

**Item No:** C0717 Item 11

**Subject:** 2-6 CAVILL AVENUE ASHFIELD - PLANNING PROPOSAL

**File Ref:** 17/4718/80212.17

**Prepared By:** Con Colot - Senior Strategic Planner & Projects

**Authorised By:** Simon Manoski - Group Manager Strategic Planning

### **SUMMARY**

This site on the west side of the Ashfield Town Centre, presently contains two five storey office buildings, and comprises several allotments with different land use zones.

The proposal seeks to increase Maximum Floor Space Ratio from 2.0:1 to 3.0:1 to bring this in line with similar sites in other parts of the Ashfield Town Centre. It also seeks to apply a 7 metre height (2 storey) bonus to the site, the same as that applying to other comparable sites in the Ashfield Town Centre- this would be in addition to the existing 23 metre Maximum Building Height in the Ashfield LEP 2013.

Also sought are changes to land zonings to small sites fronting "The Avenue", and amendments to specific clauses in the Ashfield LEP 2013 discussed in detail in this report.

The Proposal has been put on preliminary "upfront" public exhibition in accordance with Council's policy - for the former Ashfield LGA, prior to a report being considered by Council.

This report recommends that Council support the Planning Proposal and seek Gateway determination to become the Relevant Planning Authority, and that a site specific Development Control Plan be produced to address the unique circumstances of this large site in the Ashfield Town Centre.

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### **RECOMMENDATION**

**THAT Council:**

- 1. Support the Planning Proposal subject to amendments outlined in the report;**
- 2. Forward the Planning Proposal to the Minister of Planning for a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, and seek that Council use its delegated plan making functions to be the Relevant Planning Authority for the processing of the Planning Proposal;**
- 3. Authorise the Interim General Manager to be Council's delegate and "the Authorisation" to be the Relevant Planning Authority for the processing of the Planning Proposal; and**
- 4. Develop a site specific Draft Development Control Plan as outlined in the report once the Gateway approval is received and exhibit the Draft DCP concurrently with the Planning Proposal.**

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#### **1.0 Introduction**

The Planning Proposal seeks to make various amendments to the Ashfield LEP 2013, including to Development Standards for Maximum Building Height and Maximum Floor Space Ratio, which are described in more detail in the Report in Part 5. The applicant is concerned

that there is a declining long term market for consolidated commercial tenants in Ashfield and is therefore seeking to redevelop the site. The proposal is seeking consent to amend the height and density of the proposal. Residential flat development is currently permissible with consent within the B4 Mixed Use Zone.

LRAC considered this report at its Meeting on 11 July 2017 and recommended:-

### **L0717 Item 3 2-6 Cavill Avenue Ashfield - Planning Proposal**

#### **Recommendation: Drury / Mansour**

THAT:

1. support the Planning Proposal subject to amendments outlined in the report;
2. forward the Planning Proposal to the Minister of Planning for a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, and seek that Council use its delegated plan making functions to be the Relevant Planning Authority for the processing of the Planning Proposal;
3. authorise the General Manager to be Council's delegate and "the Authorisation" to be the Relevant Planning Authority for the processing of the Planning Proposal; and
4. a site specific Draft Development Control Plan as outlined in the report be produced post-Gateway and exhibited concurrently with the Planning Proposal.
5. notes that there is a presumption against rezoning where the LEP is less than 5 years old unless it meets the strategic merit test;
6. express concern that this proposal will result in a significant reduction in employment in the Ashfield CBD.

CARRIED

#### Officers Comment

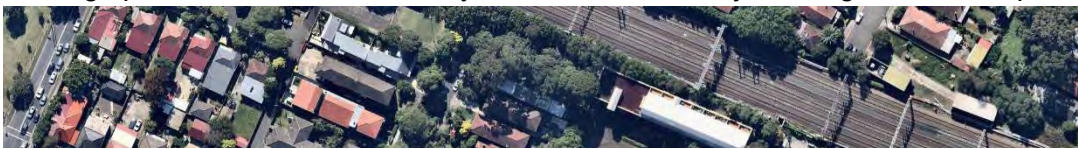
The Planning Proposal is seeking a change in height and density reflecting that which is available to adjoining sites within the remainder of the commercial/retail core area of Ashfield. The proponent is not seeking any change to the zoning or permissible uses for the site.

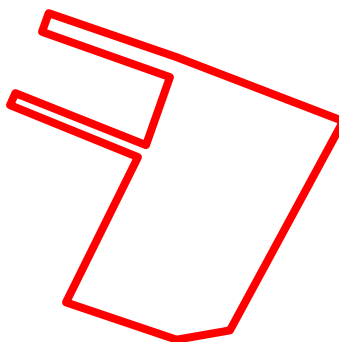
It is noted that the proposal may result in a reduction in employment in the Ashfield commercial core area however under the current Ashfield LEP, residential flat development is permissible on the site.

## **2.0 CONTEXT AND CURRENT USE OF SITE**

The site currently contains two 5 storey office buildings built in the 1980s, with a large sized roof top plant room making the building approximately 24 metres high relative to Cavill Avenue (equivalent of 7 residential storeys). Most of the site is zoned B4 – Mixed Use (approx. 7,960 sqm) except for two small properties off The Avenue zone R2- Low Density Residential. The site contains tall trees (equivalent of 4 storeys) along Cavill Avenue which make a strong contribution to the quality of the area and are protected by Council's Tree Preservation Policy. Adjacent on the east side, is a residential street - The Avenue- zoned R2 Low Density Residential which is a mixture of 2 and 3 storey residential flat buildings and two houses. Adjacent to the north is a "slim" four storey residential flat building with ground level parking, and then the railway line. To the east is the Ashfield Town Centre, predominantly zoned B4 Mixed Use, with buildings permitted along Liverpool Road up to 8 storeys high, except for a front podium maximum 12 metre height and 12 metre depth ("street wall height"). To the south properties include B4 zoned land on Liverpool Road including a three storey Commercial building, and the Miller Street Conservation Area containing houses.

Nearby to the west along Liverpool Road land is zoned B4- Mixed Use with up to 6 storey buildings permissible, with a recently constructed 6 storey building at 371 Liverpool Road.





### 3.0 PRELIMINARY NOTIFICATION AND PUBLIC SUBMISSIONS

The Planning Proposal was notified between 31 January and 28 February 2017. This process is in place in order for Council to obtain community feedback, so that relevant issues may be addressed “upfront” in the process. There were 24 visitations to Council’s “Have Your Say” website with 22 people having read the Planning Proposal. Three submissions were received:

**Table 1**

|                                        | <b>Issues raised</b>                                                                                                                                    | <b>Officer Response</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Submission 1                           |                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Does not support the Planning Proposal | Land use zoning for properties in The Avenue should remain R2, and the current maximum FSR of 0.7:1 and Maximum Building Height should remain at 8.5 m. | The commercial property contains two smaller allotments in the “The Avenue” which are currently used for vehicular access. This zoning issue is discussed below in <b>Part 5</b> of the report and it is agreed that properties in The Avenue should have their Land Use zoning, Maximum FSR and Maximum Building Height remain as currently contained in the Ashfield LEP, since this characterizes the spatial environment of this area. Also, the R2 land use zoning already allows access to The Avenue from the main property off Cavill Avenue. |
| Submission 2                           |                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Does not support Proposal              | Ashfield is becoming overdeveloped, and increasing dwellings will adversely “increase traffic and business”.                                            | The additional FSR of 1:1 will generate approx. 90 dwellings (at 90 sqm), within a total of approx. 265 dwellings (90 sqm) at a total FSR of 3:1. Pursuant to Councils Ashfield Urban Planning Strategy 2010, the town centre is intended to accommodate 1,100 dwellings, and this site will contribute to this. Council’s Traffic Engineer has raised no objection to the Proposal. The site has adequate existing vehicular access off Cavill Avenue and The Avenue.                                                                                |

|              |                                                                                                                                                                 |                                                                                                                                                                             |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Submission 3 | Submission from Sydney Trains. All future developments will need to be in accordance with "Development Near Rail Corridors and Busy Roads- Interim Guidelines". | The Planning Proposal if progressed to formal exhibition will be referred to Sydney Trains for comment. Any future Development Application will be considered the document. |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

#### **4.0 COMPLIANCE WITH PLANNING PROPOSAL GUIDELINES AND DOCUMENT CONTENT**

In order for Council to support the Planning Proposal, Council needs to be satisfied that there is adequate content and "justification" in a Planning Proposal document as required in "A Guide to preparing Planning Proposal Guidelines- 2016". The following provides an assessment of the adequacy of the content.

##### **Part 1 Objectives and intended outcomes and explanation of provisions**

|     | Guideline Requirements                                                       | Officer comments                                              |
|-----|------------------------------------------------------------------------------|---------------------------------------------------------------|
| 2.1 | Requires a concise statement setting out the objective or intended outcomes. | The statement given in the Planning Proposal is satisfactory. |

##### **Part 2- explanation of provisions**

|     | Guideline Requirements                                                                        | Officer Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----|-----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.2 | Requires an explanation of the land use zones and development standards sought to be amended. | <p>The proposal seeks to</p> <ul style="list-style-type: none"> <li>- increase Maximum Floor Space Ratio from 2.0:1 to 3.0 :1 on the B4 zoned site, and increase Max FSR from 0.7:1 to 3:1 on the R2 Low Density Residential land zonings</li> <li>- apply a 7 metre height bonus, above the existing 23 metre Maximum Building Height applying to the site zoned B4 -Mixed Use.</li> <li>- make changes to R2 Low Density Residential land zonings on two small sites fronting "The Avenue".</li> </ul> <p>The Planning Proposal adequately identifies these matters, refer to <b>Part 5</b> of the report below for an assessment of the above.</p> |

##### **Part 3 – Justification**

|     | Guideline Requirements                                               | Officer Comments                                                                                                                    |
|-----|----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| 2.3 | Requires adequate justification documentation to be provided for the | Design concept documentation has been submitted which provides floor plans and building envelopes for the proposed maximum Building |

|  |                                                                  |                                                                                                                                                                                         |
|--|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | specific land use and development standards proposed to the LEP. | Height and Maximum FSR. These depict a scenario where there are new residential flat buildings on the site. These development standards are assessed in <b>Part 5</b> of this report. . |
|--|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

### 2.3.1 Questions to consider when demonstrating the justification

|                                                                | Guideline requirements                                                                                              | Officer Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Section A – Need for Planning Proposal</b>                  |                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Q1                                                             | Is the planning proposal part of any strategic study or report?                                                     | <p>The Proposal is site specific, and not part of any Strategic Study such as a local precinct study.</p> <p>However it is relevant that the site was considered as part of the reporting on the Draft Ashfield LEP 2012 exhibition in February 2013 to the former Ashfield Council, where an objection was lodged to the proposed Heritage listing of the site and Council agreed that the Heritage listing was not relevant and was removed. However the Maximum Building Height and Maximum FSR in the Draft LEP reflected at the time, the retention of the buildings and is lower than other B4 Mixed Use zonings elsewhere in the Ashfield Town Centre.</p> <p>It is also relevant that the Ashfield Urban Strategy 2010 nominates the Ashfield Town Centre as a key contributor to housing supply, and that the land use zoning already permits standalone residential flat buildings, and that this proposal has the potential to contribute to housing supply.</p> |
| Q2                                                             | Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way? | The objectives/intended outcomes require amendments to the Land Use zonings and Development Standards and particular clauses of the Ashfield LEP 2013. <b>Part 5</b> of the report assesses these.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Section B –relationship to strategic planning framework</b> |                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Q3 a                                                           | Does the proposal have strategic merit? Is it:                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                                | Consistent with the relevant District Plan within the Greater Sydney region.                                        | <p>With regard to the Draft Central District Plan (dCDP), the Planning Proposal adequately addresses the following :</p> <p>The dCDP identifies the Ashfield Town Center as a “local centre”. One of the key objectives for a local centre is to provide for additional residential growth close to transport and services – which the Ashfield Town Centre provides.</p> <p>Another key objective is to consider the need to reinforce the suitability of a “local centre” for retail and commercial use. A</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

|     | Guideline requirements                                                                                                                                                                                         | Officer Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                                                                                                                                                                | <p>Strategic Economic Assessment report (<b>Attachment 2</b>) is included with the Planning Proposal and explains that potential conversion of the site to a predominantly residential use will not have any local adverse economic impacts on the existing town centre, and that it is expected in the dCDP that major commercial use will relocate to District Centres (e.g. Burwood) and CBD locations, and that it is State Government policy to relocate major departments further west such as at Parramatta. This has been reviewed by Council's Economic Development Manager and found to be satisfactory –refer to <b>Part 6.0</b> of this report.</p> <p>According to the “Strategic Economic Assessment” there is no certainty that the two existing 5 storey office buildings, which contain a single consolidated tenant will continue to have that tenant. This is due to government policy for relocating such tenants to other strategic locations to the west of Ashfield such as Parramatta. There should therefore be development standards that make the continued use or redevelopment of the site viable, so that the existing buildings are not left vacant long term or derelict, providing there is a satisfactory “fit” with the town centre and surrounds.</p> <p>Notwithstanding, the Ashfield LEP 2013 currently permits in the B4 zones in the Ashfield Town Centre standalone residential flat buildings, mixed use development, and stand-alone commercial development and the Ashfield LEP is consistent with the Draft Central District Plan. The Planning Proposal will not change this.</p> |
|     | Consistent with a relevant local council strategy that has been endorsed by the Department                                                                                                                     | The Ashfield Urban Planning Strategy 2010 was approved by the Department of Planning and the land uses are consistent with that Strategy, and also reflect the current commercial use.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|     | There will be a presumption against a rezoning review request that seeks to amend LEP controls that are less than 5 years old, unless the proposal can clearly justify that it meets the Strategic Merit Test. | The Ashfield LEP was gazetted in Dec 2013, and is less than 5 years old. Noting that the Proposal is at the preliminary stage, subject to future exhibition and detailed assessment, it is considered that the Proposal adequately meets the Strategic Merit test providing the matters identified in this report in <b>Part 5</b> (which assesses the Development Standards) are addressed, including applying a site specific DCP to ensure that future development will be compatible with surrounding development and the character of the town centre.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Q3b | Does the proposal have strategic merit with regard to the following :                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

|    | Guideline requirements                                                                                                                                                         | Officer Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|    | The natural environment                                                                                                                                                        | There are several large trees along the Cavill Avenue front gardens and within the site which are protected via the Ashfield LEP 2013 and the Tree Protection Policy in the Inner West DCP 2016. This would be able to be highlighted in a future draft DCP- as discussed in <b>Part 5.0</b> below.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|    | The existing uses, approved uses, and likely future uses of land in vicinity of the proposal.                                                                                  | This Proposal will permit a continuation of existing land uses and the existing office buildings, see <b>Part 5</b> below for an assessment. There will be an affectation to existing land /property use at The Avenue in terms of the impacts of additional building height and this is illustrated in the explanatory Design Concept submitted with the Planning Proposal, and is assessed in <b>Part 5</b> below. The Planning Proposal information is adequate for the purpose of Gateway Determination.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|    | The services and infrastructure that are or will be available to meet the demand arising from the proposal and any proposed financial arrangement for infrastructure provision | The proposal is in a town centre, there are existing water and sewerage service, and roadways for vehicular access. There are nearby primary and high schools, and public transport including bus and rail. The Planning Proposal information is adequate for the purpose of Gateway Determination                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Q4 | Is the proposal consistent with a council's local strategy or other local strategic plan?                                                                                      | <p>The proposal is consistent with the Ashfield Urban Planning Strategy 2010, with the land uses being consistent with that Strategy, and also reflecting the current commercial use, except for the small parcels of land off The Avenue (see <b>Part 5</b> below).</p> <p>Council's Affordable Housing Policy adopted in March 2017 and is a relevant consideration. Part 2.5.2 – "Major Planning Agreements" of the Policy requires a 15 percent contribution on any uplift. Based on the additional 1.0 :1 FSR, at 15 percent, this equates to approximately 1200 sqm of floor space (on the current B4 zone site), the equivalent of 18 apartments (being a mix of one and two be apartments), or the equivalent of 13 x 90 sq metre apartments.</p> <p>The current Ashfield LEP 2013, in Clause 4.3A (3), requires 25 percent of floor space generated by a 7 metre (2 level bonus) to be provided as "affordable rental housing", and this equates to approximately 18 apartments (mix of one and two bed apartments) using the Design Concept drawings. This also equates to 10 x 90 sqm apartments using the 25 percent additional floor space of approx. 1760 (out of 7050) sqm. The Planning Proposal agrees to have this Clause 4.3A(3), provision applied to the site and this meets the objectives of the Affordable Housing Policy.</p> |
| Q5 | Is the planning proposal consistent with applicable State                                                                                                                      | The B4 zoning permits several land uses, including standalone residential flat buildings, mixed use developments, commercial developments, and the proposed development standards will be able to accommodate these.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

|    | Guideline requirements                                                                                                                                                       | Officer Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | Environmental Planning Policy                                                                                                                                                | <p>With regard to SEPP 65 a Design Concept has been submitted, which puts forward a predominantly residential development, and this has been reviewed by Council's Architectural Excellence Panel (<b>Attachment 4</b>). Refer to <b>Part 5</b> of this report which explains the need to have a site specific Development Control Plan to address the unique location and beneficial characteristics of the site, to achieve a positive built form and open space outcome for the site, with this being reinforced by Council's Architectural Excellence Panel comments. The applicant's Design Concept should also be amended to reflect the Panel's comments and to demonstrate at future assessment stage that the Floor Space Ratio standards, for standalone residential flat buildings, are suitable for the site. This will also require amendments to parts of the Planning Proposal that make reference to the current Design Concept.</p> <p>For SEPP no 55 –Remediation of Land, there will be a Phase 1 Site Assessment provided post Gateway Determination.</p> <p>The Planning Proposal identifies the other applicable SEPPs, being SEPP (BASIX), SEPP (Complying Development), SEPP (State and Regional Development) 2011, Sydney REP Harbor Catchment, noting that these do not have an impact of consideration of the Planning Proposal.</p> |
| Q6 | Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?                                                                              | <p>The Planning Proposal at its Part 7.2.4 –Table 4, shows that it is consistent with the relevant Section 117 directions, being :</p> <p>"3- Housing, Infrastructure and Urban Development- Residential Zones" – and providing for future housing needs.</p> <p>"3.4 Integrating Land Use and Transport " - the site close to transport and services</p> <p>"6.0 Local Plan Making" – the LEP provisions will not compromise the efficient and appropriate assessment of development.</p> <p>"7- Metropolitan Planning" - the proposal is consistent with the NSW Government's – "A Plan for Growing Sydney" (2014) and its generalist directions, in particular "Principle 1 –Increasing housing choice around all centres through urban renewal in established areas,</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Q7 | Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the | <p>Large significant trees on the site are protected by Councils Tree Protection Order. A future draft DCP will highlight this.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

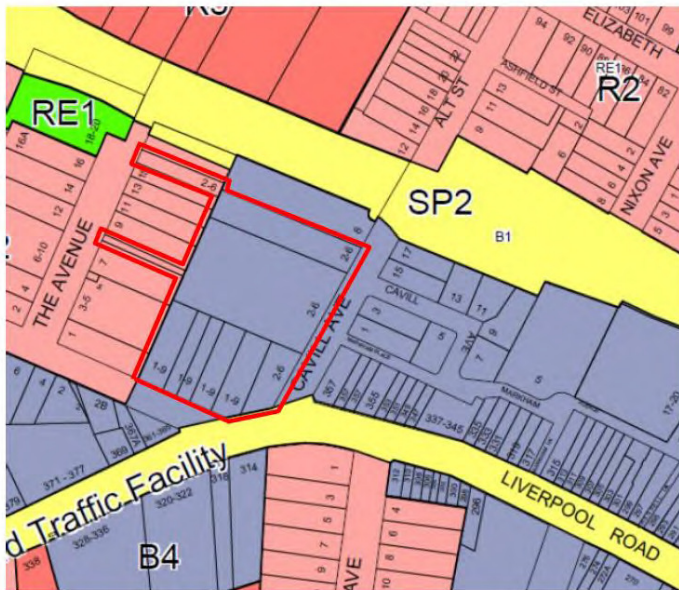
|                                   | Guideline requirements                                                                                                         | Officer Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                   | proposal?                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Q8                                | Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed? | There are no other substantial environmental effects that are known of and the Planning Proposal document adequately covers this matter.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Q9                                | How has the planning proposal adequately addressed any social and economic effects?                                            | <p>The Planning Proposal adequately discusses this matter at its part 7.4, and in the Strategic Economic Assessment report (Attachment 2). Refer to <b>Part 6</b> of this report, Council's Economic Development Manger agrees the Planning Proposal will not result in an adverse local economic impact, and that there are adequate regional employment areas within close vicinity and transport access of the Ashfield Town Centre.</p> <p>Under the Ashfield LEP 2103, the existing commercial building can presently seek approval for a residential use, such as has occurred at 164 Liverpool Road with conversion of a 6 storey office building. There is no inherent change in economic effects affecting the Ashfield LEP content which permits both standalone residential use and commercial use.</p> |
| Q10                               | Is there adequate public infrastructure for the planning proposal?                                                             | Yes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Q11                               | What are the views of State and Commonwealth authorities consulted in accordance with the gateway determination?               | The Public Authorities will be consulted post Gateway Determination and the Guidelines require that Proposal should recommend who they should be. This will be a matter for the Greater Sydney Commission, given the land is adjacent a regional road (Liverpool Road) and there will additional traffic generation, and that the site is nearby the railway line, public authorities should be: Sydney Trains, Roads and Maritime Services.                                                                                                                                                                                                                                                                                                                                                                       |
| <b>2.4 Mapping</b>                |                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                                   |                                                                                                                                | Adequate maps have been provided but require amendment to conform to this reports recommendations for retaining Land Use Zones and development standards in The Avenue.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>2.5 Community Consultation</b> |                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                                   |                                                                                                                                | It is considered that the Proposal should be formally exhibited for a minimum of 28 days in accordance with the Inner West DCP 2016 (former Ashfield Council area).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>2.6 Project Timeline</b>       |                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                                   |                                                                                                                                | The Gateway Determination will determine the maximum timeframe, and so it is premature to state actual milestones. The Planning Proposal provides the necessary timeline table.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

## 5.0 ASSESSMENT OF SPECIFIC AMENDMENTS BEING SOUGHT TO ASHFIELD LEP 2013 , FOR LAND USE, HEIGHT BONUS, MAXIMUM FSR, AND SPECIFIC CLAUSES.

### 5.1 Amendment to Land Use zoning Map- Ashfield LEP 2013.

There are several allotments in the one ownership and these properties are described on the map in **Figure 1** below within the red boundary.

**Figure 1 – Extract Ashfield LEP 2013 – Land Use Map. Purple indicates B4 -Mixed Use zone, pink indicates R2 -Low Density Residential Zone**



The application seeks that the properties within the red boundary in The Avenue be zoned B4 - Mixed Use to match the current use of the site and zoning off Cavill Avenue and Thomas Street.

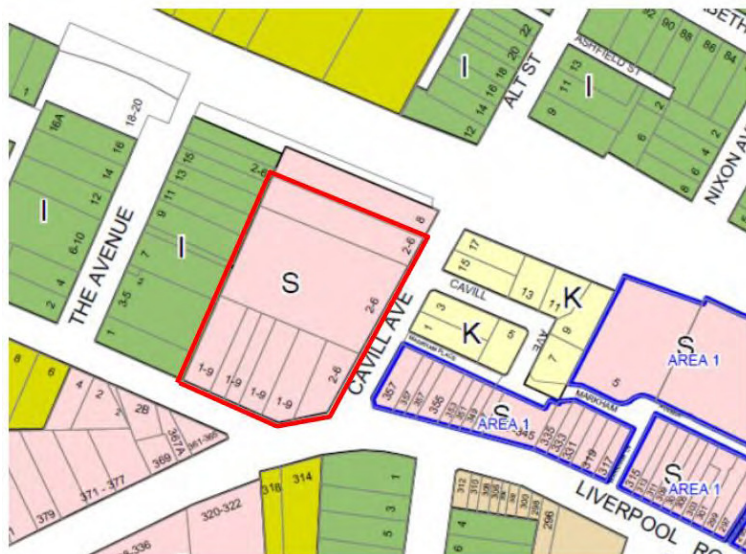
#### Officer Comment.

It is considered that the properties off The Avenue should remain zoned R2- Low Density Residential to match the character of the street and present building typologies. "Roads" are permissible in an R2 Zoning and so these properties will be able to use this land for access to The Avenue if required.

### 5.2 Amendment to Maximum Building Height Map.

The current site's maximum Building Height is described on the extract of the Map in **Figure 2**. Properties to the east within the blue boundary on the map have the benefit of a 7 metre height bonus pursuant to Clause 4.3A(3) of the Ashfield LEP 2013 (which requires 25 percent of the floor space within the height bonus to be provided as Affordable Housing). Presently, other sites in the town centre which have had development consent for residential flat buildings have had this enforced through Development Approval conditions of consent requiring this to be applied on the land title via a "restriction as to user".

**Figure 2 - Extract Ashfield LEP 2013 – Maximum Building Height Map. Code S signifies 23 metres, Code I signifies 8.5 metres, Code K signifies 10 metres. Blue boundary indicates where a 7 metre height bonus applies.**



The application seeks to have all the properties within the red boundary contain a blue boundary (being properties fronting Cavill avenue and Thomas street) which gives a 7 metre height bonus pursuant to Clause 4.3A(3) of the Ashfield LEP 2013. This would generate approximately 18 affordable apartments (mix of one and two bedrooms). It would bring the total permissible building height to 30m, noting that existing buildings are approximately 24m high.

The additional floor space that is generated with an extra 7 metres in height, where it is above the maximum FSR permitted in the LEP maps, is required to be addressed via Clause 4.6 – Variations of the Ashfield LEP, and “assessed on merits”. This would include such things as scale impacts to adjacent properties.

#### Officer Comment and need for a draft DCP.

The “Area 1” blue boundary was not applied to the site in the Ashfield LEP 2013, as during the Draft LEP 2012 phase the site was proposed as Heritage item, and so it was thought the site would not be redeveloped and so the 23m height was sufficient for the site (the existing building is approximately 24 m high). Council agreed to remove the heritage listing after considering objection to this listing arguing that the heritage listing was not warranted, that the building was a modern one and not meeting any of the Heritage Manual listing for criterion.

For the property fronting Cavill Avenue and Thomas Street (currently zoned B4 Mixed Use) it is considered that the 7 metre height bonus can be supported, providing that a site specific Development Control Plan is applied to the site, and to address building scale impacts to adjacent properties. This should require a transition/lowering of maximum height and scale to the west of the site in order to be sympathetic to the residential properties, provide guidelines for general site layout and retention of trees along Cavill Avenue as required in Councils Tree Preservation Policy, adequate distribution of open space on the site and contribution to the public domain, activation of ground floor areas, and address the matters brought up in the Architectural Excellence Panel (refer to **Part 6** of the report). This draft DCP would provide guidance for assessment of the additional FSR (above the maximum 3:1 FSR), flowing from the 7 metre (2 storey) height bonus, which is required as part of a Clause 4.6 (Exceptions to development standards) to the Ashfield LEP 2013.

### **5.3 Amendment to Clause 4.3 (2A) in the Ashfield LEP that affects the use of the uppermost part of the building.**

Clause 4.3 states as follows

### 4.3 Height of buildings

(1) The objectives of this clause are as follows:

- (a) to achieve high quality built form for all buildings,
- (b) to maintain satisfactory sky exposure and daylight to existing buildings, to the sides and rear of taller buildings and to public areas, including parks, streets and lanes,
- (c) to provide a transition in built form and land use intensity between different areas having particular regard to the transition between heritage items and other buildings,
- (d) to maintain satisfactory solar access to existing buildings and public areas.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

*(2A) If a building is located on land in Zone B4 Mixed Use, any part of the building that is within 3 metres of the height limit set by subclause (2) must not include any area that forms part of the gross floor area of the building and must not be reasonably capable of modification to include such an area.*

The purpose of this clause is to account for various evident roof top building components, such as plant rooms, roof top communal open space including any pergola structures since this cannot be usually provided at ground level in a town centre, enclosed structures used to access a roof top containing stairs and landings, “green roofs” as promoted in the “Urban Green Cover Guidelines”- Office of Environment and Heritage. Otherwise the town centre would be restricted to flat inaccessible roof tops with poor to bland urban design outcomes and ‘absent’ sustainable roof design. Sub Clause 2(A) also resulted from a previous Ashfield Council LEP working party resolution during formulation of the LEP.

The application states that it wishes to “adjust” Part (2A) of the above clause (in Italics), and proposes the following additional clause be added after (2A) as follows:

***(a) Notwithstanding this provision, development consent may be granted for development at 2-6 Cavill Avenue , Ashfield in accordance with subclause 2, if Council has considered the relevant objectives.***

Implicitly the proposal argues that the justification for the above is that the site is in a different context to those of the rest of the town centre, since it is a large site, that any new buildings will have very large roof areas, and so it is reasonable to allow within that roof top area some building (floor space). It argues that reliance can be made on the Built Height Objectives of the LEP.

#### Officer Comment

It is considered that the applicants request is acceptable on the proviso that there is a site specific DCP which will provide guidance on roof top area design and sustainability matters explained above.

**5.4 Amendment to clause 4.3B of the Ashfield LEP –‘street wall height’.**

Clause 4.3B states:

**4.3B Ashfield town centre—maximum height for street frontages on certain land**

(1) The objective of this clause is to apply a maximum height for primary street frontages on certain land in Ashfield town centre.

(2) This clause applies to land identified as “Area 1” on the Height of Buildings Map.

(3) Despite clauses 4.3 (2) and 4.3A (3), the maximum height of that part of a building that has an entrance or lobby on the ground floor facing Liverpool Road, Norton or Hercules Streets or Markham Place, Ashfield (a **primary street frontage**) is 12 metres for a distance of 12 metres from the primary street frontage away from the road.

The intention of this clause is to require a lower human scale along the principal roads in the Ashfield Town Centre which typically have 10-11 metre high terrace buildings, and Council would be aware of buildings that have been already constructed that illustrate this urban design scale principle.

The applicants wish to add the following clause after Sub Clause (3):

***(a) Notwithstanding this provision, development consent may be granted for development at 2-6 Cavill Avenue, Ashfield in accordance with subclause (2), if Council is satisfied that this achieves an appropriate design outcome having regard to surrounding development.***

Officer Comment

Existing buildings on the site are already prominent 5 storeys office buildings - 24 metres high (equivalent of 7 residential storeys) near the junction with Liverpool Road, placed within a landscape setting along the frontage of the site. Nearby constructed dwellings at Liverpool Road to the west are 6 storeys.

The proposed clause is considered acceptable providing a site specific DCP is provided (as explained in **Part 5.2** above) which gives guidance on the built form and open space layout for the site along Liverpool Road, and responds to context of the site.

## 5.5 Amendment to Maximum FSR Map- increase the maximum FSR from 2:1 to 3:1.

Figure 3 Extract of Ashfield LEP 2013 FSR Map, T signifies 2.0:1. H Signifies 0.7:1, V signifies 3.0 :1.



It is requested that the maximum FSR for properties within the red boundary be made 3.0:1.

### Officer Comment

As explained above in the report, due to the previous proposed Heritage listing in the draft Ashfield LEP the maximum FSR for the main property off Cavill Avenue was kept lower at 2:1, and later the LEP Heritage listing was removed in the gazetted Ashfield LEP 2013.

The now proposed FSR of 3:1 for the properties off Cavill Ave and Thomas Street, currently shown in pink shade in **Figure 3** will accord with the proposed maximum FSR elsewhere in the majority of the town centre (noting that the corresponding maximum Building Height of 23 metres).

It considered that the existing FSR of Code H- 0.75:1 for properties in The Avenue should remain to reflect the adjacent lower rise houses and flat buildings in that street, and this will reflect the maximum building height of 8.5 metres applied to the R2 Low Density Zone.

## 6.0 OTHER STAFF COMMENTS

### Traffic Engineer

Council's Traffic Engineer have not raised any objection to this stage of the Proposal.

### Economic Development Manager

Agrees with the conclusions of the Strategic Economic Assessment Report (**Attachment 2**) and that should the proposed higher development standards in the Ashfield LEP facilitate use of the site for mostly standalone residential flat buildings, that this will not have an adverse local economic impact to existing retail areas and service providers in the town centre, and that there will be good transport access to regional employment areas within close vicinity of

the Ashfield Town Centre which will compensate for loss of employment resulting from the commercial buildings being vacated.

Architectural Excellence Panel.

The panel have reviewed the “Design Report” (**Attachment 3**) submitted with the Planning Proposal and advised as follows:

It is the Panel’s view that the best overall strategy is to:

- determine and retain significant trees on the site, along with commensurate setbacks to enable this retention and augment landscaping
- provide a predominantly residential development, sited within a strong landscape setting;
- structure the site around the Cavill Street/Liverpool Road/Thomas Street frontages, with new publicly accessible connections through the site, set out on the alignment of property links to The Avenue and along the north-western boundary, to generally result in a perimeter layout, with a functional-shaped central open space (generally as proposed);
- rather than a uniform, 8-9 storey envelope around the site perimeter, which creates an unrelenting, enclosed and self-shadowing outcome, allow for additional height (with no overall additional density) generally configured as smaller-footprint (maximum 500sqm/floor) buildings on the south-eastern side of the site (provided that solar access impacts can be mitigated);
- transition to lower scale buildings to the north-western side of the site to allow good solar access into the centre of the site, to provide visual relief and to better relate to the adjoining medium density residential scale;
- present a “landmark” building to the Liverpool Road frontage and to terminate the vista behind the retained and embellished landscape corner, while providing a clear break between building envelopes to open to the central landscaped courtyard beyond and reduce the apparent density; and
- Provide some retail activation onto a well-landscaped street corner addressing the Cavill Street/Liverpool/Road Thomas Street corner frontage.

The above can be used to inform a site specific draft Development Control Plan for the site. The applicant’s Concept Design (**Attachment 3**) should also be amended to reflect the above, as this document is necessary pursuant to the Strategic Merit test of the Planning Proposal Guidelines to justify the proposed Development Standards.

## **FINANCIAL IMPLICATIONS**

The Planning Proposal does not raise any financial implications for Council. The Planning proposal is intended to increase the level of flexibility in land uses at the site and is unlikely to require any upgrade works to Council infrastructure. Detailed assessment of new uses will be undertaken at the detail design stage associated with each new development application.

## **CONCLUSION**

The Planning Proposal application is at pre-Gateway stage, and would be subject to future community consultation and detailed assessment should Council agree to be the Relevant Planning Authority and are granted delegation for this.

The Planning Proposal is considered acceptable for submission to the Department of Planning and Environment for Gateway Determination - subject to requiring amendments to its ancillary documents as identified in this report. The proposal is considered to have adequate Strategic merit, for the reasons stated in the report. This includes that it will provide development standards that equate with those found in the other parts of the Ashfield Town Centre, and be able to better respond to potential circumstance where the two existing five office buildings are vacated. The

additional Floor Space Ratio and Building Height will also generate affordable housing with approximately 18 apartments being able to be provided, pursuant to Clause 4.3 A (3) of the Ashfield LEP 2013, which reflects Council's Affordable Housing Policy,

Given the unique circumstances of a large site in the Ashfield Town Centre it is necessary to apply a site specific draft Development Control Plan to provide guidelines for future development on the site to ensure a positive impact for the Ashfield Town Centre. This will include the suitability of the 7 metre (2 storey) height bonus being sought for particular parts of the site and relationship to adjoining properties. The draft DCP should be included with a future exhibition of the Planning Proposal.

#### **ATTACHMENTS**

1. Planning Proposal and Letter
2. Strategic Economic Assessment
3. Concept Design Report
4. Architectural Excellence Panel Comments