



PLANNING PROPOSAL

To amend the Ashfield Local Environmental Plan (LEP) 2013
as it applies to

**No. 120C Old Canterbury Road,
Summer Hill**

Prepared for:
The Yard 120C Pty Ltd
C/- 695 Parramatta Road
Leichhardt NSW 2040

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1.0 INTRODUCTION

This Planning Proposal has been prepared for The Yard 120C Pty Ltd by Gary Shiels & Associates Pty Ltd (hereafter referred to as GSA Planning). GSA Planning has expertise in Town Planning, Urban Design, Environmental & Traffic Planning. This Planning Proposal is for the property known as No. 120C Old Canterbury Road, Summer Hill, legally described as Lot 1 in DP 817359 and Lot 100 in DP 875660 (hereafter referred to as the “subject site”).

On behalf of the owners of the abovementioned site, we hereby request Inner West Council amend the Ashfield LEP 2013 to rezone the western portion of the subject site (Lot 1 DP817359) from SP2 Infrastructure to B4 Mixed Use as well as alter the FSR and maximum building height across the entire site. This Planning Proposal has been prepared in accordance with the NSW Department of Planning and Infrastructure’s “A Guide to Preparing Planning Proposals”. The subject site comprises two allotments and the LEP currently applies two different zones to each of the allotments. The eastern portion (Lot 100 DP817359) is zoned B4 Mixed Use and the western portion is zoned SP2 Infrastructure.

Our clients purchased the western allotment of the subject site from Transport for NSW at or around 2009. At the time of purchase, this land was zoned 5(b) Railway Uses and was subject to an easement in favour of Transport for NSW. This easement has now been extinguished. As part of the translation to the standard instrument, the Ashfield LEP 2013 zoned the site SP2 Infrastructure (Railway). During the preparation of the LEP, the Council resolved to revisit the sites redundant zoning as a separate process, prompting the preparation of this Planning Proposal. The resolution stated, inter alia:

“No change is recommended to the Draft LEP at this time. However, the request can be considered as part of an amendment to a future 2013 Ashfield LEP subject to a planning proposal application with adequate detail and justification being submitted for any variation to FSR.”

As the site is now in the private ownership of our clients is no longer used by a public authority for railway purposes, and is no longer encumbered by an easement for access the SP2 zoning is no longer appropriate. This is the basis to amend the zoning of Lot 1 DP817359. Public benefit will be provided by provided via a through site connection to the greenway.

In recent years, significant development has occurred in the area directly surrounding the site, resulting in a change to character and built form of the locality. This includes at least 10 residential flat buildings or mixed use developments in the vicinity comprising five to six storeys with an FSR of 2.5-3:1. On this basis we request that Council support this Planning Proposal, which seeks the following:

- Rezone the western allotment from SP2 Infrastructure to B4 Mixed Use to apply consistent zoning to the entire site.
- Apply a maximum height of RL38.0 across the entire site (which accounts for sloping topography and flood affectation).
- Apply an FSR of 2.5:1 across the entire site.

There are compelling planning reasons to support the rezoning as well as increases in height and FSR for the subject site. These include the following: Change in Ownership; Consistency with the current Inner West (Marrickville) Planning Controls; Consistency of FSR with Height Limit; Existing and emerging Character and Context; and Site Suitability.

2.0 POST LODGEMENT AMENDMENTS AND RESOLUTION OF COUNCIL

The Planning Proposal was lodged on **16 December 2016**. The proposal initially sought a maximum height of RL46.50 and an FSR of 3:1 across the entire site.

In **June 2017**, in response to submissions and liaison with Council, the proposed building height was lowered by 2 floors to a maximum RL of 41.1 and the proposed FSR was reduced to 2.75:1

In **July 2017**, the Planning Proposal was considered by Council who resolved to proceed with the Planning Proposal subject to further amendments which have been incorporated into this amended document, with the proposal lowered to a maximum RL of 38.0 and maximum FSR of 2.5:1.

This section will provide a brief overview of amendments made prior to the Council meeting as well as those made following the resolution.

2.1 Preliminary Public Exhibition and Initial Correspondence from Council

The Planning Proposal was placed on preliminary public exhibition from **1 February 2017** to **6 March 2017**, where residents were given the opportunity to provide feedback to Council on the proposed changes to the Ashfield LEP.

Following the conclusion of the exhibition period, Council wrote to the applicant on **4 April 2017**. Council's correspondence raised issues relating to submissions, maximum building height and maximum FSR. A number of submissions were received during the public exhibition period. The majority of submissions raised issues relating to building height and overshadowing. In addition, Council's Architectural Excellence Panel undertook a site inspection on **6 June 2017** and delivered a report on **19 June 2017**.

A further email was received from Council on **7 June 17** requesting additional architectural material in particular floor plans to assist in determination of appropriate FSR, revised sections indicating relationship to adjacent buildings and plans accounting for car parking. The architectural material referred above was prepared by Fox Johnston and accompanied an earlier revision of this document.

This email also requested the Planning Proposal respond to Inner West Council's Affordable Housing Policy. This is addressed further in Section 2.4.

Clarification was also requested in relation to the intent to express the building height as an RL. The use of RLs to determine height is a very common practice in urban renewal areas, for example by the City of Sydney in Green Square and often relates to concept envelopes. In this case, the proposed RLs to be incorporated into the height control have been guided by the concept building envelope prepared by Fox Johnston. This is discussed in further detail in Section 6.2.1.

2.2 Response and Amendments

In response to the submissions received during the preliminary public exhibition, the comments from the Architectural Excellence Panel, and as a result of our consultation with Council, the building height was lowered by 2 floors to a maximum RL of 41.1 and the FSR was reduced to 2.75:1 in the June 2017 Planning Proposal.

The envelope was also reduced and refined with modelling undertaken by Fox Johnston demonstrating that 2 hours of solar access could be achieved to No.120B Old Canterbury Road in accordance with the Apartment Design Guide (ADG). Those amendments and the revised envelope were considered to appropriately respond to the issues of height and solar access. The reduction in height also minimised any impact to existing dwellings located in the Lewisham Estate Conservation Areas and was considered appropriate in this regard.

As a function of the reduction in the overall building height, the June 2017 proposed FSR was also reduced from 3:1 to 2.75:1. The FSR proposed had been carefully tested against the calculation methods set out in the ADG and this is demonstrated in the additional drawings provided by Fox Johnston. As discussed with Council, a site specific DCP will be prepared following the Gateway process.

Council officer's report of 25 July 17 recommended a further reduction in Maximum Building Height and Maximum Floor Space Ratio to respond to scale and height issues, and this was resolved by Council. This is reflected in **Part 7.4 -Mapping** of the Planning Proposal.

2.3 Public Benefit Contribution and GreenWay Works

The Light Rail Corridor to the west of the subject site is intended to incorporate a portion of the GreenWay which is an environmental, active transport and cultural corridor extending some five kilometres from the Cooks River at Earlwood in the south, to Iron Cove at Haberfield in the north. The GreenWay corridor passes through Canterbury, Marrickville, Ashfield and Leichhardt Council areas of Sydney's Inner West and incorporates Hawthorne Canal and the Rozelle freight rail corridor.

In addition to the documentation surrounding the GreenWay proposal, Inner West Council is currently developing Public Domain Guidelines for the Lewisham West Precinct. In part, this public domain strategy includes a connectivity diagram. This diagram indicates that the primary GreenWay Shared Path would travel north-south on the western side of the Light Rail Line with a potential secondary path being located on the eastern side of the Light Rail, adjacent to the subject site. It also shows a stairway link from this shared path up to Old Canterbury Rd, adjacent to the overpass.

Council and the AEP have indicated that as part of the planning proposal, a contribution should be made to these GreenWay connections to provide public benefit in the immediate locality. This contribution would be subject to a formal Voluntary Planning Agreement (VPA) process however would include the following:

- In kind contribution including construction of stair and public pathway to connect to greenway along the length of the subject site.
- Provision of a secondary through site link from McGill Street, via the access handle, to the GreenWay. This will incorporate public domain and landscape improvements in a 'pocket park' configuration.
- Further monetary contribution of up to \$500,000 towards construction of the GreenWay secondary shared path adjacent to the subject site.

As indicated, these matters are subject to a formal VPA process and detailed discussions with Council Officers at a later stage. An indicative layout of the proposed linkages has been prepared by Fox Johnston and is separately submitted. This is extracted in Figure 1.

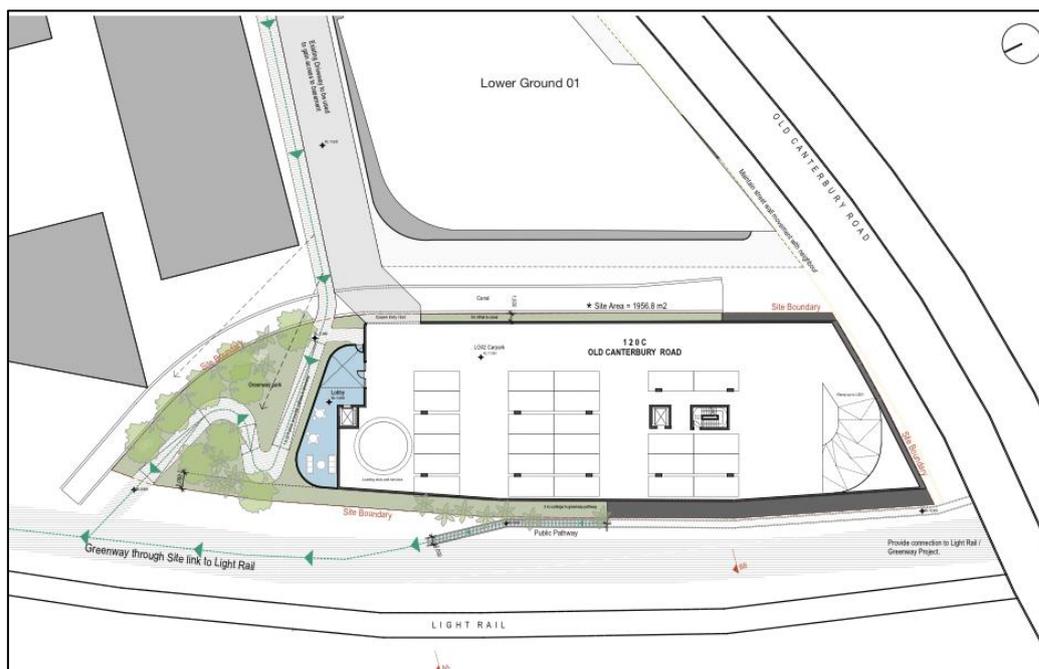


Figure 1: Floorplan Showing Through Site Link from McGill St

2.4 Inner West Council Affordable Housing Policy

On **28 March 2017**, Council adopted the Inner West Council Affordable Housing Policy. The policy aims to value capture from planning proposals seeking increased height or density. In respect of timing and the application of the policy to Planning Proposals lodged prior to the Affordable Housing Policy coming into effect, the policy states, inter alia:

“Timing - in consideration of reasonableness and equity, the value capture requirement should apply to land that is subject to a proposal for a rezoning or variation to planning controls where that application is received after the Policy is approved by Council. For applications that have been made or are under consideration prior to the Policy’s approval, this Policy will provide guidance as to the quantum of affordable housing contribution that is considered to be appropriate.”

As noted in Section 7.0 of the Council Officer’s Report of 25 July 17 , the subject Planning Proposal was lodged before the Affordable Housing Policy was adopted by Council and as such, the policy applies as a guide only. Notwithstanding this, affordable housing will be negotiated via a Voluntary Planning Agreement (VPA) following Gateway determination in accordance with Council’s resolutions.

3.0 RESOLUTION OF COUNCIL

Inner West Council considered a report on the Planning Proposal at its meeting of 25 July 2017. The Council resolved to support the proposal subject to amendments stating the following, inter alia:

“Council on the 25 July 2017 considered Item No. C0717 Item 7 (Council report) and resolved as follows:

- 1/6 The Planning Proposal be amended to Council’s satisfaction addressing the recommendations outlined in this report, including a Maximum Height of Building equating to 6 storeys relative to Old Canterbury Road and a reduced Maximum Floor Space Ratio.*
- 2/6 Council authorises the Interim General Manager to be Council’s delegate and use “the Authority” for the processing of the Planning Proposal as outlined in this report.*
- 3/6 On satisfactory completion of Resolution 1 and 2, the Planning Proposal be referred pursuant to Section 56 of the Environmental Planning and Assessment Act 1979 (the Act) seeking a Gateway Determination and for Council to be the Relevant Planning Authority, and requesting the studies identified in the report be produced.*
- 4/6 Council develop a site specific Draft Development Control Plan as outlined in this report and exhibit it concurrently with the Planning Proposal*
- 5/6 Upon receipt of the Gateway Determination the Planning Proposal and draft DCP be put on public exhibition pursuant to the Environmental Planning and Assessment Act 1979 (the Act)*
- 6/6 Council write to the NSW Roads and Maritime Service and request that an area wide traffic network analysis be prepared for the McGill Street precinct and surrounds to determine local area traffic management opportunities that may be implemented to mitigate and better manage traffic impacts in this locality.”*

In accordance with Part 1 of the recommendation, this report has been updated to reflect a six (6) storey building height to Old Canterbury Road and a reduced FSR. Additionally, changes have been made to address the LEP Making Guidelines outlined in Table 5 of the Council report. These matters are discussed throughout the remainder of this document.

4.0 SITE ANALYSIS

4.1 The Site

The subject site is located on the northern side of Old Canterbury Road. It is legally described as Lot 1 in DP 817359 and Lot 100 in DP 875660. The subject site is approximately 7km from the Sydney CBD and is within the Local Government Area (LGA) of Inner West Council (see Figure 2).

The site is irregular in shape with a total area of 1,956m², excluding the right of way (see Figures 3 and 4 on the following page and survey plan separately submitted). The southern end of the site is a steeply sloping site with a fall of approximately 9.83m from Old Canterbury Road. Accordingly, from the opposite side of Old Canterbury Road only the timber boundary fence is visible (see Photographs 1 - 3 on page 7).

Due to the steeply sloping nature of the site, vehicular and pedestrian access is only available via a right of way which forms part of No. 120 Old Canterbury Road. This right of way is accessed from McGill Street, via a bridge over the existing stormwater channel. This bridge was constructed in accordance with DA 283/2013 and Sydney Water's predicted flood levels (see Photograph 4 on page 7). The site is currently vacant, except for a number of shipping containers along the western boundary.

The site was previously burdened with a right of way access easement in favour of Transport for NSW, however this easement has now been extinguished.

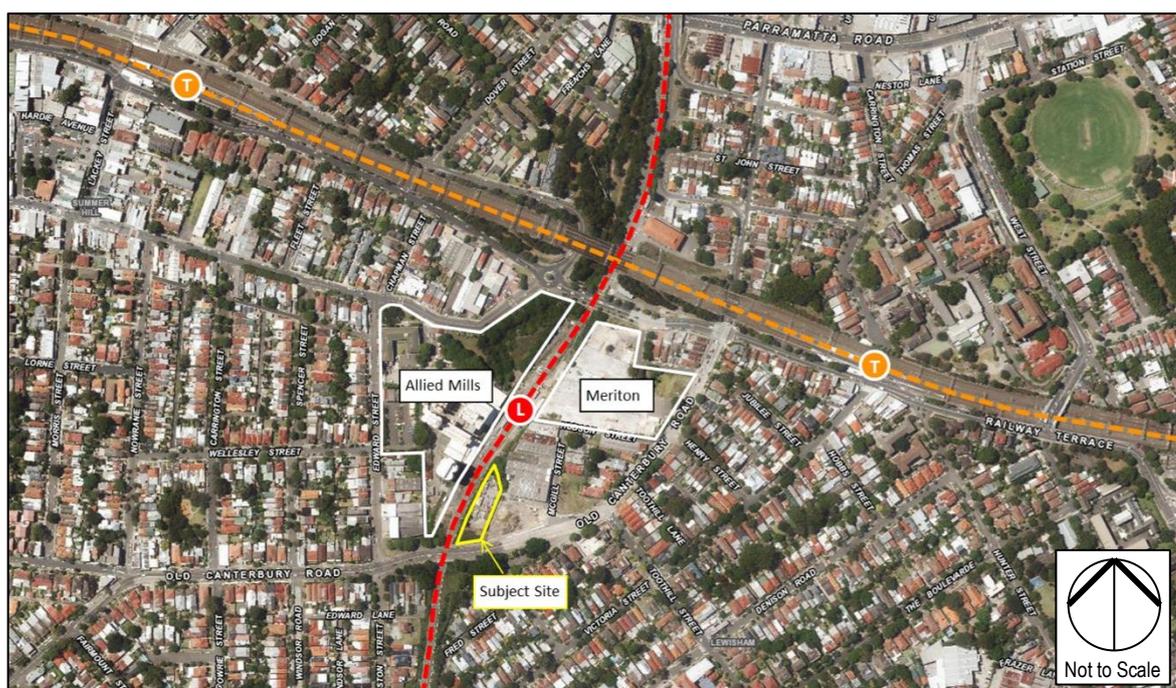
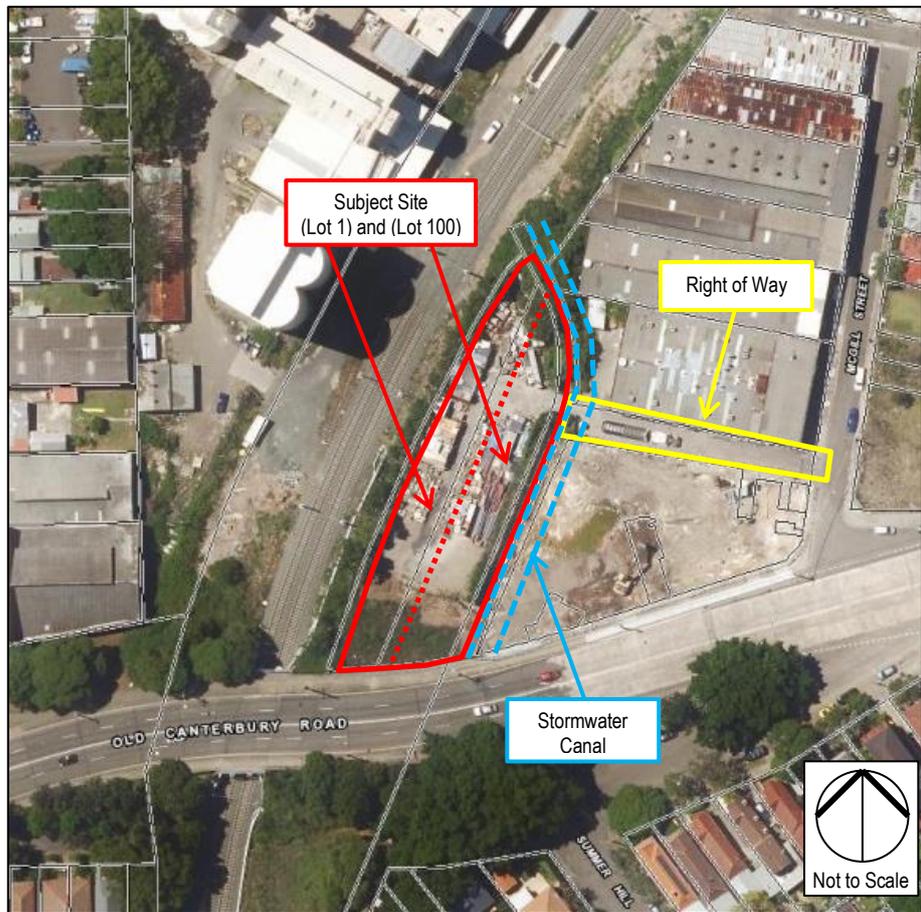


Figure 2: Context Map



(Source: SIX Maps, 2016 – Image dated 6/1/14)

Figure 3: Location Plan

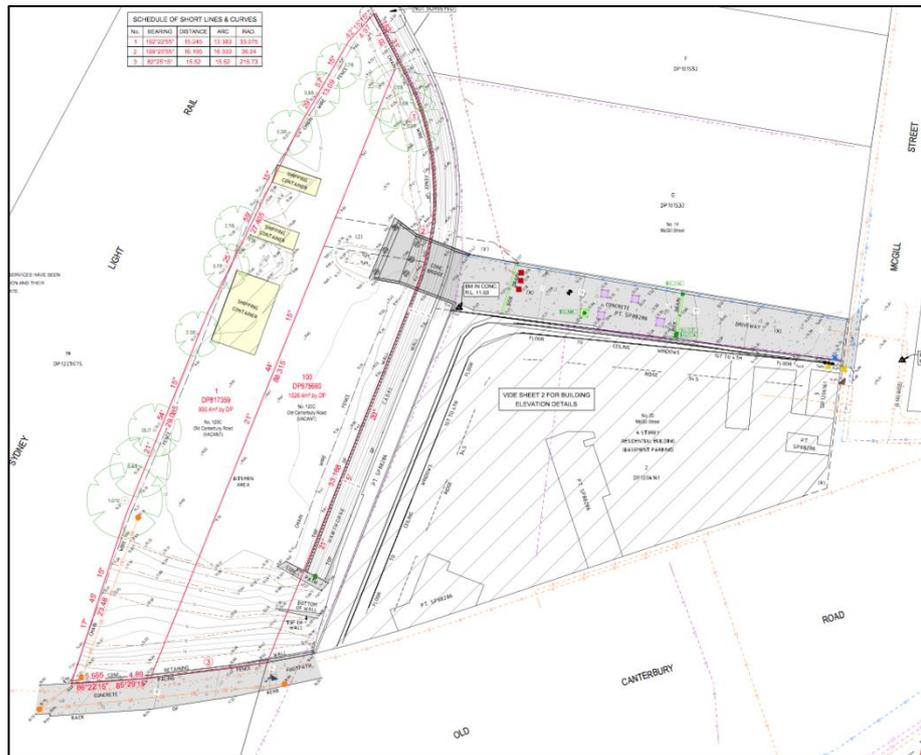


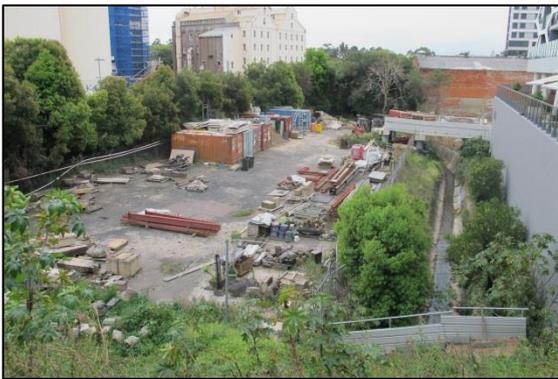
Figure 4: Survey Plan Extract



Photograph 1: The subject site as viewed from Old Canterbury Road



Photograph 2: The subject site looking towards the south



Photograph 3: The subject site as viewed from Old Canterbury Road, with the storm water channel to the east



Photograph 4: Right of way providing access to the subject site

4.2 The Surrounds and Context

The subject site is constrained by a storm water channel to the east, Old Canterbury Road to the south and the Inner West Light Rail Line to the west. The subject site is bounded by former industrial sites to the north and east which is known as the McGill Street Precinct. The majority of these sites have now been approved for residential flat buildings and mixed use developments, with a number of these completed or under construction.

The built form in the surrounding area is changing rapidly and currently comprises a mix of industrial, commercial and newly constructed residential development. More established residential development is evident on the opposite side of Old Canterbury Road. The built form of recently approved developments generally comprises multi storey developments above basement level car parking. The subject site is in close proximity to the Summer Hill Local Business Centre and adjoins Old Canterbury Road, which is serviced by public transport.

Development to the North

To the north are a number of former industrial buildings which form part of McGill Street (see Photograph 5 on the following page). No. 14 McGill Street, on the opposite side of the right of way, has development approval for a seven storey residential flat building comprising 65 apartments and four levels of basement parking (see Photograph 6 on the following page). The site is currently under construction.

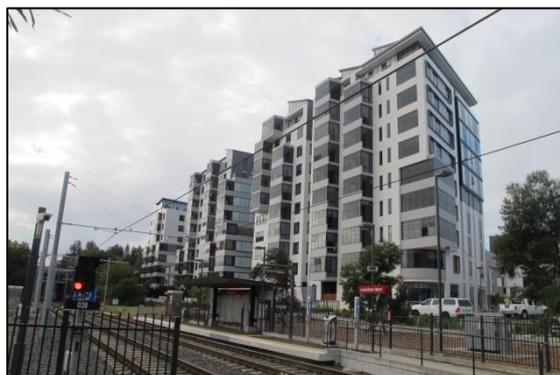
Further to the north is Nos. 4-12 McGill Street which has development approval for a six

storey mixed use building fronting McGill Street and a five storey mixed use building fronting the light rail line. These buildings will comprise 80 apartments, one commercial tenancy to be used as an art and education space.

Further to the north is Nos. 78-90 Old Canterbury Road, also known as 'Luna Lewisham' which is currently being developed by Meriton and nearing completion (see Photograph 6). The site will comprise seven multi storey towers between four to ten storeys which contain 314 dwellings and two levels of basement car parking.



Photograph 5: McGill Street to the north, with various sites either approved for or currently undergoing redevelopment



Photograph 6: Further to the North at Nos. 78-90 Old Canterbury Road, looking north-east from the Light Rail Corridor

Development to the East

To the east is the rear of Nos. 120A and 120B Old Canterbury Road. The recently constructed six storey mixed use development with basement car parking is reflective of the scale and contemporary style of development in the area surrounding the subject site (see Photograph 7).

Further to the east is No. 118 Old Canterbury Road which comprises a recently completed five storey mixed use development comprising 21 apartments (see Photograph 8).



Photograph 7: Six storey mixed use development at Nos. 120A & 120B Old Canterbury Road with an FSR of 2.95:1, as viewed from Old Canterbury Road.



Photograph 8: 5 storey mixed-use development under construction at No. 118 Old Canterbury Road with an FSR of 2.67:1, as viewed from Old Canterbury Road.

Development to the South

To the south is Old Canterbury Road. Further to the south are a number of residential dwellings, these however cannot be seen from the subject site due to dense vegetation (see Photograph 9).



Photograph 9: The opposite side of Old Canterbury Road as viewed from the subject site

Development to the West

To the west is the Inner West Light Rail Line, with Lewisham West Light Rail Station approximately 100m from the site. On the opposite side of the light rail track is the former Allied Mills site at Nos. 2-32 Smith Street which has masterplan approval for 360 dwellings, 4,000m² of commercial space and 2,500m² of retail space. The development is currently under construction. Also to the west on the opposite side of the rail corridor is No. 46 Edward Street. The site has development approval for a four storey residential flat building above two levels of basement car parking comprising 25 apartments (see Photographs 10 and 11).



Photograph 10: Inner West Light Rail Line to the west of the subject site, looking south-east towards the subject site



Photograph 11: Former Allied Mills Site, as viewed from Old Canterbury Road

5.0 PRE-LODGEMENT BACKGROUND

At or about 2009, Mr. Rick Timperi and Mr. Tyron Timperi purchased No. 120C Old Canterbury Road, Summer Hill. The site comprises Lot 1 DP 817359 and Lot 100 of DP 875660. Lot 1 in DP 817359 was previously owned by Transport for NSW.

On 11 December 2012, a Development Application (DA 144/2011) was approved by Council for the redevelopment of Lot 100 DP 875660 for the purposes of a two (2) storey industrial building with associated facilities. The western portion of the site that is the subject of this Planning Proposal did not form part of the application due to the 5(a) Railway Purposes zoning.

The Draft Ashfield LEP 2012 was on public exhibition between 27 June 2012 and 21 August 2012. During this time, GSA Planning made a submission to the draft LEP, on behalf of our clients requesting that Council consider rezoning the subject site to B4 Mixed Use as part of the draft LEP. While Council did not resolve to rezone the site as part of the draft, Council resolved to support a Planning Proposal for the subject site. The Council resolution stated the following, inter alia:

“No change is recommended to the Draft LEP at this time. However, the request can be considered as part of an amendment to a future 2013 Ashfield LEP subject to a planning proposal application with adequate detail and justification being submitted for any variation to FSR.”

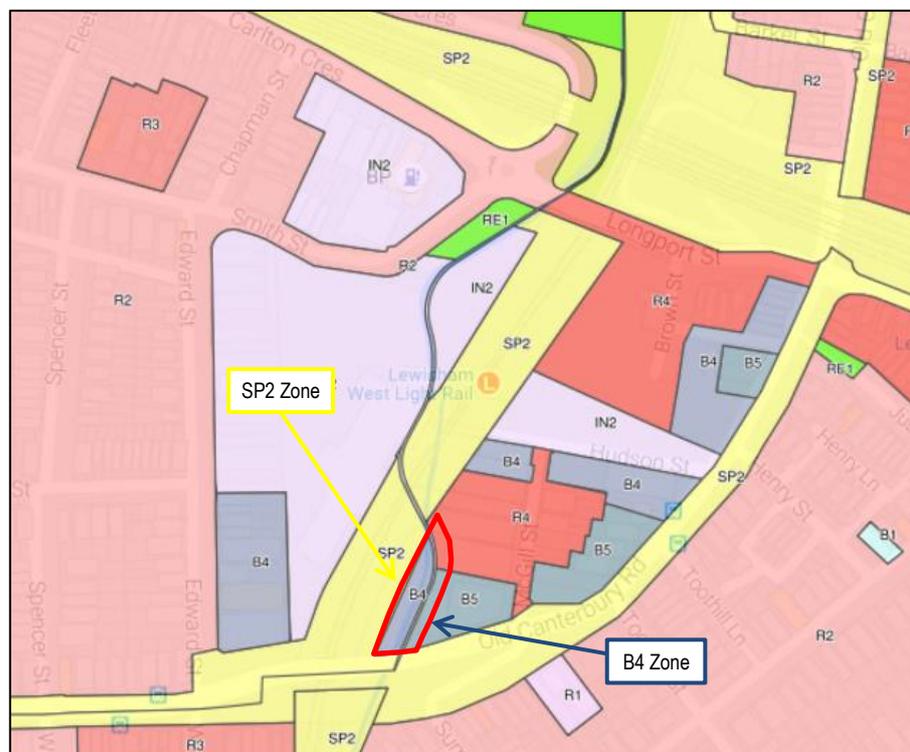
This Planning Proposal has been prepared in light of this recommendation.

The Planning Proposal document was updated in June 2017 to take into account Council feedback. These amendments resulted in the proposed building height being reduced, connections to the greenway being revisited and further detail being provided on the compliance of the envelope with the Apartment Design Guide.

6.0 STATUTORY PLANNING CONTEXT

6.1 Ashfield Local Environmental Plan (LEP) 2013

The subject site is located on the boundary of the ex-Ashfield LGA. As indicated, it comprises two allotments with different zonings. Lot 100 DP 875660 (the eastern lot), is zoned B4 Mixed Use while Lot 1 DP 817359 (the western half) is zoned SP2 Infrastructure (see Figure 5).



(Source: NSW Department of Planning and Environment 2016)
Site

Subject Site

Figure 5: Extract from LEP Zoning Map
(Composite of Ashfield LEP and Marrickville LEP)

6.1.1 B4 Mixed Use Zone – Permissible Uses

The permissible uses for B4 Mixed Use Zone are listed, inter alia:

3 Permitted with consent

Amusement centres; Boarding houses; Car parks; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Exhibition homes; Function centres; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Residential flat buildings; Roads; Seniors housing; Service stations; Storage premises; Shop top housing; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals; Water recycling facilities; Water storage facilities; Wholesale supplies. Any other development not specified in item 2 or 4.

4 Prohibited

Advertisements; Agriculture; Airstrip; Air transport facilities; Animal boarding and training facilities; Boat launching ramps; Boat building and repair facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Crematoria; Depots; Eco tourist facilities; Electricity generating works; Environmental facilities; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Heavy industrial storage

establishments; Helipad; Highway service centres; Home occupations (sex services); Industries; Jetties; Marina; Open cut mining; Mooring; Mooring Pens; Mortuaries; Port facilities; Recreation facilities (major); Restriction facilities; Rural industries; Sewerage systems; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities.

6.1.2 SP2 Infrastructure Zone (Railways) – Permissible Uses

The permissible uses for the SP2 Infrastructure Zone are listed, inter alia:

2 Permitted without consent

Roads

3 Permitted with consent

Building identification signs; Business identification signs; Car parks; Child care centres; Community facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Information and education facilities; Kiosks; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Water recycling facilities. The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

4 Prohibited

Any other development not specified in item 2 or 3.

As outlined the purpose shown on the map for the subject site is 'Railways'.

6.1.3 Floor Space Ratio (FSR) and Building Height

B4 Mixed Use Zone

Under the Ashfield LEP, the portion of the site zoned B4 Mixed Use has a maximum FSR of 1:1 and maximum building height of 20 metres.

SP2 Infrastructure Zone

There is no FSR or height control which applies to the portion of the site zoned SP2 Infrastructure.

6.2 Marrickville Local Environmental Plan (LEP) 2011

The access handle to the east is within the former Marrickville LGA and subject to the provisions of the Marrickville LEP 2011 which was gazetted on 12 December 2011. The access handle is zoned B5 Business Development under the Marrickville LEP 2011.

Surrounding sites that are subject to the Marrickville LEP 2011 are predominately zoned R4 High Density Residential, B5 Business Development and B4 Mixed Use. The site immediately to the east (which is under the Marrickville LEP) has an FSR of 3:1 and height limit of 20m. The height and FSR of surrounding sites are shown in Figures 6 and 7 on the following page.



(Source: NSW Department of Planning and Environment 2016) Subject Site

Figure 6: Extract from LEP Height Map
(Composite of Ashfield LEP and Marrickville LEP)



(Source: NSW Department of Planning and Environment 2016) Subject Site

Figure 7: Extract from LEP FSR Map
(Composite of Ashfield LEP and Marrickville LEP)

7.0 PLANNING PROPOSAL

This section has been prepared in accordance with the NSW Department of Planning and Infrastructure's, "A Guide to Preparing Planning Proposals" which includes: the Objectives and Intended Outcomes; an Explanation of the Planning Provisions; a justification; and consideration of DoPE Guidelines.

7.1 Part 1 - Objectives or Intended Outcomes

This section sets out the objectives or intended outcomes of the planning proposal and comprises a statement of what is planned to be achieved, not how it is to be achieved.

The objective of this Planning Proposal is to provide for medium to high density residential development in an appropriate location.

The intended effect of this planning proposal is to amend the Ashfield LEP 2013 to apply consistent zoning, FSR and Height provisions to the land known as No.120C Old Canterbury Road, being Lot 1 in DP 817359 and Lot 100 in DP 875660.

The intended outcome is to increase the density on the subject site to provide opportunities for additional dwellings, in accordance with Council's opportunity sites and housing targets set by the NSW State Government.

By increasing the maximum height and FSR, the development potential of the site and housing opportunities also increase. Increased densities around business centres and transport nodes, particularly Lewisham West Light Rail Station and Lewisham Railway Station, is consistent with good planning practice and promotes more sustainable and transport oriented development.

7.2 Part 2 - Explanation of the Planning Provisions

The intended outcomes will be achieved by amending the zoning, FSR provisions and maximum building heights that apply to the subject site. The Planning Proposal requests the following amendments to the Ashfield LEP:

- Amend the Land Zoning Map to apply a B4 Mixed Use Zoning to Lot 1 DP 817359;
- Amend the Height of Buildings Map to apply a maximum height of buildings of RL 38.00 across the entire site;
- Amend the Floor Space Ratio Map to apply an FSR of 2.5:1 to both lots comprising No.120C Old Canterbury Road Lot 1 DP 817359 and Lot 100 of DP 875660).

Refer to **Part 7.4** and **Annexure E** for the proposed Maps.

7.2.1 Height Limit based on RLs

As the site slopes significantly and is affected by stormwater and flooding, it is proposed that the maximum building height be represented as a maximum RL on the LEP mapping rather than a height in metres above existing ground level. This approach has been adopted and approved by the Department of Planning and Environment in the past for sites, particularly in areas of concentrated urban renewal.

This includes Green Square, Harold Park and areas of Waterloo within the City of Sydney and the North Sydney CBD within the North Sydney LEP 2013. Similarly in the Inner West LGA, the Victoria Road Precinct Planning Proposal includes RL's as the maximum building height for some areas of the precinct. Whilst the Victoria Road planning proposal is yet to be gazetted, it has proceeded through the Gateway process and is currently with the relevant planning authority for implementation. As such, there is adequate precedent for Council to proceed with implementing a similar RL based height control for the subject site.

The proposal provides public benefit by providing a through site link to the Greenway which runs adjacent to the Lewisham Light Rail Station.

7.3 Part 3 - Consideration of NSW Department of Planning and Environment Guidelines

This section will assess the planning proposal against the matters contained in the NSW DoPE Guide to Preparing Planning proposals.

Questions to consider when demonstrating the justification

7.3.1 Part A - Need for the Planning Proposal

A.Q1 - Is the planning proposal a result of any strategic study or report?

The Planning Proposal has resulted from a recommendation of the former Ashfield Council following the exhibition of the Draft Ashfield LEP 2013. As part of the transition to the standard instrument, the Ashfield LEP 2013 zoned the site SP2 Infrastructure (Railway). A submission was made by the owner of the subject site during this transition process to rezone the western allotment. During the preparation of the LEP, the Council resolved to revisit the sites redundant zoning as a separate process, prompting the preparation of this Planning Proposal. The resolution stated, inter alia:

"No change is recommended to the Draft LEP at this time. However, the request can be considered as part of an amendment to a future 2013 Ashfield LEP subject to a planning proposal application with adequate detail and justification being submitted for any variation to FSR."

In addition, the proposed rezoning from SP2 to B4 is compatible with the Ashfield Council Urban Planning Strategy for that area and matches the zoning of adjacent sites within the former Marrickville LGA.

A.Q2 - Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. Deferring this matter to a Planning Proposal allowed Council to finalise Ashfield LEP 2013. The Planning Proposal facilitates the site specific changes to planning controls that have been requested without compromising the integrity of the Ashfield LEP 2013.

7.3.2 Part B - Relationship to Strategic Planning Framework

B.Q3 - Is the planning proposal consistent with the objectives and actions contained within the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

Assessment Criteria:

- a) *Does the proposal have strategic merit? Is it:*
- *Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or*
 - *Consistent with a relevant local council strategy that has been endorsed by the Department; or*
 - *Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.*

Response: Yes, the proposal is consistent with the relevant dot points. 'A Plan for Growing Sydney', the current Metropolitan Strategy released in 2014, identifies the subject site as being within the Central Sub-Region. The plan highlights the need to accelerate housing supply, choice and affordability, particularly along key transport corridors. The proposed B4 Mixed Use zoning as well as the increased FSR for the subject site may assist Council in satisfying its employment targets in accordance with the Metropolitan Strategy. The Inner West LGA falls within the Central District, identified by the Metropolitan Strategy.

The draft Central District Plan was released in November 2016. The proposal is consistent with a number of goals within the document, including *improving 30 minute access to jobs and services* by providing additional housing stock within an area highly accessible by public transport. The proposal also assists Council in reaching the identified housing targets and is in-keeping with the directive on pages 97-98 for the Inner West LGA that Council will:

"Investigate local opportunities to address demand and diversity in and around local centres and infill areas with a particular focus on transport corridors and other areas with high accessibility."

As such, the proposal is considered to have strategic merit.

Assessment Criteria:

- b) *Does the proposal have site-specific merit, having regard to the following:*
- *the natural environment (including known significant environmental values, resources or hazards) and*
 - *the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and*
 - *the services and infrastructure that are or will be available to meet the demands arising from the proposal and*
 - *any proposed financial arrangements for infrastructure provision.*

Response: The proposal appropriately responds to the existing natural environment of the site, including constraints relating to flooding. This is expanded upon in the consideration of Section 117 directions. The existing and likely future uses of land in the vicinity of the proposal has been one of the major factors for the planning proposal, with the proposed rezoning and development standards consistent with surrounding

land uses and scale of development. This is demonstrated in the Concept Architectural Plans prepared by Fox Johnson Architects and discussed further in Section 8 of this report. As noted, the proposal is in close proximity to existing light and heavy rail stations, with these facilities available to meet the transport demands arising from the proposal whilst financial arrangements for infrastructure provision are discussed in Section 2.3 of this report.

B.Q4 - Is the planning proposal consistent with Council's local strategy or other local strategic plan?

Yes. The Ashfield LEP 2013 has been informed by the Ashfield Urban Planning Strategy which was adopted by Council on 28 September 2010. The site is located in close proximity to the Allied Mills site which is identified as a key urban renewal site. In addition, the location of the subject site adjacent to the existing Light Rail line and proposed location of the Cooks River Greenway provides a highly connected strategic location.

It is proposed that part of the northern portion of the site could form a pocket park adjacent to the greenway, whilst connections through to the greenway through the site would also be facilitated, in accordance with Council's Draft Greenway Program of May 2017 (see Architectural Drawings separately submitted).

The area to the west of the subject site is also identified as key employment land in the Ashfield Urban Planning Strategy. In our opinion, the proposed consistent application of a B4 Mixed Use zoning will provide additional employment opportunities, satisfying the intent of the Ashfield Urban Planning Strategy.

B.Q5 - Is the planning proposal consistent with applicable State Environmental Planning Policies?

There are a number of State Environmental Planning Policies (SEPPs) that apply to the subject site. These SEPPs relate to matters that would be considered as part of a development application for the subject site. In our opinion, the Planning Proposal is consistent with the relevant SEPPs that apply to the subject site (see Annexure A).

B.Q6 - Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The proposal is consistent with the majority of relevant ministerial directions that apply to the subject site. The proposal has some inconsistency with Direction 4.3 concerning flood prone land. An assessment of the proposal against the relevant s.117 directions, including Direction 4.3 is attached as Annexure B.

7.3.3 Section C - Environmental, Social and Economic Impact

C.Q7 - Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, would be adversely affected as a result of the proposal?

No. The subject site is within an established urban area and is not identified as having any ecological significance. An assessment of the environmental impacts of any future development of the site would be undertaken at development application stage.

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

The planning proposal will not result in any environmental impacts. Any impacts associated with the future redevelopment of the site would be considered at development application stage.

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

It is our opinion that the planning proposal would have a positive social and economic impact. As outlined, rezoning the subject site would allow for its orderly development in accordance with the provisions of the Environmental Planning and Assessment Act 1979 as well as relevant Local and State planning policies and strategies.

7.3.4 Section D - State and Commonwealth Interests

D.Q10 - Is there adequate public infrastructure for the planning proposal?

Yes. The subject site is currently serviced with adequate water, sewer and electricity infrastructure to service any future development. Furthermore, the proposal is located within close proximity to a variety of public transport connections including the bus network operating along Old Canterbury Road, Lewisham Railway Station and Lewisham West Light Rail Station. These would increase the transport sustainability of the proposal.

D.Q11 - What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

The proposal will be referred to relevant public authorities as part of the Gateway assessment. It is our opinion that the proposal will not adversely impact on the interest of any state or Commonwealth authority.

Preliminary discussions have been undertaken with Sydney Trains to determine the appropriate siting of the potential building envelope in relation to the light rail corridor.

7.4 Part 4 – Mapping

In order to give effect to the planning proposal, a number of mapping amendments would be required. These are set out in Table 1.

TABLE 1: PROPOSED MAPPING AMENDMENTS TO ASHFIELD LEP 2013	
Ashfield LEP Map Sheet Number	Proposed Amendments
Land Zoning Map Sheet LZN_002	Rezone the western portion of No. 120C Old Canterbury Road from SP2 Rail Infrastructure to B4 Mixed Use. The eastern portion will remain unaltered as B4 Mixed Use.
Height of Buildings Map Sheet HOB_002	Apply a maximum building height of RL 38.0 to the entire subject site.
Floor Space Ratio Map Sheet FSR_002	Apply a Floor Space Ratio of 2.50:1 to the entire subject site.

The proposed mapping changes, prepared by Inner West Council, are attached as Annexure E.

7.5 Part 5 – Community Consultation

The requirements for community consultation will be detailed by the Gateway Determination issued by the NSW DoPE. It is anticipated the Planning Proposal will be exhibited by Council in accordance with the requirements of section 57 of the Environmental Planning and Assessment Act 1979 and as required by the recommendations of the Gateway Determination.

Council undertook preliminary consultations part of the initial stages of the planning proposal. The matters raised in submissions will be considered by Council Officers in their reporting. Further community consultation would be undertaken following the gateway determination.

Notification of the community consultation will be provided in a local newspaper and on Council's website. In addition to this, adjoining landowners will be notified in writing. The community will be given the opportunity to make written submissions during the public exhibition period.

During the public exhibition period the following documents will be placed on public exhibition:

- Planning Proposal
- Gateway Determination
- Relevant Council reports
- Maps
- Any additional studies required by the Gateway Determination

The duration of the community consultation is typically determined by Council, in accordance with the requirements of the DoP.

8.0 ADDITIONAL INFORMATION

In our view, there are a number of compelling planning reasons to support the subject being considered for rezoning and associated planning control changes. The reasons include the following:

1. Redundancy of Special Use Zone;
2. Consistency with the current Marrickville Planning Controls;
3. Consistency of FSR with Height Limit
4. Character and Context;
5. Site Suitability.

These will now be discussed below.

8.1 Redundancy of Special Use Zone

The western portion of the subject site has been sold by Transport for NSW and has been in private ownership since around 2009. On this basis, the SP2 Infrastructure Zone is redundant.

Rezoning the site from SP2 Infrastructure to B4 Mixed Use can predominately be justified on the basis of the change of ownership. As outlined, the site is located on the western portion of the site, adjoins railway tracks and was previously owned by Transport for NSW. This particular site has been purchased outright by our clients who intend to amalgamate the lot with Lot 100 DP 875660 to the east. As the western allotment is now in freehold private ownership, an infrastructure zoning is inappropriate. The deed of release from Rail Corporation New South Wales for the previously held easement is attached as Annexure C.

As both lots will now be under the same ownership, a rezoning to provide consistency between planning controls is considered appropriate. The proposed rezoning, and application of FSR and height controls, which will be discussed below, will encourage further development to revitalise an important area in the LGA.

8.2 Consistency with Current Marrickville Planning Controls

As stated, the access handle is located in the former Marrickville LGA and subject to the Marrickville LEP 2011 and Marrickville DCP 2011. Marrickville Council has gazetted planning controls which upzone and increase the density of properties surrounding the access handle and the subject site.

More importantly, No. 120 and 120B Old Canterbury Road have both been prescribed a height limit of 20m and a maximum FSR of 3:1. These sites are also identified as Key Sites and their redevelopment for the purposes of a six storey mixed use development has recently been completed. As will be discussed, the area surrounding the subject site is currently undergoing significant revitalisation.

8.3 Consistency of FSR with Height Limit

The Ashfield LEP applies a height limit of 20 metres to the eastern portion of the subject site however applies only a 1:1 FSR. It is our submission that a 1:1 FSR for a site with a height limit of 20 metres is a planning anomaly and this should be revised. This will provide consistent built form and height along Old Canterbury Road and result in a high quality urban design outcome.

8.4 Character and Context

The surrounding development comprises predominately new residential flat buildings with some mixed-use buildings comprising commercial uses on lower floors. A small number of existing industrial uses are also still prevalent. Low density housing is located further to the east and south.

As previously indicated, the site is in close proximity to a number of approved and proposed Major Projects. These include the Allied Mills Site; Lewisham Estate and the Inner West Light Rail.

The Allied Mills Site is located on the opposite side of the light rail track to the west and comprises approximately 380 new dwellings; 3,500 – 4,000m² of commercial space; 450 – 500 car parking spaces and 8,400m² of public open space.

The Lewisham Estate is located approximately 100m north east of the subject site. This project includes seven multi-storey towers ranging from four to ten storeys, with 314 dwellings and 113m² of retail space.

Construction of the Inner West Light Rail extension is completed and has been operating since March 2014. The extension provides light rail access from Dulwich Hill to the City via Lilyfield. The aim of the project is to accommodate for increased patronage as a result of the Metropolitan Strategy and various housing targets set out by the Department of Planning. Undoubtedly, the addition of public transportation and increased convenience to the CBD will attract a greater number of people to the locality.

As the site is in close proximity to a number of mixed use buildings, it is likely to form a nodal point for the area. A number of properties in the vicinity of the area have been approved for redevelopment. These are shown in Figure 8 and detailed in Table 2 on the following page. Images of these redevelopments are shown in Photographs 12 to 22 on pages 21-26.



Figure 8: Proximity of Approved Mixed Use Buildings
(refer to Table 1 for detailed information of each site)

Table 2: Recent Approved Development in the Vicinity of the Area			
	Property Address	Status	Description
A	Allied Mills Site – Nos. 2-32 Smith Street	Approved DoP 7 December 2012	Masterplan approval for 360 dwellings and up to 33,500m ² GFA; 4,000m ² of commercial floor space; 2,500m ² of retail floor space
B	Meriton Site – Nos. 78-90 Old Canterbury Road	Approved 22 December 2014, multiple s96 modifications have followed	7 multi-storey buildings, between 4 & 10 storeys, over 2 levels of basement car parking, containing 314 dwellings
C	Nos. 4-12 McGill Street	Approved JRPP 28 July 2016	6 storey building fronting McGill Street and a 5 storey building fronting the light rail line containing a total of 80 dwellings and 1 commercial tenancy
D	No. 14 McGill Street	Approved LEC, Multiple s96 modifications under assessment	7 storey residential flat building containing 65 dwellings with 4 basement car parking levels
E	Nos. 120A & 120B Old Canterbury Road	Approved 13 February 2013	6 storey mixed use development, nearing completion
F	Nos. 1-5 McGill Street and Nos. 102-106 Old Canterbury Road	Deferred commencement consent granted 15 April 2015	5 storey mixed use development consisting of 55 apartments across 3 towers
G	Nos. 7-15 McGill Street	Approved 13 May 2015	6 storey residential flat building consisting of 42 units
H	Nos. 17-21 McGill Street and Nos. 114-116 Old Canterbury Road	Deferred commencement consent granted 11 December 2014	6 storey residential flat building and 5 storey mixed use building resulting in a total of 39 units
I	No. 118 Old Canterbury Road	Approved 11 December 2013	5 storey mixed use development consisting of 21 units
J	No. 46 Edward Street	Approved 23 February 2016	4 storey residential flat building comprising 25 units

In addition to the images and montages contained in this section, supplementary photographs of development that has already occurred in the area are attached at Annexure D.



Photograph 12: A – Photomontage of former Allied Mills site at Nos. 2-32 Smith Street
Source: www.domain.com.au



Photograph 13: A – Photomontage of former Allied Mills site at Nos. 2-32 Smith Street
Source: www.domain.com.au



Photograph 14: A – Photomontage of former Allied Mills site at Nos. 2-32 Smith Street



Photograph 15: B – Photomontage of Nos. 78-90 Old Canterbury Road



Photograph 16: B – Photomontage of Nos. 78-90 Old Canterbury Road
Source: Meriton



Photograph 17: C – Photomontage of Nos. 4-12 McGill Street
Source: Tony Owen Partners



Photograph 18: D – Photomontage of No. 14 McGill Street
Source: www.domain.com.au



Photograph 19: E - Photomontage of Nos. 120A & 120B Old Canterbury Road
Source: Tony Owen Partners



Photograph 20: F - Photomontage of Nos. 1-5 McGill Street
Source: Binyan Studio



Photograph 21: G - Photomontage of Nos. 7-15 McGill Street
Source: Chanine Design



Photograph 22: H - Photomontage of Nos. 17-21 McGill Street
Source: Binyan Studio



Photograph 23: I - Photomontage of No. 46 Edward Street
Source: Town Owen Partners

It is also noted that B4 Zoned sites on Edward Street, in close proximity to the subject site, currently have an FSR of 1.5:1 under the Ashfield LEP 2013.

On this basis, the proposed rezoning, height limit and increase in density is, in our opinion appropriate for the subject site.

8.5 Site Suitability

The subject site has a total area of 1,956.8m², excluding the right of way. By virtue of its size, the subject site provides greater development potential in terms of site layout (see Figure 10 below and Figure 11 on the following page).

It is considered that zoning the entire site to B4 Mixed Use, applying a height limit of RL 38.0 and increasing the FSR to 2.5:1 will ensure that future developments provide an appropriate contextual fit with the other projects to the west and north of the subject site.

In addition, as there is a 7.52m fall from Old Canterbury Road to the mid-section of the subject site, an increase in density and height would be appropriate for the area. Any proposed development is likely to respond to the topography and not present as overly bulky in the streetscape.

Also as indicated, the subject site is in close proximity to public transport and established infrastructure and services. Increasing the density of this site is consistent with the Metropolitan, Subregional, local and masterplan Strategies and promotes sustainable and public transport oriented development. Changes to the planning controls for the subject site will provide additional housing in a transition area which will become a transport hub for the inner west.

Section 5 of The Environmental Planning and Assessment Act 1979 provides the objectives for the Act, which are stated, inter alia:

- (a) to encourage:
 - (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities,

towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
(ii) the promotion and co-ordination of the orderly and economic use and development of land,

The proposed planning control changes to the subject land will create a redevelopment site that is a more economic use of the land. A redevelopment site with higher densities will provide additional employment floor space close to public transportation and services. This will have social, economic, community and environmental benefits, which will assist Council in satisfying the objectives of the Metropolitan, Subregional Strategy, Urban Strategy and the Environmental Planning and Assessment Act.

Detailed modelling has been undertaken by Fox Johnston Architects for the subject site to determine an appropriate height and density. As indicated, this includes careful consideration of Apartment Design Guide compliance including separation distances and solar access to adjoining properties. This has resulted in a concept envelope with a maximum RL of 38.0 to Canterbury Road, stepping down to an RL of 31.8 at the northern end of the site (see Figures 9 to 14 on the following pages).

The subject site is adjacent to the existing Light Rail line and proposed location of the Cooks River Greenway. This is a highly connected strategic location. It is proposed provide a public benefit via the creation of a through site link to the greenway. It is proposed that part of the northern portion of the site could form a pocket park adjacent to the greenway, whilst connections through to the greenway through the site would also be facilitated, in accordance with Council's Draft Greenway Program of May 2017 (see Architectural Drawings separately submitted).

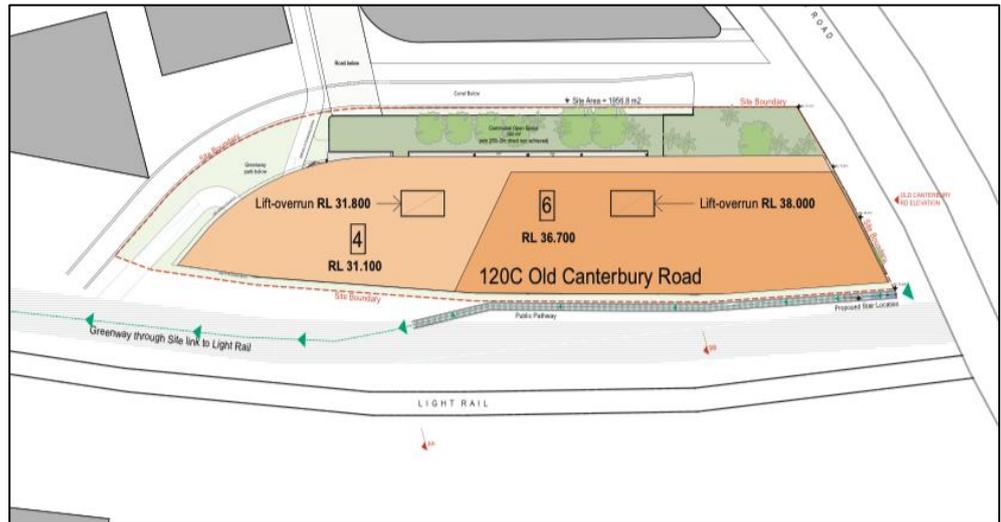


Figure 9: Indicative Building Footprint

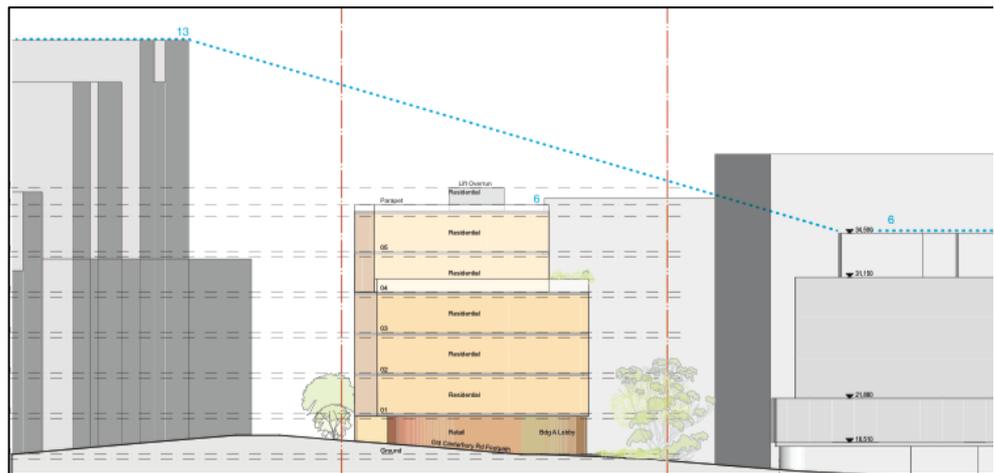


Figure 10: Indicative Elevation Viewed from Old Canterbury Rd
(Note Separation Distances and Step Down)

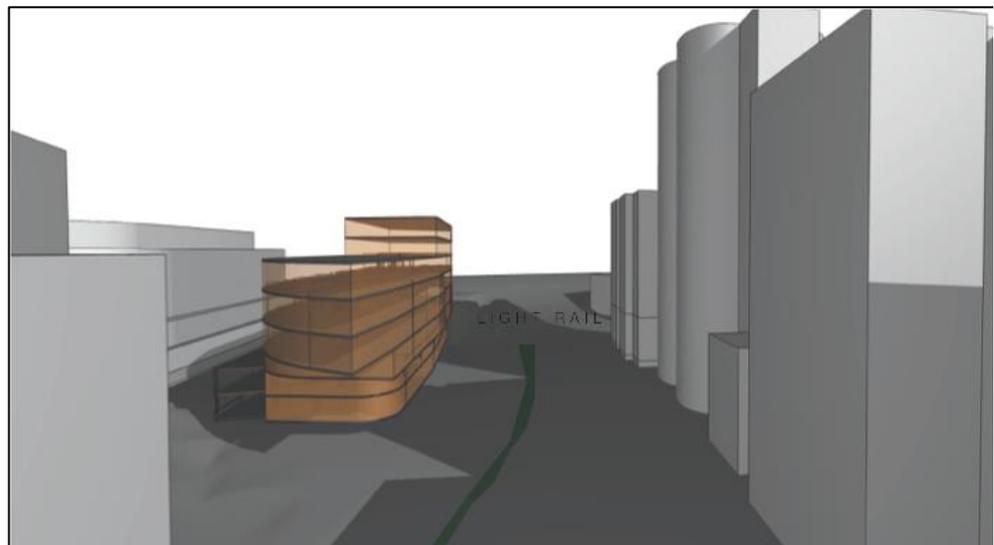


Figure 11: Building Envelope Viewed Light Rail Corridor (Rear)
(Note Separation Distances and Step Down to Rear)

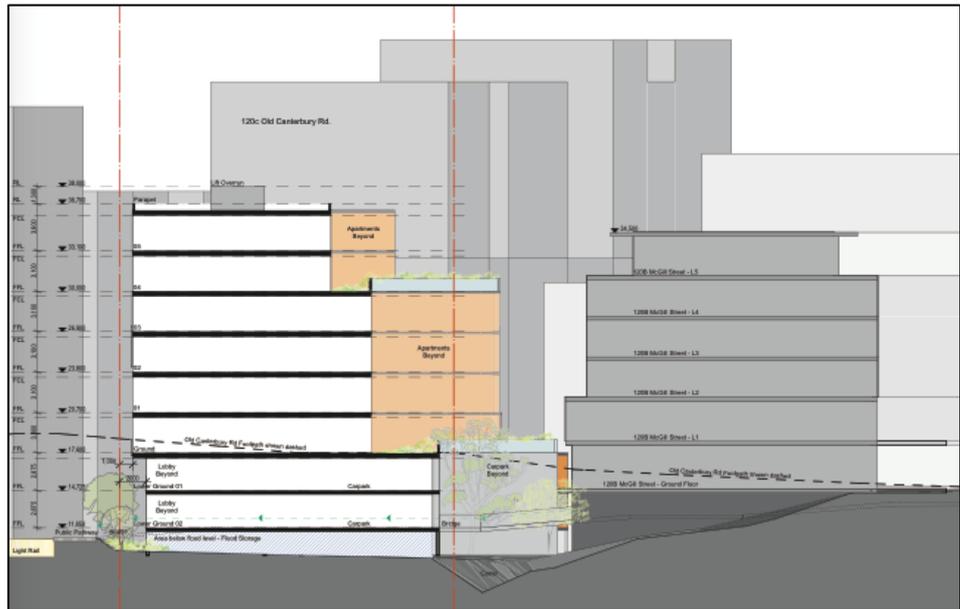


Figure 12: Indicative Section Through Building Massed to Old Canterbury Rd

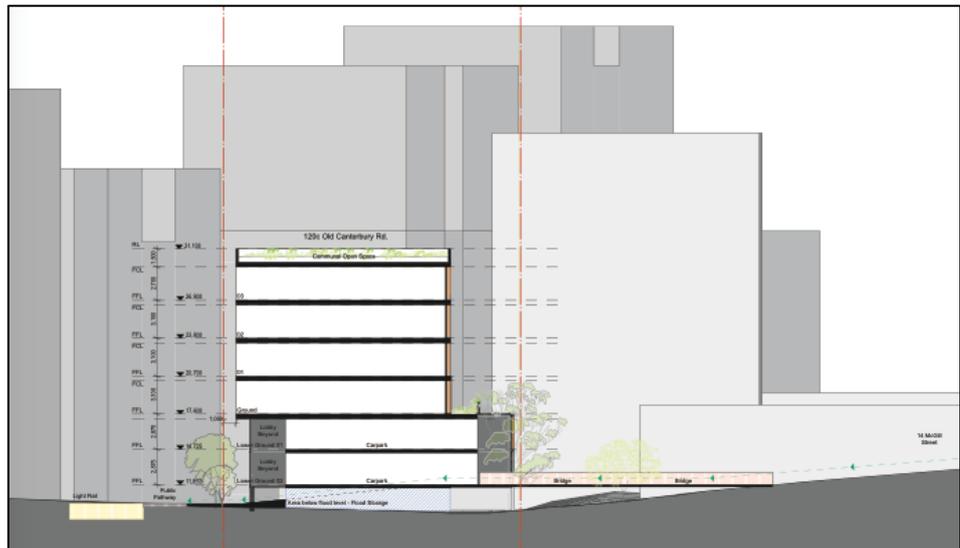


Figure 13: Indicative Section Through Northern End of Site



Figure 14: Indicative Photomontage from Old Canterbury Rd

8.6 Consideration of Architectural Excellence Panel Report

The Planning Proposal was referred to Council's AEP who undertook a site inspection on the 6 June 2017. The AEP report was received on 19 June 2017 and has made a number of recommendations which will be briefly considered below:

Urban Design Study

An assessment of the Urban Design issues in the locality has been undertaken by Fox Johnston architects and is separately submitted. As outlined throughout this report, the area has been subject to significant development activity in recent years and the subject site is now anomalous in the context of the surrounding area. The urban design study that has been prepared draws on the following key aspects:

- Providing ADG compliant solar access to neighbouring developments (including the childcare centre) and the subject site;
- Transitioning from higher western buildings to the six storey zone to the east;
- Providing a public connection to the greenway;
- Ensuring high quality façade treatment to the greenway; and
- Maintaining the street setback alignment.

As shown in the 3D Perspective below, which models the approved and constructed built forms in the locality, the proposal is clearly in context with the surrounding development pattern (see Figure 15).

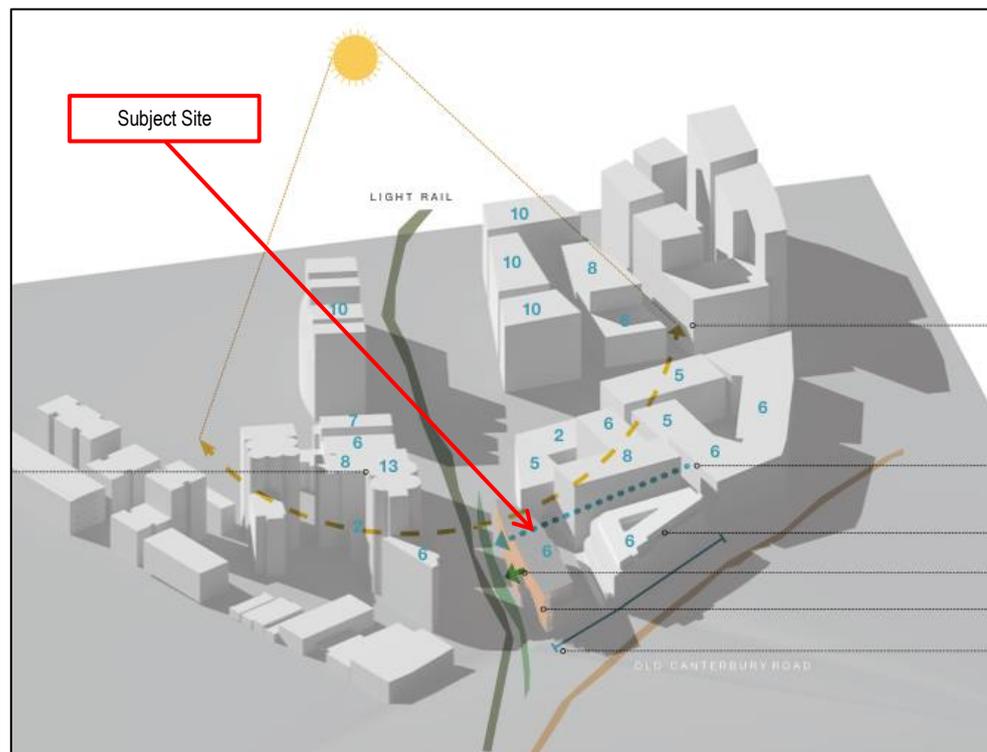


Figure 15: 3D Perspective of Urban Design Study Showing the Subject Site and the Surrounding Context

Public Benefit

Discussions have been held with Council Officers throughout the process in relation to a public benefit contribution to the GreenWay. This is discussed in detail in Section 2 and includes construction of a stair link and public access to the secondary greenway shared path, a landscaped through site link and a monetary contribution to works.

Rail Corridor Setback and Building Treatment

The setbacks adopted from the rail corridor are based on advice from Sydney Trains and discussions with Council. As the proposal is only at rezoning stage, detailed design of this façade interface should not yet be required. This matter can be dealt with via a site specific DCP at a later stage and would be required to form part of a detailed DA documentation and VPA material. Fox Johnston are award winning architects with significant experience designing buildings to respond to highly challenging sites and they will be well placed to deliver an interface that responds to the various challenges.

Building Height

The building height has been carefully tested in terms of solar access to nearby properties and for consistency with the emerging development pattern in the locality. As set out in the urban design statement prepared by Fox Johnston architects, the revised built form (being 3 storeys lower than the original proposal) is appropriate for the subject site.

Building Separation and Alignment to Old Canterbury Rd

The panel's support of the building separations adopted and the intention to align as closely as possible to Old Canterbury Road (subject to challenging topography) is noted.

Floor Space Ratio

As indicated, the floor space ratio adopted for both the original and revised scheme is based on the methodology set out in the ADG and the ability to provide ADG compliant solar access and separation to nearby properties.

Site Specific DCP

The preparation of a site specific DCP has been foreshadowed by Council as being required at a later stage of the proposal and our clients have expressed their willingness to undertake this exercise at that time.

8.7 Car Parking Considerations and Layout

The amended concept drawings include a potential car parking layout for the subject site. As a result of the site's flooding constraints, car parking has been designed to be above flood level. This results in two car parking levels above the minimum flooding level.

The concept design results in a yield of 62 units and under the Ashfield DCP, this requires 73 car parking spaces. The proposal include 63 spaces and therefore against the DCP controls has a shortfall of 10 spaces.

Firstly, the rate of parking required by the Ashfield DCP is unusually high, the Marrickville DCP (which applies to the McGill St properties) has a lower rate of provision and would only require 59 spaces (including retail and excluding accessible spaces) for the concept scheme. The proposal is therefore close to complying with this requirement.

The site is located within very close proximity of the Lewisham Light Rail stop. Objective 3J-1 of the Apartment Design Guide indicates that developments within 800m of a light rail stop can adopt the relevant parking rate of provision from the RMS Guide to Traffic Generating Developments.

The RMS guide requires 52 parking spaces for the residential component of the current scheme. There is no rate in RMS guide applicable for proposed retail. The Ashfield DCP gives retail rate of 1 space per 40m² and based on the 92m² in the concept scheme, this would result in a requirement of 2.3 spaces. The parking requirement based on RMS for units and Ashfield DCP for retail is 54 spaces and the scheme complies.

9.0 CONCLUSION

In conclusion, it is our opinion that there is compelling planning reason to support the following amendments to the Ashfield LEP 2013:

- Rezoning of Lot 1 DP 817359 from SP2 Infrastructure to B4 Mixed Use to apply a consistent zoning to the entirety of No.120C Old Canterbury Road;
- Application of a maximum building height to RL 38.0 to the entire site; and
- Application of an FSR of 2.5:1 to the entire site.

As outlined, this Planning Proposal has been prepared in accordance with the DoPE Guidelines and is consistent with the considerations contained therein. The proposal is consistent with the draft Metropolitan Strategy, the Central Sub-Regional Strategy and also the local Urban Planning Strategy.

Making the requested amendments to the Ashfield LEP would provide the potential for additional housing to be provided close to public transport. This will support the completed Inner West Light Rail and proposed redevelopment of the Allied Mills site in close proximity.

Accordingly, for the above reasons, we consider a consistent application of the B4 – Mixed Use Zone with a maximum building height limit to RL 38.0 and an FSR increase to 2.5:1 to be justified and appropriate on the subject site from a planning point of view.

The proposal will provide a public benefit by facilitating a through site link to the GreenWay which runs adjacent to the site and the Light Rail. The detail of the link would be finalised as part of detailed design however, a potential linkage is shown on the architectural drawings prepared by Fox Johnston and separately submitted.

ANNEXURE A: LIST OF SEPPS

SEPP	APPLIES/COMMENTS
SEPP No 1—Development Standards	Not Applicable LEP is a Standard Instrument Format and includes Clause 4.6 Exception to Development Standards
SEPP No 14—Coastal Wetlands	Not Applicable
SEPP No 15—Rural Landsharing Communities	Not Applicable
SEPP No 19—Bushland in Urban Areas	Applies, however not relevant in this instance as subject site does not have bushland nor is it zoned for public open space
SEPP No 21—Caravan Parks	Applies, however not relevant in this instance as a Caravan Park is not proposed
SEPP No 26—Littoral Rainforests	Not Applicable
SEPP No 29—Western Sydney Recreation Area	Not Applicable
SEPP No 30—Intensive Agriculture	Applies, however not relevant in this instance as intensive agriculture is not proposed
SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)	Applies, however not likely to be relevant to proposal.
SEPP No 33—Hazardous and Offensive Development	Applies –proposed development is unlikely to be considered hazardous or offensive, therefore not relevant
SEPP No 36—Manufactured Home Estates	Not Applicable
SEPP No 39—Spit Island Bird Habitat	Not Applicable
SEPP No 44—Koala Habitat Protection	Not Applicable
SEPP No 47—Moore Park Showground	Not Applicable
SEPP No 50—Canal Estate Development	Applies however not relevant in this instance as Canal development is not proposed
SEPP No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	Not Applicable
SEPP No 55—Remediation of Land	Applies – will be addressed further at DA Stage
SEPP No 59—Central Western Sydney Regional Open Space and Residential	Not Applicable
SEPP No 62—Sustainable Aquaculture	Not Applicable
SEPP No 64—Advertising and Signage	Applies - Matter for consideration at the time of any Signage DA
SEPP No 65—Design Quality of Residential Flat Development	Applies. A design concept has been submitted with the resultant design demonstrating the capability to comply with SEPP65 Principles
SEPP No 70—Affordable Housing (Revised Schemes)	Applies, however not relevant as the site does not fall within one of the sites identified in the aims of the SEPP.
SEPP No 71—Coastal Protection	Not Applicable
SEPP (Affordable Rental Housing) 2009	Applies – would be addressed at DA Stage
SEPP (Building Sustainability Index: BASIX) 2004	Applies – would be addressed at DA Stage
SEPP (Exempt and Complying Development Codes) 2008	Applies however not relevant in this instance
SEPP (Housing for Seniors or People with a Disability) 2004	Applies, however seniors housing is not proposed
SEPP (Infrastructure) 2007	Applies – Cl. 85 and Cl. 86 would be considered at a DA Stage due to the proximity to the railway corridor.

	Cl. 101 and Cl. 102 would also need to be considered as the subject site fronts a classified road.
SEPP (Kosciuszko National Park—Alpine Resorts) 2007	Not Applicable
SEPP (Kurnell Peninsula) 1989	Not Applicable
SEPP (Major Development) 2005	Applies, however not relevant as site is not identified as State Significant
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Applies, however not relevant as mining, petroleum production or extractive industries are not proposed uses of the site
SEPP (Miscellaneous Consent Provisions) 2007	Applies, may be relevant for temporary structures
SEPP (Penrith Lakes Scheme) 1989	Not Applicable
SEPP (Three Ports) 2013	Not Applicable
SEPP (Rural Lands) 2008	Not Applicable
SEPP (SEPP 53 Transitional Provisions) 2011	Not Applicable
SEPP (State and Regional Development) 2011	Not Applicable
SEPP (Sydney Drinking Water Catchment) 2011	Not Applicable
SEPP (Sydney Region Growth Centres) 2006	Not Applicable
SEPP (Urban Renewal) 2010	Applies, however not relevant as subject is not within an identified precinct
SEPP (Western Sydney Employment Area) 2009	Not Applicable
SEPP (Western Sydney Parklands) 2009	Not Applicable
Regional Environmental Plans – Deemed SEPPS	
SREP (Sydney Harbour Catchment) 2005	Applies to the subject site, will be dealt with further at DA Stage, not within Foreshore or Waterways Area Boundary
SREP No 8 - Central Coast Plateau Areas	Not Applicable
SREP No 9 - Extractive Industry (No 2 – 1995)	Not Applicable
SREP No 16 - Walsh Bay	Not Applicable
SREP No 18 - Public Transport Corridors	Not Applicable
SREP No 19 - Rouse Hill Development Area	Not Applicable
SREP No 24 - Homebush Bay Area	Not Applicable
SREP No 26 - City West	Not Applicable
SREP No 30 - St Marys	Not Applicable
SREP No 33 - Cooks Cove	Not Applicable

**ANNEXURE B: CONSIDERATION OF SECTION 117
DIRECTIONS**

SECTION 117 DIRECTIONS	APPLICABLE/NOT APPLICABLE
1. Employment Resources	
1.1 Business and Industrial Zones	Applicable (see A1.0)
1.2 Rural Zones	Not Applicable
1.3 Mining, Petroleum Production and Extractive Industries	Not Applicable
1.4 Oyster Aquaculture	Not Applicable
1.5 Rural Lands	Not Applicable
2. Environment and Heritage	
2.1 Environment Protection Zones	Not Applicable
2.2 Coastal Protection	Not Applicable
2.3 Heritage Conservation	Not Applicable
2.4 Recreation Vehicle Areas	Not Applicable
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not Applicable
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Applicable
3.2 Caravan Parks and Manufactured homes Estates	Not Applicable
3.3 Home Occupations	Not Applicable
3.4 Integrating Land Use and transport	Applicable (see A2.0)
3.5 Development Near Licensed Aerodromes	Not Applicable
3.6 Shooting Ranges	Not Applicable
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Not Applicable
4.2 Mine Subsidence and Unstable Land	Not Applicable
4.3 Flood Prone Land	Applicable Flood Level Certificate provided and concept design reflects flood levels (see A3.0)
4.4 Planning for Bushfire Protection	Not Applicable
5. Regional Planning	
5.1 Implementation of Regional Strategies	Not Applicable
5.2 Sydney Drinking Water Catchments	Not Applicable
5.3 Farmland of State and Regional Significance of the NSW Far North Coast	Not Applicable
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	Not Applicable
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable

5.8 Second Sydney Airport: Badgerys Creek	Not Applicable
5.9 North West Rail Link Corridor Strategy	Not Applicable
5.10 Implementation of Regional Plans	Not Applicable
6. Local Plan Making	
6.1 Approval and Referral Requirements	Applicable
6.2 Reserving Land for Public Purposes	Not Applicable
6.3 Site Specific Provisions	Not Applicable
7. Metropolitan Planning	
7.1 Implementation of A Plan for Growing Sydney	Applicable (see A4.0)
7.2 Implementation of Greater Macarthur Land Release Investigation	Not Applicable

CONSIDERATION OF RELEVANT SECTION 117 MINISTERIAL DIRECTIONS

A1.0 - Direction 1.1 – Business and Industrial Zones

This direction applies to all planning proposals that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial protection zone boundary). The objectives of this direction are stated, inter alia:

- (a) *Encourage employment growth in suitable locations,*
- (b) *Protect employment land in business and industrial zones, and*
- (c) *Support the viability of identified strategic centres.*

The proposal is consistent with the objectives of Direction 1.1 – Business and Industrial Zones as it will provide the potential for additional employment opportunities, will not reduce or remove business lands and will support the viability of strategic centres identified in the Metropolitan Plan for Sydney 2031 through the provision of business lands.

In this particular instance, the relevant planning authority must be consistent with the direction, and therefore, a planning proposal must:

- (a) *Retain the areas and locations of existing business and industrial zones,*
- (b) *Not reduce the total potential floor space area for employment uses and related public services in business zones,*
- (c) *Not reduce the total potential floor space area for industrial uses in industrial zones, and*

The proposed change in land use for the subject site to B4 Mixed Use will allow for the provision of more business land, whilst retaining the existing B4 zone on the eastern part of the site. The proposal demonstrates there will be no reductions in business land; instead the potential floor space for employment uses will be increased. The planning proposal will not impact the provision of industrial land throughout the LGA. The planning proposal has considered the amended planning controls against relevant state and local planning strategies and has determined it to be consistent with the relevant aims and objectives. In summary, the proposal is consistent with this Direction.

A2.0 - Direction 3.4 – Integrating Land Use and Transport

The direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. The objectives of this direction are stated, inter alia:

- (a) *Improving access to housing, jobs and services by walking, cycling and public transport, and*
- (b) *Increasing the choice of available transport and reducing dependence on cars, and*
- (c) *Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- (d) *Supporting the efficient and viable operation of public transport services, and*
- (e) *Providing for the efficient movement of freight.*

The proposal is consistent with the objectives of Direction 3.4 due to the site's close proximity to public transport. Lewisham West Light Rail Station, opened in 2014, is adjacent to the subject site. Lewisham Rail Station is located within walking distance of the site whilst bus services are easily accessible along Old Canterbury Road. The site's accessibility to a variety of public transport options satisfies the objectives of the direction as it reduces the dependence on cars. In addition, the provision of business lands will improve access to jobs and services through the maximisation of public transport use. The proposal is consistent with this direction.

A3.0 - Direction 4.3 – Flood Prone Land

The direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

The objectives of this direction are stated, inter alia:

- (a) *to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land*
-

*Policy and the principles of the Floodplain Development Manual 2005, and
(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

The proposal is inconsistent with the Direction as it does seek to rezone special uses land which is flood prone to a mixed-use zone. However, this inconsistency is considered to be of a minor significance and readily overcome through the design and siting of development. The proposal is accompanied by a flood level certificate and these levels have been considered in the concept design which is separately submitted. As noted in Council's report, a detailed flood study will be prepared following Gateway determination.

A4.0 - Direction 7.1 – Implementation of a Plan for Growing Sydney

The direction applies to the Inner West Local Government Area and aims to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney. The proposal to change the zoning of the site to B4 Mixed Use and the relevant provision of business lands it will bring is consistent with the Plan for Growing Sydney as outlined within the planning proposal.

**ANNEXURE C: DEED OF RELEASE FROM RAIL
CORPORATION NEW SOUTH WALES**

Form: 01TR
Release: 3-1

TRANSFER
RELEASING EASEMENT
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional pages to the top left-hand corner.

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY

Office of State Revenue use only

(A) **TORRENS TITLE**

Servient Tenement F/I 1/817359	Dominant Tenement Easement in Gross
-----------------------------------	--

(B) **LODGED BY**

Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any Reference: _____	CODE TR
-------------------------	--	--------------------------

(C) **EASEMENT**

Number 0315626	Nature of Easement Covenant Easement for Transmission Line var. width
-------------------	--

(D) **TRANSFEROR**

Registered proprietor of the dominant tenement Rail Corporation New South Wales ABN 59 325 778 353

(E) The transferor acknowledges receipt of the consideration of \$ 220,000.00 and, as regards the dominant tenement, transfers and releases the abovementioned easement to the transferee as registered proprietor of the servient tenement.

(F) **TRANSFEEEE**

Registered proprietor of the servient tenement RICK DOMENIC TIMPERI and TYRON PAUL TIMPERI

DATE

(G) I certify that I am an eligible witness and that an authorised officer of the transferor signed this dealing in my presence. [See note* below].

Certified correct for the purposes of the Real Property Act 1900 by the authorised officer named below.

Signature of witness:

Signature of authorised officer:

Name of witness:
Address of witness:

Authorised officer's name:
Authority of officer:
Signing on behalf of: Rail Corporation New South Wales

I certify I am an eligible witness and that the transferee signed this dealing in my presence. [See note* below]

Certified correct for the purposes of the Real Property Act 1900 by the transferee.

Signature of witness: *George Pauls*

Signature of transferee: *[Handwritten Signature]*

Name of witness: *GEORGE PETER POULOS*
Address of witness: *44 DONOVAN AVENUE MAROUBRA NSW 2031*

Tyron Timperi

Form: 01TR
Release: 3-1

**TRANSFER
RELEASING EASEMENT**
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional pages to the top left-hand corner.

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY

Office of State Revenue use only

(A) TORRENS TITLE

Servient Tenement F/I 1/817359	Dominant Tenement Easement in Gross
-----------------------------------	--

(B) LODGED BY

Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any Reference: _____	CODE TR
-------------------------	--	-------------------

(C) EASEMENT

Number 0315626	Nature of Easement Covenant Easement for Transmission Line var. width
-------------------	--

(D) TRANSFEROR

Registered proprietor of the dominant tenement Rail Corporation New South Wales ABN 59 325 778 353

(E)

The transferor acknowledges receipt of the consideration of \$ 220,000.00 and, as regards the dominant tenement, transfers and releases the abovementioned easement to the transferee as registered proprietor of the servient tenement.

(F) TRANSFEREE

Registered proprietor of the servient tenement RICK DOMENIC TIMPERI and TYRON PAUL TIMPERI

DATE

(G) I certify that I am an eligible witness and that an authorised officer of the transferor signed this dealing in my presence. [See note* below].

Certified correct for the purposes of the Real Property Act 1900 by the authorised officer named below.

Signature of witness:

Signature of authorised officer:

Name of witness: VIN SINGH
Address of witness: L9, 477 Pitt Street
Sydney NSW 2000

Authorised officer's name: KEVIN STAKES
Authority of officer: GENERAL MANAGER PROPERTY
Signing on behalf of: Rail Corporation New South Wales

I certify I am an eligible witness and that the transferee signed this dealing in my presence. [See note* below]

Certified correct for the purposes of the Real Property Act 1900 by the transferee.

Signature of witness:

Signature of transferee:

Name of witness:
Address of witness:

**ANNEXURE D: SUPPLEMENTARY PHOTOS OF
SURROUNDING DEVELOPMENT**



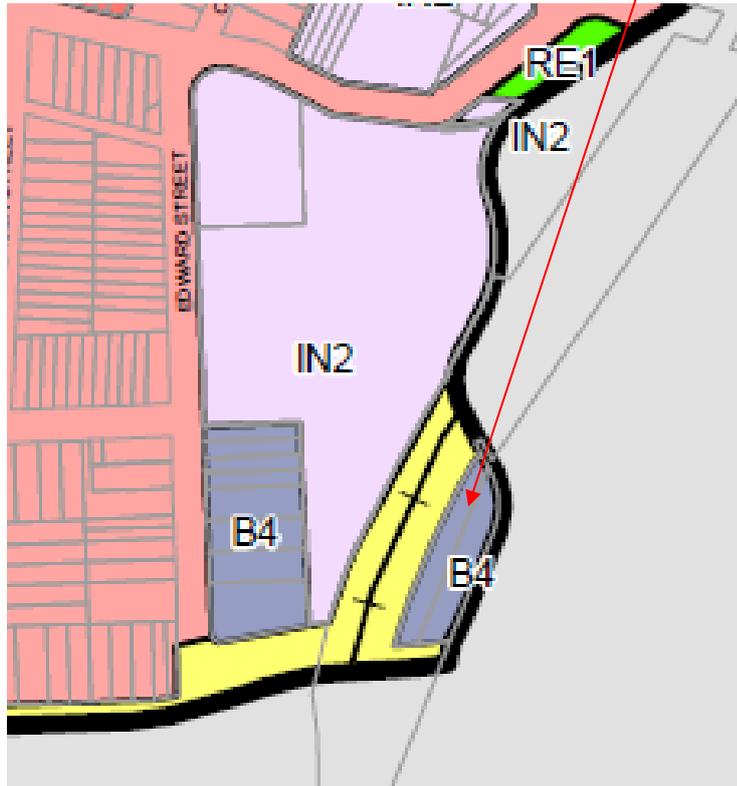




ANNEXURE E: MAPPING

Proposed Land Zoning Map

Extract of proposed Map showing affected properties at 120 C Old Canterbury Road, Summer Hill.



Zone

B1	Neighbourhood Centre
B2	Local Centre
B4	Mixed Use
B6	Enterprise Corridor
IN2	Light Industrial
R2	Low Density Residential
R3	Medium Density Residential
RE1	Public Recreation
RE2	Private Recreation
SP2	Infrastructure

Entire proposed Map follows on next page

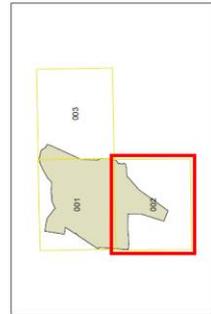
- Zone**
- L11 Neighbourhood Centre
 - L12 Local Centre
 - L14 Mixed Use
 - L16 Enterprise Corridor
 - L192 Light Industrial
 - L21 Low Density Residential
 - L23 Medium Density Residential
 - L24 Public Recreation
 - L25 Private Recreation
 - SP2 Infrastructure

Base data 27/09/2017 © Land and Property Information (LPI)

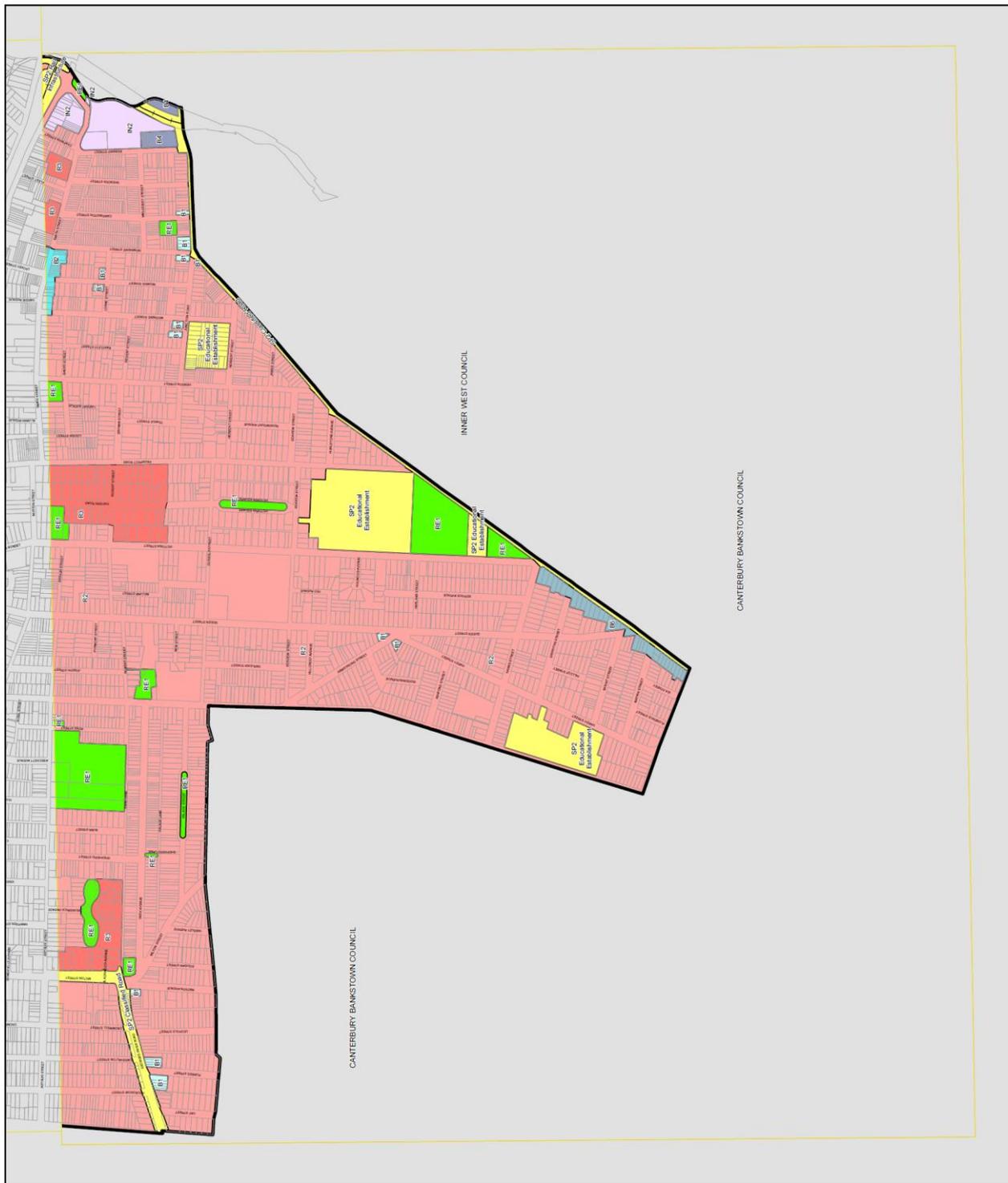
CANTERBURY BANKSTOWN COUNCIL

INNER WEST COUNCIL

CANTERBURY BANKSTOWN COUNCIL

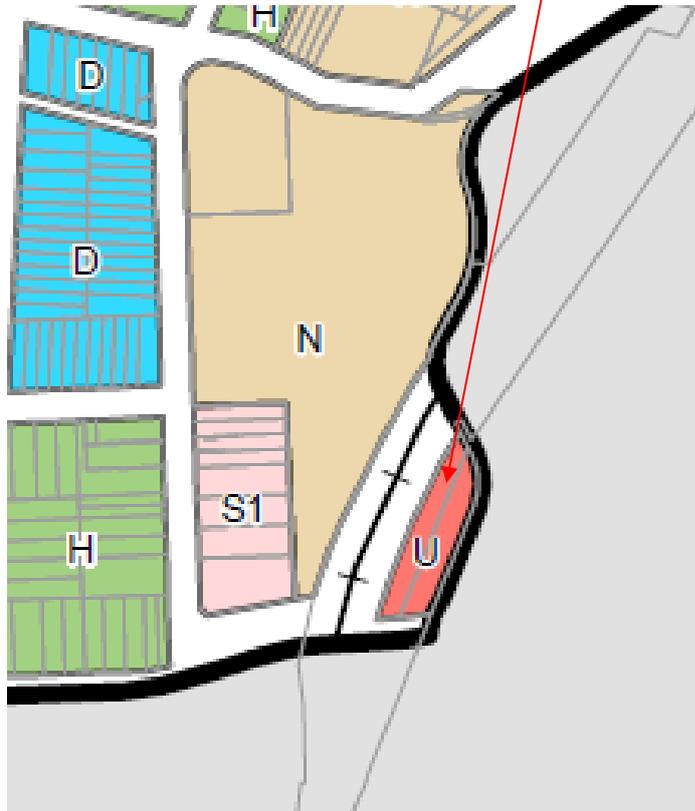


Projection: GDA 1984
 Map Identification number: 0140_COM_LZN_002_010_20170527



Proposed Floor Space Ratio Map

Extract of proposed Map showing affected properties at 120 C Old Canterbury Road, Summer Hill.



Maximum Floor Space Ratio

D	0.50
H	0.70
N	1.00
S1	1.50
S2	1.80
T	2.00
U	2.50
V	3.00

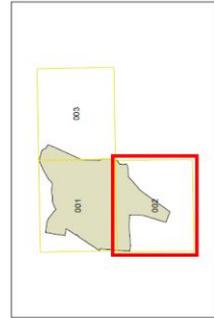
Entire proposed Map follows on next page

Maximum Floor Space Ratio (n:1)

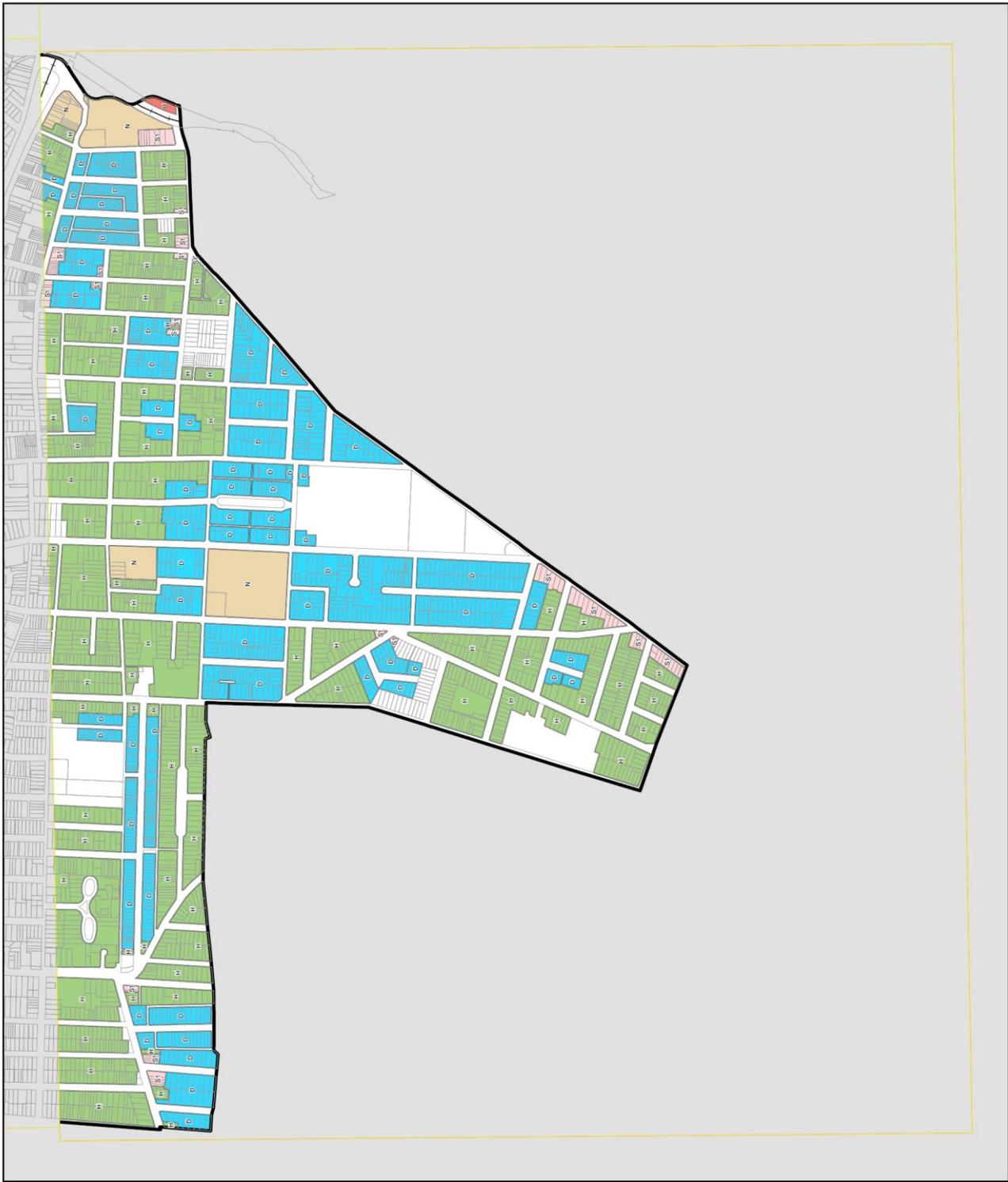
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H	0.70
N	1.00
ST	1.50
SZ	1.80
T	2.00
U	2.50
V	3.00

Cadastral

Base data 27/09/2017 © Land and Property Information (LPI)

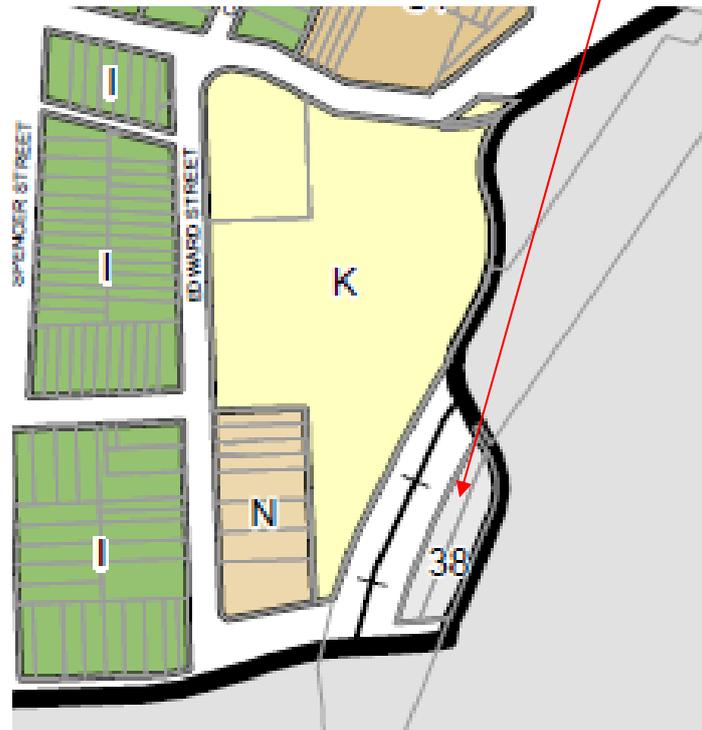


Map identification number: 0192_C00M_FSR_002_010_29377927



Proposed Height of Buildings Map

Extract of proposed Map showing properties at 120 C Old Canterbury Road, Summer Hill



Maximum Building Height (m)

G	7
I	8.5
J	9
K	10
M	12.5
N	13
N	14
O	15
O	15.5
P	17
Q	20
R	22
S	23
T	29
Area 1	Refer to Clause 4.3A (2) and Clause 4.3A (3)

Maximum Building Height (RL m)

0 - 20
21 - 40
41 - 60

Entire proposed Map follows on next page

Maximum Building Height (m)

LG	7
L	8.5
J	9
K	10
M	12.5
N	13
N	14
O	15
O	15.5
P	17
O	20
R	22
S	23
T	28

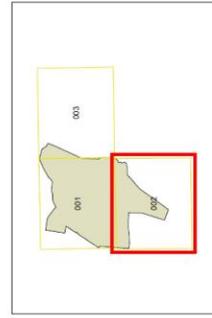
Refer to Clause 4.3A (2) and Clause 4.3A (3)

Cadastral

Base data 27/09/2017 © Land and Property Information (LPI)

Maximum Building Height (RL m)

0 - 20
21 - 40
41 - 60



Map identification number: 0150_COM_HOB_002_010_20170827

