of building articulation that is proposed. A well-articulated built form will help to reduce the building's size and length and will help mitigate the visual impact to the GreenWay.</p> <p>Detailed building façade design has not been provided. Further assessment is needed at DA stage.</p>
	4.3 Setbacks and Street Frontage Heights	<p><i>a Provide building setbacks and street frontage heights in accordance with Table 4.1.</i></p> <p><i>b Reinforce street edges that contribute to the character of a historic or heritage conservation area.</i></p> <p><i>c Design setbacks that will contribute positively to the pedestrian environment at street level.</i></p> <p><i>d Retail shop fronts should reinforce the streetscape edge and integrate with footpath activity through transparent store front activity, where possible.</i></p>	<p>Building 5 has a zero ground level setback to Davies Lane and Lords Road, removing a row of trees along the Lord Road frontage and placing a three storey building hard up against the laneway and current narrow footpath. This proposal would impact on the scale of the laneway, maintaining the current very narrow footpath, and would pose privacy concerns, with the new building overlooking the back yards of residents backing onto the east of the laneway.</p> <p>A ground level setback of between 3m and 7m to Davies Lane is recommended for Building 5 to accommodate a minimum 3m footpath and landscaping.</p> <p>Detailed ground floor plans have not been provided for assessment.</p>



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	4.4 Transition Zones and Sensitive Interface	<p><i>a Implement the transitions and sensitive interfaces in accordance with the Guidelines for individual Precincts and Frame Areas illustrated in Figures 4.8 - 4.13.</i></p> <p><i>b Encourage the gradual stepping up of the built form at the interface of existing low rise development and proposed higher rise development.</i></p> <p><i>c Encourage new development that is sensitive and complementary in scale and site location to surrounding properties of identified heritage and/or streetscape value, and which contributes positively to the desired character of the street or area concerned.</i></p>	Please refer to the comments in Section 4.1 Block Configuration and Site Planning.
	4.5 Building Typologies	-	A mixed use apartment building typology is proposed with most of the ground level of the five buildings allocated to commercial creative businesses and community uses. Large floor-to-floor levels are proposed for the ground floor. The finer grain building typology is seen as appropriate for the site.
	4.6 Active and Commercial Frontages	<p><i>a Locate Active Frontages and Commercial Frontage on streets and fronting open space, urban plaza and public domain generally in accordance with the Guidelines for the relevant Precinct and Frame Area.</i></p> <p><i>b Create a fine grain of Active and Commercial Frontages to ensure an integrated street edge and reduce building massing.</i></p> <p><i>c Encourage ground floor activities to spill out into the public domain to create a vibrant streetscape and promote a sense of community.</i></p> <p><i>d Screen large retail tenancies by smaller tenancies for greater street activation and retail variety where appropriate.</i></p> <p><i>e Provide clearly defined and visible building entries which directly address the street.</i></p> <p><i>f Provide awnings or colonnades for weather protection and shade along active frontages.</i></p>	<p>The ground floor of all the proposed buildings will be occupied as employment generating and community uses as per the proposal. The future employment generating uses will face the open spaces proposed. Detailed ground floor design has not been provided for assessment.</p> <p>Building entries have an address to the internal 'street' and court garden.</p>
	4.7 Building Entries and Fencing	<p><i>a Accentuate building entries through signage, street numbers and landscaping.</i></p> <p><i>b Achieve a fine grain of entries along streets to reinforce activation, movement in and out of buildings, and for multiple 'eyes on the street'.</i></p> <p><i>c Ground floor dwellings should be accessed from the street, where possible.</i></p> <p><i>d Avoid car parking entries and loading docks on main streets. The location and widths of any services, infrastructure and car park entries on Active Frontages must be minimised.</i></p>	<p>Subject to detailed design.</p> <p>Ground floor entries and units with individual accesses are proposed within the proposal.</p> <p>Car parking and service access is proposed at basement level, accessed from Lards Road.</p> <p>Fencing, where required, would be addressed at DA stage.</p>

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		<p><i>e. Where possible, use low level, transparent or partially open fencing is proposed.</i></p> <p><i>f. Front fencing should respect existing character or contribute to the future desired character.</i></p>	
	4.8 Amenity (A. View Requirements)	<p><i>a. Protect significant views to and from public places.</i></p> <p><i>b. Configure built form to enhance or frame views to significant places or elements, or support legibility of the area.</i></p> <p><i>c. Buildings should not to impede key views from the public domain to important public places, parks, heritage buildings and monuments.</i></p>	A 6m setback along the west edge will open up views along the GreenWay. Views into the proposal central garden court from the street are facilitated by a minimum 20m gap between the buildings.
	4.8 Amenity (B. Shadowing and Solar Access Requirements)	<p><i>a. Orientate taller elements north-south to minimise overshadowing.</i></p> <p><i>b. Manage height of east-west buildings to allow solar access to courtyard spaces and adjoining open space and roads.</i></p> <p><i>c. Maximise direct solar access to adjoining properties.</i></p> <p><i>d. Minimise shadowing of public and private open space.</i></p>	<p>Approximately 80% of the proposed units can receive more than 2 hours sunlight access between 9am and 3pm in mid-winter. However, the Proponent should demonstrate, as required by the ADG, that the percentage of the proposed units that cannot receive any sunlight between 9am and 3pm in mid-winter is lesser than 15%.</p> <p>The solar access to the ground floor central court garden communal open space should be maximised in winter, especially during lunchtime hours. The shadow study provided by the Proponent shows that the green space will receive sunlight at 12 noon, and partially at 1pm, however will be significantly overshadowed at 2pm. The shadow study views are difficult to assess when illustrated in a 3D view. The shadow study should be provided to Council in a plan view format for further assessment.</p>
	4.8 Amenity (C. Visual and Acoustic Amenity Requirements)	<p><i>a. Orient and design development to optimise visual and acoustic privacy between buildings.</i></p> <p><i>b. Configure and landscape internal courtyards to optimise visual privacy whilst also allowing passive surveillance opportunities.</i></p> <p><i>c. Attenuate noise impacts between residential and non-residential components of mixed use development.</i></p> <p><i>d. Employ design measures to minimize loss of privacy.</i></p>	The proposal provides a 9m separation distance between Buildings 1 and 2, and Buildings 4 and 5. To satisfy the ADG requirements for building-to-building separation these walls would need to be blank; 'non-habitable to non-habitable' rooms/balconies. However, Building 5 has ground floor apartments with only a northern outlook – refer Page 19 and 24 of the UDR. A minimum of 12m separation is therefore required by the ADG to provide adequate residential amenity in this situation.
	4.8 Amenity (D. Air and Noise Quality Requirements)	<p><i>a. Development on busy roads (an annual average daily traffic volume of more than 40,000 vehicles) is to consider the provisions of the State Environmental Planning Policy (Infrastructure) 2007 and Development Near Rail Corridors and Busy Roads Interim Guidelines.</i></p> <p><i>b. Internal habitable rooms of dwellings are to be designed to achieve internal noise levels of no greater than 50dBA.</i></p> <p><i>c. Adopt the planning and design approaches and architectural treatments outlined in Figure 4.14 - 4.21 to minimise noise and air quality impacts from abutting busy roads, rail corridors and other noise-generating land uses.</i></p> <p><i>d. Consider the Indicative Floor Plans at Appendix A when</i></p>	We recommend at DA stage the Proponent provides an acoustic and vibration report addressing potential impacts of the Light Rail and recommended mitigation design measures, if required.



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	4.9 Accessibility, Safety and Security (A. Accessibility Requirements)	<p><i>designing development on busy roads.</i></p> <p><i>a. Ensure that public buildings and spaces are designed to be universally accessible.</i></p> <p><i>b. Incorporate accessibility into the design of new buildings, public spaces and the public domain.</i></p> <p><i>c. Incorporate solutions which lead to an improvement in accessibility and freedom of choice offered to the user.</i></p> <p><i>d. Accommodate a wide range of ancillary aids and support interactive usage through open space and public domain.</i></p> <p><i>e. Consider changing lifestyles and changing use of space.</i></p> <p><i>f. Incorporate adaptable dwelling opportunities to cater for occupants with a disability.</i></p>	To be addressed at detailed design stage.
	4.9 Accessibility, Safety and Security (B. Safety and Security Requirements)	<p><i>a. Ensure the design for new public spaces, streets and new development minimises crime and supports community safety by applying Crime Prevention Through Environmental Design.</i></p> <p><i>b. (CPTED)'s Safer by Design Guidelines.</i></p> <p><i>c. Encourage passive surveillance of streets and other public places.</i></p> <p><i>d. Ensure ground floor uses to buildings edging public space are predominantly active.</i></p> <p><i>e. Minimise opportunities for concealment or entrapment by removing or illuminating alcoves, or designing alcoves with splayed edges.</i></p> <p><i>f. Maintain unobstructed sightlines between and around buildings wherever possible.</i></p> <p><i>g. Remove or redesign any physical features that are known to compromise safety and security.</i></p> <p><i>h. Improve the quality of lighting in streets, parks and other public spaces.</i></p> <p><i>i. Create landscapes and physical locations that channel and group pedestrians into target areas.</i></p>	<p>Please refer to Section 4.6 Active and Commercial Frontages.</p> <p>Proponent to provide at DA staged a CPTED Report to illustrate how the development addresses the applicable safety and security principles and guidelines.</p>
	4.10 Signage and Advertising	<p><i>a. Signage is to comply with the requirements of State Environmental Planning Policy No 64-Advertising and Signage.</i></p> <p><i>b. Encourage quality signage that contributes positively to the streetscape and creates a sense of place. Advertising signs should complement the design of buildings and the overall character of streets and Precincts and Frame Areas.</i></p>	Subject to detailed design.

Chapter No.	Section	Guideline	Comment
		<p>c. The main facades of buildings from the first floor to the rooftop or parapet are to be uncluttered and generally free of signage.</p> <p>d. Freestanding signs are not to be located on the top of buildings and should not impact on the skyline when viewed from the street.</p> <p>e. Provide appropriate directional, informational and regulatory signage.</p> <p>f. Signage must relate to an approved use on the property/site.</p> <p>g. Incorporate clear signage for access and egress around public transport and public places.</p> <p>h. Signs painted on or applied to the roof of a building are not permitted.</p> <p>i. Despite any other requirements, existing signs that have heritage value must be retained where appropriate, preferably in their original location, or adaptively reused.</p>	
10 – Taverners Hill Guidelines	10.4 Future Character and Identity	<p>The vision can be realised by:</p> <ul style="list-style-type: none"> positioning Taverners Hill as a transit oriented development to capitalise on the existing rail service provision and the rapid transit network along Parramatta Road encouraging appropriately scaled residential uses and a mix of employment and non-residential uses and a variety of creative industries retaining the heritage and fine grain industrial character and appropriately transitioning new, higher-density development to existing areas and conservation areas providing clearly defined, high quality and safe pedestrian and cycling linkages to both light and heavy rail stations and across Parramatta Road enhancing access to open space areas to the north, the GreenWay as well as Leichhardt (Norton Street) in the east creating pockets for urban spaces and high pedestrian activity by introducing new laneways and pedestrian prioritised linkages which enhance permeability, provide activated streetscapes, and link new developments, key uses and activities across the Precinct completing missing links along the GreenWay at Parramatta Road and Longport Street designing for the impact of major through-traffic roads addressing aircraft noise. 	<p>The development takes a TOD approach, proposing additional density within proximity of existing light rail stations. The Proponent proposes additional footpaths and links along and across the site to enhance pedestrian access to stations. The proposed east-west pedestrian linkages will increase the site's permeability, from and to the GreenWay corridor, which will benefit local residents. The proposed 'L' shape shared path links from Lords Road through to Davies Lane and potentially opens up the site to the general public, and will also provide addresses for the proposed businesses and apartments. However, it is not clear whether the shared path or Davies Lane is intended to be one-way or two-way. The shared path appears to be narrow at only about 3m wide when the parallel parking spaces indicated are occupied.</p> <p>A mix of employment, community and creative uses are proposed on the site. The development transitions in height to low scale residential properties to the east and south, and provides a 'fine grain' approach through dividing the development into five separate buildings and through proposed building articulation.</p> <p>Please refer to Section 8, 13 and 14 in the Peer Review Report for detailed comments.</p>
	10.5 Open Space, Linkages and Connections and Public	<p>A. Open Space Requirements</p> <p>a. Provide a new urban plaza or park midway along Tebbutt</p>	<p>Please refer to the previous comments (Section 3.4 Open Space & Public Domain).</p> <p>N/A</p>



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Chapter No.	Section	Guideline	Comment
	Domain	<p><i>Street to Flood Street.</i></p> <p><i>b. Wherever possible, provide a series of connected open spaces through future development to achieve a diverse sequence of open spaces, uses and active frontages.</i></p> <p><i>c. Rethink the design and security arrangements of Kegworth Public School to allow the school playground to be used publicly after school hours (whilst maintaining school security requirements during school hours).</i></p> <p><i>d. Promote roof top communal open space.</i></p> <p>B. Linkage and Connection Requirements</p> <p><i>a. Create new green lungs on north-south oriented streets that are perpendicular to Parramatta Road.</i></p> <p><i>b. Provide a new east-west link on Nestor Lane to connect Carrington Street, Old Canterbury Road and Brown Street and improve east-west access to the GreenWay.</i></p> <p><i>c. Break up long blocks between Tebbutt Street and George Street to provide high quality pedestrian-prioritised links that improve permeability and create a connected network of open spaces, linkages and connections.</i></p> <p><i>d. Prioritise Lords Road, Tebbutt Street north of Parramatta Road and Carrington Street for pedestrians.</i></p> <p><i>e. Strengthen the distinct laneway character of George Street and Upward Street, while also improving safety and amenity.</i></p> <p><i>f. Promote Flood Street as the one of the primary pedestrian and cycle connections, between Petersham Park and Lewisham Station to the south, and MarketPlace Leichhardt to the north.</i></p> <p><i>g. Improve the pedestrian amenity on Parramatta Road to achieve a high pedestrian activity area.</i></p> <p>C. Public Domain Requirements</p> <p><i>a. Refer to Corridor wide Guidelines at Section 3.</i></p> <p><i>b. Street trees along should be protected and enhanced.</i></p>	<p>The development introduces a widening to the GreenWay corridor and a new central court garden space.</p> <p>N/A</p> <p>Whether roof top communal open space is to be provided is to be confirmed by the Proponent.</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>The Proponent should provide more details on proposed upgrades to the Lords Road frontage/ verge in terms of new landscaping and footpaths.</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>Additional street trees planted along Lords Road to be confirmed by the Proponent.</p>
	10.6 Street Function and Precinct Transport	-	N/A
	10.7 Fine Grain	<i>a Demonstrate consistency with the objectives and key guidelines for the relevant character area as set out in the Parramatta Road Corridor Fine Grain Study, September 2016. Character areas are shown in Figure 10.12.</i>	Please refer to the previous comments (Section 4.1 Block Configuration and Site Planning)
	10.8 Green Edge	A. Setback and Transition Requirements	Please refer to the previous comments (Section 4.1 Block Configuration and Site

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Chapter No.	Section	Guideline	Comment
	Setbacks, Transitions and Activity and Commercial Zones	<p>a. <i>Green Edge setbacks are to be provided in the locations illustrated in Figure 10.13.</i></p> <p>b. <i>Maintain and reinforce a zero lot setback to Parramatta Road east of Hawthorne Canal. A zero lot setback is not required where an Indicative Zone for Rapid Transit is identified.</i></p> <p>c. <i>Demonstrate consistency with the typical section for Parramatta Road illustrated in Figure 10.16.</i></p> <p>d. <i>Reinstate the zero lot setback to Tebbutt Street through all new development. Setbacks should only be provided at the intersection of Tebbutt Street and Parramatta Road to amplify the prominence of Precincts entry.</i></p> <p>e. <i>Upper level setbacks may be provided on deep blocks on Parramatta Road, Tebbutt Street and elsewhere throughout the Precinct so long as the predominant 2-3 storey street wall is preserved in the location identified by the Parramatta Road Corridor Fine Grain Study, September 2016.</i></p> <p>f. <i>Provide setbacks consistent with Section 4 of the Guidelines in all other areas of the Precinct and Frame Area.</i></p> <p>g. <i>Provide a built form transition consistent with Figure 10.14 to edge of Precinct.</i></p> <p>h. <i>Provide a built form transition consistent with Figure 10.15 to heritage items and heritage conservation areas.</i></p> <p>B. Active Zone Requirements</p> <p>a. <i>Active and Commercial Frontages are to be provided in the locations illustrated in Figure 10.13.</i></p> <p>b. <i>At least the ground floor level of development along the full length of Parramatta Road must be provided as a non-residential use.</i></p> <p>c. <i>New Through Site Links and Prioritised Pedestrian Links should be lined with Active Frontages.</i></p> <p>d. <i>An Active Frontage may only be replaced by the addition of new public open space, urban plaza or addition of new east-west connections.</i></p> <p>e. <i>Active and Commercial Frontages must also consider the objectives and key guidelines set out in the Parramatta Road Corridor Fine Grain Study, September 2016.</i></p> <p>f. <i>The ground floor level of Active and Commercial Frontages is to match the street level.</i></p>	<p>Planning, Section 4.3 Setbacks and Street Frontage Heights and Section 4.6 Active and Commercial Frontages).</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>Please refer to Section 10 Setback + Separation in the Peer Review Report.</p> <p>The HCA occurs significantly to the west of the site. The APIA soccer club to the north – the existing wall scale has been retained.</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>


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Chapter No.	Section	Guideline	Comment
		g. Provide consistent paving, street furniture, signage, planting and lighting along Active and Commercial Frontages.	N/A
	10.9 Recommended Planning Controls	-	<p>The Planning Proposal seeks to change the site zoning from IN2 Zone to R3 Medium Density to have a maximum height of 30m and a maximum FSR of 2.4:1.</p> <p>The proposal will provide a mix of uses within the site. The proposed ground floor level plates are proposed to mostly accommodate community and employment generating uses; such as gym, art school, studios and start up enterprises, activating the ground level. Industrial uses may be removed from the site if the rezoning of the site is successful as these uses are currently not permitted within R3 zone under the LLEP 2013. The Proponent requests a provision in the R3 zoning to permit employment generation uses.</p> <p>It is recommended to retain the maximum height limit for the site at eight storeys.</p> <p>The proposed 2.4:1 FSR would likely not be achieved if the recommended reduced height, and increased setback and separation distances are applied to the Proponent's design proposal and proposed DCP built form envelopes. Therefore, the proposal in its current form is not supportable. We suggest the Proponent test an amended development built form (DCP building envelopes) based on the recommendations of this report to establish an achievable FSR for the site.</p> <p>Please refer to the Peer Review Report for detailed comments.</p>



**INNER WEST
COUNCIL**

**INNER WEST LOCAL PLANNING PANEL
MEETING**

17 December 2018

MINUTES

MINUTES of INNER WEST LOCAL PLANNING PANEL MEETING held in the Council Chambers, Leichhardt Town Hall, Norton Street, Leichhardt on 17 December 2018

Present: Mr Kevin Hoffman in the chair, Mr John McInerney; Ms Lindsey Dey, Ms Heather Warton.

Staff Present: Acting Manager Planning Operations; Executive Strategic Planner and Team Leader Development Assessment (Corporate) Support

Meeting commenced: 4.02 pm

**** ACKNOWLEDGEMENT OF COUNTRY**

I acknowledge the Gadigal and Wangal people of the Eora nation on whose Country we are meeting today, and their elders past and present.

**** DECLARATION OF PECUNIARY INTERESTS AND NON-PECUNIARY INTERESTS**

There were no declarations of interest.

IWLPP0655/18 Agenda Item 1	IWC_PP-2018_04
Address:	67-75 Lords Road Leichhardt
Description:	Make amendments to the Leichhardt Local Environmental Plan 2013 to rezone the site from IN2 Light Industrial to R3 Medium Density Residential, increase the Floor Space Ratio from 1:1 to 2.4:1 and introduce a Maximum Building Height control RL35.
Applicant:	Plantino Properties

The following people addressed the meeting in relation to this item:

- Colin Menzies
- Hall Greenland
- Lauren Holder
- Paul Dwyer
- Colin Cranson
- Sam Haddad
- Michael File
- Matthew Pullinger

DECISION OF THE PANEL

The Panel adjourned the decision of the matter at 5.16pm.

Matter resumed at 6.34pm

The Inner West Local Planning Panel has considered the extensive reports from the applicant, Council Staff and the submissions. The Panel has visited the site and the Taverner's Hill precinct today, and heard further submissions at the public meeting today. Having considered these matters, the Inner West Planning Panel advises the Council as set out in Attachment A below:

Attachment A

The Inner West Local Planning Panel advises Council that it does not support the Planning Proposal for 67-75 Lords Road, Leichhardt (IWC_PP_2018_04) for the reasons outlined in the report including that:

- a) The Panel notes Council's long standing position of preserving industrial land and this Planning Proposal would diminish Council's past efforts to retain this site for industrial uses.
- b) The Panel also notes that Council intends to review all its employment and residential lands as part of the wider comprehensive LEP work. Council, in collaboration with the State Government, is also undertaking a range of broader Strategic planning work and studies including but not limited to:

- Local Housing Strategy
- Local Strategic Planning Statement
- Employment Lands Review
- Local Infrastructure Contributions Plan
- Integrated Transport Plan
- Comprehensive IWC LEP and DCP
- Affordable Housing Contribution Scheme
- PRCUTS precinct wide traffic modelling

Investigations are incomplete for the future cumulative social and physical infrastructure needs of this PRCUTS precinct.

- c) The Planning Proposal is considered to be premature in relation to the completion of these strategic planning projects. These projects will provide comprehensive evidence based strategies and innovative visions to direct future strategic planning documents and design parameters for land uses, infrastructure, public domain works, urban design and place making community/social benefits; economic development and appropriate distribution of development uplift for long term sustainable changes throughout the IWC. The site and its future uses should be planned holistically in the context of the Tavermer's Hill Precinct and its contribution to the revitalisation of Parramatta Road Corridor rather than in an ad hoc piecemeal manner such as via this planning proposal.
- d) That Council draws the Department of Planning and Environment's attention to the need to update the PRCUTS particularly indicative land uses in light of more recent information in relation to employment lands noting the loss of employment land, dwelling projections, infrastructure requirements such as schools and open space etc. The Panel notes that PRCUTS will ultimately be replaced by Council's accelerated timeframe Comprehensive Inner West LEP and DCP.
- e) The Planning Proposal for 67 – 75 Lords Road Leichhardt (the proposal) fails the Strategic Merit Test of "A guide to preparing planning proposals" pursuant to Section 3.33(2)(c) of the *Environmental Planning and Assessment Act 1979*;
- f) The proposal does not have merit and fails all of the six (6) criteria when assessed against the *Parramatta Road Implementation Plan 2016 - 2023 'Out of Sequence Checklist'*. In particular, the proposal:
 - i. Fails to satisfy Criteria 1 in that it does not adequately demonstrate that it meets the strategic, land use and development objectives outlined in the PRCUTS Implementation Plan and does not provide significant delivery, contribution or benefits for the Strategy's Corridor wide and Precinct vision. It is inconsistent with the recommended built form recommendations and does not demonstrate that the new development will achieve design excellence. The Proposal is also out of alignment with the short term growth projections identified in the strategy and does not demonstrate any significant net community, economic and environmental benefits for the Precinct;

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- ii. Fails to satisfy Criteria 2 in that the Integrated Infrastructure Delivery Plan (IIDP) is inadequate because it is based on a concept plan for 235 dwellings in 23,158sqm of residential floorspace which at average large residential flat building dwelling gross floor area sizes of 76.35sqm could produce 303 dwellings at the development application stage;
 - iii. Fails to satisfy Criteria 3 in that the community engagement is inadequate, has not demonstrated that there is an appropriate level of support or agreement for the proposal and has not demonstrated adequate readiness in terms of the extent of planning or business case development for key infrastructure projects;
 - iv. Fails to satisfy Criteria 4 in that there is no certainty that the proposal achieves or exceeds the sustainability targets identified in this Strategy;
 - v. Fails to satisfy Criteria 5 in that the proposal does not sufficiently demonstrate development feasibility analysis to meet this criterion given the Economic Impact Assessment and the feasibility advice is flawed and contains numerous assumptions, disclaimers and conclusions which are not supported; and
 - vi. Fails to satisfy Criteria 6 in that the proposal does not sufficiently demonstrate a land use and development scenario that aligns with and responds to market conditions for the delivery of housing and employment for 2016 to 2023.
- g) The Parramatta Road Corridor Transformation Strategy new dwelling targets for the Taverners Hill Precinct 2016-2023 can readily be met and surpassed without rezoning this site;
- h) In the context of persistent demand and a low and decreasing supply of industrial land, a rezoning such as this would dilute Council's ability to provide sufficient industrial land to accommodate demand. The planning proposal would also result in:-
- i. inconsistency with the *Leichhardt Industrial Lands Study 2014* (SGS, 2014), *Leichhardt Employment and Economic Development Plan* (EEDP) and the *Leichhardt Industrial Precincts Planning Report* (SGS, 2015);
 - ii. a net loss of jobs in the local government area;
 - iii. the loss of an economically viable employment precinct containing local services, light industrial and other non-industrial activities which contribute to the diversity of the economy, community activities and employment opportunities;
 - iv. a lack of merit when assessed against the criteria established by the *Leichhardt Employment and Economic Development Plan 2013-2023*; and
 - v. The lack of an appropriate Net Economic and Community Benefit Test as it does not address the wider issue of cumulative loss of employment lands in the local government area.
- i) The proposal is inconsistent with the infrastructure sequencing of the PRCUTS and the submitted Integrated Infrastructure Delivery Plan (IIDP) and the offer to enter into a Voluntary Planning Agreement (VPA) are unsatisfactory given the lack of adequate contributions;

- j) The proposal is inconsistent with numerous Ministerial Directions pursuant to Section 9.1 of the *Environmental Planning and Assessment Act 1979* including Directions 1.1 - Business and Industrial Zones, 7.1 - Implementation of A Plan for Growing Sydney and 7.3 - Parramatta Road Corridor Urban Transformation Strategy;
- k) The proposal is inconsistent with the Inner West Council Community Strategic Plan: Our Inner West 2036 – Direction 2: Unique, liveable, networked neighbourhoods and Strategic Direction 3: Creative communities and a strong economy;
- l) The proposal is inconsistent with the following elements of the Parramatta Road Corridor Urban Transformation Strategy:
- Policy context and the Strategy's vision and key actions for the Corridor and Taverners Hill precinct including all seven (7) principles of the Strategy;
 - Implementation Tool Kit including the Implementation Plan 2016-2023, Planning and Design Guidelines (including the Corridor wide, built form and Taverners Hill Guidelines), Infrastructure Schedule and Urban Amenity Improvement Plan; and
 - Reference Reports including the Precinct Transport Report, Economic Analysis, Fine Grain Study and Sustainability Implementation Plan.
- m) The proposal is premature in the light of the prospective outcomes of strategic planning studies and projects underway at State and Local Government levels, particularly having regard to the lack of the Precinct-wide traffic study and supporting modelling which is required under the PRCUTS to be completed to consider the recommended land uses and densities, as well as future Westconnex conditions, and identify the necessary road improvements and upgrades required as part of any proposed renewal in the Precinct;
- n) The proposal does not make an adequate contribution towards the provision of affordable housing as it is inconsistent with Council's *Affordable Housing Policy 2016* which seeks a 15% contribution of gross floor area (not dwellings) of the development as affordable housing and dedicated to Council in perpetuity;
- o) The proposal exceeds the *Parramatta Road Corridor Urban Transformation Strategy* recommended density by 500m² without satisfactorily demonstrating that the proposal would achieve better built form outcomes or design excellence;
- p) The proposal is to adequately assess the following matters given the insufficient or unsatisfactory supporting studies:
- i. Flooding in that the proposal is currently located within the southwest corner of the site where the flood depth is greatest and other unresolved design issues associated with the flood hazard on the site;

- ii. Heritage in that the Heritage Impact Statement does not adequately consider whether there will be any adverse impacts on the heritage value of the nearby heritage items including the item at Lambert Park and Kegworth Public School;
 - iii. Land contamination and *State Environmental Planning Policy No 55 – Remediation of Land* requirements in that the submitted Remedial Action Plan does not locate the known contamination on the site and relies on outdated sampling information;
 - iv. Traffic impacts given an inadequate Traffic Report and supporting information is provided, particularly having regard to the likely impacts on Davies Lane of increased traffic generation;
 - v. Public domain works and connections given the lack of an adequate outline of the proposed works and satisfactory arrangements being made with the relevant stakeholders for connections and linkages within and outside the site;
 - vi. Economic analysis of the loss of employment land given the Economic Impact Analysis did not adequately justify this loss as it relied on the Regional and District Plans excluding the PRCUTS area from the overwhelming evidence contained in the relevant economic and industrial land literature on the loss of employment land; and
 - vii. Sustainability targets and measures given the Sustainability Report was a generic and theoretical analysis of potential measures and failed to demonstrate that the proposal complies with the sustainability targets of the PRCUTS.
- q) The proposal fails to adequately demonstrate consistency with a number of design quality principles of *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* and subsequently results in a number of urban design concerns with subsequent adverse impacts on both internal amenity and the amenity of adjoining properties including:-
- i. Adverse impact in terms of context having regard to the proposal being out of character within the surrounding low density residential area and therefore inconsistent with Design Quality Principle 1;
 - ii. Setback and separation, height and articulation of the built form concerns resulting in the proposal being inconsistent with the bulk form and scale requirements of Design Quality Principle 2;
 - iii. The proposed FSR exceeds the PRCUTS controls and the scale of residential floor space proposed on this site is not required to meet the PRCUTS projections, thereby being inconsistent with Design Quality Principle 3;
 - iv. The proposal does not satisfy the sustainability requirements of the PRCUTS and is inconsistent with Design Quality Principle 4;

- v. Potential impacts on the amenity of the area and the site which is inconsistent with Design Quality Principle 6 including:-
 - visual impact from the bulk and scale of buildings,
 - overlooking of Davies Street properties,
 - inadequate location and quantity of common and public open space which lacks a sufficient interface with the public domain to be considered public space and overshadowing of open space.

The decision of the Panel was unanimous.

The Inner West Planning Panel Meeting finished at 6.36pm.

CONFIRMED:



**Kevin Hoffman
Chairperson
17 December 2018**

Item No: C0219(2) Item 8

Subject: **PLANNING PROPOSAL - 120C OLD CANTERBURY ROAD, SUMMER HILL**

Prepared By: Alan Qi Chen - Strategic Planner, Con Colot - Senior Strategic Planner & Projects and Daniel East - Acting Manager Planning Operations

Authorised By: David Birds - Group Manager Strategic Planning

SUMMARY

This report advises Council on the outcomes of the community consultation carried out in October/November 2018 for a Planning Proposal and associated Development Control Plan (DCP) amendment for 120C Old Canterbury Road, Summer Hill.

The Planning Proposal will amend the Ashfield Local Environmental Plan (ALEP 2013) along with an amendment to the Inner West Development Control Plan 2016. The western lot SP2 Infrastructure rezoning will change to B4 Mixed Use to be the same zoning as the eastern lot, with a maximum Floor Space Ratio of 2.5:1, and a maximum Height of Building of RL 38.0 equivalent to 6 storeys above Old Canterbury Road. This will enable the development for a 6 storey building of up to 62 apartments with ground floor retail and 2 lower ground car parking levels.

The report recommends that Council endorse the Planning Proposal and proceed to finalise the amendments to the ALEP 2013 and adoption of the draft Development Control Plan (DCP) amendment subject to minor changes identified in the report.

An associated draft Voluntary Planning Agreement (VPA) has already been approved by Council for public exhibition which is due to take place in February 2019.

RECOMMENDATION

THAT Council:

1. **Amend the Ashfield Local Environmental Plan 2013 for 120C Old Canterbury Road, Summer Hill, as indicated in the report, in the terms of recommendation (3) below;**
 2. **Liase with the Department of Planning and Environment (DPE) and Parliamentary Counsel's Office to draft and finalise the LEP Amendment;**
 3. **Finalise the post-exhibited Voluntary Planning Agreement with the Proponent in accordance with the Environmental Planning & Assessment Act 1979 (EP&A Act);**
 4. **Following the completion of (3) above request DPE to notify the Plan;**
 5. **Adopt the site specific amendments for 120C Old Canterbury Road, Summer Hill in the "Inner West Comprehensive Development Control Plan 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill" recommended in the report; and**
 6. **Delegate the making of the LEP amendments and the adoption of the amended site specific Development Control Plan as indicated in this report to the Group Manager Strategic Planning.**
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1.0 Background

A Planning Proposal has been submitted for 120C Old Canterbury Road, Summer Hill (**Figure 1**) seeking a change of Land Use Zoning for part of the site and increases in the Maximum Building Height and Maximum Floor Space Ratio controls in the Ashfield LEP 2013 as summarised below in **Table 1**.

Table 1- Summary proposed changes to Ashfield LEP 2013.

Control	Existing	Proposed
Land Zoning:	East side - B4 - Mixed Use	No Change
	West side – SP2 Infrastructure	B4 - Mixed Use
Max. Floor Space Ratio	East side -1.0:1	2.5:1
	West Side – no FSR	2.5:1
Max. Height of Buildings (MBH)	East side lot – 20m, as measured from natural ground level which varies at approx. RL 9.55 to RL 10. Equivalent of varying maximum height between RL 29.55 to RL 30.	Maximum Building Height - RL 38. This is 6 storeys relative to Old Canterbury Road, and 8-9 storeys relative to the lower part of the site adjacent the railway corridor.
	West side lot - no MBH.	MBH - RL 38

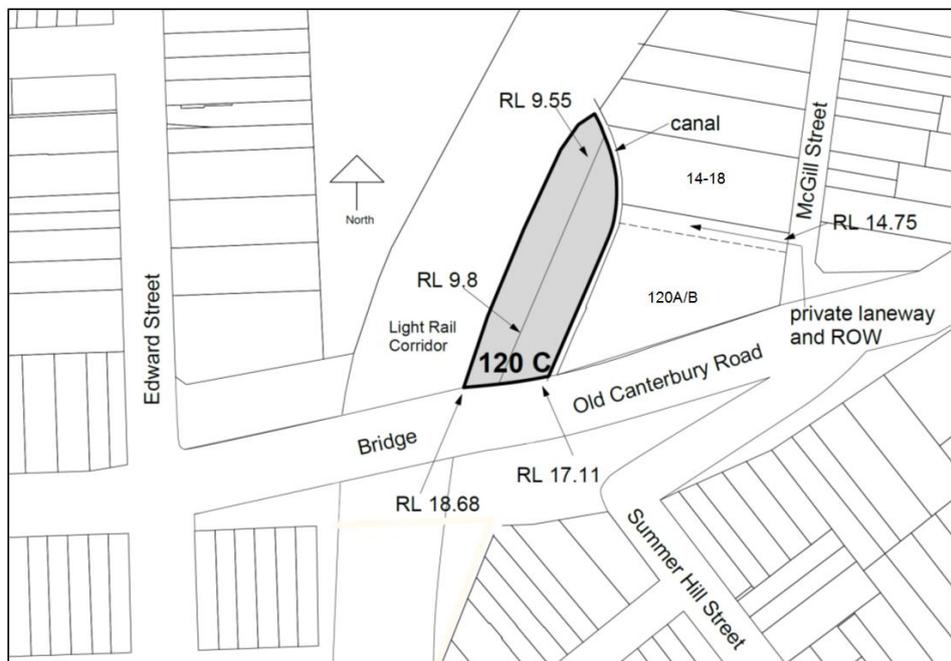


Figure 1 - location of site shown in grey. Note the existing site levels are substantially lower than Old Canterbury Road.



Figure 2- aerial photo of the site (within the red boundary)



Figure 3 - The site with the trees in the Transport for NSW (TfNSW) light rail property. On the right is a stormwater canal and a terrace level for the childcare centre at 120 A/B Old Canterbury Road with apartments above that.

The proposal was put on preliminary exhibition in early 2017 and reported to Council on 25 July 2017 (**Attachment 4**).

The former Ashfield Council as part of consideration of submissions on the Draft Ashfield LEP had resolved in 2012 to receive a Planning Proposal for a revised land use zoning, maximum FSR and maximum building height. The report to Council in July 2017 recommended that the buildings heights and FSR should be reduced to a maximum of 6 storeys relative to Old Canterbury Road. It also advised that more intensive development on the site might be possible providing flooding was addressed by a study and an appropriate building design.

Council resolved (**Attachment 4**) to support the Planning Proposal subject to the July 2017 report recommendations to reduce the maximum Floor Space Ratio to 2.5:1 and to reduce the maximum building height to 6 storeys. These amendments were made and the Planning Proposal was submitted to DPE on 10 October 2017. Council also resolved to produce a site specific DCP.

A Gateway Determination (**Attachment 5**) was received on 25 October 2017 making Council the Planning Proposal Authority. Prior to commencement of the Community Consultation stage the Determination required the approval of a flood study by DPE. The proponent submitted the required flood study to Council's engineer's satisfaction in August 2018. Council's engineers approved the proponent's flood study in August 2018 and DPE approved it in October 2018. The Planning Proposal (**Attachment 1**) was updated to reflect the requirements of the October 2017 Gateway Determination.

2.0 Public Exhibition

Condition 2 of the Gateway Determination required the Planning Proposal to be placed on public exhibition for a minimum of 28 days and in accordance with section 5.5.2 of *A guide to preparing local environmental plans*. The Planning Proposal (**Attachment 1**) and site specific DCP amendments (**Attachment 2**) were placed on public exhibition between 16 October 2018 – 13 November 2018. The public exhibition was notified in the Inner West Courier, on Council’s Have Your Say website and letters sent to residents in the vicinity of the site.

The following State agencies identified in the Gateway Determination were also notified:

- Transport for NSW;
- Sydney Water;
- NSW Roads and Maritime Services;
- Office of Environment and Heritage;
- Transdev.

During this period, the public exhibition materials were made available at the Ashfield Customer Service Centre.

2.1 Submissions from public

A total of 40 submissions were received from the public (7 support and 34 objections). The majority of the submissions were submitted on Have Your Say with one submission submitted by email. The submissions are summarised below.

Table 2 – Submissions supporting the Proposal

Support Reasons	Officer’s Comments
“Want to move into area and buy one of the dwellings”. Support development.	Noted.

Table 3 – Submissions objecting to Proposal

Objections from adjacent apartment buildings at 14-18 McGill Street and 120 A/B Old Canterbury Road	Officer’s Comments
I. Height is taller than existing buildings, should be maximum 4 storeys. Resulting building will be higher than 120 A/B Old Canterbury Road.	<p>The site fronts Old Canterbury Road and so this is the reference point used to explain the scale of the building, given that there is a 7-8 metre drop from the road to the lower natural ground level of the site.</p> <p>The proposed 6 storey scale is the same as the building at 120 A/B Old Canterbury Road, noting this building has a setback at the 6th level. The draft site specific DCP also requires a setback at the 6th level and so this will match the scale set by the adjacent building. The proposed height is therefore compatible with the established building scale and has an acceptable visual impact on nearby houses to the south in Summer Hill Street which are already affected by the existing 6 storey buildings.</p>

<p>II. Maximum Floor Space Ratio should be reduced.</p>	<p>The Maximum FSR has been reduced from 3.0:1 as originally submitted to 2.5:1 as resolved by Council in July 2017. This FSR is a LEP development standard which sets the parameters for the maximum that must not be exceeded. It generally accords with the potential building heights and envelopes in the illustrative Design Concept (Attachment 11). It will ensure 2 hours winter solar access and adequate building separation to adjacent apartments at 120 A/B Old Canterbury Road and 14-18 McGill Street.</p> <p>The Development Application (DA) stage will need to ensure the detailed building design uses an FSR which achieves the site specific DCP objectives.</p>
<p>III. Resulting building will be too close, affect privacy and block solar access to apartments at 120 A/B Old Canterbury Road.</p>	<p>The draft DCP makes reference to the Apartment Design Guide which has the minimum building separation distances, shows the position of the sun between 12 noon and 2 pm to identify where there must be a lower building form to achieve 2 hrs winter solar access, and has a clause to require a deep soil podium level planter box for tree planting screening between apartments.</p> <p>The illustrative Design Concept (Attachment 11) shows that it is possible to have a building layout which maximises the number of apartments that are oriented to the west and not towards adjacent apartments.</p>
<p>IV. Resulting buildings will block views from 120 A/B Old Canterbury Road toward the railways land (future potential Greenway).</p>	<p>The eastern part of the site already has a B4 zoning, FSR of 1:1 and maximum building height of 20m. Development under these provisions would have potentially led to a slim new building blocking these views in any event.</p> <p>The current Planning Proposal combines lots to have a wider site with a 12m setback to 120 A/B Old Canterbury Road building. This will ensure there are northerly sideway views from existing apartment balconies towards a future GreenWay.</p>
<p>V. Health concerns resulting from construction and noise and dust.</p>	<p>This matter will be addressed at Development Application stage with conditions to contain dust and restrict construction times.</p>
<p>VI. The existing right of way used to access the site on the adjacent site at 120 A/B Old Canterbury Road will suffer congestion, restrict traffic flows, and create safety problems.</p>	<p>The proposed DCP has clause DS4.1 to address this and, for example, requires that the onsite parking level has a design which will accommodate vehicular queuing and turning areas to avoid vehicles waiting in</p>

Proposal will add to congestion in McGill Street and adversely affect traffic flow in the area.	the shared laneway. The RMS and Council engineers have not objected to additional traffic on McGill Street and surrounding roads.
VII. There is no on-street parking in the surrounding area.	Any residential development of the site is required to provide the minimum parking numbers stipulated in State Environmental Planning Policy 65 and its referenced Apartment Design Guide. Any carparking for a non-residential component must comply with the Inner West DCP 2016.
VIII. Public transport, including light rail, is beyond capacity at peak hour.	TfNSW has not advised this is the case.
IX. Need more open space on the site and in the area.	<p>Provision of on site open space is considered at Development Application stage.</p> <p>The Apartment Design Guide requires 25 percent communal open space to be provided on the site.</p> <p>Due to flooding at natural ground level the Design Concept for the Planning Proposal shows it is possible to provide some communal open space on the roof above the 4th storey with the residue at the northern corner of the site at ground level. This is proposed as a 'pocket park' in the VPA. The draft DCP has clauses to reflect this scenario.</p> <p>Implementation of the Council's GreenWay masterplan will provide additional open space, pedestrian trails and linkages for recreation and exercise. There is also a current development application for the GreenWay 'Central Missing Links' works relating to the area opposite the site on the west side of the GreenWay corridor.</p>

Objections from Local Residents	Officer's Comments
X. McGill Street has no safe footpath width for children or prams, constant traffic and no safe crossing area.	Pedestrian access to the site will be from 3m wide footpaths on Old Canterbury Road not McGill street.
XI. Concerns from parents of children using childcare centre during construction stage such as dust.	This would be addressed at Development Application stage by applying conditions of approval for construction stages such as having boundary screening, and watering of building components and ground level material storage areas.
XII. Impacts on future GreenWay including:	The Former Marrickville's 9.11 Hoskins Park (Precinct 11) DCP does not apply. The site

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<p>Marrickville “Hoskins Park” DCP applies which outlines requirements for development adjacent to the Greenway Corridor below, and the proposal does not comply with this.</p> <p>Proposal should provide links to the Greenway.</p> <p>Building material and elevations should complement the Greenway.</p> <p>Buildings should be stepped back from the future Greenway so as to provide a human scale.</p> <p>Trees adjacent to the boundary of the site within the GreenWay and within the northern part of the site should be preserved as they provide habitat for small birds and biodiversity for the area.</p>	<p>relates to the Comprehensive Inner West Development Control Plan (DCP) 2016.</p> <p>The draft DCP has provisions for a ground level open space at the northern part of the site adjacent the future GreenWay corridor as reflected in the Design Concept (Attachment 11). Use of this area will depend on future negotiations with Council and what use any future adjacent GreenWay corridor is put to, including the following:</p> <p>To the west of the site along the light rail corridor the present GreenWay development application shows the GreenWay area planted out with dense trees for biodiversity and visual scenic value. The GreenWay area adjacent to the site contains high voltage electrical cabling and existing trees that should be retained for biodiversity and habitat reasons (refer to Tree Manager’s comments below).</p> <p>Any future building will provide a visual backdrop to the GreenWay. There are clauses in the draft DCP which require serious consideration be given to architectural composition, including use of “green walls”.</p> <p>The Design Concept does not propose this as any alternative location would result in more building on the eastern side of the site and compromising the amenity, solar access and outlook, of apartments at 120 A/B Old Canterbury Road. Other buildings along the railways land in the McGill Street precinct have not applied any significant setbacks. Also this eastern part of the future GreenWay adjacent to the site contains mostly the light rail tracks and includes high voltage cable rendering the area unusable by pedestrians.</p> <p>The substantial trees are located adjacent to, but not within the site and consist of Camphor Laurel, Date Palm and Privet which are classed as “noxious weeds”. Also TfNSW who have jurisdiction of this land may elect to remove them at any time.</p> <p>Refer to part 4 below and comments from Council’s Manager of Trees that recommend that those trees should be retained by TfNSW for biodiversity reasons. Whilst this is agreed with in principle, practically Council is not in control of this. The current GreenWay</p>
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	Development Application proposes that a high number of new trees be planted in the corridor.
XIII. Adverse impact on Fred Street bush care site – loss of visual amenity, light (night time) pollution affecting nocturnal biodiversity(animals) loss of connectivity to north as a result of affecting “weedy habitat”.	<p>Fred Street Bush Care is located to the south of Old Canterbury Road.</p> <p>The subject site is substantially separated from the bush care site by the Old Canterbury Road embankment.</p>
XIV. Resulting buildings will shadow houses in Summer Hill.	Nearby houses to the south of Old Canterbury Road and to the east in Edward Street will not have any reduction in their current solar access.

<p>XV. Impacts on adjacent Childcare Centre at 120 A/B Old Canterbury road including : Loss of natural light and solar access</p> <p>Construction vehicles blocking vehicular access to carpark.</p> <p>Health concerns for children noise and dust from construction.</p>	<p>The draft DCP has clause DS9.2 that will ensure there is a minimum two hours winter solar access to 40 sqm of the existing Childcare external terrace play areas. For other periods of the year a greater amount of the solar access will be available to these terraces - noting that for health reasons children should have limited amount of exposure to the sun.</p> <p>There is a stormwater canal and reservation approximately 3.3m wide adjacent to the childcare centre and any future building will have the required building separation and so there will be adequate daylight for the childcare centre.</p> <p>The proposed DCP has clause DS4.1 to address this and for example requires that the on-site parking level has a design which will accommodate vehicular queuing and turning areas to avoid vehicles waiting in the laneway.</p> <p>This would be addressed at Development Application stage by applying conditions of approval for construction stages such as having boundary screening, and watering of building components and ground level material storage areas.</p>
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<p>XVI. A submission on the site specific DCP was also received from the proponent/site owner and each part is commented on in detail in Attachment 7 of this report and summarised with a recommendation given below in Part 6 of this report.</p>
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3.0 Referrals and submissions from State Agencies

Condition 3 of the Gateway Determination required consultation with the community and the following State Agencies:

- Transport for NSW;

- Sydney Water;
- NSW Roads and Maritime Services;
- Office of Environment and Heritage;
- Transdev.

Comments from these agencies are as outlined in the tables below. Full copies of the agencies' comments are in **Attachment 6**.

Table 4 - Consultation with Public Authorities

Transport for NSW	Officer comments
State no objection	
Stated: "Resulting buildings are required to have an adequate setback from the TfNSW railways land boundary to enable maintenance. They must not rely on use of railways land". Separate email recommends there should be a minimum of 1.5 m.	<p>Council officer's original position was that there should be a 3m building setback to provide a landscaped backdrop to the GreenWay. However the applicants advised that TfNSW would allow a 1 metre building setback and given this a 3 m setback was not reasonable. Hence the draft DCP control states a minimum upper level building of 1 m but also requires a "green wall" beyond this to provide a backdrop to the GreenWay which will likely mean a 1.2 m setback to the building walls to account for that structure.</p> <p><u>It is recommended that the building setback be a minimum of 1.5 m.</u> This would logically account for room needed for machinery such as a cherry picker platform to access the building walls. The draft DCP should be amended as underlined.</p>

Sydney Water via Urban Growth	Officer comments
No objection was raised.	Noted.

Office of Environment and Heritage (OEH)	Officer Comments
Noted the flood study and illustrative building design and raised no objections to these items.	
<p>Acknowledged that:</p> <ul style="list-style-type: none"> • subject site is not shown on their Aboriginal Heritage Information Management System (AHIMS) register to be in a potential area of aboriginal archaeological sensitivity • subject site is not heritage listed in the Ashfield Local 	<p>It is Council's role as the Planning Proposal Authority to ensure that any objections from a State Agency are addressed. OEH have not objected to the Planning Proposal but have instead made a recommendation as indicated in the left column.</p> <p>The Gateway Determination was issued by DPE without requiring the actions sought by OEH given that the site is not identified as a heritage item or having any archaeological relics and the standard Clause 5.10 of the Ashfield LEP already had provisions for addressing any potential aboriginal archaeology that might be found.</p> <p>Ministerial Direction 9.1 2.3 - Heritage Conservation requires that there are LEP (Planning Proposal) provisions</p>

<p>Environmental Plan (ALEP) 2013</p> <ul style="list-style-type: none"> subject site and surrounding areas and sites have had significant ground level disturbance ALEP 2013 has provisions that provide for Aboriginal Archaeological remains or heritage significance that are applicable at future Development Application Stage <p>The submission suggested that the site is in a potential area of aboriginal sensitivity and there should be an archaeological and cultural heritage assessment, including land excavations prior to rezoning.</p> <p>OEH considers that without such a detailed assessment, the proposal is inconsistent with Ministerial Direction 9.1: 2.3 Heritage Conservation.</p>	<p>in place where there are already <u>identified</u> heritage places or relics or similar in order to protect such items. There is no such identification for the subject site. The site is not identified under the Heritage Act 1977 in its State Heritage Register. It is not identified under the National Parks and Wildlife Act 1974 which deals with aboriginal areas, places and relics. Previous local heritage studies have not identified the site. The proposal is therefore consistent with Direction 2.3.</p> <p>The applicants submitted an Aboriginal Heritage Due Diligence assessment to Council on 22 January 2019 (Attachment 9) prepared by a professional archaeologist. This confirms the site does not require full heritage assessment prior to rezoning. This is primarily because of the very large degree of land disturbance on this site, surrounding sites including the 2.5 hectare former Flour Mill site and the light rail corridor. The assessment also refers to a previous aboriginal heritage study for the adjacent Flour Mill site which included consultation with representatives of the aboriginal community.</p> <p>Clause 5.10 of the Ashfield LEP already protects aboriginal heritage and comes into play when a Development Application is lodged.</p> <p>This clause ensures that Council can require the preparation of a heritage management plan that assesses the extent to which the development might affect aboriginal heritage significance of the site. The OEH recommendation can be addressed through this LEP provision.</p> <p>This is practical since to adequately examine whether a site has archaeological remains that have not yet been discovered first requires the <u>entire site</u> to be examined to a required depth, prior to any land disturbance or commencement of construction. Both of these situations require prior development consent. The Inner West DCP 2016, Chapter E1 Clause 1.6 also protects Aboriginal Heritage. In addition flooding issues on this site mean that there will not be any basement levels and a substantial ground level open void is required under the lower carparking basement level. In this situation there are no obstacles to carefully examining what is under the ground prior to any construction and structural column locations can be adjusted to reflect any archaeological features that might be identified through the DA related investigation.</p>
<p>Recommends that for sustainability reasons a future Development Application should have green walls and green roofs, and advises that green roofs can be used for native plant species and habitat.</p>	<p>There are already numerous interrelated building design matters that must be considered for achieving sustainable building design which are covered by legislation which architects must address. A future development application for residential development must comply with the BASIX SEPP including energy efficiency and water usage. At Construction Certificate stage compliance must be achieved with Australian Construction Code for energy efficiency thresholds. SEPP 65 and the Apartment Design Guide also</p>

	<p>have guidelines for particular building components and location of vegetation.</p> <p>Clause DS1.2 of the DCP recommends a “green wall” along any west side building wall to complement the GreenWay.</p>
<p>Biodiversity - recommends that an ecological study be undertaken prior to removal of any trees from the site, and Council be satisfied removal will not impact on any threatened species or fauna.</p>	<p>The trees are in the TfNSW curtilage and TfNSW can remove them at their discretion. Should this occur any fauna (animals) utilising these trees are able to use the “bushcare site” on the south side of Old Canterbury Road. These trees are also adjacent to high voltage lines and the ground level area has been significantly disturbed by the construction of the light rail tracks and surrounds.</p> <p>Council’s Manager of Trees has advised that the trees are Campher Laurels and Privet species classed as ‘weeds’. Refer to his comments in Part 4 below.</p>

Roads and Maritime Services (RMS)	Officer comments
<p>Did not object to Planning Proposal but stated as follows:</p>	
<p>Would not support future vehicular access off Old Canterbury Road – must be off the private right of way laneway at the rear of 120 A/B Old Canterbury Road.</p>	<p>This is indicated in the draft DCP.</p>
<p>There should be on-site parking.</p>	<p>This is indicated in the draft DCP.</p>
<p>Garbage trucks are not to service (park) along Old Canterbury Road, and are to use the right of way lane at the rear of 120 A/B Old Canterbury Road.</p>	<p>This is indicated in the draft DCP.</p>
<p>Suggest Council put in any DCP maximum carparking controls, and this will encourage use of public transport.</p>	<p>On-site parking requirements for residential flat development are contained in SEPP 65 and the Apartment Design Guide which already references the RMS carparking standards. A DCP cannot be more onerous than these.</p> <p>It is also necessary to recognise that the area already has over 1,000 new apartments in the Flour Mills and McGill Precinct. The former Ashfield and Marrickville Councils and local community raised numerous concerns about loss of on-street parking and additional traffic congestion. In the locality, Council should minimise “spill over” into local residential areas and avoid further loss of on-street local parking.</p>
<p>No stopping should be implemented on Old Canterbury Road from the corner Old Canterbury Road and Edward Street, to approx. 30m west of corner Old Canterbury Road and</p>	<p>Agreed.</p>

McGill Street. This should be indicated in DCP.	
---	--

Transdev	Officers Comment
	No responses were received from Transdev who are responsible for the light rail corridor.

4.0 Staff Comments

Staff comments	Planning Comments
<p>Council Engineer</p> <p>They have assessed the proponents flood report and found it acceptable.</p> <p>Have no objections to the Planning Proposal being finalised.</p> <p>Support the draft DCP and consider the clauses pertaining to carparking design, servicing, truck turning circles within the site and waste collection are essential for future development on the site and catering for the use of the shared right of way in order to minimise any traffic flow disruption.</p> <p>Stated the minimum floor levels stipulated in the applicant's Cardno Flood Report to accommodate flooding must be referenced in the draft DCP as it was on this basis that support was given for the Planning Proposal.</p>	<p>This has been taken into consideration.</p>
<p>Environmental Engineer</p> <p>The SEPP 55 report on potential land contamination (Attachment 10) was examined, found to be sound and following the procedures of the Land Contamination Guidelines for consideration of LEP amendments. Further more detailed investigations will occur at a future development application stage.</p>	<p>This has been taken into consideration.</p>
<p>Urban Forest Manager</p> <p>Advised trees on the site appear to be a mix of Camphor Laurel, Date Palm and Privet, and are not affected by the Ashfield LEP 2013 and the Inner West DCP 2016 for tree preservation. It was noted they contribute to the ecology and canopy cover of the area, and if they were to be retained</p>	<p>As advised above in the report these trees are within the TfNSW light rail corridor and TfNSW can elect to remove them at any time.</p> <p>The current GreenWay Development Application for works on the railways land has shown new dense tree planting in the current open space areas on the west side</p>

<p>that any future buildings will need to be adequately setback to protect those trees.</p> <p>Also advised that the NSW Department of Planning and Environment have announced the '5 Million trees' program which is tasked with the objective of increasing Greater Sydney's tree canopy by 40% by 2030. The Inner West's overall canopy cover is currently under 20%.</p>	<p>of the rail tracks. If the subject trees on the east were removed they could be replaced with suitable tree species.</p>
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5.0 Assessment of Planning Proposal

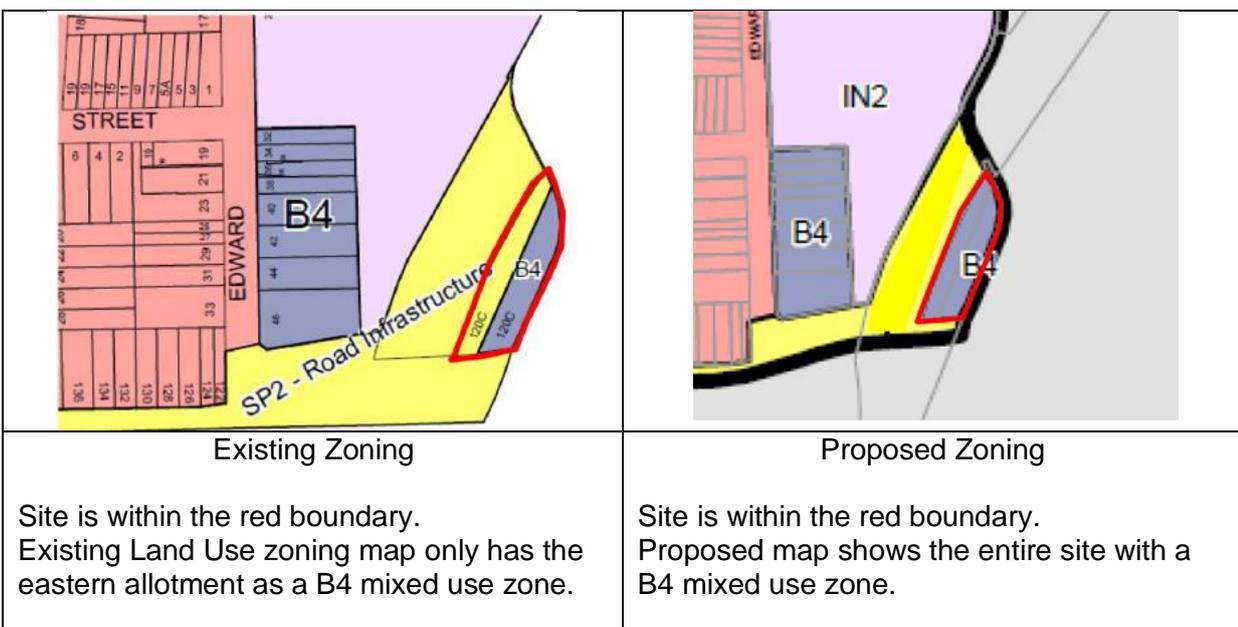
Under Clause 3.35 of the EP&A Act Council as the delegated Planning Proposal Authority is responsible for the content of the Planning Proposal and its adequacy.

An assessment of the updated Planning Proposal against the *A guide to Preparing Planning Proposals 2016* (the Guidelines) is provided in a compliance table (**Attachment 12**). The Planning Proposal complies with the criterion in the Guidelines as indicated in the Attachment, including the relevant State Plans, compliance with State Environmental Plans and being consistent with relevant Ministerial directions.

What follows is a more detailed assessment of the specific salient proposed Ashfield LEP amendments for Land Use Zoning and Development standards for maximum building height and floor space ratio.

5.1 Land Use Zoning

Figure 4 – Existing and Proposed Land Use Zoning



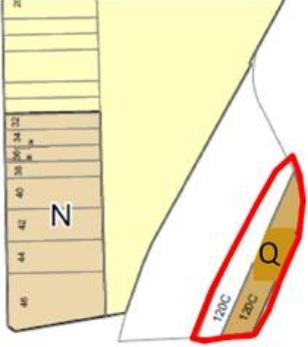
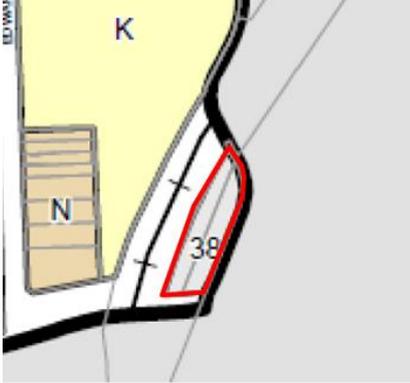
Officer Comment

Amending the western lot to a B4 zone is evidently consistent with the adjacent B4 zone within the same site, consistent with adjacent lots to the east of and around McGill Street, and should be

supported. The land was sold by the State Government to the site owner and should be able to accommodate a viable land use and not left in a vacant, deteriorating state.

5.2 Maximum Building Height

Figure 5 – Existing and Proposed Height

	
<p style="text-align: center;">Existing Height</p> <p>Site is within the red boundary. Existing map shows Code Q which denotes a maximum height of 20 m. This is measured from natural ground level which is mostly on average of RL 9.5 – 10 resulting at approximately RL 30m, or the equivalent of 4 storeys above Old Canterbury Road.</p>	<p style="text-align: center;">Proposed Height</p> <p>Site is within the red boundary. Proposed map shows “38” in grey shade for the site. This denotes RL 38.0 which is the equivalent of 6 storeys above Old Canterbury Road.</p>

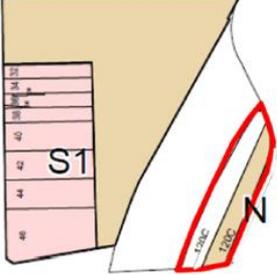
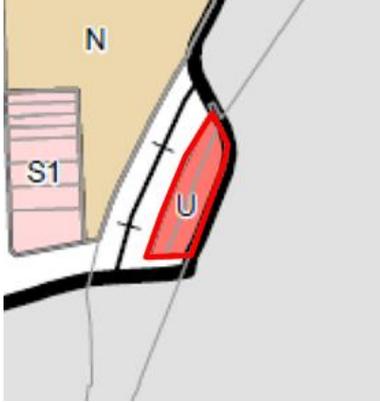
Officer comment

As stated above in **Table 3** (submissions) of this report: The proposed 6 storeys is the same as the neighbouring building at 120 A/B Old Canterbury Road, noting this building has a setback at the 6th level. The draft site specific DCP also calls for a setback at the 6th level of the proposed new building to match the scale set of the adjacent building. The proposed height is compatible with the now established scale of existing buildings along Old Canterbury Road. It would have a modest visual impact on nearby houses to the south in Summer Hill Street as there are already affected by existing buildings. The proposed Maximum Building Height should be supported.

5.3 Maximum Floor Space Ratio

Figure 6 – Existing and Proposed FSR

Item 8

	
<p style="text-align: center;">Existing FSR</p> <p>Site is within the red boundary. Existing map shows Code N which denotes a maximum FSR of 1:1 for the eastern lot part of the site (presently zoned B4 Mixed Use).</p>	<p style="text-align: center;">Proposed FSR</p> <p>Site is within the red boundary. Proposed map shows Code U which denotes a maximum FSR of 2.5:1 over the entire site.</p>

Officer comment:

The Maximum FSR is an LEP development standard which should not be exceeded. It accords with the potential building heights and envelopes illustrated in the applicant’s Design Concept in **Attachment 11** and ensures there would be 2 hours winter solar access solar and adequate building separation to affected apartments at 120 A/B Old Canterbury Road. The proposed Maximum FSR should be supported. At Development Application stage the precise FSR will be established which accommodates all the detailed design issues that must be addressed.

6.0 Draft Site Specific Development Control Plan (DCP)

Council resolved in July 2017 to also exhibit the DCP (**Attachment 2**) to provide key controls to address the unique site constraints, including having building envelopes that achieve adequate amenity, privacy and minimum levels of winter solar access for adjacent apartments. The DCP will ensure that the proposed buildings would be configured to have adequate servicing arrangements and account for flooding by having raised sections.

The site owner has lodged a submission on the draft DCP which is commented on in **Attachment 7**. It essentially seeks to remove key controls. It is considered the content of the DCP should remain substantially as exhibited, except for the minor amendments underlined in the attachment. This response is necessary to ensure adequate solar access and privacy for affected apartments at 120 A/B Old Canterbury Road.

Council should adopt the DCP amendments subject to the minor clerical and information amendments indicated in **Attachment 8**.

8.0 Voluntary Planning Agreement (VPA)

Council’s Properties, Major Building Projects and Facilities Group is responsible for the assessment and processing of any VPA. This is a type of contractual document setting out how a site owner/proponent explicitly and strictly offers to carry out certain works as a result of a particular proposal such as an amendment to a Local Environmental Plan.

A final draft VPA from the site owner was reported to Council on 11 December 2018. Council resolved to have the proposed VPA proceed to exhibition as follows:

1. *Endorsed in principle, subject to The Yard 120C Pty Ltd (the proponent):*
 - a) *Construct a park of approximately 300m² located within the Land and to provide rights of way for public access through the park to the Greenway corridor and the Lewisham Light Rail station from Old Canterbury Road and McGill Street;*
 - b) *Provide 2 studio units which will be allocated to Affordable Housing units. The ownership of the units will be transferred to Inner West Council at the completion of the project;*
 - c) *Community Office Space located within retail Ground Floor – 5 Year Rental Agreement \$1 Peppercorn rent per year – 35sqm office area; and*
 - d) *Provide Council a payment of \$1,045,000 million to be used for public works in the community and surrounding area (Inner West Council will provide a summary of how this payment will be allocated at later date)*
2. *Placed on public exhibition for a minimum of 28 days; and*
3. *Reported back to Council after public exhibition.*

Council's Property Services has advised that the exhibition of the VPA will occur during February 2019.

FINANCIAL IMPLICATIONS

Nil

CONCLUSION

In accordance with the Environmental Planning and Assessment Act 1979 and the "Guide to preparing local environmental plans" this report has considered the submissions made during the Community Consultation Process as discussed in **Part 2** of this report. Concerns raised by adjacent affected apartment residents, including solar access and privacy, will be addressed by the site specific Development Control Plan as discussed in this report. **Part 3** of this report advises that no objections were raised by the Roads and Maritime Services, Sydney Trains, Transport NSW or Transdev. OEH has made a submission and its concerns have been addressed in this report.

The exhibited proposed site specific Development Control Plan and ancillary amendments to the "Inner West DCP 2016" should be adopted by Council as recommended in **Part 6** of this report. This will provide guidelines for ensuring future buildings are designed to have satisfactory impacts on adjacent apartment buildings and the future GreenWay.

A draft Voluntary Planning Agreement (VPA) for 120C Old Canterbury Road was approved for public exhibition by Council on 11 December 2018. Procedurally the gazettal of the Planning Proposal should as far as possible coincide with the legal finalisation of the VPA.

Council should now progress the Planning Proposal to the final stages for the making of the ALEP amendment which includes referral to Parliamentary Counsel. Subject to the exhibition of the VPA and its finalisation, Council should request Department of Planning and Environment to publish the Ashfield LEP amendment on the NSW Legislation website. To enable this process Council should resolve to delegate completion of the LEP making process within the terms of this report to the Group Manager Strategic Planning.

Attachments are available as hard copies in the Council Agenda except for the following which are available online as electronic attachments:

4. Council Report and Minutes of 25 July 2017
5. Gateway Determination and Letter
10. SEPP 55 Report
11. Design Concept Plan
13. Flood Report

The online attachments can be viewed on the following link on Council's website:
<https://www.innerwest.nsw.gov.au/develop/planning/planning-proposals/planning-proposal-tracker/120c-old-canterbury-road-summer-hill>

ATTACHMENTS

1. [↓](#) Planning Proposal Exhibited
2. [↓](#) Site Specific DCP amendments exhibited
3. [↓](#) Proposed LEP Maps
4. [↓](#) Council Report and Minutes of 25 July 2017
5. [↓](#) Gateway Determination and Letter
6. [↓](#) State Agency Submissions
7. [↓](#) Council's response to proponent's draft DCP submission
8. [↓](#) Amendments to the Draft DCP
9. [↓](#) Aboriginal Heritage Assessment
10. [↓](#) SEPP 55 Report
11. [↓](#) Design Concept Plan
12. [↓](#) Planning Proposal Guidelines Assessment
13. [↓](#) Flood Report

 **INNER WEST COUNCIL**

PLANNING PROPOSAL

To amend the Ashfield Local Environmental Plan (LEP) 2013 as it applies to

No. 120C Old Canterbury Road,

Summer Hill

8 October 2018

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Prepared by GSA Planning

ANNEXURES**Annexure A:** List of State Environmental Planning Policies and Responses**Annexure B:** Consideration of Section 9.1 Directions**Annexure C:** Deed of Release from Rail Corporation New South Wales**Annexure D:** Supplementary Photos of Surrounding Development**Annexure E:** Mapping, including proposed Land Use Zone, Maximum Height of Building and Maximum Floor Space Ratio.**Annexure F:** Flood Risk Assessment Report – 23 August 2018**Annexure G:** SEPP 55 Contamination Report**Annexure H:** Design Concept**Item 8****Attachment 1**

1.0 INTRODUCTION

Inner West Council is the Planning Proposal Authority for processing and determining this Planning Proposal.

This Planning Proposal is for the property known as No. 120C Old Canterbury Road, Summer Hill, legally described as Lot 1 in DP 817359 and Lot 100 in DP 875660 (hereafter referred to as the “subject site”).

It is proposed that Inner West Council amend the Ashfield LEP 2013 to rezone the western portion of the subject site (Lot 1 DP817359) from SP2 Infrastructure to B4 Mixed Use as well as alter the FSR and maximum building height across the entire site. This Planning Proposal has been prepared in accordance with and responds to the criterion of the NSW Department of Planning and Infrastructure’s “A Guide to Preparing Planning Proposals”, as indicated in **Part 7** of this report. The subject site comprises two allotments and the LEP currently applies two different zones to each of the allotments. The eastern portion (Lot 100 DP817359) is zoned B4 Mixed Use and the western portion is zoned SP2 Infrastructure.

The Planning Proposal document was originally submitted by GSA Planning consultants acting on behalf of the site owners being “The Yard” PL. and then later revised by the applicant as reported to Council on 25 July 2017 (prior to Gateway Determination). The content and structure of that document has been used by Council, acting as the responsible Planning Proposal Authority (PPA), as the basis for this Planning Proposal document version – 8 October 2018, except for adjustments to make the necessary updating amendments including to reflect the Council resolution of 25 July 2017, Gateway Determination requirements, amendments to Environmental Planning Assessment 2018, the relevant Regional Plan (March 2018) and District Plan (March 2018), and responding to Ministerial Directions. The Department of Planning and Environment advised Council that as they were the PPA it was expected that this occur.

The applicant advises (in italics):

Our clients purchased the western allotment of the subject site from Transport for NSW at or around 2009. At the time of purchase, this land was zoned 5(b) Railway Uses and was subject to an easement in favour of Transport for NSW. This easement has now been extinguished. As part of the translation to the standard instrument, the Ashfield LEP 2013 zoned the site SP2 Infrastructure (Railway). During the preparation of the LEP, the Council resolved to revisit the sites redundant zoning as a separate process, prompting the preparation of this Planning Proposal. The resolution stated, inter alia:

“No change is recommended to the Draft LEP at this time. However, the request can be considered as part of an amendment to a future 2013 Ashfield LEP subject to a planning proposal application with adequate detail and justification being submitted for any variation to FSR.”

As the site is now in the private ownership of our clients is no longer used by a public authority for railway purposes, and is no longer encumbered by an easement for access the SP2 zoning is no longer appropriate. This is the basis to amend the zoning of Lot 1 DP817359. Public benefit will be provided by provided via a through site connection to the greenway.

In recent years, significant development has occurred in the area directly surrounding the site, resulting in a change to character and built form of the locality. This includes at least 10 residential flat buildings or mixed use developments in the vicinity comprising five to

six storeys with an FSR of 2.5-3:1. On this basis we request that Council support this Planning Proposal, which seeks the following:

- Rezone the western allotment from SP2 Infrastructure to B4 Mixed Use to apply consistent zoning to the entire site.
- Apply a maximum height of RL38.0 across the entire site (which accounts for sloping topography and flood affectation).
- Apply an FSR of 2.5:1 across the entire site.

There are compelling planning reasons to support the rezoning as well as increases in height and FSR for the subject site. These include the following: Change in Ownership; Consistency with the current Inner West (Marrickville) Planning Controls; Consistency of FSR with Height Limit; Existing and emerging Character and Context; and Site Suitability.

2.0 LODGEMENT DATE, AMENDMENTS AND RESOLUTION OF COUNCIL

The Planning Proposal was lodged on **16 December 2016**. The proposal initially sought a maximum height of RL46.50 (9 storeys above Old Canterbury Road) and an FSR of 3:1 across the entire site.

The Proposal was put on "upfront Consultation" from **1 February 2017 to 6 March 2017**, in accordance with the policy of the former Ashfield Council which applies to the Ashfield LEP 2013

In **June 2017**, in response to submissions, a revised Planning Proposal was submitted to Council and included that the proposed building height was lowered by 2 floors to a maximum RL of 41.1 and the proposed FSR was reduced to 2.75:1

In **20 July 2017**, the Planning Proposal was considered by Council who resolved to proceed with the Planning Proposal subject to further amendments indicated in the Council report. This has been incorporated into this amended document, with the proposal lowered to a maximum RL of 38.0 (6 storeys above Old Canterbury Road) and maximum FSR of 2.5:1.

Part 2.1- 2.4 of this section of the Planning Proposal provides an overview of amendments made prior to the Council meeting of 25 July 2017 as well as those made following the resolution.

2.1 Preliminary Public Exhibition and Initial Correspondence from Council to applicant prior to Gateway Determination

The Planning Proposal was placed on preliminary public exhibition from **1 February 2017 to 6 March 2017**, where residents were given the opportunity to provide feedback to Council on the proposed changes to the Ashfield LEP.

Following the conclusion of the exhibition period, Council wrote to the applicant on **4 April 2017**. Council's correspondence raised issues relating to submissions, excessive maximum building height and maximum FSR, and impact on adjacent apartment building. A number of submissions were received during the public exhibition period. The majority of submissions raised issues relating to building height and overshadowing. In addition, Council's Architectural Excellence Panel later undertook a site inspection on **6 June 2017**

and delivered a report on **19 June 2017** (their comments are found in the Council report of 25 July 2017).

A further email was received from the applicant by Council on **7 June 17** requesting that for the amended Proposal's justification be updated in terms of providing additional architectural material in particular floor plans to assist in determination of appropriate FSR, revised sections indicating relationship to adjacent buildings and plans accounting for car parking. The architectural material referred above was prepared by Fox Johnston.

The email from Council on 7 June 2017 reiterated that the Planning Proposal should respond to Inner West Council's Affordable Housing Policy.

Clarification was also requested in relation to the intent to express the building height as an RL. The applicant advised that the use of RLs to determine height is a very common practice in urban renewal areas, for example by the City of Sydney in Green Square and often relates to concept envelopes.

2.2 Applicant's Response to Preliminary Exhibition and Amendments

In response to the submissions received during the preliminary public exhibition and comments from Council and the Architectural Excellence Panel (19 July 17), the applicant chose to have the building height lowered by 2 floors to a maximum RL of 41.1 and the FSR was reduced from 3:1 to 2.75:1 for the June 2017 version Planning Proposal.

For the June 2017 version Planning Proposal the illustrative potential building envelope provided as part of the Design Concept (by Fox Johnston Architects) was also reduced and refined to demonstrate that 2 hours of solar access could be achieved to No.120B Old Canterbury Road in accordance with the Apartment Design Guide (ADG). The applicant considered that those amendments appropriately responded to the issues of height and solar access, and minimised any impact to existing dwellings located in the Lewisham Estate Conservation Areas.

The Council officer's report on 25 July 2017 recommended a further reduction in Maximum Building Height and Maximum Floor Space Ratio to respond to scale and height issues, and this was resolved by Council (refer to Council report for more detail). This is reflected in **Part 7.4 -Mapping** of the Planning Proposal.

2.3 Proposed Public Benefit Contribution and GreenWay Works

The applicant advised in the Planning Proposal (June 2017):

The Light Rail Corridor to the west of the subject site is intended to incorporate a portion of the GreenWay which is an environmental, active transport and cultural corridor extending some five kilometres from the Cooks River at Earlwood in the south, to Iron Cove at Haberfield in the north. The GreenWay corridor passes through Canterbury, Marrickville, Ashfield and Leichhardt Council areas of Sydney's Inner West and incorporates Hawthorne Canal and the Rozelle freight rail corridor.

In addition to the documentation surrounding the GreenWay proposal, Inner West Council is currently developing Public Domain Guidelines for the Lewisham West

Precinct. In part, this public domain strategy includes a connectivity diagram. This diagram indicates that the primary GreenWay Shared Path would travel north-south on the western side of the Light Rail Line with a potential secondary path being located on the eastern side of the Light Rail, adjacent to the subject site. It also shows a stairway link from this shared path up to Old Canterbury Rd, adjacent to the overpass.

A contribution could be made to these GreenWay connections to provide public benefit in the immediate locality. This contribution would be subject to a formal Voluntary Planning Agreement (VPA) process however would include the following:

- In kind contribution including construction of stair and public pathway to connect to greenway along the length of the subject site.
- Provision of a secondary through site link from McGill Street, via the access handle, to the GreenWay. This will incorporate public domain and landscape improvements in a 'pocket park' configuration.
- Further monetary contribution of up to \$500,000 towards construction of the GreenWay secondary shared path adjacent to the subject site.

These matters are subject to a formal VPA process and detailed discussions with Council Officers at a later stage. An indicative layout of the proposed linkages has been prepared by Fox Johnston in their Design Concept document and is separately submitted. This is extracted in Figure 1.



Figure 1: Floorplan Showing Through Site Link from McGill St

Note - the means of access from McGill Street to the subject site is only available through a vehicular laneway located on 120 B Canterbury Road for which the applicant has a right of way.

2.4 Inner West Council Affordable Housing Policy

On **28 March 2017**, Council adopted the Inner West Council Affordable Housing Policy. The policy aims to value capture from planning proposals seeking increased height or density. In respect of timing and the application of the policy to Planning Proposals lodged prior to the Affordable Housing Policy coming into effect, the policy states, inter alia:

"Timing - in consideration of reasonableness and equity, the value capture requirement should apply to land that is subject to a proposal for a rezoning or variation to planning controls where that application is received after the Policy is approved by Council. For applications that have been made or are under consideration prior to the Policy's approval, this Policy will provide guidance as to the quantum of affordable housing contribution that is considered to be appropriate."

The applicant advised in August 2017:

As noted in Section 7.0 of the Council Officer's Report of 25 July 17, the subject Planning Proposal was lodged before the Affordable Housing Policy was adopted by Council and as such, the policy applies as a guide only. Notwithstanding this, affordable housing will be negotiated via a Voluntary Planning Agreement (VPA) following Gateway determination in accordance with Council's resolutions.

A Voluntary Planning Proposal for the provision of affordable housing is being considered by Council separately to this Planning Proposal.

3.0 RESOLUTION OF COUNCIL 25 JULY 2017

Inner West Council considered a report on the Planning Proposal at its meeting of 25 July 2017. The Council resolved to support the proposal subject to amendments stating the following, inter alia:

"Council on the 25 July 2017 considered Item No. C0717 Item 7 (Council report) and resolved as follows:

- 1/6 The Planning Proposal be amended to Council's satisfaction addressing the recommendations outlined in this report, including a Maximum Height of Building equating to 6 storeys relative to Old Canterbury Road and a reduced Maximum Floor Space Ratio.*
- 2/6 Council authorises the Interim General Manager to be Council's delegate and use "the Authority" for the processing of the Planning Proposal as outlined in this report.*
- 3/6 On satisfactory completion of Resolution 1 and 2, the Planning Proposal be referred pursuant to Section 56 of the Environmental Planning and Assessment Act 1979 (the Act) seeking a Gateway Determination and for Council to be the Relevant Planning Authority, and requesting the studies identified in the report be produced.*
- 4/6 Council develop a site specific Draft Development Control Plan as outlined in this report and exhibit it concurrently with the Planning Proposal*
- 5/6 Upon receipt of the Gateway Determination the Planning Proposal and draft DCP be put on public exhibition pursuant to the Environmental Planning and Assessment Act 1979 (the Act) .*
- 6/6 Council write to the NSW Roads and Maritime Service and request that an area wide traffic network analysis be prepared for the McGill Street precinct and surrounds to determine local area traffic management opportunities that may be implemented to mitigate and better manage traffic impacts in this locality."*

In accordance with Part 1 of the recommendation, the Planning Proposal has been updated to reflect a six (6) storey building height to Old Canterbury Road at a maximum RL of 38m, and a reduced FSR of 2.5:1, which is the subject of the Planning Proposal Exhibition. Additionally, changes have been made to address the LEP Making and Planning Proposal Guidelines outlined in Table 5 of the Council report. These matters are discussed throughout the remainder of this document.

4.0 SITE ANALYSIS

4.1 The Site

The subject site is located on the northern side of Old Canterbury Road. It is legally described as Lot 1 in DP 817359 and Lot 100 in DP 875660. The subject site is approximately 7km from the Sydney CBD and is within the Local Government Area (LGA) of Inner West Council (see Figure 2).

The site is affected by the Ashfield LEP 2013, is within the boundary of the former Ashfield LGA and affected by the Ashfield Urban Planning Strategy 2010.

The site is irregular in shape with a total area of 1,956m², excluding the right of way (see Figures 3 and 4 on the following page and survey plan separately submitted). The southern end of the site is a steeply sloping site with a fall of approximately 9.83m from Old Canterbury Road. Accordingly, from the opposite side of Old Canterbury Road only the timber boundary fence is visible (see Photographs 1 - 3 on page 7).

Due to the steeply sloping nature of the site, vehicular and pedestrian access is only available via a right of way which forms part of No. 120 Old Canterbury Road. This right of way is accessed from McGill Street, via a bridge over the existing stormwater channel. This bridge was constructed in accordance with DA 283/2013 and Sydney Water's predicted flood levels (see Photograph 4 on page 7). The site is currently vacant, except for a number of shipping containers along the western boundary.

The site was previously burdened with a right of way access easement in favour of Transport for NSW, however this easement has now been extinguished.

The site is within a flood affected zone.

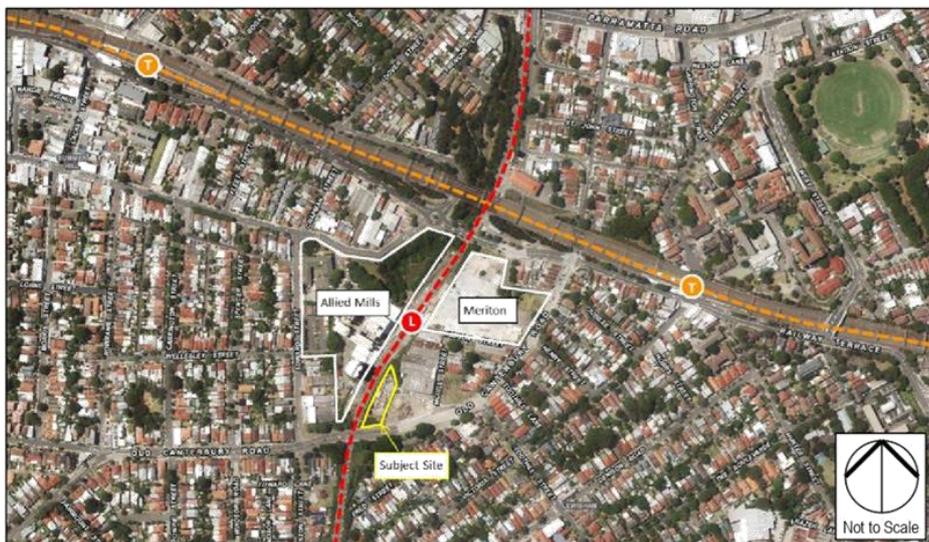
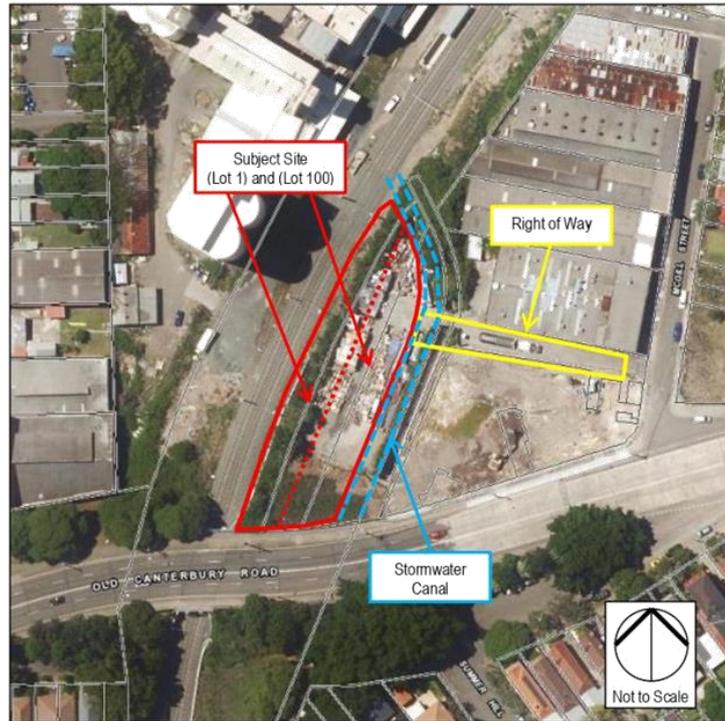


Figure 2: Context Map



(Source: SIX Maps, 2016 – Image dated 6/1/14)

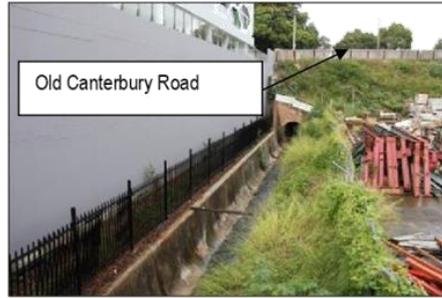
Figure 3: Location Plan



Figure 4: Survey Plan Extract



Photograph 1: The subject site as viewed from Old Canterbury Road



Photograph 2: The subject site looking towards the south



Photograph 3: The subject site as viewed from Old Canterbury Road, with the storm water channel to the east



Photograph 4: Right of way providing access to the subject site

4.2 The Surrounds and Context

The subject site is constrained by a storm water channel to the east, Old Canterbury Road to the south and the Inner West Light Rail Line to the west. The subject site is bounded by former industrial sites to the north and east which is known as the McGill Street Precinct. The majority of these sites have now been approved for residential flat buildings and mixed use developments, with a number of these completed or under construction.

The built form in the surrounding area is changing rapidly and currently comprises a mix of industrial, commercial and newly constructed residential development. More established residential development is evident on the opposite side of Old Canterbury Road. The built form of recently approved developments generally comprises multi storey developments above basement level car parking. The subject site is in close proximity to the Summer Hill Local Business Centre and adjoins Old Canterbury Road, which is serviced by public transport.

Development to the North

To the north are a number of former industrial buildings which form part of McGill Street Precinct (see Photograph 5 on the following page) within the former Marrickville Council area. No. 14 McGill Street, on the opposite side of the right of way, has development approval for a seven storey residential flat building comprising 65 apartments and four levels of basement parking (see Photograph 6 on the following page). The site is

currently under construction.

Further to the north is Nos. 4-12 McGill Street which has development approval for a six storey mixed use building fronting McGill Street and a five storey mixed use building fronting the light rail line. These buildings will comprise 80 apartments, one commercial tenancy to be used as an art and education space.

Further to the north is Nos. 78-90 Old Canterbury Road, also known as 'Luna Lewisham' which is currently being developed by Meriton and nearing completion (see Photograph 6). The site will comprise seven multi storey towers between four to ten storeys which contain 314 dwellings and two levels of basement car parking.



Photograph 5: McGill Street to the north, with various sites either approved for or currently undergoing redevelopment



Photograph 6: Further to the North at Nos. 78-90 Old Canterbury Road, looking north-east from the Light Rail Corridor

Development to the East

To the east is the rear of Nos. 120A and 120B Old Canterbury Road. The recently constructed six storey mixed use development at 120B Old Canterbury Road is reflective of the scale and contemporary style of development in the area surrounding the subject site (see Photograph 7) within the McGill Street precinct.

Further to the east is No. 118 Old Canterbury Road which comprises a recently completed five storey mixed use development comprising 21 apartments (see Photograph 8).



Photograph 7: Six storey mixed use development at Nos. 120A & 120B Old Canterbury Road with an FSR of 2.95:1, as viewed from Old Canterbury Road.



Photograph 8: 5 storey mixed-use development under construction at No. 118 Old Canterbury Road with an FSR of 2.67:1, as viewed from Old Canterbury Road.

Development to the South

To the south is Old Canterbury Road. Further to the south are a number of residential dwellings, these however cannot be seen from the subject site due to dense vegetation (see Photograph 9).



Photograph 9: The opposite side of Old Canterbury Road as viewed from the subject site

Development to the West

To the west is the Inner West Light Rail Line, with Lewisham West Light Rail Station approximately 100m from the site. On the opposite side of the light rail track is the former Allied Mills site at Nos. 2-32 Smith Street Summer Hill (within the former Ashfield LGA) which has masterplan approval for 360 dwellings, 4,000m² of commercial space and 2,500m² of retail space, set within large open space comprising 25 % of the site area. The development is currently under construction. Also to the west on the opposite side of the rail corridor is No. 46 Edward Street. The site has development approval for a four storey residential flat building above two levels of basement car parking comprising 25 apartments (see Photographs 10 and 11).



Photograph 10: Inner West Light Rail Line to the west of the subject site, looking south-east towards the subject site



Photograph 11: Former Allied Mills Site

5.0 PRE-LODGE MENT BACKGROUND

As advised by the applicant:

At or about 2009, Mr. Rick Timperi and Mr. Tyron Timperi purchased No. 120C Old Canterbury Road, Summer Hill. The site comprises Lot 1 DP 817359 and Lot 100 of DP 875660. Lot 1 in DP 817359 was previously owned by Transport for NSW.

On 11 December 2012, a Development Application (DA 144/2011) was approved by Council for the redevelopment of Lot 100 DP 875660 for the purposes of a two (2) storey industrial building with associated facilities. The western portion of the site that is the subject of this Planning Proposal did not form part of the application due to the 5(a) Railway Purposes zoning.

The Draft Ashfield LEP 2012 was on public exhibition between 27 June 2012 and 21 August 2012. During this time, GSA Planning made a submission to the draft LEP, on behalf of the site owners requesting that Council consider rezoning the subject site to B4 Mixed Use as part of the draft LEP. While Council did not resolve to rezone the site as part of the draft, Council resolved to support a Planning Proposal for the subject site. The Council resolution stated the following, inter alia:

"No change is recommended to the Draft LEP at this time. However, the request can be considered as part of an amendment to a future 2013 Ashfield LEP subject to a planning proposal application with adequate detail and justification being submitted for any variation to FSR."

The applicant advised the Planning Proposal application was lodged in light of this recommendation.

6.0 STATUTORY PLANNING CONTEXT

6.1 Ashfield Local Environmental Plan (LEP) 2013

The subject site is located on the boundary of the ex-Ashfield LGA. As indicated, it comprises two allotments with different zonings. Lot 100 DP 875660 (the eastern lot), is zoned B4 Mixed Use while Lot 1 DP 817359 (the western half) is zoned SP2 Infrastructure (see Figure 5).

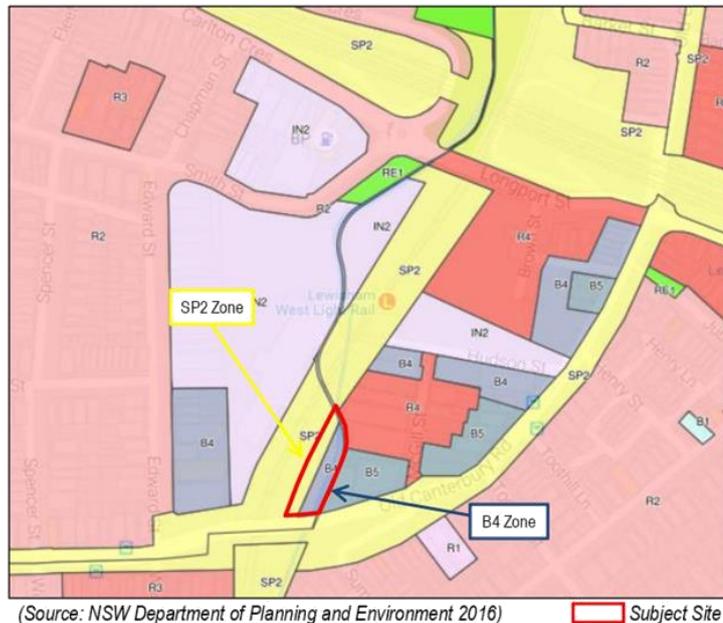


Figure 5: Extract from existing LEP Zoning Maps
(Composite of Ashfield LEP and Marrickville LEP)

6.1.1 B4 Mixed Use Zone – Permissible Uses

The permissible uses for B4 Mixed Use Zone are listed, inter alia:

3 Permitted with consent

Amusement centres; Boarding houses; Car parks; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Exhibition homes; Function centres; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Residential flat buildings; Roads; Seniors housing; Service stations; Storage premises; Shop top housing; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals; Water recycling facilities; Water storage facilities; Wholesale supplies. Any other development not specified in item 2 or 4.

4 Prohibited

Advertisements; Agriculture; Airstrip; Air transport facilities; Animal boarding and training facilities; Boat launching ramps; Boat building and repair facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Crematoria; Depots; Eco tourist facilities; Electricity generating works; Environmental facilities; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Heavy industrial storage

establishments; Helipad; Highway service centres; Home occupations (sex services); Industries; Jetties; Marina; Open cut mining; Mooring; Mooring Pens; Mortuaries; Port facilities; Recreation facilities (major); Restriction facilities; Rural industries; Sewerage systems; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities.

6.1.2 SP2 Infrastructure Zone (Railways) – Permissible Uses

The permissible uses for the SP2 Infrastructure Zone are listed, inter alia:

2 Permitted without consent

Roads

3 Permitted with consent

Building identification signs; Business identification signs; Car parks; Child care centres; Community facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Information and education facilities; Kiosks; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Water recycling facilities. The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

4 Prohibited

Any other development not specified in item 2 or 3.

As outlined the purpose shown on the map for the subject site is 'Railways'.

6.1.3 Floor Space Ratio (FSR) and Building Height

B4 Mixed Use Zone

Under the Ashfield LEP, the portion of the site zoned B4 Mixed Use has a maximum FSR of 1:1 and maximum building height of 20 metres.

SP2 Infrastructure Zone

There is no FSR or height control which applies to the portion of the site zoned SP2 Infrastructure.

6.2 Adjacent Marrickville Local Environmental Plan (LEP) 2011

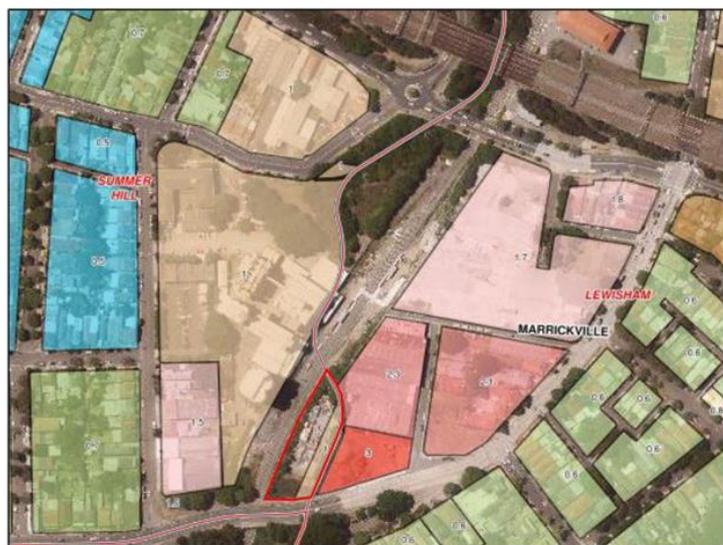
The access handle (refer **Figures 3 and 4**), which includes use as a vehicular laneway and is within the site at 120B Old Canterbury Road, located to the east is within the former Marrickville LGA and subject to the provisions of the Marrickville LEP 2011 which was gazetted on 12 December 2011. The access handle is zoned B5 Business Development under the Marrickville LEP 2011.

Surrounding sites that are subject to the Marrickville LEP 2011 are predominately zoned R4 High Density Residential, B5 Business Development and B4 Mixed Use. The site immediately to the east (which is under the Marrickville LEP) has an FSR of 3:1 and height limit of 20m. The height and FSR of surrounding sites are shown in Figures 6 and 7 on the following page.



(Source: NSW Department of Planning and Environment 2016) Subject Site

Figure 6: Diagrammatic extract from existing LEP Height Maps
(Composite of Ashfield LEP and Marrickville LEP)



(Source: NSW Department of Planning and Environment 2016) Subject Site

Figure 7: Diagrammatic extract from LEP FSR Map
(Composite of Ashfield LEP and Marrickville LEP)

7.0 PLANNING PROPOSAL

This section has been prepared in accordance with the NSW Department of Planning and Infrastructure's, "A Guide to Preparing Planning Proposals" which includes: the Objectives and Intended Outcomes; an Explanation of the Planning Provisions; a justification; and consideration of DoPE Guidelines.

7.1 Part 1 - Objectives or Intended Outcomes

This section sets out the objectives or intended outcomes of the planning proposal and comprises a statement of what is planned to be achieved, not how it is to be achieved.

The objective of this Planning Proposal is to provide for medium to high density residential development in an appropriate location.

The intended effect of this planning proposal is to amend the Ashfield LEP 2013 to apply consistent zoning, FSR and Height provisions to the land known as No.120C Old Canterbury Road, being Lot 1 in DP 817359 and Lot 100 in DP 875660.

The intended outcome is to increase the density on the subject site to provide opportunities for additional dwellings, in accordance with Council's opportunity sites and housing targets set by the NSW State Government.

By increasing the maximum height and FSR, the development potential of the site and housing opportunities also increase. Increased densities around and near transport nodes, particularly Lewisham West Light Rail Station and near Lewisham Railway Station, is consistent with good planning practise with regard to transport oriented development.

7.2 Part 2 - Explanation of the Planning Provisions

The intended outcomes will be achieved by amending the zoning, FSR provisions and maximum building heights that apply to the subject site. The Planning Proposal requests the following amendments to the Ashfield LEP:

- Amend the Land Zoning Map to apply a B4 Mixed Use Zoning to Lot 1 DP 817359;
- Amend the Height of Buildings Map to apply a maximum height of buildings of RL 38.00 across the entire site;
- Amend the Floor Space Ratio Map to apply an FSR of 2.5:1 to both lots comprising No.120C Old Canterbury Road Lot 1 DP 817359 and Lot 100 of DP 875660).

Refer to **Part 7.4** and **Annexure E** for the proposed Maps.

7.2.1 Height Limit based on RLs

As the site slopes significantly and is affected by stormwater and flooding, it is proposed that the maximum building height be represented as a maximum RL on the LEP mapping rather than a height in metres above existing ground level. This approach has been adopted and approved by the Department of Planning and

Environment in the past for sites, particularly in areas of concentrated urban renewal.

This includes Green Square, Harold Park and areas of Waterloo within the City of Sydney and the North Sydney CBD within the North Sydney LEP 2013. Similarly in the Inner West LGA, the Victoria Road Precinct Planning Proposal includes RL's as the maximum building height for some areas of the precinct.

The applicant advises that the proposal proposes a public benefit by providing a through site link to the Greenway which runs adjacent to the Lewisham Light Rail Station, by having access from McGill Street from the laneway at 120B Old Canterbury Road.

7.3 Part 3 - Consideration of NSW Department of Planning and Environment Guidelines

This section assesses the planning proposal against the matters contained in the NSW DoPE Guide to Preparing Planning proposals, in its **clause 2.3 - Part 3 – Justification**, which requires a response to specific questions indicated below.

(2.3.1) Questions to consider when demonstrating the justification

Section A - Need for the Planning Proposal

Question 1 - Is the planning proposal a result of any strategic study or report?

The proposal is not part of any strategic study or report.

The eastern allotment was formerly owned by the State Government (Sydney Trains), and later acquired by the present owners, and the easement over the property benefiting Transport for NSW was later released. The land was zoned SP2 Infrastructure in the Ashfield LEP 2013, reflecting the then Railways Corridor use. This no longer reflects the use of the land, and so this needs to be corrected.

It is also relevant that the site was considered as part of the reporting to the former Ashfield Council on the exhibition of the Draft Ashfield LEP 2012. At the time the site owners requested Council to reconsider the Land Use Zoning and Development Standards. Council resolved to receive a future Planning Proposal that would put forward suitable amendments for Council to consider.

The applicant advises:

The Planning Proposal has resulted from a recommendation of the former Ashfield Council following the exhibition of the Draft Ashfield LEP 2013. As part of the transition to the standard instrument, the Ashfield LEP 2013 zoned the site SP2 Infrastructure (Railway). A submission was made by the owner of the subject site during this transition process to rezone the western allotment. During the preparation of the LEP, the Council resolved to revisit the sites redundant zoning as a separate process, prompting the preparation of this Planning Proposal. The resolution stated, inter alia:

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"No change is recommended to the Draft LEP at this time. However, the request can be considered as part of an amendment to a future 2013 Ashfield LEP subject to a planning proposal application with adequate detail and justification being submitted for any variation to FSR."

In addition, the proposed rezoning from SP2 to B4 is compatible with the Ashfield Council Urban Planning Strategy for that area and matches the zoning of adjacent sites within the former Marrickville LGA.

Question 2 - Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, implementation of the objectives and intended outcomes requires amendments to the Land Use zonings and Development Standards of the Ashfield LEP 2013.

The Planning Proposal facilitates the site specific changes to planning controls that have been requested without compromising the integrity of the Ashfield LEP 2013.

Section B - Relationship to Strategic Planning Framework

Question 3 - Is the planning proposal consistent with the objectives and actions contained within the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

Assessment Criteria

3a Does the proposal have strategic merit? Is it:

Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or

Response:

- (I) Directions for a Greater Sydney (July 2017) . The Directions include the following:
1. A city supported by infrastructure;
 2. A collaborative city;
 3. A city for people;
 4. Housing the city;
 5. A city of great places;
 6. A well connected city;
 7. Jobs and skills for the city;
 8. A city in its landscape;
 9. An efficient city;
 10. A resilient city.

The Proposal is consistent with the Directions for a Greater Sydney, including "Housing the City".

The Gateway Determination requires a response to the Draft Greater Region Plan 2017, noting this has now been superseded, the Proposal complies with that document.

In accordance with the Environmental Planning and Assessment Act as amended in March 2018, the following Greater Sydney Regional Plan and District Plan apply:

(ii) Greater Sydney Region Plan: "A Metropolis of Three Cities" (18 March 2018)

The Proposal is consistent with the Plan including the following Parts.

Part 4 – Liveability Housing the city	
Objective 10 - Greater Housing Supply	The proposal will provide more housing supply, in the established McGill Street precinct growth area.
Objective 11- Housing is Diverse and Affordable	A separate Voluntary Planning Agreement is proposed for provision of affordable dwellings. There will also be opportunities for a mix apartment sizes including studios or one bedroom apartments.

A city of great places	
Objective 12- Great places that bring people together	<p>The proposal's development standards are:</p> <ul style="list-style-type: none"> - Compatible in height with the building at 120B Old Canterbury Road and being of an equal number of storeys relative to Old Canterbury Road. - Via a site specific Development Control Plan, will be able to accommodate a floor space ratio which is contained within building envelopes that provide 2hrs winter solar access to apartments 120B Old Canterbury Road. <p>The Planning Proposal creates potential to provide a linkage to the Greenway corridor, and linkage from Old Canterbury Road, as demonstrated in the illustrative Design Concept and reinforced in the site specific Development Control Plan. It will also provide surveillance of the Greenway corridor and surrounding public areas improving public safety.</p>

Part 5 – Productivity A well connected city	
Objective 14- Integrated land use and transport creates walkable and 30-minute cities	<p>The proposal is within:</p> <ul style="list-style-type: none"> - Close vicinity to the Lewisham light rail station and Lewisham train station. - 10 -15 minutes walk to the Summer Hill shopping centre - Nearby local public primary and high schools - 20 minutes walking distance of local parks.

Jobs and Skills for the city	
Objective 23 Industrial and urban services land is planned, retained and managed	The site does not have any land used for any substantial "industrial" or "urban services" land uses that would be removed, and so does not compromise this objective.

Prepared by GSA Planning

Part 6 Sustainability A city in its landscape	
Objective 28 – Scenic and Cultural Landscapes are protected Objective 31 Public Open Space is accessible, protected and enhanced, and Objective 32 .The Green Grid links paths, open spaces, bushland, and walking and cycling paths.	The site is parallel to the Greenway corridor. It creates potential to provide a linkage from McGill Street to the Greenway corridor, and linkage from Old Canterbury Road, as demonstrated in the illustrative Design Concept and reinforced in the site specific Development Control Plan. The Greenway corridor is part on the Eastern District’s “Green Grid” indicated in the E17 of the District Plan.

In accordance with the amendments to the Environmental Planning and Assessment Act in March 2018, the following District Plan applies:

(iii) District Plan: “Eastern City District Plan” (18 March 2018)

The Proposal is consistent with the Plan including the following Parts.

Part 3 - Liveability	
Planning Priority E5. Providing housing supply, choice and affordability with access to jobs, services and public transport.	The proposal will provide more housing supply, in the established McGill Street precinct growth area.
Objective 11- Housing is Diverse and Affordable	A separate Voluntary Planning Agreement is proposed for provision of affordable dwellings. There will also be opportunities for a mix apartment sizes including studios or one bedroom apartments.

Part 4 Productivity	
Planning Priority E10 Delivering integrated land use and transport planning and a 30 minute city	The proposal is within: <ul style="list-style-type: none"> - Close vicinity to the Lewisham light rail station and Lewisham train station. - 10 -15 minutes walk to the Summer Hill shopping centre - Nearby local public primary and high schools - 20 minutes walking distance of local parks.

Part 5 Sustainability	
Planning Priority E16 – Protecting and enhancing scenic landscapes Planning Priority E17 Increasing urban tree canopy cover and delivering Green Grid Connections	The proposal has potential to contribute connectivity to the Eastern Districts Green Grid network identified in Figure 1 of Planning Priority E17 as part of the Greenway corridor.

Consistent with a relevant local council strategy that has been endorsed by the Department; or

Response:

The Ashfield Urban Planning Strategy 2010 was approved by the Department of Planning and the B4 land use proposed for the western allotment is consistent with that Strategy since it mirrors the adjacent eastern portion land zoning.

- *Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.*

Response:

The Planning Proposal seeks to address a change of circumstances, being that the existing SP2 Infrastructure use of the western portion of the site is now redundant, that the State Government transferred ownership chose to dispose of the land to a privately owned company, and that a new land use is required to enable orderly development of the site.

- *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 can clearly justify that it meets the Strategic Merit Test.*

Response:

The Ashfield LEP was gazetted in Dec 2013, and is less than 5 years old. The Planning Proposal can be considered given that Council (former Ashfield Council) resolved in 2013 to receive a future Planning Proposal that would put forward suitable amendments to the Ashfield LEP 2013. The Planning Proposal also seeks to address a change of circumstances, being that the SP2 Infrastructure use of the western portion of the site is now redundant, and a new land use is required to enable orderly development of the site.

Question 3b. Does the proposal have site-specific merit, having regard to the following:

- *the natural environment (including known significant environmental values, resources or hazards) and*

Response:

*The site is subject to flooding and this is discussed in **Annexure B** dealing with Ministerial Directions, and which references a detailed report contained in **Annexure F**. A SEPP 55 Contamination Report is contained in **Annexure G**.*

- *the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and*

Response:

The site has no significant building and is mostly unused at the present.

There will be an affectation to the existing apartments at 120B Old Canterbury Road, and future apartments under construction at 12 McGill Street, in terms of ensuring they receive adequate levels of solar access, and that there is adequate building separation. The Design concept demonstrates that it is possible to have building envelopes which will provide minimum winter solar access and adequate building separation in accordance with the Apartment Design Guide (SEPP 65), and that this generally corresponds with the proposed Maximum Floor Space Ratio.

- *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.*

Response:

There are existing water and sewerage services, and roadways for vehicular access. There are nearby primary and high schools, and public transport including bus and rail.

The applicant advises:

The proposal appropriately responds to the existing natural environment of the site, including constraints relating to flooding. This is expanded upon in the consideration of Section 9.1 directions. The existing and likely future uses of land in the vicinity of the proposal has been one of the major factors for the planning proposal, with the proposed rezoning and development standards consistent with surrounding land uses and scale of development. This is demonstrated in the Concept Architectural Plans prepared by Fox Johnson Architects and discussed further in Section 8 of this report. As noted, the proposal is in close proximity to existing light and heavy rail stations, with these facilities available to meet the transport demands arising from the proposal whilst financial arrangements for infrastructure provision are discussed in Section 2.3 of this report.

Question 4 - Is the planning proposal consistent with Council's local strategy or other local strategic plan?

The Ashfield Urban Planning Strategy sets a B4- Mixed Use land use zoning for the Edward Street area near the site, this is reflected in the Ashfield LEP 2013 for the easterly portion of the site which has a B4 zoning. Rezoning of the westerly lot to a B4 land use zoning is therefore consistent with this strategy.

With regard to contextual considerations and the maximum proposed building height, the site is adjacent to properties found in the area for the former Marrickville LGA which are affected by the following: The Marrickville Development Control Plan (DCP) 2011, Part 9.45 – McGill Street, limits building height in this part of Old Canterbury Road to 5 storeys, (that DCP technically does not apply to 120C Old Canterbury Road which is in the former Ashfield LGA). However a precedent for maximum building height has been set with the construction of 120B Old Canterbury road which has established a 6 storey scale, with the 6th storey having a building setback to Old Canterbury Road so as to present visually a 5 storey form along the road.

The applicant advises: *Yes. The Ashfield LEP 2013 has been informed by the Ashfield Urban Planning Strategy which was adopted by Council on 28 September 2010. The site is located in close proximity to the Allied Mills site which is identified as a key urban renewal site. In addition, the location of the subject site adjacent to the existing Light Rail line and proposed location of the Cooks River Greenway provides a highly connected strategic location.*

It is proposed that part of the northern portion of the site could form a pocket park adjacent to the greenway, whilst connections through to the greenway through the site would also be facilitated, in accordance with Council's Draft Greenway Program of May 2017 (see Architectural Drawings separately submitted).

The area to the west of the subject site is also identified as key employment land in the Ashfield Urban Planning Strategy. In our opinion, the proposed consistent application of a B4 Mixed Use zoning will provide additional employment opportunities, satisfying the intent of the Ashfield Urban Planning Strategy.

Question 5 - Is the planning proposal consistent with applicable State Environmental Planning Policies?

There are a number of State Environmental Planning Policies (SEPPs) that apply to the subject site which are listed in **Annexure A** where their relationship with the Planning Proposal is discussed, and the Planning Proposal is found to be consistent. This includes responding to State Environmental Planning Policy no 55 as required by the Gateway Determination.

Question 6 - Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

There are a number of Section 9.1 directions that apply to the subject site which are listed in **Annexure B** where their relationship with the Planning Proposal is explained. The Proposal is found to be consistent with the Directions, except for :

The Proposal is inconsistent with direction "4.3- Flood Prone Land". The requirements of this Direction are explained in **Annexure B**. It explains that a Flood Risk Assessment Report (**Annexure F**) has been provided, assessed by Council Engineers and the Department of Planning and Environment, and is considered that the inconsistency is of "minor significance".

Section C - Environmental, Social and Economic Impact

Question 7 - Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, would be adversely

affected as a result of the proposal?

No. The subject site is within an established urban area and is not identified as having any ecological significance. An assessment of the environmental impacts of any future development of the site would be undertaken at development application stage.

Question 8 - Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The planning proposal will not result in any environmental impacts. Any impacts associated with the future redevelopment of the site would be considered at development application stage.

Question 9 - Has the planning proposal adequately addressed any social and economic effects?

The planning proposal would have a positive social impact in terms of providing more housing, including the potential for affordable housing in accordance with Council's Affordable Housing Policy.

The proposal will not have any adverse economic impacts-effects.

The applicant has advised:

It is our opinion that the proposal would have a positive social and economic impact. As outlined, rezoning the subject site would allow for its orderly development in accordance with the provisions of the Environmental Planning and Assessment Act 1979 as well as relevant Local and State planning policies and strategies.

Section D - State and Commonwealth Interests***Question 10 - Is there adequate public infrastructure for the planning proposal?***

The site has restricted vehicular access, with the main part of the site being approx. 7.5 - 8 metres below Old Canterbury Road.

The site relies for vehicular access on laneway on the property at 120B Old Canterbury Road, where the site owner advises he has a Right of Way enabling use of the laneway. There is a bridge structure constructed between the laneway and the site, which spans over the canal zone separating the two properties.

The applicant advises:

The subject site is currently serviced with adequate water, sewer and electricity infrastructure to service any future development. Furthermore, the proposal is located within close proximity to a variety of public transport connections including the bus network operating along Old Canterbury Road, Lewisham Railway Station and Lewisham West Light Rail Station. These would increase the transport sustainability of the proposal.

Question 11 - What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

In accordance with the Gateway Determination, the following public authorities are to be consulted.

- Transport for New South Wales
- Sydney Water
- NSW Roads and Maritime Services
- Office of Environment and Heritage

7.4 Part 4 – Mapping

In order to give effect to the planning proposal, a number of mapping amendments are required which are contained in **Annexure E** and summarised in **Table 1**.

Ashfield LEP Map Sheet Number	Proposed Amendments
Land Zoning Map Sheet LZN_002	Rezone the western portion of No. 120C Old Canterbury Road from SP2 Rail Infrastructure to B4 Mixed Use. The eastern portion will remain unaltered as B4 Mixed Use.
Height of Buildings Map Sheet HOB_002	Apply a Maximum Height of Building of RL 38.0 to the entire subject site.
Floor Space Ratio Map Sheet FSR_002	Apply a Maximum Floor Space Ratio of 2.50:1 to the entire subject site.

7.5 Part 5 – Community Consultation

The requirements for community consultation have been determined by the Gateway Determination issued by the NSW DoPE.

The Planning Proposal is to be exhibited by Council for a minimum of 4 weeks.

8.0 ADDITIONAL INFORMATION

Parts 8.1- 8.8 below, pages 29 to 42, consist of additional comments provided by the applicant's town planner in the Planning Proposal version as considered by Council in 2017. They include extracts of the Design Concept version from 2017 for illustrative purposes.

The applicant advises:

In our view, there are a number of compelling planning reasons to support the subject being considered for rezoning and associated planning control changes. The reasons include the following:

1. *Redundancy of Special Use Zone;*

2. *Consistency with the current Marrickville Planning Controls;*
3. *Consistency of FSR with Height Limit*
4. *Character and Context;*
5. *Site Suitability.*

These will now be discussed below.

8.1 Redundancy of Special Use Zone

The western portion of the subject site has been sold by Transport for NSW and has been in private ownership since around 2009. On this basis, the SP2 Infrastructure Zone is redundant.

Rezoning the site from SP2 Infrastructure to B4 Mixed Use can predominately be justified on the basis of the change of ownership. As outlined, the site is located on the western portion of the site, adjoins railway tracks and was previously owned by Transport for NSW. This particular site has been purchased outright by our clients who intend to amalgamate the lot with Lot 100 DP 875660 to the east. As the western allotment is now in freehold private ownership, an infrastructure zoning is inappropriate. The deed of release from Rail Corporation New South Wales for the previously held easement is attached as Annexure C.

As both lots will now be under the same ownership, a rezoning to provide consistency between planning controls is considered appropriate. The proposed rezoning, and application of FSR and height controls, which will be discussed below, will encourage further development to revitalise an important area in the LGA.

8.2 Consistency with Current Marrickville Planning Controls

As stated, the access handle is located in the former Marrickville LGA and subject to the Marrickville LEP 2011 and Marrickville DCP 2011. Marrickville Council has gazetted planning controls which upzone and increase the density of properties surrounding the access handle and the subject site.

More importantly, No. 120 and 120B Old Canterbury Road have both been prescribed a height limit of 20m and a maximum FSR of 3:1. These sites are also identified as Key Sites and their redevelopment for the purposes of a six storey mixed use development has recently been completed. As will be discussed, the area surrounding the subject site is currently undergoing significant revitalisation.

8.3 Consistency of FSR with Height Limit

The Ashfield LEP applies a height limit of 20 metres to the eastern portion of the subject site however applies only a 1:1 FSR. It is our submission that a 1:1 FSR for a site with a height limit of 20 metres is a planning anomaly and this should be revised. This will provide consistent built form and height along Old Canterbury Road and result in a high quality urban design outcome.

8.4 Character and Context

The surrounding development comprises predominately new residential flat buildings with some mixed-use buildings comprising commercial uses on lower floors. A small number of existing industrial uses are also still prevalent. Low density

housing is located further to the east and south.

As previously indicated, the site is in close proximity to a number of approved and proposed Major Projects. These include the Allied Mills Site; Lewisham Estate and the Inner West Light Rail.

The Allied Mills Site is located on the opposite side of the light rail track to the west and comprises approximately 380 new dwellings; 3,500 – 4,000m² of commercial space; 450 – 500 car parking spaces and 8,400m² of public open space.

The Lewisham Estate is located approximately 100m north east of the subject site. This project includes seven multi-storey towers ranging from four to ten storeys, with 314 dwellings and 113m² of retail space.

Construction of the Inner West Light Rail extension is completed and has been operating since March 2014. The extension provides light rail access from Dulwich Hill to the City via Lilyfield. The aim of the project is to accommodate for increased patronage as a result of the Metropolitan Strategy and various housing targets set out by the Department of Planning. Undoubtedly, the addition of public transportation and increased convenience to the CBD will attract a greater number of people to the locality.

As the site is in close proximity to a number of mixed use buildings, it is likely to form a nodal point for the area. A number of properties in the vicinity of the area have been approved for redevelopment. These are shown in Figure 8 and detailed in Table 2 on the following page. Images of these redevelopments are shown in Photographs 12 to 22 on pages 21-26.



Figure 8: Proximity of Approved Mixed Use Buildings
(refer to Table 2 for detailed information of each site)

Table 2: Recent Approved Development in the Vicinity of the Area			
	Property Address	Status	Description
A	Allied Mills Site – Nos. 2-32 Smith Street	Approved DoP 7 December 2012	Masterplan approval for 360 dwellings and up to 33,500m ² GFA; 4,000m ² of commercial floor space; 2,500m ² of retail floor space
B	Meriton Site – Nos. 78-90 Old Canterbury Road	Approved 22 December 2014, multiple s96 modifications have followed	7 multi-storey buildings, between 4 & 10 storeys, over 2 levels of basement car parking, containing 314 dwellings
C	Nos. 4-12 McGill Street	Approved JRPP 28 July 2016	6 storey building fronting McGill Street and a 5 storey building fronting the light rail line containing a total of 80 dwellings and 1 commercial tenancy
D	No. 14 McGill Street	Approved LEC, Multiple s96 modifications under assessment	7 storey residential flat building containing 65 dwellings with 4 basement car parking levels
E	Nos. 120A & 120B Old Canterbury Road	Approved 13 February 2013	6 storey mixed use development, nearing completion
F	Nos. 1-5 McGill Street and Nos. 102-106 Old Canterbury Road	Deferred commencement consent granted 15 April 2015	5 storey mixed use development consisting of 55 apartments across 3 towers
G	Nos. 7-15 McGill Street	Approved 13 May 2015	6 storey residential flat building consisting of 42 units
H	Nos. 17-21 McGill Street and Nos. 114-116 Old Canterbury Road	Deferred commencement consent granted 11 December 2014	6 storey residential flat building and 5 storey mixed use building resulting in a total of 39 units
I	No. 118 Old Canterbury Road	Approved 11 December 2013	5 storey mixed use development consisting of 21 units
J	No. 46 Edward Street	Approved 23 February 2016	4 storey residential flat building comprising 25 units

In addition to the images and montages contained in this section, supplementary photographs of development that has already occurred in the area are attached at Annexure D.



Planning Proposal for Planning Control Changes
No. 120C Old Canterbury Road, Summer Hill - Job No. 12193

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Photograph 12: A – Photomontage of former Allied Mills site at Nos. 2-32 Smith Street
Source: www.domain.com.au



Photograph 13: A – Photomontage of former Allied Mills site at Nos. 2-32 Smith Street
Source: www.domain.com.au



Photograph 14: A – Photomontage of former Allied Mills site at Nos. 2-32 Smith Street

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Photograph 15: B – Photomontage of Nos. 78-90 Old Canterbury Road



Photograph 16: B – Photomontage of Nos. 78-90 Old Canterbury Road
Source: Meriton

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Photograph 17: C – Photomontage of Nos. 4-12 McGill Street
Source: Tony Owen Partners



Photograph 18: D – Photomontage of No. 14 McGill Street
Source: www.domain.com.au

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Photograph 19: E - Photomontage of Nos. 120A & 120B Old Canterbury Road
Source: Tony Owen Partners



Photograph 20: F - Photomontage of Nos. 1-5 McGill Street
Source: Binyan Studio



Photograph 21: G - Photomontage of Nos. 7-15 McGill Street
Source: Chanine Design



Photograph 22: H - Photomontage of Nos. 17-21 McGill Street
Source: Binyan Studio



Photograph 23: I - Photomontage of No. 46 Edward Street
Source: Town Owen Partners

It is also noted that B4 Zoned sites on Edward Street, in close proximity to the subject site, currently have an FSR of 1.5:1 under the Ashfield LEP 2013.

On this basis, the proposed rezoning, height limit and increase in density is, in our opinion appropriate for the subject site.

8.5 Site Suitability

The subject site has a total area of 1,956.8m², excluding the right of way. By virtue of its size, the subject site provides greater development potential in terms of site layout (see Figure 10 below and Figure 11 on the following page).

It is considered that zoning the entire site to B4 Mixed Use, applying a height limit of RL 38.0 and increasing the FSR to 2.5:1 will ensure that future developments provide an appropriate contextual fit with the other projects to the west and north of the subject site.

In addition, as there is a 7.52m fall from Old Canterbury Road to the mid-section of the subject site, an increase in density and height would be appropriate for the area. Any proposed development is likely to respond to the topography and not present as overly bulky in the streetscape.

Also as indicated, the subject site is in close proximity to public transport and established infrastructure and services. Increasing the density of this site is consistent with the Metropolitan, Subregional, local and masterplan Strategies and promotes sustainable and public transport oriented development. Changes to the planning controls for the subject site will provide additional housing in a transition area which will become a transport hub for the inner west.

Section 5 of The Environmental Planning and Assessment Act 1979 provides the objectives for the Act, which is stated, inter alia:

- (a) to encourage:
 - (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities,

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towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
(ii) the promotion and co-ordination of the orderly and economic use and development of land,

The proposed planning control changes to the subject land will create a redevelopment site that is a more economic use of the land. A redevelopment site with higher densities will provide additional employment floor space close to public transportation and services. This will have social, economic, community and environmental benefits, which will assist Council in satisfying the objectives of the Metropolitan, Subregional Strategy, Urban Strategy and the Environmental Planning and Assessment Act.

Detailed modelling has been undertaken by Fox Johnston Architects for the subject site to determine an appropriate height and density. As indicated, this includes careful consideration of Apartment Design Guide compliance including separation distances and solar access to adjoining properties. This has resulted in a concept envelope with a maximum RL of 38.0 to Canterbury Road, stepping down to an RL of 31.8 at the northern end of the site (see Figures 9 to 14 on the following pages).

The subject site is adjacent to the existing Light Rail line and proposed location of the Cooks River Greenway. This is a highly connected strategic location. It is proposed provide a public benefit via the creation of a through site link to the greenway. It is proposed that part of the northern portion of the site could form a pocket park adjacent to the greenway, whilst connections through to the greenway through the site would also be facilitated, in accordance with Council's Draft Greenway Program of May 2017 (see Architectural Drawings separately submitted).

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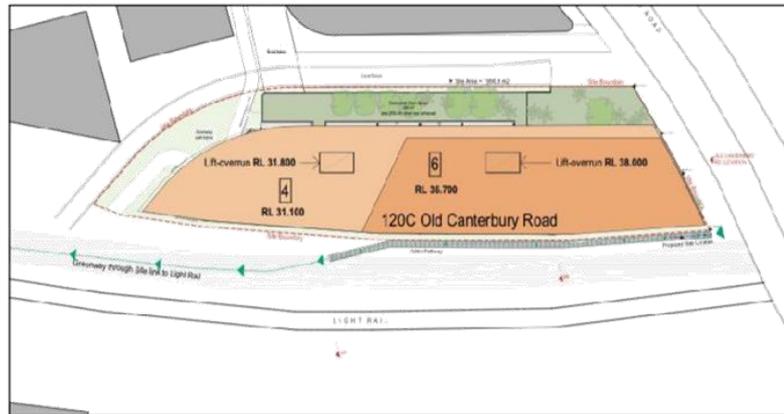


Figure 9: Indicative Building Footprint



Figure 10: Indicative Elevation Viewed from Old Canterbury Rd
(Note Separation Distances and Step Down)

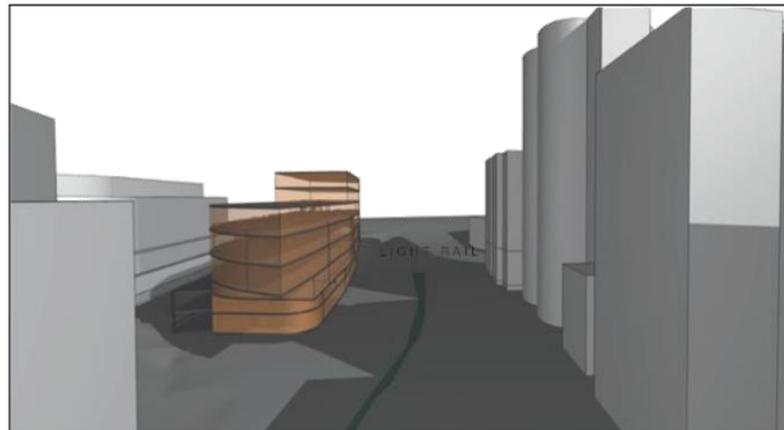


Figure 11: Building Envelope Viewed Light Rail Corridor (Rear)
(Note Separation Distances and Step Down to Rear)

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Item 8

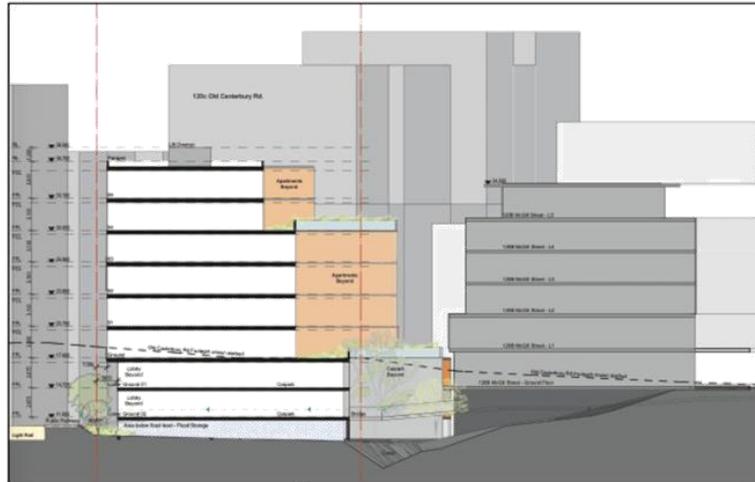


Figure 12: Indicative Section Through Building Massed to Old Canterbury Rd



Figure 13: Indicative Section Through Northern End of Site



Figure 14: Indicative Photomontage from Old Canterbury Rd

Attachment 1

8.6 Consideration of Architectural Excellence Panel Report

The Planning Proposal was referred to Council's AEP who undertook a site inspection on the 6 June 2017. The AEP report was received on 19 June 2017 and has made a number of recommendations which will be briefly considered below:

Urban Design Study

An assessment of the Urban Design issues in the locality has been undertaken by Fox Johnston architects and is separately submitted. As outlined throughout this report, the area has been subject to significant development activity in recent years and the subject site is now anomalous in the context of the surrounding area. The urban design study that has been prepared draws on the following key aspects:

- Providing ADG compliant solar access to neighbouring developments (including the childcare centre) and the subject site;
- Transitioning from higher western buildings to the six storey zone to the east;
- Providing a public connection to the greenway;
- Ensuring high quality façade treatment to the greenway; and
- Maintaining the street setback alignment.

As shown in the 3D Perspective below, which models the approved and constructed built forms in the locality, the proposal is clearly in context with the surrounding development pattern (see Figure 15).

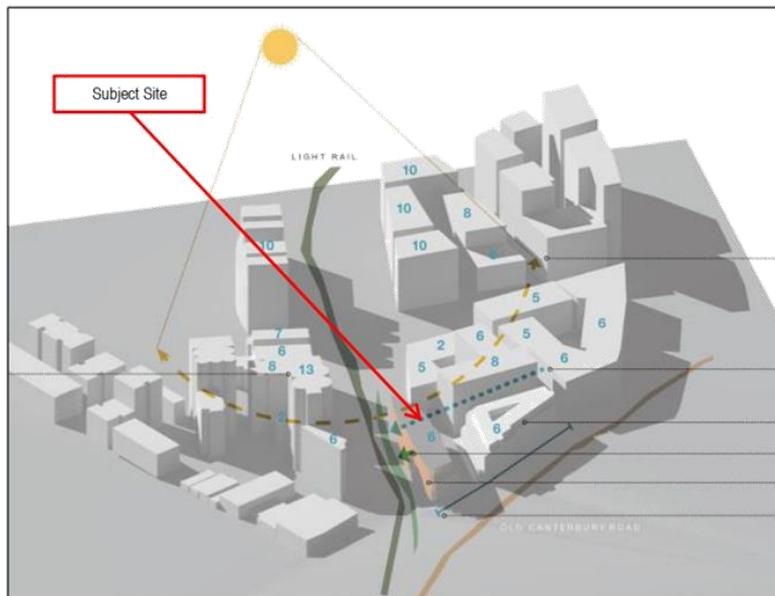


Figure 15: 3D Perspective of Urban Design Study Showing the Subject Site and the Surrounding Context

Public Benefit

Discussions have been held with Council Officers throughout the process in relation to a public benefit contribution to the GreenWay. This is discussed in detail in

Section 2 and includes construction of a stair link and public access to the secondary greenway shared path, a landscaped through site link and a monetary contribution to works.

Rail Corridor Setback and Building Treatment

The setbacks adopted from the rail corridor are based on advice from Sydney Trains and discussions with Council. As the proposal is only at rezoning stage, detailed design of this façade interface should not yet be required. This matter can be dealt with via a site specific DCP at a later stage and would be required to form part of a detailed DA documentation and VPA material. Fox Johnston are award winning architects with significant experience designing buildings to respond to highly challenging sites and they will be well placed to deliver an interface that responds to the various challenges.

Building Height

The building height has been carefully tested in terms of solar access to nearby properties and for consistency with the emerging development pattern in the locality. As set out in the urban design statement prepared by Fox Johnston architects, the revised built form (being 3 storeys lower than the original proposal) is appropriate for the subject site.

Building Separation and Alignment to Old Canterbury Rd

The panel's support of the building separations adopted and the intention to align as closely as possible to Old Canterbury Road (subject to challenging topography) is noted.

Floor Space Ratio

As indicated, the floor space ratio adopted for both the original and revised scheme is based on the methodology set out in the ADG and the ability to provide ADG compliant solar access and separation to nearby properties.

Site Specific DCP

The preparation of a site specific DCP has been foreshadowed by Council as being required at a later stage of the proposal and our clients have expressed their willingness to undertake this exercise at that time.

8.7 Car Parking Considerations and Layout

The amended concept drawings include a potential car parking layout for the subject site. As a result of the site's flooding constraints, car parking has been designed to be above flood level. This results in two car parking levels above the minimum flooding level.

The concept design results in a yield of 62 units and under the Ashfield DCP, this requires 73 car parking spaces. The proposal includes 63 spaces and therefore against the DCP controls has a shortfall of 10 spaces.

Firstly, the rate of parking required by the Ashfield DCP is unusually high, the Marrickville DCP (which applies to the McGill St properties) has a lower rate of provision and would only require 59 spaces (including retail and excluding accessible spaces) for the concept scheme. The proposal is therefore close to complying with this requirement.

The site is located within very close proximity of the Lewisham Light Rail stop. Objective 3J-1 of the Apartment Design Guide indicates that developments within 800m of a light rail stop can adopt the relevant parking rate of provision from the RMS Guide to Traffic Generating Developments.

The RMS guide requires 52 parking spaces for the residential component of the current scheme. There is no rate in RMS guide applicable for proposed retail. The Ashfield DCP gives retail rate of 1 space per 40m² and based on the 92m² in the concept scheme, this would result in a requirement of 2.3 spaces. The parking requirement based on RMS for units and Ashfield DCP for retail is 54 spaces and the scheme complies.

8.8 Conclusion

In conclusion, it is our opinion that there is compelling planning reason to support the following amendments to the Ashfield LEP 2013:

- Rezoning of Lot 1 DP 817359 from SP2 Infrastructure to B4 Mixed Use to apply a consistent zoning to the entirety of No.120C Old Canterbury Road;
- Application of a maximum building height to RL 38.0 to the entire site; and
- Application of an FSR of 2.5:1 to the entire site.

As outlined, this Planning Proposal has been prepared in accordance with the DoPE Guidelines and is consistent with the considerations contained therein. The proposal is consistent with the draft Metropolitan Strategy, the Central Sub-Regional Strategy and also the local Urban Planning Strategy.

Making the requested amendments to the Ashfield LEP would provide the potential for additional housing to be provided close to public transport. This will support the completed Inner West Light Rail and proposed redevelopment of the Allied Mills site in close proximity.

Accordingly, for the above reasons, we consider a consistent application of the B4 – Mixed Use Zone with a maximum building height limit to RL 38.0 and an FSR increase to 2.5:1 to be justified and appropriate on the subject site from a planning point of view.

The proposal will provide a public benefit by facilitating a through site link to the GreenWay which runs adjacent to the site and the Light Rail. The detail of the link would be finalised as part of detailed design however, a potential linkage is shown on the architectural drawings prepared by Fox Johnston and separately submitted.

ANNEXURES FOLLOW

ANNEXURE A: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)

SEPP	APPLIES/COMMENTS
SEPP No 1—Development Standards	Not Applicable Ashfield LEP 2013 is a Standard Instrument Format and includes Clause 4.6 Exception to Development Standards
SEPP No 19—Bushland in Urban Areas	Applies, however not relevant in this instance as subject site does not have bushland nor is it zoned for public open space
SEPP No 21—Caravan Parks	Applies, however not relevant in this instance as a Caravan Park is not proposed
SEPP No 30—Intensive Agriculture	Applies, however not relevant in this instance as intensive agriculture is not proposed
SEPP No 33—Hazardous and Offensive Development	Applies –proposed development is unlikely to be considered hazardous or offensive, therefore not relevant
SEPP No 36—Manufactured Home Estates	Not Applicable
SEPP No 44—Koala Habitat Protection	Not Applicable
SEPP No 47—Moore Park Showground	Not Applicable
SEPP No 50—Canal Estate Development	Applies however not relevant in this instance as Canal development is not proposed
SEPP No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	Not Applicable
SEPP No 55—Remediation of Land	Applies. A Phase 1 assessment report is included in Annexure G produced in accordance with the Land Contamination Guidelines. There has not been contamination found that would affect the progress of the Planning Proposal.
SEPP No 62—Sustainable Aquaculture	Not Applicable
SEPP No 64—Advertising and Signage	Applies - Matter for consideration at the time of any Signage DA
SEPP No 65—Design Quality of Residential Flat Development	Applies. A design concept has been submitted with the resultant design demonstrating the capability to comply with SEPP 65 Principles. Refer to Design Concept at Annexure H .
SEPP No 70—Affordable Housing (Revised Schemes)	Applies as at 2018, however not relevant as the required scheme has not been provided by Council.
SEPP (Affordable Rental Housing) 2009	Applies – would be addressed at DA Stage
SEPP (Building Sustainability Index: BASIX) 2004	Applies – would be addressed at DA Stage
SEPP (Educational Establishments and Child Care Facilities) 2017	Applies – matter for consideration at DA stage.
SEPP (Exempt and Complying Development Codes) 2008	Applies, however not relevant for Planning Proposal stage.
SEPP (Housing for Seniors or People with a Disability) 2004	Applies, however not relevant for Planning Proposal stage, seniors housing is not proposed.
SEPP (Infrastructure) 2007	Applies – Cl. 85 and Cl. 86 would be considered at a DA Stage due to the proximity

	to the railway corridor. Cl. 101 and Cl. 102 would also need to be considered as the subject site fronts a classified road.
SEPP (Kosciuszko National Park—Alpine Resorts) 2007	Not Applicable
SEPP (Kurnell Peninsula) 1989	Not Applicable
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Applies, however not relevant as mining, petroleum production or extractive industries are not proposed uses of the site
SEPP (Miscellaneous Consent Provisions) 2007	Applies, may be relevant for temporary structures
SEPP (Penrith Lakes Scheme) 1989	Not Applicable
SEPP (Three Ports) 2013	Not Applicable
SEPP (Rural Lands) 2008	Not Applicable
SEPP (State and Regional Development) 2011	Not Applicable
SEPP (Sydney Drinking Water Catchment) 2011	Not Applicable
SEPP (Sydney Region Growth Centres) 2006	Not Applicable
SEPP (Urban Renewal) 2010	Applies, however not relevant as subject is not within an identified precinct
SEPP (Western Sydney Employment Area) 2009	Not Applicable
SEPP (Western Sydney Parklands) 2009	Not Applicable
SEPP (Vegetation in Non –Rural Areas) 2017	Applies but there is no significant vegetation that would be affected.
Regional Environmental Plans – Deemed SEPPS	
SREP (Sydney Harbour Catchment) 2005	Applies to the subject site, will be dealt with further at DA Stage.
SREP No 8 - Central Coast Plateau Areas	Not Applicable
SREP No 9 - Extractive Industry (No 2 – 1995)	Not Applicable
SREP No 16 - Walsh Bay	Not Applicable
SREP No 18 - Public Transport Corridors	Not Applicable
SREP No 19 - Rouse Hill Development Area	Not Applicable
SREP No 24 - Homebush Bay Area	Not Applicable
SREP No 26 - City West	Not Applicable
SREP No 30 - St Marys	Not Applicable
SREP No 33 - Cooks Cove	Not Applicable

ANNEXURE B: CONSIDERATION OF SECTION 9.1 DIRECTIONS OF EPA ACT 1979

These are Directions issued by the Minister of Planning to Planning Proposal Authorities under Section 9.1 of the EPA Act 1979.

SECTION 9.1 DIRECTIONS	APPLICABLE/NOT APPLICABLE
1. Employment Resources	
1.1 Business and Industrial Zones	Applicable (see A1.0) Refer to Part B 1.0 below for an explanation of how the Proposal is affected.
1.2 Rural Zones	Not Applicable
1.3 Mining, Petroleum Production and Extractive Industries	Not Applicable
1.4 Oyster Aquaculture	Not Applicable
1.5 Rural Lands	Not Applicable
2. Environment and Heritage	
2.1 Environment Protection Zones	Not Applicable
2.2 Coastal Protection	Not Applicable
2.3 Heritage Conservation	Not Applicable
2.4 Recreation Vehicle Areas	Not Applicable
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not Applicable
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Applicable The land affected by this proposal is adequately serviced, and will increase permissible residential density.
3.2 Caravan Parks and Manufactured homes Estates	Not Applicable
3.3 Home Occupations	Not Applicable
3.4 Integrating Land Use and transport	Applicable (see A2.0)
3.5 Development Near Licensed Aerodromes	Not Applicable
3.6 Shooting Ranges	Not Applicable
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Not Applicable
4.2 Mine Subsidence and Unstable Land	Not Applicable
4.3 Flood Prone Land	Applicable Refer to Part B.4 below and Annexure F containing a Flood Risk Assessment Report which explains that the proposal is not consistent with this Direction but this is of minor significance.
4.4 Planning for Bushfire Protection	Not Applicable
5. Regional Planning	
5.1 Implementation of Regional Strategies	Not Applicable
5.2 Sydney Drinking Water Catchments	Not Applicable
5.3 Farmland of State and Regional Significance of the NSW Far North Coast	Not Applicable
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	Not Applicable
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable

5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable
5.8 Second Sydney Airport: Badgerys Creek	Not Applicable
5.9 North West Rail Link Corridor Strategy	Not Applicable
5.10 Implementation of Regional Plans	Not Applicable
6. Local Plan Making	
6.1 Approval and Referral Requirements	Applicable – Proposal is consistent with Direction.
6.2 Reserving Land for Public Purposes	Not Applicable
6.3 Site Specific Provisions	Not Applicable
7. Metropolitan Planning	
7.1 Implementation of A Plan for Growing Sydney	Not Applicable The Environmental Planning and Assessment Act as amended March 2018 makes no reference to this Plan. If the Plan were in effect the Proposal is in compliance with the objectives of the Plan.
7.2 Implementation of Greater Macarthur Land Release Investigation	Not Applicable
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not Applicable
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not Applicable
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan.	Not Applicable
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan.	Not Applicable
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not Applicable

CONSIDERATION OF SPECIFIC MINISTERIAL DIRECTIONS

B 1.0 - Direction 1.1 – Business and Industrial Zones

This direction applies to all planning proposals that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial protection zone boundary). The objectives of this direction are stated, inter alia:

- (a) *Encourage employment growth in suitable locations,*
- (b) *Protect employment land in business and industrial zones, and*
- (c) *Support the viability of identified strategic centres.*

The proposal is consistent with the objectives of Direction 1.1 – Business and Industrial Zones as it will provide the potential for additional employment opportunities will not reduce or remove business lands and will support the viability of strategic centres identified in the Metropolitan Plan for Sydney 2031 through the provision of business lands.

In this particular instance, the relevant planning authority must be consistent with the direction, and therefore, a planning proposal must:

- (a) *Retain the areas and locations of existing business and industrial zones,*
- (b) *Not reduce the total potential floor space area for employment uses and related public services in business zones,*
- (c) *Not reduce the total potential floor space area for industrial uses in industrial zones, and*

The proposed change in land use for the subject site to B4 Mixed Use will allow for the provision of more business land, whilst retaining the existing B4 zone on the eastern part of the site. The proposal demonstrates there will be no reductions in business land; instead the potential floor space for employment uses will be increased. The planning

proposal will not impact the provision of industrial land throughout the LGA. The planning proposal has considered the amended planning controls against relevant state and local planning strategies and has determined it to be consistent with the relevant aims and objectives. In summary, the proposal is consistent with this Direction.

B2.0 - Direction 3.4 – Integrating Land Use and Transport

The direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. The objectives of this direction are stated, inter alia:

- (a) *Improving access to housing, jobs and services by walking, cycling and public transport, and*
- (b) *Increasing the choice of available transport and reducing dependence on cars, and*
- (c) *Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- (d) *Supporting the efficient and viable operation of public transport services, and*
- (e) *Providing for the efficient movement of freight.*

The proposal is consistent with the objectives of Direction 3.4 due to the site's close proximity to public transport. Lewisham West Light Rail Station, opened in 2014, is adjacent to the subject site. Lewisham Rail Station is located within walking distance of the site whilst bus services are easily accessible along Old Canterbury Road. The site's accessibility to a variety of public transport options satisfies the objectives of the direction as it reduces the dependence on cars. In addition, the provision of business lands will improve access to jobs and services through the maximisation of public transport use. The proposal is consistent with this direction.

B3.0 - Direction 4.3 – Flood Prone Land

The direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

The objectives of this direction are stated, inter alia:

Clause (1)

- (a) *to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and*
- (b) *to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

The proposal is inconsistent with the Direction as it seeks to rezone special uses land which is flood prone to a mixed-use zone.

A Planning Proposal may be inconsistent with the direction if it addresses the following:

Clause (9) A Planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director – General (or an officer of the Department nominated by the Director General) that:

- (h) *the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or*
- (i) *The provisions of the planning proposal that are inconsistent are of minor significance.*

A "Flood Risk Assessment" report (23 August 2018 - V3, by "Cardno") has been provided in **Annexure F**. It considers that the Planning Proposal is of "minor significance" pursuant to the Direction.

Council Engineers has reviewed the Flood Risk Assessment report and consider that pursuant to Clause 9 (i) of Direction 4.3 –Flood Prone Land, the inconsistency is of minor significance including for the following reasons:

- A suitable Draft Flood Emergency Response Plan for the development has been outlined in Section 6.2
- The standard flood protection provided to residential properties is the 1 in 100 year flood level plus 500mm freeboard. All residential floors have been set at 6.45 m above the 100 year ARI flood of RL 11.8 and 4.25 m above the PMF flood of RL 14.0.
- The basement parking is protected up to the 700 year ARI flood
- If needed emergency access up to the PMF flood level is available from Old Canterbury Road; and
- The new TUFLOW modelling undertaken shows that directly adjacent to the site (at end of the western solid wall) there is a local reduction in flood levels during a 100 year ARI flood. Further there are no adverse impacts on any adjoining properties during a 100 year ARI flood and no significant adverse impacts during a PMF.
- With regard to the PMF level. The Cardno study notes that the driveway from McGill Street will become unsafe for vehicles during a 1 in 700 year flood and that the lower ground carpark will start to be inundated during a 1 in 2000 year flood. The risks are adequately addressed by Section 4 of the Cardno Report. In addition the risks associated with extreme flood events above the 1 in 100 year flood are generally managed by a Flood Emergency Response Plan. Cardno have provided a Draft in Section 6 of their report which is adequate for this stage of the planning process.

DPE's letter to Council of 25 October 2017, required that Council "*need to obtain the agreement of the Department's secretary to demonstrate that the planning proposal is justifiably inconsistent with Section 117 Directions Direction 4.3 Flood Prone Land. Council should ensure this occurs prior to Community Consultation*".

The "Flood Risk Assessment" report and Council advice was referred to the Department of Planning and Environment. The delegate of the Secretary responded to Council on the 5 October 2018 that it "*agreed that the inconsistency is justified in accordance with the terms of the Direction*", and that the Community Consultation stage could be carried out.

B4.0 - Direction 7.1 – Implementation of a Plan for Growing Sydney

The amendments to the Environmental Planning and Assessment Act March 2018 no longer require reference to the "Implementation of a Plan for Growing Sydney". The Planning Proposal Guidelines require the current Regional and District Plans to be addressed.

If the plan were in place, the direction applies to the Inner West Local Government Area and aims to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney. The proposal to change the zoning of the site to B4 Mixed Use and the relevant provision of business lands bring is consistent with the Plan for Growing Sydney as outlined within the planning proposal.

Item 8

**ANNEXURE C: DEED OF RELEASE FROM RAIL
CORPORATION NEW SOUTH WALES**

Attachment 1

Form: 01TR
Release: 3-1

**TRANSFER
RELEASING EASEMENT**

Leave this space clear. Affix additional pages to the top left-hand corner.

New South Wales
Real Property Act 1900

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY Office of State Revenue use only

(A) TORRENS TITLE	Servient Tenement	Dominant Tenement
	F/I 1/817359	Easement in Gross

(B) LODGED BY	Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any	CODE TR
		Reference:	

(C) EASEMENT	Number	Nature of Easement
	0315626	Covenant Easement for Transmission Line var. width

(D) TRANSFEROR Registered proprietor of the dominant tenement
Rail Corporation, New South Wales ABN 59 325 778 353

(E) The transferor acknowledges receipt of the consideration of \$ 220,000.00 and, as regards the dominant tenement, transfers and releases the abovementioned easement to the transferee as registered proprietor of the servient tenement.

(F) TRANSFEREE Registered proprietor of the servient tenement
RICK DOMENIC TIMPERI and TYRON PAUL TIMPERI

DATE

(G) I certify that I am an eligible witness and that an authorised officer of the transferor signed this dealing in my presence. [See note* below].

Certified correct for the purposes of the Real Property Act 1900 by the authorised officer named below.

Signature of witness:

Signature of authorised officer:

Name of witness:
Address of witness:

Authorised officer's name:
Authority of officer: Rail Corporation New South Wales
Signing on behalf of:

I certify I am an eligible witness and that the transferee signed this dealing in my presence. [See note* below]

Certified correct for the purposes of the Real Property Act 1900 by the transferee.

Signature of witness:

Name of witness:
Address of witness:

* s117 RP Act requires that you must have known the signatory for more than 12 months or have signed identifying documentation.
ALL HANDWRITING MUST BE IN BLOCK CAPITALS Page 1 of 1 1303

Form: 01TR
Release: 3-1

**TRANSFER
RELEASING EASEMENT**
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional pages to the top left-hand corner.

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY	Office of State Revenue use only	
(A) TORRENS TITLE	Servient Tenement P/I 1/817359	Dominant Tenement Easement in Gross
(B) LODGED BY	Document Collection Box Reference:	CODE TR
(C) EASEMENT	Number 0315628	Nature of Easement Covenant Easement for Transmission Line var. width
(D) TRANSFEROR	Registered proprietor of the dominant tenement Rail Corporation New South Wales ABN 59 325 778 353	
(E)	The transferor acknowledges receipt of the consideration of \$ 220,000.00 and, as regards the dominant tenement, transfers and releases the abovementioned easement to the transferee as registered proprietor of the servient tenement.	
(F) TRANSFEREE	Registered proprietor of the servient tenement RICK DOMENIC TIMPERI and TYRON PAUL TIMPERI	

DATE

(G) I certify that I am an eligible witness and that an authorised officer of the transferor signed this dealing in my presence. [See note* below] Certified correct for the purposes of the Real Property Act 1900 by the authorised officer named below.

Signature of:

Name of wit:
Address of w:

I certify I am an eligible witness and that the transferee signed this dealing in my presence. [See note* below]

Certified correct for the purposes of the Real Property Act 1900 by the transferee.

Signature of witness:

Signature of transferee:

Name of witness:
Address of witness:

* s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.
ALL HANDWRITING MUST BE IN BLOCK CAPITALS Page 1 of 1 1303

**ANNEXURE D: SUPPLEMENTARY PHOTOS OF
SURROUNDING DEVELOPMENT**



Item 8

Attachment 1

Item 8



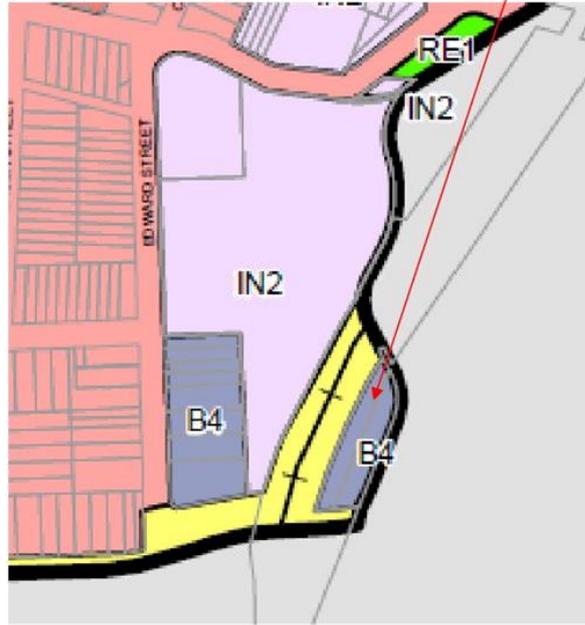
Attachment 1



ANNEXURE E: MAPPING

Proposed Land Zoning Map

Extract of proposed Map showing affected properties at 120 C Old Canterbury Road, Summer Hill.



Zone

B1	Neighbourhood Centre
B2	Local Centre
B4	Mixed Use
B6	Enterprise Corridor
IN2	Light Industrial
R2	Low Density Residential
R3	Medium Density Residential
RE1	Public Recreation
RE2	Private Recreation
SP2	Infrastructure

Entire proposed Map follows on next page

Proposed Floor Space Ratio Map

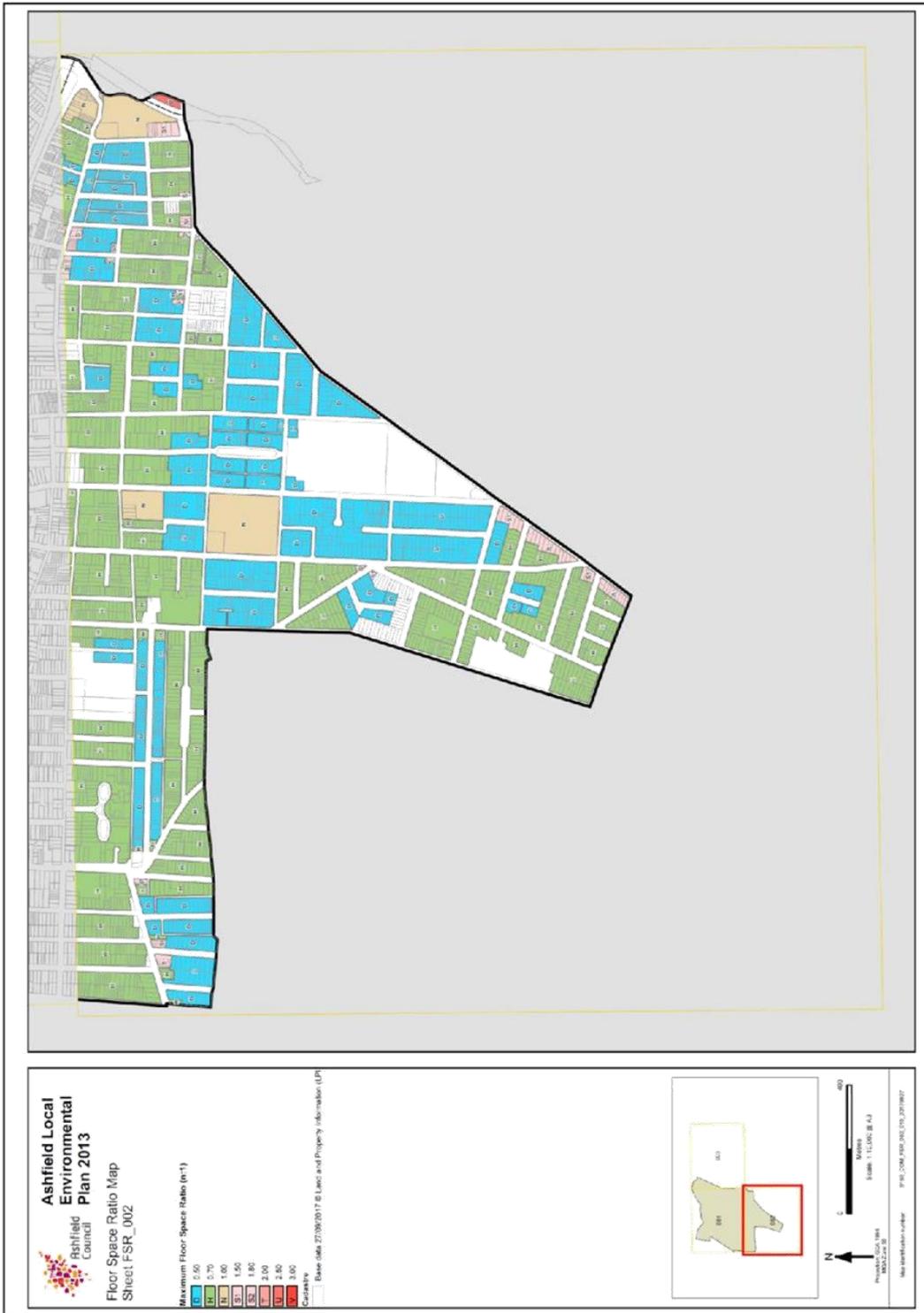
Extract of proposed Map showing affected properties at 120 C Old Canterbury Road, Summer Hill.



Maximum Floor Space Ratio

D	0.50
H	0.70
N	1.00
S1	1.50
S2	1.80
T	2.00
U	2.50
V	3.00

Entire proposed Map follows on next page

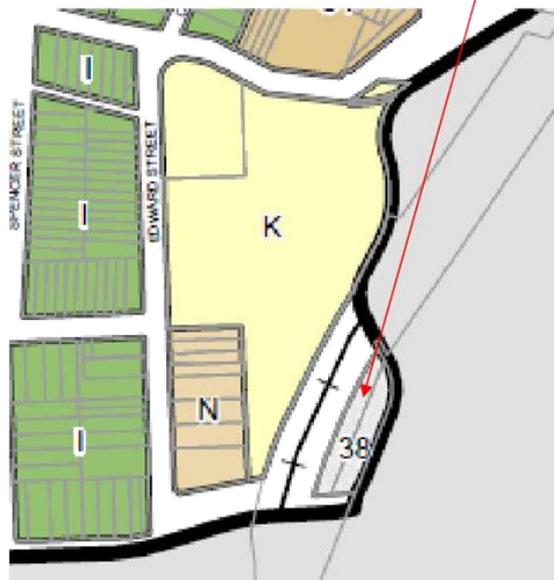


Item 8

Attachment 1

Proposed Height of Buildings Map

Extract of proposed Map showing properties at 120 C Old Canterbury Road, Summer Hill



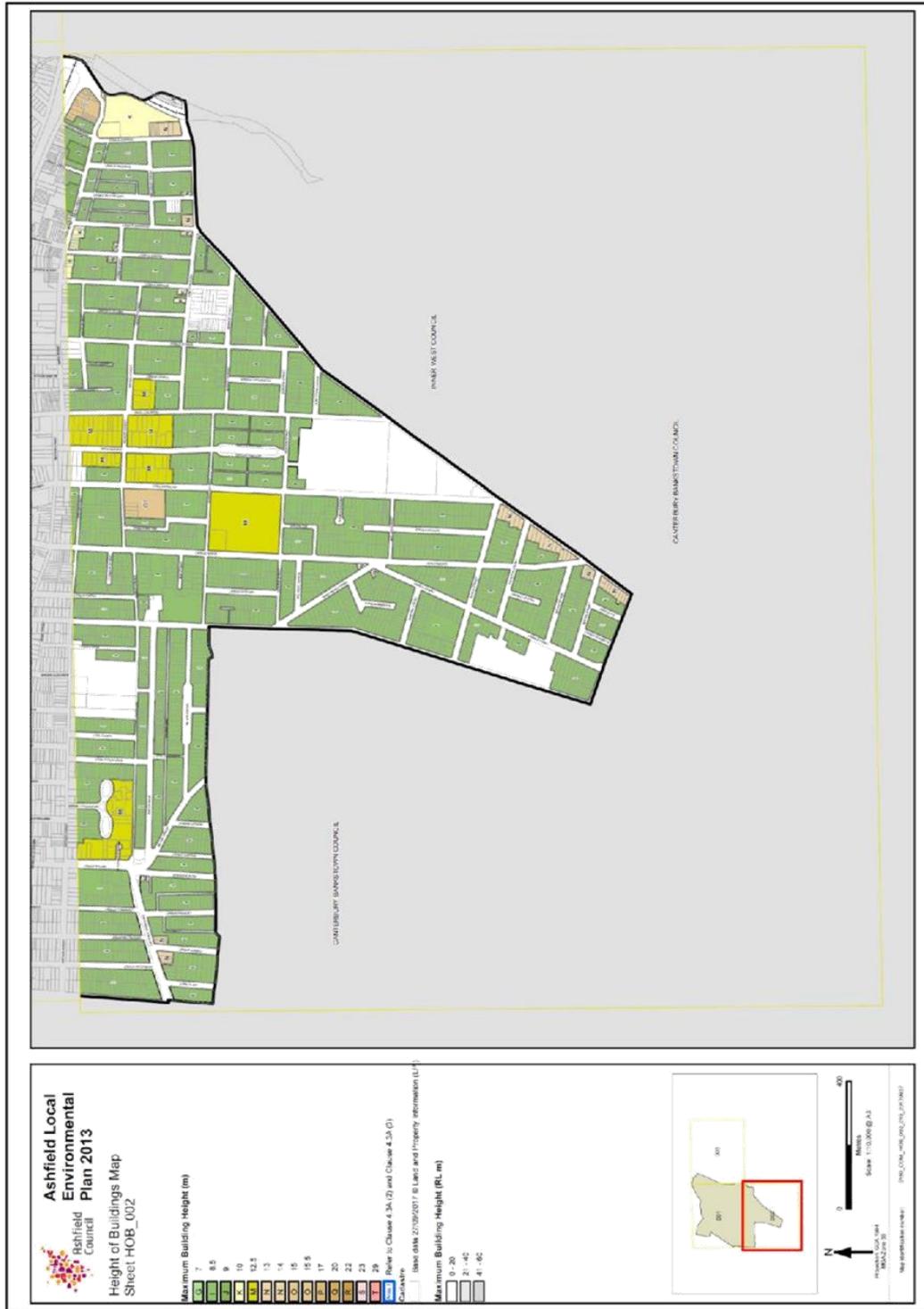
Maximum Building Height (m)

G	7
I	8.5
J	9
K	10
M	12.5
N	13
N	14
O	15
O	15.5
P	17
Q	20
R	22
S	23
T	29
Area 1	Refer to Clause 4.3A (2) and Clause 4.3A (3)

Maximum Building Height (RL m)

	0 - 20
	21 - 40
	41 - 60

Entire proposed Map follows on next page



ANNEXURE F: FLOOD RISK ASSESSMENT REPORT

Refer to separate document: Flood Risk Assessment – 23 August 2018, by Cardno P/L.

ANNEXURE G: SEPP 55 REPORT

Refer to separate document: Stage 1 Preliminary Site Investigation- February 2018, by Network Geotechnical which responds to State Environmental Planning Policy no 55.

Item 8

ANNEXURE H: DESIGN CONCEPT

Refer to separate document by Fox Johnston – 23 August 18

Attachment 1

Proposed amendment to**Comprehensive Inner West Development Control Plan (DCP) 2016,
for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield,
Hurlstone Park and Summer Hill),
which will add to Section 2 Chapter D:****Part 12 – 120C Old Canterbury Road****Explanatory Note:**

The following document contains amendments to the DCP 2016 which propose:

- To add a Section 12 to the DCP to provide site specific guidelines to support the proposed Planning Proposal for amendments to the Ashfield Local Environmental Plan 2013 for the site at 120C Old Canterbury Road

This follows from the Council resolution of 25 July 2017 which stated to:

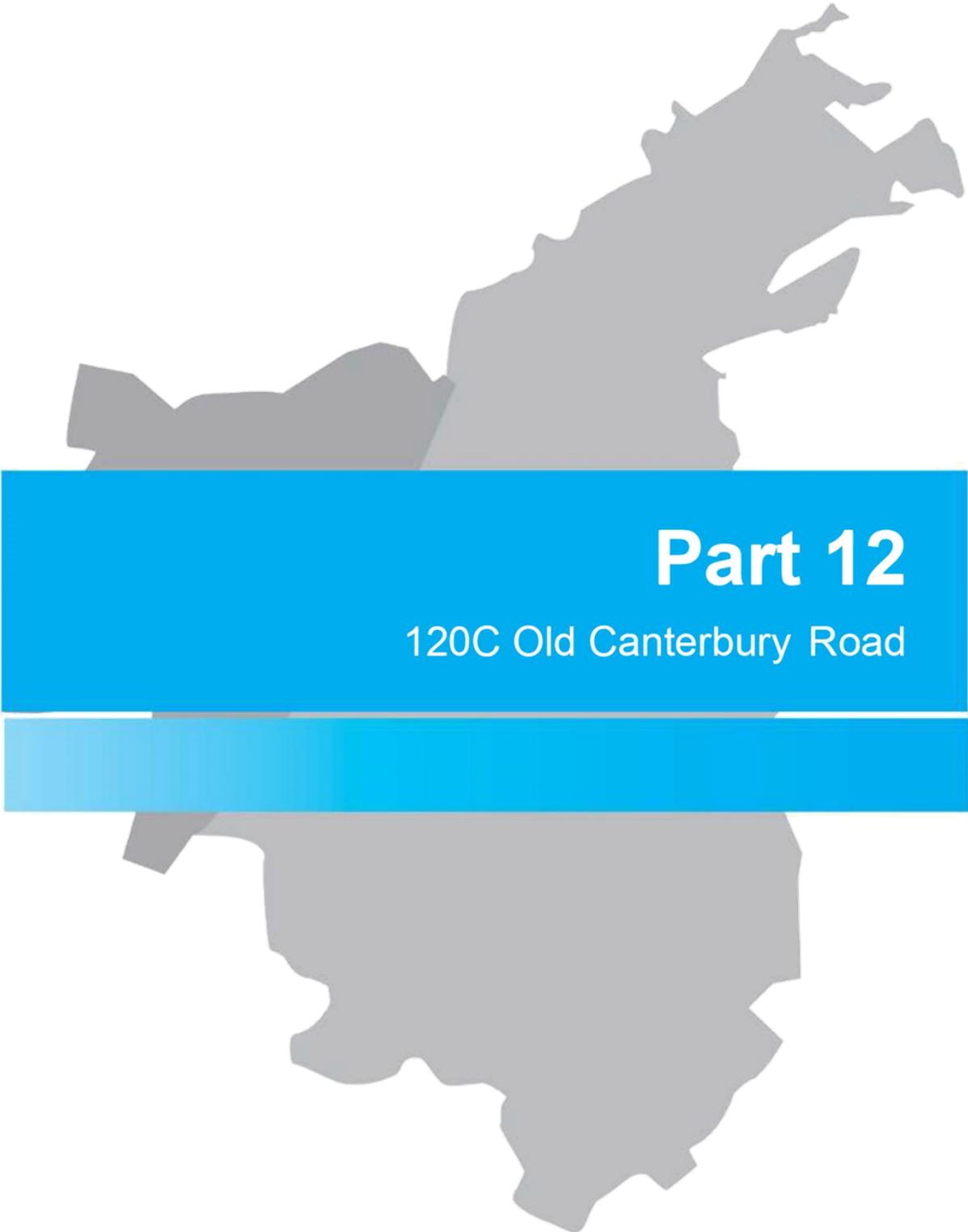
- 1/6 The Planning Proposal be amended to Council's satisfaction addressing the recommendations outlined in this report, including a Maximum Height of Building equating to 6 storeys relative to Old Canterbury Road and a reduced Maximum Floor Space Ratio.*
- 2/6 Council authorises the Interim General Manager to be Council's delegate and use "the Authority" for the processing of the Planning Proposal as outlined in this report.*
- 3/6 On satisfactory completion of Resolution 1 and 2, the Planning Proposal be referred pursuant to Section 56 of the Environmental Planning and Assessment Act 1979 (the Act) seeking a Gateway Determination and for Council to be the Relevant Planning Authority, and requesting the studies identified in the report be produced.*
- 4/6 Council develop a site specific Draft Development Control Plan as outlined in this report and exhibit it concurrently with the Planning Proposal.*
- 5/6 Upon receipt of the Gateway Determination the Planning Proposal and draft DCP be put on public exhibition pursuant to the Environmental Planning and Assessment Act 1979 (the Act).*

Refer to the Council report of 25 July 2017 also on exhibition for more detail.

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Part 12

120C Old Canterbury Road

Application

This Guideline applies to development on land at 120C Old Canterbury Road, Summer Hill identified in **Map 1** in red outline.

Using this Guideline

In using this Guideline reference should also be made to **Section 1—Preliminary** at the front of this DCP.

The Guideline is performance based. In this role, it is intended to provide both a level of certainty for applicants, Council and the community while also enabling consideration of high quality, innovative design. This is appropriate as given the complexity of the LGA urban environment, it is not possible or desirable in all instances for council to specify quantitative, pre-determined criteria that development must achieve. Rather, in such setting an appropriate design emerges from a well-considered site analysis that explores and responds to the characteristic of the site, adjoining properties, the streetscape and neighbourhood, as well as putting in place adequate measures to mitigate any potential negative impacts.

The Guideline comprises the Purpose, Performance Criteria and Design Solutions. Alternative Solutions to the Design Solution may also be proposed by an applicant.

The Purpose and Performance Criteria identify the performance outcomes that must be

achieved for council to consider granting development consent to a development application. Council will not approve a development application that cannot meet all parts of the Purpose or all Performance Criteria, where relevant.

Design Solutions provide a guide for achieving the Performance Criteria, and by association, the Purpose.

Through the development application process, an applicant may propose an Alternative Solution to the Design Solution. Council will consider the Alternative Solution against the Performance Criteria and Purpose. If sufficient justification exists, largely informed by a site analysis and argued against sound urban planning and design grounds, council may consider accepting an Alternative Solution to the Design Solution.

Purpose

- To ensure new development is of a character which is of compatible scale with adjacent or nearby buildings and high architectural standard.
- To ensure that new development provides adequate amenity for adjacent occupants of residential flat buildings
- That adequate vehicular access is provided to the site.
- There is a sympathetic interface with the Greenway Corridor and surrounding area.



Performance Criteria and Design Solutions

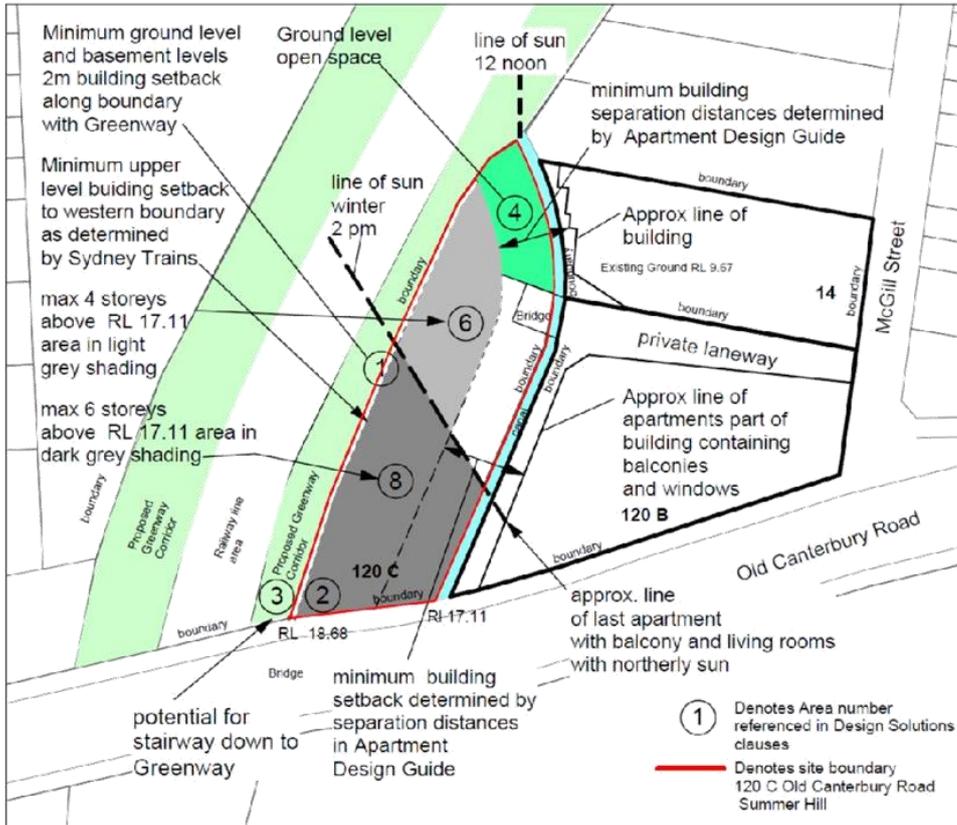
Performance Criteria		Design Solution	
<i>Explanatory notes will only appear in the draft DCP exhibition.</i>			
<i>Amendments to DCP are shown in grey shading.</i>			
PC01 (Greenway) Ensure there is a sympathetic spatial relationship with the Inner West Council Greenway project. This shall include consideration of the following building elements and site layout: <ul style="list-style-type: none"> - Treatment of walls from lower basement to ground level - South west corner of building and transition from Old Canterbury Road, to the railway bridge to the Greenway corridor. - Ground level open space has capacity to form part of a pedestrian linkage from McGill Street to the Greenway - Surveillance from apartments of the adjacent GreenWay. <p><i>Explanatory note.</i></p> <p><i>The "GreenWay" is an Inner West Council project for establishing a regional "north south" public corridor which include pathways and landscaping, from Cooks River to Iron Cove. This will include land along the open space part of the railway corridor land along the east side of the site.</i></p> <p><i>Green Walls means: A green wall is a wall partially or completely covered with greenery which is maintained by a growing medium such as a soil.</i></p>	DS 1.1 (Greenway) Basement walls containing carparking areas shall be well composed and include defined wall fenestration or relief with appropriate proportions, and use of complimentary wall cladding materials, to achieve a high standard of design. The structure shall not be solely based on an exposed frame reflecting structural engineering and carpark ventilation requirements. Consideration shall be given to use of "green walls".		
	DS 1.2 (Greenway) A 2 metre wide deep soil area shall be provided along the northwest boundary as shown in Area 1 on Map 1 for provision of tree planting and the ability to establish "Green walls". To enable this, a minimum 2m building setback from the north west boundary shall apply to all storeys below the ground level storey off Old Canterbury Road.	Building setbacks to the north west boundary for ground level storeys off Old Canterbury Road and above, shall comply with Sydney Train requirements taking into account the operation of the adjacent light rail train, and take into account ground level planting areas.	
	DS 1.3 (Greenway) The south west corner part of the building in Area 2 on Map 2 shall be architecturally modelled as a landmark which takes regard of the transition from the GreenWay setting to Old Canterbury Road setting. This shall include ground level treatments adjacent to Old Canterbury Road, and the modelling of the main body of the building. Consideration shall also be given to stairway connection from Old Canterbury Road to the Greenway shown in Area 3 on Map 1 .	DS 1.4 (Greenway) Ground level open space, which shall have deep soil and be landscaped, shall be provided in Area 4 on Map 1 within the site, and provision made for a pedestrian pathway between the bridge location identified on Map 1 and the Greenway Corridor.	
	Public access and use of the pathway shall be provided for on the land title of the property, which is to come into effect in the event that: <ul style="list-style-type: none"> (i) there is a pedestrian link established between McGill Street and the Greenway Corridor, using the private laneway and bridge as part of the route for this, or (ii) Council notifies the site owner, including in the situation where there is a Voluntary Planning Agreement in place for public use of the land. Open space at Area 4 and Map 1 shall not contain any overhead building storeys.		
PC02 (Public safety)	DS 2.1 (Public safety) Apartment layouts shall be arranged in a way that locates windows and balconies which provide surveillance of the Greenway.		

<p>(Health)</p> <p>PC03 Any eutrophication resulting from water ponding within the channel, or on the site resulting from flooding, is to be managed so as to minimise any health hazard from odours and impacts on residents on the site and on adjacent residential properties.</p>	<p>(Health)</p> <p>DS 3.1 Any ground level undercroft area shall be designed and use materials to enable quick water absorption or dispersal so as to minimise any ponding and putrefaction and resulting odours. Consideration shall be given to perimeter plantings along the Canal, and to ensuring there is adequate cross ventilation to the underside of any structure. Relevant documents demonstrating the above has been address shall be provided from a suitable qualified environmental scientist at Development Application stage.</p>
<p>(Traffic impact).</p> <p>PC04 Orderly vehicular access into and out of the site is to be provided for. Where access to the site is to be provided via the private Right of Way laneway from McGill Street located within 120 C Old Canterbury Road, the design of the internal site and carparking layout shall ensure that :</p> <ul style="list-style-type: none"> - Minimal disruption is caused to the operation of laneway and ensures ease of the laneway, which is also used by residents and visitors at 120 B Old Canterbury Road and 14 McGill Street. - An orderly use of the intersection of the laneway and McGill Street - Allowance for emergency vehicle access use from the laneway onto the site at 120 C Old Canterbury Road. <p><i>Explanatory Note:</i></p> <p><i>The private laneway is part of the property at 120 B Old Canterbury Road. It is used for vehicular access to carparking at 14 McGill Street and 120 B Old Canterbury Road which contain apartment buildings. It is essentially a "dead end" which also provides a connection to 120 C Old Canterbury Road at lower ground level. Normally in these situations there is a cul de sac provided to accommodate evident needs for end of lane car turning movements, and this needs to be addressed.</i></p>	<p>(Traffic impact).</p> <p>DS 4.1 Where use of the private laneway shown in Area 1 Map 2 is proposed for vehicular access to the site, at development application stage a detailed on site carparking plan layout shall be provided which complies with the relevant Australian standards, and also provides for Area 2 Map 2 :</p> <ul style="list-style-type: none"> - Vehicular car turning circle area for entry in and out of the site. - A driveway route provided at the entry area within the site that allows for a forward movement for vehicles entering and wanting to exit the site or laneway. - A driveway turning circle area, or mechanical turning bay subject to Council approval, able to accommodate emergency vehicles and large vehicles and garbage trucks. - An internal car queuing bay length long enough to accommodate cars waiting to access the carparking area, so as to not cause any queuing of vehicles on the laneway at 120 B Old Canterbury Road, - Consideration shall be given an electronic system which advises users of the carpark of the state of the use of the laneway by the other sites, in order to optimise vehicular movements out of the site. <p>DS 4.2 Details confirming the ability to use the vehicular laneway at 120 B Canterbury Road shown on Area 1 on Map 2 as a right of way shall be provided at Development Application stage including the following:</p> <ul style="list-style-type: none"> - legal easements - approval of the site owner of 120 B Old Canterbury Road if required - confirmation from a structural engineer that the laneway is able to take the weight of heavy vehicles such as garbage trucks and emergency vehicles

PC 05 (Flooding) An external evacuation pathway route shall be provided from areas affected by flooding from a 1 in 100 year event to higher levels external to the site at Old Canterbury Road. Due to the site being flood prone, ensure that relevant building components are above the freeboard flood level, and there is safe use of the buildings including for residential levels and for lower level carpark storeys, so as to not be affected by flooding.	DS 5.1 (Flooding) Provide a pedestrian pathway from areas affected by flooding, including from lower ground level open space, bridge over canal area at the entry to the carpark, any basement carparking areas, which takes people to the footpath at Old Canterbury Road.
	DS 5.2 (Flooding) A flood study shall be provided for Council approval and address the following : <ul style="list-style-type: none"> - Floor levels of buildings shall be as follows: Flood protection provided to residential properties is to be the 1 in 100 year flood level plus 500mm freeboard, and All residential floors set 6.45 m above the 100 year ARI flood level of RL 11.8 and 4.25 m above the PMF flood level of RL 14.0, and Lowest basement carparking floor level is at a minimum RL 12.5. - The area below the underside of the lowest basement carpark floor slab shall be a predominantly open area to permit flood water to flow, except for the parts required for structural support of the building structure.
PC06 (Waste) Provision made for storage and collection of waste as required in Part C3 –Waste Recycling Design and Management Standards of the Inner West DCP 2016, taking into consideration the following : <ul style="list-style-type: none"> - The site relies for vehicular access from a constricted right of way laneway, with Council policy being that trucks will not use access through privately owned sites unless there is in indemnity provided to Council's satisfaction, and provision is made for a garage truck turning circle and headroom, and so a consequent need for up to a 18.5 metre turning circle within the site. - Old Canterbury Road along the front of the site is not permitted to have garbage trucks parked on the road for pick up of bins. Waste storage areas and collection areas are not to adversely affect the amenity of residents on the sites and on adjacent sites, and the quality of the public domain/public open spaces.	DS 6.1 (Waste) Waste storage areas are not to be visible from the street, not compromise any "activation" at ground level at Old Canterbury Road, and not be located where there are likely to be visible from adjacent apartments at 120 B Old Canterbury Road or have odours affecting those places. Consideration shall be given to the provision of a waste storage area at basement levels.
	DS 6.2 Details shall be provided at Development Application stage for the transfer of bins from waste storage areas to collection points, and consideration given to the use of dedicated lifts for the transport of bins between levels if required.
	DS 6.3 Waste collection is to occur by vehicles using the private laneway off McGill Street with the requirements of DS 4.2 being met.
	DS 6.4 Where it can be demonstrated that waste collection is not feasible off the private laneway identified in DS 6.3, and is necessary off Old Canterbury Road, the following shall be provided for Area 3 on Map 2 : <ul style="list-style-type: none"> (i) A vehicular standing area for waste collection is provided within the site, unless approval is obtained from the Roads and Maritime Services for vehicles to stand on Old Canterbury Road, and the vehicular standing area within the site is located within an open space area that ensures safe use of public footpath areas along the road by the public, and

		<p>the surrounding open space area designed and using materials and landscaping in way that is visually attractive, complements the surrounding area, and is adequately screened from any nearby apartments.</p> <p>(ii) The requirements of DS 6.1 are met</p> <p>(iii) Bins are temporarily placed for collection, and promptly returned to storage areas by a caretaker with details for this provided at Development Application stage</p> <p>(iv) Adequate separation provided to nearby shopfront, lift lobbies or apartments.</p>
PC 07	(Amenity of neighbouring residents) Amenity of residents at 120 B Old Canterbury Road and 14 McGill Street shall be maximised and new development shall ensure there is adequate winter solar access building separation distances and also privacy devices provided.	DS 7.1 <p>(Amenity of neighbouring residents)</p> The northerly part of the site in Area 6 on Map 1 shall have lower building height identified within a building envelope determined by providing a minimum of 2 hours winter solar access to apartments at 120 C Old Canterbury Road and 14 McGill Street with : <ul style="list-style-type: none"> - they're being a maximum of 4 storeys in Area 6 on Map 1 relative to the Old Canterbury Road level, and - the top of the maximum envelope including any parapet which affects shadowing.
		DS 7.2 <p>Minimum separation distances shall be achieved between buildings as required by the "Apartment Design Guide" as indicated in Map 1, and in addition:</p> <p>(i) apartments directly facing 120 B Old Canterbury Road shall have an apartment layout with windows located in positions, or use of window screening devices, which prevent any direct viewing of the adjacent apartments.</p> <p>(ii) continuous planter boxes or structure provided along the eastern boundary with the canal adequate enough in width and depth to contain soil and tall screening trees.</p> <p>(iii) sideways views to the north and the GreenWay corridor maintained for apartments at 120 B Old Canterbury Road.</p>
PC 08	(Amenity of residents within the development) Communal Open Space shall be provided for residents of the development to the amount specified in the Apartment Design Guide.	DS 8.1 <p>(Amenity of residents within the development)</p> Communal Open Space shall be provided as specified in the Apartment Design Guide equating to a minimum of 25 percent of the site as follows : <ul style="list-style-type: none"> - use shall be made of the northern roof top part of the building containing lower storeys indicated in Area 6 on Map 1 for communal open space. - use shall be made of ground level parts of the site identified in Area 4 on Map 1 for communal open space.

PC 09 (Childcare Centre Impacts) The amenity of the users of the Childcare Centre at 120 B Old Canterbury Road shall be protected.	(Childcare) DS 9.1 Privacy screening devices shall be provided along the eastern boundary of the site as indicated in DS 7.2 – (ii).
	DS 9.2 Part of the open space of the north western corner of the Childcare Centre, being a minimum area of 40 sqm, shall be identified for receiving a minimum of 2 hours winter solar access during June, July and August. The proposed building envelopes shall demonstrate that this is able to be achieved.
PC10 (Building composition and scale) Building composition shall be of a high design standard and respond to <ul style="list-style-type: none"> - being in a prominent corner gateway location - being adjacent the GreenWay corridor and the desired future “green setting” in that corridor - have a similar scale and number of storeys as the building at 14 McGill Street. <p><i>Explanatory Note: The maximum number of storeys is determined by the height of the building at RL 38.0 as found in the proposed Ashfield LEP Height maps, and this has been determined so as to be a similar scale to the 6 storey building scale established at 120 C Old Canterbury Road, relative to the roadway at RL 17.11 to RL 18.68.</i></p>	(Building composition and scale) DS 10.1 Architectural composition shall enhance the proposal’s setting and relationship to the Greenway corridor, and provide readily identifiable architectural cues for that. <p>Upper levels of the buildings adjacent Old Canterbury Road are to be setback to reduce the scale and impact of the building, having a similar setback to that provided for at 120 B Old Canterbury Road.</p>
	DS 10.2 Maximum number of habitable storeys as measured relative to Old Canterbury Road which varies between RL 17.11 to RL 18.68, is 6 storeys for Area 8 on Map 1 , within a maximum Building Height RL of 38.0 as identified in the Ashfield LEP 2013. Additional storeys may be contained below the ground floor storey to cater for carparking and non-residential uses and take account of the following: <ul style="list-style-type: none"> - freeboard levels affected by flooding for the lower basement storeys. - the impact of the underside of any bottom floor slab on flooding volumes. <p>Any rooftop structure extrusions above the maximum building height in the Ashfield LEP such as lift motor rooms or plant rooms, will be required to seek a Clause 4.6 variation under the Ashfield LEP 2013 and meet its criterion. In assessing this Council will take the following into consideration:</p> <ul style="list-style-type: none"> - <i>Architectural roof top features are used to enhance the composition of the building.</i> - <i>Modelling occurs to the top storey of the building and includes treatments to differentiate and enhance the top of the building from the main part of the building and also other architectural modelling aesthetic benefits are provided.</i> - <i>The building composition enhances the setting as indicated in DS 10.1.</i>



Map 1 – Building Heights, site layout and setbacks.

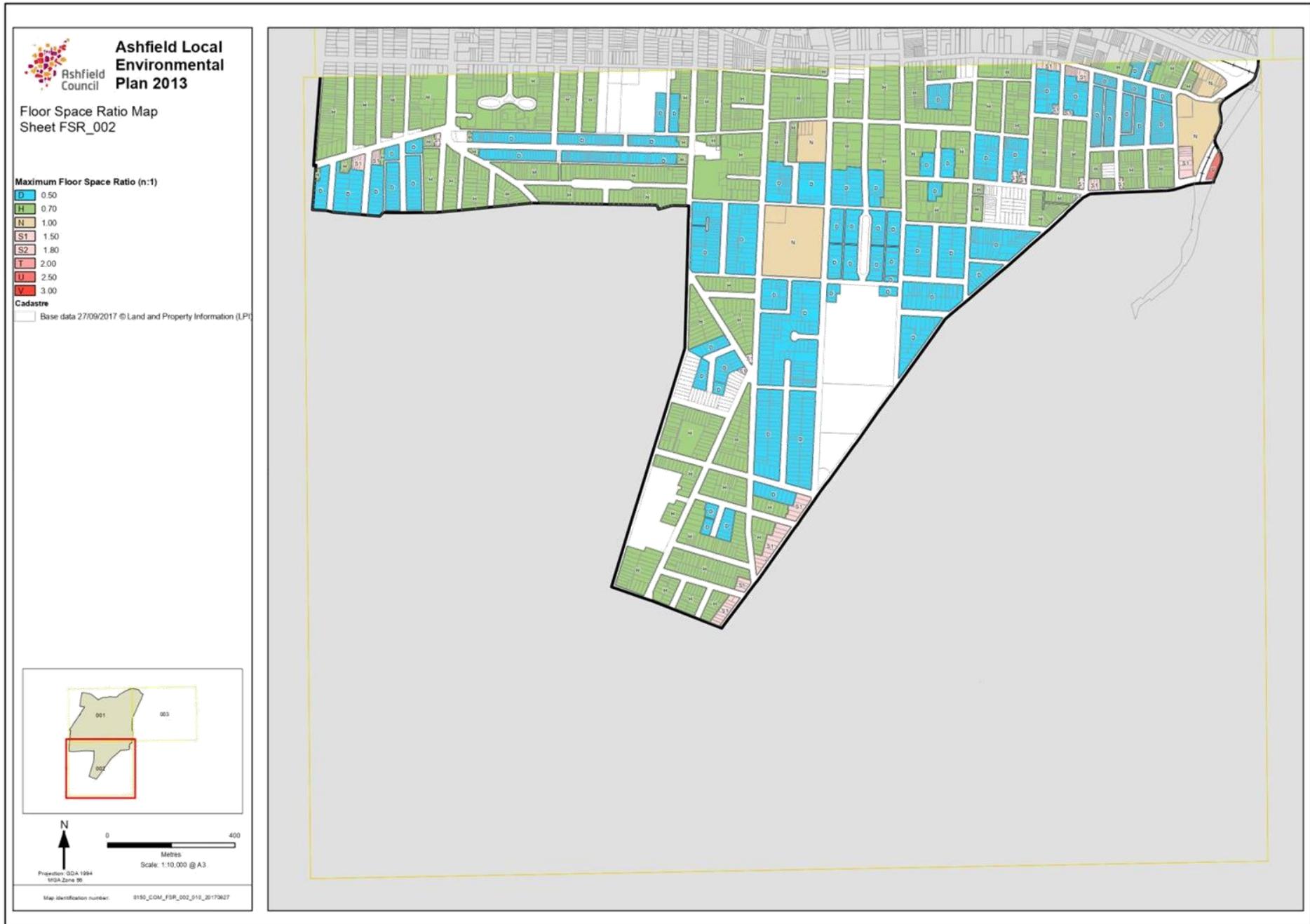


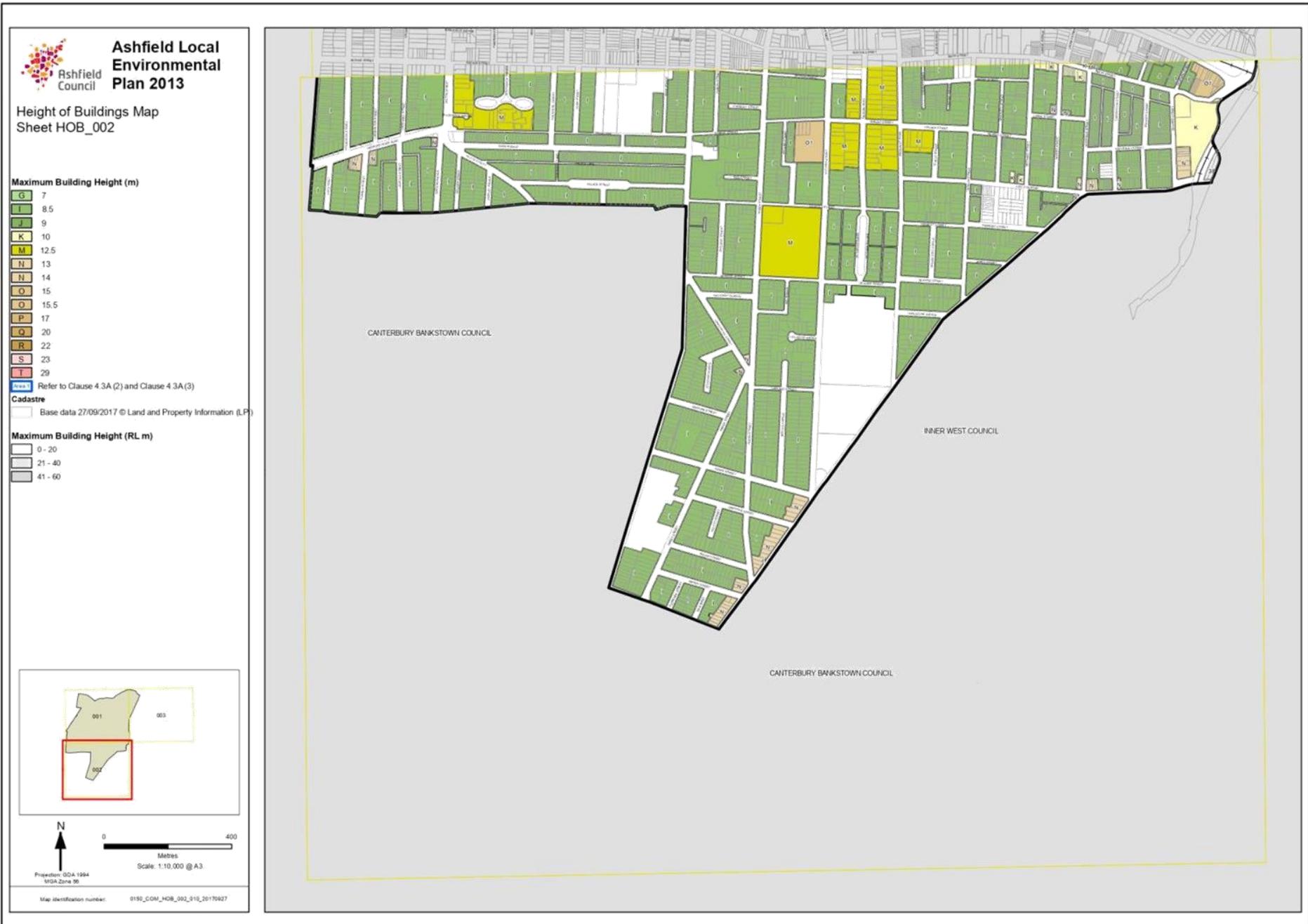
Map 2 – Vehicular Access and Site Servicing

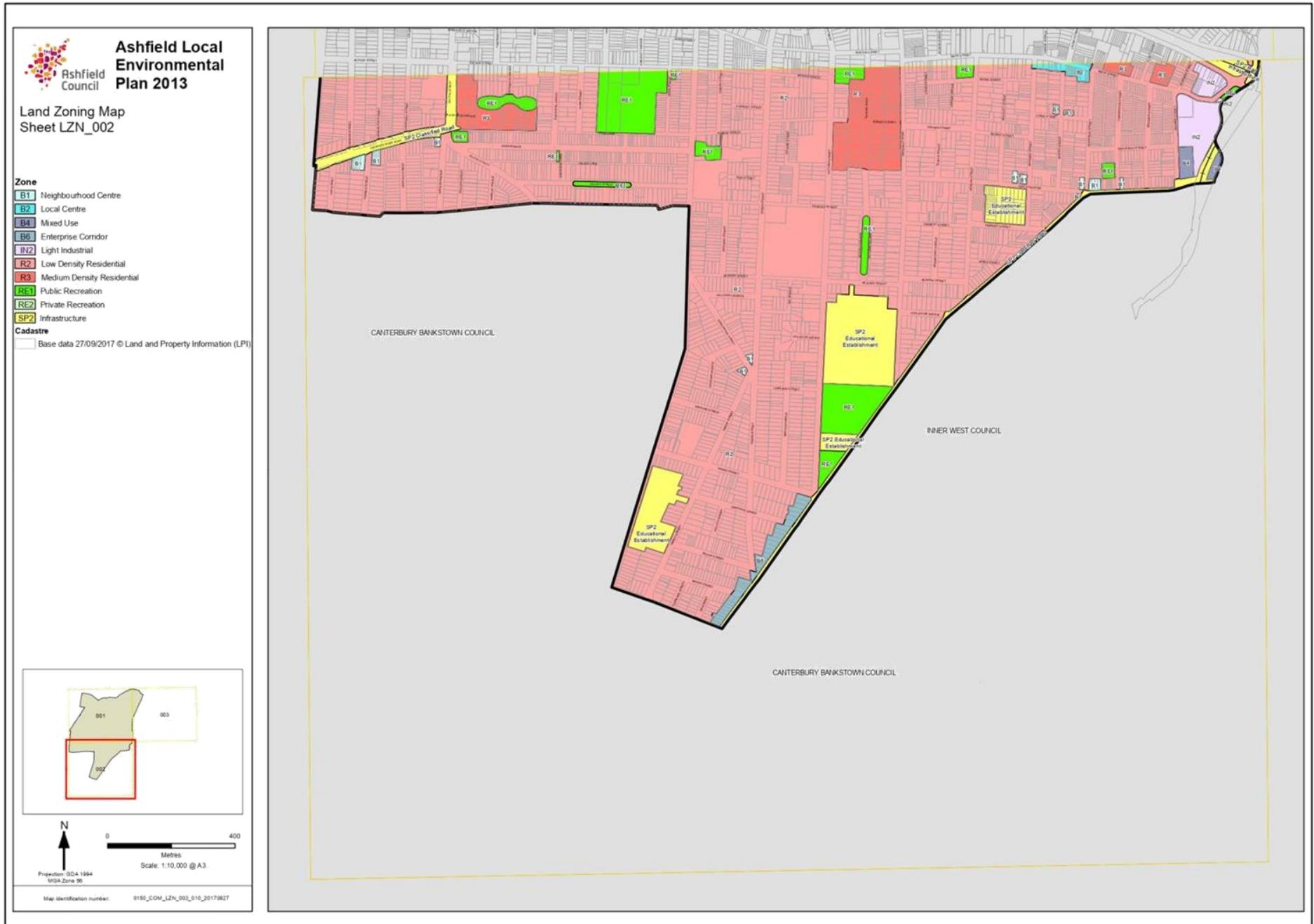
Chapter D - Precinct Guidelines
Part 1 - Ashfield Town Centre

Item 8

Attachment 3







Attachment 4 –Council Report and Minutes of 25 July 2017

Contained on Council website

<https://innerwest.infocouncil.biz/>

Attachment 5 – Gateway Determination and Letter

Contained on Council website

<https://www.innerwest.nsw.gov.au/ArticleDocuments/1982/120C%20Old%20Canterbury%20Road%20Summer%20Hill%20-%205.0%20Gateway%20letter%20and%20determination.pdf.aspx>

**Transport
for NSW**

Council Ref: SC 1483

Con Colot
Senior Planner
Inner West Council
PO Box 14
Petersham NSW 2049

Dear Mr. Colot,

**PLANNING PROPOSAL TO AMEND THE ASHFIELD LOCAL ENVIRONMENTAL PLAN 2013
AND COMPREHENSIVE INNER WEST DEVELOPMENT CONTROL PLAN (DCP) 2016**

Thank you for your correspondence dated 17 October 2018 requesting Transport for NSW (TfNSW) to provide advice in regards to the subject Planning Proposal.

No significant issues are identified at this stage in relation to the proposed development controls associated with the Planning Proposal.

Future Development Related Issues

Required setback for maintenance purposes and issue of anti-throw should be addressed as part of any future development application. The applicant will need to ensure that the proposal can be maintained in the future without requiring access to the rail corridor including the airspace. These requirements are outlined further in the following documents:

1. Australian Standard *T HR CI 12080 ST*, and
2. The Department of Planning and Environments' *Development Near Rail Corridors and Busy Roads – Interim Guideline*.

Consultation with TfNSW and Transdev (IWLIR operator) is encouraged during the preparation of development plans.

For further information please contact Robert Rutledge on 0478 486 393.

Please note for future reference; Transport for NSW requests any further correspondence concerning this project be sent to development@transport.nsw.gov.au referencing **CD18/09544** in the subject line.

Yours sincerely



12/11/2018

**Mark Ozinga
Principal Manager, Land Use Planning & Development
Freight, Strategy & Planning**

CD18/09544

Transport for NSW (TfNSW)
241 O'Riordan Street, Mascot NSW 2020
T 02 8202 2200 | W transport.nsw.gov.au | ABN 18 804 239 602

Con Colot

From: UrbanGrowth <UrbanGrowth@sydneywater.com.au>
Sent: Friday, 26 October 2018 9:51 AM
To: Con Colot
Subject: RE: Planning Proposal: 120C Old Canterbury Road, Summer Hill

Dear Mr Colot,

Apologies for the inconvenience, and thank you for referring the Planning Proposal (PP) listed above to Sydney Water. We have reviewed the application and provide the following comments:

- Sydney Water has no objection to the Planning Proposal.
- The PP is **adjacent to Sydney Water's stormwater channel, the Hawthorne Canal**. There will be requirements that will need to be met in regards to flooding for developments over and adjacent to Sydney Water assets as per policy on our website.
- Water and wastewater facilities are available within the area.
- Amplifications or extensions to these mains may be required depending on the size and scale of development.
- Detailed requirements will be provided once the development is referred to Sydney Water for a Section 73 Compliance Certificate.

If you require any further information, please contact the Growth Planning and Development Team at urbangrowth@sydneywater.com.au.

Thank you again for the communication.

Kind Regards,

Growth Planning & Development Team



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This email has been scanned by Symantec Email Security cloud service on behalf of Inner West Council.



**Office of
Environment
& Heritage**

DOC18/813158
SC1483

Con Colot
Senior Planner
Inner West Council
PO Box 14
PETERSHAM NSW 2049

Exhibition of Planning Proposal for land at Lot 1 in DP 817359 & Lot 100 in DP 875660, No.120C Old Canterbury Road, Summer Hill

Dear Mr Colot,

I refer to your letter dated 17 October 2018, requesting input from the Office of Environment and Heritage (OEH) on the planning proposal for 120C Old Canterbury Road, Summer Hill.

The planning proposal seeks to amend both Ashfield Local Environmental Plan 2013 and Comprehensive Inner West Development Control Plan 2016 by:

- Amend the Land Zoning Map to apply a B4 Mixed Use Zoning to Lot 1 DP 817359;
- Amend the Height of Buildings Map to apply a maximum height of buildings of RL 38.00 across the entire site;
- Amend the Floor Space Ratio Map to apply an FSR of 2.5:1 to both lots comprising No.120C Old Canterbury Road Lot 1 DP 817359 and Lot 100 of DP 875660); and
- Inclusion of a site-specific section within the DCP for the site.

Please find in Attachment 1 OEH comments regarding Aboriginal cultural heritage, built form and urban design, biodiversity, flooding and landscaping.

Should you have any queries regarding this matter, please contact Bronwyn Smith, Senior Project Officer on 9873 8604 or at Bronwyn.smith@environment.nsw.gov.au

Yours sincerely



AMY DUMBRELL
A/Senior Team Leader Planning
Greater Sydney
Communities & Greater Sydney

5/11/2018

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Attachment 1 – Office of Environment and Heritage (OEH) comments on planning proposal - Exhibition of Planning Proposal for land Lot 1 in DP 817359 & Lot 100 in DP 875660, No.120C Old Canterbury Road, Summer Hill**Aboriginal Cultural Heritage**

The site is in a potential area of Aboriginal archaeological sensitivity and that there is likely to be future excavation to facilitate a commercial/residential tower which may impact on Aboriginal archaeology.

Given the above, OEH strongly recommends that an Aboriginal cultural heritage assessment be undertaken to inform the planning proposal and include:

- an archaeological assessment – involving the identification and assessment of Aboriginal objects (often referred to as 'sites') and their management based on archaeological criteria; and
- a cultural heritage assessment – involving consultation with Aboriginal stakeholders (groups and individuals) and can include historical and oral history assessment and broader values assessment (e.g. landscape and spiritual values).

OEH also notes that the planning proposal refers to the *Section 9.1 Ministerial Direction 2.3 Heritage Conservation*. The planning proposal states that this Direction is not applicable. However, the planning proposal does not refer to any Indigenous Heritage Study that has been completed for this site to be able to confirm that Aboriginal Heritage has been adequately considered, protected or the impacts mitigated.

Built Form and Urban Design

OEH recommends that should a development application be submitted to Council the proposal incorporates green walls, green roof and/or cool roof into the design. The benefits are outlined in the OEH (2015) Urban Green Cover in NSW Technical Guidelines which can be found at the following link: <http://climatechange.environment.nsw.gov.au/Adapting-to-climate-change/Green-Cover>. Green roofs can increase habitat and biodiversity at the site, particularly if local native plant species are used from the relevant native vegetation community.

Biodiversity

It is noted that the development potentially involves the removal of a number of trees and OEH notes that no Ecological Study has been undertaken for the site. OEH recommends that an Ecological Study be undertaken prior to the removal of any trees from the site. Council is to be satisfied that the removal of trees will not impact on any threatened flora or fauna.

Flooding

OEH have reviewed the relevant Flood Risk Assessment report for the Planning Proposal to develop 120C Old Canterbury Road, Summer Hill prepared by Cardno, August 2018. The Report adequately addresses the issues raised and conclusions drawn from the site's flood certificate report prepared by WMAwater, on 21 June 2016.

The Report concludes that the proposed development has been assessed against each of the considerations set out in DCP and Section 9.1 Flood Prone Land Direction and concludes that the proposed form of development is informed by the principles and guidelines of the Floodplain Development Manual 2005 and complies with the intent of the Direction, and any provisions of the planning proposal that are inconsistent are of minor significance.

It is therefore concluded by OEH that the site is suitable for the proposed development in terms of flooding.

Landscaping

OEH recommends that a Landscaping Plan be included within the development application that may be submitted to Council that uses a diversity of local native provenance plant species.

(END OF SUBMISSION)



**Office of
Environment
& Heritage**

DOC19/13251
SC1483

Con Colot
Senior Planner
Inner West Council
PO Box 14
PETERSHAM NSW 2049

**Exhibition of Planning Proposal for land at Lot 1 in DP 817359 & Lot 100 in DP 875660,
No.120C Old Canterbury Road, Summer Hill**

Dear Mr Colot,

I refer to your letter to OEH dated 20 December 2018 in relation to the planning proposal for 120C Old Canterbury Road, Summer Hill. Thank you for the explanation of Council's position in relation to Aboriginal cultural heritage (ACH).

The planning proposal seeks to amend both Ashfield Local Environmental Plan 2013 and Comprehensive Inner West Development Control Plan 2016 through:

- applying a B4 Mixed Use Zoning to Lot 1 DP 817359
- increasing the building height to RL 38.00 across the entire site
- increasing the Floor Space Ratio to 2.5:1 to both lots
- inclusion of a site-specific section within the DCP for the site.

Please find attached OEH response in Attachment 1.

Should you have any queries regarding this matter, please contact Svetlana Kotevska, Senior Conservation Planning Officer on 8837 6040 or at svetlana.kotevska@environment.nsw.gov.au

Yours sincerely

S. Harrison 09/01/19

SUSAN HARRISON
Senior Team Leader - Planning
Greater Sydney
Communities and Greater Sydney Division

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**Attachment 1 – Office of Environment and Heritage (OEH) comments on planning proposal -
120C Old Canterbury Road, Summer Hill**

OEH notes the specific advice from IWC as follows:

- the site is not shown on the AHIMS to be in a potential area of Aboriginal archaeological sensitivity
- the site is not heritage listed in the Ashfield Local Environmental Plan (ALEP) 2013
- the site has had significant disturbance as indicated in the attachment
- ALEP 2013 has provisions that provide for Aboriginal Archaeological remains or heritage significance that are applicable at future a Development Application Stage.

In accordance with OEH's letter dated 5 November 2018 and subsequent email dated 12 December 2018, the site is in a potential area of Aboriginal archaeological sensitivity and there is likely to be future excavation to facilitate a commercial/residential tower which may impact on Aboriginal archaeology. OEH therefore strongly recommends that the Council require the proponent to prepare an Aboriginal cultural heritage assessment to inform the planning proposal that includes:

- an archaeological assessment - involving the identification and assessment of Aboriginal objects (often referred to as 'sites') and their management based on archaeological criteria and
- a cultural heritage assessment - involving consultation with Aboriginal stakeholders (groups and individuals) and can include historical and oral history assessment and broader values assessment (e.g. landscape and spiritual values).

Further, OEH is unclear how consistency with section 9.1 ministerial directions, in particular Direction 2.3 Heritage Conservation, will be achieved when the planning proposal does not include any archaeological investigation of the subject site and proposes new development standards for height and density that will result in a built form that may impact on the conservation of potential Aboriginal objects.

OEH recommends that an archaeological assessment and consultation with the Aboriginal community commences at the earliest possible stage of this planning proposal, as previously advised by OEH in its letter dated 5 November 2018 and email dated 12 December, 2018. Please also note that it is likely an AHIP will be required for test excavation on the site and a separate AHIP for the actual proposed works which will need to be supported by an Aboriginal Cultural Heritage Assessment Report (ACHAR). As such the work done during the planning proposal stage can be used to inform the AHIP and used in the ACHAR and inform the future design of the development.

(END OF SUBMISSION)



Transport
Roads & Maritime
Services

9 November 2018

Our Reference: SYD18/01654/01
Council Ref: SC 1438

The General Manager
Inner West Council
PO Box 14
Petersham NSW 2049

Attention: Con Colot

Dear Sir/Madam

**PLANNING PROPOSAL – AMENDMENTS TO ASHFIELD LOCAL ENVIRONMENTAL PLAN (LEP) 2013 AND INNER WEST DEVELOPMENT CONTROL PLAN (DCP) 2016
120C OLD CANTERBURY ROAD, SUMMER HILL**

Reference is made to Council's letter dated 17 October 2018, regarding the abovementioned proposal which was referred to Roads and Maritime Services (Roads and Maritime) for comment in accordance with the consultation requirements set out under Section 3.34 of the *Environmental Planning and Assessment Act, 1979* and Gateway determination. Roads and Maritime appreciates the opportunity to provide comment on the proposal.

It is noted that the planning proposal seeks to:

- Rezone the western portion of land from SP2 Infrastructure to B4 Mixed Use
- Increase the maximum height of building to RL38.0 (6 storeys above Old Canterbury Road)
- Increase maximum floor space ratio for the land from 1:1 to 2.5:1.
- Proposed changes to Comprehensive Inner West DCP 2016 : adds to Section 2 - Chapter D, Part 12 -120C Old Canterbury Road Summer Hill.

Roads and Maritime appreciates the opportunity to provide comment and raises no objection in principle to the planning proposal, subject to the comments provided below being addressed in the access controls in the draft Development Control Plan applying to the site and as part of any future development application(s) on the subject site:

1. In the interest of traffic efficiency and road safety, Roads and Maritime would not support vehicular access points from Old Canterbury Road. Roads and Maritime supports a requirement for access to be provided from the right of way from McGill Street to limit the number of access points (and therefore conflict points) on the State road network.
2. Parking for all vehicles associated with the proposed development should be fully contained within the development site and must not encroach onto any state road.

Roads and Maritime Services

27-31 Argyle Street, Parramatta NSW 2150 |
PO Box 973 Parramatta NSW 2150 |

www.rms.nsw.gov.au | 13 22 13

3. All service vehicles (including garbage collection, building maintenance vehicles and removalists), must service this property from within the development or from the local road network and not from Old Canterbury Road. Roads and Maritime requests that controls in the DCP are amended to reflect this.
4. Council may wish to consider incorporating maximum car parking controls into the relevant clauses of the LEP and/or DCP to encourage the use of public and active transport and reduce reliance on private vehicle use.
5. No Stopping should be implemented on Old Canterbury Road from the corner of Old Canterbury Road and Edward Street to a point approximately 30m west of the corner of Old Canterbury Road and McGill Street. Roads and Maritime requests that this is shown in the relevant sections of the DCP to inform future development applications.
6. A Traffic Impact Assessment should be submitted as part of any future development application(s) on the subject site.

Thank you for the opportunity to provide comment on the subject planning proposal. Should you have any enquiries in relation to this matter, please contact Rafael Morrissey, Graduate Planner on 02 8849 2465 or e: development.sydney@rms.nsw.gov.au

Yours sincerely,



Rachel Davis
Senior Strategic Land Use Coordinator
Sydney Planning, Sydney Division

Con Colot

From: UrbanGrowth <UrbanGrowth@sydneywater.com.au>
Sent: Friday, 26 October 2018 9:51 AM
To: Con Colot
Subject: RE: Planning Proposal: 120C Old Canterbury Road, Summer Hill

Dear Mr Colot,

Apologies for the inconvenience, and thank you for referring the Planning Proposal (PP) listed above to Sydney Water. We have reviewed the application and provide the following comments:

- Sydney Water has no objection to the Planning Proposal.
- The PP is **adjacent to Sydney Water’s stormwater channel, the Hawthorne Canal**. There will be requirements that will need to be met in regards to flooding for developments over and adjacent to Sydney Water assets as per policy on our website.
- Water and wastewater facilities are available within the area.
- Amplifications or extensions to these mains may be required depending on the size and scale of development.
- Detailed requirements will be provided once the development is referred to Sydney Water for a Section 73 Compliance Certificate.

If you require any further information, please contact the Growth Planning and Development Team at urbangrowth@sydneywater.com.au.

Thank you again for the communication.

Kind Regards,

Growth Planning & Development Team



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ATTACHMENT 7 - RESPONSE TO PROPONENT'S SUBMISSION ON DRAFT SITE SPECIFIC DCP

The proponents have submitted a letter with comments on the Draft DCP. The issues raised are summarised and responded to in the table below.

Table 1

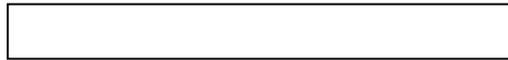
Issues raised	Officer comments
<p>The Draft DCP does not have clear objectives, the guidelines are not reasonable, will penalise future development and certain guidelines are not in accordance with the Apartment Design Guidelines. These will not allow for alternate building design solutions.</p>	<p>The entire Inner West DCP 2016 which applies to the former Ashfield LGA is structured to have Objectives and corresponding Design Solutions. These provide certainty for what is being sought and can be relied on to explain and justify Council's position at Development Assessment stage. Council also has responsibility for the DCP content and is responsible for stating the "desired character" in accordance with the Context Principle of SEPP 65.</p> <p>The Draft DCP has clear objectives and relevant Design solution guidelines such as building envelopes, minimum building setbacks and requirements for solar access which use the standards in the Apartment Design Guidelines.</p> <p>It is also clear in the DCP that an applicant may propose an alternate solution which has merit. This does not mean however that Council should remove sound, exemplar design solutions from the DCP.</p> <p>Indeed, as explored later in this table, the submission requests amendments which are not in accordance with standard provisions that protect resident amenity. This element of the proponent's submission contradicts their own Design Concept designs submitted to support the Proposal.</p>
<p>Objects to minimum building separation being stipulated.</p> <p>Objects to having a building separation which is measured from the adjacent building line of apartments and their balconies at 120 B Old Canterbury Road, and from 14 McGill Street on the basis that these buildings have been poorly located.</p> <p>Suggests that separation distances between buildings may be reduced to 6m as is occurring either side of the laneway off</p>	<p>It is critical to ensure there will be satisfactory amenity for residents in adjacent apartments. Building separation distances are determined via SEPP 65 and the Apartment Design Guide (ADG). This is what the draft DCP states and shows in its map. This does not require amendment.</p> <p>These setbacks vary between 12m and 18m depending on building height and have been the standards applied to similar developments in the Ashfield LEP area.</p> <p>The ADG already explains that the separation distance is also dependant on whether there will be any windows or balconies in the new walls that would affect neighbour's privacy.</p>

<p>McGill Street and supplies photo shown below, or that there should be “setback sharing” where the required separation distance is halved.</p> 	<p>If there are no windows or balconies, there can be less separation, providing other spatial and urban design considerations are acceptable. The adjacent building at 120 C Old Canterbury Road has its balconies approximately 7.5 metres from the edge of the boundary of 120 C Old Canterbury road which includes the canal area. Upper apartment levels have a greater setback. The newly constructed apartments at 14 McGill Street are much closer to the boundary than shown on the Design Concept drawings.</p> <p>In accordance with the “Context Principle” of SEPP 65 it is appropriate to have buildings soundly located with ADG building separation requirements measured to the affected adjacent apartments and without “setback sharing”. It is unacceptable to have buildings with a 6-7m separation as is happening between 120 B Old Canterbury Road and 14 McGill Street (noting that former Marrickville Council refused the DA however the Land and Environment Court approved it). It is evident having buildings in such close proximity and boxed in is extremely poor urban and architectural design, and contrary to the Design and Amenity objectives of the EPA Act. There have been considerable objections on this point from affected residents.</p>
<p>Objects to winter solar access to the childcare centre.</p> <p>Delete the reference in clause DS 9.2 to requiring that the Childcare Centre receives 40 sqm of winter solar access.</p>	<p>The current childcare centre has an outside terrace that wraps around part of the building and mostly receives solar access after 12 pm.</p> <p>Clause DS 9.2 of the draft DCP will ensure there is a minimum two hours winter solar access of 40 sqm to the existing Childcare external terrace play areas. This clause addresses overshadowing concerns as raised by the owner of the adjacent childcare centre. Other periods of the year will receive more solar access.</p>
<p>Clarification on exceeding Maximum Building Height.</p> <p>The draft DCP diagrams should add a reference to the top of the building including an area for lift motor rooms and plant rooms which exceed the maximum Building Height in the LEP.</p>	<p>The Draft DCP already has DS 10.2 which identifies this. <u>An additional note can be added to the DCP Map as requested.</u></p>
<p>Objects to showing a 2 pm winter sun solar access angle for adjacent apartments since this requires part of the upper building level to reduced in bulk and this should not be the case.</p> <p>This request requires that clause</p>	<p>The draft DCP has DS 7.1 which states there must be 2 hours of winter solar access to apartments at 120 B Old Canterbury Road and to McGill Street, and so the DCP map shows the positions of the sun between 12 pm and 2pm when this will be available. The proponents have been aware of this requirement for a considerable length of time including at meetings with Council officers where they had to make design</p>

<p>DS 7.1 be amended so that less than 2 hours winter solar access is provided to affected apartments at adjacent buildings, to enable a larger building.</p>	<p>amendments to address this, and this requirement was highlighted in the report to Council in 25 July 2017. The 2 hours winter solar access standard is an Apartment Design Guide requirement in Part 4A - and winter solar access is the subject of complaint in current submissions from adjacent residents</p> <p>The Draft DCP map shows where the proposed buildings should be lower to enable a minimum 2 hours of winter solar access between 12 noon and 2pm.</p>
<p>Objects to stating the minimum freeboard levels to account for flooding.</p> <p>The DCP unfairly applies a significant higher and more onerous floor level threshold and this is unjustifiable.</p>	<p>The Draft DCP applies the applicant's Cardno flood study 1:100 year flood level of RL 11.8 and PMF flood level of RL 14.0. It also states that the bottom storey floor level for carparking must be no lower than RL 12.5 in order to be above flood levels and also not have its structure (such as supporting beams) interfere with water flow at RL 11.8. The flood study was required for the DPE approval in order to carry out Community Consultation and for the Planning Proposal to be supported.</p> <p>Council engineers have reviewed the DCP and advise the minimum floor levels stated are critical and must remain.</p>
<p>Objects to having a greater than 1m setback from western boundary with Railways land. Claims site owner has obtained permission to have a 1 m setback from the boundary from TNSW.</p>	<p>TNSW have advised Council that a 1.5m minimum setback is required (refer to response in report) in order to allow for an adequate access width for maintenance to future building walls. No further written or otherwise information has been given to Council. These walls will be up to 8 storeys above natural ground level.</p> <p><u>The DCP clauses and map should be amended to require a minimum building setback of 1.5 m from the western boundary with the railways land.</u></p>
<p>Planter Box requirement along eastern edge stated in clause DS 7.2 (ii) below of the DCP should be deleted.</p> <p><i>Minimum separation distances shall be achieved between buildings as required by the "Apartment Design Guide" as indicated in Map 1, and in addition:</i></p> <p><i>ii) continuous planter boxes or structure provided along the eastern boundary with the canal adequate enough in width and depth to contain soil and tall screening trees.</i></p>	<p>There is a privacy issue for apartment residents at 120 B Old Canterbury road. Screening using tree/bush planting naturally requires the building components and location described in Clause DS 7.2 (ii). This will also provide vegetation and habitat which are Greenway themes and reduce "building canyon".</p> <p>The above is acknowledged in the applicant's own Design Concept which clearly displays capacity for trees in this position.</p> <p>Clause DS 7.2 should remain as is.</p>

<p>The above changes should be implemented in the DCP in order to have a future building design achieve the proposed maximum Height and Maximum FSR stated in the LEP.</p>	<p>The above matters in themselves are likely to prevent the proposed development having some elements that could reach the Maximum Building Height of RL 38.0 indicated in the LEP amendment.</p> <p>The proposed FSR is expressed as a maximum. Its purpose is to show what must not be exceeded. This does not however guarantee or prescribe that the maximum FSR will be achieved. The final outcome will be affected by more detailed DCP guidelines and how a building design will address these. The ADG guidelines are entirely credible and building envelopes must provide minimum building separation and solar access to adjacent apartments.</p> <p>This claim has not utilised any detailed architectural examination to demonstrate where a more detailed design might locate a building form in positions that would not cause any amenity impacts on adjacent apartments. Nevertheless if this was the case it is evident the DCP allows for alternate solutions.</p>
--	---

Proponent's submission follows.



17th December 2018

The General Manager

Inner West Council
260 Liverpool Rd
ASHFIELD NSW 2131

Attention: Mr Roger Rankin & Mr Daniel East

**RE: SUBMISSION IN RELATION TO THE DRAFT DCP TO ACCOMPANY THE PLANNING
PROPOSAL AT 120C CANTERBURY RD, DULWICH HILL**

Dear Roger and Daniel,

Reference is made to the meeting held at Council offices on 23 November 2019 whereby the contents of the Draft DCP for the subject site were discussed.

Following discussions at the meeting, the following information is provided in order to modify the Draft DCP to avoid ambiguity upon lodgement of the development application.

The applicant (and its consultants) would prefer to provide for clear directives in the DCP which are reasonable and in accordance with the relevant provisions of the Apartment Design Guide and which do not unreasonably penalise any future development.

The maps are considered to be too prescriptive as they include numeric provisions which are overly onerous and are considered to be in conflict with the section of the DCP, titled Using this Guideline (excerpt shown below):

The Guideline is performance based. In this role, it is intended to provide both a level of certainty for applicants, Council and the community while also enabling consideration of high quality, innovative design. This is appropriate as given the complexity of the LGA urban environment, it is not possible or desirable in all instances for council to specify quantitative, pre-determined criteria that development must achieve. Rather, in such setting an appropriate design emerges from a well-considered site analysis that explores and responds to the characteristic of the site, adjoining properties, the streetscape and neighbourhood, as well as putting in place adequate measures to mitigate any potential negative impacts.

Through the development application process, an applicant may propose an Alternative Solution to the Design Solution. Council will consider the Alternative Solution against the Performance Criteria and Purpose. If sufficient justification exists, largely informed by a site analysis and argued against sound urban planning and design grounds, council may consider accepting an Alternative Solution to the Design Solution". This Guideline is performance based.

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Letter to Council

120c Old Canterbury Road, Dulwich Hill

In this regard, we raise concerns that the criteria within the DCP may compromise the ability to achieve the allocated FSR of 2.5:1.

The following changes are considered to be appropriate and required in order to avoid complications at the DA stage:

1. Minimum Building Separation

In this regard, it is requested that the reference to a 9-metre setback from the northern neighbour be amended to "a minimum 6-metre setback be provided in order to achieve mutual privacy with the northern neighbour and to allow for adequate solar access to the subject site and neighbouring properties". The provision of a 6-metre setback represents the 50% sharing of the separation distance required by the ADG, as shown in the following diagram:

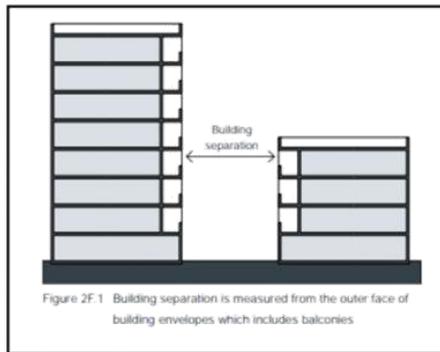


Figure 1: Diagram from section 2F: Building Separation of the ADG

Given the northern neighbouring building was approved with a setback of 3-metres from the subject site, it is considered unreasonable and inequitable to require a 9-metre setback for the subject site. It has also been demonstrated in the concept plans that accompany the planning proposal that a 6-metre separation would be sufficient in meeting the aims of the Building Separation requirements of the ADG under Part 2F.

The following photos show that the northern neighbour has no windows which would be affected by north-facing openings.

Such separation distance and use of offset windows, angled openings and screening devices have been used in the precinct, as shown in the following photos:

Letter to Council

120c Old Canterbury Road, Dulwich Hill



Figure 2: Photo of northern neighbour in the distance which shows there will be no mutual privacy impacts generated by the 6-metre setback



Figure 3: Photo showing 6-metre separation distance between southern and northern building and the design measures to avoid mutual privacy

2. Solar Access To Child Care Centre

It is considered unreasonable and inappropriate to specify a nominated numeric area of child play outdoor space in the adjoining child care centre. To require that a minimum of 40sqm of space be retained in sunlight on June 21 is considered to be unreasonable given that the approval of the building to the immediate north of the child care centre would have had greater shadow impacts. It is considered unreasonable that the subject building would then have to be compromised to compensate for the impacts generated by the main building generating the impact.

Nevertheless, the following analysis demonstrates that an appropriate degree of solar access can be maintained in association with a 6-metre northern setback on the subject site.

It is also noted from the child care centre guidelines that the provision of direct solar access should be avoided due to shade requirements. The proposal thereby does not unreasonably compromise the amenity of the child care centre.

3. Height

It was established that the provision of a 6-storey building above the nominated RL of 18.68 may generate a non-compliance with the 38m height limit. The provision of 3.1m floor to floor for 6-storeys plus lift overrun may generate a minor non-compliance and thereby require a Clause 4.6 variation.

Given any future DA is associated with the planning proposal which has been at least 2 years in the making, it would be preferable to avoid the need for a Clause 4.6 variation. However, in the interests of avoiding an amendment to the planning proposal, it is requested that a diagram be added to the DCP which would demonstrate that a slight variation to the height limit would be contemplated due to the lift overrun. Such diagram would make reference to the RL of 18.68 plus 6 storeys x 3.1m plus lift overrun of 1-1.5m.



Figure 4: Section BB

Letter to Council

120c Old Canterbury Road, Dulwich Hill

4. 2pm sun angle which requires part of the upper level to be removed

Given that the applicant's architect has provided accurate solar analysis based upon survey data and reliable computer programs, the 2pm winter sun line which necessitates the reduction in built form is considered to be unreasonable and unnecessary. The architect's solar analysis is reproduced with this submission to confirm that the annotation is redundant.

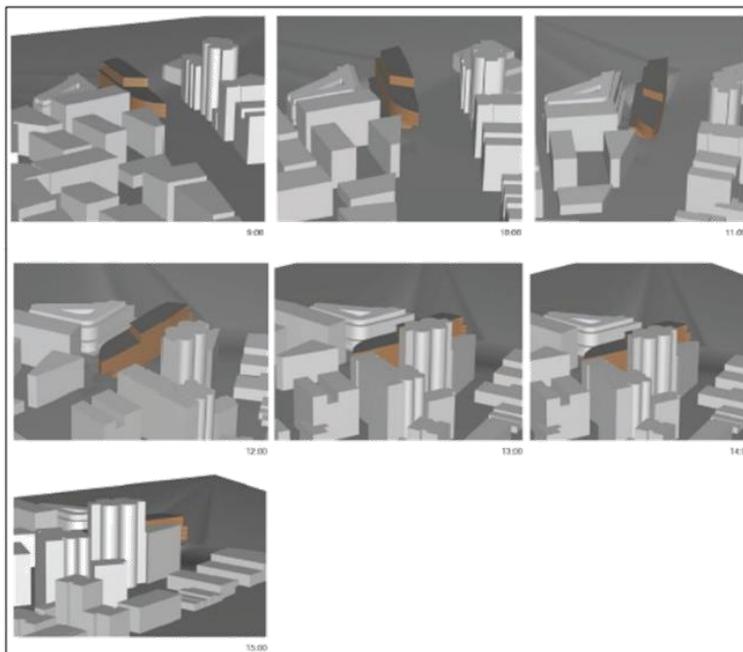


Figure 5: Sun Eye Diagrams

5. Flood freeboard level

We have confirmed with our hydraulic engineers (CARDNO) that the required flood freeboard level should be consistent with that typically required, that being 500mm above the 1 in 100 year flood level.

The DCP unfairly and inappropriately applies a significantly higher and more onerous threshold which is considered to be unjustifiable.

It is thereby requested that the DCP be amended accordingly. Our hydraulic engineer will be in contact with Council's Development Engineers to confirm that the above recommendation. As with the above

Letter to Council

120c Old Canterbury Road, Dulwich Hill

comments, it is considered that rectification of this issue at the Draft DCP stage will avoid any confusion at the DA stage.

6. Setback from western boundary

We have confirmed with Sydney Trains that they may accept a 1-metre setback along the western side of the site subject to satisfaction of design criteria.

7. Planter box requirement

It is requested that the DCP be amended to promote above ground landscaping in preference to a specific requirement to provide for continuous planter boxes along the eastern side of the site.

It is requested that the above changes to the Draft DCP be adopted to ensure that the achievement of the height and FSR (as proposed in the Planning Proposal) can be achieved whilst also avoiding any misinterpretation at the DA stage.

Given that the aims of the DCP will be satisfied by the proposed changes, it is considered that the intent of the Draft DCP will not be undermined, but rather, the DCP would be more in accordance with the performance based nature of the Guideline, as noted in the Draft DCP.

We appreciate the opportunity to meet and discuss the above amendments and consider the outcome of the meeting to be mutually beneficial as it will avoid any potential misinterpretation at the DA stage.

If you require any additional information, or clarification of any of the above points, please do not hesitate to contact the undersigned on (02) 9310 4979 or via email at anthony@abcplan.com.au.

Yours sincerely,



Anthony Betros
Director- ABC Planning Pty Ltd
Bachelor of Town Planning, UNSW
Graduate Diploma in Urban Estate Management, UTS

Attachment 8 – Amendments to Draft DCP
Performance Criteria and Design Solutions

Performance Criteria		Design Solution	
<i>Explanatory notes will only appear in the draft DCP exhibition.</i>			
Officer Comments January 2019: Proposed minor amendments to the DCP are shown in red or with strikethrough with an explanation shown in italics where required.			
PC01	(Greenway)	DS 1.1	(Greenway)
	<p>Ensure there is a sympathetic spatial relationship with the Inner West Council Greenway project. This shall include consideration of the following building elements and site layout:</p> <ul style="list-style-type: none"> - Treatment of walls from lower basement to ground level - South west corner of building and transition from Old Canterbury Road, to the railway bridge to the Greenway corridor. - Ground level open space has capacity to form part of a pedestrian linkage from McGill Street to the Greenway - Surveillance from apartments of the adjacent GreenWay. <p><i>Explanatory note.</i></p> <p><i>The "GreenWay" is an Inner West Council project for establishing a regional "north south" public corridor which include pathways and landscaping, from Cooks River to Iron Cove. This will include land along the open space part of the railway corridor land along the east side of the site.</i></p> <p><i>Green Walls means: A green wall is a wall partially or completely covered with greenery which is maintained by a growing medium such as a soil.</i></p>	<p>Basement walls containing carparking areas shall be well composed and include defined wall fenestration or relief with appropriate proportions, and use of complimentary wall cladding materials, to achieve a high standard of design. The structure shall not be solely based on an exposed frame reflecting structural engineering and carpark ventilation requirements. Consideration shall be given to use of "green walls".</p> <p>DS 1.2</p> <p>A 2 metre wide deep soil area shall be provided along the northwest boundary as shown in Area 1 on Map 1 for provision of tree planting and the ability to establish "Green walls". To enable this, a minimum 2m building setback from the north west boundary shall apply to all storeys below the ground level storey off Old Canterbury Road.</p> <p>Building setbacks to the north west boundary for ground level storeys off Old Canterbury Road and above, shall comply with Sydney Train requirements taking into account the operation of the adjacent light rail train, and take into account ground level planting areas.</p> <p>DS 1.3</p> <p>The south west corner part of the building in Area 2 on Map 2 shall be architecturally modelled as a landmark which takes regard of the transition from the GreenWay setting to Old Canterbury Road setting. This shall include ground level treatments adjacent to Old Canterbury Road, and the modelling of the main body of the building. Consideration shall also be given to stairway connection from Old Canterbury Road to the Greenway shown in Area 3 on Map 1.</p> <p>DS 1.4</p> <p>Ground level open space, which shall have deep soil and be landscaped, shall be provided in Area 4 on Map 1 within the site, and provision made for a pedestrian pathway between the bridge location identified on Map 1 and the Greenway Corridor.</p> <p>Public access and use of the pathway shall be provided for on the land title of the property, which is to come into effect in the event that:</p> <p>(i) there is a pedestrian link established between McGill Street and the Greenway Corridor, using the private laneway and bridge as part of the route for this, or</p> <p>(ii) Council notifies the site owner, including in the situation where there is a Voluntary Planning Agreement in place for public use of the land.</p> <p>Open space at Area 4 and Map 1 shall not contain any overhead building storeys.</p>	
PC02	(Public safety)	DS 2.1	(Public safety)
		<p>Apartment layouts shall be arranged in a way that locates windows and balconies which provide surveillance of the Greenway.</p>	

<p>(Health)</p> <p>PC03 Any eutrophication resulting from water ponding within the channel, or on the site resulting from flooding, is to be managed so as to minimise any health hazard from odours and impacts on residents on the site and on adjacent residential properties.</p>	<p>(Health)</p> <p>DS 3.1 Any ground level undercroft area shall be designed and use flood compatible materials to enable quick water absorption or dispersal so as to minimise any ponding and putrefaction and resulting odours.</p> <p>Consideration shall be given to perimeter plantings along the Canal, and to ensuring there is adequate cross ventilation to the underside of any structure.</p> <p>Relevant documents demonstrating the above has been address shall be provided from a suitable qualified environmental scientist at Development Application stage.</p>
<p>(Traffic impact).</p> <p>Orderly vehicular access into and out of the site is to provided for. Where access to the site is to be provided via the private Right of Way laneway from McGill Street located within 120 C Old Canterbury Road, the design of the internal site and carparking layout shall ensure that :</p> <ul style="list-style-type: none"> - Minimal disruption is caused to the operation of laneway and ensures ease of the laneway, which is also used by residents and visitors at 120 B Old Canterbury Road and 14 McGill Street. - An orderly use of the intersection of the laneway and McGill Street - Allowance for emergency vehicle access use from the laneway onto the site at 120 C Old Canterbury Road. <p><i>Explanatory Note:</i></p> <p><i>The private laneway is part of the property at 120 B Old Canterbury Road. It is used for vehicular access to carparking at 14 McGill Street and 120 B Old Canterbury Road which contain apartment buildings. It is essentially a "dead end" which also provides a connection to 120 C Old Canterbury Road at lower ground level. Normally in these situations there is a cul de sac provided to accommodate evident needs for end of lane car turning movements, and this needs to be addressed.</i></p>	<p>(Traffic impact).</p> <p>DS 4.1 Where use of the private laneway shown in Area 1 Map 2 is proposed for vehicular access to the site, at development application stage a detailed on site carparking plan layout shall be provided which complies with the relevant Australian standards, and also provides for Area 2 Map 2 :</p> <ul style="list-style-type: none"> - Vehicular car turning circle area for entry in and out of the site. - A driveway route provided at the entry area within the site that allows for a forward movement for vehicles entering and wanting to exit the site or laneway. - A driveway turning circle area, or mechanical turning bay subject to Council approval, able to accommodate emergency vehicles and large vehicles and garbage trucks. - An internal car queuing bay length long enough to accommodate cars waiting to access the carparking area, so as to not cause any queueing of vehicles on the laneway at 120 B Old Canterbury Road, - Consideration shall be given an electronic system which advises users of the carpark of the state of the use of the laneway by the other sites, in order to optimise vehicular movements out of the site. <p>Officer comment 30 Jan 2019. Replace above clause in strikethrough with clause below in red.</p> <ul style="list-style-type: none"> - A real time close circuit display system such as camera and screen should be provided in an appropriate location to inform drivers of vehicles leaving the 120 C site of any traffic congestion on the narrow laneway from the site to McGill Street. This will enable drivers to choose whether to delay their journey prior to entering the laneway and to use the onsite vehicle turning area to return to the building car park.

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		<p>DS 4.2</p> <p>Details confirming the ability to use the vehicular laneway at 120 B Canterbury Road shown on Area 1 on Map 2 as a right of way shall be provided at Development Application stage including the following:</p> <ul style="list-style-type: none"> - legal easements - approval of the site owner of 120 B Old Canterbury Road if required - confirmation from a structural engineer that the laneway is able to take the weight of heavy vehicles such as Council garbage truck fleet and all emergency vehicles.
<p>PC 05</p> <p>(Flooding)</p> <p>An external evacuation pathway route shall be provided from areas affected by flooding from a 1 in 100 year event to higher levels external to the site at Old Canterbury Road.</p> <p>Due to the site being flood prone, ensure that relevant building components are above the freeboard flood level, and there is safe use of the buildings including for residential levels and for lower level carparks storeys, so as to not be affected by flooding.</p>	<p>(Flooding)</p> <p>DS 5.1</p> <p>Provide a pedestrian pathway from areas affected by flooding, including from lower ground level open space, bridge over canal area at the entry to the carpark, any basement carparking areas, which takes people to the footpath at Old Canterbury Road.</p> <p>DS 5.2</p> <p>A flood study shall be provided for Council approval and address the following :</p> <ul style="list-style-type: none"> - Floor levels of buildings shall be as follows: <p>Flood protection provided to residential properties is to be the 1 in 100 year flood level plus 500mm freeboard, and</p> <p>All residential floors set 6.45 m above the 100 year ARI flood level of RL 11.8 and 4.25 m above the PMF flood level of RL 14.0, and</p> <p>Lowest basement carparking floor level is at a minimum RL 12.5. <ul style="list-style-type: none"> - The area below the underside of the lowest basement carpark floor slab shall be a predominantly open area to permit flood water to flow, except for the parts required for structural support of the building structure. </p>	
<p>PC 06</p> <p>(Waste)</p> <p>Provision made for storage and collection of waste as required in Part C3 –Waste Recycling Design and Management Standards of the Inner West DCP 2016, taking into consideration the following :</p> <ul style="list-style-type: none"> - The site relies for vehicular access from a constricted right of way laneway, with Council policy being that trucks will not use access through privately owned sites unless there is in indemnity provided to Council's satisfaction, and provision is made for a garage truck turning circle and headroom, and so a consequent need for up to a 18.5 metre turning circle within the site. - Old Canterbury Road along the front of the 	<p>(Waste)</p> <p>DS 6.1</p> <p>Waste storage areas are not to be visible from the street, not compromise any "activation" at ground level at Old Canterbury Road, and not be located where there are likely to be visible from adjacent apartments at 120 B Old Canterbury Road or have odours affecting those places.</p> <p>Consideration shall be given to the provision of a waste storage area at basement levels.</p> <p>Officer comment Jan 2019 : Make clear where the waste collection area is to be and for it to be easily accessible and add the following clause in red:</p> <p>The waste storage area should be directly accessible to the driveway turning circle area within the site to allow for easy removal of waste.</p>	

	<p>site is not permitted to have garbage trucks parked on the road for pick up of bins.</p> <p>Waste storage areas and collection areas are not to adversely affect the amenity of residents on the sites and on adjacent sites, and the quality of the public domain/public open spaces.</p>	<p>DS 6.2 Details shall be provided at Development Application stage for the transfer of bins from waste storage areas to collection points, and consideration given to the use of dedicated lifts for the transport of bins between levels if required.</p> <p>DS 6.3 Waste collection is to occur by vehicles using the private laneway off McGill Street with the requirements of DS 4.2 being met.</p> <p>Officer comment Jan 2019: Delete DS 6.4 as the Roads and Maritime Services will not allow waste collection off Old Canterbury Road.</p> <p>DS 6.4 Where it can be demonstrated that waste collection is not feasible off the private laneway identified in DS 6.3, and is necessary off Old Canterbury Road, the following shall be provided for Area 3 on Map 2:</p> <p>(i) A vehicular standing area for waste collection is provided within the site, unless approval is obtained from the Roads and Maritime Services for vehicles to stand on Old Canterbury Road, and the vehicular standing area within the site is located within an open space area that ensures safe use of public footpath areas along the road by the public, and the surrounding open space area designed and using materials and landscaping in way that is visually attractive, complements the surrounding area, and is adequately screened from any nearby apartments.</p> <p>(ii) The requirements of DS 6.1 are met</p> <p>(iii) Bins are temporarily placed for collection, and promptly returned to storage areas by a caretaker with details for this provided at Development Application stage</p> <p>(iv) Adequate separation provided to nearby shopfront, lift lobbies or apartments.</p>
<p>PC07</p>	<p>(Amenity of neighbouring residents)</p> <p>Amenity of residents at 120 B Old Canterbury Road and 14 McGill Street shall be maximised and new development shall ensure there is adequate winter solar access building separation distances and also privacy devices provided.</p>	<p>(Amenity of neighbouring residents)</p> <p>DS 7.1 The northerly part of the site in Area 6 on Map 1 shall have lower building height identified within a building envelope determined by providing a minimum of 2 hours winter solar access to apartments at 120 C Old Canterbury Road and 14 McGill Street with :</p> <ul style="list-style-type: none"> - they're being a maximum of 4 storeys in Area 6 on Map 1 relative to the Old Canterbury Road level, and - the top of the maximum envelope including any parapet which affects shadowing. <p>DS 7.2 Minimum separation distances shall be achieved between buildings as required by the "Apartment Design Guide" as indicated in Map 1, and in addition:</p> <p>(i) apartments directly facing 120 B Old Canterbury Road shall have an apartment layout with windows located in positions, or use of window screening devices, which</p>

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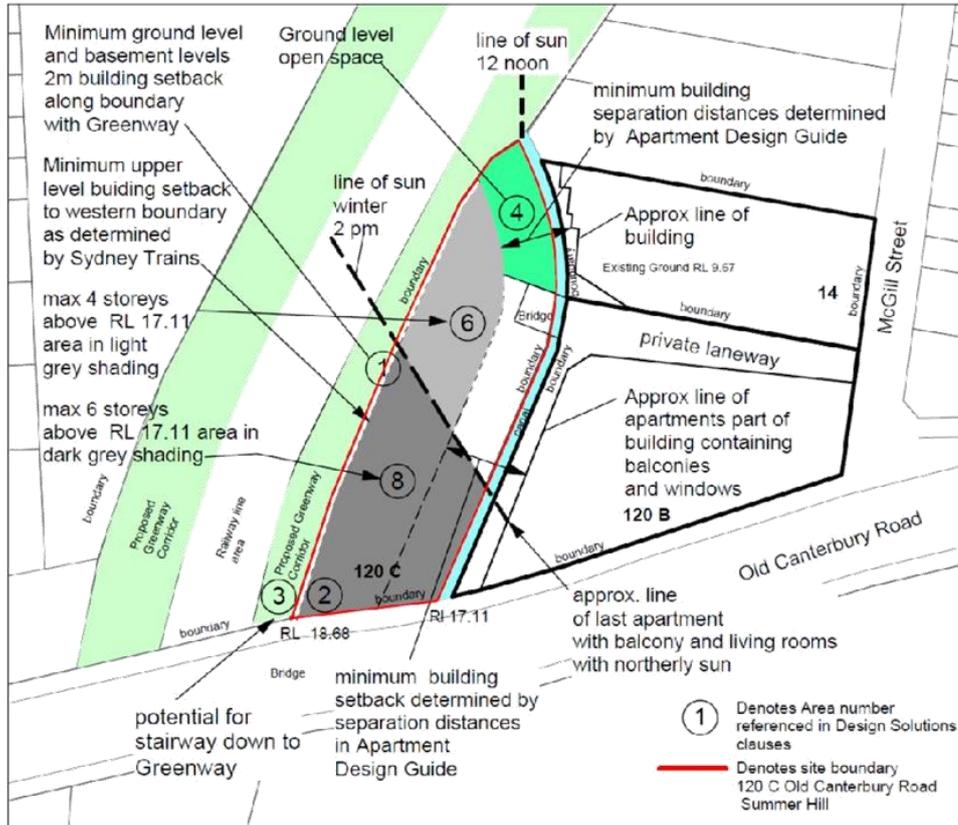
		<p>prevent any direct viewing of the adjacent apartments.</p> <p>(ii) continuous planter boxes or structure provided along the eastern boundary with the canal adequate enough in width and depth to contain soil and tall screening trees to provide an adequate visual buffer to adjacent development. Suitable trees species are to be as specified by a qualified person.</p> <p>(iii) sideways views to the north and the GreenWay corridor maintained for apartments at 120 B Old Canterbury Road.</p>
PC 08	(Amenity of residents within the development) Communal Open Space shall be provided for residents of the development to the amount specified in the Apartment Design Guide.	(Amenity of residents within the development) DS 8.1 Communal Open Space shall be provided as specified in the Apartment Design Guide equating to a minimum of 25 percent of the site as follows : - use shall be made of the northern roof top part of the building containing lower storeys indicated in Area 6 on Map 1 for communal open space. - use shall be made of ground level parts of the site identified in Area 4 on Map 1 for communal open space.
PC 09	(Childcare Centre Impacts) The amenity of the users of the Childcare Centre at 120 B Old Canterbury Road shall be protected.	(Childcare) DS 9.1 Privacy Screening devices shall be provided along the eastern boundary of the site as indicated in DS 7.2 – (i) and (ii). DS 9.2 Part of the open space of the north western corner of the Childcare Centre, being a minimum area of 40 sqm, shall be identified for receiving a minimum of 2 hours winter solar access during June, July and August. The proposed building envelopes shall demonstrate that this is able to be achieved.
PC 10	(Building composition and scale) Building composition shall be of a high design standard and respond to - being in a prominent corner gateway location - being adjacent the GreenWay corridor and the desired future "green setting" in that corridor - have a similar scale and number of storey as the building at 14 -18 McGill Street. <i>Explanatory Note: The maximum number of storeys is determined by the height of the building at RL 38.0 as found in the proposed Ashfield LEP Height maps, and this has been determined so as to be a similar scale to the 6 storey building scale established at 120 C Old Canterbury Road, relative to the roadway at RL 17.11 to RL 18.68.</i>	(Building composition and scale) DS 10.1 Architectural composition shall enhance the proposal's setting and relationship to the Greenway corridor, and provide readily identifiable architectural cues for that. Upper levels of the buildings adjacent Old Canterbury Road are to be setback to reduce the scale and impact of the building. having a similar setback to that provided for at 120 B Old Canterbury Road. DS 10.2 Maximum number of habitable storeys as measured relative to Old Canterbury Road which varies between RL 17.11 to RL 18.68, is 6 storeys for Area 8 on Map 1 , within a maximum Building Height RL of 38.0 as identified in the Ashfield LEP 2013. Additional storeys may be contained below the Old Canterbury Road street level ground-floor storey to cater for carparking and non- residential uses and take account of the following: - freeboard levels affected by flooding for the lower basement storeys. - the impact of the underside of any bottom floor

	<p>slab on flooding volumes.</p> <p>Any rooftop structure extrusions above the maximum building height in the Ashfield LEP such as lift motor rooms or plant rooms, will be required to seek a Clause 4.6 variation under the Ashfield LEP 2013 and meet its criterion. In assessing this Council will take the following into consideration:</p> <ul style="list-style-type: none"> - <i>Architectural roof top features are used to enhance the composition of the building.</i> - <i>Modelling occurs to the top storey of the building and includes treatments to differentiate and enhance the top of the building from the main part of the building and also other architectural modelling aesthetic benefits are provided.</i> - <i>The building composition enhances the setting as indicated in DS 10.1.</i>
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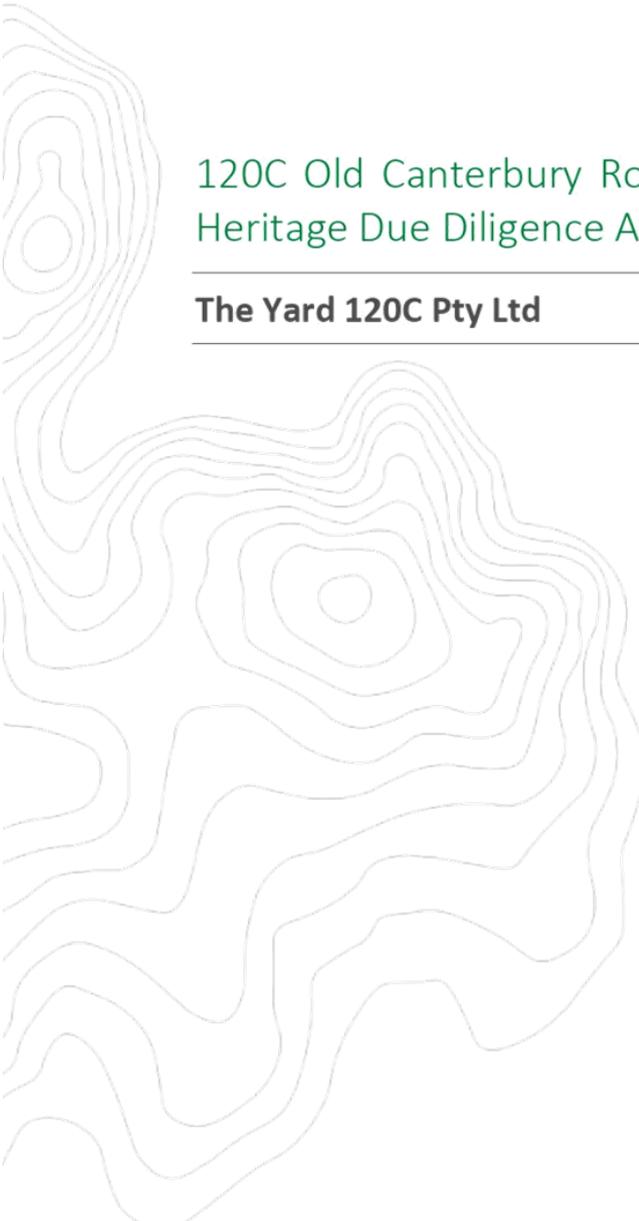
Officer comment Jan 2019: Maps follows on next pages and are text is to be amended as follows:

- *Reference to upper level building setbacks to western boundary with light rail to be amended to state a minimum 1.5 m setback is required by TNSW.*
- *To state that lift motor rooms and plant rooms may be located above the maximum Building Height of RL 38.0.*
- *Basement levels to be instead referred to as lower ground levels.*
- *120 Old Canterbury Road to be referred to as 120 A/B Old Canterbury Road.*
- *14 McGill Street to be referred to as 14-18 McGill Street.*

END



Map 1 – Building Heights, site layout and setbacks.



120C Old Canterbury Road, Summer Hill - Aboriginal
Heritage Due Diligence Assessment

The Yard 120C Pty Ltd

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Template 2.0.1

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1. Introduction

1.1 Project background

The Yard 120C Pty Ltd is seeking a planning proposal for the rezoning and development of 120C Old Canterbury Road, Summer Hill (**Figure 1**). The site (hereby referred to as 'the study area') consists of Lot 1 DP 817359 and Lot 100 DP 875660. The planning proposal seeks to amend both the Ashfield Local Environmental Plan (LEP) 2013 and Comprehensive Inner West Development Control Plan (DCP) 2016 through:

- Applying a B4 Mixed Use Zoning to Lot 1 DP 817359;
- Increasing the building height to RL 38.00 across the entire site;
- Increasing the Floor Space Ratio to 2.5:1 across the entire site;
- Inclusion of a site-specific section within the DCP for the site.

The intended outcome of this planning proposal is to provide for medium to high density residential development in an appropriate location.

The Yard 120C Pty Ltd engaged Eco Logical Australia Pty Ltd (ELA) to undertake an Aboriginal archaeological due diligence assessment of the study area to identify if Aboriginal objects were likely to be located within the area of the proposed works and if so whether the proposed works had the potential to harm those objects.

A map of the proposed works has been provided by The Yard 120C Pty Ltd (**Figure 2 and 3**).

The study area is located within the suburb of Summer Hill, in the Ashfield Local Government Area (LGA), Parish of Petersham, County of Cumberland.

This assessment outlines the findings of the Aboriginal archaeological due diligence assessment of the study area, in accordance with the Office of Environment and Heritage (OEH) *Due Diligence Code of Practice for the protection of Aboriginal Objects in New South Wales* (OEH 2010).

1.2 Assessment process

The aims of this archaeological due diligence assessment are to:

- Undertake a search of the Aboriginal Heritage Information Management System (AHIMS) register maintained by the OEH to establish if there are any previously recorded Aboriginal objects or places within the study area.
- Undertake a search of the NSW State Heritage Inventory, the Australian Heritage Database, and the Ashfield LEP 2013 Schedule 5 (Environmental Heritage) in order to determine if there are any sites of archaeological significance or sensitivity located within the study area.
- Undertake a desktop review of relevant previous archaeological assessments to understand the local archaeological context and assist in predicting the likely occurrence of unrecorded archaeological sites or objects.
- Undertake a site inspection to identify any Aboriginal sites and areas of sensitive landforms.

- Prepare a letter style archaeological due diligence assessment determining if known objects or additional unrecorded objects are present within the study area, as well indicate whether further assessment and/or an Aboriginal Heritage Impact Permit (AHIP) is required.

The OEH process involves *“taking reasonable and practical measures to determine whether your actions will harm an Aboriginal object and, if so, what measures can be taken to avoid that harm”* (OEH 2010:4).

If an AHIP application is required, the OEH necessitate that it is supported by an Aboriginal Cultural Heritage Assessment (ACHA) prepared in line with the *‘Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW’* (OEH 2010), and a copy an approval for the development or infrastructure under Part 4 or Part 5 of the *Environmental Planning and Assessment Act 1979* (NSW).

An archaeologically sensitive landscape is an area that has the potential for archaeological material to be present within. According to the Due Diligence Code of Practice, archaeologically sensitive landscapes can include areas:

- Within 200m of waters, or
- Located within a sand dune system
- Located on a ridge top, ridge line, headland, or
- Located within 200m below or above a cliff face, or
- Within 20m of or in a cave, rock shelter, or a cave mouth;
- And is on land that is not disturbed land

According to the *Due Diligence Code of Practice*, disturbed land is defined as any area that has been the subject of a human activity that has changed the land’s surface, being changes that remain clear and observable (OEH 2010:18).

“Land is disturbed if it has been the subject of a human activity that has changed the land’s surface, being changes that remain clear and observable.

Examples include ploughing, construction of rural infrastructure (such as dams and fences), construction of roads, trails and tracks (including fire trails and tracks and walking tracks), clearing vegetation, construction of buildings and the erection of other structures, construction or installation of utilities and other similar services (such as above or below ground electrical infrastructure, water or sewerage pipelines, stormwater drainage and other similar infrastructure) and construction of earthworks.”(DECCW 2010)

1.3 Due diligence assessment summary

Background research and database searches identified three Aboriginal sites within 5 km of the study area, and zero sites within the study area. Background research identified that the area has been heavily developed and modified from the 19th century onwards, with clearance of mature growth vegetation and evidence of ground disturbance having occurred across the property. The construction of the light rail track adjacent the study area, the modifications of Iron Cove Creek as a concreted stormwater channel and the use of the area as a carpark and storage yard has further contributed to disturbance of the surface and subsurface.

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A site inspection undertaken by ELA Graduate Archaeologist Daniel Claggett on 18 January 2019 confirmed the findings of the background research and identified large scale disturbance across the study area. A majority of the site is comprised of levelled land made up of gravelly fill material and regrowth vegetation. Based on the initial desktop assessment of the area and visual inspection, the study area has been assessed as having low to nil potential for archaeological sites to occur. No further archaeological assessment is necessary.



Figure 1: The Study Area

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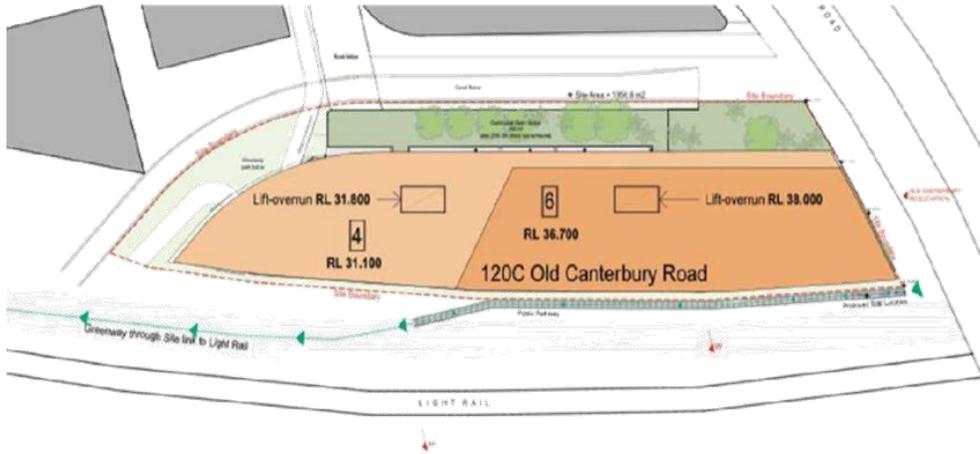


Figure 2: Indicative building footprint (Source: The Yard 120C)



Figure 3: Indicative building elevation viewed from Old Canterbury Road (Source: The Yard 120C)

2. Assessment Process

2.1 Identify if the proposed activity will disturb the ground surface

The objectives of the planning proposal allow for future development of the study area for medium to high density residential buildings, which will require bulk earthworks, landscape modifications and construction, including penetration of the subsurface. As a result, the due diligence process progressed to the next step.

2.2 Database searches and known information sources

2.2.1 AHIMS search

The Aboriginal Heritage Information Management System (AHIMS) is a database maintained by OEH and regulated under Section 90Q of the *National Parks and Wildlife Act 1974*. AHIMS holds information and records regarding the registered Aboriginal archaeological sites (Aboriginal objects, as defined under the Act) and declared Aboriginal places that exist in NSW.

A search of the AHIMS database was conducted on 16 January 2019 to identify if any registered Aboriginal sites were present within, or adjacent to, the study area (**Appendix A**).

The AHIMS database search was conducted within the following coordinates:

GDA: Zone 56

Easting: 326174 - 330174

Northing: 6245944 - 6249944

Buffer: 1 km

The AHIMS search result showed that there are three registered AHIMS sites within 5 km of the study area. No Aboriginal sites have been previously recorded within the boundaries of the study area.

The distribution of recorded Aboriginal sites surrounding the site is shown in Figure 4. The frequencies of site types and contexts recorded within the AHIMS database search area are listed in **Table 1**:

Table 1: Frequencies of site types and contexts

Site Context	Site Features	Number	%
Open Site	Shelter with midden	1	33.33
	Potential Archaeological Deposit (PAD)	1	33.33
	Midden	1	33.33
	Total	3	100



2.2.2 Local, state and national heritage registers

Searches of the Australian Heritage Database, the State Heritage Register (SHR) and the Ashfield LEP 2013 utilising the terms 'Summer Hill, NSW' were conducted on 11 January 2019 in order to determine if any places of archaeological significance are located within the study area.

No Aboriginal archaeological sites or heritage items were recorded on these databases within the study area.

One historic heritage item listed on the Ashfield LEP 2013 is located adjacent to the study area. The item is listed as Former Flour Mill Complex (item number: 619) and is separated from the study area by a light rail track.

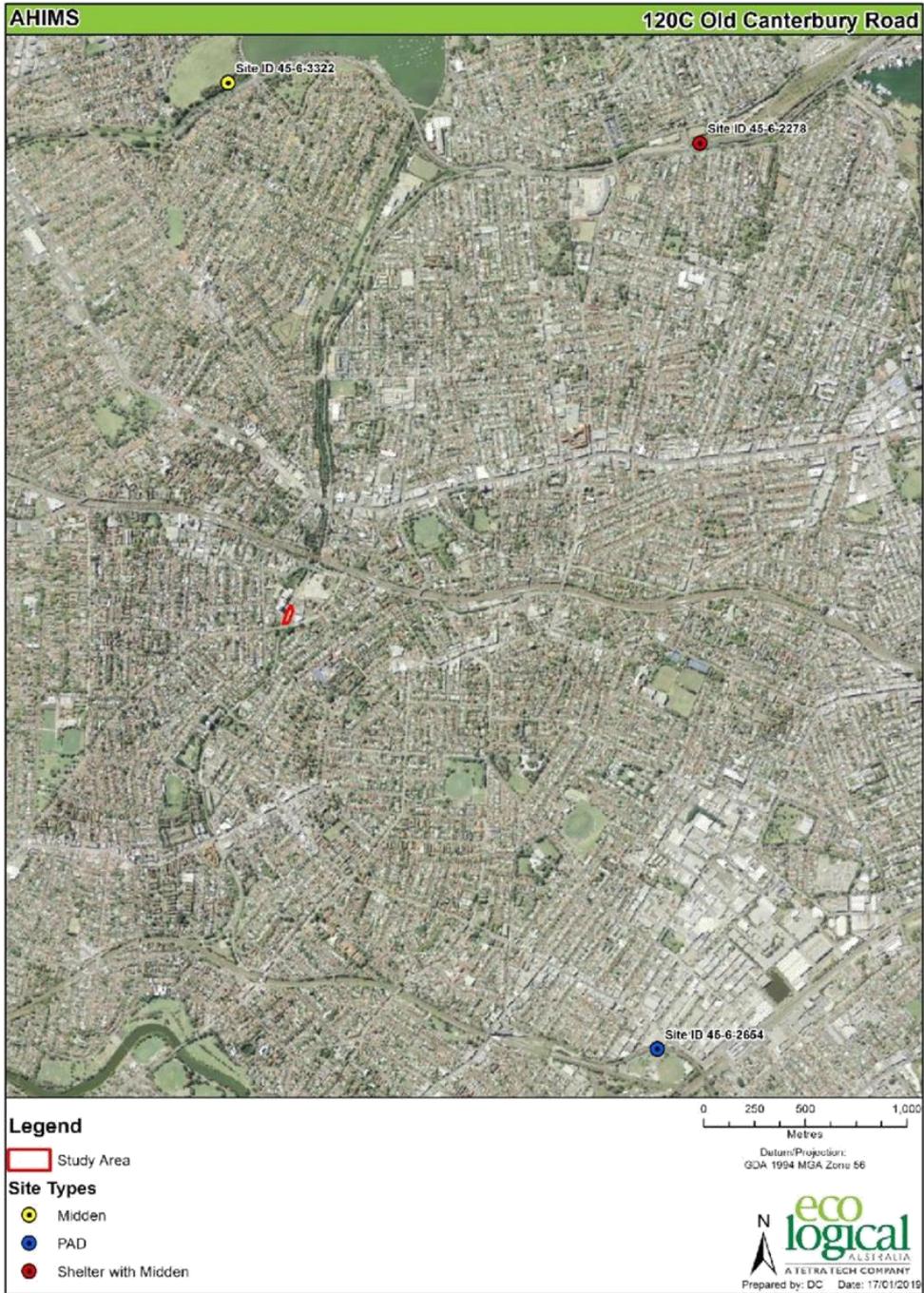


Figure 4: AHIMS registered sites in/within the vicinity of the study area

2.2.3 Brief Historical Background

The area that makes up the Ashfield LGA is the traditional country of the Wangal (Wongol or Wanegal) people and the Gadigal (Kadigal) people, both Dharug speaking Aboriginal groups.

The earliest records of European involvement in the Ashfield municipality are from February 1788, when an expedition led into Long Cove (Iron Cove) by Captain John Hunter and Lieutenant William Bradley passed through the area. The development of the Ashfield area was closely tied with the construction of a track connecting the settlement of Sydney to Rosehill (now Parramatta) in 1789. This track would eventually become Parramatta Road and the Ashfield area was initially developed as part of expansion outwards from this road. This development increased further when a second major road, the Great South Road (now Liverpool Road) was built in 1813.

The first land grant within the Ashfield municipality was a 100-acre grant made to Reverent Richard Johnson in 1793. This land grant was known as 'Canterbury Farm' or 'Canterbury Vale' and was made alongside a series of other land grants in the area, ranging in size for 15 acres to 100 acres. These initial land grants in the area were eventually consolidated in the early 19th century and by the late 1820s a substantial portion of the Ashfield municipal area had been consolidated by four landowners - Robert Campbell, Simeon Lord, Henry Kable and Joseph Underwood. The estates run by these individuals would determine land-use patterns into the second half of the 19th century. It is from Joseph Underwood's estate, named 'Ashfield Park' that the municipal area would acquire its name.

The first major development in the Ashfield municipal region during this period occurred when a small section of Joseph Underwood's 'Ashfield Park', located close by the intersection of Parramatta and Liverpool Road, was subdivided and offered for sale as the 'Village of Ashfield' in 1838. Similarly, Robert Campbell also began subdivision of his estate in an area between Liverpool Road and Norton Street around the same time. The present-day Ashfield Town Centre evolved from these two villages. Further subdivision of the Underwood Estate would continue throughout the 19th century and by the 1870s the Underwood Estate consisted of land in an area which began to become known as 'Summer Hill', thought to be a corruption of 'Sunning Hill', the name of another land grant on the opposite side of Parramatta Road. The name 'Summer Hill' had gradually come to be associated with the area covered by the Underwood Estate during the mid-nineteenth century and it was eventually adopted for the present-day Summer Hill Station when it opened in September 1879 (Weir Phillips Heritage 2016).

An 1898 Parish of Petersham map shows the area as having already been densely developed by the late 19th century (**Figure 5**). Archival photography detailing the conversion of Iron Cove Creek into what is now known as Hawthorne Canal shows heavy disturbance and bulk earthworks associated with the construction of the canal (**Figure 6**). Aerial imagery dated to 1943 confirms the high-density nature of the area and also shows the construction of the light rail track and heavy modifications to Iron Cove Creek since the 1898 parish map was created (**Figure 7**). Additionally, a geotechnical report of the study area in 2018 which analysed historic aerial imagery of the site identified that levelling and laying of asphalt had taken place across the study area in the 1970s for the construction of a carpark (Network Geotechnics 2018).

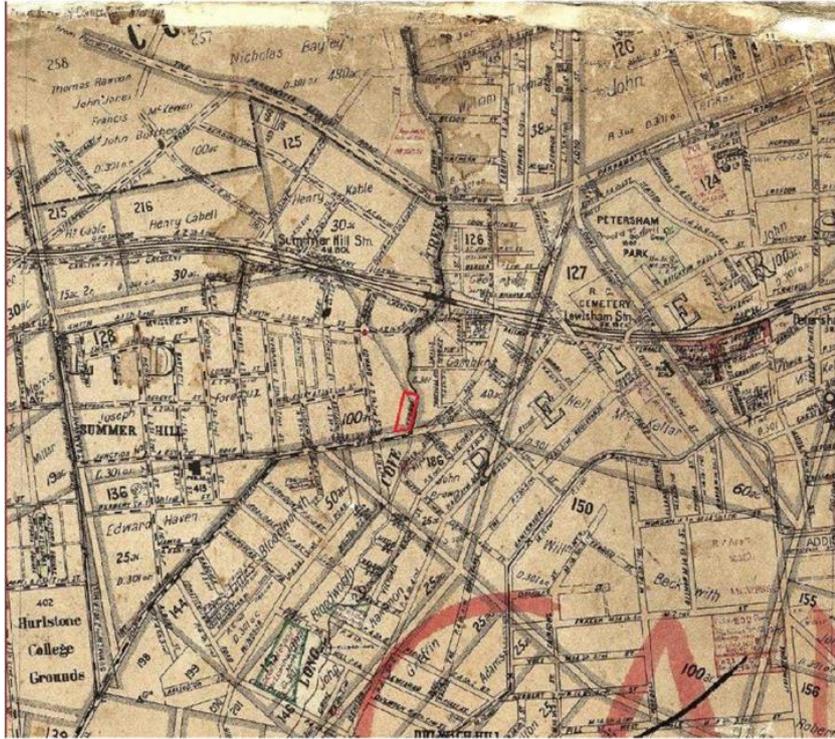


Figure 5: 1898 parish map with the approximate location of the study area outlined in red



Figure 6: Construction of Hawthorne Canal, 1890-91. The section of the canal shown is located north of the study area (SR: NRS 17420 item 621/14)



Figure 7: 1943 aerial imagery of Summer Hill with the approximate location of the study area outlined in red

2.2.4 Previous archaeological investigations

There have been several archaeological studies conducted in the Inner Western region of Sydney in recent years. A majority of these studies have focussed on historical archaeology, as the heavily disturbed nature of the region and its geological character make Aboriginal heritage rare. A summary of these studies and their findings is presented below.

Archaeological and Heritage Management Solutions Pty Ltd, 2008. *Allied Flour Mills Site – Aboriginal Heritage Impact Assessment*. Prepared for EG Funds Management.

AHMS was engaged by EG Funds Management to undertake an Aboriginal heritage assessment of the Allied Flour Mills sites in Summer Hill, located directly adjacent to the western border of the current study area. Aboriginal community consultation formed a part of this study, which included site survey with a representative of the Metropolitan Local Aboriginal Land Council (LALC).

A majority of the site, including the entire area bordering the current study area, was assessed as having low archaeological potential due to significant levels of cutting and filling, as well as the long history of usage, exploitation and modification of Iron Cove Creek (Hawthorne Canal). A small portion in the western half of the site was determined to have moderate archaeological potential, based on historical use of the land in this area being low impact in nature (residential housing). Recommendations provided by the AHMS study stated that any development in the moderately sensitive section of the site would require subsurface investigation, but that no further archaeological assessment would be required for the rest of the study area.

Weir Phillips Heritage, 2016. *Heritage Assessment: 39 Smith Street, Summer Hill.*

Weir Phillips Heritage was engaged in 2016 to provide a heritage assessment for the property owner of 39 Smith Street, Summer Hill. No archaeological assessment was undertaken as a part of this study and the assessment consisted of desktop research and site survey.

The study area was identified as a listed heritage item on the Ashfield LEP 2013 Schedule 5. The site was listed based on its aesthetic significance as an example of Rustic Gothic architecture. However, the study noted that the house had undergone significant modification and alterations to its appearance and structure. The study concluded that based on these alterations and the unremarkable history of the item that it should be removed from Schedule 5 of the Ashfield LEP 2013.

Quoyle & Associates, 2017. *Landscape Heritage Report: 16 Margaret Street, Strathfield.* Prepared for Meriden School for Girls.

Quoyle & Associates (Q&A) were previously engaged by Meriden School for Girls to prepare a landscape assessment for the Lingwood Campus of Meriden School (Lot 1 DP 1244199), 16 Margaret Street, Strathfield, NSW.

The landscape assessment aimed to identify the landscape characteristics, areas and items of cultural landscape significance and to inform the preparation of an architectural design proposal which is integrated with the landscape setting of Lingwood. The site itself is a locally listed heritage item (item no: I176) in Schedule 5 Part 1 of the Strathfield LEP 2012, where it is identified as "Lingwood— Victorian house and garden (formerly Branxton)".

CSJ Consulting, 2017. *Construction Heritage Management Plan: M4 East – Design and Construction.* Prepared for WestConnex.

CSJ Consulting were previously engaged to develop a heritage management plan to support the construction of M4 East between the suburbs Homebush and Haberfield, which forms part of the larger WestConnex project.

The study goes into detail regarding historic heritage within the area, but only gives brief mention to Aboriginal heritage. One AHIMS site was identified within the study area, but outside of the development footprint of the project. The study also identified two areas of potential archaeological sensitivity within the study area; but again, identified these areas as being outside the project footprint and will therefore not be impacted. The study concluded that based on the terrain within the project footprint being highly disturbed and unlikely to contain unidentified Aboriginal archaeological objects and that further archaeological assessment was not necessary. This study was supported through its initial stages by consultation with the Aboriginal community but did not proceed beyond the second stage of consultation due to the lack of Aboriginal heritage values in the study area and the project gaining approval from the Metropolitan Local Aboriginal Land Council.

2.3 Landscape assessment

2.3.1 Soil landscapes and geology

The study area is within the Cumberland Plain physiographic region. The Cumberland Plain is characterised by gently undulating low hills and plains. Topography within study area is characterised by a largely flat landform with a gentle slope to the west and north-west.

The local geology comprises Wianamatta Group Ashfield Shale of laminate and dark grey siltstone, Bringelly Shale and Minchinbury Sandstone consisting of fine to medium-grained quartz lithic sandstone. The geomorphology is gently undulating rises on Wianamatta Group shales with local relief to 30 m and slopes usually less than 5% (Bannerman & Hazelton 1990:29).

The soil landscape that makes up the study area is the Birrong soil landscape (**Figure 8**). The Birrong soil landscape is occasionally associated with lower slopes of the Blacktown soil landscape, which sometimes adjoins and overlaps the Birrong soil landscape. Birrong soils consist of dark brown pedal silty clay loams (A1) and bleached, hard setting clay loam (A2) as its top soils. B horizon soils range between an orange mottled silty clay and a brown mottled clay, with the latter occurring typically as a deep subsoil. The soil that overlays the bedrock (C or D horizon) is a light grey, mottled saline clay with a strong pedal structure.

A geotechnical report of the study area was prepared in 2013 which included a contamination test of the subsurface soils. Five boreholes were drilled at depths of between 3.6 m and 4.8 m below the current surface level to test levels of soil contamination. The boreholes revealed a subsurface profile comprised of fill over residual clays overlying sandstone bedrock. A 20mm thick asphaltic concrete pavement was penetrated at four of the five borehole locations (presumably from the 1970s carpark), with BH1 encountering a gravelly sand fill at the surface. Fill was encountered to depths of 0.3m (BH4) and 2.1m (BH2) and typically comprised of gravelly sand and sandy gravelly clay, with sandstone, igneous, brick and ash fragments. The fill was assessed to be poorly compacted (JK Geotechnics 2013).

2.3.2 Hydrology

Iron Cove Creek (now Hawthorne Canal) is southern tributary of the Parramatta River that empties into Iron Cove and is located adjacent the eastern border of the study area. Hawthorne Canal was built in the late 19th century to serve as a stormwater channel and catchment area for the inner-western suburbs of Sydney.

2.4 Predictive model

Based on the material evidence and range of archaeological sites across the Cumberland Plain, it is clear that Aboriginal people have been utilising the land and resources within the Cumberland Plain for thousands of years. The predictive model outlined in **Table 2** below has been developed for the study area based on the AHIMS search results, landscape assessment and regional and local Aboriginal archaeological context outlined above.

Table 2: Predictive Model

Site Type	Description
Open camp sites / stone artefact scatters / isolated finds	<p>Open camp sites represent past Aboriginal subsistence and stone knapping activities, and include archaeological remains such as stone artefacts and hearths. This site type usually appears as surface scatters of stone artefacts in areas where vegetation is limited and ground surface visibility increases.</p> <p>Isolated finds may represent a single item discard event, or be the result of limited stone knapping activity. The presence of such isolated artefacts may indicate the presence of a more extensive, in situ buried archaeological deposit, or a larger deposit obscured by low ground visibility.</p> <p>Due to the heavily disturbed / modified nature of the study area, its subsurface and its surroundings, it is unlikely that this site type will occur.</p>
Potential Archaeological Deposit	<p>Potential Archaeological Deposits (or PADs) are areas where there is no surface expression of stone artefacts, but due to a landscape feature there is a strong likelihood that the area will contain buried deposits of stone artefacts.</p> <p>Due to the heavily disturbed / modified nature of the study area, its subsurface and its surroundings, it is unlikely that this site type will occur.</p>
Scarred or carved trees	<p>Tree bark was utilised by Aboriginal people for various purposes, including the construction of shelters (huts), canoes, paddles, shields, baskets and bowls, fishing lines, cloaks, torches and bedding, as well as being beaten into fibre for string bags or ornaments (sources cited in Attenbrow 2002: 113). Trees may also have been scarred in order to gain access to food resources (e.g. cutting toe-holds so as to climb the tree and catch possums or birds), or to mark locations such as tribal territories. Such scars, when they occur, are typically described as scarred trees.</p> <p>The area has been cleared of mature growth vegetation, making it unlikely that this site type will occur.</p>

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Figure 8: Soil landscapes and hydrology (the first-order stream represents a section of Hawthorne Canal)

2.5 Impact avoidance assessment

No previously recorded Aboriginal archaeological sites, Aboriginal objects or items of Aboriginal heritage significance exist within the study area. As the proposed works will involve disturbance of the subsurface, it is required that the next step of the due diligence process be carried out. Site survey was required to determine the likelihood of the Aboriginal sites occurring within the study area.

2.6 Visual inspection

A visual inspection of the study area was undertaken by ELA Graduate Archaeologist Daniel Claggett on 18 January 2019. Visual inspection aimed to identify Aboriginal objects if present and assess the archaeological potential of the subsurface.

The site survey identified large scale disturbance had taken place across the entire study area. Ground visibility was high, between 80 – 90%, due to a majority of the study area lacking vegetation (**Figure 9**). The only vegetation that exists within the study area consisted of mostly dead regrowth located on a steeply elevated area in the south (**Figure 10**). The study area appears to have been levelled (**Figure 11, 12**), confirming the conclusions of the 2018 geotechnical report which, through analysis of historical aerial imagery, identified the study area as having been levelled and converted into a carpark in the 1970s.



Figure 9: Example of the surface of the study area, facing northwest



Figure 10: View of steeply elevated southern boundary. The green vegetation serves as the border between the study area and an adjacent greenway



Figure 11: General view of the study area, facing north



Figure 12: General view of the study area, facing south

The study area is bordered by Hawthorne Canal to the east and a greenway that runs along the light rail track to the west. Hawthorne Canal and its surrounding area is heavily disturbed, with the entirety of the canal concreted over and its banks made up of regrowth vegetation and weeds (**Figure 13**). Additionally, an access bridge has been constructed over the canal into the study area (**Figure 14**). The greenway to the west appears to consist of vegetation grown in the 20th century (**Figure 15, 16**). This is confirmed by 1943 aerial imagery, which shows the greenway area as being clear of vegetation.



Figure 13: Hawthorne Canal, facing south



Figure 14: Section of Hawthorne Canal running underneath the access bridge, facing northeast



Figure 15: The greenway that borders the study area, facing northwest



Figure 16: The greenway that borders the study area, facing west

Overall, the study area consists of a heavily disturbed landscape, with evidence of large scale earthworks, clearance of mature growth vegetation and disturbance of the subsurface by the construction of Hawthorne Canal in the late 19th century and a carpark in the 1970s.

3. Statutory Requirements

Aboriginal objects and places in NSW are afforded protection under the *National Parks and Wildlife Act 1974* (NSW) regardless if they are registered on the Aboriginal Heritage Information Management System (AHIMS) register or not. Strict penalties apply for harm to an Aboriginal object or place without a defence under the Act. Under Section 87 of the Act there are five defences to causing harm to an Aboriginal object:

- The harm was authorised under an AHIP.
- By exercising due diligence and be able to demonstrate this.
- The actions complied with a code of practice as described in the National Parks and Wildlife Regulation 2009, for example, undertaking test excavation in accordance with the '*Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW*'.
- It was a low-impact activity or omission under the regulation and where you don't know that an Aboriginal object is already present.
- Was an exemption under Section 87A, for example emergency fire-fighting act or bush fire hazard reduction work within the meaning of the *Rural Fires Act 1997*.

If an AHIP application is required, the OEH necessitate that it is supported by an Aboriginal Cultural Heritage Assessment (ACHA) prepared in line with the 'Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (OEH 2010)', and a copy an approval for the development or infrastructure under Part 4 or Part 5 of the *Environmental Planning and Assessment Act 1979* (NSW).

4. Conclusions and Recommendations

The purpose of this Aboriginal heritage due diligence is to identify if there are registered Aboriginal sites and/or sensitive landforms which may indicate the presence of Aboriginal sites and may therefore require further assessment and approval under Part 6 of the National Parks and Wildlife Act 1974.

ELA has undertaken an extensive search of the AHIMS database maintained by the OEH and a review of available background reports. Three registered AHIMS sites are located within 5 km of study area. Analysis of available aerial imagery and historic maps of the study area suggests that the area has been heavily developed and modified from the 19th century onwards, with clearance of mature growth vegetation and evidence of ground disturbance having occurred across the property. The construction of the light rail track adjacent the study area, the conversion of Iron Cove Creek into the concreted Hawthorne Canal and the use of the area as a carpark and storage yard has further contributed to disturbance of the surface and subsurface. Review of previous studies within and adjacent to the study area strongly suggest that heavy disturbance has taken place both on the surface and within the subsurface.

A site inspection undertaken by ELA Graduate Archaeologist Daniel Claggett on 18 January 2019 confirmed this heavy disturbance, with a majority of the study area comprised of levelled land made up of gravelly fill material and regrowth vegetation.

Following an analysis of the desktop assessment and observations made during the archaeological field survey the entire study area has been identified as having nil to low archaeological potential. There is no requirement for further archaeological assessment within the study area. An AHIP application is therefore not required.

4.1 Recommendations

Based on the findings of this due diligence and the requirement of the NP&W Act the following is recommended.

Recommendations - General measures

- Due to the level of past soil disturbance and low sensitivity for Aboriginal objects to exist, no further assessment for Aboriginal heritage is recommended. Aboriginal objects are protected under the NPW Act regardless if they are registered on AHIMS or not. If suspected Aboriginal objects, such as stone artefacts are located during future works, works must cease in the affected area and an archaeologist called in to assess the finds. If the finds are found to be Aboriginal objects, the OEH must be notified under section 89A of the NPW Act. Appropriate management and avoidance or approval under a section 90 AHIP should then be sought if Aboriginal objects are to be moved or harmed.
- In the extremely unlikely event that human remains are found, works should immediately cease and the NSW Police should be contacted. If the remains are suspected to be Aboriginal, the OEH may also be contacted at this time to assist in determining appropriate management.

References

Archaeological and Heritage Management Solutions Pty Ltd, 2008. *Allied Flour Mills Site – Aboriginal Heritage Impact Assessment*. Prepared for EG Funds Management.

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Department of Environment, Climate Change and Water (DECCW), 2010. *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW*, Hurstville, NSW.

Department of Environment, Climate Change and Water (DECCW), 2010. *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*, Hurstville, NSW.

JK Geotechnics, 2013. *Geotechnical Investigation for Proposed Industrial Building at 120C Old Canterbury Road, Summer Hill NSW*. Prepared for Stone Mason and Artist Pty Ltd.

Network Geotechnics, 2013. *Stage 1 Preliminary Site Investigation – 120C Old Canterbury Road, Summer Hill NSW*. Prepared for The Yard 120C Pty Ltd

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Weir Phillips Heritage, 2016. *Heritage Assessment: 39 Smith Street, Summer Hill*.

White, E and J McDonald 2010. 'Lithic Artefact Distribution in the Rouse Hill Development Area, Cumberland Plain, New South Wales' in *Australian Archaeology No. 70, June 2010*.

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Appendix A AHIMS Search Results



**AHIMS Web Services (AWS)
Search Result**

Purchase Order/Reference : 12306

Client Service ID : 392985

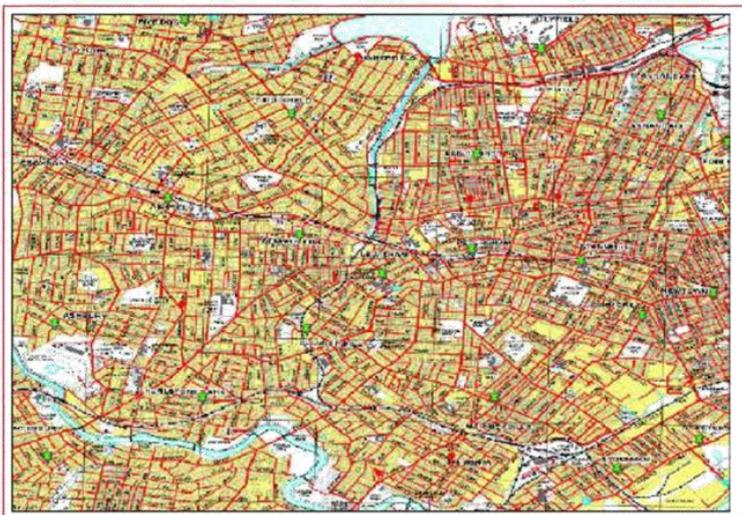
Eco Logical Australia Pty Ltd - Sydney
PO Box 12 668 Old Princes Hwy
Sutherland New South Wales 1499
Attention: Daniel Claggett
Email: daniel.claggett@ecoaus.com.au

Date: 16 January 2019

Dear Sir or Madam:

AHIMS Web Service search for the following area at Datum :GDA, Zone : 56, Eastings : 326714 - 330174, Northings : 6245944 - 6249944 with a Buffer of 1000 meters, conducted by Daniel Claggett on 16 January 2019.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

3	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

120C Old Canterbury Road, Summer Hill - Aboriginal Heritage Due Diligence Assessment | The Yard 120C Pty Ltd


AHIMS Web Services (AWS)
 Extensive search - Site list report

Your Ref/PO Number : 12306

Client Service ID : 392935

SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
45-6-2278	Lilyfield Cave	AGD	56	330310	6250290	Closed site	Valid	Shell : -, Artefact : -	Shelter with Midden	102201
	<u>Contact</u>									
45-6-2654	Fraser Park PAD	AGD	56	330100	6245800	Open site	Valid	Potential Archaeological Deposit (PAD) : -		98669
	<u>Contact</u>									
45-6-3322	Timbrell Park Midden	GDA	56	327989	6250589	Open site	Valid	Shell : -		1639
	<u>Contact</u>									
		<u>Recorders</u>							<u>Permits</u>	
		<u>Recorders</u>							<u>Permits</u>	

Report generated by AHIMS Web Service on 16/01/2019 for Daniel Claggett for the following area at Datum :GDA, Zone : 56, Eastings : 326714 - 330174, Northings : 6245944 - 6249944 with a Buffer of 1000 meters. Additional Info : Aboriginal Heritage Due Diligence Assessment. Number of Aboriginal sites and Aboriginal objects found is 3

This information is not guaranteed to be free from error omission. Office of Environment and Heritage (NSW) and its employees disclaim liability for any act done or omission made on the information and consequences of such acts or omission.

Page 1 of 1



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Attachment 9 – SEPP 55 Report

Contained on Council website

<https://www.innerwest.nsw.gov.au/ArticleDocuments/1982/120C%20Old%20Canterbury%20Road%20Summer%20Hill%20-%207.0%20Stage%201%20Preliminary%20site%20investigation%20-%20SEPP%2055.pdf.aspx>

Attachment 10 – Design Concept Plan

Contained on Council website

<https://www.innerwest.nsw.gov.au/ArticleDocuments/1982/120C%20Old%20Canterbury%20Road%20Summer%20Hill%20-%208.0%20Design%20concept%2023%20August%202018.pdf.aspx>

Attachment 11
Planning Proposal Assessment

Assessment against "A guide to preparing planning proposals" 2016.

Part 1 Objectives and intended outcomes and explanation of provisions

	Guideline Requirements	Officer comments
2.1	Requires a concise statement setting out the objective or intended outcomes.	The statement given in the Planning Proposal is satisfactory.

Part 2- explanation of provisions

	Guideline Requirements	Officer Comments
2.2	Requires an explanation of the land use zones and development standards sought to be amended.	<p>The proposal seeks to make amendments to the Land Uses, Maximum Floor Space Ratio, and Maximum Height of Buildings, and this is adequately explained in the Planning Proposal.</p> <p>The proposed amendments to the Maximum Height of Buildings is expressed as Maximum RL 38.</p>

Part 3 – Justification

	Guideline Requirements	Officer Comments
2.3	Requires adequate justification documentation to be provided for the specific land use and development standards proposed to the LEP.	<p>Design concept drawings and relevant documentation has been provided to support the proposed development standards taking into consideration the unique constraints on the site.</p> <p>The designs demonstrate that a future building can be above the 1:100 floodplain level, have a 6 storey building relative to Old Canterbury Road with the northern component of a building at 4 storeys to ensure adequate winter solar access to apartments at 120 B Old Canterbury Road.</p> <p>A Flood Risk Assessment Report has been provided to address the inconsistency with Section 9.1 Direction 4.3 Flood Prone Land, as required by the Gateway conditions. The Department has reviewed the report and advised on 4 October 2018 that the inconsistency is of minor significance.</p>

2.3.1 Questions to consider when demonstrating the justification

	Guideline Requirements	Officer Comments
Section A – Need for Planning Proposal		
Q1	Is the planning proposal part of any strategic study or report?	The proposal is not part of any strategic study but was part referenced in the reporting to the former Ashfield Council in 2013 on the draft Ashfield Comprehensive LEP 2012 with Council resolving to receive a Planning

		<p>Proposal to consider land use zoning and FSR and Height amendments after gazettal of the LEP which occurred in December 2013,</p> <p>The western allotment adjacent to the railway land (future Greenway) was formerly owned by the State Government (Sydney Trains), and later acquired by the present owners. The land was zoned SP2 Infrastructure in the Ashfield LEP 2013, reflecting the then Railways Corridor use. This zoning no longer reflects the use of the land and needs to be corrected.</p>
Q2	Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	Yes, the objectives require amendments to the Land Use zonings and Development Standards of the Ashfield LEP 2013.
Section B – relationship to strategic planning framework		
Q3a	Does the proposal have strategic merit? Is it:	
	Consistent with the relevant District Plan within the Greater Sydney region.	The Proposal has now been updated to address the <i>Greater Sydney Region Plan 2018</i> and <i>Eastern City District Plan 2018</i> .
	Consistent with a relevant local council strategy that has been endorsed by the Department	The Ashfield Urban Planning Strategy 2010 was approved by the Department of Planning and Environment and the B4 land use proposed for the western allotment is consistent with that Strategy since it mirrors the zoning of the adjacent eastern portion, also adjacent sites in the McGill Street precinct.
	Does the proposal have strategic merit with regard to the following :	
	The natural environment	<p>The applicant has provided a flood risk assessment report by Cardno in response to a Gateway Determination condition.</p> <p>The report has been reviewed by Council's Engineers who concluded the Section 9.1, Direction 4.3 – Flood Prone Land inconsistency is of minor significance.</p> <p>The Department of Planning and Environment letter of 4 October 2018 "agreed that the inconsistency is justified in accordance with the terms of the Direction", and that the Community Consultation stage could be carried out.</p> <p>The site does not contain any substantial trees.</p> <p>There are trees in close vicinity adjacent to the western boundary in the Railways land and with canopies that extend into the site. These trees are also within the future proposed Greenway corridor. Under the Infrastructure SEPP Transport NSW are free to remove these trees. They include Campher Laurel and Privet which are considered "weeds" and so it is likely that this will influence the TNSW</p>

		position. Also the Greenway Masterplan and the current related Development Application aim to add large numbers of new and better species trees in the railway corridor. This initiative could be extended to replace these "weed" trees.
	The existing uses, approved uses, and likely future uses of land in vicinity of the proposal.	<p>The site has no buildings and is mostly unused at the present.</p> <p>The proposed development will affect apartments at 120B Old Canterbury Road, and at 12 McGill Street, in terms of solar access and building separation. The Design Concept demonstrates that it is possible to have building envelopes which will provide a minimum 2 hours of winter solar access and adequate building separation in accordance with the Apartment Design Guidelines.</p>
	The services and infrastructure that are or will be available to meet the demand arising from the proposal and any proposed financial arrangement for infrastructure provision	There are existing water and sewerage services, and vehicular access from McGill Street via a private laneway for which the owner has a right of way. There are nearby primary and high schools, and bus, light and heavy rail services.
Q4	Is the proposal consistent with a council's local strategy or other local strategic plan?	The Planning Proposal is consistent with the Ashfield Urban Planning Strategy 2010. Rezoning of the western allotment of the site to B4 is consistent with the existing zoning of the easterly portion of the site.
Q5	Is the planning proposal consistent with applicable State Environmental Planning Policy	The Planning Proposal is consistent with the applicable SEPPs. Also in response to SEPP 55 a Phase 1 Site Assessment has not found any contamination which would adversely affect the proposed use of the site.
Q6	Is the Planning Proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?	<p>The Planning Proposal has been updated to address the relevant Section 9.1 Directions at August 2018.</p> <p>The Gateway Determination requires the applicant to demonstrate that the proposal is justifiably inconsistent with Direction 4.3 – Flood Prone Land. The applicant has provided a detailed flood study which has been reviewed by Council's Engineers and the Department of Planning. They have agreed that the inconsistency is of minor significance and can be justified</p>
Q7	Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?	No. The site is barren as indicated in site photos in the planning report. It has been levelled and used for storage for many decades.
Q8	Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?	<p>There are no other substantial environmental effects that are known of within the site.</p> <p>Existing trees along the western boundary with railways land are species classified as "weeds" and</p>

		can be replaced with better species.
Q9	How has the Planning Proposal adequately addressed any social and economic effects?	Yes, the site contains no buildings and appears mostly unused.
Q10	Is there adequate public infrastructure for the Planning Proposal?	<p>The site has restricted vehicular access, with the main part of the site being approx. 7.5 - 8 metres below Old Canterbury Road. Vehicular access to the site is reliant on the laneway on the property of 120B Old Canterbury Road.</p> <p>The site owner has advised Council that they have a Right of Way along the laneway that includes construction of a bridge between the laneway and the site. The proposed draft DCP requires that evidence for this right of way and for other associated requirements be submitted with a future Development Application.</p>
Q11	What are the views of State and Commonwealth authorities consulted in accordance with the gateway determination?	Public Authorities have been formally consulted as required by the Gateway Determination. Refer to the Report to Council for their responses.
2.4 Mapping		
		The Planning Proposal has provided the required Maps for Land Use Zoning, Maximum Floor Space Ratio and Maximum Height of Buildings.
2.5 Community Consultation		
		The Planning Proposal has been formally exhibited for a minimum of 28 days, between 16 October 2018 and 13 November 2018, in accordance with the Gateway Determination.
2.6 Project Timeline		
		The Department has provided an alteration to the Gateway Determination, dated 25 October 2018, to provide a revised timeframe for the LEP to be completed by 25 April 2019.

Attachment 12 – Flood Report

Contained on Council website

<https://www.innerwest.nsw.gov.au/ArticleDocuments/1982/120C%20Old%20Canterbury%20Road%20Summer%20Hill%20-%206.0%20Flood%20risk%20assessment%20report%20-%2023%20August%202018.pdf.aspx>

Item No: C0219(2) Item 9

Subject: LICENSE AGREEMENTS FOR CHRISSIE COTTER GALLERY

Prepared By: Amanda Buckland - Living Arts Manager

Authorised By: Erla Ronan - Group Manager Community Services and Culture

SUMMARY

This report recommends Council as the land manager of Camperdown Park Reserve Trust endorse a process for short-term licenses at Chrissie Cotter Gallery, Pidcock Street Camperdown..

RECOMMENDATION

THAT:

- 1. The report be received and noted; and**
- 2. Council acting as the council manager of Camperdown Park Reserve Trust authorises the General Manager or his delegate to enter into and sign short-term licenses for the use of Chrissie Cotter Gallery, Pidcock Street Camperdown upon conditions detailed in this report.**

BACKGROUND

Camperdown Park is Crown Land that is comprised of land parcels that were reserved (R8205) and dedicated (D500444) for the purposes of public recreation. Council was appointed as Trust Manager for the Camperdown Park Reserve Trust on 20 July 1995. Pursuant to section 10A and section 11(5) of Schedule 7 – Savings, Transitional and Other provisions of the *Crown Land Management Act 2016* (“Act”) Inner West Council is the council manager of the Camperdown Park - Chrissie Cotter Gallery Pidcock Street Camperdown 2050 is part of Camperdown Park. Since 1996, former Marrickville Council and since 2016 Inner West Council has provided the Gallery for the use of local residents and organisations as an exhibition and cultural events venue.

Under the Act Camperdown Park is to be managed in accordance with the requirements of the *Local Government Act 1993*. Camperdown Park has been classified community land and requires a plan of management. The granting of leases and licenses has to be authorized by the plan of management. Camperdown Park does not have a plan of management authorized by the Minister of Primary Industry however under regulation 70(3) of the Crown Land Management Regulation 2018 (“**Regulation**”) short term licenses can be granted in the pre-POM term (3 years).

The conditions of short-term licenses at Chrissie Cotter Gallery would be as follows:

- 2-3 weeks duration
- no license fee will be charged
- the minimum rent set by the Regulation requires no less than \$493.00 plus GST per annum, therefore a 15% commission will be charged on artwork sales to meet this condition
- a \$200 refundable bond
- no electricity or water charges.

Short-term licenses at Chrissie Cotter gallery are allocated through an expression of interest process managed by Living Arts, Community Services and Culture.

FINANCIAL IMPLICATIONS

A minimum rent per annum of no less than \$493.00 plus GST will be derived from 15% commission charged for artwork sales.

OTHER STAFF COMMENTS

Property & Assets Manager supports this approach.
Report prepared in collaboration with Property and Legal Services

PUBLIC CONSULTATION

In response to the annual call for expressions of interest over 30 submissions were received from artists and creatives to exhibit at Chrissie Cotter Gallery during 2019. A panel consisting of two local artists, a curator and three Community Services and Culture Officers selected 23 applicants to be granted a license to exhibit their artwork.

CONCLUSION

As Inner West Council undertakes a review of its facilities, there is a need to create short-term licenses at Chrissie Cotter Gallery, Pidcock Street Camperdown 2050 to ensure that the facility continues to be occupied and well used by the community.

ATTACHMENTS

1. [↓](#) License agreement for Chrissie Cotter Gallery

LICENCE

Camperdown Park (R8205 & D500444) Reserve Trust

and

Parties

Camperdown Park Reserve Trust (R 8205 & D500444), (“Licensor”) of Petersham Service Centre, 2-14 Fisher Street, Petersham NSW 2049

and

(Put in name of individual or company) of (put in address of individual or company) ("Licensee")

Background

- A Camperdown Reserve Trust (R 8205 & D500444) is a Corporation established, constituted and appointed as trustee of Reserves No. R8205 & D5004444 for recreational purposes notified on 28 July 1885 & 9 January 1942, the affairs of which are managed by Inner West Council
- B The Licensor has agreed to grant and the Licensee has agreed to accept the Licensor's offer to licence the Premises in accordance with the terms of this document.

1 This Licence**Grant of Licence**

- 1.1 The Licensor grants the Licensee a licence to use the Premises for the Permitted Use.
- 1.2 The grant of this licence does not create or confer upon the Licensee any tenancy or other estate or interest in the Premises.

2 Length of this Licence**Length of Licence**

- 2.1 This licence starts on the Commencing Date and ends on the End Date subject to the provisions of this licence.

3 What the Licensee must pay**Rent and Bond**

- 3.1 If there is an amount specified in Item 8 of the Reference Schedule the Licensee must pay the Rent in advance on the Commencing Date.
- 3.2 The Licensee must pay a bond of \$200 on the Commencing Date.

4 Insurance and risk

- 4.1 The Licensee must maintain with insurers property insurance for the contents of the exhibition.

5 Indemnities and releases**The Licensee's liability**

- 5.1 The Licensee is liable for and indemnifies the Licensor against liability or loss arising from, and cost incurred in connection with damage to their property.

The Licensee's release

- 5.2 The Licensee releases the Licensor from, and agrees that the Licensor is not liable for, liability or loss arising from, and cost incurred in connection with damage to their property.

6 Use of the Premises**Use**

- 6.1 The Licensee must only use the Premises for the Permitted Use.
- 6.2 The Permitted Use is to undertaken as follows:
- (a) The opening of the exhibition is to occur on the first Wednesday evening of the exhibition from 6pm to 8pm; and
 - (b) After the opening Thursday to Sunday 11am – 4pm.
- 6.3 In the event the Licensee requires times outside those in clause 6.2 the Licensee must seek and obtain the variation of the times in writing from the Licensor.

7 Additional obligations**The Licensee's additional obligations**

- 7.1 The Licensee must (at the Licensee's cost):
- 7.1.1 keep the Premises and everything in them tidy and free of pests.
 - 7.1.2 comply on time with all Acts and the requirements of authorities in connection with the Premises, the Licensee's Property and the use or occupation of the Premises (including obtaining all permits and the consents of all relevant authorities and requirements under the Work, Health and Safety Act 2011 and Work, Health and Safety Regulations 2011);
 - 7.1.3 inform the Licensor of damage to the Premises or of a faulty service immediately after the Licensee becomes aware of it;
 - 7.1.4 promptly, when asked by the Licensor (acting reasonably), do everything necessary to enable the Licensor to exercise the Licensor's rights under this licence;
 - 7.1.5 evacuate the Premises immediately and in accordance with the Licensor's directions when informed of any actual or suspected emergency;
 - 7.1.6 include Chrissie Cotter Gallery and Inner West Council logos on event invitation and all marketing material. All marketing material must be provided to Council for approval at least 6 weeks prior to the exhibition;
 - 7.1.7 register the exhibition on the "What's On" section of Council's website at <https://www.innerwest.nsw.gov.au/event/create>;
 - 7.1.8 only exhibit the work of artists included in the original submission;
 - 7.1.9 keep a record of the number of people attending the exhibition;
 - 7.1.10 keep a record of the number of works sold and income from each sale;
 - 7.1.11 keep sold artworks in the gallery for the duration of the exhibition;
 - 7.1.12 display a visitors book provided by Council to record postcodes and comments; and

7.1.13 provide Council with 3 images of the exhibition and a written review at the end of the exhibition.

7.2 The Licensee must not:

- 7.2.1 store or use inflammable, volatile or explosive substances on the Premises except with the Licensor's prior written consent;
- 7.2.2 do anything in or around the Premises which in Licensor's reasonable opinion may be annoying, dangerous or offensive;
- 7.2.3 do anything to overload the Services nor use them for anything other than their intended purpose;
- 7.2.4 smoke on the Premises;
- 7.2.5 use any method of lighting other than that approved by the Licensor;
- 7.2.6 operate a musical instrument, radio, television or other equipment that can be heard outside the Premises;
- 7.2.7 throw anything out of the Premises;
- 7.2.8 move heavy or bulky objects through the Premises without the Licensor's approval; or
- 7.2.9 keep animals on the Premises.

8 Transfer and other dealings

Transfer

- 8.1 The Licensee may not transfer, assign, sublet, lease or part possession with the Premises under any circumstances.

9 Default

Essential terms

- 9.1 Each of the Licensee's obligations under clauses, 6 & 7 are essential terms of this licence. Other Obligations may also be essential terms.

The Licensor's right to end this licence

- 9.2 The Licensor may end this licence by giving the Licensee notice or by re-entry if:
 - 9.2.1 the Licensee repudiates the Licensee's Obligations;
 - 9.2.2 the Licensee does not comply with an essential term of this licence; or
 - 9.2.3 the Licensee does not comply with an Obligation (which is not an essential term) and, in the Licensor's reasonable opinion:
 - (a) the non-compliance can be remedied, but the Licensee does not remedy it within a reasonable time after the Licensor gives the Licensee notice to remedy it;
 - (b) the non-compliance cannot be remedied or compensated for; or
 - (c) the non-compliance cannot be remedied but the Licensor can be compensated and the Licensee does not pay the Licensor compensation for the breach within a reasonable time after the Licensor gave the Licensee notice to pay it.
- 9.3 If this licence ends under clause 10, the:

- 9.3.1 Licensee indemnifies the Licensor against any liability or loss arising and any cost incurred (whether before or after termination of this licence) in connection with the Licensor's breach and the end of this licence including the Licensor's loss of the benefit of the Licensee performing the Licensee's Obligations from the date that it ended until the Terminating Date; and
- 9.3.2 The Licensor must take reasonable steps to mitigate the Licensor's loss.

10 The Licensor's additional obligations and rights**Quiet enjoyment**

- 10.1 While the Licensee complies with the Licensee's obligations under this licence, the Licensee may use the Premises during the term of this licence without interference from the Licensor.

To enter

- 10.2 The Licensor has full and free access at all reasonable times to the Premises on reasonable notice to see if the Licensee is complying with its Obligations or to do anything that the Licensor must do under the licence or other statutory obligations.
- 10.3 If the Licensor decides there is an emergency, the Licensor may enter the Premises without notice.

Access to Premises

- 10.4 If the Licensor decides there is an emergency, the Licensor may stop the Licensee from entering the Premises.

Enforcing rights

- 10.5 The Licensor may enforce the Licensor's rights against the Licensee.

11 Obligations at the end of this licence**The Licensee must vacate**

- 11.1 The Licensee must vacate the Premises by 6.00pm on the day this licence expires and, subject to clause 11.3, leave them in a condition satisfactory to the Licensor acting reasonably and having regard to the Licensee's Obligations.

Removal of the Licensee's Property

- 11.2 When this licence ends, unless the Licensor otherwise agrees, the Licensee must remove all of the Licensee's Property from the Premises, and promptly make good any damage caused by that removal.

The Licensee's Property not removed

- 11.3 The Licensee's Property is at the Licensee's risk at all times.
- 11.4 On the date the Licensee must vacate the Premises, the Licensee must give the Licensor the keys, access cards and similar devices for the Premises held by the Licensee and any other person the Licensee has given them to.

12 Dispute resolution**Notice**

- 12.1 If the Licensor and the Licensee are in dispute over any matter in connection with this licence:
 - 12.1.1 the parties must use their reasonable endeavours to resolve the dispute;
 - 12.1.2 if the dispute cannot be resolved under clause 13.1.1, the dispute must be referred to Inner West Council's Group Manager Community Services and Culture;
 - 12.1.3 if the dispute cannot be resolved under clause 13.1.2, the dispute must be referred to Inner West Council's Deputy General Manager Community and Engagement whose decision is binding on the parties.

13 Miscellaneous**Notices and approvals**

- 13.1 A notice or approval must be:
 - 13.1.1 in writing; and
 - 13.1.2 delivered to the party or left at or posted by certified mail to the address or sent to the facsimile number of the party in Item 10, as varied by notice.
- 13.2 A notice or approval is taken to be given:
 - 13.2.1 if delivered to or left at the address of the party, on that day;
 - 13.2.2 if posted, on the third day after posting; and
 - 13.2.3 if sent by facsimile, on that day if it is sent before 5.00pm or otherwise on the next business day after it is sent unless the sender is aware that transmission is impaired.

Governing Law

- 13.3 This licence is to be governed by the laws of New South Wales and the parties submit to the exclusive jurisdiction of the courts of New South Wales.

14. Commission

- 14.1 The Licensee must pay to the Licensor 15% commission on all sales of artwork and tickets during the exhibition.

15. Definitions and interpretation**Meaning of words in Lease**

- 15.1 In this licence:
 - Act** means any legislation passed by either the New South Wales or Federal parliaments.

Commencing Date means the date this licence begins as shown in Item 5 as the Commencing Date.

Council means Inner West Council and, where relevant, includes Council's manager, employees and any person the Council authorises..

Item means an item referred to in the Reference Schedule.

Licensee means the person described in Item 2 and, where relevant, includes the Licensee's members, employees, agents, contractors and invitees.

Licensee's Property means all property on the Premises which is not the Licensor's property.

Local Area means the area comprising the local government area of the Inner West..

Licensor means the person described in Item 1 and, where relevant, includes the Licensor's employees, agents, contractors and invitees.

Obligations means Licensee's responsibilities, duties and obligations under this Licence and at law.

Permitted Use means the use in Item 9.

Premises means Chrissie Cotter Gallery.

Reference Schedule means the reference schedule attached to this Licence.

Term means the period stated in Item 4.

End Date means the date this Licence ends as shown in Item 6 as the End Date.

Reference Schedule

- ITEM 1: LICENSOR**
Camperdown Park Reserve Trust (R8205 & D500444)
- ITEM 2: LICENSEE**

(put in name of individual or company)
- ITEM 3: PREMISES**
Chrissie Cotter Gallery
- ITEM 4: TERM**
- ITEM 5: COMMENCING DATE**
- ITEM 6: END DATE**
- ITEM 7: LICENCE FEE**
- ITEM 8: PUBLIC LIABILITY INSURANCE**
N/A
- ITEM 9: PERMITTED USE**

Exhibition space for artwork
- ITEM 10: LICENSOR'S ADDRESS FOR SERVICE**
Address: 2-14 Fisher Street
Petersham NSW 2049
Email: council@innerwest.nsw.gov.au
- LICENSEE'S ADDRESS FOR SERVICE**



EXECUTION

We certify this dealing correct for the purposes of the Real Property Act 1900.

DATE OF EXECUTION:

Executed for and on behalf of **Camperdown Park (R8205) & (D500444) Reserve Trust** pursuant to a resolution of the **Camperdown Park (R8205) & (D500444) Reserve Trust** made at a duly convened meeting held on

.....

Witness

.....

Name of Witness (print)

Executed by *(put in name of individual or company)*

Signature of

.....

.....

Witness

.....

Name of Witness (print)

Item No: C0219(2) Item 10
Subject: INNER WEST COUNCIL DRAFT BUSKING POLICY
Prepared By: Matthew Balane - Community Projects Officer
Authorised By: Erla Ronan - Group Manager Community Services and Culture

SUMMARY

This report presents Council's updated draft Busking Policy for adoption for public exhibition.

RECOMMENDATION

THAT:

- 1. The Draft Busking Policy be placed on public exhibition for a period of 28 days; and**
 - 2. A further report come to Council after the exhibition period detailing the submission received.**
-

BACKGROUND

Cohesive and consolidated approach to activate civic and community spaces through busking, drawing on The development of this policy is in response to the Local Government Proclamation (2016) section 19(2) that codes, plans, strategies and policies of the new council are to be, as far as practicable, a composite of the corresponding codes, plans, strategies and polices of each of the former councils.

FINANCIAL IMPLICATIONS

Nil additional cost, and minimal revenue foregone. In 2017, Inner West Council received 42 busking permit applications between the Leichhardt and Ashfield areas, generating less than \$600. Cancelling fees, will also reduce the administrative cost of processing permits.

OTHER STAFF COMMENTS

The following teams have had input into the development of the draft Policy: Customer Service, Community Services & Culture, and Development Assessment & Regulatory Services.

PUBLIC CONSULTATION

Nil

CONCLUSION

Nil

ATTACHMENTS

- [1.↓ Inner West Council Draft Busking Policy](#)



INNER WEST COUNCIL

Busking Policy

Title	Busking Policy
Summary	This policy supports the Inner West Council's Community Strategic Plan (Strategic Direction 3 - Creative Communities and a Strong Economy), and provides information for buskers wanting to undertake busking performances. Buskers intending to perform are to do so under the conditions expressed in this policy
Background	The development of this Busking Policy supersedes and has been informed by the policies and guidelines of the former Councils of Ashfield, Leichhardt and Marrickville in accordance with the Local Government Proclamation (2016) section 19(2): 'the codes, plans, strategies and policies of the new council are to be, as far as practicable, a composite of the corresponding codes, plans, strategies and policies of each of the former councils'.
Relevant Strategic Plan Objective	Community Strategic Plan - (Strategic Direction 3 - Creative Communities and a Strong Economy).
Relevant Council References	<p>These policies were considered in the development of the Inner West Council Busking Policy:</p> <ul style="list-style-type: none"> • Former Ashfield Council: Street Entertainment Policy • Former Leichhardt Council: Busking Policy • Former Marrickville Council: Busking Guidelines • Burwood Council Busking Policy • City of Sydney Interim Busking Policy and Guidelines • Sydney Harbour Foreshore Authority Busking Policy • Inner West Council Busking Application Form and Agreement. <p>This policy supersedes those of the former Ashfield, Leichardt and Marrickville Councils.</p>
Main Legislative Or Regulatory Reference	<ul style="list-style-type: none"> • The Local Government Act 1993 (NSW) • Local Government Proclamation (2016)
Version Control	See last page

Document:	Council Policy	<i>Uncontrolled Copy When Printed</i>	
Custodian:	Matthew Balane	Version #	Version #
Approved By:	Group Manager Eria Ronan	TRIM Ref #	XXXXXX
Adopted By:	Gabrielle Rennard	Publish Location	Intranet/ Internet
Adopted Date and Minute #:	Xx / xx / xx	Next Review Date	XX / XX / xx



INNER WEST COUNCIL

1. PURPOSE

The purpose of this Policy is to provide a framework that supports artists/performers, and monitors and mitigates any risks which could arise from busking.

The policy provides the conditions under which busking is permitted in the Inner West Local Government Area on community land controlled by Inner West Council.

2. OBJECTIVE

The objectives of this policy are to ensure that council satisfies legislative requirements and achieves best practice in managing the public domain of artists/performers. This policy has two objectives. The policy:

- Encourage performances that enhance the vibrancy, vitality and cultural expression of urban areas of the Inner West Local Government Area (LGA)
- Provide a framework to ensure busking activities are supported and managed whilst maintaining the well-being and safety of buskers, and the broader community

3. DEFINITIONS

For the purposes of this policy the following definitions apply:

Word/Term	Definition
Busker	Someone who performs in public for the entertainment of passers-by/pedestrians. A busker can perform musically, dance, act, circus skills, comedy, magic, creating a temporary / handheld artwork.
Inner West LGA	Inner West Local Government Area The Inner West Local Government Area Includes the suburbs of Annandale, Ashfield, Balmain, Balmain East, Birchgrove, Dobroyd Point, Dulwich Hill, Enmore, Haberfield, Leichhardt, Lewisham, Lilyfield, Marrickville, Newtown, Petersham, Rozelle, Stanmore, St Peters, Summer Hill, Sydenham, and Tempe. As well as parts of Ashbury, Camperdown, Croydon, Croydon Park, Hurlstone Park and Newtown.

4. POLICY STATEMENT

This policy supports the Inner West Council's Community Strategic Plan (Strategic Direction 3 - Creative Communities and a Strong Economy) to provide information for artists/performers wanting to undertake busking performances in the Inner West Local Government Area on land which Inner West Council is the landowner. Buskers intending to perform are to do so under the conditions expressed in this policy.

5. POLICY

5.1. Approval process

Busking and other public performance activities within the Inner West LGA, on land which Inner West Council is the landowner, requires approval and a busking permit from Inner West Council.

 **INNER WEST COUNCIL**

To obtain approval and a busking permit, buskers must secure approval apply from the Inner West Council, by completing a Busking Permit Application Form and Agreement. Application forms are available on Council's website at <https://www.innerwest.nsw.gov.au/council/forms>

Pursuant to Sections 113(1) and 113(5) of the Local Government Act 1993 requires the Inner West Council to keep a record or register of any person or persons approved to busk in the Inner West LGA. The information contained in this record/register is to be made available for public inspection at the office of the Council upon request.

The accessible information includes, but is not limited to, the name and home address of the busker, and a description of what has been approved.

Busking permits are valid for 12 months and incur no fee. Buskers under 18 years of age require consent from a parent/guardian.

5.2. Performance conditions

Buskers are encouraged to:

- Advise nearby cafés/stores/businesses of their plans before setting up
- Comply with directions issued by an authorised person (Council staff) who may request the busker to cease performing
- Be aware of their location and ensure that pedestrian and vehicular thoroughfares are left clear
- Keep their performance area clean
- Keep their area safe and free of hazards
- Share the public space with other buskers in a courteous manner
- Respect the rights and diversity of our business owners and community members
- The sale of goods and services (i.e. CDs) are permitted under the condition it complements the busking performance. Advertising/promotion is permitted, only if it is displayed in a manner that does not impinge passers-by/ pedestrians', is only displayed during the performance period and complements the busking performance.

A busker may accept voluntary donations (money or goods) in appreciation of their performance; however donations are to be offered voluntarily and at the discretion of the audience. Buskers are not to request donations from the audience.

Buskers are asked not to:

- Perform excessively loud and disrupt business trading including retail or dining establishments, affect workplace performance or detract from residential or public amenity. Buskers are permitted to use amplification under the condition Council reserves the right to impose a decibel limit at its discretion.
- Use obscene language or inappropriate acts (acts must be appropriate for all ages)
- Set up any temporary structure such as a stall, table or stage
- Engage in any hazardous type activities including acts with fire, knives and other dangerous goods
- Perform acts with live animals or reptiles
- Perform acts which is offensive but not limited to, racial, sexual, gender or disability
- Request donations from the audience

5.3. Areas Where Busking is Permitted (Permitted Busking Areas).

Busking is permitted in the main streets/urban centres in the Inner West Local Government Area. The most appropriate busking areas are locations which are open, have room to

 **INNER WEST COUNCIL**

cater for buskers and are not used for a specific purpose (such as a bus stop). Examples of appropriate busking areas include a public bench, plaza, wide footpaths and outdoor dining areas that are not in-use.

Conditions where buskers are not permitted to busk:

- Areas that already have approved public events taking place
- Without express approval of Council
- Along Liverpool Road, Ashfield

Busking is permitted between 9am and 9:00pm, 7 days a week. Buskers are permitted to perform for a maximum of 2 (continuous) hours at any one site.

End

DRAFT

Version Control - POLICY HISTORY:

Governance Use only - The history of modifications and approval to the Policy must be detailed in the table below post adoption

Governance Use only:

Version	Amended By	Changes Made	Date	TRIM #
1	Governance: Policy and Risk	New IWC Policy replacing pre-merged versions	June2017	74655.17

Item No: C0219(2) Item 11

Subject: CONDUCT OF THE LOCAL GOVERNMENT ELECTION 2020

Prepared By: Ian Naylor - Manager Civic and Executive Support

Authorised By: Nellette Kettle - Group Manager Customer Service & Civic Governance

SUMMARY

The Office of Local Government has issued a circular to all NSW councils on 12 December 2018, advising that each Council must make a resolution by 11 March 2019 to decide whether to engage the NSW Electoral Commission to conduct the local government election or appoint the General Manager to administer the local government election.

RECOMMENDATION

THAT Council:

- 1. Pursuant to s. 296(2) and (3) of the Local Government Act 1993 (NSW) (“the Act”) enter into an election arrangement by contract for the Electoral Commissioner to administer all elections of the Council;**
- 2. Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, enter into a council poll arrangement by contract for the Electoral Commissioner to administer all council polls of the Council; and**
- 3. Pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, enter into a constitutional referendum arrangement by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.**

BACKGROUND

Under section 296AA of the Local Government Act 1993 (the Act), NSW councils must make a decision on how their September 2020 ordinary elections are to be administered no later than 11 March 2019. Each council must resolve either:

- to enter into an election arrangement with the NSW Electoral Commissioner (NSWEC) to administer all the council’s elections, polls and constitutional referenda; or
- that the council's elections are to be administered by the general manager of the council.

If a council fails to resolve to engage the NSWEC to administer its elections by 11 March 2019, it will be required to administer its own elections.

The 2017 local government election was conducted by the NSW Electoral Commission. The result of the election was confirmed within one week of the election day, which is a quicker turnaround than previous elections. Council received no complaints on the conduct of the election by the NSW Electoral Commission.

Alternatively, Council may consider administering their own election by engaging a private company with experience in running elections. This option may result in a cost saving but from the experience of councils who have done this in past elections, this has resulted in additional staff resources to assist the private company in locating suitable returning officer accommodation and polling booths, refunding candidate nomination deposits and providing election support for candidates. The other disadvantage is that the counting centre may not be located in metropolitan Sydney. The risk with engaging a private company is that the service may not be as fast as the NSW Electoral Commission, does not have the backing of the State

Government and the timing of the result could depend on the amount of resources the private company dedicates to the election.

The Inner West Council had 130,677 enrolments for the 2017 local government election. This figure is expected to rise towards 135,000 by the time of the 2020 local government election. Given the large number of voters in our local government area, the additional staffing resources that may be required in engaging a private company and the risk with engaging a private company to undertake the election, it is recommended that Council resolve to enter into a contract with the NSW Electoral Commission for all the council's elections, polls and constitutional referenda for the following reasons:-

- The running of elections is not Council's core business and the NSWEC has more equipped resources than Council to manage an election process
- Retaining the NSWEC is a low risk option as the NSWEC is known to be capable of carrying out a successful election
- Voter familiarity and public confidence in the NSW electoral commission
- Would require less diversion of internal resources to partner with the NSWEC than to contract management and partner with a new private provider

FINANCIAL IMPLICATIONS

The cost of the 2017 local government election was approximately \$1,000,000 and Council staff have budgeted \$1,300,000 in the 2020/21 Financial Year to cover these costs.

OTHER STAFF COMMENTS

Nil.

PUBLIC CONSULTATION

Nil.

CONCLUSION

Nil.

ATTACHMENTS

1. [Circular from the Office of Local Government - Decision required on Local Government Elections](#)



Circular Details	Circular No 18-43 / 12 December 2018 / A624481
Previous Circular	15-01 <i>Local Government Amendment (Elections) Bill 2015</i>
Who should read this	Councillors / General Managers / Council Governance staff
Contact	Council Governance Team / 02 4428 4100 / olg@olg.nsw.gov.au
Action required	Council to Implement

Council decisions on the administration of the September 2020 elections

What's new or changing?

- Under section 296AA of the *Local Government Act 1993* (the Act), councils must make a decision on how their September 2020 ordinary elections are to be administered no later than **11 March 2019**.
- Each council must resolve **either**:
 - to enter into an election arrangement with the NSW Electoral Commissioner (NSWEC) to administer all the council's elections, polls and constitutional referenda or
 - that the council's elections are to be administered by the general manager of the council.
- If a council fails to resolve to engage the NSWEC to administer its elections by **11 March 2019**, it will be required to administer its own elections.

What this will mean for your council

- Councils should start preparing now, if they have not already done so, to make a decision by March on the administration of their next ordinary election.
- A council should only resolve to administer its own elections if it is confident that it has the capacity to do so. The attached FAQ contains information to assist councils to assess whether they have the capacity to administer their own elections.
- If a council is proposing to engage the NSWEC to administer its elections, it should resolve to do so as soon as possible and notify the NSWEC.

Key points

- Where councils resolve to engage the NSWEC to administer their elections, polls and referenda they should use the model resolution suggested in the attached FAQ.
- Where councils resolve to administer the elections themselves, they must specify the following information in their resolution:
 - whether the general manager intends to administer elections personally or to engage an electoral services provider,
 - if the general manager intends to administer elections personally, whether the general manager has identified any persons to be appointed as the returning officer and substitute returning officer and, if so, their names,

- if the general manager intends to engage an electoral services provider, whether the general manager has identified an electoral services provider and, if so, the name of that provider.

Where to go for further information

- Further information to support councils' decision making on the administration of their September 2020 ordinary elections is contained in the FAQ attached to this circular.
- Contact OLG's Council Governance Team by telephone on 02 4428 4100 or by email at olg@olg.nsw.gov.au.
- Contact the NSW Electoral Commission by telephone on 02 9290 5999.

Tim Hurst
Chief Executive

Office of Local Government
5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541
T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209
E olg@olg.nsw.gov.au W www.olg.nsw.gov.au ABN 44 913 630 046

Item No: C0219(2) Item 12

Subject: 2018/19 SECOND QUATER BUDGET REVIEW

Prepared By: Daryl Jackson - Financial Partnering and Analytics Manager

Authorised By: Michael Tzimoulas - Deputy General Manager Chief Financial and Administration Officer

SUMMARY

Clause 203 of the Local Government (General) Regulations 2005 requires that a quarterly budget review be considered by Council, which shows revised estimates for income and expenditure for the financial year indicating whether Council's financial position is satisfactory and makes recommendations for remedial action where needed.

The Quarterly Budget Review Statement (QBRs) are prepared in accordance with the requirements of the Code of Accounting Practice and Financial Reporting. This report provides a comprehensive high level overview of Council's financial position as at 31 December 2018 in accordance with the Code, together with supplementary information. **Any forecast results are projections as at 30 June 2019.**

RECOMMENDATION

THAT:

- 1. The report be received and noted; and**
 - 2. Council approves the budget adjustments required.**
-

BACKGROUND

This report provides an overview of Council's quarterly financial position as at 31 December 2018. The QBRs report is prepared in accordance with the Code of Accounting Practice and Financial Reporting. It includes information on Council's Operating, Capital and Net Budget Position as at 31 December 2018.

During the quarter, a detailed review of both the operating and capital budgets were undertaken to reconfirm the budget projections for the current financial year.

Council has updated its projected budget result to \$6.1 million including capital revenue against that reported in the 2018/19 Adopted Q1 Quarter Budget Review of \$5.9 million, this is an improvement of \$0.2million. Excluding capital revenue, a deficit of \$12.8 million has been projected against the 2018/19 Adopted Q1 Quarter Budget Review Budget Deficit of \$13.7 million.

It is important to note that the change in our budgeted result is predominantly due to the following adjustments made in the Q2 QBRs:

1. Property Leases – a review of all leases in place was undertaken and the accounts now reflect the actual leasing income against an estimate which was previously booked. The incremental income was \$1.1m.
2. Capital Grants and Contributions – Council have been advised by RMS that capital grants submissions amounting to \$0.8m for a number of cycleway projects have been unsuccessful. These projects have been deferred to future years.
3. An increase in Council's Operating Expenditure of \$0.1m which includes a decrease in employee costs of \$0.2m and materials & contractors of \$2.4m offset by an increase in

Other Expenses of \$2.6m – detail information can be found within the Movement Summary.

At this point no surplus funds are available \$1.1m leasing income increase has been offset against the \$5.5m Efficiency Saving.

The Capital Budget will be reviewed throughout the financial year on an ongoing basis with the capital works managers. Changes to the Capital Works will be brought to Council through future QBRS.

Cash Flow forecasts of major projects will be monitored ensuring the expenditure remains in line with the budget. December 2018 year to date capital expenditure totals approximately \$16.1 million.

Currently Unfunded Council Resolutions.

The following Council resolutions were resolved to be considered at the next Quarterly Budget Review. The proposed budget adjustments do not include these projects and they are proposed to be considered at the next QBRS in Quarter 3:

- WestConnex Air Quality & Noise Monitoring - \$250k
- C0618 Item 5 Branding Competition Prizes - \$30k
- C0918 Item 19 – Allocation of budget to Strategic Planning for ongoing notification about infrastructure projects, rezoning proposals and public meetings - \$200k per annum (\$2m over 10 year LTFP)
- C1018(2) Item 7 Swimming In Parramatta River – New Site for Inner West \$45k

Council has resolved C1018(2) item 2 Dawn Fraser Upgrade to determine funding post grant outcome and C0818(3) Item 5 Balmain Public Square Heritage Project Funding to be considered in the LTFP if existing funds cannot be found in QBRS. As such, they have not been considered in this QBRS.

Summary of Budget Movements.

The following are key movements with a brief explanation and impact on Council's budget:

- Decrease in Capital Expenditure of (\$5.6m) which were predominantly funded by capital grants and contributions no longer available -
 - Trees, Parks and Sportsfields Capital Projects – (\$0.9m) - refer to Item 2 below.
 - Property Capital Projects – (\$3.6m) - refer to Item 4 below.
 - Footpaths, Roads, Traffic and Stormwater – (\$1.0m) - refer to Item 1 below.
 - Community Services & Culture – (\$0.1m) – refer to Item 10 below.
 - ICT Capital Projects – \$0.1m - refer to Item 3 below.
- Forecast decrease in revenue relating to Capital & Operational Grants & Contributions
 - Footpaths, Roads, Traffic & Stormwater - \$0.8m (grant funding applications for various cycleways was unsuccessful. These projects have been deferred to future years and a new application for grant funding will be lodged with RMS).
- Forecast increase in revenue relating to Other Income -
 - Property Services \$1.1m - a review of all current leases in place has been completed generating adjusted income against the estimates previously used.
- Forecast decrease in Employee Costs –
 - Human Resources \$0.1m – reduction in operating expenses as a staff member who was not part of operating headcount retired.

- Forecast decrease in Materials and Contracts –
 - Corporate Support Services \$2.6m – reclassification of software costs to Other Expenses in line with OLG Reporting requirements.

- Forecast increase in Other Expenses –
 - Corporate Support Services \$2.6m – reclassification of software costs from Materials and Contracts in line with OLG Reporting requirements.

Further details can be found in the December 2018 QBRS Movements section of this report.

Report by the Responsible Accounting Officer of Council

Section 203(2) of the Local Government (General) Regulation 2005 requires a report by Council's responsible accounting officer regarding the Council's financial position at the end of each quarter.

The responsible accounting officer is of the opinion that the Quarterly Budget Review Statement for the Inner West Council for the quarter ended 31 December 2018 indicates that Council's projected financial position at 30 June 2019 will be satisfactory.

FINANCIAL IMPLICATIONS

The proposed budget adjustments will see a net decrease in Council working funds of \$5.8million (\$5.6m for reduced capital expenditure & \$0.2m decreased in operating profit). This includes unfinished projects from 2017/18 which will be completed in the current financial.

OTHER STAFF COMMENTS

All relevant staff have been consulted during the budget adjustment process.

PUBLIC CONSULTATION

Nil.

1) Primary Financial Statement

Description	Original Budget	QBRS - Sept		Proposed Adjustments	Forecast Budget	Actual YTD
			Current Budget			
Income						
Rates & General Revenue	119,011,027	0	119,011,027	0	119,011,027	54,831,484
User Charges & Fees	44,428,556	-1,340,556	43,088,000	0	43,088,000	23,875,771
Domestic Waste Charge	38,086,243	1,192,000	39,278,243	0	39,278,243	23,165,195
Interest Income	5,167,034	0	5,167,034	0	5,167,034	3,301,971
Other Income	24,484,213	88,876	24,573,089	1,061,743	25,634,832	12,492,479
Operating Grants & Contributions	10,903,558	-2,013,024	8,890,535	0	8,890,535	3,942,629
Capital Grants & Contributions	25,906,751	-6,299,571	19,607,180	-777,500	18,829,680	10,318,681
Profit or Loss on Disposal	181,723	0	181,723	0	181,723	816,772
Total Income	268,169,106	-8,372,275	259,796,831	284,243	260,081,074	132,744,981
Expense						
Employee costs	123,934,251	611,420	124,545,671	-169,843	124,375,828	60,437,578
Materials & Contracts	61,684,784	2,257,539	63,942,322	-2,367,799	61,574,524	25,931,538
Borrowing Costs	1,207,031	235,986	1,443,016	45	1,443,061	342,120
Depreciation & Amortisation	26,129,474	5,517,682	31,647,156	0	31,647,156	15,821,618
Other Expenses	32,178,574	163,914	32,342,488	2,640,604	34,983,092	14,404,391
Total Expense	245,134,113	8,786,540	253,920,654	103,008	254,023,661	116,937,244
Operating Surplus/(Deficit)	23,034,993	-17,158,815	5,876,178	181,235	6,057,413	15,807,737
Operating Surplus/(Deficit) before Capital	-3,053,000	-10,678,002	-13,731,002	958,735	-12,772,267	5,489,056
Capital Expenditure						
Capital Works Program	77,584,402	-1,471,364	76,113,038	-5,589,046	70,523,992	14,252,503
Loan Principal	5,434,440	0	5,434,440	0	5,434,440	1,866,594
Total Capital Expenditure	83,018,842	-1,471,364	81,547,478	-5,589,046	75,958,432	16,119,097
Funding						
Net Working Capital Drawdown	30,288,780	10,235,364	40,524,144	-5,770,281	34,753,863	-29,694,059
Net Overheads Reallocation	65,595	-65,595	0	0	0	0
Depreciation Contra	29,629,474	5,517,682	35,147,157	0	35,147,157	0
Total Funding	59,983,849	15,687,451	75,671,301	-5,770,281	69,901,020	-29,694,059
Net Budget Position	0	0	0	0	0	-30,005,419

2) December 2018 QBRS Movements
Item 12

Item	Description	\$'000 Movement
	<u>Income</u>	
	Other Income	
4	Increased Revenue - Property Services	1,061
		1,061
	Capital Grants & Contributions	
1	Decreased Revenue - Footpaths, Roads, Traffic and Stormwater	(778)
		(778)
	Total Income	284
	<u>Operating Expenditure</u>	
	Employee costs	
11	Decreased Expenditure - Human Resources	(147)
12	Decreased Expenditure - DGM - CFO and Administration	(60)
7	Decreased Expenditure - Strategic Planning	(40)
5	Decreased Expenditure - Communications, Engagement and Events	(22)
9	Increased Expenditure - DGM - Assets and Environment	40
4	Increased Expenditure - Property Services	60
		(170)
	Materials & Contracts	
3	Increased Expenditure - ICT	263
6	Decreased Expenditure - Recreation and Aquatics	(88)
5	Increased Expenditure - Communications, Engagement and Events	19
4	Increased Expenditure - Property Services	42
8	Decreased Expenditure - Corporate Support Services	(2,604)
		(2,368)
	Other Expenses	
6	Decreased Expenditure - Recreation and Aquatics	(63)
5	Increased Expenditure - Communications, Engagement and Events	12
4	Increased Expenditure - Property Services	142
8	Increased Expenditure - Corporate Support Services	2,550
		2,641
	Total Operating Expenditure	103

Item	Description	\$'000 Movement
	Capital Expenditure	
	Materials & Contracts	
3	Increased Expenditure - ICT	101
10	Decreased Expenditure - Community Services and Culture	(131)
1	Decreased Expenditure - Footpaths, Roads, Traffic and Stormwater	(1,052)
2	Decreased Expenditure - Trees, Parks and Sportsfields	(903)
4	Decreased Expenditure - Property Services	(3,604)
		(5,589)
	Total Capital Expenditure	(5,589)
	Net Working Capital Drawdown	
11	Decrease - Human Resources	(147)
12	Decrease - DGM - CFO and Administration	(60)
3	Increase - ICT	364
10	Decrease - Community Services and Culture	(131)
6	Decrease - Recreation and Aquatics	(152)
9	Increase - DGM - Assets and Environment	40
1	Decrease - Footpaths, Roads, Traffic and Stormwater	(274)
7	Decreased - Strategic Planning	(40)
2	Decrease - Trees, Parks and Sportsfields	(903)
5	Increase - Communications, Engagement and Events	8
4	Decrease - Property Services	(4,421)
8	Decrease - Corporate Support Services	(54)
	Total Net Working Capital Drawdown	(5,770)

ITEM 1 - Footpaths, Roads, Traffic & Stormwater

Decrease Capital Grants & Contributions \$778k

- RMS grants applications were unsuccessful for a number of cycleway projects
 - Longport Street to Eliza Street – design
 - West Street – design & construction
 - Livingstone Road to Frazer Street – construction
 - Enmore Park to Livingstone Road – design
 - Richardsons Crescent, Cooks River to St Peters – design & construction

Decrease Capital Expenditure \$1,052k

- \$1.0m worth of cycleway projects funded by the RMS which have not received grant funding, projects listing in the above point – Decrease in capital grants and contributions.
- \$554k Local Roads and Footpath Projects deferred due to developer construction on the following streets and roads (Murray Lane, Ewart Street to Bayley Street; Hill St, Denison Road to the end of the road; Lilydale Street, Marrickville Road to Stanley Street; Darling Street to Macquarie Terrace, St Peters Street Campbell Street to the end of the street) which impact Council's ability to start the projects and extensive design works in 2019/20 at Fred Street, Summerhill Street to Eltham Street with investigation work to occur in the current financial year.
- \$75k Kerb & Gutter at Albert Street (National Street--Flood Street) deferred to 2020/21 as the location is not ready for construction.

- \$505k of 2019/20 projects have been transferred in the current financial due to other projects being deferred to 2019/20.
- Increase 100k for Chester St Footbridge.

The above changes have decreased the Net Working Funds by \$266k being Council's contribution to the cycleway project deferred to future years.

ITEM 2 - Trees, Parks & Sportsfields

Decrease Capital Expenditure	\$903k
Decrease Transfer from Net Working Funds	\$903k

- Callan Park skate park \$476k – project deferred to 2019/20 due to the Office of Environment & Heritage not supporting the selected location and Council resolved to move the skate park to Leichhardt Oval #3. A new design is currently in progress.
- Bell Reserve \$150k – to fund the demolition of the existing house on the property, the design and community engagement for new park, the construction has been deferred to 2019/20.
- Hawthorne Canal Shared Path \$100k - deferred to coordinate with Greenway northern links design program to 2019/20.
- Simpson Park upgrade \$186k - project deferred to 2019/20 due to WestConnex works affecting Campbell Road.

ITEM 3 – ICT

Increase Materials & Contracts	\$263k
Increase Capital Expenditure	\$101k
Increase Transfer from Net Working Funds	\$364k

- \$263k increase for the purchase of additional mobility devices for the Assets Team.
- \$101k increase for the Geographical Information Systems desktop editing software replacing the old out of date system.

ITEM 4 - Property Services

Increase Other Income	\$1,061k
Increase Employee Costs	\$60k
Increase Materials & Contracts	\$42k
Increase Other Expenses	\$142k
Decrease Capital Expenditure	\$3,604k

Decreased Capital Expenditure -

- Upgrade work for the following projects have been deferred to future year –
 - Telstra Site \$1.1m
 - Haberfield Library \$360k
 - Dawn Fraser Pool \$400k
 - Marrickville Town Hall \$180k
 - Petersham Town Hall \$500k
 - St Peters Town Hall \$320k
 - Weekley Park \$589k
 - Depot improvement works \$100k
 - Camperdown Memorial Park new toilets \$332k
 - King George Park storage facility upgrade \$70k
 - Increased cost of Ashfield Aquatics Centre redevelopment (\$346k).

Offset by an increase of –

- \$1,061k Property lease income review for 2018/19. In past years income was booked based on an estimated income. This adjustment represents the alignment of income for all the current property leases in place against the estimated amount.
- \$60k Staff member seconded to the Property Services team from the CFO & Administration team.
- \$42k reactive maintenance work required to be completed.
- \$142k is the result of a review of Council’s water and electricity usage cost aligning to the actual cost invoiced by the supplier.

The above has resulted in the following change in working funds -

Decrease Transfer from Internal Working Funds	\$1,646k
Decrease Transfer from S94 Funds	\$2,775k

ITEM 5 - Communications, Engagement & Events

Decrease Salary & Wages	\$22k
Increase Materials & Contracts	\$19k
Increase Other Expenses	\$12k
Increase Transfer from Net Working Funds	\$8k

- Salaries and wages savings from open positions have been used to fund Council resolutions - the increase in sponsorship for the Summer Hill Community Feast and Local Democracy Groups.

ITEM 6 - Recreation & Aquatics

Decrease Materials & Contracts	\$88k
Decrease Other Expenses	\$63k
Decrease Transfer from Net Working Funds	\$152k

- The commencement of the redevelopment of the Ashfield Aquatics Centre has been delayed due to contract negotiations.

ITEM 7 - Strategic Planning

Decrease Employee Costs	\$40k
Decrease Transfer from Net Working Funds	\$40k

- New staff opted for a motor car against the budgeted car allowance.

ITEM 8 - Corporate Support Services

Decrease Materials & Contracts	\$2,604k
Increase Other Expenses	\$2,550k
Decrease Transfer from Net Working Funds	\$54k

- Reclassification of software costs in line with OLG Reporting requirements.
- \$54k for the new wireless network lease.

ITEM 9 - Asset & Environment

Increase Employee Costs	\$40k
Increase Transfer from Net Working Funds	\$40k

- Alignment of the salary budget to the actual salaries.

ITEM 10 - Community Services & Culture

Decrease Capital Expenditure	\$131k
Decrease Transfer from Net Working Funds	\$131k

- Merriton site & Marion Street artworks has been delayed. The budget has been deferred 2019/20.

ITEM 11 - Human Resources

Decrease Employee Costs	\$147k
Increase Transfer from Net Working Funds	\$147k

- Reduction in operating expenses as a staff member who was not part of the operating headcount retired.

ITEM 12 - CFO & Administration

Decrease Employee Costs	\$60k
Decrease Transfer from Net Working Funds	\$60k

- This is for the secondment of a staff member to the Property Services Unit.

3) Summary Profit & Loss Statement

Description	Original Budget		Current Budget	Proposed Adjustments	Forecast Budget	Actual YTD
QBRS - Sept						
Income						
Rates & General Revenue	119,011,027	0	119,011,027	0	119,011,027	54,831,484
User Charges & Fees	44,428,556	-1,340,556	43,088,000	0	43,088,000	23,875,771
Domestic Waste Charge	38,086,243	1,192,000	39,278,243	0	39,278,243	23,165,195
Interest Income	5,167,034	0	5,167,034	0	5,167,034	3,301,971
Other Income	24,484,213	88,876	24,573,089	1,061,743	25,634,832	12,492,479
Operating Grants & Contributions	10,903,558	-2,013,024	8,890,535	0	8,890,535	3,942,629
Capital Grants & Contributions	25,906,751	-6,299,571	19,607,180	-777,500	18,829,680	10,318,681
Profit or Loss on Disposal	181,723	0	181,723	0	181,723	816,772
Total Income	268,169,106	-8,372,275	259,796,831	284,243	260,081,074	132,744,981
Expense						
Employee costs	123,934,251	611,420	124,545,671	-169,843	124,375,828	60,437,578
Materials & Contracts	61,684,784	2,257,539	63,942,322	-2,367,799	61,574,524	25,931,538
Borrowing Costs	1,207,031	235,986	1,443,016	45	1,443,061	342,120
Depreciation & Amortisation	26,129,474	5,517,682	31,647,156	0	31,647,156	15,821,618
Other Expenses	32,178,574	163,914	32,342,488	2,640,604	34,983,092	14,404,391
Total Expense	245,134,113	8,786,540	253,920,654	103,008	254,023,661	116,937,244
Operating Surplus/(Deficit)	23,034,993	-17,158,815	5,876,178	181,235	6,057,413	15,807,737
Operating Surplus/(Deficit) before Capital	-3,053,000	-10,678,002	-13,731,002	958,735	-12,772,267	5,489,056

4) Service Unit P&L Summary

Description	Original Budget	Approved Changes QBRs - Sept	Current Budget	Proposed Adjustments	Forecast Budget	Actual YTD
Income						
Children and Family Services	18,750,957	-608,959	18,141,998	0	18,141,998	8,982,172
Community Services and Culture	2,320,588	-357,977	1,962,612	0	1,962,612	1,072,866
Corporate Support Services	128,433,187	-2,653,013	125,780,174	0	125,780,174	62,936,309
Footpaths, Roads, Traffic and Stormwater	19,816,190	-1,563,872	18,252,318	-777,500	17,474,818	6,549,603
Library and Historical Services	825,002	-285,682	539,321	0	539,321	76,793
Recreation and Aquatics	8,719,370	530,013	9,249,384	10,176	9,259,560	5,717,306
Strategic Planning	2,158,531	918,969	3,077,500	0	3,077,500	1,075,981
Trees, Parks and Sportsfields	16,863,066	-7,720,000	9,143,066	0	9,143,066	4,945,121
Community Events	92,353	0	92,353	9,091	101,444	77,156
Resource Recovery	40,554,123	-28,140	40,525,984	0	40,525,984	21,165,014
Environment and Sustainability	290,493	-26,042	264,450	0	264,450	171,961
Development Assessment	3,838,451	0	3,838,451	0	3,838,451	4,015,388
Regulatory Services	17,491,548	0	17,491,548	63,000	17,554,548	7,789,249
Corporate Services	8,015,245	3,422,428	11,437,673	979,476	12,417,148	8,170,061
Total Income	268,169,106	-8,372,275	259,796,831	284,243	260,081,074	132,744,981
Expense						
Children and Family Services	18,353,121	-152,506	18,200,615	76,750	18,277,365	9,390,280
Community Services and Culture	11,321,202	390,667	11,711,869	45,891	11,757,760	5,262,305
Corporate Support Services	10,832,790	0	10,832,790	-353,533	10,479,257	7,153,333
Footpaths, Roads, Traffic and Stormwater	40,929,881	1,812,781	42,742,662	87,681	42,830,343	19,287,376
Library and Historical Services	10,796,051	117,682	10,913,733	47,658	10,961,391	4,899,845
Recreation and Aquatics	11,689,151	1,179,879	12,869,030	-137,229	12,731,801	5,953,653
Strategic Planning	7,615,210	1,506,460	9,121,670	-20,880	9,100,790	3,037,256
Trees, Parks and Sportsfields	19,105,369	-110,858	18,994,510	44,201	19,038,712	9,191,091
Community Events	1,225,224	90,135	1,315,360	9,091	1,324,451	576,369
Resource Recovery	32,480,531	248,319	32,728,850	0	32,728,850	12,814,341
Environment and Sustainability	4,474,517	3,834	4,478,350	75,036	4,553,386	1,898,884
Development Assessment	6,622,166	0	6,622,166	0	6,622,166	3,111,095
Regulatory Services	14,362,534	0	14,362,534	89,683	14,452,217	6,197,925
Corporate Services	55,326,367	3,700,147	59,026,514	138,659	59,165,173	28,163,490
Total Expense	245,134,113	8,786,540	253,920,654	103,008	254,023,661	116,937,244
Operating Surplus/(Deficit) before Capital	23,034,993	-17,158,815	5,876,178	181,235	6,057,413	15,807,737
Operating Surplus/(Deficit) after Capital	-3,053,000	-10,678,002	-13,731,002	958,735	-12,772,267	5,489,056

5) Capital Expenditure Statement

Description	Original Budget	Approved Changes	Current Budget	Proposed Adjustments	Forecast Budget	Actual YTD
QBRS - Sept						
Capital Expenditure						
Plant & Equipment	6,400,570	0	6,400,570	0	6,400,570	1,558,309
Office Equipment	4,302,800	1,542,845	5,845,645	101,000	5,946,645	1,547,356
Land Improvement (Non-depreciable)	100,000	-100,000	0	0	0	0
Land Under Roads	0	20,447	20,447	0	20,447	20,447
Land Improvement (Depreciable)	18,705,121	-6,721,379	11,983,742	-902,916	11,080,826	2,337,513
Buildings	25,606,036	-585,146	25,020,890	-3,735,630	21,285,260	3,265,148
Aquatic Facilities	0	929,708	929,708	0	929,708	553,928
Seawalls	60,000	83,690	143,690	0	143,690	35,759
Wharves	0	159,515	159,515	0	159,515	0
Local Roads	5,684,000	673,691	6,357,691	-170,000	6,187,691	956,512
Regional Roads	1,245,000	400,000	1,645,000	0	1,645,000	246,611
Bridges	1,140,000	242,556	1,382,556	100,000	1,482,556	292,292
Footpaths	2,407,000	0	2,407,000	131,000	2,538,000	947,323
Kerb & Gutter	544,000	0	544,000	-115,000	429,000	72,895
Traffic Devices	2,315,875	130,533	2,446,408	0	2,446,408	328,371
Car Parks	260,000	0	260,000	0	260,000	0
Storm Water Drainage	2,285,000	959,071	3,244,071	0	3,244,071	462,814
Bicycle facilities	3,225,000	-850,479	2,374,521	-997,500	1,377,021	62,097
Town Centres	3,204,000	1,553,585	4,757,585	0	4,757,585	1,560,749
Roadside Furniture	100,000	90,000	190,000	0	190,000	4,378
Principal Repayments	5,434,440	0	5,434,440	0	5,434,440	1,866,594
Total Capital Expenditure	83,018,842	-1,471,364	81,547,478	-5,589,046	75,958,432	16,119,097
Rates and Annual Charges	2,142,453	660,027	2,802,480	-1	2,802,480	1,776,270
Operating Grants & Contributions	460,000	938,099	1,398,099	0	1,398,099	9,600
Capital Grants & Contributions	16,225,494	-10,887,000	5,338,494	-777,500	4,560,994	441,569
Sale of Assets	3,681,723	0	3,681,723	0	3,681,723	816,772
Transfer from External Reserves	34,858,012	2,530,379	37,388,391	-3,014,382	34,374,009	7,104,914
Transfer from Internal Reserves	25,651,160	5,287,131	30,938,291	-1,797,163	29,141,128	5,969,972
Total Funding Source	83,018,842	-1,471,364	81,547,478	-5,589,046	75,958,432	16,119,097
Net Budget Result	0	0	0	0	0	0

6) Cash & Investments – Restricted Held

	Opening Balance - 1 July 2018	Original Budget - Net Movements	Proposed Adjustments	Forecast Budget - Net Movements	Forecast Closing Balance	YTD Balance
Externally Restricted						
Developer Contributions	\$54,109	\$ -	\$ -	\$ -	\$54,109	\$54,109
Specific Purpose Unexpended Grant	\$18,100	\$ -	\$ -	\$ -	\$18,100	\$18,214
Domestic Waste Management	\$22,127	\$ -	\$ -	\$ -	\$22,127	\$22,127
Stormwater Management	\$501	\$ -	\$ -	\$ -	\$501	\$501
Watershed	\$59	\$ -	\$ -	\$ -	\$59	\$59
SRV Income	\$5,026	\$ -	\$ -	\$ -	\$5,026	\$5,026
Debbie and Abbey Borgia Sinking Fund	\$0	\$ -	\$ -	\$ -	\$0	\$0
Mainstreet Levy	\$240	\$ -	\$ -	\$ -	\$240	\$240
3.5% Levy	\$260	\$ -	\$ -	\$ -	\$260	\$260
Total Externally Restricted	\$100,422	\$ -	\$ -	\$ -	\$ 100,422	\$100,536
Internally Restricted						
Employment Leave Entitlements	\$29,783	\$ -	\$ -	\$ -	\$29,783	\$29,783
Deposits Retentions	\$13,994	\$ -	\$ -	\$ -	\$13,994	\$13,994
FAG	\$2,758	\$ -	\$ -	\$ -	\$2,758	\$2,758
Total Internally Restricted	\$46,535	\$ -	\$ -	\$ -	\$ 46,535	\$46,535
Unrestricted	\$70,357	-\$ 66	\$ 66	-\$ 0	\$70,357	\$65,063
Total Funds	\$217,314	-\$66	\$66	\$0	\$217,314	\$212,134
Total Investment Portfolio As at 31 December 2018						\$212,134

Council's cash position sees an unrestricted balance of \$65.1 million as at 31 December 2018. The unrestricted balance will continue to diminish as Council expends it on operational expenses and capital projects during the financial year. The funds have been invested in accordance with Council's investment portfolio which saw Council's non fossil fuel investment at approximately \$205.3m or 98% of its total portfolio as at the end of December 2018.

7) Contract Listing

Contractor	Contract Detail & Purpose	Contract Value (EXC GST)	Commencement Date	Duration Contract	Budgeted (Y/N)
DESIGN 5 - ARCHITECTS PTY LTD	Architectural Services - Petersham Town	50,000.00	12/11/2018	8 Months	Y
NADIAM PTY LTD	Archival and Business Intelligence Disco	56,477.00	1/11/2018	8 Months	Y
ARUP	Transport and traffic analysis	59,240.00	5/12/2018	One/Off	Y
CLARKSON CHAS	IWC Christmas tree installation	77,463.00	9/11/2018	One/Off	Y
FOR THE PEOPLE AGENCY PTY LIMITED	Development of Visual Identity, associated collateral and	81,818.18	6/12/2018	6 months	Y
JONES NICHOLSON PTY LTD	301296 Dalhousie Street, Haberfield	85,765.00	7/12/2018	6 Months	Y
SPIK SERVICES PTY LTD	New Flooring at AKAC Aquatic Centre	91,230.00	11/10/2018	2 Weeks	Y
CARTER WILLIAMSON ARCHITECTS	Consultancy Engagement for CMRP	96,875.00	9/11/2018	6 Months	Y
McGregor Coxall Unit Trust	Cooks River Parklands Consultancy 16/17 - HJ Mahoney Res	104,170.00	25/10/2018	8 Months	Y
SYSTEMS THINKING CONSULTING PTY LTD	Consulting services relating Tech One	106,274.55	13/11/2018	8 Months	Y
MARBLE ARCH PTY LTD	Air Raid Shelter Upgrade for Storage	119,065.34	1/10/2018	6 Weeks	Y
Landform Gardens Pty Limited	Deborah Little Childcare - Rear Playground Upgrade	135,030.00	10/12/2018	12 Weeks	Y
Word Out There	Senior Engagement Specialist - Contractor	136,158.77	12/11/2018	15 Months	Y
Maico Property Services Pty Limited	Upgrade Share Building 135 Smith Street Sunnerhill T26-18	300,895.11	3/12/2018	15 weeks	Y

Above is a listing of contracts Council entered into during the period 1 October to 31 December 2018.

8) Consultancy & Legal Expenses
Item 12

Expense	Expenditure YTD	Budgeted (Y/N)
External Legal Fees	\$ 283	Y
Consultancy Fees	\$ 2,191	Y

A consultant is a person or organisation engaged under contract on a temporary basis to provide recommendations or high level specialist or professional advice to assist decision making by management. Generally it is the advisory nature of the work that differentiates a consultant from other contractors.

Where any expenses for Consultancy or Legal Fees (including Code of Conduct expenses) have not been budgeted for, an explanation is to be given. Report on external expenses only (not internal expenses).

ATTACHMENTS

Nil.

Item No: C0219(2) Item 13
Subject: INVESTMENT REPORT AS AT 30TH NOVEMBER 2018
Prepared By: Brendhan Barry - Manager Financial Services
Authorised By: Michael Tzimoulas - Deputy General Manager Chief Financial and Administration Officer

SUMMARY

In accordance with the requirements of clause 212 of the Local Government (General) Regulation 2005, Council is provided with a listing of all investments made pursuant to section 625 of the Local Government Act 1993 and reported for period ending 30 November 2018.

RECOMMENDATION

THAT the report be received and noted.

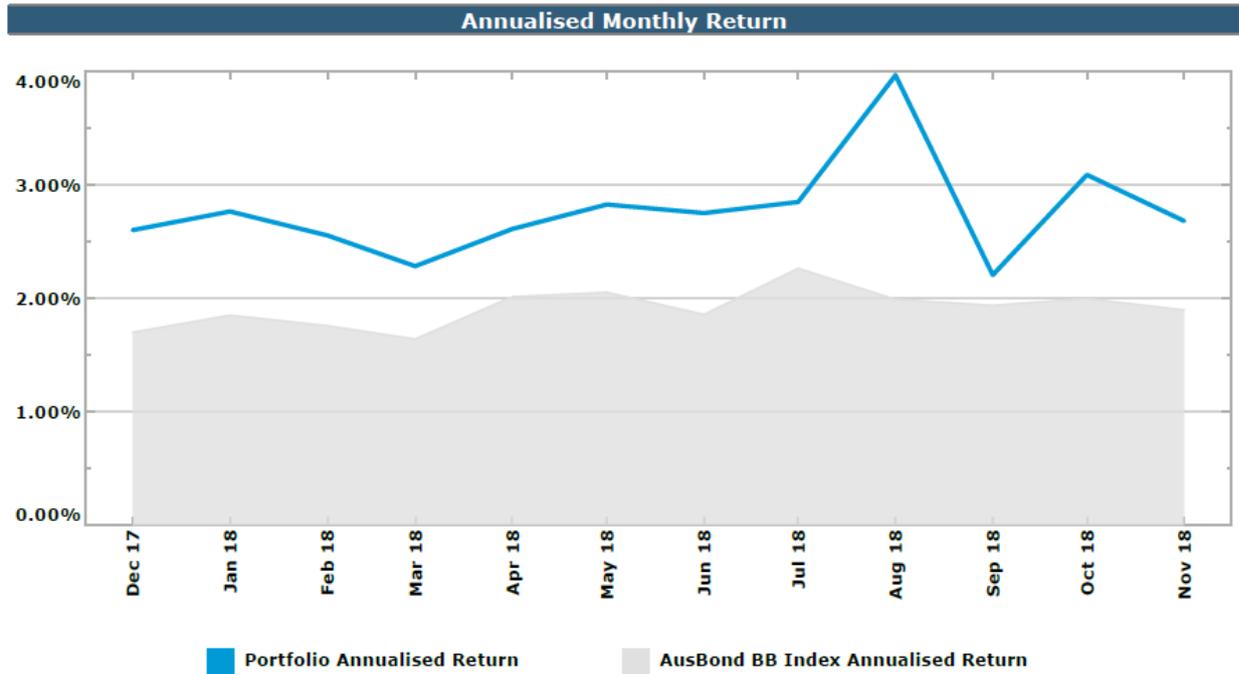
Clause 212 of the Local Government (General) Regulation 2005 requires that a report be presented to Council each month listing all investments with a certification from the Responsible Accounting Officer. Attached to this report are further reports from Council's Investment Advisors, Prudential Investment Services.

FINANCIAL IMPLICATIONS

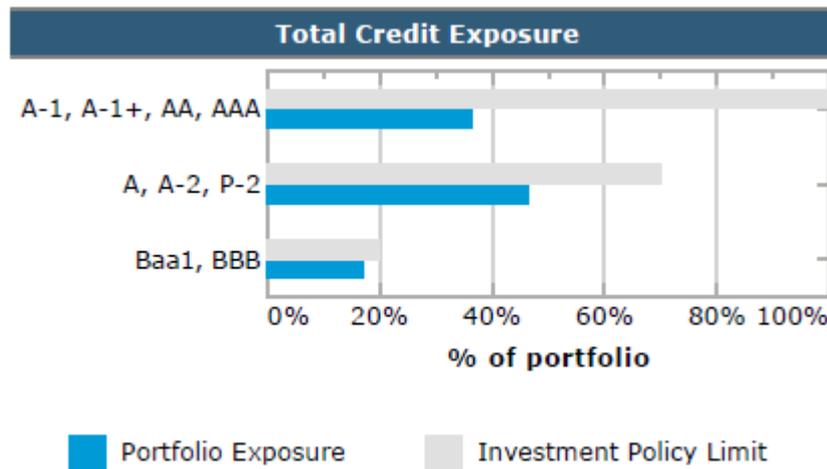
The Investment Holdings report (**Attachment 1**) for the period ending 30 November 2018 reflects Council's holding in various investment categories these are listed in the table below. Council's portfolio size sits at \$208.9m, of which 83% was rated A rated or above. All Socially Responsible Investments (SRI's) are investments that comply with the Non Fossil Fuel standards.

Current Breakdown

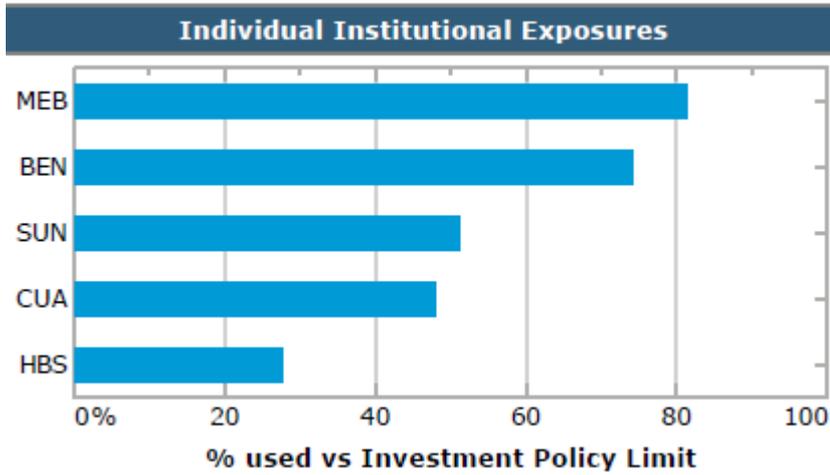
ADI Lending Status *	Current Month (\$)		Previous Month (\$)	
Fossil Fuel Lending ADIs				
Bank of Queensland	2,000,000		7,000,000	
Commonwealth Bank of Australia	534,332		533,630	
Westpac Group	2,000,000		2,000,000	
	4,534,332	2%	9,533,630	5%
Non Fossil Fuel Lending ADIs				
Auswide Bank	11,000,000		11,000,000	
Bendigo and Adelaide Bank	31,000,000		34,000,000	
Credit Union Australia	20,000,000		20,000,000	
Emerald Reverse Mortgage (2006A)	588,051		592,763	
Emerald Reverse Mortgage (2006B)	1,000,000		1,000,000	
Greater Building Society	2,000,000		2,000,000	
Heritage Bank	5,800,000		5,800,000	
IMB Ltd	7,000,000		7,000,000	
Members Equity Bank	34,000,000		34,000,000	
MyState Bank	3,000,000		3,000,000	
Newcastle Permanent Building Society	1,700,000		1,700,000	
Rural Bank	2,000,000		2,000,000	
Suncorp Bank	32,000,000		32,000,000	
Teachers Mutual Bank	5,200,000		5,200,000	
	156,288,051	75%	159,292,763	79%
Socially Responsible Investments				
ANZ Group (Green)	2,000,000		2,000,000	
Bank Australia (Sustainability)	2,000,000		2,000,000	
CBA (Climate)	18,200,000		18,200,000	
National Australia Bank (Social)	7,444,000		3,444,000	
NSW T-Corp (Green)	5,000,000			
Westpac Group (Climate)	8,400,000		8,400,000	
Westpac Group (Green TD)	5,000,000			
	48,044,000	23%	34,044,000	17%
	208,866,383		202,870,394	



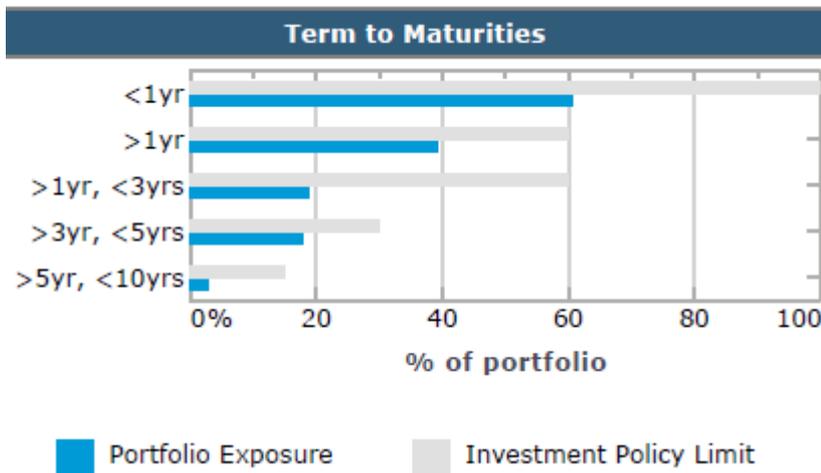
Council’s annualised return continues to exceed the bank bill index benchmark. The period ending 30 November 2018, the portfolio for Inner West Council had a One-Month Portfolio Investment Return of 2.68%, above the UBSWA Bank Bill Index Benchmark (2.02%).



Council has a well-diversified portfolio with 83% of the portfolio spread among the top three credit rating categories (A long term / A2 short term and higher).



Council has a well-diversified portfolio invested among a range of term deposits and floating rate notes from highly rated Australian ADIs. The graph above shows Council's individual institution exposure compared with the investment policy limits.

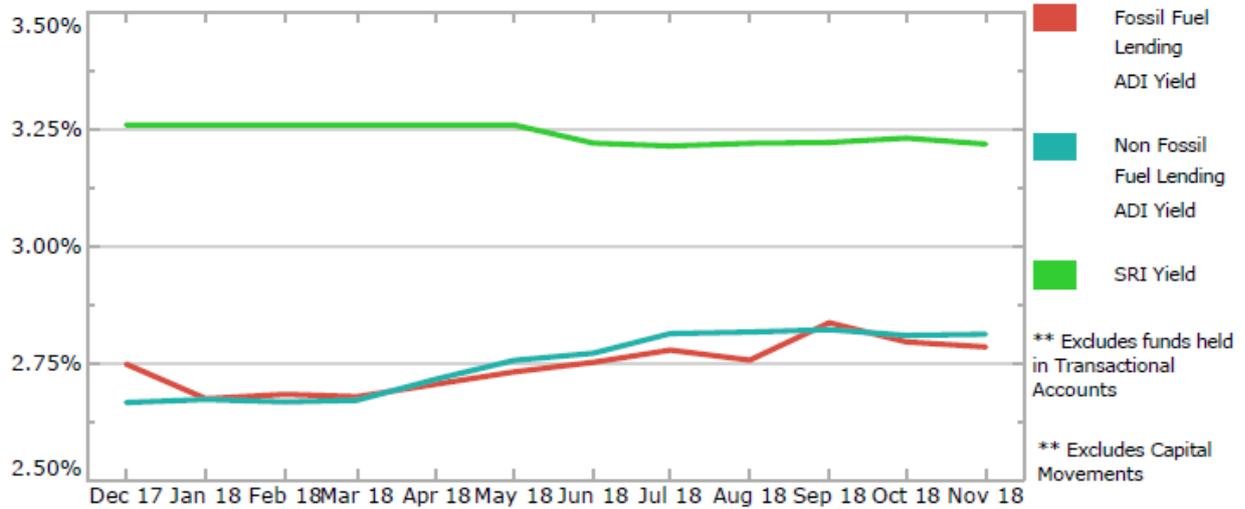


The graph above demonstrates the term to maturity for Council's investments compared to Council's approved investment policy limits.

Environmental and Socially Responsible Commitments

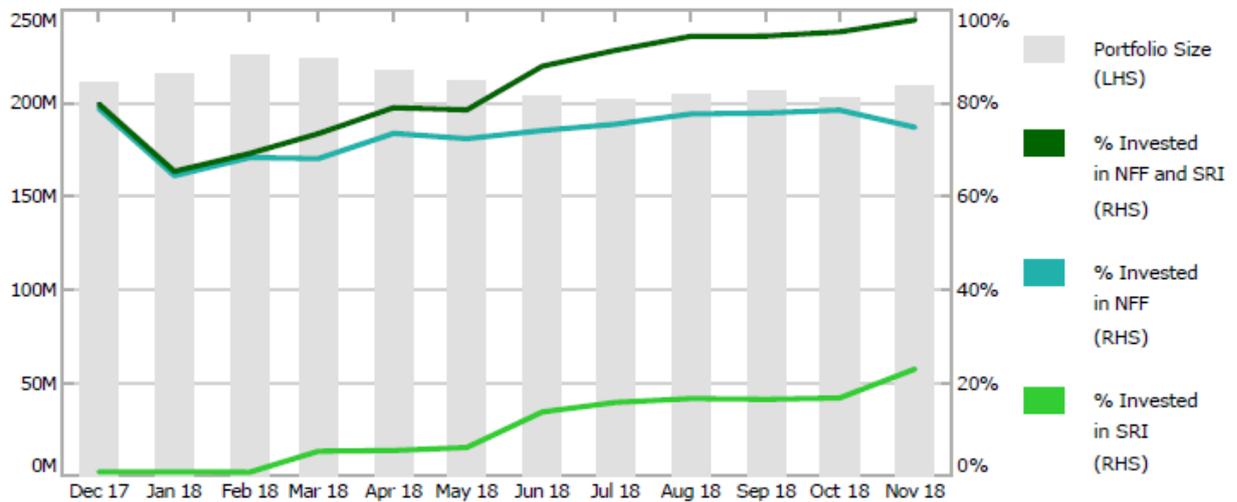
Item 13

Weighted Average Yield - FF vs NFF Lending ADIs vs SRIs



The graph above illustrates the gap between yields received from Socially Responsible Investments (SRI), Fossil Fuel (FF) and Non Fossil Fuel (NFF) Investments. All Socially Responsible Investments are also Non Fossil Fuel Investments.

Historical Portfolio Exposure to NFF Lending ADIs and SRIs



Council’s holdings in NFF / SRI’s was \$204.3m with the relative total portfolio percentage of 98%.

Council’s holdings in NFF investments were \$156.3m with the relative total portfolio percentage of 75%.

Council’s holdings in SRI’s were \$48.0m, with the relative total portfolio percentage of 23%.

The attachments to this report summarise all investments held by Council and interest returns for periods ending 30 November 2018.

The Current Market value is required to be accounted for. The Current Market Value is a likely outcome if Council were to consider recalling the investment prior to its due date.

All investments made for the month of November 2018 have been made in accordance with the Local Government Act, Local Government Regulations and the Inner West Council Investment Policy.

ATTACHMENTS

1. [↓](#) IWC Nov18
2. [↓](#) IWC Economic and Investment Portfolio Commentary Nov 18



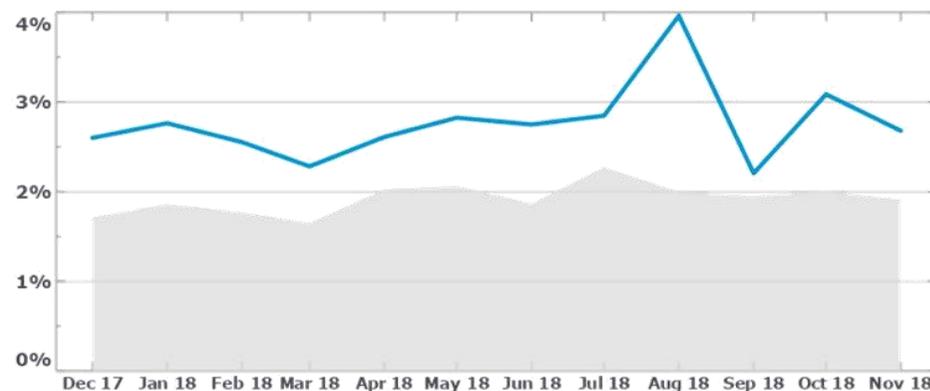
**Investment Summary Report
November 2018**

Inner West Council
Executive Summary - November 2018



Investment Holdings **Investment Performance**

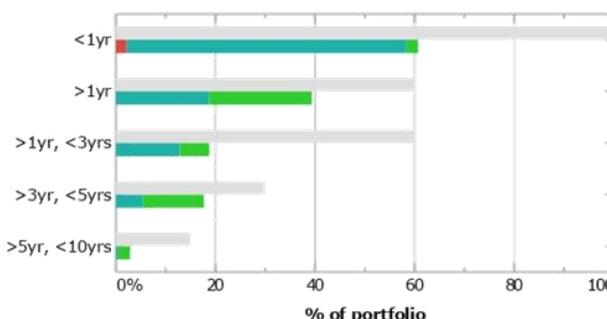
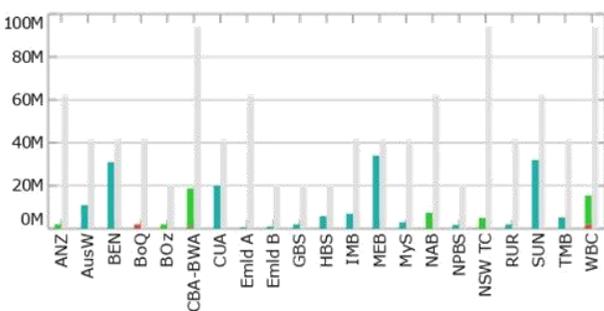
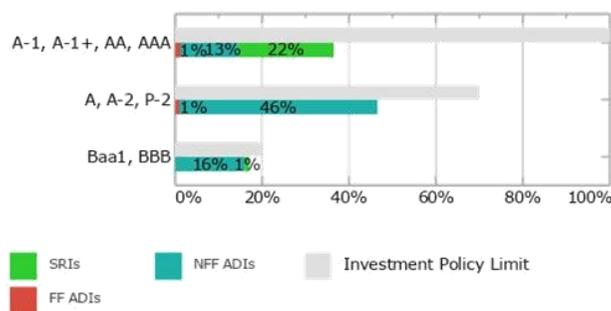
By Product	Face Value (\$)	Current Value (\$)	Current Yield (%)
Bonds	41,044,000.00	41,636,142.70	3.1888
Cash	534,332.13	534,332.13	1.6000
Floating Rate Note	40,700,000.00	40,883,550.64	3.1370
Mortgage Backed Security	1,588,051.34	1,145,682.60	2.5789
Term Deposit	125,000,000.00	126,889,967.38	2.7105
	208,866,383.47	211,089,675.45	2.8838



■ Portfolio Annualised Return ■ Bloomberg BB Index Annualised Return

Investment Policy Compliance

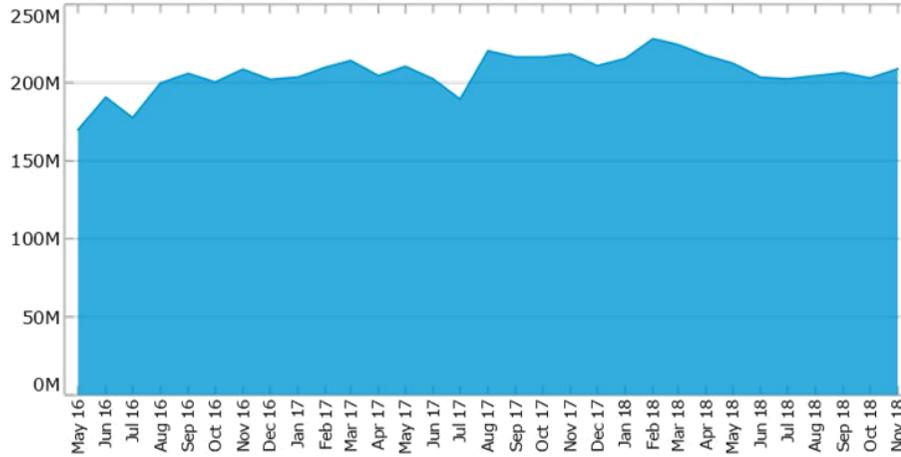
Total Credit Exposure **Individual Exposures** **Term to Maturities**



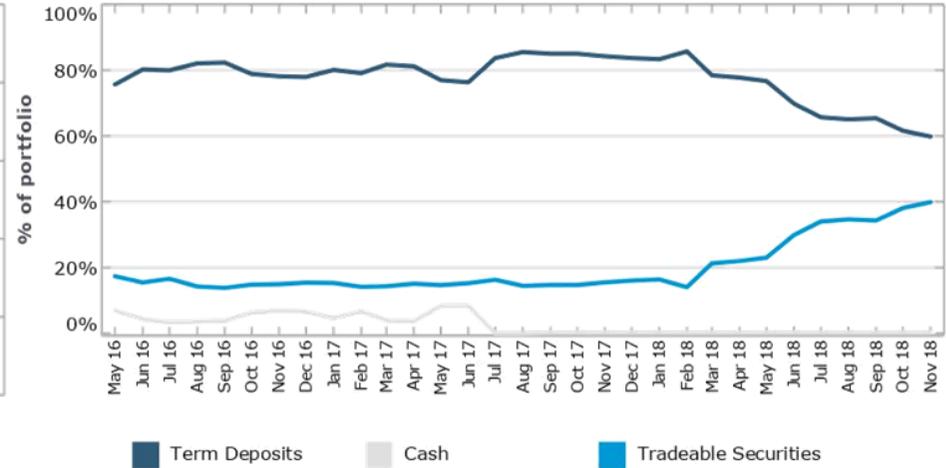
Inner West Council
Historical Graphs - November 2018



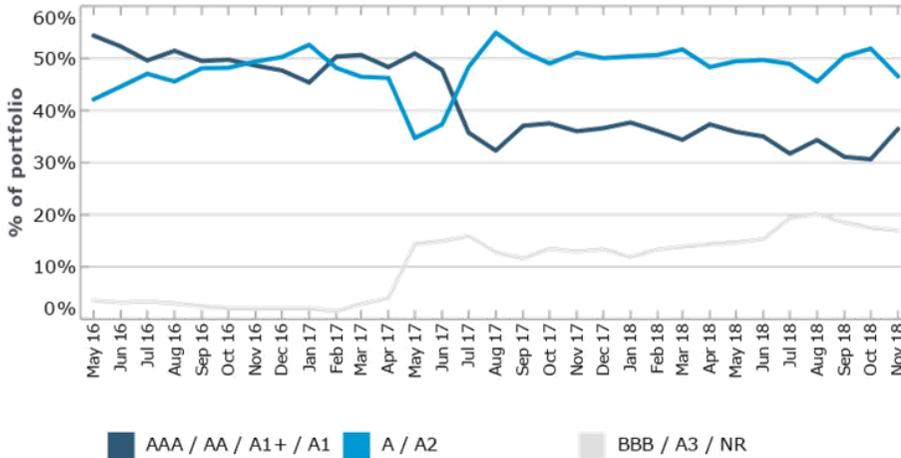
By Balance



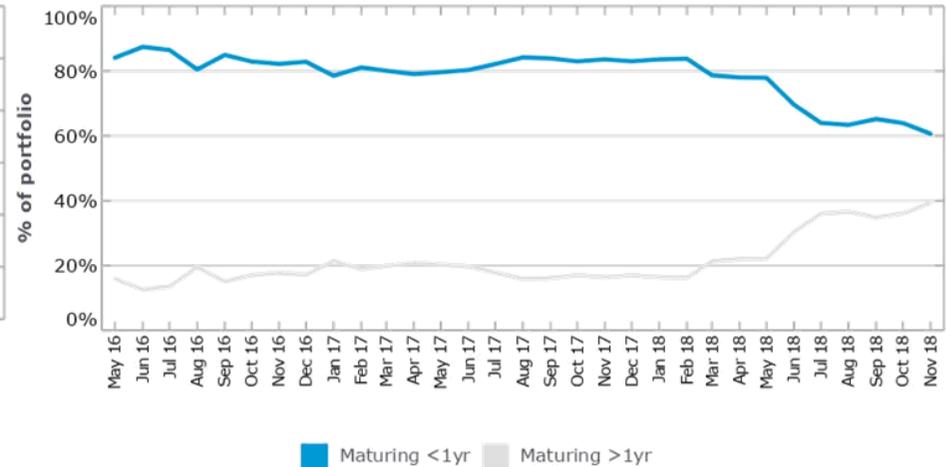
By Investment Type



By Credit Rating



By Maturity



**Inner West Council
Investment Holdings Report - November 2018**

Cash Accounts

Face Value (\$)	Current Yield	Institution	Credit Rating	Current Value (\$)	Deal No.	Reference
534,332.13	1.6000%	Commonwealth Bank of Australia	A-1+	534,332.13	535861	
534,332.13	1.6000%			534,332.13		

Term Deposits

Maturity Date	Face Value (\$)	Rate	Institution	Credit Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Coupon Frequency	Reference
4-Dec-18	5,000,000.00	2.5500%	Bendigo and Adelaide Bank	A-2	5,000,000.00	31-Jan-18	5,106,191.78	536169	106,191.78	At Maturity	
11-Dec-18	5,000,000.00	2.5500%	IMB Ltd	P-2	5,000,000.00	31-Jan-18	5,106,191.78	536170	106,191.78	At Maturity	
11-Dec-18	9,000,000.00	2.6000%	ME Bank	A-2	9,000,000.00	31-Jan-18	9,194,893.15	536172	194,893.15	At Maturity	
7-Jan-19	4,000,000.00	2.6000%	ME Bank	A-2	4,000,000.00	28-Feb-18	4,078,641.10	536331	78,641.10	At Maturity	
7-Jan-19	1,000,000.00	2.4500%	Suncorp Bank	A-1	1,000,000.00	28-Feb-18	1,018,526.03	536332	18,526.03	At Maturity	
14-Jan-19	5,000,000.00	2.6000%	Bendigo and Adelaide Bank	A-2	5,000,000.00	28-Feb-18	5,098,301.37	536320	98,301.37	At Maturity	
14-Jan-19	2,000,000.00	3.0000%	Bank of Queensland	A-2	2,000,000.00	12-Jan-17	2,053,095.89	534764	53,095.89	Annually	
22-Jan-19	3,500,000.00	2.6800%	Credit Union Australia	A-2	3,500,000.00	21-Feb-18	3,572,727.12	536251	72,727.12	At Maturity	
5-Feb-19	2,000,000.00	2.5500%	IMB Ltd	P-2	2,000,000.00	28-Feb-18	2,038,564.38	536322	38,564.38	At Maturity	
5-Feb-19	3,000,000.00	2.6000%	ME Bank	A-2	3,000,000.00	28-Feb-18	3,058,980.82	536323	58,980.82	At Maturity	
14-Feb-19	2,000,000.00	3.0000%	Westpac Group	A-1+	2,000,000.00	14-Feb-17	2,047,671.23	534873	47,671.23	Annually	
19-Feb-19	3,500,000.00	2.7000%	Credit Union Australia	A-2	3,500,000.00	21-Feb-18	3,573,269.86	536252	73,269.86	At Maturity	
13-Mar-19	5,000,000.00	2.6200%	Bendigo and Adelaide Bank	A-2	5,000,000.00	28-Feb-18	5,099,057.53	536321	99,057.53	At Maturity	
13-Mar-19	8,000,000.00	2.7000%	Auswide Bank	P-2	8,000,000.00	15-Mar-18	8,154,454.79	536439	154,454.79	At Maturity	
12-Apr-19	5,000,000.00	2.7500%	Suncorp Bank	A-1	5,000,000.00	27-Apr-18	5,082,123.29	536556	82,123.29	At Maturity	
26-Apr-19	15,000,000.00	2.7500%	Suncorp Bank	A-1	15,000,000.00	27-Apr-18	15,246,369.86	536555	246,369.86	At Maturity	
7-May-19	2,000,000.00	2.8400%	Rural Bank	A-2	2,000,000.00	31-May-18	2,028,633.42	536680	28,633.42	At Maturity	
14-May-19	3,000,000.00	2.8000%	MyState Bank	P-2	3,000,000.00	31-May-18	3,042,345.21	536679	42,345.21	At Maturity	
21-May-19	3,000,000.00	2.8000%	ME Bank	A-2	3,000,000.00	31-May-18	3,042,345.21	536681	42,345.21	At Maturity	
28-May-19	3,000,000.00	2.8000%	ME Bank	A-2	3,000,000.00	31-May-18	3,042,345.21	536683	42,345.21	At Maturity	

**Inner West Council
Investment Holdings Report - November 2018**

Term Deposits

Maturity Date	Face Value (\$)	Rate	Institution	Credit Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Coupon Frequency	Reference
24-Jun-19	6,000,000.00	2.7000%	Suncorp Bank	A-1	6,000,000.00	30-Aug-18	6,041,276.71	537030	41,276.71	At Maturity	
26-Jun-19	5,000,000.00	2.7000%	Credit Union Australia	A-2	5,000,000.00	28-Sep-18	5,023,671.23	537168	23,671.23	At Maturity	
29-Jul-19	8,000,000.00	2.8500%	ME Bank	A-2	8,000,000.00	31-Jul-18	8,076,832.88	536900	76,832.88	At Maturity	
4-Sep-19	3,000,000.00	2.8500%	Auswide Bank	P-2	3,000,000.00	31-Jul-18	3,028,812.33	536897	28,812.33	At Maturity	
23-Sep-19	5,000,000.00	2.7500%	Credit Union Australia	A-2	5,000,000.00	28-Sep-18	5,024,109.59	537169	24,109.59	At Maturity	
30-Oct-19	4,000,000.00	2.9000%	Bendigo and Adelaide Bank	A-2	4,000,000.00	30-Oct-17	4,010,169.86	535897	10,169.86	Annually	
29-Nov-19	5,000,000.00	2.6700%	Westpac Group	A-1+	5,000,000.00	30-Nov-18	5,000,365.75	537363	365.75	Quarterly	Green
125,000,000.00		2.7105%			125,000,000.00		126,889,967.38		1,889,967.38		

Floating Rate Notes

Maturity Date	Face Value (\$)	Current Coupon	Security Name	Credit Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Next Coupon Reference Date
28-Oct-19	1,200,000.00	3.3150%	TMB Snr FRN (Oct19) BBSW+1.40%	A-2	1,200,000.00	28-Oct-16	1,206,812.55	534461	3,596.55	29-Jan-19
21-Feb-20	3,000,000.00	3.0400%	BEN Snr FRN (Feb20) BBSW+1.10%	BBB+	3,000,000.00	21-Nov-16	3,014,588.63	534538	2,498.63	21-Feb-19
24-Feb-20	1,000,000.00	3.3900%	GBS Snr FRN (Feb20) BBSW+1.45%	BBB	1,000,000.00	24-Feb-17	1,000,452.53	534887	464.38	25-Feb-19
24-Feb-20	1,000,000.00	3.3900%	GBS Snr FRN (Feb20) BBSW+1.45%	BBB	1,000,000.00	24-Feb-17	1,000,452.53	534888	464.38	25-Feb-19
20-Mar-20	1,500,000.00	3.2200%	CUA Snr FRN (Mar20) BBSW+1.30%	BBB	1,500,000.00	20-Mar-17	1,515,152.67	534992	9,527.67	20-Dec-18
20-Mar-20	1,500,000.00	3.2200%	CUA Snr FRN (Mar20) BBSW+1.30%	BBB	1,500,000.00	20-Mar-17	1,515,152.67	534993	9,527.67	20-Dec-18
6-Apr-20	2,000,000.00	3.1795%	ME Bank Snr FRN (Apr20) BBSW+1.25%	BBB	2,000,000.00	6-Apr-17	2,014,047.84	535107	9,407.84	7-Jan-19
18-Aug-20	2,000,000.00	3.0400%	BEN Snr FRN (Aug20) BBSW+1.10%	BBB+	2,000,000.00	18-Aug-15	2,010,918.90	505171	1,998.90	18-Feb-19
18-Aug-20	1,000,000.00	3.0400%	BEN Snr FRN (Aug20) BBSW+1.10%	BBB+	1,000,000.00	18-Aug-15	1,005,459.45	505174	999.45	18-Feb-19
18-Aug-20	2,000,000.00	3.0400%	BEN Snr FRN (Aug20) BBSW+1.10%	BBB+	2,000,000.00	18-Aug-15	2,010,918.90	505175	1,998.90	18-Feb-19
9-Nov-20	2,000,000.00	3.1907%	ME Bank Snr FRN (Nov20) BBSW+1.25%	BBB	2,000,000.00	9-Nov-17	2,006,406.32	535918	3,846.32	11-Feb-19
29-Mar-21	5,800,000.00	3.1778%	HBS Snr FRN (Mar21) BBSW+1.23%	Baa1	5,800,000.00	29-Mar-18	5,835,374.76	536454	32,822.76	31-Dec-18
2-Jul-21	4,000,000.00	3.3061%	TMB Snr FRN (Jul21) BBSW+1.37%	BBB	4,000,000.00	2-Jul-18	4,034,458.74	536788	21,738.74	2-Jan-19

**Inner West Council
Investment Holdings Report - November 2018**

Floating Rate Notes

Maturity Date	Face Value (\$)	Current Coupon	Security Name	Credit Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Next Coupon Reference Date
30-Aug-21	2,000,000.00	3.2500%	BOz 'SRI' Snr FRN (Aug21) BBSW+1.30%	BBB	2,000,000.00	30-Aug-18	2,003,298.08	536986	178.08	28-Feb-19
19-Jan-22	2,500,000.00	2.9412%	BEN Snr FRN (Jan22) BBSW+1.01%	BBB+	2,500,000.00	19-Oct-18	2,506,337.44	537202	8,662.44	21-Jan-19
16-Aug-22	1,000,000.00	2.9110%	SUN Snr FRN (Aug22) BBSW+0.97%	A+	1,000,000.00	16-Aug-17	1,001,826.30	535607	1,196.30	18-Feb-19
16-Aug-22	4,000,000.00	2.9110%	SUN Snr FRN (Aug22) BBSW+0.97%	A+	4,037,600.00	31-Oct-18	4,007,305.21	537263	4,785.21	18-Feb-19
25-Jan-23	1,500,000.00	2.9700%	BEN Snr FRN (Jan23) BBSW+1.05%	BBB+	1,500,000.00	25-Jan-18	1,498,636.03	536141	4,516.03	25-Jan-19
6-Feb-23	1,700,000.00	3.3409%	NPBS Snr FRN (Feb23) BBSW+1.40%	BBB	1,700,000.00	6-Feb-18	1,695,951.09	536175	3,890.09	6-Feb-19
40,700,000.00		3.1370%			40,737,600.00		40,883,550.64		122,120.34	

Fixed Rate Bonds

Maturity Date	Face Value (\$)	Coupon	Security Name	Credit Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Purchase Yield	Reference
3-Jun-20	2,000,000.00	3.2500%	ANZ 'Green' Snr Bond (Jun20) 3.25%	AA-	1,987,680.00	3-Jun-15	2,050,962.86	505284	32,142.86	3.3850%	
3-Jun-21	1,900,000.00	3.1000%	WBC 'Climate' Snr Bond (Jun21) 3.10%	AA-	1,910,906.00	7-Jun-18	1,940,887.37	536702	29,126.37	2.9100%	
3-Jun-21	6,500,000.00	3.1000%	WBC 'Climate' Snr Bond (Jun21) 3.10%	AA-	6,536,725.00	13-Jun-18	6,639,877.86	536720	99,642.86	2.9300%	
24-Mar-22	3,444,000.00	3.2500%	NAB 'Social' Snr Bond (Mar22) 3.25%	AA-	3,502,479.12	26-Jun-18	3,494,528.40	536771	20,910.00	3.0000%	
24-Mar-22	4,000,000.00	3.2500%	NAB 'Social' Snr Bond (Mar22) 3.25%	AA-	4,066,280.00	1-Nov-18	4,058,685.71	537279	24,285.71	2.8400%	
31-Mar-22	10,000,000.00	3.2500%	CBA 'Climate' Snr Bond (Mar22) 3.25%	AA-	10,088,200.00	28-Mar-18	10,138,967.40	536469	53,867.40	3.0348%	
31-Mar-22	1,100,000.00	3.2500%	CBA 'Climate' Snr Bond (Mar22) 3.25%	AA-	1,111,198.00	22-May-18	1,115,286.41	536652	5,925.41	3.1115%	
31-Mar-22	3,100,000.00	3.2500%	CBA 'Climate' Snr Bond (Mar22) 3.25%	AA-	3,143,462.00	13-Jun-18	3,143,079.90	536721	16,698.90	3.0592%	
31-Mar-22	4,000,000.00	3.2500%	CBA 'Climate' Snr Bond (Mar22) 3.25%	AA-	4,083,240.00	31-Jul-18	4,055,586.96	536896	21,546.96	2.9908%	
15-Nov-28	5,000,000.00	3.0000%	NSWTC 'Green' Snr Bond (Nov28) 3.00%	AAA	4,900,300.00	15-Nov-18	4,998,279.83	537310	6,629.83	3.2350%	
41,044,000.00					41,330,470.12		41,636,142.71		310,776.31	3.0316%	

Inner West Council

Investment Holdings Report - November 2018



Mortgage Backed Securities										
Weighted Avg Life	Face Value (\$)	Current Coupon	Security Name	Rating	Purchase Price (\$)	Purchase Date	Current Value (\$)	Deal No.	Accrued Interest (\$)	Reference
22-Aug-22	588,051.34	2.3900%	Emerald Reverse Mortgage (2006A)	AA	1,000,000.00	17-Jul-06	464,945.61	310321	385.05	
23-Aug-27	1,000,000.00	2.6900%	Emerald Reverse Mortgage (2006B)	BBB	1,000,000.00	17-Jul-06	680,736.99	310334	736.99	
	1,588,051.34	2.5789%			2,000,000.00		1,145,682.60		1,122.04	

**Inner West Council
Accrued Interest Report - November 2018**


Accrued Interest Report									
Investment	Deal No.	Ref	Face Value (\$)	Settlement Date	Maturity Date	Interest Received (\$)	Days	Interest Accrued (\$)	Percentage Return
Bonds									
ANZ 'Green' Snr Bond (Jun20) 3.25%	505284		2,000,000.00	03-Jun-15	03-Jun-20		30	5,357.15	3.26%
WBC 'Climate' Snr Bond (Jun21) 3.10%	536702		1,900,000.00	07-Jun-18	03-Jun-21		30	4,854.39	3.11%
WBC 'Climate' Snr Bond (Jun21) 3.10%	536720		6,500,000.00	13-Jun-18	03-Jun-21		30	16,607.14	3.11%
NAB 'Social' Snr Bond (Mar22) 3.25%	536771		3,444,000.00	26-Jun-18	24-Mar-22		30	9,225.00	3.26%
NAB 'Social' Snr Bond (Mar22) 3.25%	537279		4,000,000.00	01-Nov-18	24-Mar-22		30	10,714.29	3.26%
CBA 'Climate' Snr Bond (Mar22) 3.25%	536469		10,000,000.00	29-Mar-18	31-Mar-22		30	26,933.70	3.28%
CBA 'Climate' Snr Bond (Mar22) 3.25%	536652		1,100,000.00	24-May-18	31-Mar-22		30	2,962.70	3.28%
CBA 'Climate' Snr Bond (Mar22) 3.25%	536721		3,100,000.00	13-Jun-18	31-Mar-22		30	8,349.45	3.28%
CBA 'Climate' Snr Bond (Mar22) 3.25%	536896		4,000,000.00	31-Jul-18	31-Mar-22		30	10,773.48	3.28%
NSWTC 'Green' Snr Bond (Nov28) 3.00%	537310		5,000,000.00	15-Nov-18	15-Nov-28		16	6,629.83	3.02%
Bonds Total								102,407.13	3.22%
Cash									
Commonwealth Bank of Australia	535861		534,332.13			701.76	30	701.76	1.60%
Cash Total						701.76		701.76	1.60%
Floating Rate Note									
BEN Snr FRN (Nov18) BBSW+1.27%	402080		3,000,000.00	14-Nov-13	14-Nov-18	24,408.99	13	3,449.10	3.23%
TMB Snr FRN (Oct19) BBSW+1.40%	534461		1,200,000.00	28-Oct-16	28-Oct-19		30	3,269.59	3.32%
BEN Snr FRN (Feb20) BBSW+1.10%	534538		3,000,000.00	21-Nov-16	21-Feb-20	23,119.73	30	7,524.66	3.05%
GBS Snr FRN (Feb20) BBSW+1.45%	534887		1,000,000.00	24-Feb-17	24-Feb-20	8,756.16	30	2,793.14	3.40%
GBS Snr FRN (Feb20) BBSW+1.45%	534888		1,000,000.00	24-Feb-17	24-Feb-20	8,756.16	30	2,793.14	3.40%
CUA Snr FRN (Mar20) BBSW+1.30%	534993		1,500,000.00	20-Mar-17	20-Mar-20		30	3,969.86	3.22%
CUA Snr FRN (Mar20) BBSW+1.30%	534992		1,500,000.00	20-Mar-17	20-Mar-20		30	3,969.86	3.22%

Inner West Council
Accrued Interest Report - November 2018


Accrued Interest Report									
Investment	Deal No.	Ref	Face Value (\$)	Settlement Date	Maturity Date	Interest Received (\$)	Days	Interest Accrued (\$)	Percentage Return
ME Bank Snr FRN (Apr20) BBSW+1.25%	535107		2,000,000.00	06-Apr-17	06-Apr-20		30	5,226.58	3.18%
BEN Snr FRN (Aug20) BBSW+1.10%	505174		1,000,000.00	18-Aug-15	18-Aug-20	7,616.58	30	2,506.03	3.05%
BEN Snr FRN (Aug20) BBSW+1.10%	505175		2,000,000.00	18-Aug-15	18-Aug-20	15,233.15	30	5,012.05	3.05%
BEN Snr FRN (Aug20) BBSW+1.10%	505171		2,000,000.00	18-Aug-15	18-Aug-20	15,233.15	30	5,012.05	3.05%
ME Bank Snr FRN (Nov20) BBSW+1.25%	535918		2,000,000.00	09-Nov-17	09-Nov-20	16,218.21	30	5,256.60	3.20%
HBS Snr FRN (Mar21) BBSW+1.23%	536454		5,800,000.00	29-Mar-18	29-Mar-21		30	15,148.97	3.18%
TMB Snr FRN (Jul21) BBSW+1.37%	536788		4,000,000.00	02-Jul-18	02-Jul-21		30	10,869.37	3.31%
BOz 'SRI' Snr FRN (Aug21) BBSW+1.30%	536986		2,000,000.00	30-Aug-18	30-Aug-21	16,393.14	30	5,345.48	3.25%
BEN Snr FRN (Jan22) BBSW+1.01%	537202		2,500,000.00	19-Oct-18	19-Jan-22		30	6,043.56	2.94%
SUN Snr FRN (Aug22) BBSW+0.97%	535607		1,000,000.00	16-Aug-17	16-Aug-22	7,372.60	30	2,398.35	2.92%
SUN Snr FRN (Aug22) BBSW+0.97%	537263		4,000,000.00	31-Oct-18	16-Aug-22	29,490.41	30	9,593.43	2.92%
BEN Snr FRN (Jan23) BBSW+1.05%	536141		1,500,000.00	25-Jan-18	25-Jan-23		30	3,661.65	2.97%
NPBS Snr FRN (Feb23) BBSW+1.40%	536175		1,700,000.00	06-Feb-18	06-Feb-23	14,268.00	30	4,674.04	3.35%
Floating Rate Note Total						186,866.28		108,517.51	3.14%
Mortgage Backed Securities									
Emerald Reverse Mortgage Series 2006-1 Class A	310321		588,051.34	17-Jul-06	22-Aug-22	3,597.02	30	1,167.01	2.41%
Emerald Reverse Mortgage Series 2006-1 Class B	310334		1,000,000.00	17-Jul-06	23-Aug-27	6,824.38	30	2,220.55	2.70%
Mortgage Backed Securities Total						10,421.40		3,387.56	2.60%
Term Deposits									
Bank of Queensland	536010		5,000,000.00	30-Nov-17	29-Nov-18	129,643.84	28	9,972.61	2.60%
Bendigo and Adelaide Bank	536169		5,000,000.00	31-Jan-18	04-Dec-18		30	10,479.45	2.55%
IMB Ltd	536170		5,000,000.00	31-Jan-18	11-Dec-18		30	10,479.45	2.55%
ME Bank	536172		9,000,000.00	31-Jan-18	11-Dec-18		30	19,232.88	2.60%

Inner West Council
Accrued Interest Report - November 2018


Accrued Interest Report									
Investment	Deal No.	Ref	Face Value (\$)	Settlement Date	Maturity Date	Interest Received (\$)	Days	Interest Accrued (\$)	Percentage Return
ME Bank	536331		4,000,000.00	28-Feb-18	07-Jan-19		30	8,547.95	2.60%
Suncorp Bank	536332		1,000,000.00	28-Feb-18	07-Jan-19		30	2,013.70	2.45%
Bank of Queensland	534764		2,000,000.00	12-Jan-17	14-Jan-19		30	4,931.51	3.00%
Bendigo and Adelaide Bank	536320		5,000,000.00	28-Feb-18	14-Jan-19		30	10,684.93	2.60%
Credit Union Australia	536251		3,500,000.00	21-Feb-18	22-Jan-19		30	7,709.59	2.68%
IMB Ltd	536322		2,000,000.00	28-Feb-18	05-Feb-19		30	4,191.78	2.55%
ME Bank	536323		3,000,000.00	28-Feb-18	05-Feb-19		30	6,410.96	2.60%
Westpac Group	534873		2,000,000.00	14-Feb-17	14-Feb-19		30	4,931.50	3.00%
Credit Union Australia	536252		3,500,000.00	21-Feb-18	19-Feb-19		30	7,767.12	2.70%
Bendigo and Adelaide Bank	536321		5,000,000.00	28-Feb-18	13-Mar-19		30	10,767.12	2.62%
Auswide Bank	536439		8,000,000.00	15-Mar-18	13-Mar-19		30	17,753.42	2.70%
Suncorp Bank	536556		5,000,000.00	27-Apr-18	12-Apr-19		30	11,301.37	2.75%
Suncorp Bank	536555		15,000,000.00	27-Apr-18	26-Apr-19		30	33,904.11	2.75%
Rural Bank	536680		2,000,000.00	31-May-18	07-May-19		30	4,668.49	2.84%
MyState Bank	536679		3,000,000.00	31-May-18	14-May-19		30	6,904.11	2.80%
ME Bank	536681		3,000,000.00	31-May-18	21-May-19		30	6,904.11	2.80%
ME Bank	536683		3,000,000.00	31-May-18	28-May-19		30	6,904.11	2.80%
Suncorp Bank	537030		6,000,000.00	30-Aug-18	24-Jun-19		30	13,315.07	2.70%
Credit Union Australia	537168		5,000,000.00	28-Sep-18	26-Jun-19		30	11,095.89	2.70%
ME Bank	536900		8,000,000.00	31-Jul-18	29-Jul-19		30	18,739.73	2.85%
Auswide Bank	536897		3,000,000.00	31-Jul-18	04-Sep-19		30	7,027.40	2.85%
Credit Union Australia	537169		5,000,000.00	28-Sep-18	23-Sep-19		30	11,301.37	2.75%
Bendigo and Adelaide Bank	535897		4,000,000.00	30-Oct-17	30-Oct-19		30	9,534.24	2.90%

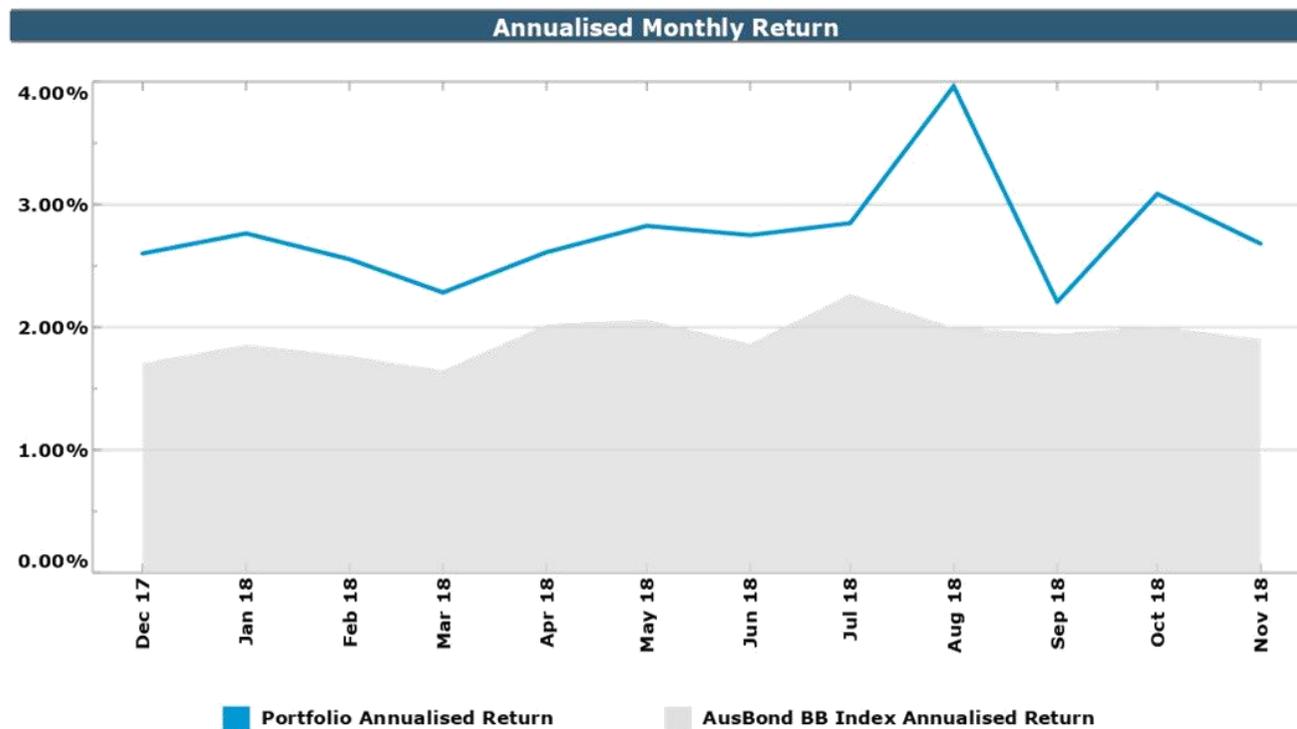
Inner West Council

Accrued Interest Report - November 2018


Accrued Interest Report

Investment	Deal No.	Ref	Face Value (\$)	Settlement Date	Maturity Date	Interest Received (\$)	Days	Interest Accrued (\$)	Percentage Return
Westpac Group	537363		5,000,000.00	30-Nov-18	29-Nov-19		1	365.75	2.67%
Term Deposits Total						129,643.84		277,839.72	2.71%
						327,633.28		492,853.68	2.89%

Inner West Council
Investment Performance Report - November 2018



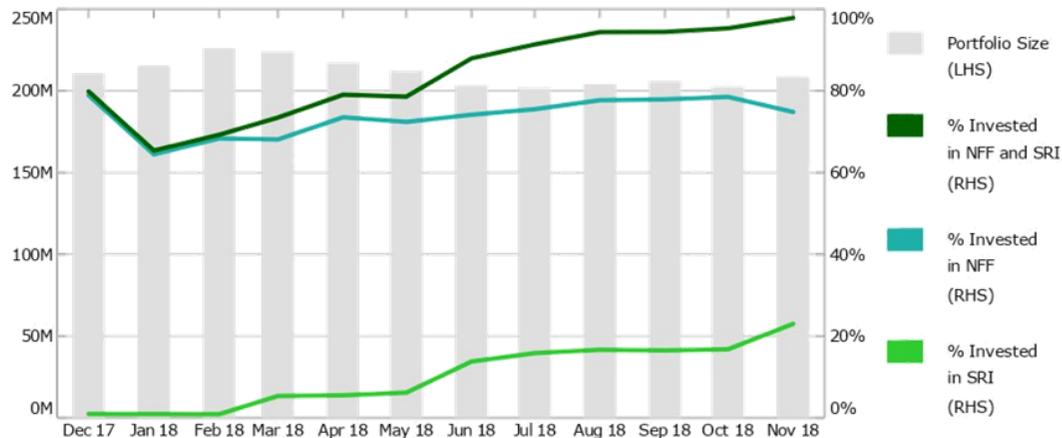
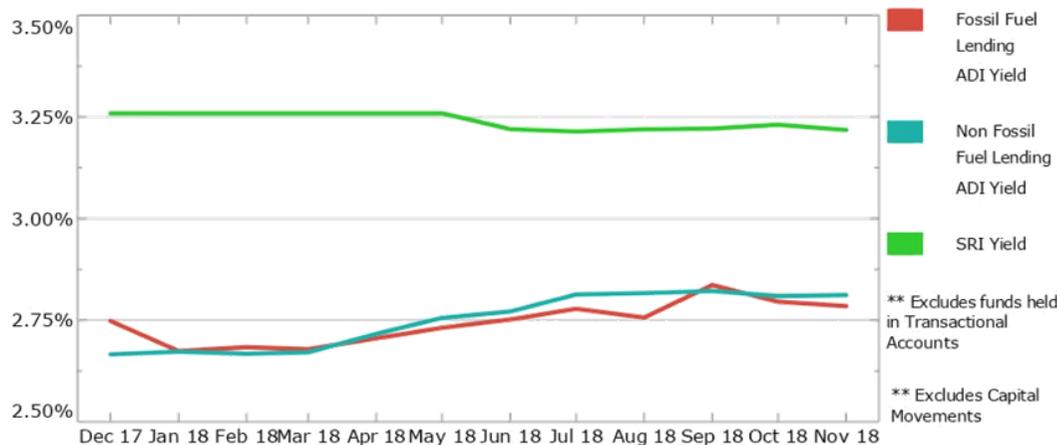
Historical Performance Summary			
	Portfolio	AusBond BB Index	Outperformance
Nov 2018	2.68%	1.90%	0.78%
Last 3 Months	2.66%	1.94%	0.72%
Last 6 Months	2.93%	1.99%	0.94%
Financial Year to Date	2.96%	2.02%	0.94%
Last 12 months	2.77%	1.91%	0.85%

Inner West Council
Environmental Commitments Report - November 2018

Current Breakdown

ADI Lending Status *	Current Month (\$)	Previous Month (\$)		
Fossil Fuel Lending ADIs				
Bank of Queensland	2,000,000	7,000,000		
Commonwealth Bank of Australia	534,332	533,630		
Westpac Group	2,000,000	2,000,000		
	4,534,332	9,533,630	2%	5%
Non Fossil Fuel Lending ADIs				
Auswide Bank	11,000,000	11,000,000		
Bendigo and Adelaide Bank	31,000,000	34,000,000		
Credit Union Australia	20,000,000	20,000,000		
Emerald Reverse Mortgage (2006A)	588,051	592,763		
Emerald Reverse Mortgage (2006B)	1,000,000	1,000,000		
Greater Building Society	2,000,000	2,000,000		
Heritage Bank	5,800,000	5,800,000		
IMB Ltd	7,000,000	7,000,000		
Members Equity Bank	34,000,000	34,000,000		
MyState Bank	3,000,000	3,000,000		
Newcastle Permanent Building Society	1,700,000	1,700,000		
Rural Bank	2,000,000	2,000,000		
Suncorp Bank	32,000,000	32,000,000		
Teachers Mutual Bank	5,200,000	5,200,000		
	156,288,051	159,292,763	75%	79%
Socially Responsible Investments				
ANZ Group (Green)	2,000,000	2,000,000		
Bank Australia (Sustainability)	2,000,000	2,000,000		
CBA (Climate)	18,200,000	18,200,000		
National Australia Bank (Social)	7,444,000	3,444,000		
NSW T-Corp (Green)	5,000,000			
Westpac Group (Climate)	8,400,000	8,400,000		
Westpac Group (Green TD)	5,000,000			
	48,044,000	34,044,000	23%	17%
	208,866,383	202,870,394		

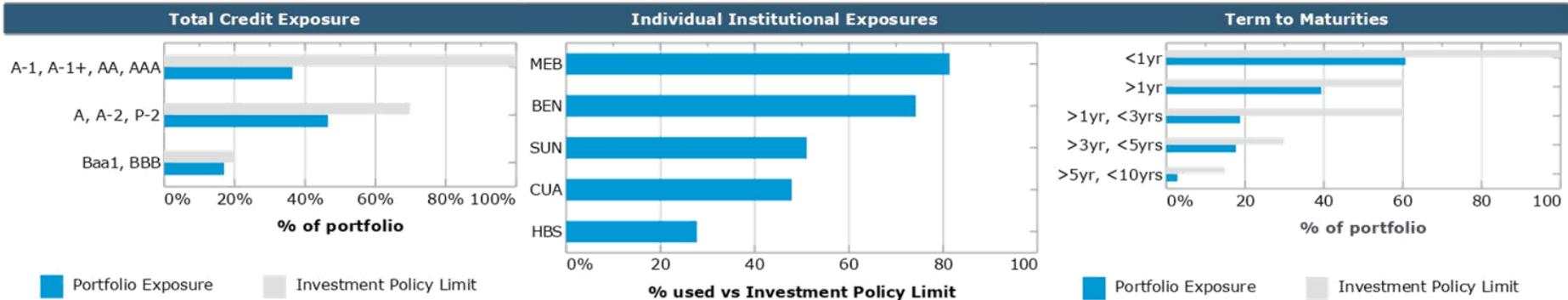
* source: <http://www.marketforces.org.au>

Historical Portfolio Exposure to NFF Lending ADIs and SRIs

Weighted Average Yield - FF vs NFF Lending ADIs vs SRIs


** Excludes funds held in Transactional Accounts

** Excludes Capital Movements

Inner West Council
Investment Policy Compliance Report - November 2018



	Credit Rating	Face Value (\$)	Policy Max
Long Term	AA	36,632,051	
Long Term	AAA	5,000,000	
Short Term	A-1	27,000,000	
Short Term	A-1+	7,534,332	
		76,166,383	36% 100% ✓
Long Term	A	5,000,000	
Short Term	A-2	71,200,000	
Short Term	P-2	21,000,000	
		97,200,000	47% 70% ✓
Long Term	Baa1	5,800,000	
Long Term	BBB	29,700,000	
		35,500,000	17% 20% ✓
		208,866,383	100%

✓ = compliant
X = non-compliant

Institution	% used vs Investment Policy Limit
Members Equity Bank (A-2, BBB)	81% ✓
Bendigo and Adelaide Bank (A-2, BBB+)	74% ✓
Suncorp Bank (A-1, A+)	51% ✓
Credit Union Australia (A-2, BBB)	48% ✓
Heritage Bank (P-2, Baa1)	28% ✓
Auswide Bank (P-2, Baa2)	26% ✓
Commonwealth Bank of Australia (A-1+, AA-)	20% ✓
IMB Ltd (P-2, Baa1)	17% ✓
Westpac Group (A-1+, AA-)	16% ✓
Teachers Mutual Bank (A-2, BBB)	12% ✓
National Australia Bank (A-1+, AA-)	12% ✓
Greater Building Society (A-2, BBB)	10% ✓
Bank Australia (A-2, BBB)	10% ✓

Maturity Profile	Face Value (\$)	Policy Max
Less than 1yr	126,734,332	61% 100% ✓
Greater than 1yr	82,132,051	39% 60% ✓
a. Between 1 and 3yrs	39,200,000	19% 60% ✓
b. Between 3 and 5yrs	36,932,051	18% 30% ✓
c. Between 5 and 10yrs	6,000,000	3% 15% ✓
	208,866,383	

Detailed Maturity Profile	Face Value (\$)
00. Cash + Managed Funds	534,332 0%
01. Less Than 30 Days	19,000,000 9%
02. Between 30 Days and 60 Days	15,500,000 7%
03. Between 60 Days and 90 Days	10,500,000 5%
04. Between 90 Days and 180 Days	44,000,000 21%
05. Between 180 Days and 365 Days	37,200,000 18%
06. Between 365 Days and 3 Years	39,200,000 19%
07. Between 3 Years and 5 Years	36,932,051 18%
08. Between 5 Years and 10 Years	6,000,000 3%
	208,866,383



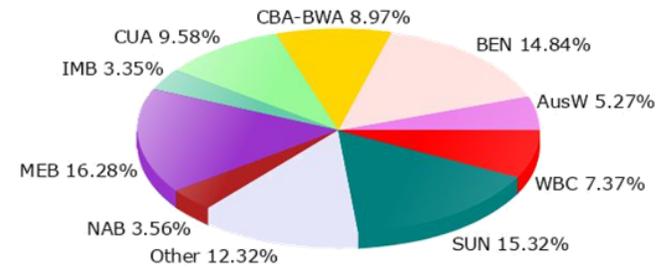
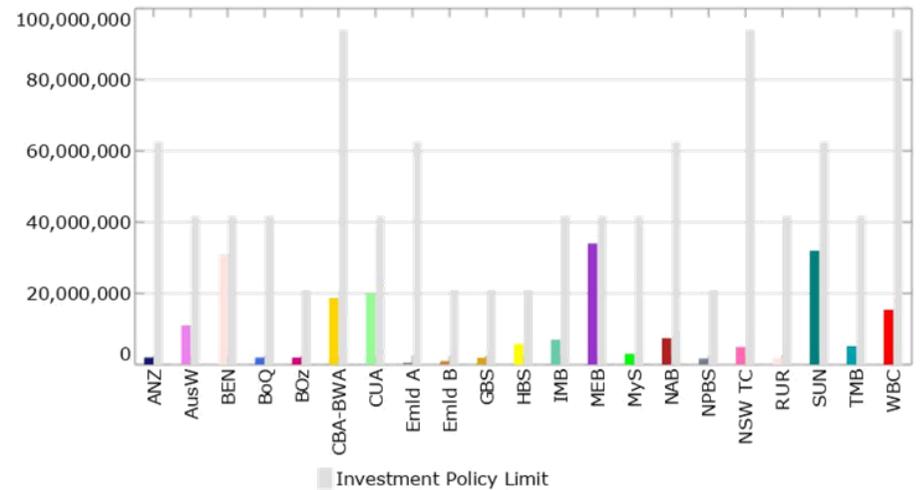
Inner West Council

Individual Institutional Exposures Report - November 2018



Individual Institutional Exposures **Individual Institutional Exposure Charts**

Parent Group	Credit Rating	Portfolio Exposure (\$)	Investment Policy Limit (\$)
ANZ Group	A-1+, AA-	2,000,000	62,659,915
Auswide Bank	P-2, Baa2	11,000,000	41,773,277
Bank Australia	A-2, BBB	2,000,000	20,886,638
Bank of Queensland	A-2, BBB+	2,000,000	41,773,277
Bendigo and Adelaide Bank	A-2, BBB+	31,000,000	41,773,277
Commonwealth Bank of Australia	A-1+, AA-	18,734,332	93,989,873
Credit Union Australia	A-2, BBB	20,000,000	41,773,277
Emerald Reverse Mortgage (2006A)	AA	588,051	62,659,915
Emerald Reverse Mortgage (2006B)	BBB	1,000,000	20,886,638
Greater Building Society	A-2, BBB	2,000,000	20,886,638
Heritage Bank	P-2, Baa1	5,800,000	20,886,638
IMB Ltd	P-2, Baa1	7,000,000	41,773,277
Members Equity Bank	A-2, BBB	34,000,000	41,773,277
MyState Bank	P-2, Baa1	3,000,000	41,773,277
National Australia Bank	A-1+, AA-	7,444,000	62,659,915
Newcastle Permanent Building Society	A-2, BBB	1,700,000	20,886,638
NSW T-Corp Bonds	A-1+, AAA	5,000,000	93,989,873
Rural Bank	A-2, BBB+	2,000,000	41,773,277
Suncorp Bank	A-1, A+	32,000,000	62,659,915
Teachers Mutual Bank	A-2, BBB	5,200,000	41,773,277
Westpac Group	A-1+, AA-	15,400,000	93,989,873
		208,866,383	



Inner West Council

Cash Flows Report - November 2018


Current Month Cashflows

<u>Transaction Date</u>	<u>Deal No.</u>	<u>Cashflow Counterparty</u>	<u>Asset Type</u>	<u>Cashflow Description</u>	<u>Cashflow Received</u>			
1-Nov-18	537279	National Australia Bank	Bonds	Settlement Face Value - Paid	-4,000,000.00			
		National Australia Bank	Bonds	Settlement Accrued Coupon - Paid	-13,571.43			
		National Australia Bank	Bonds	Premium - Paid	-52,708.57			
<u>Deal Total</u>					-4,066,280.00			
Day Total					-4,066,280.00			
6-Nov-18	536175	Newcastle Permanent Building Society	Floating Rate Note	Coupon - Received	14,268.00			
				<u>Deal Total</u>				
Day Total					14,268.00			
9-Nov-18	535918	ME Bank	Floating Rate Note	Coupon - Received	16,218.21			
				<u>Deal Total</u>				
Day Total					16,218.21			
14-Nov-18	402080	Bendigo and Adelaide Bank	Floating Rate Note	Coupon - Received	24,408.99			
		Bendigo and Adelaide Bank	Floating Rate Note	Maturity Face Value - Received	3,000,000.00			
		<u>Deal Total</u>						
Day Total					3,024,408.99			
15-Nov-18	537310	NSW T-Corp Bonds	Bonds	Settlement Face Value - Paid	-5,000,000.00			
		NSW T-Corp Bonds	Bonds	Discount - Received	99,700.00			
		<u>Deal Total</u>						
Day Total					-4,900,300.00			
16-Nov-18	535607	Suncorp Bank	Floating Rate Note	Coupon - Received	7,372.60			
				<u>Deal Total</u>				
				Day Total				
	537263	Suncorp Bank	Floating Rate Note	Coupon - Received	29,490.41			
				<u>Deal Total</u>				
				Day Total				
36,863.01								
19-Nov-18	505171	Bendigo and Adelaide Bank	Floating Rate Note	Coupon - Received	15,233.15			
				<u>Deal Total</u>				
Day Total					15,233.15			
	505174	Bendigo and Adelaide Bank	Floating Rate Note	Coupon - Received	7,616.58			
				<u>Deal Total</u>				
Day Total					7,616.58			

Inner West Council

Cash Flows Report - November 2018



Current Month Cashflows					
<u>Transaction Date</u>	<u>Deal No.</u>	<u>Cashflow Counterparty</u>	<u>Asset Type</u>	<u>Cashflow Description</u>	<u>Cashflow Received</u>
	505175	Bendigo and Adelaide Bank	Floating Rate Note	Coupon - Received	15,233.15
				<u>Deal Total</u>	<u>15,233.15</u>
				Day Total	38,082.88
21-Nov-18	310321	Emerald Reverse Mortgage (2006A)	Mortgage Backed Securities	Amortised Face Value - Received	4,712.15
		Emerald Reverse Mortgage (2006A)	Mortgage Backed Securities	Coupon - Received	3,597.02
				<u>Deal Total</u>	<u>8,309.17</u>
	310334	Emerald Reverse Mortgage (2006B)	Mortgage Backed Securities	Coupon - Received	6,824.38
				<u>Deal Total</u>	<u>6,824.38</u>
	534538	Bendigo and Adelaide Bank	Floating Rate Note	Coupon - Received	23,119.73
				<u>Deal Total</u>	<u>23,119.73</u>
				Day Total	38,253.28
26-Nov-18	534887	Greater Building Society	Floating Rate Note	Coupon - Received	8,756.16
				<u>Deal Total</u>	<u>8,756.16</u>
	534888	Greater Building Society	Floating Rate Note	Coupon - Received	8,756.16
				<u>Deal Total</u>	<u>8,756.16</u>
				Day Total	17,512.33
29-Nov-18	536010	Bank of Queensland	Term Deposits	Maturity Face Value - Received	5,000,000.00
		Bank of Queensland	Term Deposits	Interest - Received	129,643.84
				<u>Deal Total</u>	<u>5,129,643.84</u>
				Day Total	5,129,643.84
30-Nov-18	536986	Bank Australia	Floating Rate Note	Coupon - Received	16,393.14
				<u>Deal Total</u>	<u>16,393.14</u>
	537363	Westpac Group	Term Deposits	Settlement Face Value - Paid	-5,000,000.00
				<u>Deal Total</u>	<u>-5,000,000.00</u>
				Day Total	-4,983,606.86
				Net Cash Movement for Period	-5,634,936.32

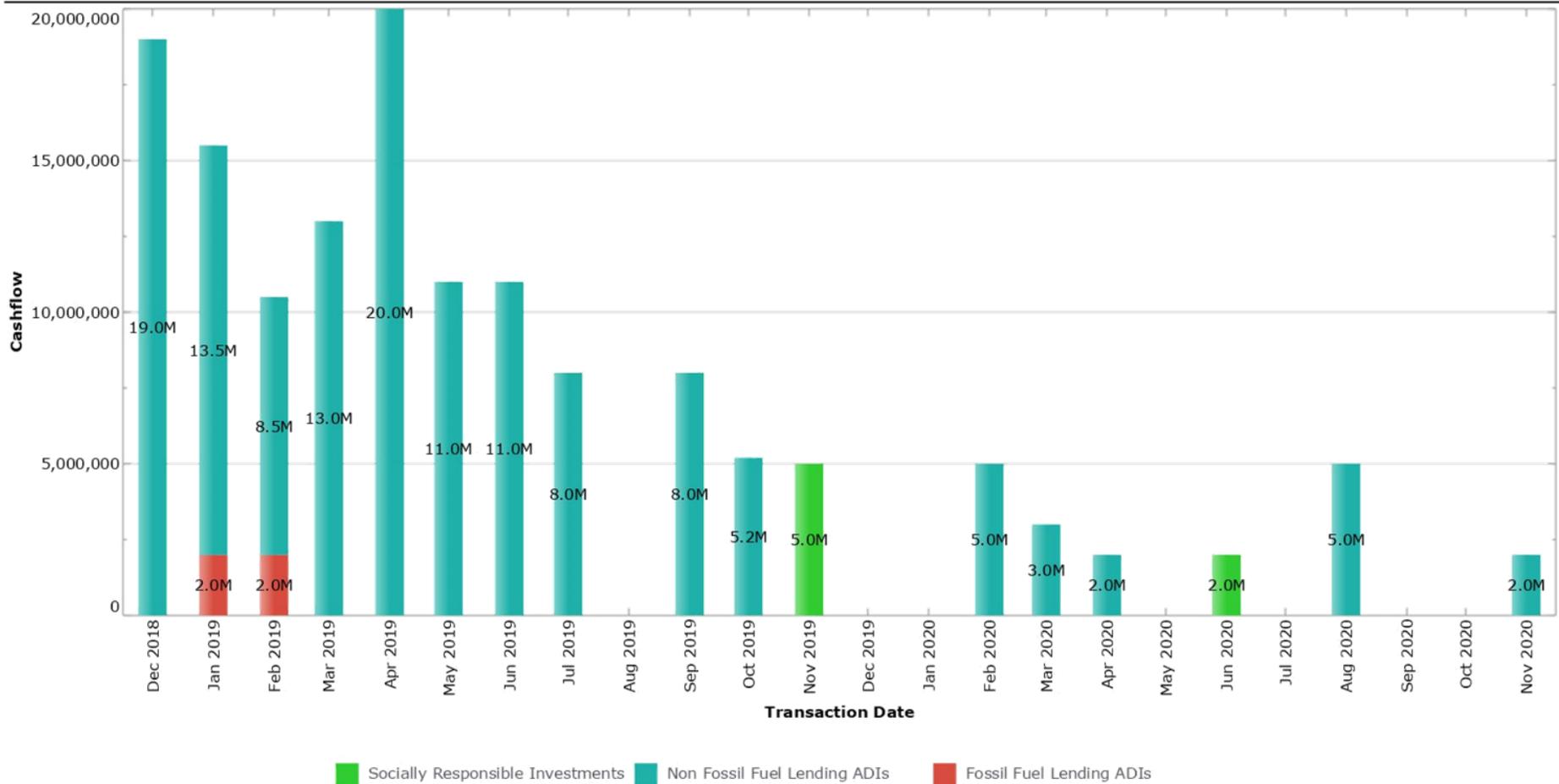
Inner West Council

Cash Flows Report - November 2018



Next Month Cashflows					
<u>Transaction Date</u>	<u>Deal No.</u>	<u>Cashflow Counterparty</u>	<u>Asset Type</u>	<u>Cashflow Description</u>	<u>Cashflow Due</u>
3-Dec-18	505284	ANZ Banking Group	Bonds	Coupon - Received	32,500.00
				<u>Deal Total</u>	<u>32,500.00</u>
	536702	Westpac Group	Bonds	Coupon - Received	29,450.00
				<u>Deal Total</u>	<u>29,450.00</u>
	536720	Westpac Group	Bonds	Coupon - Received	100,750.00
				<u>Deal Total</u>	<u>100,750.00</u>
				Day Total	162,700.00
4-Dec-18	536169	Bendigo and Adelaide Bank	Term Deposit	Maturity Face Value - Received	5,000,000.00
		Bendigo and Adelaide Bank	Term Deposit	Interest - Received	107,239.73
				<u>Deal Total</u>	<u>5,107,239.73</u>
				Day Total	5,107,239.73
11-Dec-18	536170	IMB Ltd	Term Deposit	Interest - Received	109,684.93
		IMB Ltd	Term Deposit	Maturity Face Value - Received	5,000,000.00
				<u>Deal Total</u>	<u>5,109,684.93</u>
	536172	ME Bank	Term Deposit	Interest - Received	201,304.11
		ME Bank	Term Deposit	Maturity Face Value - Received	9,000,000.00
				<u>Deal Total</u>	<u>9,201,304.11</u>
				Day Total	14,310,989.04
20-Dec-18	534992	Credit Union Australia	Floating Rate Note	Coupon - Received	12,041.92
				<u>Deal Total</u>	<u>12,041.92</u>
	534993	Credit Union Australia	Floating Rate Note	Coupon - Received	12,041.92
				<u>Deal Total</u>	<u>12,041.92</u>
				Day Total	24,083.84
31-Dec-18	536454	Heritage Bank	Floating Rate Note	Coupon - Received	47,971.72
				<u>Deal Total</u>	<u>47,971.72</u>
				Day Total	47,971.72
				Net Cash Movement for Period	19,652,984.32

Inner West Council
Cash Flows Report - November 2018





**Inner West Council
Economic and Investment Portfolio Commentary
November 2018**

Global issues:

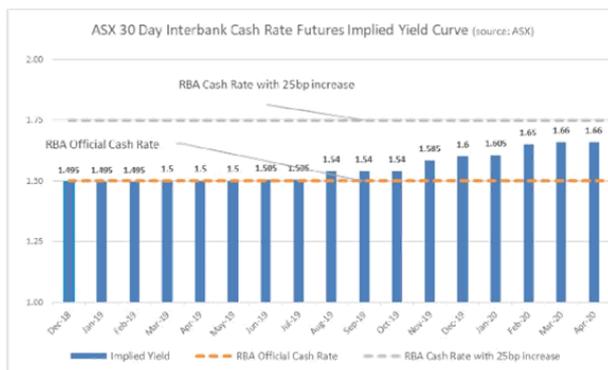
- The sell-off in global share markets in October cooled off in November as has been historically the case. Although still a bit jittery, investors were encouraged by a drop in oil prices and word from the US Federal Reserve that it would likely slow down further interest rate increases.
- November ended with world leaders gathering for a highly anticipated G20 meeting. Indications of a pause in new tariffs between the US and China, at least for 3 months, gave the markets a positive send off for the month.
- In Europe, Brexit negotiations within the UK Parliament will soon take centre stage. Analysts are predicting a high likelihood of the Parliament voting no on PM May's proposal leaving a messy range of possible outcomes, including another general election and/or a new Brexit referendum.

Domestic issues:

- In Australia, actions taken by the banks, and encouraged by the RBA, to cool the housing market in Australia's east coast cities have had their desired results. Aided by a reduction in overseas buyers, stricter credit approvals have contributed to house prices in Sydney and Melbourne declining on average by 8% and nearly 6% respectively for the year. Meanwhile, Hobart home prices are up over 9% for past 12 months.
- RBA Governor Lowe acknowledged in a recent speech that the banks' tightening of credit may have already gone too far and that wage growth may remain stagnant even if the unemployment rate drops from the current 5% to 4.5%.

Interest rates

- Governor Lowe's comments added to the overall sentiment that any official moves in the Cash Rate are off the table for the foreseeable future:





- Simmering concerns around a slowdown in global growth due to US trade policy and Brexit uncertainty aided in a rise in interest rates in the 3yr -5yr range over the month. Meanwhile, with the exception of a few banks, short dated term deposit rates were largely unchanged over November. The best indicative 3-month TD from an Australian major at month end was 2.71%, while the others were in the 2.45-2.60 area. The same major's best 12 month rate was at 2.78%, while the others were at 2.65%. Meanwhile, the best rates among the lower rated banks were in the 2.65%-2.75% range across 3-12 months, up 5bps from October.

Investment Portfolio Commentary

Council's investment portfolio posted a return of 2.68%pa for the month of November versus the bank bill index benchmark return of 1.90%pa. For the financial year to date, the investment portfolio returned 2.96% pa, exceeding the bank bill index benchmark's 2.02%pa by 0.94%pa.

Without marked-to-market influences, Council's investment portfolio yielded 2.89%pa for the month. This is based on the actual interest rates being received on existing investments and excludes the underlying changes to the market value of the securities/deposits.

During November, Council had a \$5m Bank of Queensland term deposit mature which brought Council's remaining fossil fuel bank exposure down to \$4.5m, or 2% of the investment portfolio.

During the month, Council invested \$5m in the inaugural NSW Treasury Corp Green Bond. The proceeds of the 10yr Green Bond are targeted to specific sustainable water initiatives and clean transportation projects. Also, during the month, Council invested \$5m in the inaugural Westpac Green Tailored Deposit. The proceeds of the Green Tailored Deposits are targeted to specific ESG initiatives and projects and is certified to meet the Climate Bonds Standard.

98% of the portfolio was invested in non fossil fuel lending ADIs and socially responsible investments, up from 95% the month prior.

Council has a well-diversified portfolio invested among a range of term deposits and floating rate notes from highly rated Australian ADIs. 83% of the portfolio is spread among the top three credit rating categories (A long term/A2 short term and higher). It is expected that Council can continue to achieve above benchmark returns with prudent investment selection for its short and long term holdings.

Disclaimer: The statements and opinions contained in this report are based on currently prevailing conditions in financial markets and are so contained in good faith and in the belief that such statements and opinion are not false or misleading. In preparing this report, Prudential Investment Services Corp has relied upon information which it believes to be reliable and accurate. Prudential Investment Services Corp believes that this report and the opinions expressed in this report are accurate, but no warranty of accuracy or reliability is given. Prudential Investment Services Corp does not warrant that its investigation has revealed all of the matters which a more extensive examination might disclose. This report may not be reproduced, transmitted, or made available either in part or in whole to any third party without the prior written consent of Prudential Investment Services Corp. AFS Licence No. 468145.

Item No: C0219(2) Item 14
Subject: NOTICE OF MOTION: DISABILITY EMPLOYMENT
From: Councillor Julie Passas

MOTION:

THAT Council receive a report back on how many staff have disabilities which are employed under the *Inclusion Action Plan (for People with a Disability) 2017-21..*

Background

The Inner West Council has an obligation as other organisations to employ people with disabilities. I propose that a report be brought to council which informs council how many staff there are currently employed by Council which are employed under the disability inclusion action plan and does Inner West Council have a disability employment scheme or policy. If not the report also include a policy that is used at other councils.

Officer's Comments:

Comment from Group Manager Human Resources:

Council currently operates with the following plans regarding employment of people with disability:

- a. Inclusion Action Plan (People with Disability) 2017-2021 and
- b. EEO management Plan 2018 - 2022

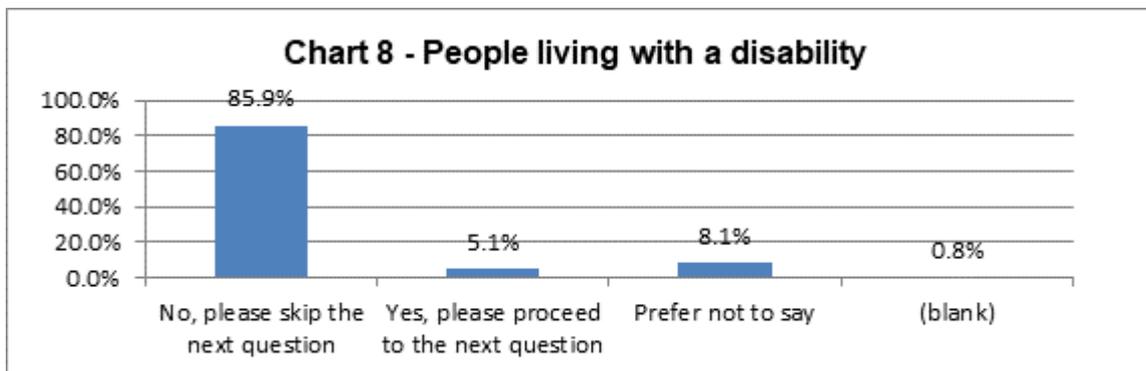
Inclusion Action Plan (People with Disability)

Under action 6.4.13 in the Inclusion Action Plan (People with Disability), Human Resources is tasked to develop benchmarks and targets to work towards Councils workforce mirroring the demographics of the Inner West community in relation to persons with disability. The targets were established in 1 July 2018 and has been met. Please see results from the EEO Management plan.

EEO Management Plan 2018-2022

From our recent EEO staff survey report. We approximately have 5.1% of staff respondents that have self-identified of having disability/s. It is noted that this may be under represented, due to the limitations of self-nominating.

5.1% is representing 31 members of staff.



Our community profile indicates that our local government area has a population of 4.5 per cent^[1] of residents requiring assistance in their day-to-day lives due to disability. Council's

[1] Australian Bureau of Statistics 2016, *Inner West Council area: Need for assistance*, idcommunity demographic resources, accessed December 2018, <<https://profile.id.com.au/inner-west/assistance>>

EEO data in Chart 8 indicates that 5.1 per cent have identified that they are living with disability. However a greater proportion of 8.1 per cent have preferred not to identify. Against, other NSW Councils, Inner West have employed more staff with disability compared to the average of 1.45 per cent of staff with disability^[2]. This demonstrates that Inner West has and operates with some disability confidence.

This data will be in an update on the EEO Management Plan being reported to Council at it's next Meeting.

ATTACHMENTS

Nil.

[2] Local Government NSW: Management Solutions; January 2018, *2017 NSW Local Government HR Metrics Benchmarking: Generic Summary Report*, p.8

Item No: C0219(2) Item 15
Subject: NOTICE OF MOTION: WARREN ROAD, MARRICKVILLE
From: Deputy Mayor, Councillor Victor Macri

MOTION:

THAT Council:

- 1. Complete the necessary study and investigations for a proposed conversion of Warren Road, Marrickville from its current two-way traffic flow operation to one-way; and**
- 2. Recommendations be submitted to the Local Traffic Committee for consideration.**

Background

Representations have been received from residents of Warren Rd., Marrickville to convert Warren Rd (between Carrington Rd and Illawarra Rd) to a one-way traffic operation. The narrow width street has on-street parking which often restricts the road to one trafficable lane over significant lengths. This often leads to traffic congestion with two-way traffic movements and reports of damage to parked vehicles. Conversion to a one-way street would remove this problem.

Officer's Comments:

Comment from Group Manager Roads & Stormwater:

The conversion of Warren Rd to one-way westbound was previously considered by Marrickville Council in 2011. Ultimately this was not proceeded with due to difficulty in resolving suitable alternative truck routes for deliveries to Woolworths and concerns regarding diversion of traffic volumes to adjacent streets. In implementing the motion a precinct Local Area Traffic Management (LATM) study & review would need to be undertaken to assess traffic volumes, options, impacts on surrounding streets, undertake public engagement and facilitate preparation of a Traffic Management Plan supporting a change in traffic flow for submission to RMS for their approval. Estimated cost including staff time approx. \$10,000 which can be funded from existing operational expenses.

ATTACHMENTS

Nil.

Item No: C0219(2) Item 16
Subject: NOTICE OF MOTION: COUNCIL ADVERTISING
From: Councillor Julie Passas

MOTION:

THAT Council:

- 1. Abandon all advertising in the Courier apart from the statutory required notices and council expand on its quarterly newsletter that is hand delivered and that the draft newsletter be approved by Councillors prior to distribution; and**
 - 2. Review all aspects of our advertising and public notices, councils aim should be to inform as many residents as possible in a fiscally reasonable manner and that a report on all aspects of our notification obligations be made available to councillors as soon as possible.**
-

Background

The Council page and advertising in the Courier is costing the ratepayers in the Inner West Council Local Government Area \$458,000.00 per annum.

I am aware that under the Local Government Act Council is obligated to notify residents of Development Applications and tenders this amount Council is spending cannot be justified. Given that the courier newspaper is not widely distributed. Balmain, Haberfield and Marrickville are a few of the suburbs that have not received a hard copy for years. My area in Ashfield receives a copy one week then nothing for months.

The courier may argue that they have a high degree of internet readership which that in itself should be cost effective also a vast majority of our residents are not computer literate. However, residents need to pay for a subscription to view the Courier online.

Officer's Comments:

Comment from Group Manager Communications, Engagement and Events:

We estimate the cost for staff time (investigating and writing report) would be approximately \$2,000.

A few of the claims in the NOM are incorrect. For example, stating that the Courier is not delivered to certain suburbs when we have checked with staff living in those suburbs who do receive the paper. The newspaper is the paper is distributed to our whole LGA – including Marrickville, Balmain and Haberfield – with a circulation of approx. 86,000 (43,000 for the Inner West and City editions).

The approval of the newsletter, is considered an operational matter for staff to determine and not Councillors.

ATTACHMENTS

Nil.

Item No: C0219(2) Item 17
Subject: NOTICE OF MOTION: REVERSING INNER WEST BUS PRIVATISATION
From: Councillor Tom Kiat

MOTION:

THAT Council write to the Minister for Transport, and the state transport spokespeople for the ALP and the Greens (with copies to their local state MPs), requesting that they publicly commit to:

- a) reversing the privatisation of the Inner West buses (bus region 6) as soon as possible (including through good faith negotiations for early exit from the current contract); and**
- b) reversing and opposing the privatisation of our public transport network, including metro and proposed metro lines like the Sydenham to Bankstown line.**

Background

On 12 October 2017, Council resolved to oppose the Inner West bus privatisation announced by the NSW government and called on the government to reverse its decision. In February 2018, the government announced the contract had been awarded to Transit Systems for an 8 year contract, with a 5 year review period.

Privatisation of our public transport system lowers service standards, working conditions and most importantly, democratic accountability of our public services.

With the state election looming, for the good of our residents, we should take the opportunity to extract a commitment from the major parties represented in this Council that they will reverse the privatisation that has occurred in the Inner West, and that is occurring across the State. Our request should go directly to the Transport Minister/spokespersons, with copies to state MPs for electorates within our LGA.

ATTACHMENTS

Nil.

Item No: C0219(2) Item 18
Subject: NOTICE OF MOTION: REPORT ON 290-292 ILLAWARRA ROAD AS
COUNCIL AFFORDABLE HOUSING
From: Councillor Tom Kiat

MOTION:

THAT Council receive a report on how Council’s property at 290-292 Illawarra Road can be redeployed in accordance with part 2.6 of our Affordable Housing Policy. The report should address options for necessary renovations, opportunities for partnership especially with an Aboriginal Community Housing Provider (CHP), and the financial implications of the project including income from rent and possible contributions toward necessary renovations by the partnering CHP.

Background

The population of Aboriginal and Torres Strait Islander people in our LGA is lower than the state average. One reason for this may be general unaffordability in the private housing market and a very low stock of public housing.

Part 2.6 of our Affordable Housing Policy, ‘Partnerships to Increase Affordable Housing’ states:

“Council will seek to enter into affordable housing development and management partnerships with a relevant Community Housing Providers and/or the private sector to ensure: ... Opportunities for the efficient use of any resources redeployed by Council (e.g. lots or housing dedicated to affordable housing from Council owned or other public land) ... Council will ensure the proper management of affordable housing resources created through entering into an MOU or other legal agreement with an appropriate Community Housing Provider (CHP).”

Using houses in Council’s property portfolio as Council housing managed by a CHP meets our community’s expectation that we take action to improve affordability and diverse housing in the Inner West. Financially, it provides Council with an additional steady stream of revenue. Partnering with an Aboriginal Community Housing Provider is a small way Council can ‘pay the rent’ to First Nations people whose land we occupy.

Councillors were briefed on this property in November 2018. It is 335 square meters zoned B2 on Illawarra Road. It was acquired by Council as part of the Marrickville LEP 2001 for road widening. It is no longer required for this purpose, and a residential lease operated until September 2017. The briefing suggested that the house could be sold rather than renovated for continued ownership and use by Council. The briefing noted there are some accessibility issues with the property, this should be addressed in detail in the report with reference to CHP requirements and the cost of modifications.

The small upfront cost to retain this valuable asset is a sound investment. It is also possible that there will be a CHP willing to contribute toward the renovation.



Officer's Comments:

Comment from Group Manager Strategic Planning:

This property is part of the Land and Property Strategy. A report on options for this property was scheduled to be reported to Council in March but if this motion is supported the further investigations would delay the report by 1-2 months.

ATTACHMENTS

Nil.

Item No: C0219(2) Item 19
Subject: NOTICE OF MOTION: AIR POLLUTION LEVELS DANGEROUSLY HIGH ALONG WESTCONNEX ROUTE
From: Councillor Rochelle Porteous

MOTION:

THAT:

1. The Mayor on behalf of Council writes to the CEO of the Environmental Protection Agency (EPA) requesting an urgent meeting of the Mayor and interested Councillors with the CEO of the EPA to address the unacceptably high PM 2.5 levels which have been exceeding the National Limit of 8 and WHO limit of 10 for an extended period of time;
 2. The Mayor on behalf of Council writes to the Minister for Roads and Maritime outlining the numerous breaches in national limits of PM 2.5 and the failure to produce any recent monitoring results since September 2018 and the fact that these high levels already exceed the maximum predicted levels in the M4East EIS and the M4/M5 EIS and requesting an urgent meeting (Mayor and interested Councillors) and response from the Minister as to why there have been no monitoring results since September 2018 and report on the origin of these dangerously high air pollution levels along the WestConnex route further no plan to address these high pollution levels;
 3. The Mayor on behalf of Council writes to the Premier and Leader of the Opposition outlining the dangerously high air pollution levels along the WestConnex route which have now persisted for an extended period of time, requests an urgent meeting (Mayor and interested Councillors) with the Premier and with the Leader of the Opposition calls on them to commit to take urgent action to address this unacceptable risk to the health of people, including many children in the Inner West Council area;
 4. The Mayor on behalf of Council writes to the Minister and Shadow Minister for Planning outlining the dangerously high air pollution levels along the WestConnex route which have already exceeded the maximum predicted levels in the M4East EIS and M4/M5 EIS; noting that the premises on which these EISs have been developed is wrong and that SMC and RMT are likely to be in breach of the conditions of consent for these projects and the EIS for the Stage 3B; further also requesting a meeting of the Mayor and interested Councillors with the Minister and with the Shadow Minister;
 5. Councillors be provided with the minutes of all meetings convened to discuss air pollution concerns with WestConnex- affected Councils; and
 6. Council seeks partnerships with local universities to commission a comprehensive report to investigate the health impacts of the high air pollution levels along the WestConnex route. That this comprehensive study into the health impacts of WestConnex includes construction and operational health impacts and predicts the further health impacts on local Inner West families with the very high air pollution levels which will be generated by the compounding impact of WestConnex if it is opened. Funding for this report to come from the next quarterly budget review.
-

Background

The WestConnex Haberfield air quality baseline monitors between January and December 2018 have consistently recorded PM 2.5 levels above the national limit. The national limit is 8 and the WHO limit is 10. Particulate matter is measured in micrograms per cubic metre of air, abbreviated to ug/m3.

As noted in a recent report by Professor Wendy Bacon,

“A monitor on Ramsay Street Haberfield near Wattle Street recorded 11.6 µg/m³. Another monitor inside the grounds of Haberfield Public School recorded 11.2 µg/m³.”

“According to OEH records, only once since 1997, when monitoring of PM 2.5 began, has a NSW monitor recorded an annual average above 11 µg/m³ and that was at Liverpool in 2002. Until these 2018 results, only one other NSW monitor had recorded more than 10 µg/m³ and that was at Muswellbrook in the Hunter Valley in 2012.”

“Extensive scientific research has shown that there is no safe level of PM 2.5, which is linked to heart disease, cancer, premature birth and can impact lung and brain development. There is also evidence that it may be linked to diabetes, depression in adolescents and dementia.”

It is particularly concerning that very high levels are being recorded in the busy shopping strip and at Haberfield School with:

- Ramsay Street Haberfield - 46% higher
- Haberfield School - 40% higher

The Parents and Citizens of Haberfield School have been constantly warning the Government about the impact these high air pollution levels will have on the health of their children and the Government has done nothing.

Further, the Council has up until now continued to deflect the responsibility for a comprehensive health report on to the LNP State Government. It seems clear that the State Government does not care about the dangerously high air pollution levels and the health of Inner West citizens. They clearly intend to spend no funds and allocate no resources to addressing the urgent need for a comprehensive health report. The responsibility therefore lies with Council and it is recommended that a partnership be sought with a local university to undertake this report.

See also as background the report by Professor Wendy Bacon “WestConnex Haberfield monitors recorded highest PM 2.5 levels in NSW in 2018” www.wendybacon.com

Officer’s Comments:**Comment from Group Manager Strategic Planning:**

In accordance with a Council resolution, a meeting was held with relevant staff from WestConnex-affected councils on air quality issues on 5 September 2018. The agenda and minutes of that meeting have been forwarded to all Councillors.

In 2018 Council staff attended a seminar at the Centre for Air pollution, energy and health Research (CAR) at the Woolcock Institute of Medical Research, located in Glebe. Opportunities for collaboration on air quality research were discussed at the seminar. Subsequently, in accordance with a Council resolution, Council wrote to relevant universities seeking a discussion of opportunities for collaboration on air pollution studies. As a result, CAR has contacted Council to arrange such a meeting which is being planned for the second-half of March 2019.

ATTACHMENTS

Nil.

Item No: C0219(2) Item 21
Subject: CODE OF CONDUCT COMPLAINT INVESTIGATION
Prepared By: Suellen Bullock - Internal Ombudsman
Authorised By: John Warburton - Acting General Manager

SUMMARY

In August 2018, Council received a complaint alleging a breach of the Code of Conduct by a Councillor. The complaint was referred to a conduct reviewer in accordance with the Procedures for the Administration of the Model Code of Conduct for NSW councils (the Procedures). As required, the complaint was referred by the General Manager to Council's Complaints Coordinator, who under the Procedures, referred the matter to a conduct reviewer from Council's appointed panel of conduct reviewers. The matter was investigated and the conduct reviewer's final report is submitted for Council's consideration in accordance with Clause 8.43 of the Procedures.

RECOMMENDATION

THAT Council consider the conduct reviewer's report and take action in accordance with the Procedures as outlined in this report.

BACKGROUND

The subject complaint has been administered under the Procedures for the Administration of the Model Code of Conduct for NSW councils (the Procedures).

The Procedures state:

Final investigation report

Clause 8.43

Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 8.35, paragraphs (d) to (h), the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

Consideration of the final investigation report by Council

Clauses 8.44-8.59

8.44 The role of the council in relation to a final investigation report is to impose a sanction where an investigator determines that there has been a breach of the code of conduct and makes a recommendation in their final report under clause 8.35, paragraphs (d) to (h).

8.45 The council is to close its meeting to the public to consider the final investigation report where it is permitted to do so under section 10A of the Act.

8.46 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may

absent themselves without making any disclosure of interests in relation to the matter unless otherwise required to do so under the Act or the Model Code

8.47 Prior to imposing a sanction, the council must provide the subject person with an opportunity to make an oral submission to the council. The subject person is to confine their submission to addressing the investigator's recommendation/s.

8.48 Once the subject person has completed their oral submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.

8.49 The council must not invite oral submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.

8.50 Prior to imposing a sanction, the council may by resolution:

- request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or*
- seek an opinion by the Division in relation to the report.*

8.51 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Division.

8.52 The investigator may make additional enquiries for the purpose of preparing a supplementary report.

8.53 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council, the subject person and the complainant.

8.54 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.

8.55 The council is only required to provide the subject person a further opportunity to address it on a supplementary report where the supplementary report contains new information that is adverse to them.

8.56 A council may by resolution impose one or more of the following sanctions on a subject person:

- a) that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the resolution,*
- b) that findings of inappropriate conduct be made public,*
- c) in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach,*
- d) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Act,*
- e) in the case of a breach by a councillor:*
 - i. that the councillor be formally censured for the breach under section 440G of the Act, and*
 - ii. that the matter be referred to the Division for further action under the misconduct provisions of the Act.*

8.57 The council is not obliged to adopt the investigator's recommendation/s. Where the council does not adopt the investigator's recommendation/s, the council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.

8.58 The council may, by resolution, impose a sanction on the subject person under clause 8.56 different to the sanction recommended by the investigator in their final report.

8.59 Where the council resolves not to adopt the investigator's recommendation/s, the complaints coordinator must notify the Division of the council's decision and the reasons for it.

FINANCIAL IMPLICATIONS

The costs for this investigation as at 22 January 2019 were \$11,000 (excl. GST).

OTHER STAFF COMMENTS

Not applicable.

PUBLIC CONSULTATION

Not applicable. The substance of this matter is for consideration in closed meeting in accordance with the Local Government Act 1993 and the Procedures.

CONCLUSION

This report is submitted to Council in accordance with clause 8.43 of the Procedures.

Council must consider the report of the conduct reviewer and impose a sanction (Clause 8.44 of the Procedures).

In considering the conduct reviewer's report, Council must close the meeting (clause 8.45) and the subject person must be given the opportunity to make an oral submission to council addressing only the conduct reviewer's recommendations (clause. 8.47). Furthermore, once the subject person has completed their oral submission, they must absent themselves from the meeting and as a Councillor, take no further part in any discussion or voting on the matter (clause 8.48). Council must not, in its consideration of the matter, invite oral submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator (clause 8.49).

Prior to imposing a sanction, the Council may:

- defer the matter and request the conduct reviewer to make additional enquiries (Clause 8.50 a) of the Procedures)
- defer the matter and seek an opinion from the Office of Local Government (Clause 8.50 b) of the Procedures)

Council is not obliged to adopt the conduct reviewer's recommendations, and where this is the case must state in its resolution the reasons for its decision (Clause 8.57 of the Procedures).

It is also open to the Council to impose a sanction on the subject person that is different to the sanction recommended by the conduct reviewer (clause 8.58 of the Procedures) where the Council considers this an appropriate course of action.

ATTACHMENTS

1. [↓](#) Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (March 2013)
2. Conduct Reviewer's Final Investigation Report - *Confidential*



**PROCEDURES FOR
THE ADMINISTRATION
OF THE MODEL CODE
OF CONDUCT**
for Local Councils in NSW

March 2013

Item 21

Attachment 1

ACCESS TO SERVICES

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OFFICE HOURS

Monday to Friday

8.30am to 5.00pm

(Special arrangements may be made if these hours are unsuitable)

All offices are wheelchair accessible.

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Premier & Cabinet
Division of Local Government

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PART 1 INTRODUCTION

These procedures (“the Model Code Procedures”) are prescribed for the purposes of the administration of the Model Code of Conduct for Local Councils in NSW (“the Model Code”). The Model Code and Model Code Procedures are made under sections 440 and 440AA respectively of the Local Government Act 1993 (“the Act”) and the Local Government (General) Regulation 2005 (“the Regulation”).

Sections 440 and 440AA of the Act require every council to adopt a code of conduct and procedures for the administration of the code of conduct that incorporate the provisions of the Model Code and Model Code Procedures respectively.

In adopting procedures for the administration of their adopted codes of conduct, councils may supplement the Model Code Procedures. However provisions of a council’s adopted procedures that are not consistent with those prescribed under the Model Code Procedures will have no effect.

PART 2 DEFINITIONS

For the purposes of the procedures, the following definitions apply:

the Act	the Local Government Act 1993
administrator	an administrator of a council appointed under the Act other than an administrator appointed under section 66
code of conduct	a code of conduct adopted under section 440 of the Act
code of conduct complaint	a complaint that alleges conduct on the part of a council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the council's code of conduct
complainant	a person who makes a code of conduct complaint
complainant councillor	a councillor who makes a code of conduct complaint
complaints coordinator	a person appointed by the general manager under these procedures as a complaints coordinator
conduct reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
council committee	a committee established by resolution of council
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee
councillor	a person elected or appointed to civic office and includes a Mayor
council official	includes councillors, members of staff of council, administrators, council committee members, conduct reviewers and delegates of council
delegate of council	a person (other than a councillor or member of staff of a council) or body and the individual members of that body to whom a function of the council is delegated
the Division	the Division of Local Government, Department of Premier and Cabinet
investigator	a conduct reviewer or conduct review committee
the Regulation	the Local Government (General) Regulation 2005
subject person	a person whose conduct is the subject of investigation by a conduct reviewer or conduct review committee under these procedures

PART 3 ADMINISTRATIVE FRAMEWORK

The establishment of a panel of conduct reviewers

- 3.1** The council must by resolution establish a panel of conduct reviewers.
- 3.2** The council may by resolution enter into an arrangement with one or more other councils to share a panel of conduct reviewers.
- 3.3** The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4** An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5** To be eligible to be a member of a panel of conduct reviewers, a person must, at a minimum, meet the following requirements:
 - a) an understanding of local government, and
 - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the Public Interest Disclosures Act 1994, and
 - c) knowledge and experience of one or more of the following:
 - i) investigations, or
 - ii) law, or
 - iii) public administration, or
 - iv) public sector ethics, or
 - v) alternative dispute resolution, and
 - d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.

- 3.6** A person is not eligible to be a member of the panel of conduct reviewers if they are:
- a) a councillor, or
 - b) a nominee for election as a councillor, or
 - c) an administrator, or
 - d) an employee of a council, or
 - e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - g) a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7** A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.
- 3.8** A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.9** The council may terminate the panel of conduct reviewers at any time by resolution.
- 3.10** When the term of the conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.11** A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council.

The appointment of complaints coordinators

- 3.12** The general manager must appoint a member of staff of the council to act as a complaints coordinator. Where practicable, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.13** The general manager may appoint other members of staff to act as alternates to the complaints coordinator.
- 3.14** The general manager must not undertake the role of complaints coordinator.
- 3.15** The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the Public Interest Disclosures Act 1994.
- 3.16** The role of the complaints coordinator is to:
- a) coordinate the management of complaints made under the council's code of conduct,
 - b) liaise with and provide administrative support to a conduct reviewer or conduct review committee,
 - c) liaise with the Division of Local Government, and
 - d) arrange the annual reporting of code of conduct complaints statistics.

PART 4 HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?

What is a code of conduct complaint?

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that alleges conduct on the part of a council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the council's code of conduct.
- 4.2 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a "code of conduct complaint" are to be dealt with under council's routine complaints management processes.

When must a code of conduct complaint be made?

- 4.3 A code of conduct complaint must be made within three months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 4.4 A complaint made after 3 months may only be accepted if the general manager, or, in the case of a complaint about the general manager, the Mayor, is satisfied that there are compelling grounds for the matter to be dealt with under the code of conduct.

How may a code of conduct complaint about a council official other than the general manager be made?

- 4.5 All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing.
- 4.6 Where a code of conduct complaint about a council official other than the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.7 In making a code of conduct complaint about a council official other than the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.

- 4.8 The general manager or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.9 Notwithstanding clauses 4.5 and 4.6, where the general manager becomes aware of a possible breach of the council's code of conduct, he or she may initiate the process for the consideration of the matter under these procedures without a written complaint.

How may a code of conduct complaint about the general manager be made?

- 4.10 Code of conduct complaints about the general manager are to be made to the Mayor in writing.
- 4.11 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.12 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.13 The Mayor or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.14 Notwithstanding clauses 4.10 and 4.11, where the Mayor becomes aware of a possible breach of the council's code of conduct by the general manager, he or she may initiate the process for the consideration of the matter under these procedures without a written complaint.

PART 5**HOW ARE CODE OF CONDUCT COMPLAINTS TO BE MANAGED?****How are code of conduct complaints about staff (other than the general manager) to be dealt with?**

- 5.1 The general manager is responsible for making enquiries or causing enquiries to be made into code of conduct complaints about members of staff of council and for determining the outcome of such complaints.
- 5.2 Where the general manager decides not to make enquiries into a code of conduct complaint about a member of staff, the general manager must give the complainant reasons in writing for their decision.
- 5.3 Without limiting clause 5.2, the general manager may decide not to enquire into the matter on grounds that the complaint is trivial, frivolous, vexatious or not made in good faith.
- 5.4 Enquiries made into staff conduct that might give rise to disciplinary action must occur in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.5 Sanctions for staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

How are code of conduct complaints about delegates of council and council committee members to be dealt with?

- 5.6 The general manager is responsible for making enquiries or causing enquiries to be made into code of conduct complaints about delegates of council and council committee members and for determining the outcome of such complaints.
- 5.7 Where the general manager decides not to make enquiries into a code of conduct complaint about a delegate of council or a council committee member, the general manager must give the complainant reasons in writing for their decision.
- 5.8 Without limiting clause 5.7, the general manager may decide not to enquire into the matter on grounds that the complaint is trivial, frivolous, vexatious or not made in good faith.

- 5.9** Sanctions for delegates of council and/or members of council committees depend on the severity, scale and importance of the breach and may include one or more of the following:
- a) censure,
 - b) requiring the person to apologise to any person or organisation adversely affected by the breach,
 - c) prosecution for any breach of the law,
 - d) removing or restricting the person's delegation, or
 - e) removing the person from membership of the relevant council committee.
- 5.10** Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.9, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:
- a) the substance of the allegation (including the relevant provision/s of council's code of conduct that the alleged conduct is in breach of) must be put to the person the subject of the allegation, and
 - b) the person must be given an opportunity to respond to the allegation, and
 - c) the general manager must consider the person's response in deciding whether to impose a sanction under clause 5.9.

How are code of conduct complaints about conduct reviewers to be dealt with?

- 5.11** The general manager must refer all code of conduct complaints about conduct reviewers to the Division for its consideration.
- 5.12** The general manager must notify the complainant of the referral of their complaint in writing.
- 5.13** The general manager must implement any recommendation made by the Division as a result of its consideration of a code of conduct complaint about a conduct reviewer.

How are code of conduct complaints about administrators to be dealt with?

- 5.14** The general manager must refer all code of conduct complaints about administrators to the Division for its consideration.
- 5.15** The general manager must notify the complainant of the referral of their complaint in writing.

How are code of conduct complaints about councillors to be dealt with?

- 5.16** The general manager must refer the following code of conduct complaints about councillors to the Division:
- a) complaints alleging a breach of the pecuniary interest provisions of the Act,
 - b) complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interests arising from reportable political donations (see section 328B),
 - c) complaints alleging a breach of Part 8 of the code of conduct relating to the maintenance of the integrity of the code, and
 - d) complaints the subject of a special complaints management arrangement with the Division under clause 5.40.
- 5.17** Where the general manager refers a complaint to the Division under clause 5.16, the general manager must notify the complainant of the referral in writing.
- 5.18** Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Division under clause 5.16, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology instead of referring them to the complaints coordinator under clause 5.20.
- 5.19** Where the general manager resolves a code of conduct complaint under clause 5.18 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.20** The general manager must refer all code of conduct complaints about councillors other than those referred to the Division under clause 5.16 or resolved under clause 5.18 to the complaints coordinator.

How are code of conduct complaints about the general manager to be dealt with?

- 5.21** The Mayor must refer the following code of conduct complaints about the general manager to the Division:
- a) complaints alleging a breach of the pecuniary interest provisions of the Act,
 - b) complaints alleging a breach of Part 8 of the code of conduct relating to the maintenance of the integrity of the code, and
 - c) complaints the subject of a special complaints management arrangement with the Division under clause 5.40.
- 5.22** Where the Mayor refers a complaint to the Division under clause 5.21, the Mayor must notify the complainant of the referral in writing.
- 5.23** Where the Mayor considers it to be practicable and appropriate to do so, he or she may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Division under clause 5.21, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology instead of referring them to the complaints coordinator under clause 5.25.
- 5.24** Where the Mayor resolves a code of conduct complaint under clause 5.23 to the Mayor's satisfaction, the Mayor must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.25** The Mayor must refer all code of conduct complaints about the general manager other than those referred to the Division under clause 5.21 or resolved under clause 5.23 to the complaints coordinator.

Referral of code of conduct complaints to external agencies

- 5.26** The general manager, Mayor or a conduct reviewer or conduct review committee may, at any time, refer a code of conduct complaint to an external agency or body such as, but not limited to, the Division, the Independent Commission Against Corruption, the NSW Ombudsman or the Police for its consideration, where they consider such a referral is warranted.

- 5.27** Where the general manager, Mayor, conduct reviewer or conduct review committee refers a complaint to an external agency or body under clause 5.26, they must notify the complainant of the referral in writing where it is appropriate for them to do so.
- 5.28** Referral of a matter to an external agency or body shall finalise consideration of the matter under the code of conduct unless the council is subsequently advised otherwise by the referral agency or body.

Disclosure of the identity of complainants

- 5.29** In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- a) the complainant consents in writing to the disclosure, or
 - b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
 - c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
 - d) a conduct reviewer or conduct review committee is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
 - e) it is otherwise in the public interest to do so.
- 5.30** Clause 5.29 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.
- 5.31** Where a councillor makes a code of conduct complaint about another councillor or the general manager and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 5.32** A request made by a complainant councillor under clause 5.31 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.

- 5.33** The general manager or Mayor or, where the matter is referred, a conduct reviewer or conduct review committee must consider a request made under clause 5.31 before disclosing information that identifies or tends to identify the complainant councillor but are not obliged to comply with the request.
- 5.34** Where a complainant councillor makes a request under clause 5.31, the general manager or Mayor or, where the matter is referred, a conduct reviewer or conduct review committee shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

Code of conduct complaints made as public interest disclosures

- 5.35** Code of conduct complaints that are made as public interest disclosures under the Public Interest Disclosures Act 1994 are to be managed in accordance with the requirements of that Act, the council's internal reporting policy and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.
- 5.36** For a code of conduct complaint to be dealt with as a public interest disclosure, the complainant must state at the outset and in writing at the time of making the complaint that it is made as a public interest disclosure.
- 5.37** Where a councillor makes a code of conduct complaint about another councillor or the general manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.
- 5.38** Where a complainant councillor declines to consent to the disclosure of their identity as the complainant under clause 5.37, the general manager or the Mayor must refer the complaint to the Division for consideration. Such a referral must be made under section 26 of the Public Interest Disclosures Act 1994.

Special complaints management arrangements

- 5.39** The general manager may request in writing that the Division enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.
- 5.40** Where the Division receives a request under clause 5.39, it may agree to enter into a special complaints management arrangement where it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:
- a) imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, or
 - b) impeded or disrupted the effective administration by the council of its code of conduct, or
 - c) impeded or disrupted the effective functioning of the council.
- 5.41** A special complaints management arrangement must be in writing and must specify the following:
- a) the code of conduct complaints the arrangement relates to, and
 - b) the period that the arrangement will be in force.
- 5.42** The Division may by notice in writing, amend or terminate a special complaints management arrangement at any time.
- 5.43** While a special complaints management arrangement is in force, an officer of the Division (the assessing Divisional officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of these procedures except as provided by clause 5.44 below.
- 5.44** Where, following a preliminary assessment, the assessing Divisional officer determines that a code of conduct complaint warrants investigation by a conduct reviewer or a conduct review committee, the assessing Divisional officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing Divisional officer.
- 5.45** Prior to the expiry of a special complaints management arrangement, the Division shall, in consultation with the general manager, review the arrangement to determine whether it should be renewed or amended.
- 5.46** A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.45.

PART 6 PRELIMINARY ASSESSMENT

Referral of code of conduct complaints to conduct reviewers

- 6.1** The complaints coordinator must refer all code of conduct complaints about councillors or the general manager submitted to the complaints coordinator within 21 days of receipt of a complaint by the general manager or the Mayor.
- 6.2** For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
- a) a panel of conduct reviewers established by the council, or
 - b) a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Division.
- 6.3** In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers.
- 6.4** A conduct reviewer must not accept the referral of a code of conduct complaint where:
- a) they have a conflict of interests in relation to the matter referred to them, or
 - b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
 - c) they or their employer has entered into one or more contracts with the council in the 2 years preceding the referral and they or their employer have received or expect to receive payments under the contract or contracts of a cumulative value that exceeds \$100,000, or
 - d) at the time of the referral, they or their employer are the council's legal service providers or are a member of a panel of legal service providers appointed by the council.
- 6.5** For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interests in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 4.1 of the Model Code of Conduct).
- 6.6** For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.

- 6.7** Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council.
- 6.8** The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer and advise which conduct reviewer the matter has been referred to.

Preliminary assessment by a conduct reviewer

- 6.9** The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.
- 6.10** The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:
- a) to take no action, or
 - b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology, or
 - c) to refer the matter back to the general manager or, in the case of a complaint about the general manager, the Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, or apology, or
 - d) to refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, the Division or the Police, or
 - e) to investigate the matter, or
 - f) to recommend that the complaints coordinator convene a conduct review committee to investigate the matter.
- 6.11** In determining how to deal with a matter under clause 6.10, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.27.
- 6.12** The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what option to exercise under clause 6.10.

- 6.13** The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what option to exercise in relation to the matter under clause 6.10. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.14** The conduct reviewer must refer to the Division any complaints referred to him or her that should have been referred to the Division under clauses 5.16 and 5.21.
- 6.15** The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.
- 6.16** Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.10, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it and this will finalise consideration of the matter under these procedures.
- 6.17** Where the conduct reviewer refers a complaint to another agency or body, they must notify the complainant of the referral in writing where it is appropriate for them to do so.
- 6.18** The conduct reviewer may only determine to investigate a matter or to recommend that a conduct review committee be convened to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a “code of conduct complaint” for the purposes of these procedures, and
 - b) that the alleged conduct, on its face, is sufficiently serious to warrant investigation, and
 - c) that the matter is one that could not or should not be resolved by alternative means.
- 6.19** The conduct reviewer may only determine to recommend that a conduct review committee be convened to investigate a matter after consulting with the complaints coordinator and where they are satisfied that it would not be practicable or appropriate for the matter to be investigated by a sole conduct reviewer.

- 6.20 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator.
- 6.21 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint except as may be specifically required under these procedures.

Referral back to the general manager or Mayor for resolution

- 6.22 Where the conduct reviewer determines to refer a matter back to the general manager or to the Mayor to be resolved by alternative and appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the Mayor, recommending the means by which the complaint may be resolved.
- 6.23 The conduct reviewer must consult with the general manager or Mayor prior to referring a matter back to them under clause 6.22.
- 6.24 The general manager or Mayor may decline to accept the conduct reviewer's recommendation. Where the general manager or Mayor declines to do so, the conduct reviewer may determine to deal with the complaint by other means under clause 6.10.
- 6.25 Where the conduct reviewer refers a matter back to the general manager or Mayor under clause 6.22, the general manager or, in the case of a complaint about the general manager, the Mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 6.26 Where the conduct reviewer refers a matter back to the general manager or Mayor under clause 6.22, the general manager, or, in the case of a complaint about the general manager, the Mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

Complaints assessment criteria

6.27 In undertaking the preliminary assessment of a complaint, the conduct reviewer may have regard to the following considerations:

- a) whether the complaint is a “code of conduct complaint”,
- b) whether the complaint is trivial, frivolous, vexatious or not made in good faith,
- c) whether the complaint discloses prima facie evidence of a breach of the code,
- d) whether the complaint raises issues that would be more appropriately dealt with by another agency or body,
- e) whether there is or was an alternative and satisfactory means of redress available to the complainant in relation to the conduct complained of,
- f) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation or apology,
- g) whether the issue/s giving rise to the complaint have previously been addressed or resolved,
- h) whether the conduct complained of forms part of a pattern of conduct,
- i) whether there were mitigating circumstances giving rise to the conduct complained of,
- j) the seriousness of the alleged conduct,
- k) the significance of the conduct or the impact of the conduct for the council,
- l) how much time has passed since the alleged conduct occurred, or
- m) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

PART 7 OPERATIONS OF CONDUCT REVIEW COMMITTEES

- 7.1** Where a conduct reviewer recommends that the complaints coordinator convene a conduct review committee to investigate a matter, the conduct reviewer must notify the complaints coordinator of their recommendation and the reasons for their recommendation in writing.
- 7.2** The complaints coordinator must convene a conduct review committee comprising three conduct reviewers selected from:
- a) a panel of conduct reviewers established by the council, or
 - b) a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Division.
- 7.3** In selecting suitable conduct reviewers for membership of a conduct review committee convened under clause 7.2, the complaints coordinator may have regard to the following:
- a) the qualifications and experience of members of the panel of conduct reviewers, and
 - b) any recommendation made by the conduct reviewer about the membership of the committee.
- 7.4** The conduct reviewer who made the preliminary assessment of the complaint must not be a member of a conduct review committee convened under clause 7.2.
- 7.5** A member of a panel of conduct reviewers may not be appointed to a conduct review committee where they would otherwise be precluded from accepting a referral of the matter to be considered by the committee under clause 6.4.
- 7.6** Where the complaints coordinator convenes a conduct review committee, they will advise the complainant in writing that the committee has been convened and the membership of the committee.
- 7.7** Where, after a conduct review committee has been convened, a member of the committee becomes unavailable to participate in further consideration of the matter, the complaints coordinator may appoint another person from a panel of conduct reviewers to replace them.
- 7.8** Meetings of a conduct review committee may be conducted in person or by teleconference.
- 7.9** The members of the conduct review committee must elect a chairperson of the committee.
- 7.10** A quorum for a meeting of the conduct review committee is two members.

- 7.11** Business is not to be conducted at any meeting of the conduct review committee unless a quorum is present.
- 7.12** If a quorum is not present at a meeting of the conduct review committee, it must be adjourned to a time and date that is specified.
- 7.13** Each member of the conduct review committee is entitled to one vote in relation to a matter. In the event of an equality of votes being cast, the chairperson will have a casting vote.
- 7.14** If the vote on a matter is not unanimous, then this should be noted in the report of the conduct review committee in which it makes its determination in relation to the matter.
- 7.15** The chairperson may make a ruling on questions of procedure and the chairperson's ruling is to be final.
- 7.16** The conduct review committee may only conduct business in the absence of the public.
- 7.17** The conduct review committee must maintain proper records of its proceedings.
- 7.18** The complaints coordinator shall undertake the following functions in support of a conduct review committee:
- a) provide procedural advice where required,
 - b) ensure adequate resources are provided including secretarial support,
 - c) attend meetings of the conduct review committee in an advisory capacity, and
 - d) provide advice about council's processes where requested.
- 7.19** The complaints coordinator must not be present at, or in sight of a meeting of, the conduct review committee where it makes its final determination in relation to the matter.
- 7.20** The conduct review committee may adopt procedures governing the conduct of its meetings that supplement these procedures. However any procedures adopted by the committee must not be inconsistent with these procedures.

PART 8 INVESTIGATIONS

What matters may a conduct reviewer or conduct review committee investigate?

- 8.1** A conduct reviewer or conduct review committee (hereafter referred to as an “investigator”) may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 8.2** Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the general manager, or, in the case of alleged conduct on the part of the general manager, to the Mayor.
- 8.3** The general manager or the Mayor is to deal with a matter reported to them by an investigator under clause 8.2 as if it were a new code of conduct complaint in accordance with these procedures.

How are investigations to be commenced?

- 8.4** The investigator must at the outset of their investigation provide a written notice of investigation to the subject person. The notice of investigation must:
- a) disclose the substance of the allegations against the subject person, and
 - b) advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
 - c) advise of the process to be followed in investigating the matter, and
 - d) invite the subject person to make a written submission in relation to the matter within 28 days or such other reasonable period specified by the investigator in the notice, and
 - e) provide the subject person the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 8.5** The subject person may within 14 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the subject person to identify the substance of the allegation against them.

- 8.6** An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the subject person in relation to the matter referred to them.
- 8.7** Where an investigator issues an amended notice of investigation, they will provide the subject person with a further opportunity to make a written submission in response to the amended notice of investigation within 28 days or such other reasonable period specified by the investigator in the amended notice.
- 8.8** The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the Mayor. The notice must:
- a) advise them of the matter the investigator is investigating, and
 - b) in the case of the notice to the complainant, invite them to make a written submission in relation to the matter within 28 days or such other reasonable period specified by the investigator in the notice.

Written and oral submissions

- 8.9** Where the subject person or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 8.10** The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 8.11** Prior to preparing a draft report, the investigator must give the subject person an opportunity to address the investigator on the matter being investigated. The subject person may do so in person or by telephone.
- 8.12** Where the subject person fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the subject person.
- 8.13** Where the subject person accepts the opportunity to address the investigator in person, they may have a support person or legal advisor in attendance. The support person or legal advisor will act in an advisory or support role to the subject person only. They must not speak on behalf of the subject person or otherwise interfere with or disrupt proceedings.

- 8.14** The investigator must consider all written and oral submissions made to them in relation to the matter.

How are investigations to be conducted?

- 8.15** Investigations are to be undertaken without undue delay.
- 8.16** Investigations are to be undertaken in the absence of the public and in confidence.
- 8.17** Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 8.18** Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 8.19** An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

Referral or resolution of a matter after the commencement of an investigation

- 8.20** At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:
- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology, or
 - b) refer the matter to the general manager, or, in the case of a complaint about the general manager, to the Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology, or
 - c) refer the matter to another agency or body such as, but not limited to, the ICAC, the NSW Ombudsman, the Division or the Police.

- 8.21** Where an investigator determines to exercise any of the options under clause 8.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 8.22** Where an investigator determines to exercise any of the options under clause 8.20 after the commencement of an investigation, they may by written notice to the subject person, the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, the Mayor, discontinue their investigation of the matter.
- 8.23** Where the investigator discontinues their investigation of a matter under clause 8.22, this shall finalise the consideration of the matter under these procedures.
- 8.24** An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 8.20 or to discontinue their investigation except as may be specifically required under these procedures.

Draft investigation reports

- 8.25** When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 8.26** The investigator must provide their draft report to the subject person and invite them to make a written submission in relation to it within 28 days or such other reasonable period specified by the investigator.
- 8.27** Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within 28 days or such other reasonable period specified by the investigator.
- 8.28** The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.

- 8.29** The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. Where as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the subject person or an affected person, they must provide the subject person or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 8.30** Where the subject person or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 8.31** The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

Final investigation reports

- 8.32** Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 8.22.
- 8.33** An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 8.34** The investigator's final report must:
- a) make findings of fact in relation to the matter investigated, and
 - b) make a determination that the conduct investigated either:
 - i) constitutes a breach of the code of conduct, or
 - ii) does not constitute a breach of the code of conduct, and
 - c) provide reasons for the determination.

8.35 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may make one or more of the following recommendations:

- a) that the council revise any of its policies or procedures,
- b) that the subject person undertake any training or other education relevant to the conduct giving rise to the breach,
- c) that the subject person be counselled for their conduct,
- d) that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation,
- e) that findings of inappropriate conduct be made public,
- f) in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach,
- g) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Act,
- h) in the case of a breach by a councillor, that the council resolves as follows:
 - i) that the councillor be formally censured for the breach under section 440G of the Act, and
 - ii) that the matter be referred to the Division for further action under the misconduct provisions of the Act.

8.36 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may make one or more of the following recommendations:

- a) that the council revise any of its policies or procedures,
- b) that a person or persons undertake any training or other education.

8.37 In making a recommendation under clause 8.35, the investigator may have regard to the following:

- a) the seriousness of the breach,
- b) whether the breach can be easily remedied or rectified,
- c) whether the subject person has remedied or rectified their conduct,
- d) whether the subject person has expressed contrition,
- e) whether there were any mitigating circumstances,

- f) the age, physical or mental health or special infirmity of the subject person,
- g) whether the breach is technical or trivial only,
- h) any previous breaches,
- i) whether the breach forms part of a pattern of conduct,
- j) the degree of reckless intention or negligence of the subject person,
- k) the extent to which the breach has affected other parties or the council as a whole,
- l) the harm or potential harm to the reputation of the council or local government arising from the conduct,
- m) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny,
- n) whether an educative approach would be more appropriate than a punitive one,
- o) the relative costs and benefits of taking formal enforcement action as opposed to taking no action or taking informal action,
- p) what action or remedy would be in the public interest.

8.38 At a minimum, the investigator's final report must contain the following information:

- a) a description of the allegations against the subject person,
- b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated,
- c) a statement of reasons as to why the conduct reviewer considered that the matter warranted investigation,
- d) a statement of reasons as to why the conduct reviewer considered that the matter was one that could not or should not be resolved by alternative means,
- e) where the matter is investigated by a conduct review committee, a statement as to why the matter was one that warranted investigation by a conduct review committee instead of a sole conduct reviewer,
- f) a description of any attempts made to resolve the matter by use of alternative means,

- g) the steps taken to investigate the matter,
- h) the facts of the matter,
- i) the investigator's findings in relation to the facts of the matter and the reasons for those findings,
- j) the investigator's determination and the reasons for that determination,
- k) any recommendations.

- 8.39** The investigator must provide a copy of their report to the complaints coordinator, the subject person and the complainant.
- 8.40** Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the Mayor and this will finalise consideration of the matter under these procedures.
- 8.41** Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 8.35, paragraph (a), the complaints coordinator must provide a copy of the investigator's report to the general manager. Where the general manager agrees with the recommendation/s, the general manager is responsible for implementing the recommendation/s.
- 8.42** Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 8.35, paragraphs (b) or (c), the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the Mayor. The general manager is responsible for arranging the implementation of the recommendation/s where the report relates to a councillor's conduct. The Mayor is responsible for arranging the implementation of the recommendation/s where the report relates to the general manager's conduct.
- 8.43** Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 8.35, paragraphs (d) to (h), the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

Consideration of the final investigation report by council

- 8.44** The role of the council in relation to a final investigation report is to impose a sanction where an investigator determines that there has been a breach of the code of conduct and makes a recommendation in their final report under clause 8.35, paragraphs (d) to (h).
- 8.45** The council is to close its meeting to the public to consider the final investigation report where it is permitted to do so under section 10A of the Act.
- 8.46** Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interests in relation to the matter unless otherwise required to do so under the Act or the Model Code.
- 8.47** Prior to imposing a sanction, the council must provide the subject person with an opportunity to make an oral submission to the council. The subject person is to confine their submission to addressing the investigator's recommendation/s.
- 8.48** Once the subject person has completed their oral submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.
- 8.49** The council must not invite oral submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.
- 8.50** Prior to imposing a sanction, the council may by resolution:
- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
 - b) seek an opinion by the Division in relation to the report.
- 8.51** The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Division.
- 8.52** The investigator may make additional enquiries for the purpose of preparing a supplementary report.

- 8.53** Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council, the subject person and the complainant.
- 8.54** The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 8.55** The council is only required to provide the subject person a further opportunity to address it on a supplementary report where the supplementary report contains new information that is adverse to them.
- 8.56** A council may by resolution impose one or more of the following sanctions on a subject person:
- a) that the subject person apologise to any person or organisation affected by the breach in such a time and form specified by the resolution,
 - b) that findings of inappropriate conduct be made public,
 - c) in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach,
 - d) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the Act,
 - e) in the case of a breach by a councillor:
 - i) that the councillor be formally censured for the breach under section 440G of the Act, and
 - ii) that the matter be referred to the Division for further action under the misconduct provisions of the Act.
- 8.57** The council is not obliged to adopt the investigator's recommendation/s. Where the council does not adopt the investigator's recommendation/s, the council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.
- 8.58** The council may, by resolution, impose a sanction on the subject person under clause 8.56 different to the sanction recommended by the investigator in their final report.
- 8.59** Where the council resolves not to adopt the investigator's recommendation/s, the complaints coordinator must notify the Division of the council's decision and the reasons for it.

PART 9 RIGHTS OF REVIEW

Failure to comply with a requirement under these procedures

- 9.1** Where any person believes that a person has failed to comply with a requirement prescribed under these procedures, they may, at any time prior to the council's consideration of an investigator's final report, raise their concerns in writing with the Division.

Practice rulings

- 9.2** Where a subject person and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Division to make a ruling on a question of procedure (a practice ruling).
- 9.3** Where the Division receives a request in writing for a practice ruling, the Division may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 9.4** Where the Division makes a practice ruling, all parties are to comply with it.
- 9.5** The Division may decline to make a practice ruling. Where the Division declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

Requests for review

- 9.6** A person the subject of a sanction imposed under Part 8 of these procedures other than one imposed under clause 8.56, paragraph (e), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Division.
- 9.7** A review under clause 9.6 may be sought on the following grounds:
- a) that the investigator has failed to comply with a requirement under these procedures, or
 - b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
 - c) that the council has failed to comply with a requirement under these procedures in imposing a sanction.

- 9.8** A request for a review made under clause 9.6 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 9.9** The Division may decline to conduct a review, where the grounds upon which the review is sought are not sufficiently specified.
- 9.10** The Division may undertake a review of a matter without receiving a request under clause 9.6.
- 9.11** The Division will undertake a review of the matter on the papers. However, the Division may request that the complaints coordinator provide such further information that the Division considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Division.
- 9.12** Where a person requests a review under clause 9.6, the Division may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Division.
- 9.13** The Division must notify the person who requested the review and the complaints coordinator of the outcome of the Division's review in writing and the reasons for its decision. In doing so, the Division may comment on any other matters the Division considers to be relevant.
- 9.14** Where the Division considers that the investigator or the council has erred, the Division may recommend that a decision to impose a sanction under these procedures be reviewed.
- 9.15** In the case of a sanction implemented by the general manager or Mayor under clause 8.42, where the Division recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must provide a copy of the Division's determination in relation to the matter to the general manager or the Mayor, and
 - b) the general manager or Mayor must review any action taken by them to implement the sanction, and
 - c) the general manager or Mayor must consider the Division's recommendation in doing so.

- 9.16** In the case of a sanction imposed by the council by resolution under clause 8.56, where the Division recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must, where practicable, arrange for the Division's determination to be tabled at the next ordinary council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting following the election, and
 - b) the council must:
 - i) review its decision to impose the sanction, and
 - ii) consider the Division's recommendation in doing so, and
 - iii) resolve to either rescind or reaffirm its previous resolution in relation to the matter.
- 9.17** Where having reviewed its previous decision in relation to a matter under clause 9.16 the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.

PART 10 PROCEDURAL IRREGULARITIES

- 10.1** A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct except as may be otherwise specifically provided under the code of conduct.
- 10.2** A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
- a) the non-compliance is isolated and/or minor in nature, or
 - b) reasonable steps are taken to correct the non-compliance, or
 - c) reasonable steps are taken to address the consequences of the non-compliance.

PART 11 PRACTICE DIRECTIONS

- 11.1** The Division may at any time issue a practice direction in relation to the application of these procedures.
- 11.2** The Division will issue practice directions in writing, by circular to all councils.
- 11.3** All persons performing a function prescribed under these procedures must consider the Division's practice directions when performing the function.

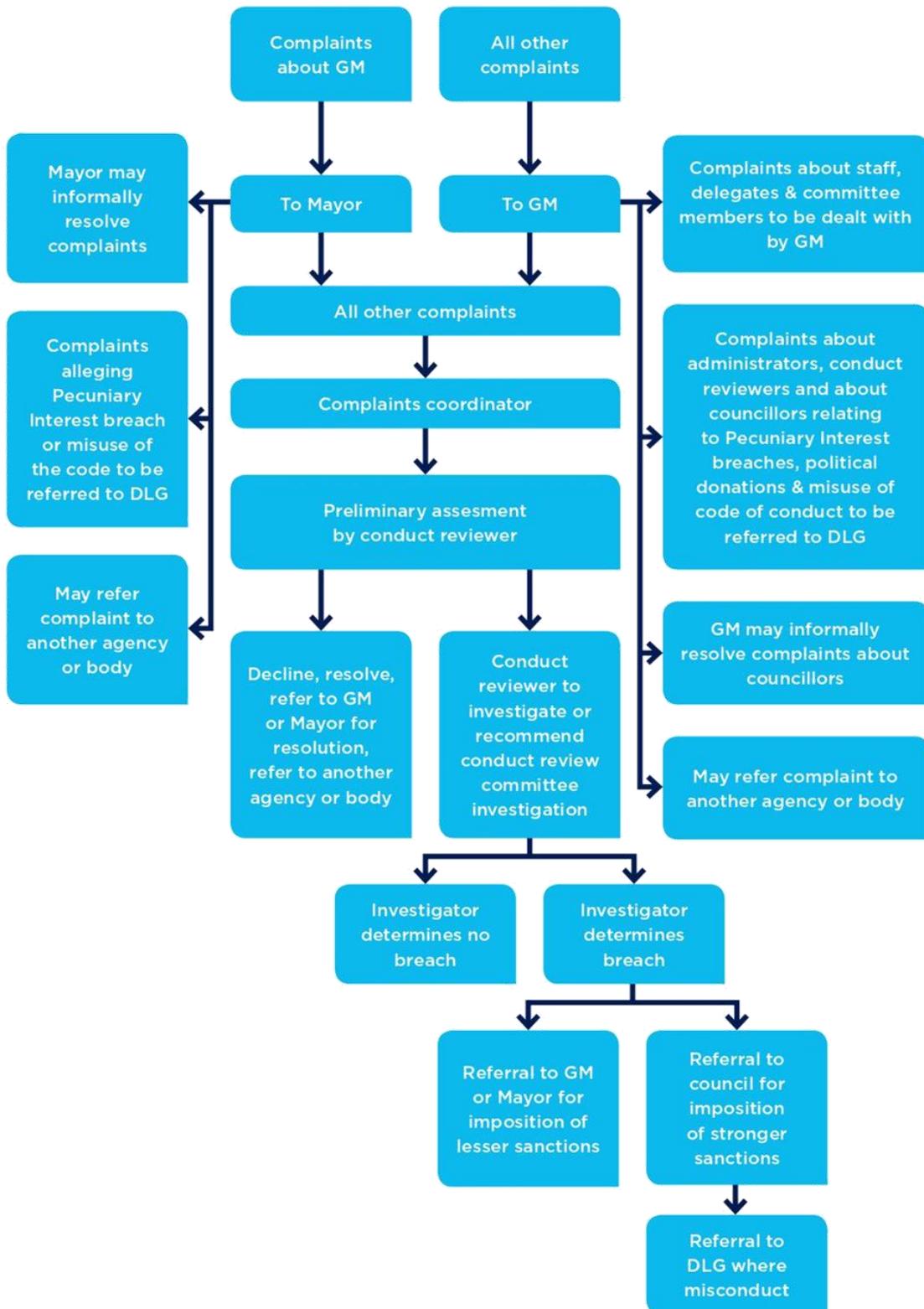
PART 12 REPORTING ON COMPLAINTS STATISTICS

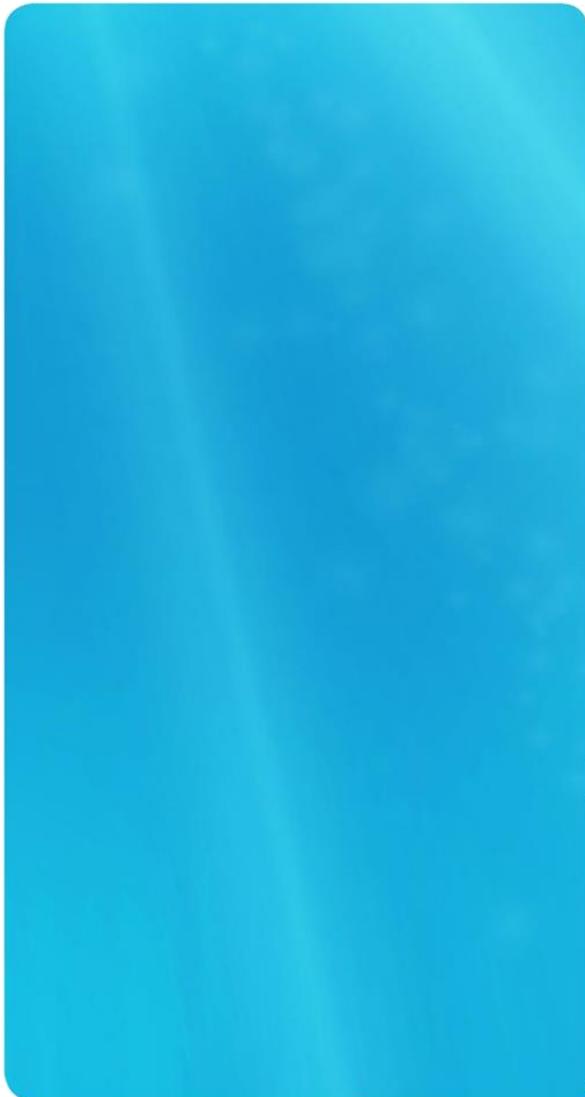
- 12.1** The complaints coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:
- a) the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September,
 - b) the number of code of conduct complaints referred to a conduct reviewer,
 - c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage and the outcome of those complaints,
 - d) the number of code of conduct complaints investigated by a conduct reviewer,
 - e) the number of code of conduct complaints investigated by a conduct review committee,
 - f) without identifying particular matters, the outcome of code of conduct complaints investigated by a conduct reviewer or conduct review committee under these procedures,
 - g) the number of matter reviewed by the Division and, without identifying particular matters, the outcome of the reviews, and
 - h) the total cost of dealing with code of conduct complaints made about councillors and the general manager in the year to September, including staff costs.
- 12.2** The council is to provide the Division with a report containing the statistics referred to in clause 12.1 within 3 months of the end of September of each year.

PART 13 CONFIDENTIALITY

- 13.1** Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.







**For more information
on the Division of
Local Government
Code of Conduct
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