



Planning,
Industry &
Environment

IRF21/2418

Plan Finalisation Report – PP-2020-2148

Finalisation of Blacktown Local Environmental Plan –
Amendment to State Environmental Planning Policy (Sydney
Region Growth Centres) 2006

June 2021



Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Plan Finalisation Report – PP-2020-2148

Subtitle: Finalisation of Blacktown Local Environmental Plan – Amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006

© State of New South Wales through Department of Planning, Industry and Environment 2021 You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing [June 21] and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Contents

1	Introduction	2
1.1	Overview.....	2
1.1.1	Name of draft LEP	2
1.1.2	Site description	2
1.1.3	Purpose of plan	3
1.1.4	State electorate and local member	4
2	Gateway determination and alterations.....	4
3	Public exhibition and post-exhibition changes	5
3.1.1	Submissions supporting the proposal	5
3.1.2	Submissions objecting to and/or raising issues about the proposal	5
3.2	Advice from agencies	5
3.3	Post-exhibition changes	6
3.3.1	Council resolved changes	6
3.3.2	The Department's recommended changes	6
3.3.3	Justification for post-exhibition changes.....	7
4	Department's assessment	7
4.1	Detailed assessment	8
4.1.1	Local Strategic Planning Statement	8
4.1.2	Environmental Impacts.....	8
4.1.3	Infrastructure assessment	9
5	Post-assessment consultation	9
6	Recommendation.....	10
	Attachments	11

1 Introduction

1.1 Overview

1.1.1 Name of draft LEP

Blacktown Local Environmental Plan – Amendment to State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

The planning proposal seeks to amend the floor space ratio and height of buildings controls that apply to the Marsden Park Industrial Precinct under *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP). See 1.1.3 below for specific proposals. No additional lots or dwellings will be created as a result of the planning proposal.

1.1.2 Site description

Table 1 Site description

Site Description	The planning proposal (Attachment A) applies to the Marsden Park Industrial Precinct (the Precinct) in the North West Growth Area. The precinct is shown in Figure 1 .
Type	Area
Council	Blacktown City Council
LGA	Blacktown Local Government Area

The precinct is a major employment centre servicing a growing community within the North West Growth Area. The Marsden Park Town Centre is located to the north of the precinct and is identified as a Strategic Centre in the Central City District Plan. The precinct is well serviced by road infrastructure, including Richmond Road and the M7 Motorway.

South of the M7 Motorway to the south is low density residential development. These residential areas are buffered from the precinct by a wide road and environmental corridors. To the west is an environmental reserve, and to the north is the Marsden Park Precinct, which is an existing low and medium density housing, but is envisaged as a medium to high density mixed use Strategic Centre in the future. A new Metro Station will service this centre.

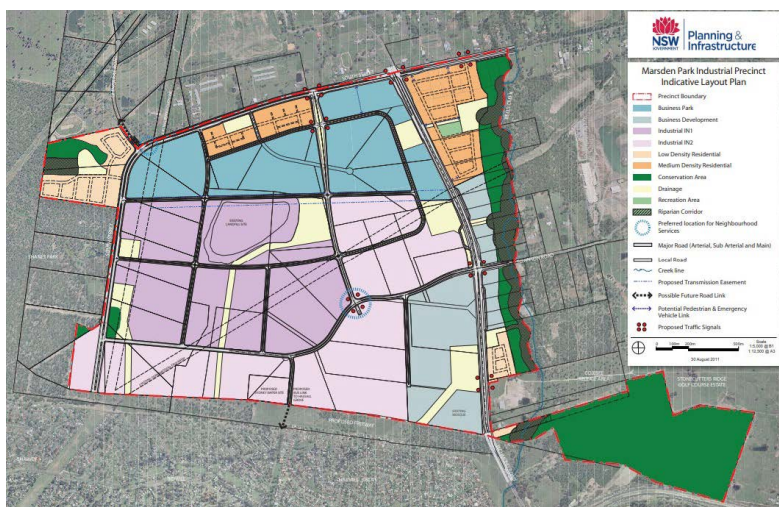


Figure 1 Marsden Park Industrial Precinct Indicative Layout Plan (Source: The Department, 2011)

1.1.3 Purpose of plan

The draft LEP aims to amend the floor space ratio and height of buildings controls applying to the precinct. The proposed amendments will allow for greater flexibility in built form to enable development which reflects the needs of business and is responsive to emerging technologies as per the Central River City District Plan.

The draft LEP will apply the following changes to height of buildings and floor space ratio controls for the precinct under the Growth Centres SEPP:

- remove height of buildings controls from land zoned IN1 General Industrial, IN2 Light Industrial and B5 Business Development.
- remove floor space ratio controls from land zoned IN1 General Industrial and IN2 Light Industrial, except for land uses having high traffic impacts*, where an amended floor space ratio of 1:1 (previously 0.7:1) will apply.

*Note: For the purposes of this amendment, land uses having high traffic impacts are considered to be: Hardware and building supplies; Service stations; Recreation facilities (major); Registered clubs; Function centres; and Educational establishments.

This involves amending the following under the Growth Centres SEPP:

- amend Marsden Park Industrial Precinct Floor Space Ratio Sheet FSR_005 and FSR_006.
- amend Marsden Park Industrial Precinct Height of Building Sheet HOB_005 and HOB_006.
- introduce a new Appendix 5 clause to apply to IN1 and IN2 land in the precinct identified on the Marsden Park Industrial Precinct Floor Space Ratio Sheet FSR_005 and FSR_006. This clause will limit the maximum floor space ratio for development for the purposes of hardware and building supplies, service stations, recreation facilities (major), registered clubs, function centres and educational establishments to 1:1.

Several of the changes above and in Table 2 below are post-exhibition changes by the Department in response to concerns raised in the submission from Transport for NSW (TfNSW). For details see sections 3.2 and 3.3.2 of this report.

Table 2 outlines the current and proposed height of buildings and floor space ratio controls for the precinct.

Table 2 Current and proposed controls

Control	Current	Proposed
Maximum height of building	<ul style="list-style-type: none"> • IN1 General Industrial: 18m • IN2 Light Industrial: 16m • B5 Business Development: <ul style="list-style-type: none"> ○ 16m west of Richmond Road ○ 12 m east of Richmond Road 	Remove height of buildings controls: <ul style="list-style-type: none"> • IN1 General Industrial: N/A • IN2 Light Industrial: N/A • B5 Business Development: N/A
	<ul style="list-style-type: none"> • B7 Business Park: 16m and 24m • R2 Low Density Residential: 8.5m • R3 Medium Density Residential: 16m 	<ul style="list-style-type: none"> • No change.
Floor space ratio	<ul style="list-style-type: none"> • IN1 General Industrial: 0.7:1 • IN2 Light Industrial: 0.7:1 	<ul style="list-style-type: none"> • No floor space ratio for all other land uses in the IN1 and IN2 zones. • However, a maximum floor space ratio of 1:1 for the following traffic generating land uses: Hardware and building supplies;

	Service stations; recreation facilities (Major); registered clubs; Function centres; educational establishments.
<ul style="list-style-type: none"> • R2 Low Density Residential: 0.5:1 • R3 Medium Density Residential: 1:1 	<ul style="list-style-type: none"> • No change.
<ul style="list-style-type: none"> • B5 Business Development: <ul style="list-style-type: none"> ○ 1:1 west of Richmond Road ○ 0.75:1 east of Richmond Road • B7 Business Park: 1:1 	<ul style="list-style-type: none"> • No change.

1.1.4 State electorate and local member

The precinct is within the following state electorates:

- Londonderry: Prudence Ann Car MP is the State Member.
- Riverstone: Kevin Francis Conolly MP is the State Member.
- Mount Druitt: Edmond Atalla MP is the State Member.

The precinct is within the Chifley federal electorate. Ed Husic MP is the Federal Member.

To the team's knowledge, neither MP has made any written representations regarding the planning proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

The Gateway determination issued on 7 April 2020 (**Attachment B**) determined that the planning proposal should proceed, subject to conditions (refer also to the Gateway Determination report at **Attachment F**). Council has met most of the Gateway conditions, with the following justifiable exceptions:

1. Condition a) Under Part 2 – Explanation of provisions, Council is to add an explanation of the need to amend Clause 4.4 of Appendix 5 – _Marsden Park Industrial Precinct to the Growth Centres SEPP to allow the removal of the FSR controls in all zones.
 - Non-compliance with this condition is justified due to post-exhibition changes made by the Department.
2. Condition b) Under Part 3 – Justification (Section B (6)), Council is to update the reference to Ministerial Directions from Section 117 to Section 9.1.
 - Section B (6) of the planning proposal report still refers to both Section 117 and Section 9.1 Ministerial Directions. This minor exception is justified as the intent of the paragraph remains clear.

It is noted that in accordance with the Gateway determination, the planning proposal was due to be finalised 9 months following the date of Gateway determination. Whilst this Gateway determination date has not been met, the extended completion time to complete the LEP is considered justifiable in this instance because of need to resolve issues raised by TfNSW.

3 Public exhibition and post-exhibition changes

The planning proposal was publicly exhibited by Council from 6 May 2020 to 4 June 2020, as required by section 29 of the *Local Government Act 1993*.

A total of 8 community submissions were received, comprising 2 objections and 6 submissions supporting the planning proposal. Council's consideration of these submissions is provided in the Council Meeting Report dated 16 September 2020 (**Attachment E**) and the following subsections.

3.1.1 Submissions supporting the proposal

6 submissions supporting the planning proposal were received from businesses in the precinct that support the proposed changes to heights and floor space ratios. This support reflects Council's views that the proposed amendments will make planning controls in the precinct more flexible to account for changing technologies, support growth in the industrial sector and generate employment opportunities in new and expanded operations.

3.1.2 Submissions objecting to and/or raising issues about the proposal

2 submissions objected to the planning proposal. Of these 2 submissions, one requested that the height limits in the precinct remain unchanged, without providing reasons. The other submission objected to the planning proposal on the grounds that the planning proposal will result in 'high rise' development and an increase in traffic.

Both objections were from residents whose properties are located on the eastern edge of the precinct. In considering the submissions (**Attachment E**), Council determined that the points do not justify amendments to the planning proposal in this instance, noting that the location of the industrial precinct is suitably buffered from residential and sensitive uses to minimise any adverse impacts from the changes.

Regarding potential visual impacts (**Attachment E**), Council noted that the current nature of industrial development in the precinct is low scale with large building footprints and that the removal of maximum height and floor space ratio controls for industrial uses enables flexibility and recognises changes in technology that may require varying heights (e.g. 'high-bay' building components). The Department is generally supportive of Council's comments, with this outlined further in section 4.1.1 of this report.

Regarding the potential increase in traffic, Council noted in a September 2020 Committee report (**Attachment C**) that it will soon commence a traffic study to support a review of the Marsden Park Strategic Centre Masterplan, on land adjoining the precinct. In discussions with Transport for NSW (TfNSW), Council has undertaken work to expand the traffic study to include the precinct, to address any intersection and traffic related issues holistically (**Attachment E**). The Department is generally supportive of Council's comments. Refer to section 4.1.2 of this report for more detail.

3.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with TfNSW on the planning proposal. During the submission period, TfNSW lodged a "draft submission", raising concerns about the capacity of intersections in the precinct to cater for a potential increase in traffic. The submission was issued a draft to allow for further discussion before formalising a submission. Council did not receive a final submission from TfNSW during the exhibition period.

The Department sent a further request for advice to TfNSW on 1 March 2021. TfNSW responded on 11 March 2021 (**Attachment G**), advising that it is supportive of the general intent of allowing more flexible controls for large warehousing type development, but notes this flexibility could create additional issues on the surrounding transport network. Key points raised in the letter from TfNSW comprise the following:

- **Impact to the future traffic network:** As the traffic and transport infrastructure implications of the Marsden Park Strategic Centre (MPSC) and Marsden Park Industrial Precinct (MPIP) planning proposal are currently unknown, TfNSW requests that finalisation of the planning proposal be deferred until:
 - The Transport Study for the MPSC and MPIP is final and all key local and State government agency stakeholders have agreed to its recommendations.
 - A decision has been made for the MPSC Precinct rezoning to be publicly exhibited.
- **Future transport network traffic impacts being addressed:** If the planning proposal is considered for finalisation prior to understanding cumulative traffic implications, it is recommended that appropriate planning controls be introduced to limit the amount of bulky goods/specialised retail premises and similar developments on IN2 and B5 zoned land. A suggestion for consideration is through “Additional Local Provisions” within Appendix 5 of the Growth Centres SEPP, where the existing floor space ratio controls remain in place for bulky goods/specialised retail premises and similar developments on IN2 and B5 zoned land.
- **Land Zoning Map – (SP2 Classified Road) inconsistencies along South Street and along Richmond Road:** A review of the Growth Centres SEPP for the Marsden Park Industrial Precinct Land Zoning Map against TfNSW’s Property Acquisition Mapping System highlights inconsistencies along South Street and Richmond Road for SP2 – Classified Road, which need to be rectified in future planning proposals/housekeeping amendments.
- **Transport Corridor Extension:** TfNSW requests that Council and landowners continue to consult regarding a transport corridor between the metro station at Tallawong and St Marys to ensure development responds positively to the future transport infrastructure.

Issues relating to SP2 inconsistencies and the transport corridor extension are not relevant to this planning proposal and can be addressed separately.

Whilst the Department acknowledges that a broader traffic study will be commenced soon, the Department has made some post-exhibition amendments to the planning proposal to better respond to TfNSW’s concerns. These are outlined in section 3.3.2 of this report.

3.3 Post-exhibition changes

3.3.1 Council resolved changes

At Council’s Ordinary Meeting on 30 September 2020, Council resolved to proceed with the planning proposal (**Attachment C**). No post-exhibition changes were made to the planning proposal.

3.3.2 The Department’s recommended changes

Following the receipt of the revised planning proposal from Council, the Department has made further changes to the planning proposal to respond to concerns raised by TfNSW, as follows:

1. Retain the mapped floor space ratio for land zoned R2 Low Density Residential, R3 Medium Density Residential, B5 Business Development and B7 Business Park. We note the original planning proposal sought to remove the floor space ratio from all zones.
2. Support the removal of the floor space ratio controls from land zoned IN1 General Industrial and IN2 Light Industrial, with the exception of land uses having high traffic impacts, where an amended floor space ratio of 1:1 (previously 0.7:1) will apply.
 For the purposes of this amendment, land uses having high traffic impacts are considered to be: Hardware and building supplies; Service stations; Recreation facilities (major); Registered clubs; Function centres; and Educational establishments.

The original planning proposal sought to remove floor space ratio controls for all uses on land zoned IN1 and IN2.

3.3.3 Justification for post-exhibition changes

The Department notes that these post-exhibition changes are justified and do not require re-exhibition. It is considered that the post-exhibition changes:

- Are a reasonable and balanced response to comments provided by TfNSW, because they seek to retain or restrict the floor space ratio for high traffic-generating land uses only. TfNSW have been consulted in regard to these amendments.
- Do not alter the intent of the planning proposal and are minor amendments to the planning proposal.

4 Department's assessment

The planning proposal has been subject to detailed reviews and assessment through the Department's Gateway determination. It has also been subject to a high level of public consultation and engagement.

The following section reassesses the planning proposal against relevant Section 9.1 Ministerial Directions, State Environmental Planning Policies (SEPPs), Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the planning proposal.

The planning proposal as submitted to the Department for finalisation:

- Is consistent with the Regional and District Plans relating to the planning proposal.
- Is consistent with the Local Strategic Planning Statement relating to the planning proposal.
- Is consistent with the relevant Section 9.1 Directions relating to the planning proposal.
- Is consistent with the relevant SEPPs relating to the planning proposal.

Table 3 and **Table 4** identify whether the planning proposal is consistent with the assessment undertaken at the Gateway determination stage as outlined in the Gateway determination report on the planning proposal. Where the planning proposal is inconsistent with this previous assessment, requires further analysis or requires reconsideration of any unresolved matters, these are addressed in Section 4.1 of this report.

Table 3 Summary of strategic assessment

Strategic assessment	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
SEPPs	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Table 4 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1
Infrastructure	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1

4.1 Detailed assessment

The following section provides an assessment of the matters relating to the planning proposal that are marked as inconsistent in **Table 3** and **Table 4** with the previous Gateway determination report for the planning proposal (**Attachment E**).

4.1.1 Local Strategic Planning Statement

The Blacktown Local Strategic Planning Statement 2020 (Blacktown LSPS) was adopted in March 2020 and is applicable to the site and planning proposal. The Blacktown LSPS also contains local planning priorities to guide the future growth and development of the Blacktown LGA.

The following local planning priority is applicable to the planning proposal:

Local Planning Priority 9: Maximising opportunities to attract advanced manufacturing to, and innovation in, industrial and urban services land.

The future development facilitated by this planning proposal, will allow for a wide variety of manufacturing uses and increased innovation in existing industrial and urban services land.

The Department considers the planning proposal to be consistent with these applicable Blacktown LSPS local planning priorities.

4.1.2 Environmental Impacts

Of the 2 submissions opposing the planning proposal, the key concerns raised were height and traffic impacts.

The Department considers that future development in the precinct will be generally characteristic of the average building heights and floor space ratio figures identified for industrial development in the Blacktown LGA. In a letter provided by Council to the Department dated 26 February 2021 (**Attachment H**), Council provided analysis of the building heights and floor space ratios of development in industrial precincts throughout the LGA, where maximum building heights and floor space ratio controls do not apply. This analysis found:

- Building heights range from 5m to 47m (higher development's incorporate 'highbay' elements). In total, 76% of reviewed heights were less than 14m.
- The average floor space ratio achieved is 0.42:1. The highest floor space ratio reviewed was 0.73:1.

These figures demonstrate that the removal of maximum height and floor space ratio controls for industrial uses does not automatically lead to excessive height and floor space ratios and is unlikely to create the scale of development that would lead to substantial traffic impacts.

In addition, the Department notes that the Blacktown City Council Priority Growth Area Precincts Development Control Plan (DCP) is applicable to the precinct. The DCP includes provisions which will control built form outcomes, such as setbacks from between 3-20 metres and landscape controls which require a minimum of 15% of the site area to be pervious. These applicable DCP controls will help to minimise the visual impact of development in the precinct and ensure appropriate built form.

Council officers also provided information that the residential zoned parts of the precinct are mostly developed or under DA approvals. As such, the retention of the FSR controls for the R2 and R3 Zone is not likely to have any impact on development potential. On balance, the Department considers the retention of FSR for the Residential zones also responds better to TfNSW's concerns and is more consistent with the intent of the planning proposal which is to allow more flexibility in built form controls for employment uses.

4.1.3 Infrastructure assessment

Concerns were raised by TfNSW regarding traffic impacts on the road network from potential increases to development density through the proposed removal of maximum heights and floor space ratios. The Department's post-exhibition amendments to retain the mapped floor space ratios for R2, R3, B5 and B7 zoned land, and for land uses in the IN1 and IN2 zones noted as having high traffic impacts, will greatly mitigate future traffic rates in the precinct.

The Department also notes that the majority of all future projects within the precinct will constitute 'traffic generating development', which will require the development to be referred to TfNSW for review at the Development Application (DA) stage in accordance with schedule 3 of *State Environmental Planning Policy (Infrastructure) 2007*. TfNSW will therefore have an opportunity to comment on and recommend conditions for the proposed development, as required.

The post-exhibition changes to the planning proposal are considered to ameliorate potential impacts on traffic infrastructure as outlined throughout this report. A revised assessment of impacts on infrastructure has found the overall impacts to be acceptable.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 5 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Four maps have been prepared by the Department's ePlanning team and meet the technical requirements (Attachment Maps).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Council advised on 9 June 2021 that it was unable to support the draft LEP due to the changes made by the Department not having Council endorsement (Attachment D).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	On 22/06/2021, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit, being consistent with the following applicable plans and strategies:
 - Greater Sydney Region Plan – A Metropolis of Three Cities.
 - Central City District Plan.
 - Blacktown Local Strategic Planning Statement
 - Our Blacktown 2036.
- The planning proposal has site-specific merit, as it will enable future development in the precinct that incorporates innovative building components and technologies that reflect the needs of businesses (including industrial 'highbay' components that enable efficiencies in building consumption and performance).
- The planning proposal is generally consistent with the Gateway determination.
- The planning proposal is consistent with each of the relevant Section 9.1 Directions relating to the planning proposal.
- The planning proposal is consistent with each of the relevant SEPPs relating to the planning proposal.
- Each of the issues raised during consultation have been adequately addressed through post exhibition amendments.



Ian Bignell
Manager, Place and Infrastructure, Central (Western)



Jane Grose
Director, Central (Western), Central River City and Western Parkland City

Attachments

Attachment	Document
PC	Parliamentary Counsel's Opinion
Maps	Draft Maps
LEP	Draft LEP
A	Planning Proposal Report dated April 2020
B	Gateway Determination dated 7 April 2020
C	Council Finalisation Request dated 13 October 2020
D	Council Consultation under S3.36(1) of the Act and Comment
E	Council Meeting Report dated 16 September 2020
F	Gateway Determination Report dated 7 April 2020
G	Transport for NSW Letter dated 11 March 2020
H	Blacktown City Council Letter dated 26 February 2021