

Planning, Place and Design

IRF19/3492

Plan finalisation report

Local government area: Inner West

1. NAME OF DRAFT LEP

Marrickville Local Environmental Plan 2011 (Amendment No 18)

2. SITE DESCRIPTION

The planning proposal applies to land at 67, 73-83 Mary Street, 50-52 Edith Street and 43 Roberts Street, St Peters (the site) legally described as Lot 1 DP556914, Lot 13 DP660883, Lot 1 DP952133, Lot 1 DP180958, Lot 1 DP745014, Lot 1 DP745657, Lot A DP331215 and Lot 1 DP87885.

The site has an area of 1.5ha and is located within a block comprising predominantly residential terrace developments. The block is bound by Unwins Bridge Road to the north and the Princes Highway to the south.

The site currently has 11 industrial buildings, 1 cottage and 3 residential dwellings (for a total of 15 buildings) on the subject site, ranging in height from 1 to 3 storeys. The industrial buildings are used for a variety of light industrial uses, some of which include a micro-brewery, florist and a furniture supplier. A large car park is located at the eastern corner of the site, which can accommodate approximately 80 cars.

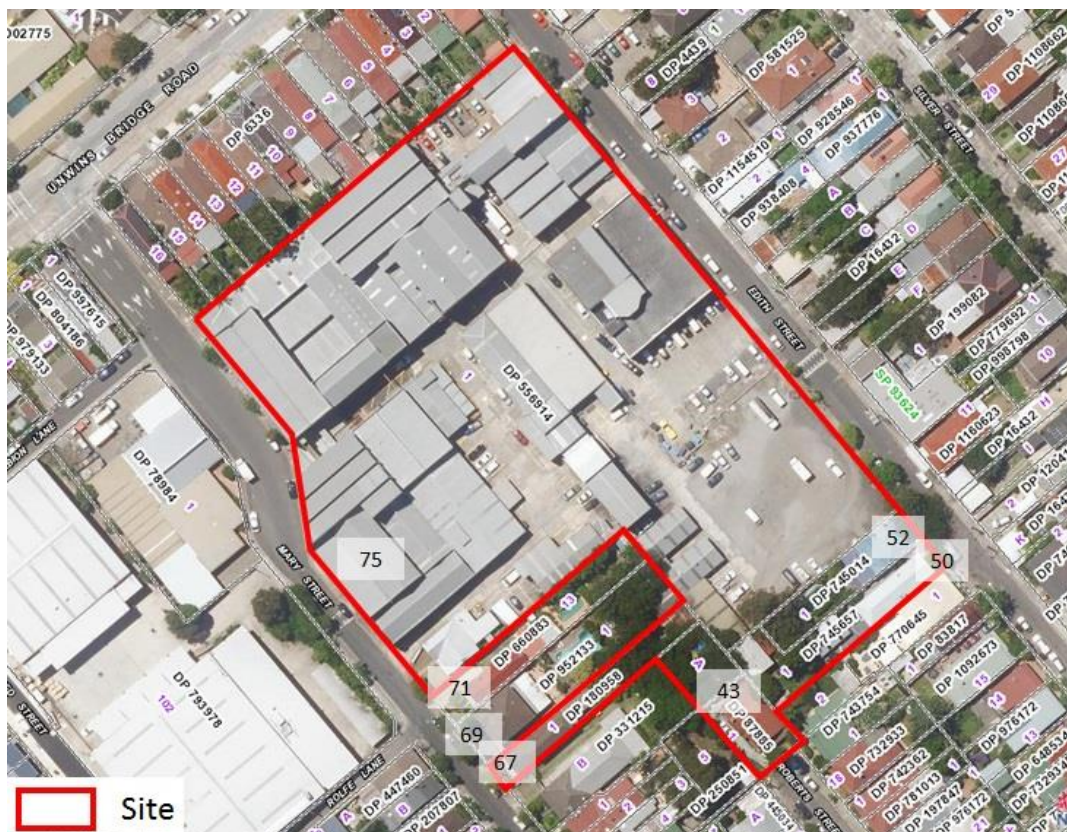


Figure 1: Site Map

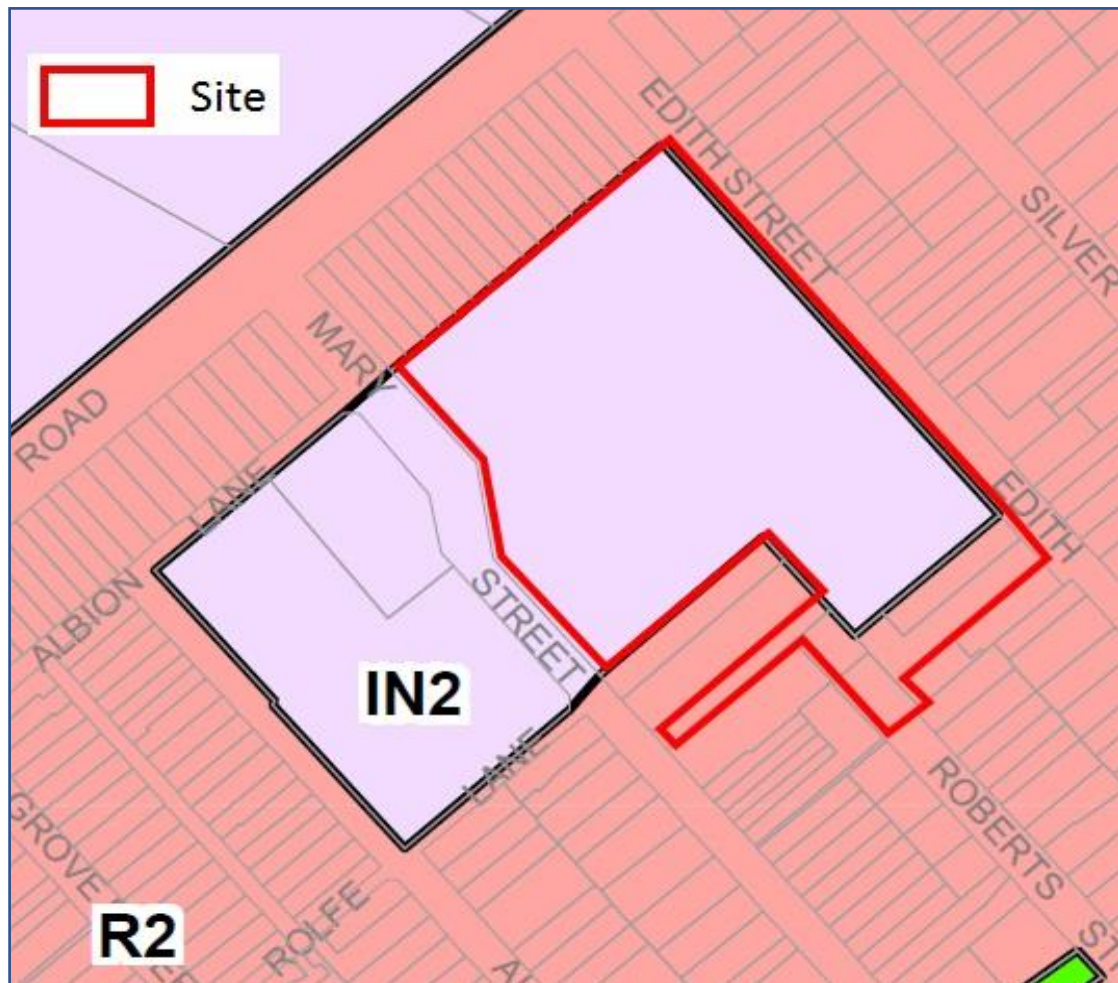


Figure 2: Existing land zoning map – Marrickville LEP 2011

The site has two main street frontages including a 143 metre frontage to Edith Street and 108 metres to Mary Street. There is a slope across the site falling approximately 5 metres from Edith Street down towards Mary Street.

The site is approximately 620 metres (800 metres walking distance) from Sydenham train station and approximately one kilometre from St Peters station. The Sydney CBD is approximately five kilometres north-east of the site and Sydney Airport is located one kilometre to the south. To the north across Unwins Bridge Road, there is a large contiguous strip of IN1 General Industrial and IN2 Light Industrial zoned land.

The site is in a predominantly R2 Low Density Residential zoned area along Mary, Robert and Edith Street, characterised by one and two storey development, except for 60 and 62 Mary Street to the south, which is industrial zoned with a mix of one to three storey buildings.

3. PURPOSE OF PLAN

The draft LEP seeks to amend *Marrickville Local Environmental Plan 2011* (Marrickville LEP 2011) to:

- rezone the site from IN2 Light Industrial and R2 Low Density Residential to B4 Mixed Use with an additional permitted use for residential flat buildings;
- introduce maximum building heights ranging between 3m, 9.5m, 17m, 20m, 23m and 29m across the site;
- amend the FSR over the site from part 0.95:1 and part 0.65:1 to 2.2:1.

The planning proposal also states that it proposes to:

- include a provision that allows for flexibility in the application of the prescriptive height limits for the site without the need for a variation under Clause 4.6 of the LEP. The provision allows a height limit to be applied to adjoining land in the site that is within a metre horizontally.
- include a provision to limit the quantum of residential development permitted to 50% of total gross floor area.

The planning proposal includes a separate site-specific development control plan (DCP) that is derived from the Design Concept. This was submitted with the planning proposal but has not been finalised.

The planning proposal seeks to facilitate the redevelopment of the site for a mixed-use development, with buildings ranging in height from 3 to 8 storeys, which would result in approximately 180 new residential apartments and 320 new jobs. The concept plan also provides a 230sqm neighbourhood centre and public domain enhancements, including 600sqm of open space, pedestrian/cycling links via Roberts Street and public art works.

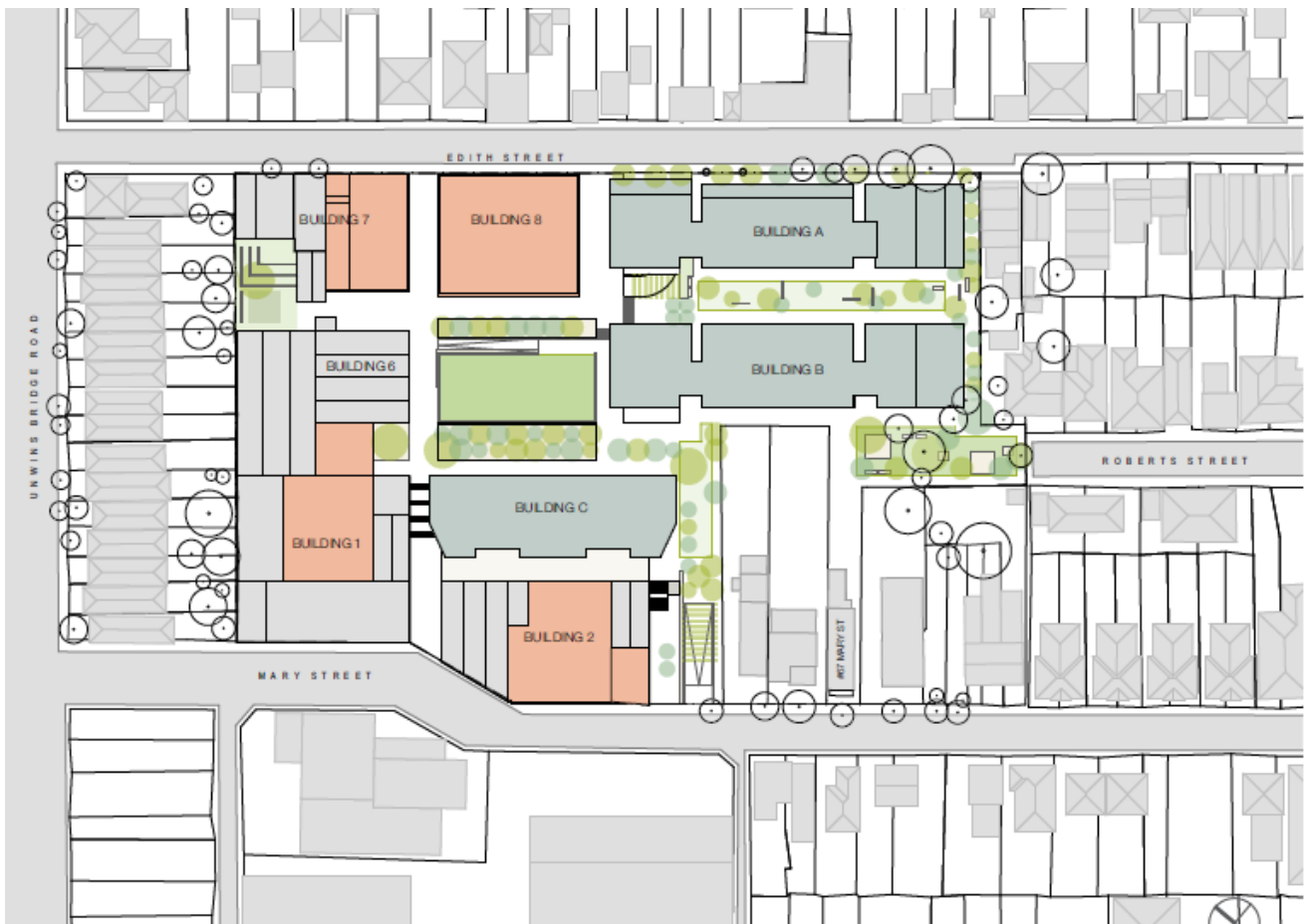


Figure 3: Site concept plan

- Proposed Community Use
- Landscape Opportunity
- Proposed Commercial Use
- Proposed Residential Use
- Retained Commercial Use

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Heffron state electorate. Ron Hoenig MP is the State Member.

The site falls within the Grayndler federal electorate. Anthony Albanese MP is the Federal Member.

To the Department of Planning, Industry and Environment's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. BACKGROUND

Planning proposal and Pre-Gateway review

On 30 September 2015, the planning proposal was lodged with Council requesting to amend the Marrickville LEP 2011.

On 3 February 2016, Council considered a planning report and resolved to defer it pending community consultation. On 15 March 2016, Council considered the planning proposal again and resolved to refuse the proposal.

Pre-Gateway review

On 21 March 2016, the then Department of Planning and Environment received a request for a Pre-Gateway Review. On 9 September 2016, the proposal was forwarded to the Sydney East Joint Regional Planning Panel (the Panel) for review.

On 6 October 2016, the Panel advised the proposal demonstrated both strategic and site-specific merit, but deferred its decision pending receipt and consideration of additional information.

On 15 February 2017, the Sydney Central Planning Panel held a second briefing to consider the proponent's additional material and unanimously recommended the planning proposal should be submitted for a Gateway determination. In making its determination, the Panel considered that:

- the proposal satisfies the precautionary principle for rezoning industrial land as stated in the former draft Central District Plan, because the site is an isolated piece of industrial land and the amount of floor space devoted to employment will be greater following the proposed rezoning than it is now;
- two studies undertaken by the former Marrickville Council (Marrickville Urban Strategy 2007 and the Marrickville Employment Lands Study 2015), supported the conversion of this type of isolated site to alternative use; and
- the proposed heights and floor space ratio are considered appropriate for exhibition, noting the detailed proposal has been endorsed by the Council's Architectural Excellence Panel.

The Panel also recommended that the planning proposal be updated to:

- provide a statement of intent that a flexible provision enabling variation of mapped height limits by up to 1m horizontally be introduced instead of using clause 4.6 of the Marrickville LEP 2011; and

- demonstrate consistency with the draft Central District Plan.

An updated planning proposal was provided responding to the Panel recommendations for Gateway assessment.

Planning Proposal Authority

On 7 June 2017, Council accepted the role as Planning Proposal Authority.

Sydenham to Bankstown Corridor

At the time of the Gateway assessment of this planning proposal, the draft Sydenham to Bankstown Urban Renewal Corridor Strategy was being developed. This Strategy identified the potential for 35,400 new homes and 8,700 new jobs over the next 20 years in the corridor. The site was identified in the Sydenham precinct of this draft Strategy.

Since that time, planning for the Sydenham to Bankstown corridor has evolved. A new approach to precinct planning was announced by the Government in November 2019. For Sydenham to Bankstown, the new approach envisages that the Department will work in close partnership with Canterbury Bankstown and Inner West Council to support the preparation of precinct plans for growth areas within the corridor, that reflect the community's aspirations and Councils' vision for the area.

6. GATEWAY DETERMINATION AND ALTERATIONS

On 10 October 2017, a Gateway determination was issued allowing the planning proposal to proceed subject to conditions including the following requirements to be updated prior to community consultation:

- include a satisfactory arrangements provision for contributions to designated State public infrastructure identified as part of a draft or final Sydenham to Bankstown Urban Renewal Corridor Strategy;
- identify an alternative zoning for the 43 Roberts Street site, being either a B4 Mixed Use or RE2 Private Recreation zoning.
- include a remedial action plan to guide site remediation and validation procedures, and to manage waste for any required off-site disposal; and

The Gateway determination was altered on 10 October 2018 to extend the timeframe for completion until 10 April 2019.

7. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 21 November 2017 to 30 January 2018.

The key issues raised in community submissions have been summarised and considered below. Council's post-exhibition report also provides a detailed analysis of all submissions.

A total of 206 submissions were received during the public exhibition. This included:

- 8 submissions that support the planning proposal;
- 17 submissions that support the planning proposal with amendments; and
- 181 submissions that do not support the planning proposal.

Of the submissions that supported the proposal, comments were provided that it creates a mixed-use outcome and provides business and employment opportunities.

Of the submissions that supported the planning proposal with amendments, the following was noted:

- a reduction building heights and apartments should be provided; and
- improvements to the streetscape with landscaping and appropriate architectural design of buildings should be provided.

Of the 181 submissions objecting to the planning proposal, concerns were raised in relation to the following key issues:

- infrastructure adequacy;
- traffic impacts;
- amenity;
- heritage and character;
- loss of industrial land;
- contamination; and
- affordable housing provision.

A summary of the concerns raised during public exhibition are provided below.

Traffic impacts

A number of submissions raised concern with the capacity of the existing road network to support the increased density of the proposal. Issues raised include:

- inadequacy of Mary Street and Edith Street to cope with traffic flows;
- streets are too narrow to support the proposal;
- lack of street parking in the area;
- inadequate on-site parking in the proposal; and
- lack of footpath on Mary Street.

Council response

Council states that any future development should provide for both the required parking and vehicular servicing needs of businesses within the site. Additionally, those internal business areas should have easy vehicular access to avoid “spill over of the problem” into local streets. Council considers the DCP does not adequately address this and should be updated to address the following matters:

- improvements to road infrastructure;
- improvements to footpaths and deep soil areas;
- adequate waste collection areas;
- sufficient loading dock areas;
- traffic movements to address vehicle and pedestrian conflicts.

Council states that Mary Street has two one way “through” lanes, and is a main distributor carrying east west traffic from Canal Road across the Princess Highway to Unwins Bridge Road. Council considers that the site already experiences queuing at peak hour adjacent to the site, making it difficult for cars to exit the site at Mary Street.

Council also considers that with the completion of WestConnex, and with new developments in the surrounding area, there will likely be a substantial increase in traffic volumes. This will likely result in Edith Street being used more intensively for accessing and servicing the planning proposal site which is narrow and restricted in movement. Council considers this has not been adequately addressed by the planning proposal.

Department response

The Department notes that an overriding concern of the planning proposal is capacity of the existing street network and infrastructure to cater for the envisaged proposal. This relates to both parking impacts for existing residents and impacts on traffic flows.

Parking

The Department notes that Council's existing DCP specifies minimum car parking requirements. The assessment of parking provision in the concept design concludes that based on the yields, the DCP will require 351 parking spaces and that 340 spaces can be accommodated within the car park, leading to a technical shortfall of 11 spaces.

This matter will need to be further addressed as part of a future development application when further consideration is given to detailed design configurations. The Department is satisfied that any future development is capable of appropriately responding to appropriate parking requirements and if necessary, amendments undertaken to the design to cater for minimum requirements.

In addition, the Department considers the site is located within an area well serviced by public transport. This was also noted by the Eastern City Planning Panel in its original decision in determining the strategic merit of the planning proposal as part of the pre-Gateway review. As such, the Department considers the appropriate parking provision should be further considered as part of the development assessment and consultation with TfNSW. This is also a matter that Council can address during its preparation of a site specific development control plan for the site.

Impact on local streets

The majority of existing parking is located within a part of the site adjacent to Edith Street, with a driveway access. As such it is accepted that most of the traffic activity associated with the existing use is occurring via Edith Street. To a lesser extent, access is currently provided from Mary Street for some parking provision.

The concept design with the planning proposal envisages that two driveway entrances will be provided from both Edith Street and Mary Street leading to basement parking levels. These driveways will retain/replace existing driveway and in that regard it is advised there will be no direct loss of on-street parking.

It is noted that the exhibited traffic report recommended the removal of some on-street parking spaces adjacent to the driveways in order to provide passing opportunities along Edith Street. This issue was raised with the proponent who advised that at the time of the lodgement of the planning proposal, the final traffic solution for the nearby Westconnex Interchange was not known. Subsequently, the final access arrangements have remained flexible to accommodate changes to the road network. The proposed driveway on Mary Street has been designed to cater for two-way traffic flow and that the car park design is suitable for two-way movements.

The development is capable of providing vehicular access from both Edith Street and Mary Street. This can provide a more balanced distribution of traffic from Edith Street to Mary Street which is currently operating at a higher capacity due to its function as a connecting road.

The Department acknowledges that the proposal is likely to result in some additional vehicular movement in the area than currently exists, however this is not an issue that should preclude the finalisation of the planning proposal. The site is well located within proximity to existing public transport options and will be capable of providing sustainable transport facilities within any future development.

Further consideration of final access arrangements and impacts on street parking will need to be considered at the development application stage where further consultation with TfNSW will be required. The final car parking numbers having regard to impacts on the local traffic network will need to be further considered at this stage.

Public domain upgrades

The Department notes the pedestrian accessibility is limited along Mary Street with narrow footpaths inhibiting the ease of pedestrian access. This is caused by the lack of street setback of buildings which are identified for retention. Any discussions regarding footpath widening of Mary Street will need to be investigated as part of a development assessment. However, the Department is satisfied that the identified improvements to site links within the site will provide alternate pedestrian routes to reduce the reliance on Mary Street for pedestrians.

The pedestrian environment to Edith Street can be improved through additional deep soil zones, enabled by reduced basement car parking beneath. This will need to be explored further as part of any future development assessment. The Department considers the planning proposal will enable an opportunity to improve the existing canopy, landscaping and overall pedestrian experience to Edith Street.

Servicing of site

The Department notes that it is the intention that any future development will limit service and waste collection vehicles to within the site. Access can be provided from Mary Street which will remove the need for any additional large vehicles to use Edith Street for this purpose. The Department considers that final details of design and access for service vehicles addressed as part of a development assessment.

Infrastructure adequacy

Community submissions raised that the area is not capable of supporting the proposal in terms of access to schools, open space, public domain and access to public transport.

Council response

Council states that the Department of Education advised there is sufficient capacity in local schools.

Council also states that future residential development will be required to provide 25% communal open space, and this will be reinforced in a site specific DCP.

Council states that the site is within walking distance of St Peters Railway station.

Department response

The Department notes that the planning proposal was referred to public agencies as part of the exhibition period. These agencies did not identify any specific infrastructure requirements to support the planning proposal.

The Department considers:

- the site is well located to utilise existing public transport connections including rail and bus;

- the planning proposal can facilitate over 1,600sqm of new publicly accessible open space including:
 - a central public open space area of approximately 1,110sqm
 - a new playground area adjacent to Roberts Street of approximately 565sqm.

The Department considers the introduction of these open space areas will contribute to additional community infrastructure that can assist in supporting the increase in population and existing residents. To ensure significant community infrastructure is achieved with a future development, Council are currently finalising a Voluntary Planning Agreement (VPA) which includes:

- Dedication of fully fitted out Artist Studios of more than 239sqm in size;
- Provision of publicly accessible open space; and
- Monetary contribution of \$2,000,000 payable to Council to be used for affordable housing or public domain upgrades.

The commencement of the subject amendment to the LEP has been deferred to allow the finalisation of this planning agreement.

Bulk and Scale

Community submissions raised concern in relation to the height and scale of the proposal and the subsequent impacts on the low-rise local character of the area.

Council response

Council considers the height of the proposal is not compatible with the nearby low-rise residential neighbourhood. This includes:

- buildings fronting Edith Street should be reduced to a height achieving a 4 to part 5 storey development.
- the buildings up to 29 metres should be reduced in height to improve visual impact and loss of privacy to the back of houses fronting Unwins Bridge Road to avoid additional visual and privacy impacts.
- 67 Mary Street should remain R2 Low Density and no change to the corresponding building height.

Department response

The Department agrees that some improvements are required to the exhibited height and scale of the planning proposal. Specifically, in relation to Building A fronting Edith Street which as exhibited requires refinement. The width of Edith Street and the general 2 storey character of the street warrants sensitive transition to the development.

The proponent was requested to reduce the height of this building to address this issue. The concept design has responded to this by reducing the height of this building to reflect a building of four storeys with an additional fifth level setback above (in keeping with Council's position). This modification to the design is considered to respect the current width of Edith Street and the prevalent height in the area.

The remainder of heights throughout the development are considered acceptable subject to further detailed design work being undertaken at the development application stage. A development control plan will need to be endorsed by Council that will further detail controls such as setbacks, building separation, articulation and transitions to neighbouring built form.

The Department acknowledges that the maximum building height is larger than currently exists in the immediate vicinity. However, the site is also considerably larger than other residential lots in the vicinity and contains larger built form. The Department is satisfied this provides the opportunity for additional height to be appropriately managed to respect the character of the area. The proposed location of additional height has been well considered with final design and built form configuration to be considered at the development application stage.

The Department notes that the planning proposal does not seek to increase the height of 67 Mary Street. The concept plan also does not seek to demolish the existing building currently situated at 67 Mary Street which will need to be addressed in a future DCP. The rezoning of this land to B4 is considered acceptable and any further amenity considerations will be considered as part of the development assessment.

Impacts on amenity of area

Concerns were raised the amenity impacts of the proposal on adjacent and nearby properties such as overshadowing and privacy.

Council response

Council considers that the proposed commercial building of 7 storeys (29 metres) will have a dominant and overbearing visual impact on adjacent houses in Unwins Bridge Road and increase overlooking. Council also considers that six storeys along Edith Street will have an overbearing visual impact on houses between Edith Street and Silver Street.

Council states that a development control plan should ensure that there is an adequate wide landscaped buffer between the adjacent house at 71 Mary Street and the proposed major driveway and ramp within the subject site, and that there are adequate building setbacks to affected houses to minimise any winter overshadowing.

Department response

Overshadowing

The Department requested additional information to demonstrate overshadowing impacts from the planning proposal at hourly intervals. In particular, to address overshadowing impacts to the properties at 69 and 71 Mary Street which are not part of the planning proposal and will remain R2 Low Density Residential. The sites currently contain single buildings with open space to the rear.

The information provided demonstrates that there is capability for solar access to be maintained to these properties, responding to Council requirements. Further detailed assessment will be required at the development application stage to verify this.

In general, the Department notes that overshadowing impacts to other properties will be capable of responding appropriately to Council requirements. Limited impacts will be experienced to properties fronting Edith Street in the morning at the winter solstice with some additional overshadowing experienced in the afternoon. The inclusion of a DCP requirement includes the provision that it address overshadowing impacts to neighbouring properties. The Department is satisfied that the development assessment can adequately address this matter to achieve an appropriate outcome.

Privacy

The Department is satisfied that the concept design provides the potential for appropriate treatment and design to be undertaken at the development application stage to respond to privacy concerns. The requirement for a DCP to be prepared specifies that this must address privacy impacts. Additionally, any future development application will need to respond to the provisions of State Environmental Planning Policy No. 65 and its supporting document the Apartment Design Guide requirements in relation to residential development.

Loss of character and heritage

Some submissions highlighted that the site and buildings have heritage significance and should be conserved.

Council response

Council agrees that the buildings identified in the planning proposal to be retained should occur. Council considers that greater certainty should be provided to ensure this is achieved.

Department response

The Department acknowledges that the site has an overall industrial character that relates to its former use as the Taubmans paint factory. Many of the existing buildings on the site date from the 1920's to 1940's and have landmark qualities, within the immediate streetscape context. Despite this, to date, the site has not been determined to meet the criteria for listing an item of local heritage significance. It appears that this is due to the extent of changes that have been made to the building fabric, which have resulted in a loss of integrity and hence significance.

The concept design provided with the planning proposal seeks to retain a number of buildings that contribute to the industrial character of the site. The Department notes that opportunities are also available for the interpretation, salvage and reuse of industrial artefacts as part of any future development.

It must also be noted that the site has historically provided significant employment opportunities in the area. The adaptive reuse of existing buildings, will provide for continuing employment opportunities with ongoing economic benefit to the area.

Prior to any development being approved on the site, a development control plan must be endorsed by Council. This includes the requirement to identify the retention of buildings to respond to this issue.

Loss of employment land

Concern was raised with the loss of industrial and employment lands and creative industries.

Council response

Council reaffirms that the Sydney Eastern District Planning Panel supported the planning proposal on the basis that existing employment floorspace levels would be retained and increased. Council also reaffirms that the retention of employment land is also identified in the Eastern City District Plan and supported by the Greater Sydney Region Plan.

Council recommends that a LEP clause be applied which limits residential development to 50% of the maximum FSR and ensures that the remaining FSR will be used for employment uses.

Department response

The Department agrees that any future development should allocate at least 50% of overall floorspace for employment uses. The site has the potential to generate additional employment to contribute to the local economy in an area that is accessible and well connected. Currently, there is approximately 12,000sqm of employment floor space on the site. In accordance with the planning proposal, it will provide the opportunity for approximately 15,136sqm of employment floor space. A site specific provision has been included in the LEP to specify the minimum 50% non-residential floor space requirement of any future development.

The Department notes that the Eastern City District Plan contains a priority that seeks to retain and manage all industrial and urban services land. On 5 October 2018, the Greater Sydney Commission issued an information note providing further clarification regarding planning proposals affecting industrial and urban services land. The information note refers to the limited instances where the GSC agrees to planning proposals proceeding that are not consistent with the retain and manage approach for industrial and urban services land of the Greater Sydney Region Plan and District Plans.

In accordance with this information note, as the planning proposal was submitted before the adoption of the Eastern City District Plan (released in March 2018), the proposal was referred to and supported by the Sydney Eastern City Planning Panel, and the gateway conditions have been satisfied, it can proceed to be finalised.

Contamination

Concern was raised from the community regarding the historic industrial uses on the site and subsequent contamination concerns.

Council response

Council states that information has been provided with the planning proposal regarding contamination and remediation as required by relevant legislation. Council advises this matter can be further addressed at the development application stage.

Department response

The Department notes that a Remediation Action Plan (RAP) was prepared which concludes that the site can be made suitable for the intended uses. The risks posed by contamination can be managed in such a way as to be adequately protective of human health and the environment.

The Department is satisfied that the planning proposal has provided sufficient information to demonstrate how the land can be remediated before the land is suitable for a mixed use development. Further detailed assessment will need to be undertaken as part of any future development assessment to verify and clarify in greater detail how contaminants on the site will be remediated. This is discussed further under Section 10.

Affordable housing provision

Concern was raised that the development does not provide for the provision of affordable housing within the development.

Council response

Council advises that the proposal has the potential for approximately 180 residential units. Council advises that at the time of the lodgement of the application in 2015 there was no Council policy for affordable housing. In Council's post exhibition report, it states that in this context, Council can recommend to the Department to defer the making of the LEP amendment until a Voluntary Planning Agreement between the proponent and Council is completed.

Department response

Under Section 7.32(3)(b) of the Act, any condition imposed relating to contributions for affordable housing on a development consent must be authorised by an LEP and must be in accordance with a scheme for dedications or contributions set out in or adopted by the LEP.

To date, Inner West Council has not sought to amend the Marrickville LEP 2011 to reference an affordable housing contribution scheme to levy for affordable housing contributions. As an affordable housing contribution scheme has not been prepared and endorsed, the Department is not in a position to impose affordable housing requirements for the site in the LEP as part of this amendment.

However, the Department notes that Council and the landowner are currently finalising a VPA which includes a monetary contribution of \$2,000,000 payable to Council, part of which is to be used towards affordable housing.

8. ADVICE FROM PUBLIC AUTHORITIES

In accordance with the Gateway determination, the following public agencies were consulted:

- Environmental Protection Authority;
- Roads and Maritime Services (RMS);
- Federal Department of Infrastructure and Regional Development;
- Sydney Airport Corporation;
- Department of Education; and
- Transport for NSW (TfNSW).

Environmental Protection Authority

The Environmental Protection Authority (EPA) confirmed that the site requires remediation to be made suitable for the proposed uses. It reviewed the Phase 1 Remediation Report provided with the planning proposal and noted that the processes outlined in State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) are to be followed in order to assess the suitability of the land any remediation required.

Council comment

Council states that EPA have confirmed that the site requires remediation to be made suitable for the proposed uses, and that the processes outlined in SEPP 55 required for the planning proposal stage have been followed with the submission of a Phase 1 report.

Council considers that further reports and details of how the remediation would occur can be submitted with any future development application in accordance with the Land Contamination Guidelines.

Department comment

As discussed, the Department is satisfied that the planning proposal has provided sufficient information to demonstrate how the land can be remediated before the land is suitable for a mixed use development. Further discussion is provided under Section 10.

Transport for NSW and RMS

The consultation of this planning proposal previously occurred with both Roads and Maritime Services (RMS) and Transport for NSW (TfNSW) when operating as separate agencies. On 1 December 2019, RMS and TfNSW joined together to create one integrated TfNSW. The result of this is that all functions and responsibilities for roads and public transport will now be performed by TfNSW.

Roads and Maritime Services

On 26 March 2018, Roads and Maritime Services (RMS) provided a submission raising the following issues:

Air quality

RMS advised that the proponent should prepare an air quality assessment to demonstrate that the impacts from the WestConnex stacks will be acceptable for future residents or will suitably be mitigated.

The proponent subsequently provided additional information to respond to this issue. Council advises that a revised assessment was provided to RMS who advised that the pollution levels from the WestConnex stacks are lower in comparison to existing background air pollutants, and are within satisfactory levels established by the Environmental Protection Authority.

Sydenham to Bankstown Urban Renewal area

RMS previously raised that the planning proposal should be consistent with the outcomes of the strategic planning investigations for the broader Sydenham Precinct within the Sydenham to Bankstown Strategy and the supporting Special Infrastructure Contributions plan. RMS raised concern regarding the potential cumulative traffic and transport impacts arising from this.

Department response

Since the time of the RMS submission and as discussed earlier, planning for the Sydenham to Bankstown corridor has evolved. Following clarification of the modified approach, the now integrated TfNSW has since advised that it does not raise any objection to the finalisation of the planning proposal.

Car Parking

Consideration should be given towards the inclusion of restraints to onsite carparking provision residential and commercial uses within the site specific DCP to encourage the use of public and active transport.

Department response

A site specific provision is included requiring a development control plan to be endorsed by Council where this can be addressed further. This matter will also need to be addressed further at the development application stage by Council.

Transport for NSW

On 1 February 2018, Transport for NSW (TfNSW) advised the following:

- the location is well serviced by bus routes to a variety of locations and is an acceptable (approximately 900 metre) walk to Sydenham Station. It is expected that when Sydney Metro Stage 2 City and Southwest opens that additional transit capacity within an acceptable walking distance will be provided.

- TfNSW raises that a pedestrian through link between Edith and Mary Street could improve overall pedestrian connectivity for residents beyond the subject site if use of the access route was made open to the public and encouraged by wayfinding or other means.
- TfNSW noted that the site is located within the vicinity of the Sydney Metro Southwest Project and WestConnex Stage 2 Project. The cumulative increase in construction vehicle movements from these projects could have the potential to impact on general traffic, bus operations, and the safety of pedestrians and cyclists. TfNSW advised that any future development application should address these cumulative construction related impacts in consultation with TfNSW.

Department response

The Department agrees that the site is in a suitable location to access existing and future public transport options. In regard to comments relating to connectivity through the site, this has been incorporated into the concept design resulting in an improved pedestrian outcome for the area.

Any issues in association with construction impacts from WestConnex will need to be further considered at the development application stage if necessary but are considered to be limited.

Final Transport for NSW submission

In early 2020, the Department requested TfNSW provided updated comments on the planning proposal reflecting the comments of the combined agency. This was also to take into account the modified approach to future planning for the Sydenham to Bankstown corridor.

On 3 March 2020, a final response was received from the integrated TfNSW agency. It states that noting the change in approach to planning for the Sydenham to Bankstown corridor, it has no objections to the planning proposal being finalised. TfNSW considers that Council will be responsible for undertaking its own cumulative traffic study impacts for the corridor when appropriate.

Sydney Airport

Sydney Airport advised Council that ANEF 2039 (replaced ANEF 2033), has seen a change in the location of the ANEF25 contour over the land covered by the planning proposal. It advised that Council may choose to consider this change regarding the planning proposal. Sydney Airport acknowledges that the ANEF 2033 was superseded by ANEF 2039 following the Gateway determination being issued which will need to be considered by the Department prior to a final decision in relation to aircraft noise.

Sydney Airport advises that the desire to protect employment lands in the vicinity of the airport needs to be considered. Reference is made to the Eastern City District Plan which seeks to ensure the retention of surrounding industrial land which provides essential supporting functions for the airport.

Sydney Airport advises the relevant airspace surfaces affecting the site are as follows:

- the obstacle limitation surface (OLS) over the site starts at approximately 42m AHD in the western corner climbing to 51m in the eastern corner.
- the Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS) Surfaces over the site start at approximately 42m AHD in the western corner climbing to 53m AHD in the northern corner.

The most critical building heights in the planning proposal are:

- Building 1 – 29m above ground (43m AHD)
- Building 2 – 17m above ground (31m AHD)
- Building C – 29m ground (43m AHD)

Sydney Airport advises that Building 1 at 43m AHD has an OLS and PANS-OPS over its location of approximately 44m AHD. Therefore, the top of the building would be just below these protected surfaces.

The comments assumed that construction cranes may be required to operate at a height above the building heights referred to in the planning proposal and that they may intrude into prescribed airspace. This will require further consideration under an application made under the *Airports (Protection of Airspace) Regulations*. The need to ensure aviation safety will be the key consideration in any future crane application process.

Department response

Detailed consideration to the change to the ANEF contour is provided under Section 10.

Regarding the loss of industrial zoned land, the Department refers to the Information Note as the planning proposal was submitted before the adoption of the Eastern City District Plan (released in March 2018) was referred to and supported by the Sydney Eastern City Planning Panel, and the gateway conditions have been satisfied it can proceed to be finalised. The planning proposal will retain 50% of overall floorspace for employment uses in an area that is accessible and well connected. This is discussed further under Section 10.

The Department notes that further consultation with Sydney Airport will be required at the development application stage. This includes the requirement for applications under the *Airports (Protection of Airspace) Regulations* regarding any crane activities breaching protected surfaces.

Federal Department of Infrastructure and Regional Development

No comments were received by the Federal Department of Infrastructure and Regional Development.

Sydney Water

Sydney Water raised no objection to the planning proposal.

School Infrastructure NSW

The Department of Education raised no objection to the planning proposal and stated it would not have a significant impact on the need for additional school infrastructure at local schools.

9. POST-EXHIBITION CHANGES

Council resolution

On 30 October 2018, Council resolved to not support the planning proposal for issues including:

- inadequate retention of existing levels of employment floorspace;
- state agency submission on the adequacy of the capacity of the local street system;
- adverse impacts on residences;
- overdevelopment; and
- community concerns.

In this resolution, Council stated that it would support an amended planning proposal for:

- (i) retention of the existing IN2 – Light Industrial Use zone for the part of the site affected by the ANEF contours of 25-30, as indicated in the map in the report to prevent any residential use adversely impacted by aircraft noise. The remaining part of the site being re-zoned to permit residential and also employment generating uses, and
- (ii) reduced maximum building height to ensure future buildings will have an appropriate scale and amenity impact on the existing house at Unwins Bridge Road, and houses between Edith Street and Silver Street.
- (iii) Reduced maximum floor space ratio to correspond with reduced building heights in (ii).

The resolution also states that should the Department not accept this approach, and support the proposed B4 zoning for the site, that the planning proposal be amended to reflect the following:

- (i) B4 Mixed use land zone, together with a site-specific clause in the Marrickville LEP 2013 to maintain at least as much employment floorspace as currently exists on the site, retains historic buildings and prohibits any residential use within the parts of the site affected by the ANEF 25-30 contours, and
- (ii) reduced maximum building height to ensure future buildings will have an appropriate scale and amenity impact on the existing houses at Unwins Bridge Road, and nearby houses between Edith Street and Silver Street, and
- (iii) reduced maximum floor space ratio to correspond with reduced building heights.

Updates to planning proposal

Since receiving the resolution of Council, the Department has reviewed and comprehensively considered all issues raised. There are a number of complex issues associated with the site to address to ensure an appropriate outcome can be achieved. These matters are not to be confused with the overall strategic and site specific merit of the planning proposal which was previously supported as part of the Gateway determination.

The post exhibition period provides an opportunity to review and address any matters raised during exhibition, and where necessary investigate the possibility of amendments.

Additional information was provided in relation to the following issues:

Aircraft Noise

During the assessment of the planning proposal, it was noted that there was a change in the ANEF contour across the site which occurred following Gateway approval being granted. The Department requested additional information to demonstrate that the change to the ANEF contour will not result in any additional noise impacts than previously considered at the Gateway determination stage.

This is discussed further under Section 10.

Traffic and Transport

The Department has noted the concerns from the community regarding traffic and parking impacts in the locality. The Department requested additional information from the proponent to address this matter which included an additional peer reviewed traffic report. The Department has also engaged with TfNSW to ensure that any remaining issues can be considered or addressed. This has already been discussed above in detail.

Built form

As discussed above, amendments have been undertaken to the concept design to reduce the height of Building A fronting Edith Street to a maximum of 4 storeys with a 5th level setback above.

Other information

Discussion was held with the proponent regarding a number of matters that the Department considers are important to any future scheme. This includes:

- provision of site links;
- improved landscaping and vegetation;
- publicly accessible open space;
- retention of existing buildings;
- improvements to public domain surrounding site;
- provision of community spaces;
- assurance of minimum employment floor space;

These matters are discussed further below.

10.ASSESSMENT

Section 9.1 Directions

1.1 Business and Industrial Zones

The Direction aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres. It applies to all proposals affecting land within existing and proposed business or industrial zones, which must retain such zonings and related floor space controls.

This issue was considered as part of the Gateway assessment which considered whilst the proposal has demonstrated inconsistencies with the Direction's objective of protecting current and potential floor space for industrial uses, this inconsistency is justifiable. The assessment stated that the site is fragmented from the industrial zoned sites along Unwins Bridge Road and the wider Sydenham/Marrickville strategic industrial lands. The rezoning of the site, although reducing the amount of industrial zoned land in the LGA, will maintain the area of land zoned for employment within the LGA.

The planning proposal will increase the potential floor space provision on the site with a minimum of 50% of overall floor space to be dedicated for non-residential uses. As stated in the Gateway assessment, the planning proposal satisfactorily justifies its inconsistency with this Direction which is considered to be of minor significance.

2.3 Heritage Conservation

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

In this instance, the site does not contain any items or buildings that have been identified as heritage items and is not located within a heritage conservation area. However, as discussed many of the existing buildings on the site date from the 1920's to 1940's and have landmark qualities, within the immediate streetscape context.

As such, the concept design submitted with the development application seeks to retain a number of buildings that contribute to the industrial character of the site. The preparation of a future DCP will require that it specify all buildings to be retained as part of any future development. The planning proposal is consistent with this direction.

2.6 Remediation of Contaminated Land

This Direction (introduced since the planning proposal was exhibited) aims to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered.

The Gateway assessment notes that parts of the site have primarily been used for industrial uses, including a paint manufacturing factory. To inform the Gateway assessment, a Stage 1 Environmental Site Investigation report was provided which identified levels of contamination on site, likely to have resulted from past filling and site operations. Soil and groundwater contamination were noted which would require remediation before any redevelopment. The investigation concluded that the conditions of site soil and groundwater would not prevent the site from being rezoned to allow mixed use residential and commercial land use, subject to the development and implementation of:

- an Environmental Management Plan (EMP) for the commercial portion of the site; and
- a Remediation Action Plan (RAP), in accordance with relevant NSW EPA guidelines for the remaining parts of the site, to guide site remediation and validation procedures, and to manage waste for off-site disposal.

The Department notes that a RAP was prepared which concludes that the site can be made suitable for the intended uses and that the risks posed by contamination can be managed in such a way as to be adequately protective of human health and the environment. This is subject to the successful implementation of measures and recommendations contained in the RAP.

The Department is satisfied that the planning proposal has provided sufficient information to demonstrate how the land can be remediated before the land is suitable for a mixed use development. Further detailed assessment will need to be undertaken as part of any future development assessment to verify and clarify in greater detail how contaminants on the site will be remediated. The Department is satisfied that this issue will be appropriately assessed and determined by Council in accordance with relevant legislative requirements.

3.1 Residential Zones

This Direction applies when significant residential development is proposed to be permitted. The Direction seeks to encourage a variety and choice of housing types, make efficient use of existing infrastructure and has appropriate access to infrastructure and minimise impacts on the environment.

The planning proposal is consistent with this direction as it seeks to broaden housing choice in the area that is accessible to existing infrastructure and services.

3.4 Integrating Land Use and Transport

This Direction seeks to ensure development is appropriately located to improve access and transport choice and reduce car dependency.

The site is suitably located to utilise existing public transport services within walking distance of the site. Both rail and bus services provide connections to jobs and employment that will assist in reducing reliance on private car usage. In addition, Sydney Metro is currently upgrading the T3 Bankstown line including Sydenham Station which will further enhance accessibility in the future. The planning proposal is consistent with the requirements of this direction.

3.5 Development Near Regulated Airports and Defence Airfields

This Direction seeks to:

- ensure the effective and safe operation of regulated airports and defence airfields;
- ensure their operation is not compromised by development that interferes with aircraft flying in the vicinity; and
- ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

Consideration of the impacts of the planning proposal on these matters is discussed below.

Interference with operation of airport and flying aircraft

As discussed, the planning proposal was referred to Sydney Airport who confirmed that all buildings shown in the concept design are below the OLS and PANS-OPS that apply to the site. Further consideration of the impacts of any construction cranes will require further consideration under an application made under the *Airports (Protection of Airspace) Regulations* at the development application stage.

Noise

The Gateway assessment states that the proposal is inconsistent with the Direction in relation to a small portion of the land within the 25-30 ANEF on which the proposed B4 zoning would permit residential development. The Gateway assessment concluded that inconsistency with this Direction is considered to be justifiable, given the majority of the site is within the 20-25 ANEF contour and the part of the site affected by the 25-30 ANEF will have no residential accommodation.

Since the Gateway determination, Sydney Airport released the draft ANEF 2039 contour to replace the ANEF 2033 and was endorsed by Air Services Australia on 23 August 2018. This has resulted in a larger portion of the site affected by the ANEF 25-30. The residential component shown in the concept design is now affected by the ANEF 25-30 contour. This is technically inconsistent with the building site acceptability outlined in AS2021-2015.

To respond to the updated ANEF 2039, the Department requested that the proponent provide additional information to demonstrate the merits of permitting residential uses in the ANEF 25-30. This includes:

- an acoustic report to identify whether any additional impacts will be experienced as a result of the new ANEF contour.
- a Noise Strategy to demonstrate the capability of future development being constructed to achieve applicable noise standard requirements.
- amendments to the scheme to clearly demonstrate the necessity of permitting a variation to standards to permit residential accommodation.

The proponent has subsequently provided this additional information which demonstrates the following:

- future residential buildings can be constructed to comply with requirements of AS2020-2015 subject to implementing the recommendations of the Noise Strategy;
- notwithstanding the change in the location of the 25-30 ANEF, actual noise levels calculated in accordance with the procedures of AS2021-2015 do not alter and remain consistent whether the former ANEF 2033 or current ANEF 2039 are applied.

The Department is satisfied that the proponent has demonstrated that the change to the ANEF contours will not result in any additional impacts than previously considered at the Gateway stage. The reasons are:

- there is no “real world” change to the noise impacts than previously considered at the Gateway stage.
- adequate information has been provided to demonstrate that future buildings can be constructed for residential purposes to meet Australian Standard requirements.
- the progression of the planning proposal is considered to facilitate a positive outcome for the community through additional open space, employment, public domain upgrades and community facilities in a well serviced location. This responds to the Australian Standards that seeks to ensure that any variation is only supported if considered necessary in built up areas. The Department considers a variation to this requirement is necessary to deliver a project of benefit to the local community.
- further assessment and design details can be considered with any future development application(s).

As such, any inconsistency with this Direction is considered minor and acceptable.

4.1 Acid Sulphate Soils

This direction requires that an acid sulphate soils study must be considered prior to rezoning land mapped as containing ASS. The planning proposal impacts on land identified with Acid Sulphate Soil Risk Class 5. The Marrickville LEP 2011 contains existing provisions to ensure the consideration of ASS during development assessment. As adequate provisions already exist and the nature of the proposal, it is considered any inconsistency with this direction is justified as being of minor significance.

6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls. The Direction seeks to not impose additional development standards or requirements to those already contained in the rezoned land.

In this instance, the Department has recommended the inclusion of some additional clauses in the B4 zone of the Marrickville LEP 2011 restricted to this site. This includes

- A requirement that development consent must not be granted to development that results in more than 50% of the gross floor area of all buildings being used for the following purposes:
 - Home businesses
 - Home industries
 - Home occupations
 - Residential accommodation
 - Tourist and visitor accommodation

This clause is in response to the planning proposal also introducing an additional permitted use for residential flat buildings. This clause is considered necessary to ensure that mixed use outcome will be achieved as part of any future development in keeping with the objectives of the B4 zone.

- A provision that allows development to vary the height standards to reflect any greater building height shown on the height of buildings maps within 1 metre. This does not permit any greater building height standard being exceeded.

This clause is in response to the advice of the Panel as part of the original Pre-Gateway review. The intent of this clause is to provide appropriate flexibility for any future development application once the final detailed design has been developed.

- The preparation of a development control plan

This clause has been introduced to ensure appropriate development controls can be developed to guide the future design of the site. This is considered suitable in this instance due to the size of the site, and range of unique constraints applicable.

Overall, the inclusion of these clauses will not restrict the ability of the permitted land use to be carried out. The Department therefore considers that any inconsistency with the requirements of this direction are of minor significance.

State environmental planning policies

State Environmental Planning Policy No. 55 – Remediation of Land

On 17 April 2020, the Minister approved the removal of clause 6 (contamination and remediation to be considered in zoning or rezoning proposal) of SEPP 55 and transferred the requirements to Ministerial Direction 2.6 which was discussed earlier in this report.

State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development

The Department is satisfied that a future development of capable of appropriately responding to SEPP 65 principles. The proposal will provide for:

- increased residential density that is accessible to existing transport infrastructure that is both well connected and offers frequent numbers of services;
- built forms that are capable of achieving good levels of solar access and natural ventilation;
- opportunities for suitable separation between buildings to allow for privacy and views; and
- the ability to deliver a precinct based and integrated development outcome for the site.

SEPP 65 and the Apartment Design Guide will be required to be addressed in detail as part of any future development application.

State, regional and district plans

Eastern City District Plan

The Eastern City District Plan (the Plan) was released on 18 March 2018. The Plan contains planning priorities and actions to guide the growth of the Eastern District while improving the district's social, economic and environmental assets. It contains the planning priorities and actions for implementing the Greater Sydney Region Plan, *A Metropolis of Three Cities*, at a district level and is a bridge between regional and local planning.

The proposal is located within the Eastern City District and is considered to give effect to the priorities and actions of the Plan. In particular, the following priorities have been identified as relevant to the planning proposal:

Planning Priority E1 Planning for a city supported by infrastructure

This priority highlights the importance of aligning infrastructure with forecast growth. It also states that aligning land use and infrastructure planning will maximise the use of existing infrastructure.

The planning proposal is in keeping with this priority by providing the opportunity for additional jobs and dwellings in proximity to a range of existing and planned infrastructure investment.

Planning Priority E3 Providing services and social infrastructure to meet people's changing needs

The plan has identified an expected increase of 20% in the number of children under four years who will live in the Eastern City District by 2036.

The planning proposal is considered to respond to this priority by facilitating the delivery of a new playground approximately 565sqm in size that will be accessible to the public. This is considered a significant public benefit to the area that will provide a new area of recreation for children.

Planning Priority E4 fostering healthy, creative, culturally rich and socially connected communities

This priority identifies that strong social connections are a key to creating resilient and healthy communities within the Greater Sydney region.

Precinct 75 currently has over 70 businesses currently working on site. It offers a range of different sized tenancy spaces that strongly contributes to the growth of innovation and creative industries in the area.

The planning proposal considers that it presents an opportunity to promote the existing creative industry precinct by upgrading facilities to satisfy contemporary access, fire safety and amenity standards and integrate the use into the surrounding area by encouraging community interaction, creating pedestrian linkages and responding to traffic and parking demands on the site. The Department is satisfied the planning proposal adequately responds to this priority.

Planning Priority E5 – Providing housing supply, choice and affordability with access to jobs, services and public transport

The plan outlines the Eastern City District Plan needs an additional 157,500 dwellings between 2016 and 2023. The priority indicates that new housing must be delivered to meet the demand of different housing types and tenure as well as be coordinated with local infrastructure to create liveable, walkable, cycle-friendly neighbourhoods with shops, services and public transport.

The planning proposal has the potential to deliver up to 180 new dwellings in the form of residential apartments. These will be introduced into an area that is well serviced and will be coordinated into mixed use development that is walkable and accessible.

It is considered the planning proposal is consistent with this planning priority as it will provide new housing for the community.

Planning Priority E6 – Creating and renewing great places and local centres, and respecting the District's heritage

The priority highlights that all neighbourhoods have a unique combination of local people, history, culture, arts, climate, built form and natural features creating places with distinctive identities and functions. It states that co-locating activities and social infrastructure in mixed use areas is a more efficient use of land and enhances the viability of, and access to, great places, centres and transport.

The subject planning proposal is considered to respond positively to this priority. It will:

- retain a number of existing buildings on site linking to its historical industrial use. This will ensure that the site will maintain its historical industrial character;
- provide the opportunity for a mix of light industrial, commercial and retail uses to occur on the site.
- provide opportunities for social interaction including a central open space area which can be utilised by the local community. Opportunities are possible for this space for a variety of community functions such as markets, performances and cultural events.

Planning Priority E9 – Growing international trade gateway

This priority identifies the importance of areas such as Port Botany and Sydney Airport as trade gateways for the CBD and nation. The priority outlines that these essential economic gateways, their supporting industrial precincts and essential transport connections and corridors must therefore be safeguarded and given the support required for growth.

The subject site is located in a small industrial pocket which is separated from any major industrial precincts. It is also located in proximity to good public transport which was identified as reasoning for supporting the original Gateway determination request. This context provides the opportunity to provide a mixed use precinct which will provide additional housing and amenity benefits to the area.

The Department is satisfied that having regard to the context of the land, the rezoning of this site for mixed use purposes will not detrimentally impact on future operations of Sydney Airport or Port Botany.

Planning Priority E10 – Delivering integrated land use and transport planning and a 30-minute city

This priority seeks to ensure the integration of land use and transport planning to create walkable and 30 minute cities.

The planning proposal will provide additional housing and jobs in a well-connected area within 700 metres of Sydenham Station and other public transport options. The proposal is considered to effectively build on the objective of integrating land-use and transport plans to deliver a 30-minute city.

Priority E12: Retaining and managing industrial and urban services land

This priority seeks to retain and manage industrial and urban services land by safeguarding all industrial-zoned land from conversion to residential development, including conversion to mixed use zones. The priority states that these industrial lands are required for economic and employment purposes. Therefore, the number of jobs should not be the primary objective, but rather a mix of economic outcomes that support the city and population.

On 5 October 2018, the GSC issued an information note providing advice regarding planning proposals affecting industrial and urban services land. The information note seeks to provide guidance and establish transitional arrangements for planning proposals lodged before the commencement of the District Plan in March 2018. In accordance with the information note, as the planning proposal was lodged on 30 September 2015 and had been referred to and supported by the Sydney Eastern City Planning Panel, it can be finalised in the usual manner.

Planning Priority E17 Increasing urban tree canopy cover and delivering Green Grid connections

This priority seeks to ensure that urban tree canopy coverage is increased into the future in the Eastern City District.

The concept design has been updated to introduce additional deep soil zones along Edith Street to provide the opportunity for greater tree planting to further soften the street edge from the development. The Department requested that the proponent demonstrate how this can be achieved within the site boundaries as the exhibited planning proposal reflected basement car parking to the site boundary below.

The proponent has subsequently advised that it is willing to provide reduced car parking within the development (subject to Council approval) to allow the removal of some car parking spaces to provide for deep soil planting. The Department considers this issue will need to be addressed further at the development application stage to allow Council to consider any offset of parking for additional deep soil planting along Edith Street.

Planning Priority E18 Delivering high quality open space

This priority seeks to maximise the use of existing open space and protect, enhance and expand public open space. This includes providing opportunities to expand a network of diverse, accessible, high quality open spaces that respond to the needs and values of communities.

The Department notes that the current conditions on the site do not provide useable open space for the community. The planning proposal will facilitate the opportunity for new publicly accessible open space including:

- a central open space/plaza area of approximately 1,100sqm
- a new playground fronting Roberts Street of approximately 565sqm.

The introduction of these spaces will provide a newly accessible open space area for the local community that is currently limited in provision. These spaces are considered a positive outcome from the planning proposal that will also encourage greater social interaction.

Planning Priority E20 Adapting to the impacts of urban and natural hazards and climate change

This priority seeks to ensure effective planning occurs that can reduce the exposure to natural and urban hazards and build resilience to shocks and stresses. The planning proposal will not inhibit the potential for any future development application to effectively respond to this priority.

Inner West Local Strategic Planning Statement

On 31 March 2020, the Inner West Local Strategic Planning Statement was made by Council. The planning proposal responds positively to many of the actions for reasons already discussed above. This includes:

- Planning Priority 6: Plan for high quality, accessible and sustainable housing growth in appropriate locations integrated with infrastructure provision and with respect for place, local character and heritage significance
- Planning Priority 7: Provide for a rich diversity of functional, safe and enjoyable urban spaces connected with and enhanced by their surroundings
- Planning Priority 8: Provide improved and accessible sustainable transport infrastructure

- Planning Priority 9: A thriving local economy
- Planning Priority 11: Provide accessible facilities and spaces that support active, healthy communities

Based on the relevant priorities, the planning proposal is considered to give effect to Council's LSPS.

State Infrastructure Provision

The Gateway determination for this planning proposal includes requires a satisfactory arrangements provision for contributions to designated State public infrastructure identified as part of a draft or final Sydenham to Bankstown Urban Renewal Corridor Strategy.

As discussed, a new approach to precinct planning was announced by the Government in November 2019 and there are no plans for a Special Infrastructure Contributions (SIC) for the corridor to be prepared.

As the approach to the corridor has altered, a SIC plan has not been developed, and no State agencies requested a contribution to infrastructure upgrades the Department has agreed that it would be unnecessary and unreasonable to include satisfactory arrangements clause on the site.

Local Infrastructure Provision

The Department notes that Council and the landowner are in the process of finalising a voluntary planning agreement including:

- Dedication of fully fitted out Artist Studios of more than 239sqm in size;
- Provision of publicly accessible open space; and
- Monetary contribution of \$2,000,000 payable to Council to be used for affordable housing or public domain upgrades.

The commencement of the subject amendment to the LEP has been deferred to allow the finalisation of this planning agreement.

11.MAPPING

The following maps have been prepared by the Department's ePlanning team with assistance from the Eastern and South District team and will be made available to Parliamentary Counsel at notification stage.

- Land zoning map;
- Height of Buildings map; and
- Floor space ratio map.

12. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979*.

Council responded on 5 June 2020 advising the following:

- The requirement for a site specific DCP is supported. The references to the specified considerations are essential for ensuring that the design concept is implemented.

Department Response

The Department agrees that a site specific DCP is warranted to ensure an appropriate design outcome is achieved on the site. A site specific clause will be introduced requiring a DCP to be prepared and endorsed by Council prior to any development consent being issued.

- Concern is raised that 67 Mary Street is to be rezoned to B4 Mixed Use with an FSR of 2.2:1

Department response

The Department is satisfied that the requirement for a site specific DCP provides an appropriate mechanism for Council to plan for the future development of this site having regard to the overall site function and design. The maximum height in metres for this site will remain at 9.5 metres which respects the adjoining sites. The increase in FSR will need to be considered as part of the overall redevelopment of the site.

- Concern raised that there is a 23 metre height assigned to a part of the site fronting Edith Street. Council considers that this height should be 21 metres to cater for a 5 storey building.

Department response

The Department has undertaken modifications to the planning proposal to reduce the height of Building A to 20 metres. It is assumed that Council is referring to Building B which will retain an overall height of 23 metres. The Department is satisfied that this building which is identified to include the retention of the existing buildings can be appropriately managed at the development application stage when consideration of the draft DCP will be required. This will allow appropriate design methods to be implemented including consideration of transition to the adjoining area. The DCP must also specify the overall maximum height in storeys.

13. PARLIAMENTARY COUNSEL OPINION

On 15 June 2020, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

14. CONCLUSION

The proposal is justified and supported because:

- the conditions of the Gateway determination have been satisfied;
- issues raised in submissions have been addressed and post-exhibition changes have been undertaken in response to submissions and concerns raised by Council and the community;
- it will ensure the ongoing use of the site for employment purposes;
- it will facilitate additional employment opportunities and housing in a location that is accessible to existing services and infrastructure;
- it is consistent with GSC's Information Note regarding transitional arrangements for planning proposals affected by the 'retain and manage' approach of the Eastern City District Plan;
- it will facilitate the opportunity for publicly accessible open space that is capable of improving social and community interactions for the area;
- it will facilitate the opportunity for affordable housing provision on the site;
- it will facilitate improved access through the site that allows better connectivity for the area;

- further resolution of final traffic and parking impacts can be addressed as part of any future development application
- adequate information has been provided to demonstrate that contamination impacts can be appropriately managed and assessed as part of a future development application;
- the amendments to reduce the height of Building A fronting Edith Street will provide an acceptable transition and relationship to the surrounding area.

15. RECOMMENDATION

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

- it is consistent or justifiably inconsistent with all relevant section 9.1 Directions and SEPP's
- it gives effect to the Eastern City District Plan and Greater Sydney Region Plan
- it will have satisfactory environmental, social and economic impacts.



11 June 2020

**Brendan Metcalfe, Acting Director
Eastern and South Districts**



12 June 2020

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Eastern Harbour City**

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