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## **Planning Proposal**

### **Draft amendment to Marrickville Local Environmental Plan 2011**

**466 – 480 New Canterbury Road and 26 to 38 Hercules Street, Dulwich Hill (Lots 1, 2, 3 and 4 DP542147; Lots 1, 2 and 4 DP540366; Lots 1, 2, 3, 5, 6 and 7 DP236603; and Lot 14 Section 4 DP932.)**

This Planning Proposal has been prepared to explain the intent of and justification for an amendment to *Marrickville Local Environmental Plan 2011* (LEP 2011) as it applies to 466 – 480 New Canterbury Road and 26 to 38 Hercules Street, Dulwich Hill.

The Planning Proposal has been prepared following a request by the proponent to amend the zoning from IN2 Light Industrial to a mix of B5 Business Development; R4 High Density Residential; RE1 Public Recreation and RE2 Private Recreation, the floor space ratio from 0.95:1 to include a range being 3.3:1; 3:1; 2.2:1 and 0.6:1 and to permit a maximum height to include a range being 9.5m; 17m; 20m; 29m and 32m to facilitate a mixed use development on the site with a dedicated through-site link along the western edge of the site adjoining the light rail corridor.

Specifically, the Planning Proposal seeks to rezone the site to facilitate a mixed use development in proximity to the Dulwich Grove Light Rail Station and increase the maximum permitted floor space ratio (FSR) and height of buildings (HOB) for the site and facilitate the provision of housing on the site while providing a dedicated through-site link between Hercules Street and New Canterbury Road along the western edge of the site. An activated street frontage along New Canterbury Road is also required by the Planning Proposal which will provide for a mixed use development with an active street frontage in accordance with the current LEP 2011 controls.

The proposed amendments will enable redevelopment of the site to provide a diversity of housing types and sizes, a re-activation of the New Canterbury Road frontage through retail and office uses at ground level and an improved and more efficient urban form and streetscape appearance.

This Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and guidelines published by the Department of Planning and Environment including 'A guide to preparing planning proposals' and 'A guide to preparing local environmental plans'.

## **BACKGROUND**

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## Site Description

The Planning Proposal relates to 466-480 New Canterbury Road and 26-38 Hercules Street, Dulwich Hill, legally described as Lots 1, 2, 3 and 4 DP542147; Lots 1, 2 and 4 DP540366; Lots 1, 2, 3, 5, 6 and 7 DP236603; and Lot 14 Section 4 DP932. (refer **Figure 1** below). The site has an area of 4,743m<sup>2</sup> and comprises a rectangular site that adjoins the light rail corridor to the west and the entry to Dulwich Grove Light Rail Station to the north-west of the site.

The site comprises 15 contiguous allotments and accommodates a mix of uses, including light industrial units, warehousing, commercial and residential development and a place of public worship. The site is legally described as follows:

- 466 New Canterbury Road - Lot 1 DP 542147;
- 468 New Canterbury Road - Lot 2 DP 542147;
- 470 New Canterbury Road - Lot 3 DP 542147;
- 472 New Canterbury Road - Lot 4 DP 542147;
- 474 New Canterbury Road - Lots 1 and 2 DP 540366;
- 476 New Canterbury Road - Lot 3 DP 236603;
- 478 New Canterbury Road - Lot 2 DP 236603;
- 480 New Canterbury Road - Lot 1 DP 236603;
- 26 Hercules Street - Lot 14 Section 4 DP 932;
- 28 Hercules Street - Lot 4 DP 540366;
- 34 Hercules Street - Lot 7 DP 236603;
- 36 Hercules Street- Lot 6 DP 236603; and
- 38 Hercules Street- Lot 5 DP 236603.

The site has three (3) street frontages, with the main frontage being to New Canterbury Road comprising approximately 78 metres along the northern boundary, and a frontage of 76 metres to Hercules Street along the southern boundary. The third frontage comprises approximately 61 metres along the eastern boundary to Kintore Street. The western frontage to the Light rail is stepped (13.565, 16.915m and 30.685m) 61.17m.

The site is located on the southern side of New Canterbury Road on the western edge of the Dulwich Hill town centre, between Kintore Street to the east and the light rail corridor to the west. The site immediately adjoins Dulwich Grove Light Rail Station and is approximately 700 metres from Dulwich Hill Station to the south, with Dulwich Hill Public School being located immediately to the south. The

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Dulwich Hill town centre is approximately 125 metres to the east with extensive services and facilities located in close proximity to the site.



**Figure 1 Site Location (Source: RPData 2019)**

There are a variety of existing buildings on the site, variously used as light industries, warehousing and some limited shop top and residential uses and a church. This existing buildings comprise single and two storey brick building, on a nil front setback to New Canterbury Road and a 6 metre setback to Hercules Street. These buildings are characterised by several mid twentieth century low-scale service and industrial buildings covering a majority of the site, four c1920s terrace style shops on the north eastern corner of the site, a late 1970s Greek Orthodox Church (also known as 'Church of the Holy Unmercenaries') located at 28 Hercules Street and an early 1930s inter war period face brick bungalow on the corner of Hercules Street and Kintore Street. It is considered that the four c1920s terrace style shops pertain some historic and aesthetic value. Historically, they contribute to a key period of development along New Canterbury Road and aesthetically they demonstrate the principal

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characteristics of the traditional suburban shopping area with their surviving parapeted roof forms, recessed shopfronts and generally intact first floor shop facades.

The site slopes from the highest point in the north-east corner along the New Canterbury Road frontage to the rear south-western corner adjoining the light rail corridor of around 4 metres. The building footprints cover most of the site, except for the south-eastern corner around the Church and dwelling.

The site is located within a mixed use area comprising both residential and commercial development. The site has low density residential areas to the south and east and main street commercial and mixed use development to the east and west along New Canterbury Road. Two bus stops are located at the front of the site to the west on New Canterbury Road which together with the light rail, and heavy rail provides a high level of connectivity.

The adjoining development to the south comprises primarily Dulwich Hill Public School surrounded by single and two storey dwellings. The adjoining development to the east comprises a two and three storey medium density dwellings addressing Hercules Street. Development to the west, on the opposite side of the light rail corridor, comprises medium density housing with some private open space and living room windows facing the subject site.

Development on the opposite side of New Canterbury Road comprises two to four storey mixed use and commercial buildings while development on the opposite side of Hercules Street also comprises two storey shoptop buildings.

### **Current Planning Controls**

The site is zoned IN2 Light Industrial under LEP 2011 (**Figure 2**), while the adjoining properties to the north and east are zoned B4 Mixed Use, B1 Neighbourhood Centre, R4 High Density Residential and R1 General Residential. The objectives of the zone pursuant to Clause 2.3 of LEP 2011 are:

#### *1 Objectives of 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.*

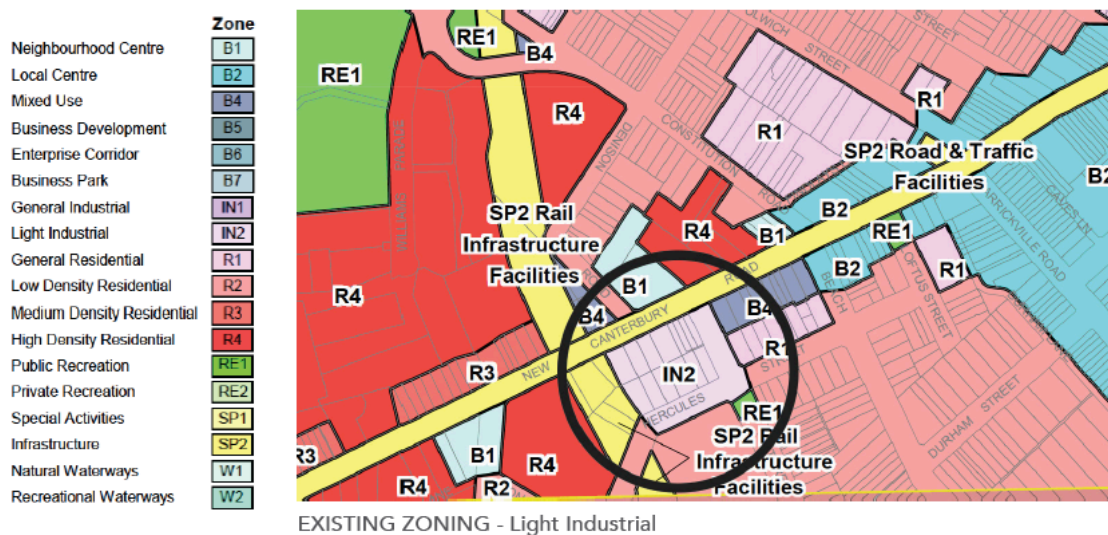
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To provide business and office premises for the purposes of certain art, technology, production and design sectors.

Uses permitted with consent in the IN2 zone in item 3 of Clause 2.3 of LEP 2011 include light industries, dwelling houses, hospitals, neighbourhood shops, warehouse and distribution centres.

The maximum FSR for the site is 0.95:1 pursuant to Clause 4.4 of LEP 2011 as the site is located within “M”, under FSR Map 01 (**Figure 3**).

The site is not subject to any maximum Height of Buildings control under Clause 4.3 of LEP 2011.

Pursuant to Clause 5.10 of LEP 2011, the site is not located within any *Heritage Conservation Area*. The site is also not in close proximity to any local heritage item (**Figure 4**).



**Figure 2 Extract from the Zoning Map (LEP 2011) showing land affected by the Planning Proposal**



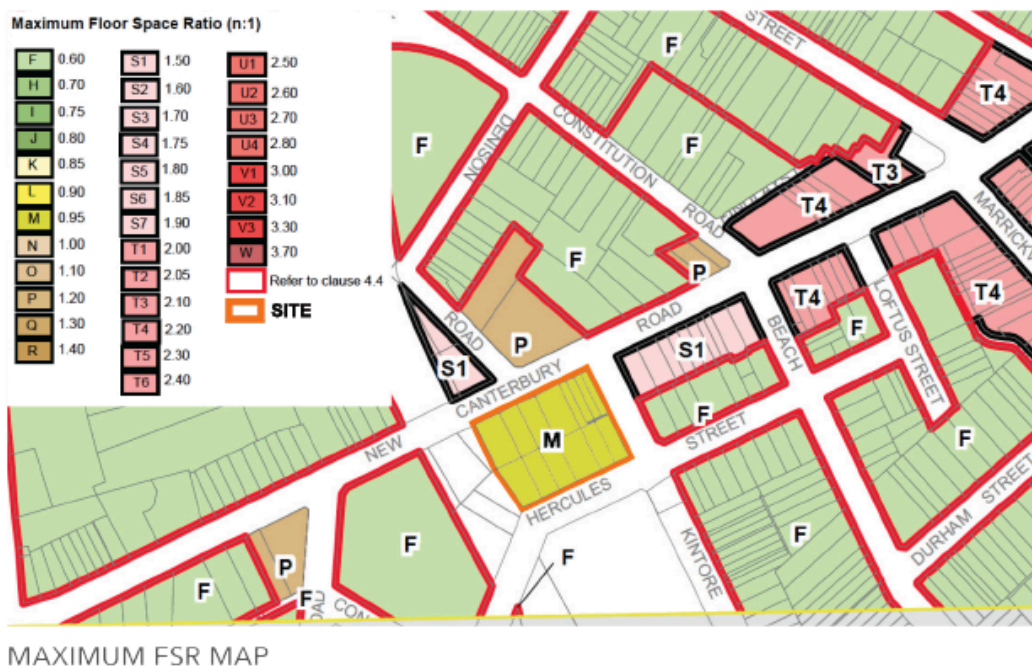


Figure 3 Extract from the Floor Space Ratio Map (LEP 2011) showing land affected by the Planning Proposal

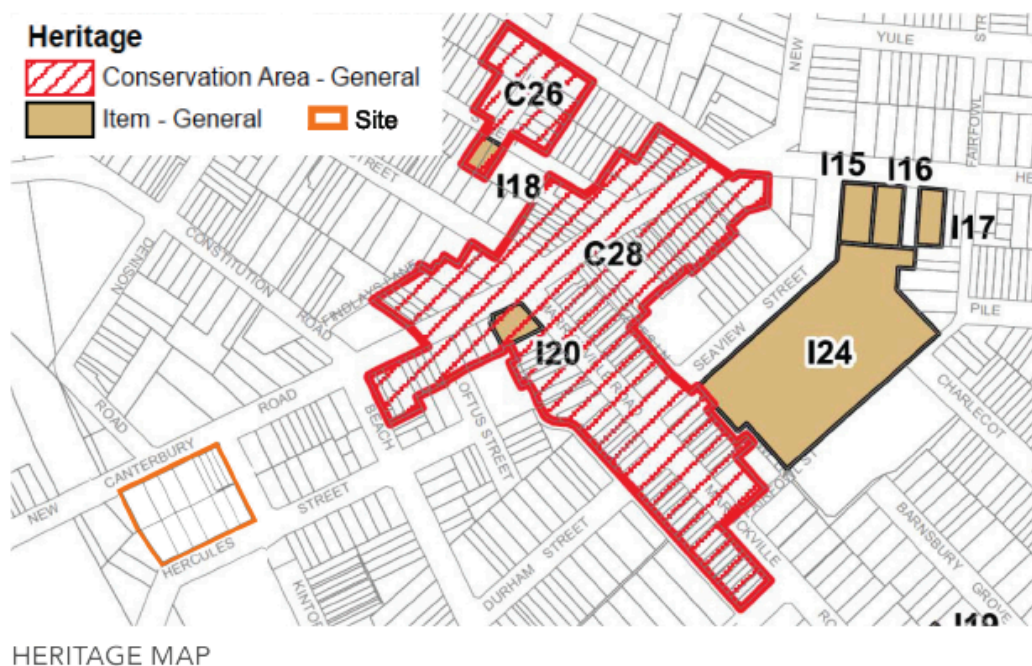


Figure 4 Extract from the Heritage Map (LEP 2011) showing land affected by the Planning Proposal

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The site is not affected by aircraft noise (Clause 6.5 of LEP 2011), with the site being located outside the 20 ANEF contour.

The *Marrickville Development Control Plan 2011* (DCP 2011) effectively controls height with the provisions for the industrial development imposing a maximum building height consistent with other industrial buildings in the vicinity. Other controls relevant to the site under DCP 2011 would be considered at DA stage.

*State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development* (SEPP 65) and the associated *Apartment Design Guide* (ADG) is also relevant to the Planning Proposal.

### **Request to amend the planning controls**

A Planning Proposal, prepared by Mersonn, on behalf of Angus Developments, was lodged with Council on 27 July 2016. The proposal sought to amend LEP 2011 as it applies to 466 – 480 New Canterbury Road and 26 to 38 Hercules Street, Dulwich Hill to facilitate redevelopment of the site for the purpose of mixed use commercial and residential development on the site that will:

- be able to accommodate approximately 135 apartment dwellings;
- provide for approximately 1000m<sup>2</sup> of gross floor area (GFA) of retail floor space including a local supermarket on the north-west corner of the subject site immediately adjacent to Dulwich Grove Light Rail Station;
- provide for approximately 400m<sup>2</sup> GFA of commercial floor space on the north-eastern portion of the subject site fronting New Canterbury Road;
- provide a public link between Hercules Street and New Canterbury Road adjacent to the light rail station; and
- retain the Greek Orthodox Church fronting Hercules Street.

The proposal intends to amend the Marrickville LEP 2011 by:

- rezoning the site from IN2 Light Industrial to part RE1 Public Recreation, part B5 Business Development, part R4 High Density Residential and part RE2 Private Recreation;
- increasing the FSR for the site from 0.95:1 to between 2.2:1 and 3.3:1 over most of the site and not place an FSR requirement on the proposed RE2-zoned part of the site;
- introducing a range of maximum building heights across the site from 9.5m (three storeys) to 32m (nine storeys);
- amending Schedule 1 Additional Permitted Uses to permit:

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- residential flat buildings within the B5-zoned land on the basis that this development is not located at the ground floor of a development fronting New Canterbury Road;
  - introducing shops on part of the site adjacent to the light rail station (at 478- 480 New Canterbury Road); and
  - introducing a new local clause allowing flexibility in the height controls to be applied across the site up to 1m horizontally.

The proposal is not a result of a strategic study; however, in its current form it is the result of the recommendations made by the Sydney Eastern City Planning Panel. The proposal to amend the LEP and maps is the best means of achieving the intent of the proposal and will enable mixed-use development in a highly accessible location consistent with the direction of the revised draft Sydenham to Bankstown Urban Renewal Corridor Strategy.

The planning proposal was first submitted to Council on 27 July 2016. At its meeting of 25 July 2017, Council considered a report recommending the development intent of the planning proposal be supported and a copy be forwarded to the Minister for Planning for a Gateway determination. The Council report also made several urban design recommendations and suggested amendments to the proposed controls. At the same meeting, the Council administrator determined to "defer consideration of the planning proposal until the finalisation of the Sydenham to Bankstown Urban Renewal Corridor Strategy is adopted".

On 1 August 2017, the proponent lodged a rezoning review application for the planning proposal with the Department because Council had failed to indicate its support for the planning proposal within 90 days. On 15 August 2017, the Department wrote to Council seeking comments. On 24 August, the Department received comments from Council requesting its resolution of 25 July 2017 be considered in the assessment of the rezoning review.

The rezoning review was put to the panel on 12 October 2017. The panel recommended the proposal should proceed to Gateway and be amended as follows:

- incorporate Council staff recommendations detailed in their report on the planning proposal to Council's meeting of 25 July 2017;
- ensure an active street frontage to New Canterbury Road;
- create opportunities for the retention of existing and new employment uses on the site;
- provide a through-site link that supports Council's Greenway Master Plan;
- include a flexibility provision enabling the variation of different zoning, height and FSR mapping controls across the site by up to 1 m horizontally; and
- ensure the flexibility provision enabling a 1 m variation should not apply to the open space.



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On 22 November, Council wrote to the Department accepting the role of planning proposal authority as resolved at its meeting of 21 November.

The Gateway Determination was issued on 2 November 2018 under section 3.34(2) of the Environmental Planning and Assessment Act 1979 (the Act) that an amendment to the Marrickville Local Environmental Plan (LEP) 2011 to facilitate a mixed-use commercial and residential redevelopment should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be amended to:
    - (a) reflect the updated Environmental Planning and Assessment Act 1979;
    - (b) address the Greater Sydney Region Plan and its priorities;
    - (c) address the Eastern City District Plan;
    - (d) update the objectives and intended outcomes to clearly describe what is proposed for the site, consistent with *A guide to preparing planning proposals*;
    - (e) remove draft clauses from all sections of the planning proposal and replace with plain English explanations of the provisions consistent with *A guide to preparing planning proposals*;
    - (f) confirm the proposed RE1 and RE2 zoning of the site;
    - (g) include an intent to allow for minor variations to the prescriptive zoning, height and floor space ratio standards on the site by 1 m horizontally except the zonings for open space;
    - (h) include an acknowledgment that satisfactory arrangements will be required to address state infrastructure needs as the site is in the Sydenham to Bankstown Corridor;
    - (i) include an intention to require that a development application pertaining to the site for residential and/or mixed-use development will be lodged within three years of the LEP being made. If no development application is lodged within this time frame, the effect of the amendments to rezone the site will cease;
    - (j) undertake an economic impact analysis assessing the loss of industrial zoning and urban service uses on the site with regards to the local economy; and
    - (k) update the concept design for the proposal to demonstrate the likely built forms and masterplan layout for the site and reflect the proposed LEP amendments.
  2. Prior to community consultation, the revised planning proposal is to be forwarded to the Department for review.
  3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
    - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
    - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
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4. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

- Transport for NSW - Sydney Light Rail;
- Roads and Maritime Services; and
- Department of Education.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The time frame for completing the LEP is to be 24 months following the date of the Gateway determination.

The planning proposal has been amended in accordance with (1) above.

An economic impact analysis has been undertaken addressing the loss of industrial zoning and urban services on the site with regards to the local economy and is submitted with the planning proposal.

The concept design has been updated to demonstrate the likely built forms and masterplan layout for the site and reflect the proposed LEP amendments.

It is considered that the planning proposal is ready for exhibition under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:

- (c) the planning proposal must be made publicly available for a minimum of 28 days; and
- (d) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).

It is considered that the planning proposal is ready for consultation with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:

- Transport for NSW - Sydney Light Rail;
- Roads and Maritime Services; and
- Department of Education.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

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## PLANNING PROPOSAL

The proposal intends to amend the Marrickville LEP 2011 by:

- rezoning the site from IN2 Light Industrial to part RE1 Public Recreation, part B5 Business Development, part R4 High Density Residential and part RE2 Private Recreation (Figure 5);
- increasing the FSR for the site from 0.95:1 to between 2.2:1 and 3.3:1 over most of the site and not place an FSR requirement on the proposed RE2-zoned part of the site (Figure 6);
- introducing a range of maximum building heights across the site from 9.5m (three storeys) to 32m (nine storeys) (Figure 7);
- amending Schedule 1 Additional Permitted Uses to permit:
  - residential flat buildings within the B5-zoned land on the basis that this development is not located at the ground floor of a development fronting New Canterbury Road;
  - introducing shops on part of the site adjacent to the light rail station (at 478- 480 New Canterbury Road); and
- Amend Part 6 Additional Local Provisions to insert a site specific clause to allow minor variations to the prescriptive zoning, height and floor space ratio standards by 1m horizontally except the zonings for open space;
- Amend Part 6 Additional Local Provisions to insert a site specific provision to require satisfactory arrangements to be made for provision of State public infrastructure before development consent can be granted for development of the site for residential accommodation or mixed use development.
- Amend Part 6 Additional Local Provisions to insert a site specific provision to reverse the proposed amendments unless a Development Application for a residential and/or mixed-use development on the site is lodged within three years of the proposed amendments being made.
- Amend Part 6 Additional Local Provisions to insert a site specific provision to permit vehicular and pedestrian access, car parking and site facilities on the land at 34-38 Hercules Street and the rear of 474 New Canterbury Road, Dulwich Hill in Zone R4 High Density Residential to service the development on the land at 474-480 New Canterbury Road, Dulwich Hill in Zone B5 Business Development.

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Part 3 of the Planning Proposal demonstrates that the amendments have strategic merit, and that the bulk of development that would be facilitated under the proposed amendment to the FSR and height is appropriate for the site. The Planning Proposal is considered consistent SEPP 65 and the ADG.

The proponent's Planning Proposal was accompanied by supporting documentation, including concept architectural plans and sketch as well as ADG compliance tables, an Urban Design Report, Traffic Impact Assessment, Heritage Impact Assessment, Economic Impact Analysis, survey plans, and a letter of offer to enter into a Voluntary Planning Agreement for the provision of public open space dedication and the affordable places.

Angus Developments have provided a VPA letter of Offer (Attachment 1). This VPA should be progressed in response to the letter of offer to ensure the land dedication and embellishment and affordable places are provided and managed by a community housing provider.

## **PART 1 – Objectives and 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 maintain the opportunity for light industrial uses while ensuring a broader mix of employment uses, such as business and office premises and facilitating the provision of limited retail uses and of housing on the site. A dedicated through-site link is provided between Hercules Street and New Canterbury Road along the western edge of the site to connect the Council Greenway project directly to Dulwich Grove light rail station promoting walking, cycling and public transport usage.

The intended effect of this planning proposal is to amend the *Marrickville* LEP 2011 to apply a more consistent zoning, height and FSR provisions to the land known as 466 – 480 New Canterbury Road and 26 to 38 Hercules Street, Dulwich Hill, being Lot 1 DP 542147; Lot 2 DP 542147; Lot 3 DP 542147; Lot 4 DP 542147; Lots 1 and 2 DP 540366; Lot 3 DP 236603; Lot 2 DP 236603; Lot 1 DP 236603; Lot 14 Section 4 DP 932; Lot 4 DP 540366; Lot 2 Lot 7 DP 236603; Lot 6 DP 236603; and Lot 5 DP 236603.

The intended outcome is to retain and improve the employment uses and increase the residential 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.

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By rezoning and 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 Dulwich Grove Light Rail Station and near Dulwich Hill Railway Station, is consistent with good planning practice with regard to transport oriented development.

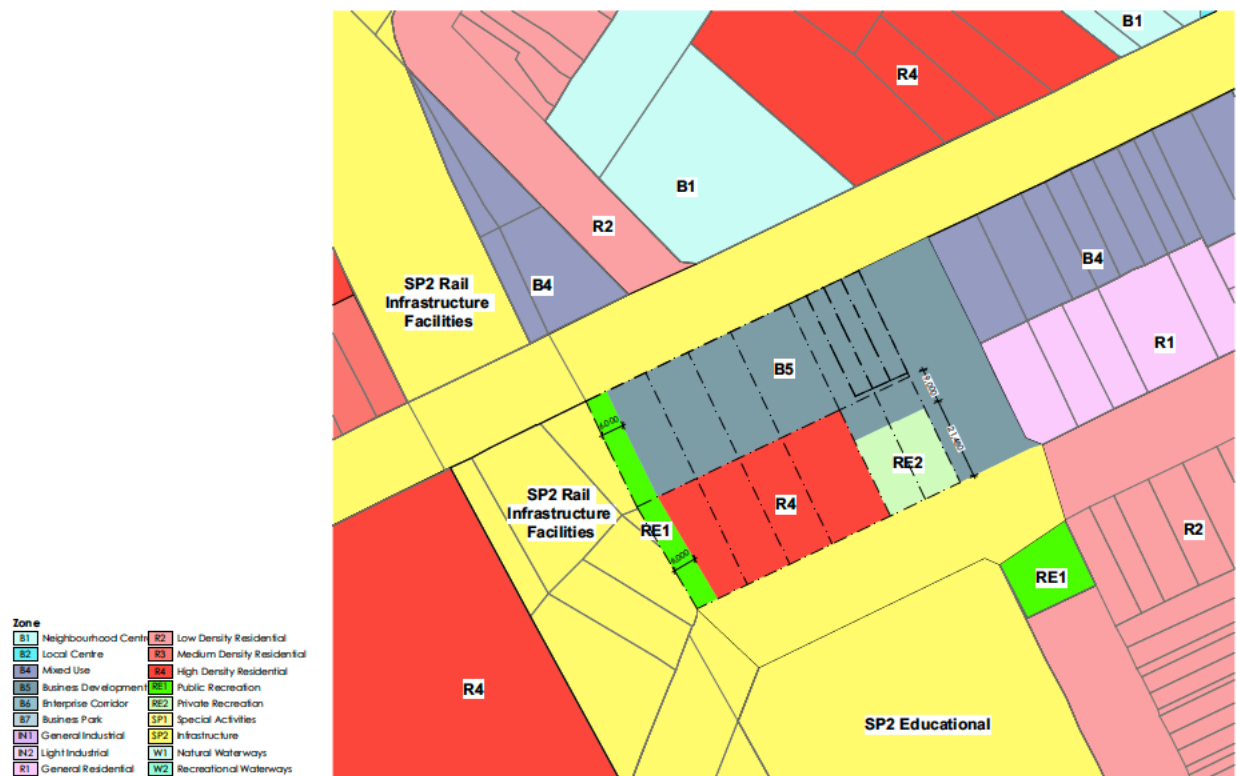
## **PART 2 – Explanation of Provisions**

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 Marrickville LEP:

- Amend the Land Zoning Map (Figure 5):
  - to apply RE1 Public Recreation to part Lot 1 and part Lot 5 DP 236603,
  - to apply B5 Business Development to part Lot 1 DP 236603, Lot 2 DP 236603; Lot 3 DP 236603; Lot 1 DP 540366; Lot 1 DP 542147; Lot 2 DP 542147; Lot 3 DP 542147; Lot 4 DP 542147; part Lot 14 Section 4 DP 932 and part Lot 4 DP 540366;
  - to apply R4 High Density Residential to part Lot 5 DP 236603; Lot 6 DP 236603; Lot 7 DP 236603 and Lot 2 DP 540366
  - to apply RE2 Private Recreation to part Lot 14 Section 4 DP 932 and part Lot 4 DP 540366;
- Amend the FSR Map (Figure 6):
  - to apply to 3.3:1 to Lot 1 and Lot 5 DP 236603; Lot 2 DP 236603; Lot 6 DP 236603; part Lot 3 DP 236603 and part Lot 7 DP 236603;
  - to apply to 3:1 to part Lot 14 Section 4 DP 932 and part Lot 4 DP 540366; Lot 1 DP 542147; Lot 2 DP 542147; Lot 3 DP 542147; Lot 4 DP 542147;
  - to apply to 2.2:1 to part Lot 3 DP 236603 and part Lot 7 DP 236603; Lots 1 and 2 DP 540366;
  - to apply to 0.6:1 to part Lot 4 DP 540366;
- Amend the Height Map (Figure 7):
  - to apply to 32m to part Lot 5 DP 236603 and Lot 6 DP 236603;
  - to apply to 29m to part Lot 1 and part Lot 2 DP 236603;
  - to apply to 20m to Lot 7 DP 236603 and Lots 2 DP 540366;
  - to apply to 17m to part Lot 1 and part Lot 2 DP 236603; Lot 3 DP 236603; Lot 1 DP 540366; part Lot 4 DP 540366; Lot 1 DP 542147; Lot 2 DP 542147; Lot 3 DP 542147; Lot 4 DP 542147 and part Lot 14 Section 4 DP 932;
  - to apply to 9.5m to part Lot 14 Section 4 DP 932 and part Lot 4 DP 540366;



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- amending Schedule 1 Additional Permitted Uses to permit:
    - residential flat buildings within the B5-zoned land on the basis that this development is not located at the ground floor of a development fronting New Canterbury Road;
    - introducing shops on part of the site adjacent to the light rail station (at 478- 480 New Canterbury Road); and
  - Amend Part 6 Additional Local Provisions to insert a site specific clause to allow minor variations to the prescriptive zoning, height and floor space ratio standards by 1m horizontally except the zonings for open space;
  - Amend Part 6 Additional Local Provisions to insert a site specific provision to require satisfactory arrangements to be made for provision of State public infrastructure before development consent can be granted for development of the site for residential accommodation or mixed use development.
  - Amend Part 6 Additional Local Provisions to insert a site specific provision to reverse the proposed amendments unless a Development Application for a residential and/or mixed-use development on the site is lodged within three years of the proposed amendments being made.
  - Amend Part 6 Additional Local Provisions to insert a site specific provision to permit vehicular and pedestrian access, car parking and site facilities on the land at 34-38 Hercules Street and the rear of 474 New Canterbury Road, Dulwich Hill in Zone R4 High Density Residential to service the development on the land at 474-480 New Canterbury Road, Dulwich Hill in Zone B5 Business Development.



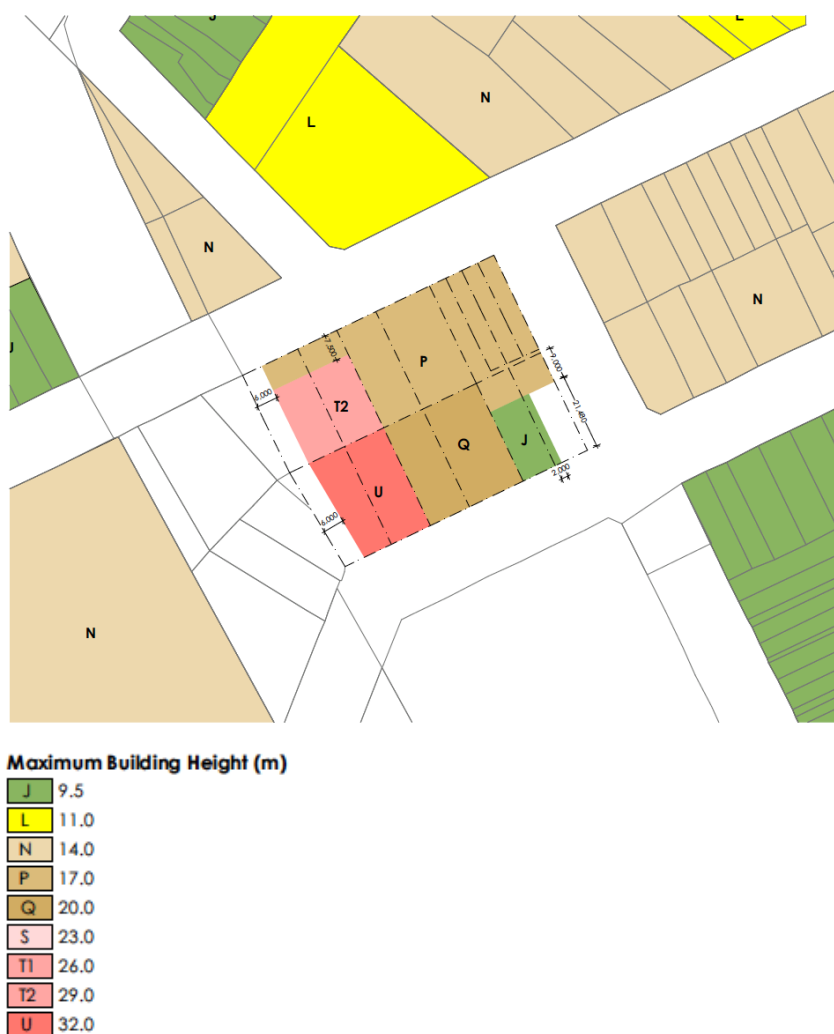
**Figure 5 Extract from the Zoning Map (LEP 2011) showing land affected by the Planning Proposal**



Maximum Floor Space Ratio (n:1)

F 0.60	S1 1.50	U1 2.50
H 0.70	S2 1.60	U2 2.60
I 0.75	S3 1.70	U3 2.70
J 0.80	S4 1.75	U4 2.80
K 0.85	S5 1.80	V1 3.00
L 0.90	S6 1.85	V2 3.10
M 0.95	S7 1.90	V3 3.30
N 1.00	T1 2.00	W 3.70
O 1.10	T2 2.05	
P 1.20	T3 2.10	
Q 1.30	T4 2.20	
R 1.40	T5 2.30	
	T6 2.40	

**Figure 6 Extract from the Floor Space Ratio Map (LEP 2011) showing land affected by the Planning Proposal**



**Figure 7 Extract from the Height of Buildings Map (LEP 2011) showing land affected by the Planning Proposal**

### **PART 3 – Justification**

This section assesses the planning proposal against the matters contained in the NSW DPIE Guide to Preparing Planning proposals, in its **clause 2.3 - Part 3 –Justification**, which requires a response to specific questions indicated below.

#### **Section A – Need for the Planning Proposal**

##### **Q1. Is the Planning Proposal a result of any strategic study or report?**

The proposal is not a result of a strategic study or report.

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However, the planning proposal is consistent with the revised draft Sydenham to Bankstown Strategy which recommended medium -high rise housing on the subject site of up to 8 storeys and providing the Greenway project connection to the west of the site.

The proposal to amend the LEP and maps is the best means of achieving the intent of the proposal and will enable mixed-use development in a highly accessible location consistent with the direction of the revised draft Sydenham to Bankstown Urban Renewal Corridor Strategy.

The planning proposal was first submitted to Council on 27 July 2016. At its meeting of 25 July 2017, Council considered a report recommending the development intent of the planning proposal be supported and a copy be forwarded to the Minister for Planning for a Gateway determination. The Council report also made several urban design recommendations and suggested amendments to the proposed controls. At the same meeting, the Council administrator determined to "defer consideration of the planning proposal until the finalisation of the Sydenham to Bankstown Urban Renewal Corridor Strategy is adopted".

On 1 August 2017, the proponent lodged a rezoning review application for the planning proposal with the Department because Council had failed to indicate its support for the planning proposal within 90 days. On 15 August 2017, the Department wrote to Council seeking comments. On 24 August, the Department received comments from Council requesting its resolution of 25 July 2017 be considered in the assessment of the rezoning review.

The rezoning review was put to the panel on 12 October 2017. The panel recommended the proposal should proceed to Gateway and be amended as follows:

- incorporate Council staff recommendations detailed in their report on the planning proposal to Council's meeting of 25 July 2017;
- ensure an active street frontage to New Canterbury Road;
- create opportunities for the retention of existing and new employment uses on the site;
- provide a through-site link that supports Council's Greenway Master Plan;
- include a flexibility provision enabling the variation of different zoning, height and FSR mapping controls across the site by up to 1 m horizontally; and
- ensure the flexibility provision enabling a 1 m variation should not apply to the open space.

On 22 November 2017, Council wrote to the Department accepting the role of planning proposal authority as resolved at its meeting of 21 November 2017.

The Gateway Determination was issued on 2 November 2018 . The DPIE did not delegate plan making powers to the Council.

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An economic impact analysis has been undertaken addressing the loss of industrial zoning and urban services on the site with regards to the local economy and is submitted with the planning proposal. The concept design has been updated to demonstrate the likely built forms and masterplan layout for the site and reflect the proposed LEP amendments.

Development of this site offers a good opportunity to deliver additional dwellings and employment generating uses with access to services and public transport. Revision of the urban design scheme of the site currently proposed under this Planning Proposal has been provided.

**Q2. 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 Marrickville LEP 2011.

The Planning Proposal facilitates the site specific changes to planning controls that have been requested without compromising the integrity of the Marrickville LEP 2011.

**Section B – Relationship to strategic planning framework**

**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)?**

**Greater Sydney Region Plan**

The Greater Sydney Region Plan was released on 18 March 2018 and seeks to manage growth and change and guide infrastructure delivery across the region. It sets a strategy for Greater Sydney that district plans implement at a local level. The plan was developed with the Metropolitan Transport Plan, Future Transport 2056 and the State Infrastructure Strategy. These plans identify state infrastructure to support broad-scale land-use planning.

The planning proposal is consistent with the objectives and actions of the plan, particularly Objective 10: Greater housing supply, Objective 11: Housing is more diverse and affordable and Objective 12: Great places that bring people together.

The proposal is consistent with Objective 23: Industrial and urban services land is planned, protected and managed. This objective seeks to protect all industrial land from conversion to land uses that are not for the purposes of industrial and/or urban services. The proposal allows for retail and commercial uses including a local supermarket which provide services in close proximity to transport and improve employment generation levels on the site. The plan does recognise there will be a need ' ... to review the list of appropriate activities within any precinct in consideration of evolving business practices and how they can best be supported through permitted uses in local environmental plans.

The planning proposal seeks to rezone part of the site as B5 Business Development allowing light industries, which currently occupy the site, and business and office premises. The proposed inclusion of the B5 Business Development zoning for the site and the minimum floor space requirements will help maintain employment uses on the site.

To achieve these goals, the Plan sets out directions and actions as well as priorities for each subregion. The relevant directions with respect to this Planning Proposal are outlined below, which the Planning Proposal is considered to be consistent with.

**Table 1 Consideration of Greater Sydney Region Plan: “A Metropolis of Three Cities”**

Direction	Response
<b>Part 3 – Infrastructure and collaboration</b>	
Objective 1 – Infrastructure supports the three cities	The proposal supports north-south connections consistent with Strategy 1.2 through the linkage to the Greenway Corridor and integrating it to the existing light rail infrastructure.
Objective 4 – Infrastructure use is optimized	The proposals maximises the utility of the existing infrastructure assets to reduce the demand for new infrastructure through the provision of a linkage to the Greenway corridor, and linkage from New Canterbury Road to Hercules street along the light rail corridor, connecting infrastructure and transport modes and supporting it through co-located high-density mixed use development.
<b>Part 4 – Liveability Housing the city</b>	
Objective 6 – Services and infrastructure meets communities changing needs	The proposal creates public domain linkages between the existing education facilities and

	light rail transport infrastructure facilitating places and transport designed to be accessible by all people, dedicating land for public use to support optimizing available public land for social infrastructure.
Objective 7- Communities are healthy, resilient and socially connected	The proposal creates and dedicates a pedestrian and cycleway connection to the Greenway Corridor providing a walkable place at a human scale with active street life prioritizing opportunities for people to walk, cycle and use public transport consistent with Strategy 7.1.
Objective 10 - Greater Housing Supply	The proposal will provide more housing supply, in proximity to the existing centre to create more walkable neighbourhoods. The proposal will create land zoned for residential development served by adequate infrastructure and ready for development.
Objective 11- Housing is Diverse and Affordable	The proposal ensures a supply of housing in a location well supported by existing services and amenity with an emphasis on public transport access. The proposal includes the opportunity for a diversity of housing types, sizes and price points of universal design and adaptability to peoples changing needs. A separate Voluntary Planning Agreement is proposed, as part of the uplift in land value, for provision of affordable dwellings that caters to lower income households.
<b>A city of great places</b>	
Objective 12- Great places that bring people together	The proposal uses a place-based and collaborative approach and prioritises a people-friendly public realm and open spaces as a central organising design principle. The dual function of streets as places for people and movement are recognized and balanced, providing fine grain urban form, diverse land

	<p>use mix, high amenity and walkability within a 10-minute walk of the existing centre. The proposal recognises and celebrates the character of a place and its people consistent with Strategy 12.1.</p>
<b>Part 5 – Productivity A well connected city</b>	
Objective 14- Integrated land use and transport creates walkable and 30- minute cities	<p>The proposal is within close vicinity to the Dulwich Grove light rail station and Dulwich Hill train station.</p> <p>The site is a 5 minutes walk to the Dulwich Hill local centre and nearby local public primary and high schools. The proposal is within 20 minutes walking distance of local parks.</p> <p>The proposal will serve to attract housing around the existing centre to create walkable, cycle-friendly neighbourhood.</p> <p>The proposal serves to develop a more efficient public transport interchange to enable people to reach more destinations by transferring between walking, cycling and light rail services.</p> <p>The proposal serves to enhance walkability in and around the local centre with direct, safe and accessible routes to local destinations and is located within 10 minutes of the local centre.</p> <p>The proposal facilitates improvements to the street environment to encourage walking and cycling achieved through place-based planning.</p>
<b>Jobs and Skills for the city</b>	

Objective 23 Industrial and urban services land is planned, retained and managed.	The planning proposal seeks to rezone part of the site as B5 Business Development retaining the opportunity for light industries, (which currently occupy the site), with limited retail use while also encouraging business and office premises to allow for a broader range of services. The proposed inclusion of the B5 Business Development zoning for the site will maintain employment uses on the site while simultaneously minimizing competition with the existing retail uses and facilities within the Dulwich Hill local centre, complimenting and supporting the local centre rather than competing with it.
<b>Part 6 Sustainability A city in its landscape</b>	
Objective 30 Urban tree canopy cover is increased.	The proposal will deliver a significant improvement in the urban tree canopy, where the light industrial character of the subject site currently provides negligible landscaping and tree planting and the proposal significantly improves landscape character.
Objective 31 Public Open Space is accessible, protected and enhanced, and	The proposal will dedicate a pedestrian link as public open space which will highly accessible and enhanced with landscape improvements consistent with the desired character of Council's Greenway project.
Objective 32 .The Green Grid links paths, open spaces, bushland, and walking and cycling paths.	The proposal will deliver a pedestrian link between New Canterbury Road and Hercules Street that will enable improved access to the light rail station as part of Council's Greenway project.



The GSC released the Eastern City District Plan on 18 March 2018, which supports the implementation of the Greater Sydney Region Plan at a district level. The district plan contains planning priorities and actions to guide the growth of the Eastern City District while improving its social, economic and environmental assets. The proposal is consistent with the planning priorities. The planning proposal is therefore considered to be broadly consistent with the district plan.

**Table 2 Consideration of Eastern City District Plan**

Direction	Response
<b>Part 2 – Directions for Infrastructure and collaboration</b>	
Planning Priority E1: Planning for a city supported by infrastructure;	The proposal better aligns growth with the existing infrastructure by identifying place-based opportunities that take into account the capacity of existing infrastructure. This equitably enhances local opportunities for connection to services, aligning land use and maximising the use of existing infrastructure assets and providing Greenway linkages to influence behavior changes to attract walking and cycling and , to reduce the demand for new infrastructure consistent with this priority.
Objective 4 – Infrastructure use is optimized	The proposals maximises the utility of the existing infrastructure assets to reduce the demand for new infrastructure through the provision of a linkage to the Greenway corridor, and linkage from New Canterbury Road to Hercules street along the light rail corridor, connecting infrastructure and transport modes and supporting it through co-located high-density mixed use development consistent with this priority.
<b>Part 3 – Directions for Liveability</b>	

Planning Priority E3: Providing services and social infrastructure to meet peoples changing needs;	The proposal creates public domain linkages between the existing education facilities and light rail transport infrastructure facilitating places and transport designed to be accessible by all people, dedicating land for public use to support optimizing available public land for social infrastructure consistent with this priority.
Planning Priority E4: Fostering healthy, creative, culturally rich and socially connected communities;	The proposal crates and dedicates a pedestrian and cycleway connection to the Greenway Corridor providing a walkable place at a human scale with active street life prioritizing opportunities for people to walk, cycle and use public transport consistent with this priority.
Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage;	The proposal will provide more housing supply, in proximity to the existing centre to create more walkable neighbourhoods. The proposal will create land zoned for residential development served by adequate infrastructure and ready for development consistent with this priority.
<b>Part 3 – Directions for Productivity</b>	
A well connected city Planning Priority E10: Delivering integrated land use and transport planning and a 30-minute city	<p>The proposal is within close vicinity to the Dulwich Grove light rail station and Dulwich Hill train station.</p> <p>The proposal will contribute to pleasant and safe environments for walking and cycling where people and businesses can choose to locate and invest. Direct, safe and accessible routes to local destinations and services are provided within a 10-minute walk of centres.</p> <p>The proposal will allow for a future redevelopment of the site providing a range of employment and services in conjunction with</p>

	housing supply, choice and affordability with access to public transport consistent with this priority.
Jobs and skills for the city Planning Priority E12: Retaining and managing industrial and urban services land	The planning proposal seeks to rezone part of the site as B5 Business Development, as recommended by the former Marrickville Council, and was intended to allow the site to retain light industries while ensuring a mix of employment uses. The proposal allows limited retail use while also encouraging business and office premises to allow for a broader range of services. The proposed inclusion of the B5 Business Development zoning for the site will maintain employment uses on the site while broadening the range of urban services consistent with this priority.
<b>Part 4 – Directions for Sustainability</b>	
A city in its landscape Planning Priority E17: Increasing urban tree canopy cover and delivering Green Grid connections.	<p>The existing site and its current light industrial uses have high proportions of hard surface areas and correspondingly low levels of tree canopy cover. The proposal will contribute additional public open space, tree canopy and green connections to the community ensuring the urban tree canopy cover is increased consistent with this priority.</p> <p>The proposed walkway dedication will make a significant contribution to the Greater Sydney Green Grid linking open spaces with walking and cycling paths.</p>
Planning Priority E18: Delivering high quality open space.	The proposal provides open space areas that establish physical links that support social networks and create a sense of community by delivering connected walking and cycling trails the character of a place and its people consistent with this priority.

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The Planning Proposal is consistent with Eastern City District Plan.

### **The revised draft Sydenham to Bankstown Urban Renewal Corridor Strategy**

A revised draft Sydenham to Bankstown Urban Renewal Corridor Strategy (S2B Strategy) was placed on exhibition from June to September 2017.

The draft strategy proposed that 'medium-high rise housing' was potentially suitable to a maximum building height of eight storeys. The subject proposal is broadly consistent with the draft S2B Strategy as the maximum building height sought is only one storey greater and most of the site is proposed to have a maximum building height of approximately seven storeys or less.

The proposal considers the proposed mixture of building height controls instead of a consistent eight storeys to be appropriate because:

- this will ensure an active frontage along New Canterbury Road; and
- it will confine the tallest built forms on the site to adjoining the light rail line and station to minimise impacts to adjoining development.

The planning proposal is also inconsistent with the draft S2B Strategy as it provides for a mixed-use development rather than only residential as identified in the strategy. The proponent and Council consider this a more appropriate response to the site as it:

- retains employment on the site; and
- provides commercial and retail development that will serve the community and be convenient to those using the adjacent Dulwich Grove Light Rail Station.

The proposed B5 zone for most of the site is to ensure an active street frontage to New Canterbury Road and create opportunities for the retention of and new employment uses on the site.

### **Assessment Criteria**

*'A guide to preparing planning proposals'* establishes Assessment Criteria to be considered in the justification of a Planning Proposal, which is considered below.

**Table 3 Consideration of the Planning Proposal against the Assessment Criteria of 'A guide to preparing planning proposals'**

Criteria	Assessment
<b>(a) Does the proposal have strategic merit? Is it:</b>	
<ul style="list-style-type: none"> <li>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;</li> </ul>	<p>As outlined above, the Planning Proposal is consistent with the Eastern City District Plan as it will allow greater housing choice, provide affordable housing and increase employment close to public transport and will assist the area in meeting its housing targets under the Plan.</p> <p>The proposal is consistent with the revised draft Sydenham to Bankstown Urban Renewal Corridor Strategy providing a mixture of height controls instead of a consistent 8 storey height across the site and provides a mix use development retaining and increasing employment on the site.</p>
<ul style="list-style-type: none"> <li>Consistent with the relevant local council strategy that has been endorsed by the Department; or</li> </ul>	<p>The proposal is consistent with the Marrickville Urban Strategy as it seeks to locate additional residential development close to an existing centre with good access to public transport and services.</p>
<ul style="list-style-type: none"> <li>Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends what have not been recognised by existing planning controls.</li> </ul>	<p>The Planning Proposal responds to changing circumstances of the operation of the light rail adjoining site. The site is an isolated industrial-zoned landholding immediately adjacent to a new public transit station and primary school. As such the proposal offers a unique opportunity to deliver additional development that is more compatible with the sites surrounds.</p>
<b>(b) Does the proposal have site-specific merit, having regard to the following:</b>	

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<ul style="list-style-type: none"> <li>The natural environment (including known significant values, resources or hazards),</li> </ul>	<p>The Planning Proposal is located within existing urban land and does not have any significant environmental values or hazard constraints which have not been considered in this assessment. Further consideration of additional landscaping opportunities on the site will be undertaken at DA stage.</p>
<ul style="list-style-type: none"> <li>The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal; and</li> </ul>	<p>The Planning Proposal has considered the potential impacts on the built environment and adjoining properties in its Urban Design Report and has been reviewed by Inner West Council Architectural Excellence Panel and amended in accordance with their recommendations. The Planning Proposal urban design report has been further revised to ensure it is consistent with the ADG and reduces potential adverse impacts on adjoining properties while providing additional housing and employment opportunities in the area.</p>
<ul style="list-style-type: none"> <li>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.</li> </ul>	<p>There are existing services to the site for the Planning Proposal, which will be augmented by the applicant, where required, at DA stage. It is not anticipated that the density increases will create substantial additional demand for infrastructure and services at the site.</p>

Accordingly, it is considered that the Planning Proposal has strategic merit as well as site-specific merit in accordance with this assessment criteria subject to the requested amendments to the urban design scheme for the site under the Planning Proposal.

**Q4. Is the planning proposal consistent with the council's local strategy or other local strategy plan?**

There a number of local strategies and plans (including those adopted by the former Marrickville Council) that are relevant to the Planning Proposal, which are considered below:

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## **Marrickville Urban Strategy**

The Marrickville Urban Strategy was adopted by Council in 2007. The strategy established a vision and coordinated direction addressing a range of planning, community and environmental issues to guide short, medium and long-term strategic planning policies for job and dwelling creation in the former Marrickville LGA over 10 years.

The Planning Proposal is consistent with the Marrickville Residential Strategy because it will:

- Continue creating and maintaining clean, green and attractive public places of which citizens feel proud;
- Develop a community which is more liveable, safer and accessible to all citizens;
- Promote a vibrant street-life that encourages the community to engage and welcomes visitors, where local businesses flourish, and local village shopping precincts are attractive and sustainable;
- Plan, promote and lobby for a sustainable and integrated transport system that improves the quality of life for the people of Marrickville;
- Maintain the vibrancy and liveability of Marrickville by having balanced and guided development, clean industry, and work to minimise the noise and other pollutants of our environment; and
- Preserve and strengthen strategic employment lands;
- Improve local public transport, walking and cycling connections to centres;
- Improve local parks and public domain in centres;
- Increase community facilities.

The proposal is consistent with the strategy as it seeks to locate additional residential development close to an existing centre, with good access to public transport and services.

## **Inner West Council's Affordable Housing Policy 2017**

Inner West Council adopted its *Inner West Council Affordable Housing Policy 2017* on 28 March 2017.

The policy provides that Council can legally enter into voluntary planning agreements that include the dedication of land free of cost, the payment of a monetary contribution, or provision of any other material public benefit, or any combination of these, to be used for or applied towards a public purpose. Such planning agreements can be made, for example, with respect to the capture of a reasonable share of additional land value that has resulted from a proposal to rezone or otherwise

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vary planning controls that would normally apply to a site or within a precinct under planning proposals.

The proponent has worked with Inner West Council to determine the uplift to the land value arising from the planning proposal for which an offer has been made by the Applicant.

It is considered that the Planning Proposal is consistent with the Affordable Housing Policy 2017 with respect to the capture of a reasonable share of additional land value that has resulted from a proposal to rezone and the VPA will be publicly exhibited.

### **Our Inner West: Community Strategic Plan for Inner West Community 2018**

Inner West Council adopted its Our Inner West: Community Strategic Plan for Inner West Community 2018 In June 2018.

The Planning Proposal is consistent with the Inner West: Community Strategic Plan because it will:

- Contribute towards creating an ecologically sustainable Inner West;
- Develop a unique, liveable, networked neighbourhood;
- Support creative communities and a strong economy;
- Support caring, happy, healthy communities;

The proposal is consistent with the strategy as it seeks to locate additional employment and residential development close to an existing centre, with good access to public transport and services and provide additional green space and greenway network connections.

### **Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?**

The Planning Proposal is consistent with the applicable State Environmental Planning Policies (SEPPs) as shown in the table below.

### **Table 4 Assessment of the Planning Proposal against the relevant SEPPs**



State Environmental Planning Policy (SEPP)	Comment
SEPP 55 – Remediation of Land	The Planning Proposal does not contradict or hinder the application of this SEPP. The Planning Proposal does not include land that has been historically used for any purpose in Table 1 to the Contaminated Land guidelines. The potential for land contamination is considered unlikely and can be further assessed at DA stage. The Planning Proposal is generally consistent with this SEPP
SEPP 64 - Advertising and Signage	The Planning Proposal does not contradict or hinder the application of this SEPP. The Planning Proposal does not include any details regarding advertising and signage, however, this is likely to be incorporated into a future DA for the site, at which time this SEPP will be considered in detail. The Planning Proposal will not contain provisions that will contradict or would hinder application of this SEPP.
SEPP 65 - Design Quality of Residential Apartment Development	The Planning Proposal does not contradict or hinder the application of this SEPP. The Urban Design Report provided with the Planning Proposal investigated the implications of the design quality principles in the SEPP and also included an indicative compliance against the provisions of the ADG, which has been considered.
	<p>The ADG controls relate to amenity issues such as open space, solar access and ventilation, privacy and streetscape. There is general compliances of the Planning Proposal with these controls, but it is noted that some aspects of the Planning Proposal will develop through the detailed design of the development application and will ensure that any future proposal on the site is consistent with the provisions of the ADG.</p> <p>Furthermore, the future DA will need to demonstrate consistency with this SEPP.</p>

SEPP 70 - Affordable Housing (Revised Schemes)	The Planning Proposal does not contradict or hinder the application of this SEPP. The future development can provide an appropriate mix and number of dwellings which could contribute to affordable housing in the locality.
SEPP (Affordable Rental Housing) 2009	The Planning Proposal does not contradict or hinder the application of this SEPP.
BASIX SEPP	The Planning Proposal does not contradict or hinder the application of this SEPP. A future development application for any BASIX Affected development must comply with its provisions.
SEPP (Exempt and Complying Development) 2008	The Planning Proposal does not contain any proposed new uses or other provisions which would be contrary to the provisions of this SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	The Planning Proposal does not contradict or hinder the application of this SEPP.
SEPP (Infrastructure) 2007	<p>The site is located adjacent to the light rail corridor.</p> <p>The development is setback from the rail corridor by the proposed 6m cycle and pedestrian way Greenway link dedication. However, excavation for future basement parking will be within 25m of the rail corridor and future development will require notice to Transport for NSW and consideration of any response received.</p> <p>The Planning Proposal does not contradict or hinder the application of this SEPP. Concurrence from the RMS may also be required; however, this is dependent on the staging of the future development.</p>

**Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?**

The Planning Proposal has been assessed against each of the Section 9.1 directions. Consistency with relevant directions are discussed in the table below.

**Table 5 Assessment of the Planning Proposal against the relevant s9.1 Directions**

Direction title	Requirement	Comments	Consistent
<b>1. Employment And Resources</b>			
1.1 Business and Industrial Zones	(4) A planning proposal must:  (a) give effect to the objectives of this direction, (b) retain the areas and locations of existing business and industrial zones, (c) not reduce the total potential floor space area for employment uses and related public services in business zones, (d) not reduce the total potential floor space area for industrial uses in industrial zones, and ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.	See detail commentary below.	yes
1.2 Rural Zones	N/A	Not applicable	N/A
1.3 Mining, Petroleum production and Extractive Industries	N/A	Not applicable	N/A

1.4 Oyster Aquaculture	N/A	Not applicable	N/A
1.5 Rural Lands	N/A	Not applicable	N/A
<b>2. Environment and Heritage</b>			
2.1 Environment Protection Zones	N/A	Not applicable	N/A
2.2 Coastal Protection	N/A	Not applicable	N/A
2.3 Heritage Conservation	<p>(4) A planning proposal must contain provisions that facilitate the conservation of:</p> <p>(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</p> <p>(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of</p>	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The site is located in a heritage conservation zone and in close proximity to a local heritage item.</p> <p>The Planning Proposal is accompanied by a Heritage Impact Statement which concludes that the Planning Proposal will not adversely impact on the significance of the locality. The future DA will be accompanied with a further HIS. The Planning Proposal is generally consistent with this direction.</p>	Yes

	an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.		
2.4 Recreation Vehicle Areas	N/A	Not applicable	N/A
2.5 Application of E3 and E3 zones and Environmental Overlays in Far North Coast LEPs	N/A	Not applicable	N/A
<b>3. Housing, Infrastructure and urban Development</b>			
3.1 Residential Zones	<p>(4) A planning proposal must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p>	<p>The objectives of this direction are to encourage a variety and choice of housing types to provide for existing and future housing needs, to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environment and resource lands.</p> <p>The Planning Proposal encourages a variety of housing types with an affordable housing component. The Planning Proposal also utilises existing</p>	Yes

	<p>(d) be of good design.</p> <p>(5) A planning proposal must, in relation to land to which this direction applies:</p> <p>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> <p>not contain provisions which will reduce the permissible residential density of land.</p>	<p>infrastructure by maximising the permitted density on the site by making more efficient use of existing resources. The Planning Proposal will generally minimise adverse impacts on adjoining development.</p>	
3.2 Caravan Parks and Manufactured Home Estates	N/A	Not applicable	N/A
3.3 Home Occupations	N/A	Not applicable	N/A
3.4 Integrating Land Use and Transport	<p>(4) A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</p> <p>The Right Place for Business and Services –</p>	See detail commentary below.	Yes

	Planning Policy (DUAP 2001).		
3.5 Development Near Licensed Aerodromes	<p>(4) In the preparation of a planning proposal that sets controls for the development of land in the vicinity of a licensed aerodrome, the relevant planning authority must:</p> <p>(a) consult with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome,</p> <p>(b) take into consideration the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth,</p> <p>(c) for land affected by the OLS:</p> <p>(i) prepare appropriate development standards, such as height, and</p> <p>(ii) allow as permissible with consent development types that are compatible with the operation of an aerodrome</p> <p>(d) obtain permission from that Department of the Commonwealth, or their delegate, where a planning proposal proposes to</p>	<p>The objectives of this direction are to ensure the effective and safe operation of aerodromes, to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</p> <p>The is outside of the 20ANEF contour.</p>	Yes

	<p>allow, as permissible with consent, development that encroaches above the OLS. This permission must be obtained prior to undertaking community consultation in satisfaction of section 57 of the Act.</p> <p>(5) A planning proposal must not rezone land:</p> <p>(a) for residential purposes, nor</p> <p>increase residential densities in areas where the ANEF, as from time to time advised by that Department of the Commonwealth, exceeds 25, or</p> <p>(b) for schools, hospitals, churches and theatres where the ANEF exceeds 20, or</p> <p>(c) for hotels, motels, offices or public buildings where the ANEF exceeds 30.</p> <p>(6) A planning proposal that rezones land:</p> <p>(a) for residential purposes or to increase residential densities in areas where the ANEF is between 20 and 25, or</p> <p>(b) for hotels, motels, offices or public buildings</p>		
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	<p>where the ANEF is between 25 and 30, or</p> <p>(c) for commercial or industrial purposes where the ANEF is above 30, must include a provision to ensure that development meets AS 2021 regarding interior noise levels.</p>		
3.6 Shooting ranges	N/A	Not applicable	N/A
<b>4. Hazard and Risk</b>			
4.1 Acid Sulfate Soils	<p>(4) The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</p> <p>(5) When a relevant planning authority is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</p> <p>(a) the Acid Sulfate Soils Model LEP in the Acid</p>	<p>The site is identified as being Class 5 acid sulfate soils. The future DA will be subject to the provisions of Clause 6.1 of the LEP 2013.</p> <p>The Planning Proposal does not contradict or hinder application of the acid sulphate soils provisions in LEP 2011.</p>	Yes

	<p>Sulfate Soils Planning Guidelines adopted by the Director-General, or such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulfate Soils Planning Guidelines.</p> <p>(6) A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the Act.</p> <p>(7) Where provisions referred to under</p>		
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	paragraph (5) of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with paragraph (5).		
4.2 Mine subsidence and unstable land.	N/A	Not applicable	N/A
4.3 Flood Prone Land	The land is not flood affected.	Not applicable	N/A
4.4 Planning for Bushfire Protection	The land is not bushfire affected.	Not applicable	N/A
<b>1. Regional Planning</b>			
5.1 Implementation of Regional Strategies.	N/A	Not applicable	N/A
5.2 Sydney Drinking Water catchment	N/A	Not applicable	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast.	N/A	Not applicable	N/A

5.4 Commercial and Retail development along the Pacific Highway North Coast	N/A	Not applicable	N/A
5.8 Second Sydney Airport: Badgerys Creek	N/A	Not applicable	N/A
5.9 North West Rail Link Corridor Strategy	N/A	Not applicable	N/A
<b>2. Local Plan Making</b>			
6.1 Approval and Referral Requirements	(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and  (c) not identify development as designated development unless the relevant planning authority:  (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a	The Planning Proposal does not involve any concurrence, consultation or referral provisions.	Yes

6.2 Reserving Land for Public Purposes	<p>(4) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).</p> <p>(5) When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must:</p> <p>(a) reserve the land in accordance with the request, and</p> <p>(b) include the land in a zone</p>	The Planning Proposal does not involve any changes to land for public purposes.	Yes
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	<p>appropriate to its intended future use</p> <p>or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General),</p> <p>and</p> <p>(c) identify the relevant acquiring authority for the land.</p> <p>(6) When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the relevant planning authority must:</p> <p>(a) include the requested provisions,</p> <p>or</p> <p>(b) take such other action as advised by the Director-General of the Department of Planning (or an officer</p>		
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	<p>of the Department nominated by the Director-General) with respect to the use of the land before it is acquired.</p> <p>(7) When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the relevant planning authority must rezone and/or remove the relevant reservation in accordance with the request.</p>		
6.3 Site specific provisions	<p>(4) 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>	<p>The Planning Proposal involves an amendment to LEP 2011, to rezone the site to existing zones.</p>	Yes

	<p>(a) allow that land use to be carried out in the zone the land is situated on,</p> <p>or</p> <p>(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</p> <p>(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> <p>(5) A planning proposal must not contain or refer to drawings that show details of the development proposal.</p> <p>Consistency</p> <p>(6) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning</p>		
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	authority can satisfy the Director- General of the Department of Planning (or an officer of the Department nominated by the Director-General that the provisions of the planning proposal that are inconsistent are of minor significance.		
<b>3. Metropolitan Planning</b>			
7.1 Implementation of Greater Sydney Region Plan	(4) Planning proposals shall be consistent with:  (a) the NSW Government's Greater Sydney Region Plan	The Planning Proposal will achieve the vision and desired outcomes of the Plan by increasing the supply of housing and affordable housing in close proximity to the CBD and public and active transport infrastructure while maintaining the amenity of the local area.	Yes

#### 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 and will not reduce or remove business lands by retaining the opportunity for light industrial uses and will support the viability of strategic centres through the provision of

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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 B5 Business development will allow for the provision of more business land and more diverse business uses whilst retaining the opportunity for light industrial uses on the northern part of the site. The proposal demonstrates there will be no loss of employment generation but instead the potential for employment 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. Dulwich Grove Light Rail Station, opened in 2014, is adjacent to the subject site. Dulwich Hill Rail Station is located within walking distance of the site whilst bus services are easily accessible along New 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.

### Section C – Environmental, social and economic impact

#### **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??**

There is no known critical habitat, threatened species, populations or ecological communities or their habitats located on the subject site. The subject site currently has almost 100% site coverage

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resulting from its past light industrial uses and no significant trees or vegetation are located on the site.

The street trees which exist on the Kintore Street frontage have been reviewed and it is considered that the redevelopment can progress with the retention of these trees.

**Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

*Heritage*

A detailed architectural and heritage assessment has been undertaken by Urbis in 2016 of the existing improvement on the site and identifies buildings and fabric of merit. The study also identifies the uses and tenancies within the buildings on the site. Generally, the buildings are an accretion of structures of varying age and utility which have been combined and extended over time. The study comments:

The subject site is presently characterised by several mid twentieth century low-scale service and industrial buildings covering a majority of the site, four c1920s terrace style shops on the north eastern corner of the site, a late 1970s Greek Orthodox Church (also known as 'Church of the Holy Unmercenaries') located at 28 Hercules Street and an early 1930s inter war period face brick bungalow on the corner of Hercules Street and Kintore Street.

The subject site is not a heritage listed item on Schedule 5 of the Marrickville Local Environment Plan (LEP) 2011, nor is it located within a Heritage Conservation Area (HCA) or in the vicinity of heritage listed items on the LEP. However, Marrickville Council requires a heritage assessment in order to assess the overall character and significance of the site and mainly that of the four 1920s terrace style shops and the late 1970s Greek Orthodox Church.

Based on this assessment, it is considered that the four c1920s terrace style shops pertain some historic and aesthetic value. Historically, they contribute to a key period of development along New Canterbury Road and aesthetically they demonstrate the principal characteristics of the traditional suburban shopping area with their surviving parapeted roof forms, recessed shopfronts and generally intact first floor shop facades. However, the subject terraces do not meet the criterion for local heritage listing and they do not form a part of the Dulwich *Hill Commercial Precinct Heritage Conservation Area*, identified as being located further east of the subject site near the intersection of New Canterbury Road and Marrickville Road.

Based on this assessment, it is also considered that the late 1970s Greek Church pertains some historic, aesthetic and social value. Historically and aesthetically, it is somewhat representative of the late twentieth

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century 'Immigrant's Nostalgic Style'; however, it is not considered to be a good example of the typology. Socially, it may have some significance to the local Greek Orthodox community. However, it does not meet the criterion for local heritage listing.

The study concludes that while the site in itself does not meet the criterion for local heritage significance; the history of use, contribution to the local character and the community contribute towards a recommendation that the terrace style buildings and Church site be retained and integrated into the redevelopment of the site as a sustainable outcome that retains a tangible link to the former uses.

### *Urban Design and Built Form*

The Proponent's Planning Proposal seeks to amend the FSR of up to 3.3:1 and introduce a maximum height control of up to 32m. The capacity of the site to accommodate this proposed additional floor space and height, while achieving compliance with the ADG, has been adequately demonstrated in the revised Urban Design Study.

An analysis of the Planning Proposal against the provisions of the SEPP 65 and the ADG indicates that the proposed development concept can be accommodated on the site without significant adverse impacts on the amenity of adjoining properties. In particular, it is demonstrated that potential overshadowing to the adjacent school properties to the south have been resolved through the proposed massing of the building. Similarly, the potential privacy impacts for adjacent school properties to the south of the site have been resolved through the orientation of the dwellings along this interface.

The concept plans submitted with the Proponent's Planning Proposal illustrates a building form with varying heights and setbacks, with a maximum height of five (5) storeys to a maximum RL 59.4 (refer **Figure 5** below). The urban design report states that this form is considered appropriate for the site in terms of building alignment, proportion and setbacks. The scale of the intended development and reflected in a maximum height of buildings control being specified for the site considers the potential amenity impacts on adjoining properties as well as ensures an appropriate built form outcome when viewed from the street and other areas of the public domain.



**Figure 5 Montage view – New Canterbury Road**

#### *Traffic and Parking*

A Traffic Report has been prepared by Transport and Traffic Planning Associates Pty Ltd dated March 2017 which analysed the Planning Proposal in terms of the likely car parking provision, vehicular access to the site and the potential impact on the surrounding road network.

Observations of the intersections in the vicinity of the site during the morning and afternoon peak periods have indicated that there are no undue delays or significant capacity issues. Pedestrian crossing movements in the area are facilitated by the crossing facilities provided at the traffic signals and the marked foot crossings.

The turning movements into and out of Kintore Street at New Canterbury Road are facilitated by the regular gaps in the New Canterbury Road traffic flows induced by the operation of the traffic signals to the east and west.

It is noted that the kerbside space in Kintore Street and the southern side of Hercules Street in the vicinity of the site is generally “parked out” (see Figure 2) and this is indicative of the current shortfall of parking for the various uses on the site (i.e. 17 spaces).

It is also noted that the only formal on-street “set-down/pick-up” provision for the school is located in Kintore Street at the school entrance and the kerbspace on the northern side of Hercules Street is not available for parking due to the continuous driveway access for the on-street parking spaces.

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The proposed development scheme represents a mixed residential/retail use which is consistent with the planning objectives of the Council. This report concluded that the proposal would provide sufficient car parking and vehicle access, with traffic generated being accommodated within the existing road network.

### *Acoustic Environment*

A consideration of the Acoustic Environment has been undertaken with attention to aircraft noise. The subject site is located below the ANEF 20 contours) with a predicted external noise level from aircraft fly over's does not represent an area with an excessive noise level and is similar to other sites which have been developed for residential use within the Sydney area. All internal noise levels within the development will be less than the required criteria within the Australian Standards and will result in an acceptable acoustic amenity for future tenants. It is noted that many buildings within the Sydney region have included suitable acoustic treatments to ensure internal noise levels comply with the relevant council and Australian Standards and additional treatments to the external balconies or gardens of residential buildings with exposure to environmental noise sources, greater than that of the proposed development.



### *Overland Flow*

An Overland Flow Flood Study has been carried out by Cardno dated 2016 given the occurrence of Council/State Rail stormwater assets on the site.

This low point is located within the New Canterbury Road reserve which has a longitudinal grade of approximately 1% in a west-south-west direction. The surface levels at the top of the kerb at the boundary of the subject site are

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approximately 0.2 metres higher than the low point on the road. Assuming flow can be conveyed down two lanes of the road (half of the New Canterbury Road width) the total flowpath width is approximately 7 metres wide. Using Mannings equation it was estimated that the peak 100 year ARI flows (1.2 m<sup>3</sup>/s) can be wholly contained within the road reserve in the event that the drainage system is fully blocked. It is therefore estimated that the site is not affected by overland flow flooding from New Canterbury Road.

The low point in Hercules Street is located at the south-west corner of the subject site. Flows that pond within the road reserve at this location are assumed to preferentially discharge south into the Dulwich Hill Public School which has a minimum ground level of 27.0 m AHD compared to the minimum site levels at the south-west corner of 27.2m AHD. It is therefore estimated that the site is not affected due to ponding on Hercules Street.

In summary, the report concludes that the site is not affected by the overland flow flooding in the local street network.

**Q9. Has the planning proposal adequately addressed any social and economic effects?**

The Planning Proposal will result in positive social and economic effects as housing with an affordable component is proposed as well as increased activation of the street frontage and increased employment opportunities which will assist in stimulating the local economy. The Planning Proposal is likely to result in a housing yield of approximately 135 units, comprising a mix of one, two and three bedroom units, providing additional housing opportunities in a well serviced location.

The Planning Proposal will have a positive economic effect by stimulating redevelopment and encouraging future retail and commercial floor space and residential development to improve the economy of the surrounding area. The site is currently poorly used and in a dilapidated state, with the Planning Proposal allowing the redevelopment of the site in a consolidated and efficient manner.

The proposed activation of the site along New Canterbury Road, in contrast to the current poor level of activation along this frontage, will improve the functionality of the site with the town centre and significantly improve the presentation to the streetscape. The provision of the through site link and the activation of the western elevation will create a new public frontage to the site. This activation will also improve casual surveillance opportunities afforded from the site, particularly along the western cycleway, which will improve safety in the general area.

The proposed development of the site will support the current and future social character of the locality, as well as revitalising the local economy. The proximity of the site to public transport, services and infrastructure makes the site an ideal location for a mixed use development. Accordingly, it is

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considered that the Planning Proposal will have a positive effect on the local economy and community.

#### **Section D – State and Commonwealth interests**

##### **Q10. Is there adequate public infrastructure for the planning proposal?**

The site is located in an area well serviced by necessary services and infrastructure including public transport, telecommunications, electricity, water and sewer. The additional demand created under the Planning Proposal will be minimal, thereby ensuring the efficient use of, but not overburdening, existing services and infrastructure.

Consultation with relevant authorities during public exhibition of the Planning Proposal will confirm the capacity of existing utilities to service the site. The increased demand on stormwater created by the future development of the site will be assessed as part of a future development application.

##### **Q11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

Consultation with relevant state and Commonwealth public authorities will be undertaken in accordance with a Gateway determination.

#### **PART 4 – Mapping**

The Planning Proposal seeks to amend the *Zoning, Floor Space Ratio and Height of Buildings Maps* of the *Marrickville Local Environmental Plan* and are included at Figures 5 - 7 showing the relevant changes for the site.

#### **PART 5 – Community Consultation**

Public consultation will be undertaken in accordance with the requirements of the Gateway determination, the Department of Planning's 'A guide to preparing local environmental plans' and Council's Community Engagement Framework.

It is expected that the Planning Proposal will be exhibited for a period of not less than 28 days and that this will include notification of the public exhibition:



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- on the Inner West Council website;
  - in relevant local newspapers; and
  - in writing to the owners and occupiers of adjoining and nearby properties.

The exhibition material will be made available on the Inner West Council website, in the Leichhardt Customer Service Centre at 7-15 Wetherill Street, Leichhardt and on the Department of Planning and Environment's website.

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**PART 6 – Project Timeline**

<b>Milestone</b>	<b>Timeframe</b>
Date of Gateway determination)	November 2018
Public exhibition and public authority consultation	October 2019
Timeframe for consideration of submissions	November 2019
Timeframe for consideration of proposal post exhibition	December 2019
Drafting of instrument and finalization of mapping	January 2019
Date of submission to the Department to finalise the LEP	February 2019
Anticipated date RPA will make the plan	March 2019
Anticipated date RPA will forward to the Department for notification	March 2019

Attachment 1

VPA Letter of Offer