

Planning Services

IRF18/6189

Gateway determination report

LGA	Burwood
PPA	Sydney Eastern City Planning Panel
NAME	Proposal to rezone the land from R3 Medium Density Residential to B6 Enterprise Corridor, increase the maximum height control from 8.5m to 12.5m and increase the maximum floor space ratio control from 0.55:1 to 1.5:1.
NUMBER	PP_2018_BURWO_002_00
LEP TO BE AMENDED	Burwood Local Environmental Plan 2012
ADDRESS	1-1A Cheltenham Road, Croydon
DESCRIPTION	Lot 1 DP 817488
RECEIVED	2 November 2018
FILE NO.	IRF18/6189
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The planning proposal relates to the site at 1-1A Cheltenham Road, Croydon and seeks to amend the Burwood Local Environmental Plan (LEP) 2012 by:

- rezoning the land from R3 Medium Density Residential to B6 Enterprise Corridor;
- increasing the maximum height from 8.5m to 12.5m; and
- increasing the maximum floor space ratio (FSR) from 0.55:1 to 1.5:1.

The proposal seeks to formalise the current use of the site for 'vehicular sales and hire premises'. The property has operated ancillary to the adjoining car dealership despite 'vehicle sales and hire premises' being prohibited in the R3 Medium Density Residential zone.

Site description

The site contains one lot and is rectangular, with an area of approximately 1287.7m² and a frontage of 20.395m to Cheltenham Road (Figure 1, next page). The site contains a single-storey dwelling house, a driveway and an at-grade car park to the rear. The property was used for car storage by the showroom to the immediate north-west of the site before that showroom's current redevelopment. The adjoining showroom is a separate landholding but is in the same ownership as the subject site.

The site does not contain any heritage items and is not within a heritage conservation area. The closest heritage conservation area is approximately 100m to the south-west of the site.



Figure 1: Site map.

Background

Planning proposal history

A planning proposal was lodged with Burwood Council for the site on 8 September 2017 to:

- rezone the land from R3 Medium Density Residential to B6 Enterprise Corridor;
- increase the maximum height from 8.5m to 15m; and
- increase the maximum FSR from 0.55:1 to 1.75:1.

Following lodgement and review of the proposal, Council raised concerns with the proposal's height and FSR controls. On 22 March 2018, a revised planning proposal was lodged with a height of 12.5m and an FSR of 1.5:1.

Rezoning review

On 4 June 2018, the proponent submitted a rezoning review request as Council confirmed in writing that it did not support the revised planning controls.

On 9 August, the Sydney Eastern City Planning Panel considered the proposal and determined it should be submitted for a Gateway determination as it demonstrates strategic and site-specific merit.

Planning proposal authority

On 10 August, the panel invited Council to be the planning proposal authority (PPA) for the proposal. On 28 August, Council responded advising the panel that it does not accept the PPA role. The panel has subsequently been appointed as the PPA for the proposal.

Nissan dealership site – 178 Parramatta Road

On 3 July 2017, a development application was lodged with Council seeking approval for the construction of a four-storey car showroom facility at the adjoining site at 178 Parramatta Road, Burwood. The development application was approved on 10 October 2017 and construction has commenced.

The proponent advises that the showroom on Parramatta Road and the showroom planned for the subject site are intended to be independent of each other, operating as separate sites.

Existing planning controls

Under the Burwood LEP 2012, the site:

- is zoned R3 Medium Density Residential;
- has a maximum building height of 8.5m; and
- has a maximum FSR of 0.55:1.

Current LEP mapping pertaining to the site is shown in Figures 2–4 (pages 4 and 5).

The west and north boundaries of the site border a B6 Enterprise Corridor zone, while the east and south sides border Cheltenham Road and an R3 Medium Density Residential zone respectively.

The site is within Area 7 of the maximum FSR map applying to *Clause 4.4A – Exception to floor space ratio* of the Burwood LEP 2012. However, as the objectives of that clause relate only to residential development, serviced apartments and community infrastructure, it is not relevant to this proposal.

The site is immediately adjacent to land identified in the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS). Under the strategy, the adjoining land is zoned B4 Mixed Use, while the land to the north of the site and on the other side of Parramatta Road is zoned R3 Medium Density Residential. The land fronting Cheltenham Road and Parramatta Road to the east of the site is zoned B6 Enterprise Corridor under the strategy.

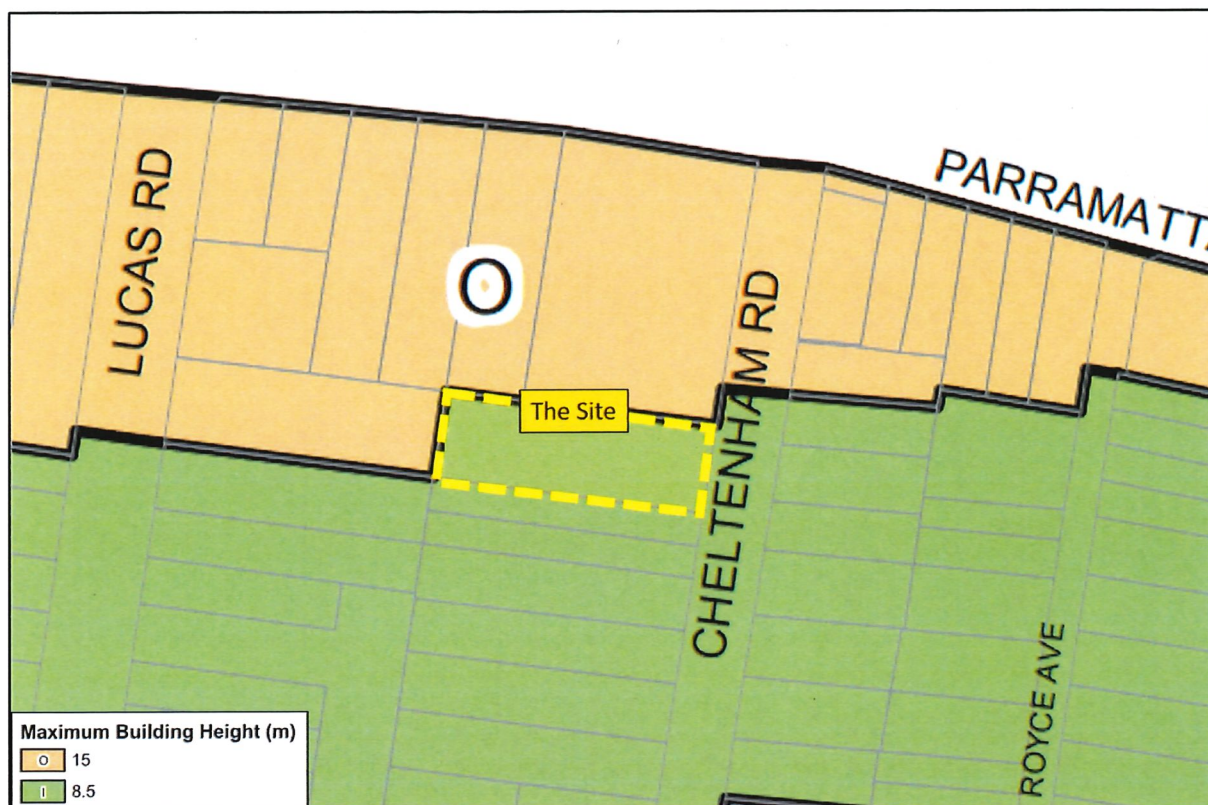


Figure 2: Existing building height map.

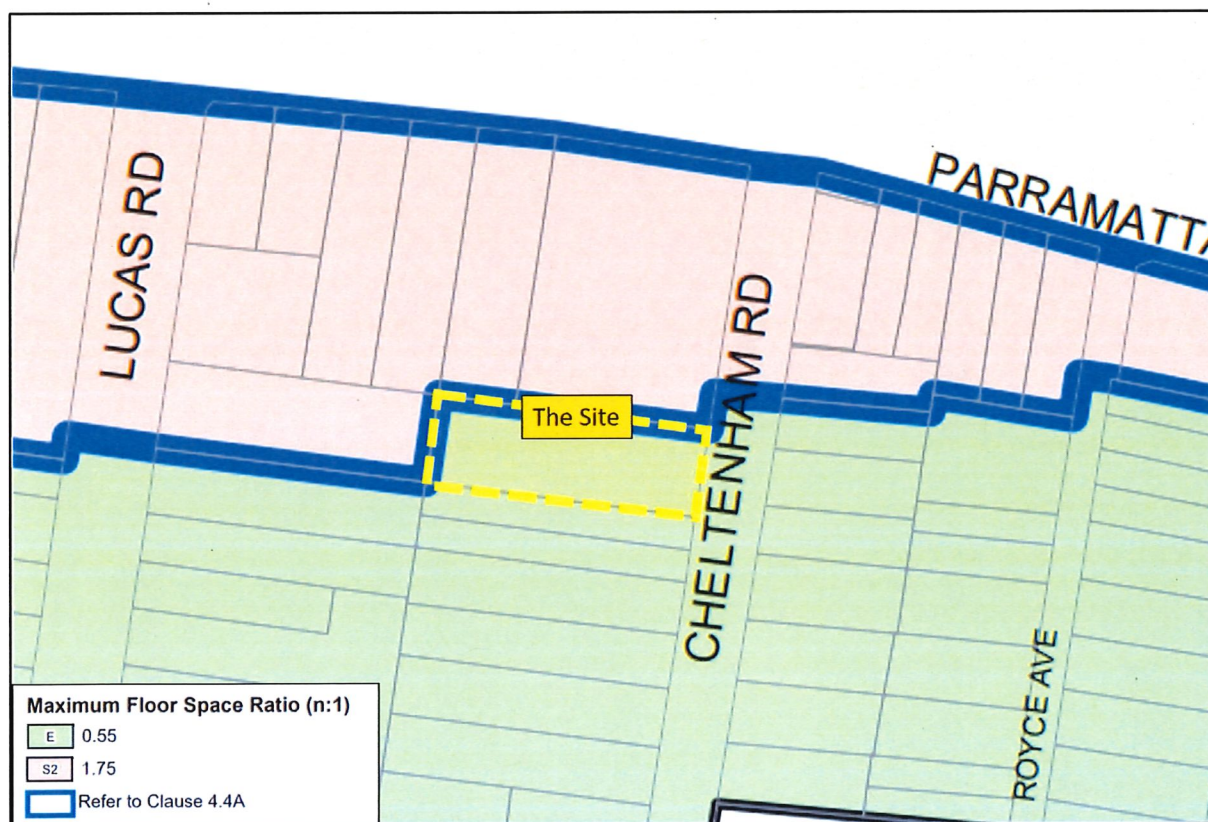


Figure 3: Existing FSR map.

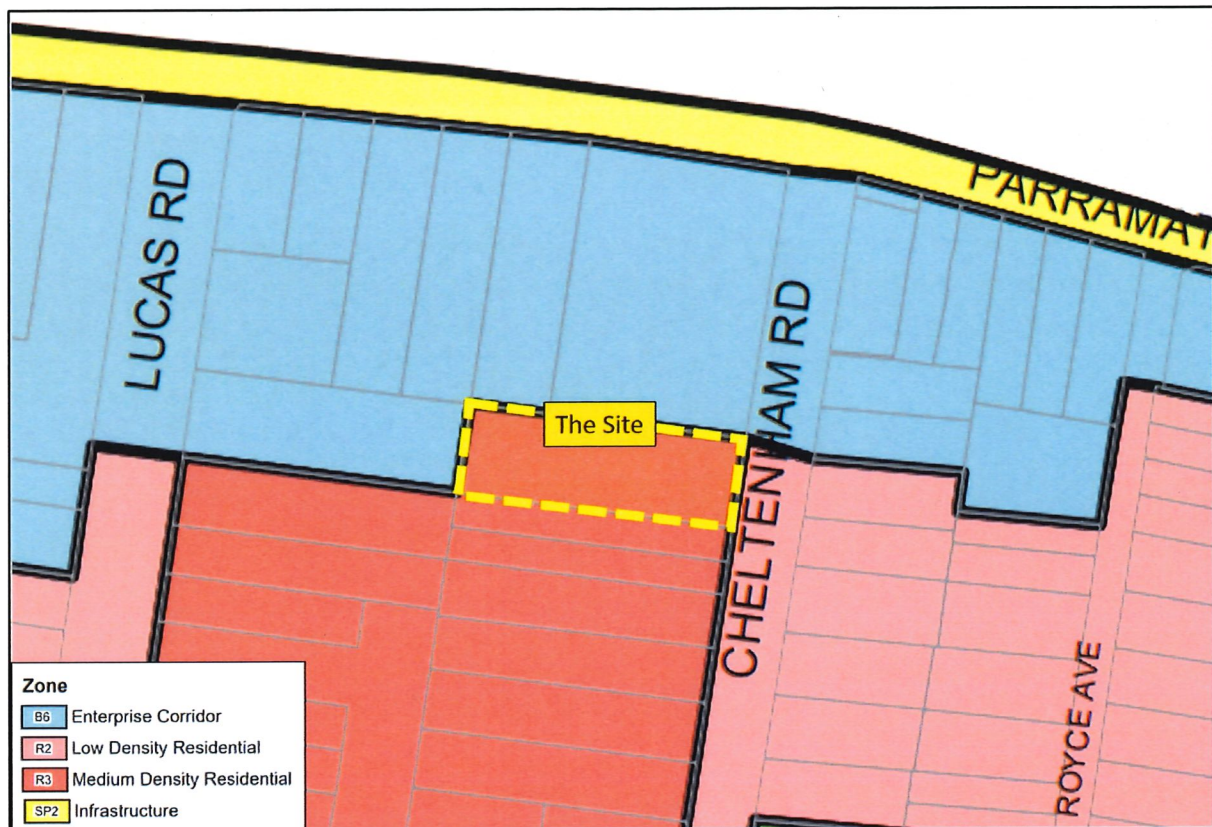


Figure 4: Existing land-use map.

Surrounding area

The site is in Croydon in the Burwood local government area (LGA). Croydon is 10km west of the Sydney CBD in the Inner West.

The site is approximately 60m south of Parramatta Road, a major east-west artery connecting the Sydney CBD with Parramatta (Figure 5, next page). Development along the Parramatta Road corridor is characterised by commercial and light industrial developments.

Burwood Town Centre and Burwood Train Station are located approximately 1.5 kilometres to the south west of the site. Croydon Station is located approximately 1.5 kilometres to the south east.

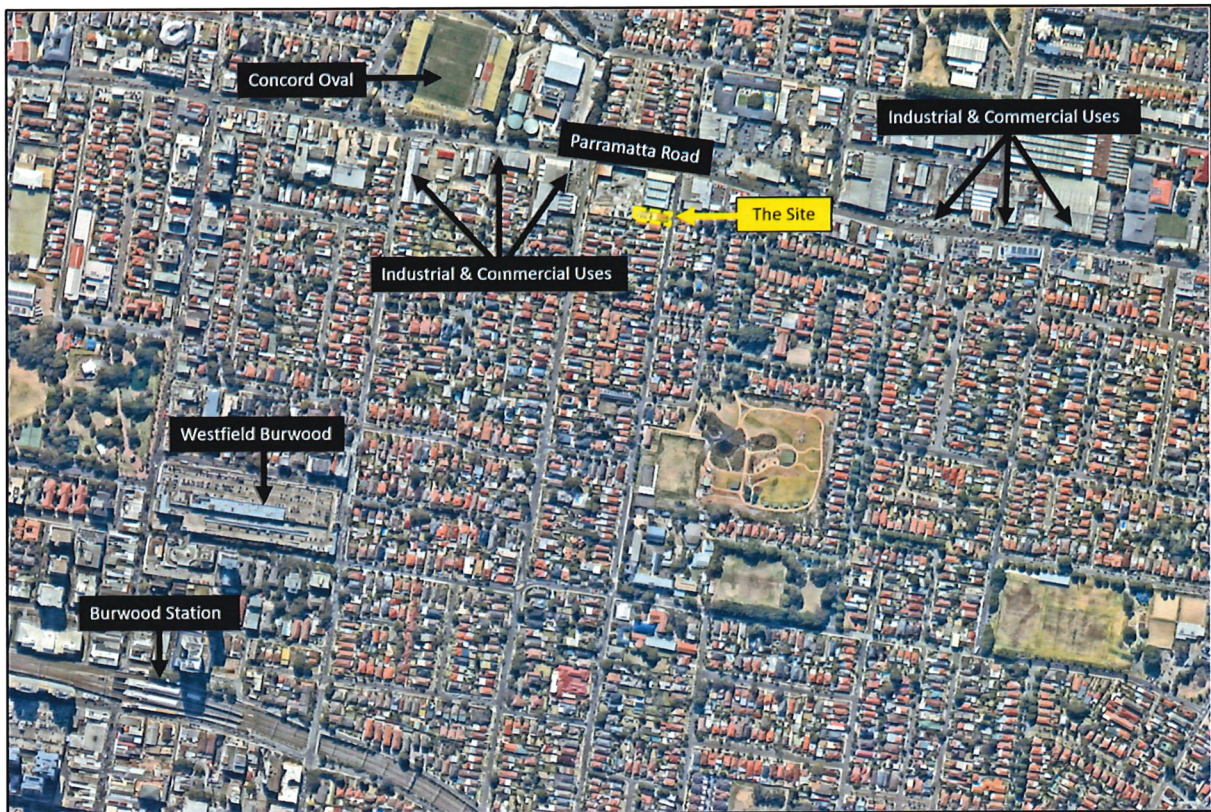


Figure 5: Context map.

Summary of recommendation

It is recommended that the proposal proceed subject to conditions.

The planning proposal is considered to demonstrate strategic merit as it responds to its location adjacent to a B6 Enterprise Corridor; it will result in a logical zone boundary. The proposal responds appropriately to the Kings Bay Precinct in the PRCUTS.

The proposal will facilitate employment opportunities in a suitable location near public transport options responding to the Eastern City District Plan which seeks to encourage integrated land use and transport planning. It is also in keeping with the existing adjacent car showroom use fronting Parramatta Road.

The proposal will facilitate a built form that is compatible with the proposed development on the properties fronting Parramatta Road to the north. It will also provide the opportunity for an effective transition in height to lower-scale residential built form to the south.

PROPOSAL

Objectives or intended outcomes

The objectives and intended outcomes are considered clear and adequate for the purposes of the planning proposal. The proposal intends to amend the Burwood LEP 2012 by changing the zoning, maximum height and maximum FSR controls. The proponent advises that the amendments are sought to facilitate the future development of a car showroom or similar development on the site.

Explanation of provisions

The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposal intends to amend the

Burwood LEP 2012 by rezoning the land to B6 Enterprise Corridor and increasing the maximum height and FSR controls.

Mapping

The planning proposal includes mapping showing the proposed changes to the height of buildings and FSR maps, which are suitable for community consultation.

NEED FOR THE PLANNING PROPOSAL

The proponent states that the planning proposal is not the result of a strategic study or report; rather, it has been introduced to respond to a site-specific context.

The Department notes that a planning proposal is the way to achieve the intended outcomes.

STRATEGIC ASSESSMENT

The planning proposal references the superseded A Plan for Growing Sydney and the draft Central District Plan. It has not been updated since September 2017, with letters being submitted up until 22 March 2017 amending the planning proposal. The rezoning review request provides some detail in response to the current Eastern City District Plan, but this has not been consolidated into the planning proposal documentation. Conditions are included in the Gateway determination requiring the proposal to be updated prior to community consultation to address the strategic framework discussed below.

State

Greater Sydney Region Plan

The Greater Sydney Region Plan was released by the Greater Sydney Commission (GSC) on 18 March 2018. It provides a 40-year vision for Greater Sydney and is designed to inform district plans, local plans and the assessment of planning proposals. The plan includes 10 objectives outlining priorities and actions in relation to infrastructure, liveability, productivity and sustainability. A Gateway condition is included requiring analysis of the planning proposal against the plan.

District

Eastern City District Plan

The Eastern City District Plan was released on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the Eastern City District while improving the district's social, economic and environmental assets. It contains the planning priorities and actions for implementing the Greater Sydney Region Plan at a district level and is a bridge between regional and local planning. A Gateway condition is included requiring the planning proposal to be updated to address the priorities of the plan.

Planning Priority E10 – Delivering integrated land use and transport planning and a 30-minute city is relevant to the planning proposal. This priority encourages integrated land use and transport planning and the 30-minute city – a long-term goal outlined by the GSC to guide decision-making on locations for new transport, housing, jobs, education, health and other facilities so these amenities may be accessed conveniently by public transport and active transport links.

The proposal will give effect to this priority as it will provide employment and business opportunities in a location supported by public transport links along Parramatta Road.

Parramatta Road Corridor Urban Transformation Strategy (PRCUTS)

The site is directly adjacent to the Kings Bay Precinct identified in the PRCUTS (Figure 6). The PRCUTS is the long-term vision for developing population and employment growth in the Parramatta Road corridor.

The implementation plan of the PRCUTS guides short-term land-use planning and development decisions in the Parramatta Road corridor. The PRCUTS is intended to be implemented in stages, with stage 1 occurring between 2016 and 2023. The adjoining land to the immediate north and west of the site is not identified to be rezoned in the short term (Figure 7, next page). Land further west of the site is identified as being within the Kings Bay Frame Area for potential rezoning in the long term.

While not identified for short-term rezoning, the PRCUTS recommends the future zoning of the land to the immediate north and west of the site be B4 Mixed Use. The properties on the opposite side of Cheltenham Road to the east of the site are identified to be retained as B6 Enterprise Corridor.

The panel's decision to support the planning proposal refers to the B6 Enterprise Corridor zoning adjoining the site as part of the panel's strategic justification. While the PRCUTS identifies future B4 zoning adjoining the site, this rezoning has not occurred.



Figure 6: PRCUTS map area.

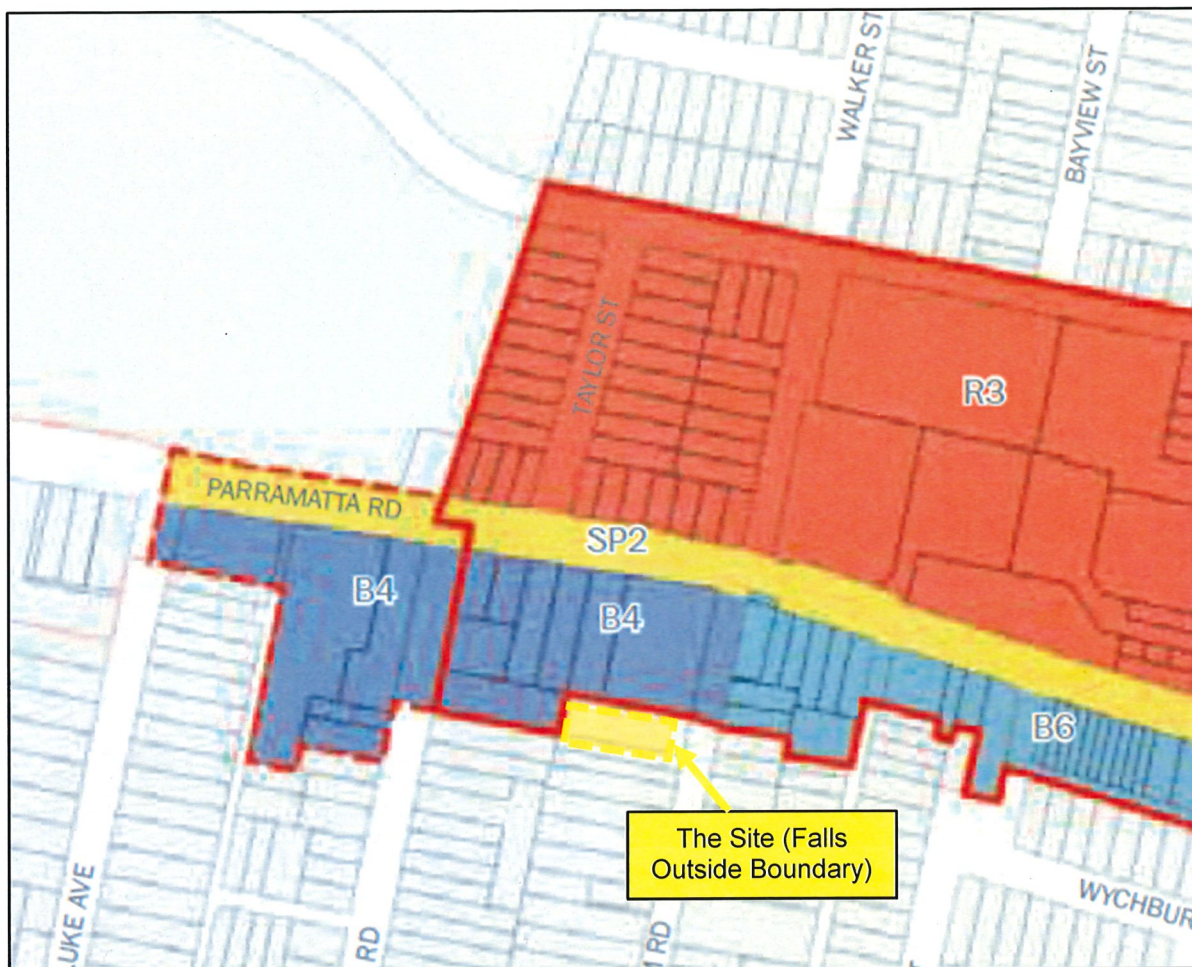


Figure 7: Extract from PRCUTS recommended zoning map.

Local

Burwood 2030 Community Strategic Plan

The Burwood 2030 Community Strategic Plan intends to guide the future of the LGA to help guide decision-making and planning for the next 20 years. The plan outlines five key themes: community and lifestyle; leadership and innovation; healthy and sustainable environment; planning and infrastructure; and vibrant city and villages.

The plan has not been endorsed by the Department. Notwithstanding, the proposal responds to the theme 5.2 *Supported and engaged local business* by strengthening Burwood's local businesses and services.

Section 9.1 Ministerial Directions

Direction 1.1 Business and Industrial Zones

The planning proposal is consistent with the objectives of this Direction as it will permit employment growth in a location that contains the same zoning and uses. The proposed rezoning will protect existing employment land and is restricted to a land size that will not affect the ongoing viability of identified centres in the area.

Direction 3.1 Residential Zones

The proposal is not consistent with the objectives of this Direction as it involves the rezoning of land from residential to enable a commercial use. This inconsistency is considered to be of minor significance as:

- the site is currently being used for a commercial purpose;
- the proposal will introduce a coherent zoning pattern that is in keeping with the adjacent B6 Enterprise Corridor zoning;
- the context of the site provides minimal opportunity for the effective implementation of the R3 medium-density zoning due to land-use conflicts and amenity impacts; and
- residential use is permitted with consent in the B6 Enterprise Corridor zone in the form of shop-top housing.

Direction 3.4 Integrating Land Use and Transport

The proposal is consistent with the objectives of this Direction as it will alter the zoning of the land to allow a mixed-use or business use to occur. This Direction is considered to apply to the proposal as it will enable employment opportunities to occur close to public transport links.

Direction 4.1 Acid Sulfate Soils

The site is within a Class 5 acid sulfate soils area in the Burwood LEP 2012. The proposal states that the acid sulfate soil rise map published by the former Department of Land and Water Conservation indicates there is no known occurrence of acid sulfate soils on-site, and the site's elevation and geology are not conducive to acid sulfate soils.

It is considered that the proposal's inconsistency with this Direction is of minor significance and further assessment can be undertaken as part of any future development application.

Direction 7.3 Parramatta Road Corridor Urban Transformation Study

The site is not within the strategy corridor but does share a boundary with this area. While this Direction does not apply to this proposal, it will not affect the implementation of the PRCUTS.

State environmental planning policies (SEPPs)

SEPP No 55 – Remediation of Land

Clause 6 of SEPP 55 requires the planning proposal authority to consider whether the land is contaminated and to be satisfied that the land is suitable, or can be made suitable, for the proposed use under the planning proposal.

The planning proposal states that a phase 1 contamination report will be prepared as part of any future development application and, if necessary, remediation will be carried out in accordance with SEPP 55.

The proposed rezoning of the land will reduce the amount of permitted sensitive land uses such as child care centres and a range of residential uses.

SITE-SPECIFIC ASSESSMENT

Environmental

Critical habitats and threatened species

There are no known critical habitats, threatened species or ecological communities on the site. It is unlikely the proposal will result in adverse impacts on critical habitat, threatened species, populations, ecological communities or habitats.

Character, context and potential built form

A concept design has been submitted with the proposal reflecting a three-storey building with basement-level setback approximately 5.25m from the front boundary. At the ground level, the building is set back between 4.5m and 6m from the southern boundary and extends up to a 12.48m setback at the third level (Figures 8 and 9).

The site slopes approximately 2m from west to east. The concept reflects a building that includes some excavation to provide a level (identified as ground level) that is below the Cheltenham Road level containing a workshop and storage areas.

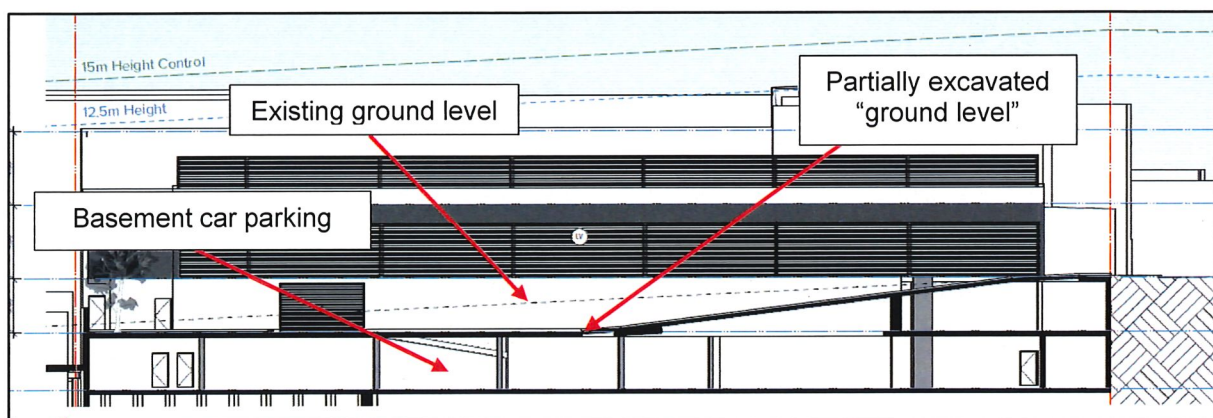


Figure 8: South elevation from concept design.

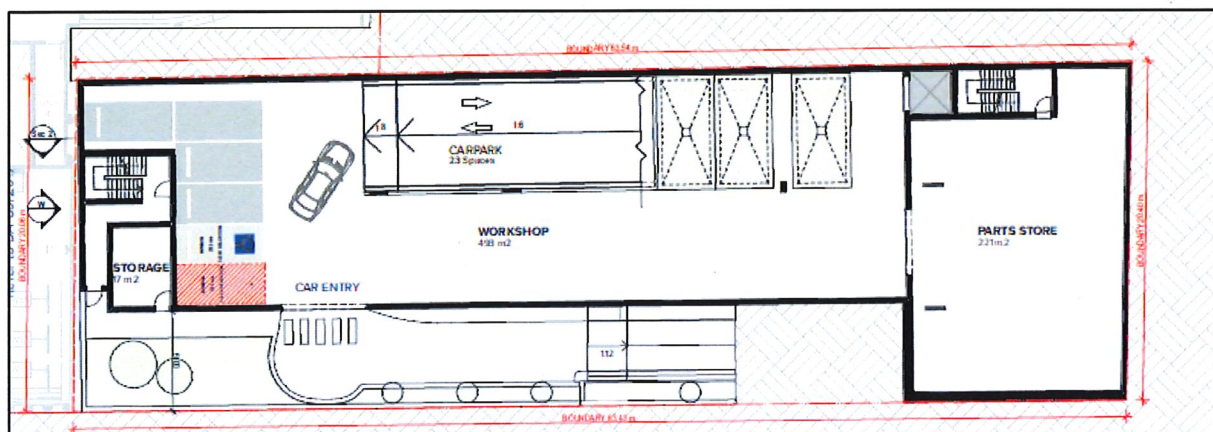


Figure 9: Ground-level concept design.

The proponent states the concept design has been developed to demonstrate a building form that achieves the proposed height and FSR under the proposal with 'some minor tolerance for height to allow future flexibility'. The proponent also states that the design has been developed to respond to the 45-degree height plane

principle contained in the Burwood Development Control Plan 2013 as shown in Figure 10.

The proponent states that other schemes could be explored which expand the bulk of the building to the southern setback area, but this would result in greater overshadowing impacts to the south of the site. As the proponent's scheme is noncompliant, a condition is included in the Gateway determination requiring an updated concept design to be prepared which meets the proposed building height and FSR standards while minimising overshadowing and amenity impacts. This should be undertaken prior to community consultation to allow a full understanding of potential impacts.

The Department considers that the planning proposal should include a concept that clearly demonstrates a future development can be achieved within the maximum FSR and height control.

While the design has been developed to minimise overshadowing impacts, it is not appropriate for an amendment to the Burwood LEP 2012 to be permitted that is accompanied by a noncompliant building height concept.

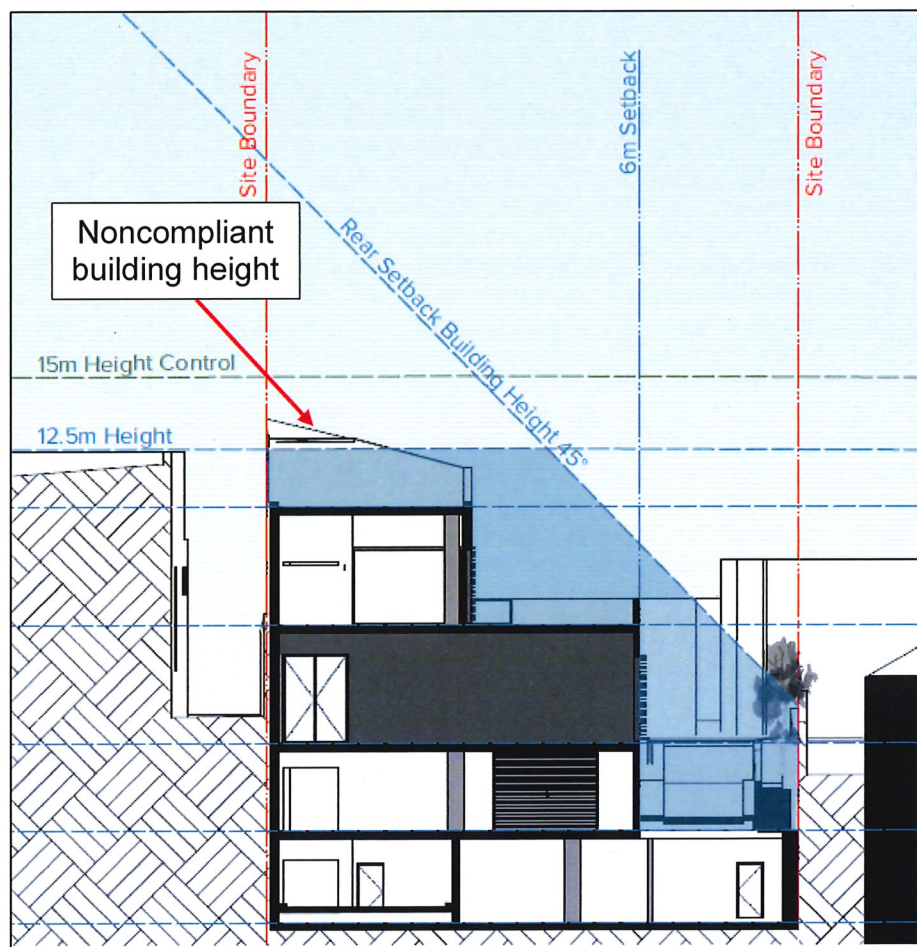


Figure 10: Concept design section drawing.

Overshadowing

The proposal is supported by overshadowing diagrams depicting the shadows cast at hourly intervals (9am to 3pm) at 21 June from the concept development. These diagrams show that additional overshadowing will be experienced to the south of the site, particularly to 3 Cheltenham Road. These overshadowing diagrams should be updated to reflect any updated concept design as previously discussed. This has been included as a Gateway condition.

Noise and acoustic amenity

Given the site has been used as a car park for the adjacent car showroom for some time, it is considered that further assessment of any noise impacts from the future use can be assessed as part of any future development application.

Visual privacy

The concept plan indicates a building envelope that is set back from the neighbouring residential properties to alleviate visual privacy issues. The concept scheme entrance to the building is on the eastern side, with the southern side (which faces the neighbouring residential property) showing that development on the site can provide appropriate privacy treatment. Further assessment can be undertaken as part of any future development application.

Traffic and transport

The site is in an area well serviced by public transport near Parramatta Road. The traffic and parking assessment report included with the proposal estimated that the site may produce a net increase of up to 60 trips during the weekday evening peak period in the worst-case scenario permitted for the land use, being a hardware/building supply store. Under the car dealership scenario, traffic generations were estimated to be lower, having no notable impact on the operation of the road network.

A condition of Gateway is included requiring consultation with Roads and Maritime Services.

Geotechnical

The current concept design reflects substantial excavation of the site to provide a basement-level car park which appears to extend boundary to boundary. As the site abuts a warehouse building to the north and a residential property to the south, it is considered appropriate for geotechnical information to be provided to demonstrate the capability of any substantial excavation.

As discussed, a Gateway condition is included requiring an updated concept design to be provided. A Gateway condition is also included requiring that if the updated concept design reflects substantial excavation, a geotechnical study is to be provided.

Economic and social

The proposal increases the economic potential for employment given the rezoning from R3 Medium Density Residential to B6 Enterprise Corridor. The concept plan demonstrates that the site has the potential to support a car showroom in conjunction with the neighbouring car showroom, which is under construction. The proposal has the potential to contribute towards job provision in the construction and operational phases.

The proposed amendments to development standards are in keeping with the adjoining land and the current use of the land. Subject to the planning proposal being updated to demonstrate acceptable amenity impacts to neighbouring properties, no adverse social impacts are raised as part of this Gateway assessment.

Infrastructure

It is unlikely that the proposal will create any significant infrastructure demands. Should infrastructure servicing the site be inadequate, it is expected that these services would be upgraded by a developer, where required, to support the proposed development.

CONSULTATION

Community

The proposal outlines public consultation will be undertaken in accordance with the Gateway determination. The proposal suggests an exhibition period of 28 days, which the Department considers to be adequate.

Agencies

The proposal does not suggest which agencies shall be consulted. The Department recommends that Roads and Maritime Services be consulted.

TIME FRAME

As the project timeline submitted with the planning proposal is outdated, a Gateway condition is included requiring an updated project timeline to be provided prior to community consultation to monitor the progress of the plan-making process.

It is considered that a time frame of 12 months from Gateway determination is sufficient time to complete the proposed amendment.

LOCAL PLAN-MAKING AUTHORITY

As the Sydney Eastern City Planning Panel has been appointed as the PPA for the proposal, there is no delegation of plan-making functions.

CONCLUSION

The planning proposal is supported to proceed subject to conditions as it:

- is in keeping with the rezoning review decision of the Sydney Eastern City Planning Panel;
- demonstrates strategic and site-specific merit;
- responds to the context of the site and its relationship to the adjacent B6 Enterprise Corridor zoning;
- regularises the existing use of the site;
- will facilitate the development of the site to provide a commercial development to occur that is in keeping with the existing use of the land;
- supports and encourages employment opportunities through the expansion of the B6 Enterprise Corridor zoning in a suitable location; and
- provides a suitable transition to adjacent residential uses.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Directions 3.1 Residential Zones and 4.1 Acid Sulfate Soils is minor or justified.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:
 - (a) reflect the amended planning proposal referenced in the letter to Council dated 22 March 2018;
 - (b) provide an updated project timeline outlining the anticipated time frames for the plan-making process;
 - (c) reference and addresses all relevant priorities and actions outlined in the Greater Sydney Region Plan and Eastern City District Plan;
 - (d) provide an updated concept design that reflects a fully compliant scheme of 12.5m and 1.5:1 that minimises any overshadowing and amenity impacts to adjoining properties. Any revised concept design must also include updated overshadowing hourly diagrams between 9am and 3pm (21 June) reflecting existing and proposed impacts; and
 - (e) provide a geotechnical report to demonstrate the capability of substantial excavation occurring on-site should this be required as part of any updated concept plan.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the *Environmental Planning and Assessment Act 1979* 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).
3. Consultation is required with Roads and Maritime Services under section 3.34(2)(d) of the Act. Roads and Maritime Services 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.
4. 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).
5. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.



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