



INNER WEST COUNCIL

Contact: Leah Chiswick
Phone: 9392 5232

8 August 2018

AMP Capital c/o Urbis
Att: Nik Wheeler
Tower 2, Level 23
Darling Park, 201 Sussex St
SYDNEY NSW 2000

Dear Mr Wheeler,

RE: Pre-Planning Proposal – 13-55 Edinburgh Road, Marrickville

I refer to your application of 4 July 2018 for formal pre-planning proposal advice in relation to the above mentioned land. This advice relates to the following amendments to *Marrickville Local Environmental Plan 2011* (MLEP 2011):

- rezone the site from IN1 – General Industrial to B2 – Local Centre; and
- increase the maximum Floor Space Ratio (FSR) from 0.95:1 to 1.65:1.

In summary, the following issues have been identified with the pre-planning proposal application:

- the proposed approach does not align with the described intent;
- the justification for the proposal is weak and does not adequately demonstrate that alternatives are not viable; and
- rezoning of the site would reinforce the loss of the land as industrial, while current State government plans and supporting studies identify the need to retain industrial land.

It is strongly advised that the matters raised in this correspondence be adequately addressed prior to lodging a planning proposal. Should you wish to pursue the rezoning of the site, it is requested that a further pre-planning proposal be submitted which adequately considers the potential impacts associated. A planning proposal of this nature would be a complex planning proposal under Council's Schedule of Fees and Charges. Amending MLEP 2011 as per Council's alternative approach, facilitating additional permitted uses only where the site is developed in accordance with the MPA, would constitute a major planning proposal.

Prior to Council taking receipt of a planning proposal, a thorough review of the documentation being submitted would be undertaken. This is to ensure that an adequate level of information is being provided.

Should you have any questions or require additional information, please contact Leah Chiswick on 9392 5232 (Mon, Wed and Thurs) or leah.chiswick@innerwest.nsw.gov.au.

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Yours sincerely,

Colette Goodwin
Acting Planning Operations Manager

Encl.

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Objective and proposed approach

The pre-planning proposal states that the amendments sought are administrative in nature and aim to ensure consistency between the *Marrickville Local Environmental Plan 2011* (MLEP 2011) and the Major Project Approval (MPA) for the site which remains active. The MPA granted consent to the development of a new retail building and car parking on the site associated with the extension of Marrickville Metro.

While the planning framework is not an impediment to the construction of the development in accordance with the MPA, it is understood that the intent of the planning proposal is as follows:

- to simplify the approval process for future minor works, uses (first and change of) and tenancy fitouts, allowing these works to be undertaken as complying development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*; and
- to enable other compatible land uses that are typically offered in shopping centres.

The MPA is explicit in its approval of only retail uses on the subject site, however it is acknowledged that the applicant's Response to Submissions report for the Section 75W modification application (Modification 6) of the MPA seeks amendment of the development description (Condition A1). The condition approves construction of a new retail building on the Edinburgh Road site and the modification seeks to expand the description to facilitate business premises in addition to retail premises. It is understood that the intent of this component of the modification is to allow for the provision of outlets such as hairdressers and travel agents which would usually be found within a shopping centre. The modification is yet to be determined.

Concern is raised that the proposed approach does not align with the described need for the planning proposal. The proposed planning proposal would facilitate development beyond what has been approved on the site (and sought under the modification), permitting additional uses and greater density. A rezoning to B2 would permit an array of uses that are not possible under the MPA, including shop top housing. The submission makes no reference to tangible outcomes or impacts associated with potential development outcomes facilitated by the planning proposal, for example, traffic, urban design, flooding.

While the landowner may be committed to developing in accordance with the MPA, construction has yet to commence on the subject site and as such uncertainty remains around its future. A rezoning to B2 Local Centre would afford the landowner significant opportunity to depart from the approved development. While it is understood that the owner is seeking flexibility and efficiency, Council requires surety with regard to outcomes on the site. We must also be conscious not to facilitate land use conflicts for adjacent industrial uses or constrain the precinct's ability to intensify its industrial uses in the future. Accordingly, if a rezoning is to be pursued, the appropriateness of other potential development outcomes under the proposed amended planning framework must be considered.

Alternative approaches

In providing justification for a planning proposal, *A guide to preparing planning proposals* requires consideration as to whether the planning proposal is the best means of achieving the objectives or intended outcomes. It requires that a planning proposal demonstrate that alternative approaches to achieving the intended outcomes have been considered and it should be evident that the proposed approach is the best, most efficient and time effective approach to delivering the desired outcome.

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The pre-planning proposal was provided to Council officers in advance of formal lodgement and in response it was requested that the proponent demonstrate consideration of alternative approaches. Accordingly, the submission outlines three options:

1. Do nothing;
2. Retain the IN1 zoning and add retail premises and business premises as additional permitted uses; or
3. Rezone to B2 Local Centre.

The submission discounts Option 2 as it would not “provide sufficient flexibility for the natural evolution of the centre over time, to accommodate new and emerging trends at retail centres”. It also states that this option would not allow “other compatible land uses that typically occur within a shopping centre of this size, such as childcare facilities, medical centres or community facilities”.

The Justification states that:

The proposed Planning Proposal is the only means of achieving the objective. If the Planning Proposal does not proceed, the zoning and floor space ratio under the MLEP 2011 would not accurately reflect the approved development of the site. Once constructed, the site would benefit from existing use rights, however, relying on existing use rights in a DA can be time consuming and complex.

Additionally, the current zoning would inhibit minor works on the site being undertaken through a complying development certification.

The submission has not adequately justified the proposed approach nor demonstrated that it is the most efficient and time effective approach to achieving the desired outcome. Council officers acknowledge that making retail and business premises permissible on the land will assist the approval process. Without amendment of the LEP, further modifications to the MPA will be required to facilitate minor alterations, initial uses and changes of use (the new development would not benefit from existing use rights as is suggested in the submission). However, as discussed in the previous section, the rezoning of the site is not considered the most appropriate approach and Option 2 should be further considered.

It is unclear from the pre-planning proposal submission what the value is in amending the maximum permitted FSR to reflect the intended development. Where a planning proposal is presented as a means to facilitate a specific built form outcome, any proposed increase in maximum floor space ratio would be rigorously assessed. This would include consideration of potential built form and urban design outcomes, yield and economic impact. In this scenario, Council is not being provided with any of this documentation but being asked to amend an LEP to reflect a MPA, and subsequent modifications. As discussed previously, construction has yet to commence and as such the development outcome on the site is still uncertain. An increase in FSR, accompanying a rezoning to B2, would allow a substantial departure from the approved development. This, and the associated impacts, has not been considered in the submission.

Loss of industrial land

The Region Plan, *A Metropolis of Three Cities*, establishes Objective 23 as being *Industrial and urban services land is planned, retained and managed*. Planning Priority E12 of the *Eastern City District Plan* (the District Plan) gives effect to this objective through *retaining and managing industrial*

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and urban services land. The District Plan identifies 67ha of industrial land within Marrickville making it one of the largest precincts in the District.

Action 51 of the District Plan is to:

Retain and manage industrial and urban services land, in line with the Principles for managing industrial and urban services land in the Eastern City District by safeguarding all industrial zoned from conversion to residential development, including conversion to mixed use zones. In updated local environmental plans, councils are to conduct a strategic review of industrial lands.

The Industrial Precinct Review undertaken by HillPDA in August 2015 for the Department of Planning and Environment assessed the Marrickville precinct as highly successful. The review included a health check of the industrial precincts in the North, Central and South Subregions, scoring them in relation to their 'Investment and Business', 'Location, Functionality and Connections' and 'Economic Output, Jobs and Support', all of which were assessed as 'above average' for the Marrickville precinct.

While the planning of the Sydenham to Bankstown Corridor has now been handed back to councils, employment analysis undertaken by AEC Group (October 2016) to inform the (now abandoned) draft Sydenham to Bankstown Urban Renewal Corridor Strategy acknowledged the value of the Marrickville/Sydenham Industrial Precinct. The revised exhibited documentation for the Sydenham Station Precinct (June 2017) included the following commentary in relation to the Edinburgh Road Precinct and Marrickville Metro Shopping Centre:

AEC have advised that there is still strong demand for industrial and employment lands in Sydenham and it is recommended the area be retained for those purposes in the short to medium term.

This document depicts the site as industrial, so while the MPA may have effectively turned the site over, it is still being 'counted' as industrial land and hence the suitability of its zoning as business should not be assumed.

The Director General's Environmental Assessment Report of December 2011 for the Concept Plan Application states the following:

The Edinburgh Road site is within the Sydenham Employment Precinct, a large industrial area (81.5 hectares) with a number of major manufacturing and warehousing business. The Subregional Strategy identifies this large cluster of employment land as state significant and to be retained for industrial purposes.

The department is of the view that the proposal to expand the Marrickville Metro Shopping Centre onto the Edinburgh Road site is appropriate in this locality given that:

- *the Draft Subregional Strategy identifies that site as suitable for non-industrial uses;*
- *the proposed additional retail floor space would support the future growth of the area and potential future designation as a Town Centre, as identified in the Draft Subregional Strategy;*
- *the Edinburgh Road site is physically separated from other industrial land by public roads,*

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- *Edinburgh Road forms a more rational boundary for the northern extent of industrial land,*
- *the site comprises approximately 1% of the total industrial precinct area. The loss of industrial uses on the site will have minimal impacts on the viability and on-going retention and growth of the industrial land located to the south of Edinburgh Road; and*
- *the proposal provides for the revitalisation and expansion of the existing centre to provide an improved relationship with the public domain, including activation of both sides of Smidmore Street by retail shop fronts.*

As evidenced by the above, the State Government's position in relation to the subject land, and industrial land in general, has changed considerably since the Concept Approval was issued in March 2012. While the expansion of the Marrickville Metro in accordance with the MPA would result in the loss of industrial land, this should not be reinforced by the rezoning of the land, nor should Council facilitate anything other than the MPA, or uses consistent with the IN1 zoning, on the site. In the event that development in accordance with the MPA does not eventuate, the land should be returned to this highly successful precinct and the valuable industrial stock of the Eastern City District and Inner West LGA.

The pre-planning proposal submission states that the "the B2 zoning will accurately reflect the site's recognised status as a local centre in the centres hierarchy as defined with the recently published Eastern City District Plan". The District Plan identifies the subject site as 'Industrial and Urban Services Land' despite the approved expansion of the shopping centre. A rezoning to B2 would reinforce an extension of the local centre and encroachment upon industrial lands, the strategic merit of which has not been demonstrated.

Alternative planning proposal

At detailed above, the rezoning of the site to B2 is unlikely to be supported. To satisfy the objective of simplifying approval processes, it is suggested that an alternative approach be pursued which allows for additional permitted uses on the site which are consistent with the intended retail development (e.g. business premises), however only in conjunction with the approved (and proposed) shopping centre extension. In the event that development does not proceed on the site as per the approved MPA, only development consistent with the IN1 zoning would be possible. Council may also be amenable to the inclusion of additional permitted uses that would facilitate an evolution of the shopping centre in the future. The submission makes reference to child care facilities, medical centres and community facilities. These uses would still require development consent.

The exact nature of the LEP amendment would need further consideration and discussion, but it may be an 'additional local provision' with the development outcome (MPA) specified and linked to the permissibility of the additional uses.

Should a change to the planning framework be deemed unworkable (for example if additional permitted uses cannot be linked to the MPA), this would not preclude the outcomes sought. Fitouts, minor alterations and the possible additional uses could be approved by way of modification of the MPA.

General requirements

In addition to the requirements of *A guide to preparing planning proposals* and Inner West Council's *Guidelines for preparing planning proposals*, any planning proposal would need to consider in detail the relevant provisions of:

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- *A Metropolis of Three Cities – The Greater Sydney Region Plan*
- *Eastern City District Plan*
- *Marrickville 'Our Place, Our Vision' Community Strategic Plan 2023*
- *Inner West Council Statement of Vision and Priorities (2017)*

All relevant directions, indicators, objectives, goals and priorities are to be addressed individually, rather than collectively, and a proposal must demonstrate consistency and planning merit in relation to these.

Note: A new fee structure for planning proposals and DCP amendments was adopted by Council on 24 July 2018. This allows for the recovery of costs associated with the referral of planning proposals to the Inner West Planning Panel and Architectural Excellence Panel.

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