

Planning Services

Gateway determination Report

LGA	Bayside
RPA	Bayside Council
NAME	Planning proposal to amend Botany Bay Local Environmental Plan 2013 to permit high-density residential development with a mix of commercial use (2,068 homes, 200 jobs)
NUMBER	PP_2017_BSIDE_007_00
LEP TO BE AMENDED	Botany Bay LEP 2013
ADDRESS	128 and 130-150 Bunnerong Road, Pagewood
DESCRIPTION	Lot 1 and part Lot 2 DP in 1187426
RECEIVED	25 October 2017
FILE NO.	IRF17/142
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 (**Attachment A**) seeks to amend Botany Bay Local Environmental Plan 2013 (BBLEP 2013) to rezone 128 and 130-150 Bunnerong Road, Pagewood from part IN1 General Industrial and R3 Medium Density Residential to R4 High Density Residential; to increase the maximum floor space ratio (FSR) from 1.0:1 to 2.35:1; and to increase the maximum building height from part 11 metres, part 17 metres, part 28 metres and part 32 metres to part 28 metres and 65 metres.

The proponent, Meriton, wrote to Council on 14 July 2017 (**Attachment F**) requesting an addendum to the proposal to enable the delivery of affordable housing and commercial floor space on the site. The addendum is requesting:

- an increase to the FSR from 2.35:1 to 2.5:1 to dedicate 5% of the uplift for affordable housing; and
- the introduction of Schedule 1 Additional Permitted Uses in the BBLEP 2013 to allow a maximum of 5,000 square metres of commercial premises within the site.

Background

On 20 July 2017, the proponent submitted a rezoning review request to the Department of Planning and Environment as Bayside Council had not indicated its support for the proposal within 90 days of lodgement. The Department prepared a briefing report to the Sydney Eastern City Planning Panel noting the strategic and site-specific merit of the planning proposal.

On 12 September 2017, the Panel determined that the proposal demonstrated strategic and site-specific merit and should proceed to Gateway (**Attachment G**). The Panel

recommended that several impacts be addressed and the proposal be revised to respond to the following:

- no additional shadowing on existing and proposed open spaces in mid-winter between 12pm and 2pm;
- no additional shadowing on existing development to the eastern side of Bunnerong Road;
- 5% affordable housing to be integrated into the development without a bonus as contained in the current planning proposal. Affordable housing is to be handed to a Council-nominated community housing provider;
- satisfactory arrangements with Council for the provision of appropriate community facilities, open space and social infrastructure; and
- detailed transport reports that include:
 - assurance from Transport for NSW (TfNSW) that public transport will cope with the proposed population increase;
 - impacts on and conflicts with large dangerous goods vehicles, e.g. Denison Street; and
 - cumulative impacts of surrounding development, e.g. Westfield Eastgardens planning proposal.

On 27 September 2017, Council accepted the relevant planning authority (RPA) role (**Attachment H**) and submitted the proposal to the Department on 23 October 2017 for Gateway. On 25 October 2017, Council submitted additional studies commissioned as part of its preliminary assessment of the proposal.

Site description

The site is in Pagewood in the Bayside Local Government Area and is identified as Lot 1 and part Lot 2 in DP 1187426.

The site was formerly known as the British American Tobacco Australia (BATA) site and was previously occupied by industrial uses associated with the manufacturing and distribution operations of BATA. The southern portion of the site is zoned R3 Medium Density Residential and B4 Mixed Use with various height of building standards ranging from part 32 metres, part 39 metres, part 38 metres and part 44 metres that have been approved as part of finalising Botany Bay's comprehensive LEP.

The site is approximately 89,500 square meters in size and is bounded by Bunnerong Road to the east, Heffron Road to the north, Banks Avenue to the west and Westfield Eastgardens Shopping Centre to the south.

The site comprises an administrative building in the north-east corner, warehouse buildings and an expansive area of surface car parking.

Surrounding area

The site is located:

- 2.5km north of Port Botany;
- 4km north of Sydney Airport (outside the 2029 ANEF Contours);
- 3km south of the University of NSW and the Randwick hospitals precinct;
- 5km south of Centennial Parklands and Moore Park Entertainment Precinct;
- 7km south of the Sydney CBD;
- 3.5km east of Mascot Train Station; and

- 4.5km south-east of Green Square Town Centre.

To the north and east of the site, the properties along Bunnerong Road are zoned R2 Low Density Residential and comprise single and double storey detached dwelling houses. To the north-east of the site, the properties are zoned B1 Neighbourhood Centre with a cluster of neighbourhood shops. To the south of the site, the development comprises the Westfield Eastgardens complex.



Figure 1: Aerial view of subject site (outlined in red) and surrounds.

The site is close to public transport. The main public transport options servicing the site are buses. Several major bus routes (including route 301, 302, 310, 316, 317, 353, 391, 392, 400 and 410) are located on Bunnerong Road near Heffron Road (north-east of the site) and at the Westfield Eastgardens bus terminal (south-east of the site). Buses operate from Eastgardens to the city, Bondi Junction, Maroubra and La Perouse.

The site is within reasonable proximity to significant areas of open space, including Bonnie Doon Golf Club, Mutch Park, Jellicoe Park, Nagle Park and Heffron Park, all generally located to the west, south and north-west of the site.

A development application (DA 10730/2014) for the Stage 1 Master Plan Concept (Stage 1 Consent) was approved by the Land and Environment Court on 7 August 2015. This consent allows for approximately 2,223 residential apartments, up to 5,000 square metres retail floor space and four childcare centres to be delivered in the area.

Summary of recommendation

It is recommended the planning proposal proceed subject to the following conditions:

- Prior to community consultation, the planning proposal is to be updated to:
 - demonstrate consistency with the Draft Greater Sydney Region Plan and the Revised Draft Eastern City District Plan;

- amend the explanation of provisions to include the requirement of a minimum of 5,000 square metres of commercial floor space as an additional permitted use;
- update the number of jobs to reflect the provision for an additional 5,000 square metres of commercial floor space; and
- investigate and discuss with the proponent suitable affordable housing outcomes for the site.

Outcomes of these discussions are to be reported to the Sydney Region East team by 28 February 2018.

- Community consultation is required for a minimum of 28 days.
- Consultation is required with the following public authorities and organisations:
 - Transport for NSW;
 - Roads and Maritime Services;
 - Sydney Airport Authority;
 - Civil Aviation Safety Authority;
 - Department of Education;
 - Environment Protection Authority;
 - Office of Environment and Heritage; and
 - NSW Ports.
- A public hearing is not required to be held into the matter.
- The time frame for completing the LEP is 12 months.

PROPOSAL

Objectives or intended outcomes

The objectives of the proposal are clear and adequately describe its intent to enable development for high-density residential and mixed-use development on the site.

Intended outcome of the planning proposal

The intended outcomes of these amendments are to facilitate the development of:

- approximately 2,068 new dwellings;
- approximately 200 jobs within the precinct;
- an additional 5,000 square metres of commercial floor space;
- 100-place childcare centre;
- 4,060 square metres of community facilities;
- podiums to accommodate above-ground parking;
- elevated communal open space; and
- provision of a civic open space.

Explanation of provisions

The explanation of provisions adequately addresses the intended method of achieving the objective of the planning proposal except for the additional permitted use for commercial

floor space. The proposal seeks to amend the Botany Bay LEP 2013 in relation to land at 128 and 130-150 Bunnerong Road, Pagewood as follows:

- amend the land zoning map to rezone the site from IN1 General Industrial and part R3 Medium Density Residential to R4 High Density Residential;
- amend the FSR map to introduce an FSR of 2.35:1; and
- amend the height of building map to increase the maximum building height to part 28 metres and 65 metres (ranging from 8 to 20 storeys).

The explanation of provisions will require updating prior to community consultation to include the requirement of a minimum of 5,000 square metres of commercial floor space as an additional permitted use.

Mapping

The planning proposal includes map extracts showing the current and proposed zoning and FSR and height control maps. The LEP maps will need to be updated prior to finalisation to comply with *Standard technical requirements for LEP maps*.

NEED FOR THE PLANNING PROPOSAL

The proposal is not the direct result of a strategic study or report. It was initiated by the proponent whereby a planning proposal was lodged to Council on 19 April 2017. This proposal is a result of earlier Council/BATA-initiated work that led to the rezoning of Lot 2 in June 2013. The proposal seeks to rezone the site in response to an identified development opportunity that is aligned with state and regional plans and responds to housing close to public transport, infrastructure and jobs.

The proposal is the best means of achieving the objectives and intended outcomes as the proposed residential uses are prohibited within the existing IN1 General Industrial Zone and an amendment to the height of building and FSR provisions is required to accommodate high-density residential.

The industrial location is an isolated parcel of land that generates minimal employment and provides a less desirable interface for the amenity of adjoining and surrounding residential uses.

The proposal states that amending the planning controls allows the opportunity to redevelop the site and avoid land-use conflicts between industrial operations and the proposed development approved as part of the Stage 1 Consent for the southern portion of the former BATA site.

STRATEGIC ASSESSMENT

A Plan for Growing Sydney

A Plan for Growing Sydney sets out the plan for the city's future. It identifies Bayside Council within the Central subregion where the priorities include accelerating housing supply, choice and affordability and building great places to live. The following goals and directions under the plan are considered relevant:

Goal 1 – A competitive economy with world-class services and transport

The proposal states that it is consistent with this goal and direction as it will deliver jobs in the precinct to achieve higher productivity and reduce commuting distances for work.

Goal 2 – A city of housing choice with homes that meet our needs and lifestyles

The proposal states that it is consistent with this goal and direction as it will accelerate the delivery of 2,068 dwellings to accommodate the growing population and demand for different types of residential apartments close to public transport and jobs.

Goal 3 – A great place to live with communities that are strong, healthy and well connected

The proposal is consistent with this goal and direction as it provides potential for residential development with a mix of community, commercial and open spaces to improve access to jobs, services and recreation to enhance the liveability of the city.

Draft Greater Sydney Region Plan

The draft Greater Sydney Region Plan was released in October 2017 for consultation. It outlines the 40-year vision for Greater Sydney and how it will manage growth and change and guide infrastructure delivery. It is designed to inform district plans, local plans and the assessment of planning proposals. The plan identifies several objectives for Sydney, which should be considered in planning proposals:

Liveability

Objective 6: Providing services and infrastructure to meet communities' changing needs:

The plan focuses on the need to deliver the necessary facilities and services to meet people's changing needs through the provision of schools, recreation and health facilities.

Objective 10: Greater Housing Supply: The plan notes that providing ongoing housing supply and a range of housing types in the right locations will create more liveable neighbourhoods and support Greater Sydney's growing population.

Objective 11: Housing is more diverse and affordable: This objective states that providing ongoing housing supply and a range of housing types in the right locations will create more liveable neighbourhoods and support Greater Sydney's growing population.

Productivity

Objective 14: A metropolis of three cities – integrated land use and transport create walkable and 30 minute cities: This objective focuses on the need for integrated land use and transport planning to enable the delivery of a 30-minute city where residents can access the nearest centre.

Objective 22: Investment and business activity in centres: This objective indicates that strategic centres are to be well connected to transport, services and jobs.

Objective 23: Industrial and urban services land is planned, protected and managed: This objective reinforces the need to protect all industrial zoned land from conversion to residential development, including conversion to mixed-use zonings.

The proposal is generally consistent with the objectives in the plan. A Gateway condition is included requiring the proposal to be updated to address the Draft Greater Sydney Region Plan prior to community consultation.

Draft Revised Eastern City District Plan

The Greater Sydney Commission released a revised draft Eastern City District Plan on 26 October 2017. The plan is a 20-year plan to manage economic, social and environmental growth to achieve the 40-year vision for Greater Sydney.

The plan identifies the planning priorities that are important to achieving a liveable, productive and sustainable future for the district. It indicates that the site is within the Eastgardens-Maroubra Junction Strategic Centre. Part of the site is mapped as existing industrial land within the strategic centre.



Figure 2: Eastgardens-Maroubra Junction Strategic Centre. The subject site is outlined in red; jobs and services outlined in orange (source: draft Eastern City District Plan).

The proposal does not address the plan as it was lodged prior to its release. Instead, the proposal includes an assessment against the objectives, actions and priorities of the November 2016 version of the plan. The proposal is considered to be generally consistent with the following priorities and actions in the plan. However, a Gateway condition is included requiring the proposal to be updated to address the plan prior to community consultation.

Liveability – Priorities and Actions

Planning Priority E3 - Providing services and social infrastructure to meet people's changing needs. The plan has identified an expected increase of 20% in the number of children under four years who will live in the Eastern City District by 2036, with 25% of the growth in this age group anticipated in Bayside Council.

This planning priority focuses on providing services and social infrastructure to meet the changing composition of population groups in local places. The priority indicates the requirement for land and floor space to be dedicated for education and childcare facilities.

Action 8: Deliver social infrastructure to reflect the needs of the community now and into the future: The proposal responds to the priority and action by providing a 100-place childcare centre on the site.

Planning Priority E5 – Providing housing supply, choice and affordability with access to jobs and services. The plan outlines the Eastern City District needs an additional 157,500 dwellings between 2016 and 2036.

This priority indicates that new housing must be delivered to meet the demand of different housing types and tenure as well as be coordinated with local infrastructure to create liveable, walkable, cycle-friendly neighbourhoods with shops, services and public transport.

The plan states that Council requires an additional 10,150 dwellings by 2021. This proposal states that the development of the site will facilitate up to 2,068 new dwellings and accommodate a mix of unit types including one, two and three bedroom units.

This priority also indicates the need to implement affordable rental housing targets when preparing planning proposals for new urban renewal or Greenfield areas. The plan reaffirms that across Greater Sydney, targets generally in the range of 5-10 per cent of new residential floor space are viable.

The proponent's correspondence to Council of 14 July 2017 requested an addendum to the planning proposal to increase the FSR to 2.5:1 and dedicate 5% of the uplift for the purposes of affordable housing.

The request to increase the FSR for affordable housing is outside the scope of the planning proposal. A local provision to mandate affordable housing on the site cannot be included in the BBLEP as Bayside Council is not identified as an area in need of affordable housing under clause 9 of State Environmental Planning Policy No. 70 – (Affordable Housing Revised Schemes). Council will need to request to be included in SEPP 70 as part of a separate process, which would allow affordable housing contributions to be levied.

The provision of affordable housing is considered to have merit as it is consistent with the revised draft Eastern City District Plan and will provide a social benefit for the community and Greater Sydney.

The Department supports the provision of affordable housing on the site as a planning outcome. The provision of affordable housing in the residential component of the precinct is subject to negotiation via VPAs in line with Council's Affordable Housing Policy and within the FSR of 2.35:1.

Council has not lodged an application to the Department to be included in SEPP 70. The Department supports the provision of affordable housing, therefore the Gateway determination requires Council to investigate suitable affordable housing outcomes prior to community consultation and respond by the end of February 2018.

Productivity – Priorities and Actions

Planning Priority E10 – Delivering integrated land use and transport planning and a 30-minute city. The plan indicates that housing, jobs, health and education facilities will be planned in strategic centres to create 30-minute cities.

This priority focuses on the need to integrate land use and transport planning to improve the strategic road network and key intersections to improve traffic flows through the district and access to strategic centres.

The plan notes that access to strategic centres and interchanges will be supported by the train network, intermediate transit modes and an improved road network. The intermediate transit network to be considered in the next 20 years includes the CBD and South East Light Rail extension to Maroubra Junction and bus services from Green Square to La Perouse.

The priority indicates that planning of communities should take a balanced approach to minimising the negative impacts of freight movements and support more efficient freight movements, and that creating safe environments for walking and cycling contributes to businesses choosing to locate and invest.

The site is within proximity to Port Botany and Denison Street, which is a Roads and Maritime Services (RMS) approved road for heavy vehicles and is known as a designated

dangerous goods route. It recommended that consultation with TfNSW, RMS and NSW Ports be undertaken to determine the cumulative impacts of the surrounding roads and freight movements.

Planning Priority E11 – Growing investment, business opportunities and jobs in strategic centres. The plan notes that strategic centres provide important services, jobs and places for communities to meet. To manage growth and change of the district's centres, Eastgardens-Maroubra Junction is considered as a strategic centre.

The priority focuses on creating well-planned strategic centres to stimulate economic activity by providing jobs closer to where people live and use infrastructure more efficiently. The plan indicates that the district will need to accommodate 1.77 million square metres of additional retail floor space in the next 20 years and there will be a demand for additional office floor space.

The planning proposal states that the existing freight and warehouse tenants at the site employ only 15 workers. The proposal indicates that approximately 200 jobs will be created as result of the proposal. The site represents an opportunity to generate additional employment opportunities through an amendment to the planning proposal reflecting the proponent's addendum of 14 July 2017 to require a minimum of 5,000 square metres of commercial floor space as an additional permitted use.

Planning Priority E12 – Protecting industrial and urban services. The plan notes that employment and urban services support activities that are critical to Greater Sydney's productivity. Industrial and urban services land in the district provides well-located land for industries and services that support businesses in the Harbour CBD, other centres and Greater Sydney's two international trade gateways of Port Botany and Sydney Airport.

The plan notes that good access to urban services can serve local communities and reduces the need to travel to other areas, minimising congestion on the transport system.

The district has 1,450 hectares of industrial and urban services land spread over 58 separate precincts contributing to 11% of Greater Sydney's stock of industrial and urban services land. Three per cent (45 hectares) is undeveloped and the district has record low vacancy rates of 4%, indicating strong demand for this land.

The remaining precincts in the district account for approximately 32% of the total industrial and urban land and are essential areas for the location of urban services growth. Industrial and urban services land in the district is highly constrained due to the development of residential dwellings and large-scale retail.

Therefore, existing industrial and urban services land needs to be protected from conversion to residential and mixed-use development and must be managed to accommodate businesses supporting the local economy and local population.

The proposal is inconsistent with this planning priority because it is seeking to rezone a portion of the site from part IN1 General Industrial to R4 High Density Residential. However, the suitability of the site is further discussed under S117 Direction 1.1 Business and Industrial Zones.

The economic impact assessment and peer review conclude that there is sufficient justification to rezone the site as:

- the proposal will enhance economic activity and create employment opportunities on the site; and
- the proposal will avoid land use conflicts with employment hubs and existing residential development to the north, south, east and west of the site.

Local

Botany Bay Local Planning Strategy

The Botany Bay Local Planning Strategy prepared and adopted by Council in 2009 provides a framework for growth in Botany to 2031.

The strategy identifies a need for an additional 6,500 dwellings within the Botany Bay LGA and an employment target of 16,700 for the period 2004 to 2031. The planning proposal is generally consistent with the directions identified in the strategy:

Strategy Direction 1: Enhancing Housing Choice and liveability: Increase opportunities for new housing in existing centres, enhance existing open space and public domain, prevent new housing in inappropriate locations, and better manage conflicts between industrial and other uses; and

Strategy Direction 3: Managing Growth in the Eastern Centres: Improve amenity, increase supply of housing and retail in centres.

The strategy indicates that the BATA site was operational at the time and there was no need for it to be converted to alternative uses. However, the strategy identified the site as an investigation for change in the longer term.

Section 117(2) Ministerial Directions

An assessment of the planning proposal against the following section 117 Directions and policy matters:

Section 117 Direction 1.1 Business and Industrial Zones

The objective of this Direction is to encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the vitality of identified strategic centres.

The Direction states that a draft LEP shall not reduce the total potential floor space area for industrial uses in industrial zones. The proposal seeks to rezone industrial zoned land to R4 High Density Residential, resulting in a loss of total floor space area available for industrial uses and representing an inconsistency with the Direction.

The proposal suggests its inconsistency with Direction 1.1 is justified as an economic impact assessment (EIA) undertaken by Urbis (**Attachment I**) concludes that the former BATA site is not strategically significant industrial land. In addition, the site does not have the visibility or transport accessibility to appeal to growing industrial sectors such as freight and logistics. If the site remains zoned as IN1 General Industrial, this will create a land-use conflict with residential and the ongoing industrial operations at the site.

The EIA indicates that the largest employment growth sectors in Bayside are hospital, health facilities, offices and schools, with a reduction in manufacturing jobs as the demand is focused in Western Sydney.

An independent peer review of the EIA prepared by HillPDA (**Attachment J**) indicates that there is a deficit of 21.56 hectares in industrial land capacity and the rezoning of the site would result in the loss of 6 hectares of industrial land in Bayside. The review suggests the proposal should be updated to address the requirements of the Direction by indicating there is no net loss of potential floor space for employment uses and industrial uses in industrial zones.

Despite this loss of industrial land, the peer review concludes there is sufficient justification to rezone the site to allow for mixed-use and residential development given the existing or potential land-use conflicts with employment hubs (i.e. Westfield Eastgardens) and residential to the north, south, east and west of the site.

The planning proposal is considered justifiably inconsistent with this Direction as the proposal will enhance economic activity and create employment opportunities on the site, contributing to the viability of the strategic centre.

Section 117 Direction 3.1 Residential Zones

The objectives of this Direction are to encourage a variety of housing types, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource land.

The proposal seeks to broaden the range of housing provided in proximity to Eastgardens and to existing and future transport services and infrastructure, such as the proposed light rail extension to Maroubra Junction.

The planning proposal is considered consistent with this Direction as it will enable residential development on the land by providing capacity for 2,068 dwellings.

Section 117 Direction 3.4 Integrated Land Use and Transport

The objective of this Direction is to ensure the built form improves access to housing, jobs and services by walking, cycling or public transport use. It also seeks to reduce car dependency and provide for the efficient movement of freight.

The planning proposal is considered consistent with this Direction as it will allow for additional housing in proximity to existing services and public transport.

Section 117 Direction 3.5 Development Near Licensed Aerodromes

The objective of this Direction is to ensure that the proposal addresses the airport's Obstacle Limitation Surface (OLS).

The proposal indicates that the proposed concept plan includes buildings up to 20 storeys high (RL 85.0m), which is similar to the height of buildings approved as part of the Stage 1 Consent. The broader BATA site is subject to an OLS of RL 51.

The planning proposal is considered consistent with this Direction as it states that the site is outside the 2029 ANEF contours and airport noise is not a constraint to the redevelopment of the site for residential purposes. However, as part of the Gateway determination, consultation is required with Sydney Airport Corporation and the Civil Aviation Safety Authority (CASA) to ensure the proposal complies with clause 6.3 of the BBLEP and OLS requirements.

Section 117 Direction 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls.

The inclusion of a provision to require a minimum of 5,000 square metres of commercial floor space as an additional permitted use is considered to be consistent with this Direction as it allows employment uses to continue on the site as it transitions from an industrial zone.

Section 117 Direction 7.1 Implementation of A Plan for Growing Sydney

The planning proposal is considered consistent with this Direction as the goals relevant to this proposal have been addressed.

State environmental planning policies

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

Clause 6 of SEPP 55 requires the planning authority to be satisfied that the land is suitable, or can be made suitable, for all the uses permissible in the zone.

The proposal is accompanied by a contamination desktop study prepared by Douglas Partners (**Attachment K**), which indicates that the site was previously used as an automobile assembly plant by General Motors Holden from 1939 to 1982 and then a tobacco manufacturing plant by BATA. The study suggests the site is suitable for rezoning for mixed uses (including residential) and can be made suitable for the proposed development contingent on the additional investigations that are to be prepared and provided to Council and the site auditor.

A geotechnical study prepared by Douglas and Partners (**Attachment L**) identified that the site comprises fine to medium grained 'marine' sands and a Botany sand aquifer (a shallow unconfined to semi-confined groundwater system). The study considers the site suitable for the proposed development; however, there would be increasing difficulty in construction with increasing depth of excavation. Therefore, it is anticipated that car parking will be accommodated within the podium of each building.

As the proposed use is for high-density residential and commercial and retail activities, further detailed site assessment to determine any site remediation can be undertaken at the development application stage. In addition, it is recommended that consultation is undertaken with the Environment Protection Authority as part of the exhibition process.

State Environmental Planning Policy - (Infrastructure) 2007

The Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across the state by identifying matters to be considered in the assessment of development adjacent to particular types of development.

The proposal is accompanied by a transport impact assessment undertaken by Arup (**Attachment M**), which concludes that the road network has been determined to handle the development traffic levels with minimal impacts. However, an independent peer review prepared by Cardno on behalf of Council (**Attachment S**) notes that the cumulative traffic impact in the locality needs to be modelled based on the surrounding area, particularly the Westfield Eastgardens site.

The development is likely to constitute 'traffic-generating development' under the SEPP. It is recommended that consultation with RMS is undertaken as part of the exhibition process.

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Buildings (SEPP 65)

The SEPP aims to improve the design quality of residential flat development across the state through the application of a series of design principles.

The proposal is accompanied by a concept plan prepared by Hassel (**Attachment N**), which illustrates a layout and building arrangement that can be designed to comply with the relevant provisions of SEPP 65 and the associated Apartment Design Guidelines. The proposal states that it complies with the minimum building separation requirements and dedicates approximately 30% of the site area for communal open space (exceeding the Apartment Design Guidelines requirement of 25%). The solar access indicates that an average of 70% of the proposed apartments are capable of receiving a minimum of two hours of direct sunlight based on the massing and separation of the buildings.

The concept plan for the site will need to be updated at the development assessment stage to include specific information demonstrating the concept's ability to address all relevant requirements of SEPP 65 and the Apartment Design Guide.

State Environmental Planning Policy – (Building Sustainability Index BASIX) 2004

The SEPP requires residential development to achieve mandated levels of energy and water efficiency.

The proposal states that the proposed development concept has been designed with building massing and orientation to facilitate future BASIX compliance, which will be addressed at the development assessment stage.

SITE-SPECIFIC ASSESSMENT

Social

Affordable housing

The proponent wrote to Council on 14 July 2017 requesting an addendum to the planning proposal to increase the FSR from 2.35:1 to 2.5:1 and dedicate 5% of the uplift for affordable housing.

The Panel recommended that 5% affordable housing be integrated into the development without a bonus as contained in the current planning proposal and affordable housing is to be handed to a Council-nominated community housing provider.

The request to increase the FSR for affordable housing is outside the scope of the Gateway Determination. A local provision to mandate affordable housing on the site cannot be included in the BBLEP as Bayside Council is not identified as an area in need of affordable housing under clause 9 of State Environmental Planning Policy No. 70 – (Affordable Housing Revised Schemes). Council need to be included in SEPP 70, which would allow affordable housing contributions to be levied.

The provision of affordable housing is considered to have merit as it is consistent with the revised draft Eastern City District Plan and will provide a social benefit for the community and Greater Sydney.

The Department supports the provision of affordable housing on the site as a planning outcome. The provision of affordable housing in the residential component of the precinct is subject to negotiation via VPAs in line with Council's Affordable Housing Policy and within the FSR of 2.35:1.

Council has not lodged an application to the Department to be included in SEPP 70. The Department supports the provision of affordable housing, therefore the Gateway determination requires Council to investigate suitable affordable housing outcomes prior to community consultation and respond by the end of February 2018.

Increased population density

The independent peer review of the EIA estimates that the population within walking distance of the site will increase to more than 11,500 persons in 2031. The increase in residents as a result of this rezoning and other development approvals in the vicinity is likely to have a significant flow-on effect on local infrastructure and services. For example, schools surrounding the development such as South Sydney High School, Pagewood Public School, Maroubra Junction Public School, Our Lady of the Annunciation Catholic Primary School and Daceyville Public School are likely to experience increased demand for enrolment in the short to medium term. Consultation with the Department of Education is therefore recommended as part of the exhibition.

Community facilities

The proposal states that 4,060 square metres of community facilities will be introduced into the development to complement the southern portion of the BATA site. This would include a new civic open space in Wedge Park. In addition, the planning proposal states that following a Gateway determination, it is anticipated that the proponent and Council will discuss a VPA to address the embellishment of roads, public domain and land for open space and community facilities.

The Panel recommended that satisfactory arrangements with Council for the provision of appropriate community facilities, open space and social infrastructure be included in the Gateway.

Satisfactory arrangements are prepared through a clause in the Local Environmental Plan. These clauses require 'satisfactory arrangements' to be made for the provision of state and regional infrastructure before the land can be developed for urban purposes. This will ensure infrastructure such as additional public transport, health care, road upgrades, new schools and parks will be coordinated to support the community's needs at the same pace as the delivery of new homes and jobs.

All planning proposals within the planned precincts and growth areas should acknowledge that a satisfactory arrangements provision for contributions to designated State Public Infrastructure may be required in the final instrument.

The site is not located within a planned precincts or growth area therefore the satisfactory arrangements provision does not apply. The provision of community facilities and open space is considered to have merit as it will provide improved amenities for existing residential properties surrounding the site. The Department supports the provision of community facilities and open space which can be negotiated via VPAs to achieve this outcome.

Environmental

Natural environment

The subject site is not identified on the terrestrial biodiversity map of the BBLEP 2013. The proposal states there are no known critical habitats, threatened species or ecological communities on the site that would preclude the redevelopment of the site for residential purposes.

Bulk and scale

The Draft Council Master Plan

There are two master plans proposed for the site (Council initiated and proponent initiated), with two different overall yields. The Draft Council Master Plan has an FSR of 1.62:1 and notes that 1.8:1 would only be supported should major new public transport such as metro or light rail be provided.

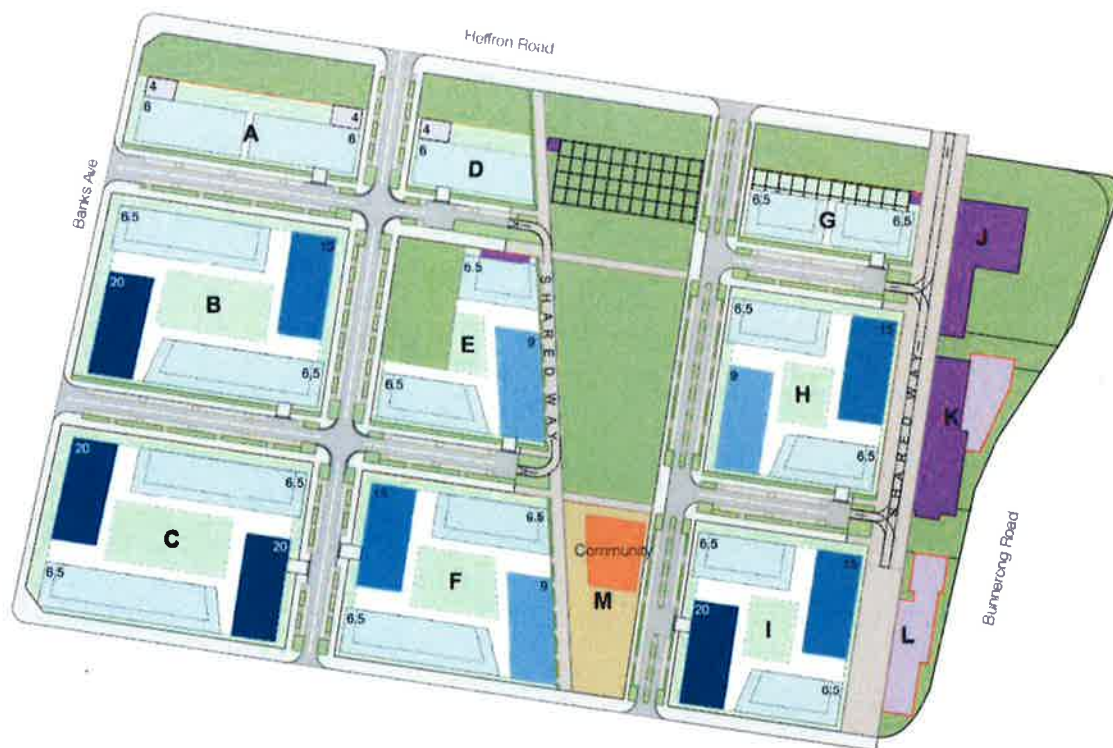


Figure 3: Draft Council Master Plan.

The plan provides a structure that retains the heritage items and uses wedged park to connect the greater open space network being provided to the south. The location of the park allows most of the built form to move away from the major traffic and noise pollution along Bunnerong Road and allows for the creation of well-proportioned blocks and local streets.

The proponent's concept plan

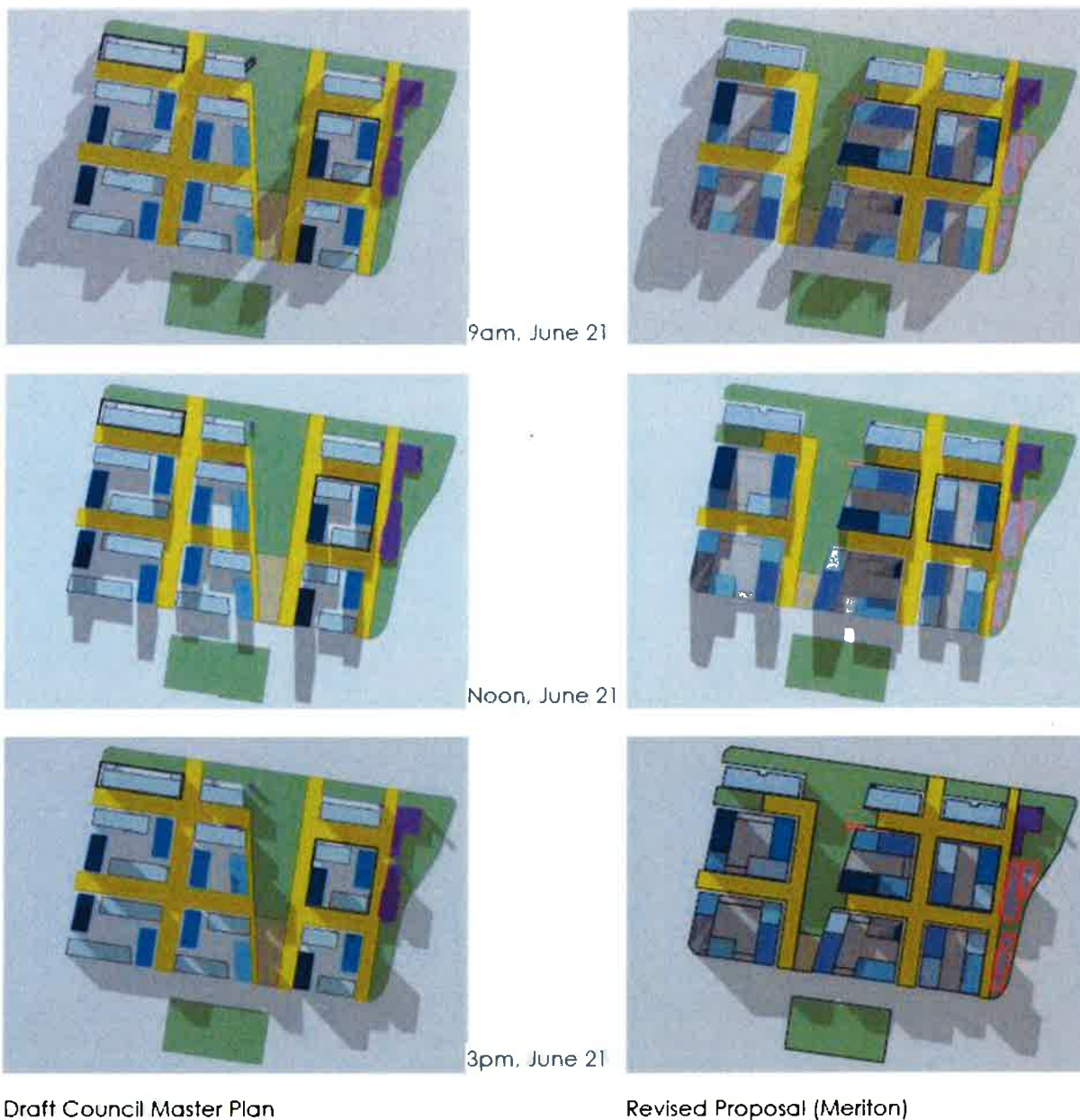
The concept plan and urban design report prepared by HASSEL (**Attachment N**) indicate that public open space accounts for 30% of the total site area for the concept plan and is capable of providing deep soil. Open space will also be provided above residential and car parking podiums.



Figure 4: The proponent's concept plan.

There is also the provision for a civic space, centrally located adjacent to the wedged park. The concept plan adopts the streetscape design put forward in the Draft Council Master Plan to maximise solar access and pedestrian amenity. Larger setbacks have been provided to the north, east and western building frontages to maximise solar access. The concept plan indicates that the height of buildings along Bunnerong Road frontage have been reduced to minimise overshadowing to the residential properties to the east.

The independent peer review prepared by Hill Thalys (**Attachment O**) on behalf of Council states that while a similar layout as the Draft Council Master Plan has been adopted, the revised proposal is rotated at a less desirable orientation, with critical connective pieces of street reserve deleted. The proposal offers less solar penetration to major public spaces, particularly between the hours of 11am and 1pm in mid-winter.



Draft Council Master Plan

Revised Proposal (Meriton)

Figure 5: Overshadowing diagrams of the Draft Council Master Plan (left) and the proponent's concept plan (right).

The peer review states that the location of eight-storey buildings to the northern edge of the site is not considered 'low' as these are significantly taller than the width of the adjacent street. A low scale would be considered to be no more than six visible storeys from the street. The orientation, depth and arrangement of taller elements must be carefully considered to provide maximum amenity to the public domain and between buildings. The proposal does not reflect the proposed provisions in the Draft Council Master Plan.

The peer review states that no credible case for an increased FSR of 2.35:1 has been justified by the proponent. The peer review indicates that the additional bulk of podium car parking has significant impacts on achieving amenity of solar access and ventilation, deep soil, mature landscape, through block links and stormwater management.

The peer review recommends that the proposal be updated to reflect the concept plan below:



Figure 6: Independent peer review recommended concept plan

- all streets (yellow) and parks (dark green) be dedicated to Council;
- that consistent street alignments and setbacks be provided throughout;
- that street frontages within each block provide a range of built form heights with clear unobstructed breaks between buildings;
- an increased maximum gross FSR of 2:1;
- that the maximum heights be distributed in accordance with the plan;
- maximum building envelope depths of 18m;
- that all blocks should have deep soil planning to accord with the ADG; and
- no above ground car parking be permitted, with visitor parking predominantly on street.

In addition, the Panel recommended no overshadowing on existing and proposed open spaces in mid-winter between 12pm and 2pm and no additional overshadowing on existing development to the eastern side of Bunnerong Road.

The concept plan and urban design report prepared by HASSEL indicates that the orientation of the buildings can be designed to comply with the concept plan illustrates a layout and building arrangement that can be designed to comply with the provisions of the SEPP 65 and the associated ADG as well as minimise the potential for unreasonable overshadowing to existing residential properties located on the east of the site (Bunnerong Road). The key consideration are as follows:

- Building separations meet the minimum requirements set out in the ADG to assist in achieving high levels of visual and acoustic privacy and ventilation. All building

facades will feature habitable rooms, with a minimum 24m separation provided between buildings for maximum solar access;

- The solar access analysis undertaken by HASSEL indicates that an average of 70% of the proposed apartments are capable of receiving a minimum of two hours of direct sunlight based on the massing and separation of buildings;
- A range of communal open space opportunities will be available throughout the development including podiums with green roofs. Based on the concept plan, communal open space accounts for approximately 30% of the site area (exceeding the ADG requirements of 25%); and
- Deep soil zones will meet the minimum requirement of 7% of the site area.

There is merit for the proposal to adopt an FSR of 2.35:1 as the urban design analysis and concept plan illustrates a layout and building arrangement that can be designed to comply with the relevant provisions of State Environmental Planning Policy No. 65 – (Design Quality of Residential Apartment Development) and the associated Apartment Design Guidelines, whilst minimising the potential for unreasonable overshadowing to existing residential properties located on the east of the site (Bunnerong Road).

It is considered that the peer review does raise valid concerns in relation to design details specified in the concept plan, such as street connectivity, location of car parking and overshadowing of the public domain. The review does not definitively substantiate that the desired outcomes can only be achieved at the FSR of 2:1. Therefore a FSR ratio of 2.35:1 has been adopted for this purpose. If necessary, details relating to the design and solar access can be addressed by further refinement at the concept plan and at the DA stage bearing in mind that the FSR is a maximum.

Heritage

The site is not identified on the heritage map of the BBLEP 2013.

The proposal states that the site is not listed as a heritage item under the BBLEP 2013 or located within a heritage conservation area. The heritage impact study (**Attachment P**) states that the administration building in the north-east corner of the site is understood to have local historic significance. The proposal indicates that the building will be retained for community purposes. The site is also located near Jellicoe Park (item 155) and Harris Reserve (Item 66).

There is no heritage concern with the concept of residential rezoning of the site from its current industrial use; however, it is essential to retain landscaping surrounding the former administration building and the trees identified as significant.

A conservation management plan and interpretation strategy for the site would need to be submitted as part of the development application of the site. Consultation with the Office of Environment and Heritage is also recommended as part of the exhibition process in relation to the heritage significance of the administrative building and surrounding landscaping.

Existing vegetation

An arborist report prepared by TALC consultants (**Attachment Q**) states that the site is predominantly cleared of all vegetation except for mature trees lining the northern and eastern boundaries. It is anticipated that the trees will be retained where possible and the public domain design is acceptable to accommodate the retention of substantial trees on the site.

Flooding

The site is not identified on the flooding map of the BBLEP 2013.

The proposal states that external flood levels are considered in a due diligence report prepared by AT&L (**Attachment R**) and will need to be addressed during the detailed design phase of any future development. It is considered that car park entry levels and ground floor levels can be appropriately designed with adequate freeboard as part of the future development application.

Traffic

The traffic and transport impact assessment prepared by Arup (**Attachment M**) states that the road network can cope with the expanded residential development. The proposal indicates that development yields have little impact on the network, with some increases in delays at intersections. The proposal states that intersection upgrades approved for the masterplan at 130-150 Bunnerong Road include:

- Maroubra Road, Heffron Road, Bunnerong Road (upgrades to the intersection including right turn lanes and widening of roads on the northern approach);
- Heffron Road and Banks Avenue (removal of roundabout and replace with signalised intersection);
- Wentworth Avenue and Page Street (additional right turn from Wentworth Avenue, extension of right turn bays on Page Street, left turn slip lane provisions on the west and south approaches);
- provision of traffic signals at Bunnerong Road/Access Road intersection with separate right and left turn lanes; and
- widening of Bunnerong Road (south) to upgrade the Maroubra Road/Heffron Road intersection.

The transport impact assessment provides average person per peak hour trips rates for high-density residential developments based on journey to work and the RMS technical direction. These trip rates are provided as follows:

Weekday AM: 0.725;

Weekday PM: 0.592; and

Weekend noon: 0.660.

An independent peer review of the traffic impact assessment and modelling report prepared by Cardno (**Attachment S**) on behalf of Council states that clarification on trip-generation rates, cumulative traffic impacts and forecast traffic generation need further justification as there is a discrepancy in existing journey to work patterns and the suggested model shift.

The traffic and transport impact assessment and the independent peer review note that the cumulative traffic impact in the locality needs to be modelled based on the surrounding area and should consider Denison Street (an RMS approved road for heavy vehicles known as a designated dangerous goods route) in Botany Bay and the Westfield Eastgardens site.

The Panel recommended that a detailed transport report needs to include:

- assurance from Transport for NSW that public transport will cope with the proposed population increase;
- impacts on and conflicts with large dangerous goods vehicles, e.g. Denison Street; and
- cumulative impacts of surrounding development, e.g. Westfield Eastgardens planning proposal.

In response to the Panel's recommendation, the proponent provided updated traffic modelling for the planning proposal based on an FSR of 2.5:1 and up to 5,000 square metres for retail. The technical note prepared by ARUP (**Attachment J**) notes that based on the revised FSR and retail GFA resulted in an increase in development trips of 1.3%, 19.7% and 20.6% for the AM, PM and weekend peak periods respectively. This accounted for an increase of 0.1%, 1.3% and 1.3% to overall network demands in the 2031 scenario with development traffic not accounting for 11%, 9% and 8% of total network traffic in the AM, PM and weekend peak periods respectively.

The technical note further indicates that there are signal operation improvements at Wentworth/Banks/Corish and Wentworth/Denison. The operational change involved streamlining the operation between the two intersections contributes to reduced intersection capacity, which is increasingly under pressure as a result of future Westfield background traffic growth. Signals that include a stagger movement are known to reduce the capacity of a section of road.

It concludes that with some minor network adjustments and despite the development traffic, the overall network capacity in 2031 was able to be improved over and above the existing future base scenario. This is also facilitated by the substantial traffic upgrades already approved and funded. This indicated that there is currently spare capacity on the road network that is only restricted by the operation of a number of key intersections.

Having regard to the Panel's recommendation, the information submitted in support of the proposal demonstrates that with the upgrades and some minor adjustments to phasing of traffic signals the proposal will increase the performance of the surrounding traffic network even with new traffic generation. It is recommended that consultation with TfNSW, RMS and NSW Ports is undertaken to determine the cumulative impacts of the surrounding roads and freight movements.

Public transport

The traffic and transport impact assessment suggests that the site will have good access to public transport, with buses connecting to Sydney CBD, La Perouse and Bondi Junction. A proposed light rail service extending the current CBD and South East Light Rail to Maroubra Junction provides an alternative to car usage.

However, the independent peer review notes that the light rail (if extended) is unlikely to be a preferred mode of travel given the distance and lack of parking provided at the station. Furthermore, the review states the traffic and transport impact assessment needs to provide more evidence to suggest there is a shift in travel mode where an increase of bus services and reduction in car usage will occur.

Consultation with RMS and TfNSW is recommended to determine the need for further clarification on trip-generation rates, forecast traffic generation and the cumulative impacts of surrounding roads and developments (e.g. Denison Street and Westfield Eastgardens).

Economic

Employment

Employment within the Council area is projected to increase by around 17,300 jobs between 2016 and 2031. The EIA states that the industries that are expected to experience employment growth are retail trade, health care, public administration, transport and warehousing. With the exception of transport and warehousing, these sectors are usually not accommodated in industrial sites but in local businesses, commercial centres or adjacent residential areas.

The EIA indicates that 68% of all employment growth is projected to be in the office, health and retail properties as opposed to 7% projected in industrial-zoned lands. The analysis suggests that existing non-industrial employment precincts and centres will deliver most future employment growth.

The independent peer review (**Attachment K**) indicates that future employment growth for industrial-based jobs will not be adequately met by the LGA as there are better located industrial precincts (including Eastern Creek, Marsden Park and Moorebank) providing significant capacity to accommodate additional industrial growth. The anticipated employment growth for industrial-based jobs in Bayside is likely to gravitate towards Western Sydney.

The inclusion of a provision to require a minimum of 5,000 square metres of commercial floor space on the site will increase employment opportunities.

Loss of industrial land

The EIA indicates there is currently 24.2 hectares of undeveloped industrial employment lands within Bayside Council. The independent peer review indicates there is a deficit of 21.56 hectares in industrial land.

The review shows that rezoning the site would result in the loss of 6 hectares of industrial land in Bayside. Despite the loss of industrial land, the site is not near the ports area and is surrounded by residential on all sides.

The peer review states there is sufficient justification to rezone the site to allow for mixed-use predominantly residential development given the existing or potential land-use conflicts with residential to the north, south, east and west and given the site's proximity to major amenities (i.e. Westfield Eastgardens), employment hubs and education establishments. However, the rezoning is inconsistent with the revised draft Eastern City District Plan and should be updated to clearly address the requirements of planning priority E12 by indicating that there is no net loss of potential floor space for employment uses and industrial uses in industrial zones would be retained through the delivery of jobs as part of the provision.

The proposal is inconsistent with this planning priority because it is seeking to rezone a portion of the site from part IN1 General Industrial to R4 High Density Residential. However, the suitability of the site is further discussed under S117 Direction 1.1 Business and Industrial Zones.

The economic impact assessment and peer review conclude that there is sufficient justification to rezone the site as the proposal will:

- enhance economic activity and create employment opportunities on the site; and
- avoid land use conflicts with employment hubs and existing residential development to the north, south, east and west of the site.

CONSULTATION

Community

The planning proposal states that public consultation will be undertaken in accordance with the Gateway determination. An exhibition period of 28 days is considered acceptable.

Agencies

Consultation is required with the following public authorities:

- Transport for NSW;
- Roads and Maritime Services;

- Sydney Airport Authority;
- Civil Aviation Safety Authority;
- Department of Education;
- Environment Protection Authority; and
- Office of Environment and Heritage.
- NSW Ports

TIME FRAME

A time frame of 12 months is considered appropriate given the nature of the proposal.

DELEGATION

Delegation of the planning proposal has not been requested by Council. Given the nature of the proposal, Council should not be authorised to exercise delegation to make this plan as it was subject to a rezoning review.

CONCLUSION

The planning proposal is to proceed with conditions as it:

- generally satisfies the state, draft district and local planning objectives, which encourage developments that will facilitate increased housing provisions in a location considered as a strategic centre serviced by public transport and in proximity to employment opportunities;
- The proposal allows the opportunity to redevelop an isolated industrial parcel of land to avoid land-use conflicts between industrial operations and the proposed development approved as part of the Stage 1 Consent for the southern portion of the former BATA site.
- contributes to the Bayside Council dwelling target by allowing the delivery of approximately 2,068 new dwellings;
- ensures the provision of employment by delivering approximately 200 jobs;
- appropriate planning outcomes can be achieved at the higher FSR of 2.35:1. Further refinement of the concept plan should be undertaken by investigating street connectivity, building orientation and location of open space; and
- affordable housing is supported as a planning outcome through the mechanism of a VPA.

RECOMMENDATION

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - Transport for NSW;
 - Roads and Maritime Services;
 - Sydney Airport Authority;
 - Civil Aviation Safety Authority;

- Department of Education;
 - Environment Protection Authority; and
 - Office of Environment and Heritage.
 - NSW Ports
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
 4. Given the nature of the planning proposal, Council should not be authorised to exercise delegation to make this plan.
 5. Prior to community consultation, the planning proposal is to be updated to:
 - a) demonstrate consistency with the Draft Greater Sydney Region Plan and the revised draft Eastern City District Plan;
 - b) amend the explanation of provisions to include the requirement of a minimum of 5,000 square metres of commercial floor space as an additional permitted use;
 - c) update the number of jobs to reflect the provision for an additional 5,000 square metres of commercial floor space; and
 - d) investigate and discuss with the proponent suitable affordable housing outcomes for the site.

Outcomes of these discussions are to be reported to the Sydney Region East team by 28 February 2018.



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08/12/17

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