

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Inner West
<b>PPA</b>	Inner West Council
<b>NAME</b>	Planning proposal to rezone 466-480 New Canterbury Road and 26-38 Hercules Street, Dulwich Hill from IN2 Light Industrial to part B5 Business Development, part R4 High Density Residential, part RE1 Public Recreation and part RE2 Private Recreation and amend associated building height and floor space ratio development standards (156 dwellings and 0 new jobs)
<b>NUMBER</b>	PP 2017 IWEST 019 00
<b>LEP TO BE AMENDED</b>	Marrickville Local Environmental Plan 2011
<b>ADDRESS</b>	466-480 New Canterbury Road and 26-38 Hercules Street, Dulwich Hill
<b>DESCRIPTION</b>	Lots 1, 2, 3, 5, 6 and 7 DP 236603 Lots 1, 2 and 4 DP 540366 Lot 14 Section 4 DP 932 Lots 1, 2, 3 and 4 DP 542147
<b>RECEIVED</b>	27 March 2018
<b>FILE NO.</b>	IRF18/1897
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

### INTRODUCTION

#### Description of planning proposal

The planning proposal seeks to rezone 466-480 New Canterbury Road and 26-38 Hercules Street, Dulwich Hill from IN2 Light Industrial to part B5 Business Development, part R4 High Density Residential, part RE1 Public Recreation and part RE2 Private Recreation. The proposal also seeks to amend built form development standards for the site to allow for mixed-use commercial and residential development.

#### Site description

The site is located over a block that is approximately 5965m<sup>2</sup> in area and is bounded by New Canterbury Road to the north, Kintore Street to the east, Hercules Street to the south and the Inner West Light Rail to the west (Figure 1, next page).

Under the Marrickville Local Environmental Plan (LEP) 2011, the site:

- is zoned IN2 Light Industrial;
- has no applicable height of building development standard; and
- has a floor space ratio (FSR) of 0.95:1.

No part of the site is heritage listed under the Marrickville LEP 2011.



Figure 1: The site.

The site comprises 15 contiguous allotments and accommodates a mix of uses, including light industrial units, warehousing, commercial and residential development and a place of public worship (Figures 2–6, pages 3 and 4).

The site is legally described as follows:

- 466 New Canterbury Road – Lot 1 DP 542147;
- 468 New Canterbury Road – Lot 2 DP 542147;
- 470 New Canterbury Road – Lot 3 DP 542147;
- 472 New Canterbury Road – Lot 4 DP 542147;
- 474 New Canterbury Road – Lots 1 and 2 DP 540366;
- 476 New Canterbury Road – Lot 3 DP 236603;
- 478 New Canterbury Road – Lot 2 DP 236603;
- 480 New Canterbury Road – Lot 1 DP 236603;



- 26 Hercules Street – Lot 14 Section 14 DP 932;
- 28 Hercules Street – Lot 4 DP 540366;
- 34 Hercules Street – Lot 2 Lot 7 DP 236603;
- 36 Hercules Street – Lot 6 DP 236603; and
- 38 Hercules Street – Lot 5 DP 236603.



Figure 2: The site as viewed from the corner of Hercules Street and Kintore Street, looking north-west.



Figure 3: The site as viewed from Hercules Street, looking north.



Figure 4: The site as viewed from across Dulwich Grove Light Rail Station, looking east.



Figure 5: The site as viewed from across New Canterbury Road, looking south-west.



Figure 6: The site as viewed from New Canterbury Road, looking south towards Dulwich Grove Light Rail Station.

### **Surrounding area**

The surrounding area is primarily zoned R2 Low Density Residential in addition to a mix of other residential, business, open space and special purpose zonings located within and around the Dulwich Hill local centre (Figure 7, next page).

Fronting New Canterbury Road to the north and east of the site, the land is developed as mixed-use medium-density residential up to five storeys.

Dulwich Hill Public School is across Hercules Street to the south, and low-density residential land adjoins the site across Hercules Street to the south-east. Other residential development near the site consists of a mix of detached and semi-detached single-storey and two-storey homes and several residential flat buildings.

The site is immediately east and adjacent to the Dulwich Grove Light Rail Station, approximately 125m from the Dulwich Hill town centre and 700m north of Dulwich Hill train station.

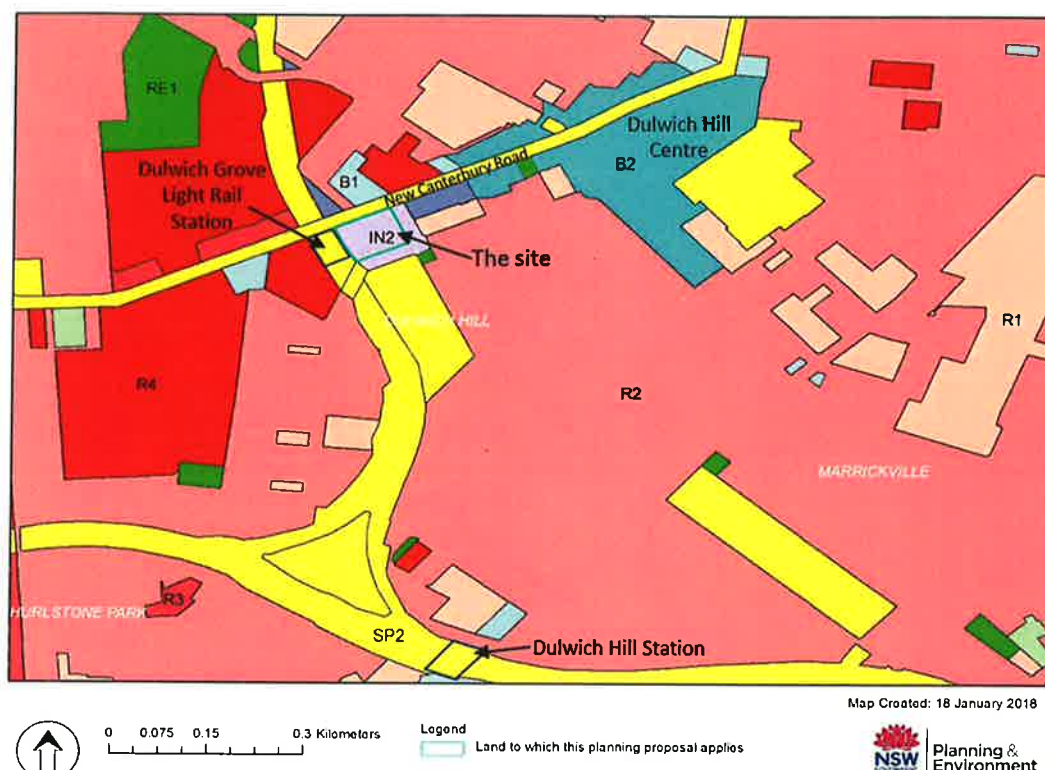


Figure 7: Surrounding area.

### Summary of recommendation

It is recommended that the planning proposal proceed subject to conditions as:

- the Sydney Eastern City Planning Panel determined the proposal has strategic and site-specific merit, and the proposal has been updated to reflect the panel's recommendations;
- on 5 October 2018 the Greater Sydney Commission (GSC) released an information note providing guidance on planning proposals that apply to industrial and urban services land (**Attachment G**). The information note states that proposals that were recommended to proceed to Gateway by a planning panel, and that were submitted prior to the release of the relevant district plan, can proceed;
- the proposal seeks to generate significant public benefit through:
  - a pedestrian link to the light rail station;
  - the introduction of public open space; and
  - the renewal and enhancement of items of significant local importance and character (New Canterbury Road façade and Greek Orthodox Church);
- an associated voluntary planning agreement (VPA) will provide affordable housing, with the number dwellings to be negotiated with Inner West Council;
- it is broadly consistent with the Sydenham to Bankstown Urban Renewal Corridor Strategy;
- it is consistent with the Marrickville Urban Strategy (2007) as it will facilitate mixed-use development in proximity to public transport, a local centre and services; and



- the planning proposal was submitted to Council prior to the release of the Draft Eastern City District Plan and has been in development for more than two years.
- the proposal was recommended to proceed to Gateway by the Sydney Eastern City Planning Panel prior to the release of the final Greater Sydney Region Plan and the Eastern City District Plan satisfying the transitional arrangements advice of the GSC.

## **PROPOSAL**

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### **Objectives or intended outcomes**

The statement of objectives outlined in the planning proposal does not accurately describe the intention of the proposed amendments. However, throughout the proposal documentation, it is established that the proposal seeks to amend the Marrickville LEP 2011 to enable the development of a mixed-use commercial and residential development on the site that will:

- be able to accommodate approximately 156 apartment dwellings;
- provide for approximately 200m<sup>2</sup> of gross floor area (GFA) of retail floor space on the north-west corner of the subject site immediately adjacent to Dulwich Grove Light Rail Station;
- provide for approximately 320m<sup>2</sup> GFA of commercial floor space on the north-eastern portion of the subject site fronting New Canterbury Road;
- provide a public link between Hercules Street and New Canterbury Road adjacent to the light rail station;
- include a new community garden at the corner of Kintore Street and Hercules Street; and
- retain the Greek Orthodox Church fronting Hercules Street.

The objectives and intended outcomes of the planning proposal should be updated to provide greater certainty and clarity as to what is proposed on the site. The objectives and intended outcomes should be specific enough to accurately reflect the desired outcome of the proposal.

It is not necessary to identify the mechanism by which the outcomes will be achieved and, as such, the proposed written LEP clause provisions should be removed from the planning proposal report. A condition of Gateway has been added specifying this requirement.

### **Explanation of provisions**

The proposal intends to amend the Marrickville LEP 2011 by:

- rezoning the site from IN2 Light Industrial to part RE1 Public Recreation, part B5 Business Development, part R4 High Density Residential and part RE2 Private Recreation (Figure 8, next page);
- increasing the FSR for the site from 0.95:1 to between 2.2:1 and 3.3:1 over most of the site and not place an FSR requirement on the proposed RE2-zoned part of the site (Figure 9, page 8);
- introducing a range of maximum building heights across the site from 9.5m (three storeys) to 32m (nine storeys) (Figure 10, page 8);
- amending Schedule 1 Additional Permitted Uses to permit:

- residential flat buildings within the B5-zoned land on the basis that this development is not located at the ground floor of a development fronting New Canterbury Road;
- introducing shops on part of the site adjacent to the light rail station (at 478-480 New Canterbury Road); and
- introducing a new local clause allowing flexibility in the height controls to be applied across the site up to 1m horizontally.

The proposal contains draft wording for the proposed schedule 1 and local clause amendments. As per *A guide to preparing planning proposals* and explained earlier in this report, the explanation of provisions should be drafted using plain English descriptions to ensure the community understands the intent of the proposed amendments. A Gateway condition has been added accordingly.

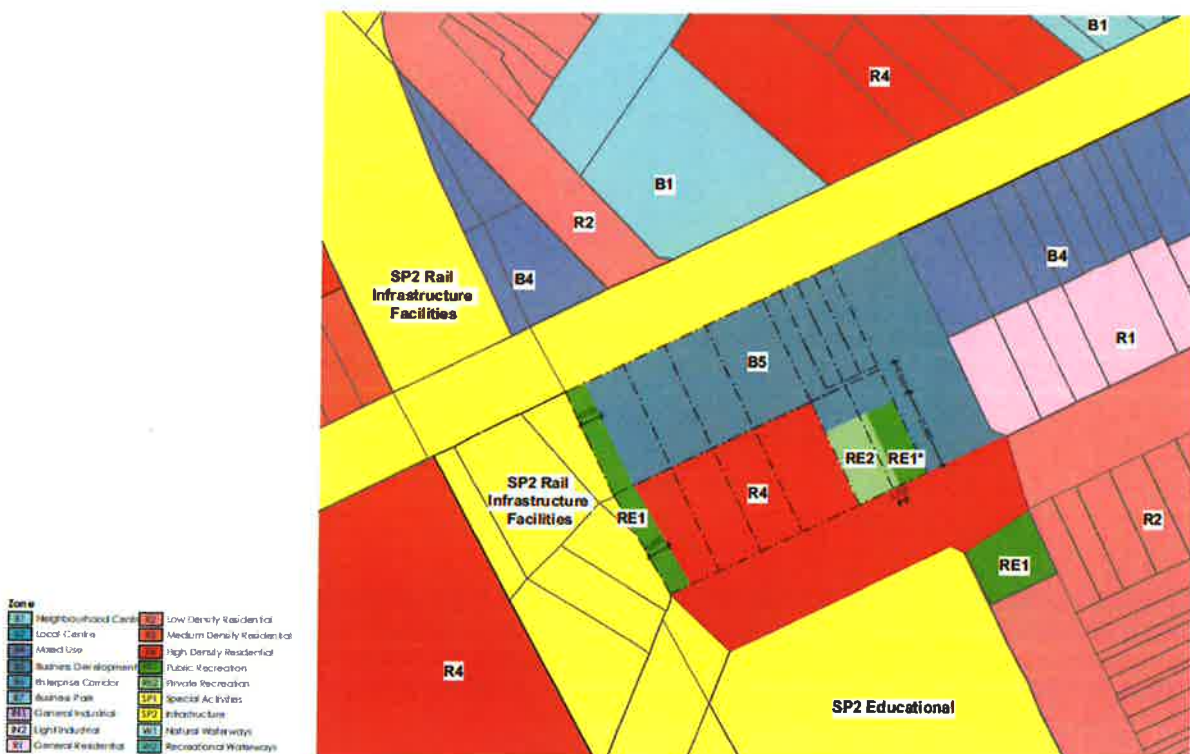


Figure 8: Proposed land-use zoning.

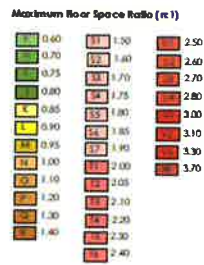


Figure 9: Proposed maximum FSR.



Figure 10: Proposed maximum building heights.



## **Mapping**

The planning proposal contains maps that adequately show the subject land and the existing and proposed zones and standards.

These maps are adequate for exhibition purposes. Maps that comply with the Standard Technical Requirements for Standard Instrument LEP Maps will need to be prepared before the LEP is made.

## **NEED FOR THE PLANNING PROPOSAL**

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The proposal is not a result of a strategic study; however, in its current form it is the result of the recommendations made by the Sydney Eastern City Planning Panel.

The proposal to amend the LEP and maps is the best means of achieving the intent of the proposal and will enable mixed-use development in a highly accessible location consistent with the direction of the revised draft Sydenham to Bankstown Urban Renewal Corridor Strategy.

## **Background**

The planning proposal was first submitted to Council on 27 July 2016. At its meeting of 25 July 2017, Council considered a report recommending the development intent of the planning proposal be supported and a copy be forwarded to the Minister for Planning for a Gateway determination. The Council report also made several urban design recommendations and suggested amendments to the proposed controls.

At the same meeting, the Council administrator determined to “defer consideration of the planning proposal until the finalisation of the Sydenham to Bankstown Urban Renewal Corridor Strategy is adopted”.

On 1 August 2017, the proponent lodged a rezoning review application for the planning proposal with the Department because Council had failed to indicate its support for the planning proposal within 90 days.

On 15 August 2017, the Department wrote to Council seeking comments. On 24 August, the Department received comments from Council requesting its resolution of 25 July 2017 be considered in the assessment of the rezoning review.

The rezoning review was put to the panel on 12 October 2017. The panel recommended the proposal should proceed to Gateway and be amended as follows:

- incorporate Council staff recommendations detailed in their report on the planning proposal to Council’s meeting of 25 July 2017;
- ensure an active street frontage to New Canterbury Road;
- create opportunities for the retention of existing and new employment uses on the site;
- provide a through-site link that supports Council’s GreenWay Master Plan;
- include a flexibility provision enabling the variation of different zoning, height and FSR mapping controls across the site by up to 1m horizontally; and
- ensure the flexibility provision enabling a 1m variation should not apply to the open space.

On 22 November, Council wrote to the Department accepting the role of planning proposal authority as resolved at its meeting of 21 November.

The planning proposal, as put to the panel, was submitted to the Department in December. However, it was considered appropriate for the proposal to be updated to reflect the panel's recommendation prior to proceeding to Gateway.

The amended proposal was resubmitted to the Department on 27 March 2018 and reflected the panel's and Council staff recommendations (**Attachment A**). It included a supplementary planning report with updated mapping (**Attachment A1**) but did not include updated concept plans or studies.

## **STRATEGIC ASSESSMENT**

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### **District**

#### Greater Sydney Region Plan

The Greater Sydney Region Plan was released on 18 March 2018 and seeks to manage growth and change and guide infrastructure delivery across the region. It sets a strategy for Greater Sydney that district plans implement at a local level.

The plan was developed with the Metropolitan Transport Plan, Future Transport 2056 and the State Infrastructure Strategy. These plans identify state infrastructure to support broad-scale land-use planning.

The planning proposal does not address the plan and should be updated prior to public exhibition. However, the proposal is broadly consistent with the objectives and actions of the plan, particularly Objective 10: Greater housing supply, Objective 11: Housing is more diverse and affordable and Objective 12: Great places that bring people together.

However, the proposal is inconsistent with Objective 23: Industrial and urban services land is planned, protected and managed. This objective seeks to protect all industrial land from conversion to land uses that are not for the purposes of industrial and/or urban services.

The plan does recognise there will be a need '... to review the list of appropriate activities within any precinct in consideration of evolving business practices and how they can best be supported through permitted uses in local environmental plans. Any review should take into consideration findings of industrial, commercial and centres strategies for the local government area and/or district' (p 133).

The planning proposal seeks to rezone part of the site as B5 Business Development allowing light industries, which currently occupy the site, and business and office premises.

The planning proposal seeks to allow the residential flat building land use that is inconsistent with the plan's approach of protecting industrial land from conversion to residential development, including conversion to mixed-use zonings. This inconsistency with the plan regarding industrial and urban services land is addressed further below.

The proposed inclusion of the B5 Business Development zoning for the site and the minimum floor space requirements will help maintain employment uses on the site. This was one of the reasons the panel found merit in the planning proposal proceeding to Gateway.

### Eastern City District Plan

The GSC released the Eastern City District Plan on 18 March 2018, which supports the implementation of the Greater Sydney Region Plan at a district level. The district plan contains planning priorities and actions to guide the growth of the Eastern City District while improving its social, economic and environmental assets. The proposal is consistent with the following planning priorities:

- E3: Providing services and social infrastructure to meet people's changing needs;
- E4: Fostering healthy, creative, culturally rich and socially connected communities;
- E5: Providing housing supply, choice and affordability, with access to jobs, services and public transport;
- E6: Creating and renewing great places and local centres, and respecting the District's heritage;
- E10: Delivering integrated land use and transport planning and a 30-minute city; and
- E17: Increasing urban tree canopy cover and delivering Green Grid connections.

The proposal is consistent with these planning priorities because it seeks to:

- provide additional residential development close to public transport, a local centre and services;
- deliver a pedestrian link between New Canterbury Road and Hercules Street that will enable improved access to the light rail station and contribute to the local green grid network sought by Council's GreenWay Strategy;
- contribute additional public open space to the community;
- respect and provide the opportunity to support the local area character by retaining the New Canterbury Road shop façades and Greek Orthodox Church as locally significant built elements; and
- co-locate housing and employment opportunities within the same site.

The planning proposal is therefore considered to be broadly consistent with the district plan.

The exception to this relates to Planning Priority E12: Retaining and managing industrial and urban services land. Like Objective 23 of the Greater Sydney Region Plan, Priority E12 of the district plan seeks to manage and retain industrial land in the Eastern City District by protecting all industrial-zoned land from conversion to other forms of land uses, including for the purposes of mixed-use development. The district plan identifies industrial and urban services land in the area as being highly constrained and therefore seeks to safeguard this land to support communities in this district.

The district plan states that:

- existing industrial and urban services land needs to be retained, not converted to residential and/or mixed-use development (p 93); and
- future employment growth across all industries and urban services will require additional floor space, additional land or both (p 91).



The subject site is an isolated industrial-zoned landholding immediately adjacent to a public transit station and primary school. As such, the proposal offers a unique opportunity to deliver additional development that is more compatible with the site's surrounds.

The planning proposal states that the proposed B5 Business Development zoning on the New Canterbury Road side of the site will allow for the continuation of employment uses within the site. The B5 zone has been nominated instead of B4 to ensure a greater mix of employment, such as business and office premises. This is in addition to the Schedule 1 Additional Permitted Uses clause being added to allow retail premises only adjacent to the Dulwich Grove Light Rail Station to service commuters.

In April 2018, the Department wrote to the GSC seeking clarification on whether this planning proposal could proceed to Gateway determination as it sought to rezone industrial land.

On 5 October 2018, the GSC issued an information note providing advice regarding planning proposals affecting industrial and urban services land (**Attachment G**). The information note refers to 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 the information note, as the planning proposal was submitted before the adoption of the district plan and had been referred to and supported by the Sydney Eastern City Planning Panel, it can proceed to Gateway determination.

The GSC information note stated that if the planning proposal proceeds, any Gateway determination issued for any transitional proposal relating to employment lands is required to satisfy certain conditions of the Gateway before the matter proceeds to public exhibition. These conditions include the following:

- the planning proposal must be updated to meet any conditions recommended by the panel prior to public exhibition;
- adherence to a set time frame by the Department within which to satisfy the condition of the panel, after which no extensions of time for the Gateway determination will be granted; and
- inclusion of a sunset provision as part of the scope of the proposed amendments in the planning proposal. The sunset clause will require that a development application be lodged within a certain time frame determined by the Department. If no development application is lodged within the time frame, the effect of the amendments will cease.

It is considered that the inconsistency with the district plan is justified as the proposal will deliver several significant planning priorities within the plan, it has been determined to have strategic and site-specific merit and is consistent with advice from the GSC.

#### The revised draft Sydenham to Bankstown Urban Renewal Corridor Strategy

A revised draft Sydenham to Bankstown Urban Renewal Corridor Strategy (S2B Strategy) was placed on exhibition from June to September 2017.

The draft strategy proposed that 'medium-high-rise housing' was potentially suitable to a maximum building height of eight storeys. The subject proposal is broadly consistent with the draft S2B Strategy as the maximum building height sought is only

one storey greater and most of the site is proposed to have a maximum building height of approximately seven storeys or less.

The proposal considers the proposed mixture of building height controls instead of a consistent eight storeys to be appropriate because:

- this will ensure an active frontage along New Canterbury Road; and
- it will confine the tallest built forms on the site to adjoining the light rail line and station to minimise impacts to adjoining development.

The planning proposal is also inconsistent with the draft S2B Strategy as it provides for a mixed-use development rather than only residential as identified in the strategy. The proponent and Council consider this a more appropriate response to the site as it:

- retains some employment on the site; and
- provides commercial and retail development that will serve the community and be convenient to those using the adjacent Dulwich Grove Light Rail Station.

The proposed B5 zone for most of the site is reflective of the panel's recommendation to ensure an active street frontage to New Canterbury Road and create opportunities for the retention of and new employment uses on the site.

The planning proposal was referred to the Department's Urban Renewal team for comment. The Urban Renewal team responded (**Attachment H**) that it did not object to the proposal but noted that in the absence of a final strategy and an approved special infrastructure contributions scheme, further work is to be undertaken to ascertain any state infrastructure required as a result of the proposal and the need for a VPA between the state government and the proponent.

After considering the submissions to the draft S2B Strategy, the Department wrote to Council in July 2018 to announce the strategy will proceed as a principle-based strategy and the Department will collaborate with Inner West and Canterbury-Bankstown councils to produce the final strategy in the coming months.

As the S2B Strategy will proceed, the planning proposal should be publicly exhibited and updated with any available findings prior to finalisation. Considering the revised approach, the planning proposal was again referred to Urban Renewal on 5 September 2018. On 9 September, Urban Renewal responded that it did not raise any additional matters for consideration (**Attachment I**).

## **Local**

### Marrickville Urban Strategy

The Marrickville Urban Strategy was adopted by Council in 2007. The strategy established a vision and coordinated direction addressing a range of planning, community and environmental issues to guide short, medium and long-term strategic planning policies for job and dwelling creation in the former Marrickville LGA over 10 years.

The proposal is consistent with the strategy as it seeks to locate additional residential development close to an existing centre, with good access to public transport and services.

## **Section 9.1 Ministerial Directions**

The following section 9.1 Directions are relevant to the planning proposal:

- 1.1 Business and Industrial Zones;

- 2.3 Heritage Conservation;
- 3.1 Residential Zones;
- 3.4 Integrating Land Use and Transport;
- 3.5 Development Near Licensed Aerodromes;
- 4.1 Acid Sulfate Soils;
- 4.3 Flood Prone Land;
- 6.2 Reserving Land for Public Purposes; and
- 6.3 Site Specific Provisions.

The proposal is consistent with the relevant section 9.1 Directions, except the following:

Direction 1.1 Business and Industrial Zones

Under this Direction, a planning proposal must retain the areas and locations of business and industrial zones and not reduce the total potential floor space for employment uses on the site. The planning proposal proposes no net loss of employment on the site and includes an assessment against the Industrial Lands Strategic Assessment Checklist. The proposal states it will facilitate the renewal of outdated and underused employment land by changing from an industrial zoning to a mixed-business zone.

An objective of the planning proposal is to ensure there is no net loss in employment within the precinct, and the checklist states the rezoning may increase employment on the site, but it does not provide specific job growth figures.

The planning proposal should be updated to provide an economic impact assessment of the rezoning on the subject site and employment lands in the Inner West LGA.

As noted above, the Sydney Eastern City Planning Panel and GSC found merit in the planning proposal proceeding to a Gateway determination. However, consistency with this Direction will need to be resolved prior to finalisation.

Direction 6.2 Reserving Land for Public Purposes

The proposal is inconsistent with this Direction as the approval of the Secretary has not been obtained in relation to the alteration of zoning or reservations of land for public purposes. Considering the proposal may increase land for public purposes (RE1 Public Recreation) and create a public through-site link connecting Hercules Street to the Dulwich Grove Light Rail Station, the inconsistency with this Direction is of minor significance and considered justified by the terms of the Direction.

Direction 6.3 Site Specific Provisions

Under this Direction, a planning proposal must not create unnecessarily restrictive site-specific planning controls. The planning proposal is considered to have a minor inconsistency with this Direction as several local provisions are proposed for development on the site. However, the proposed provisions ensure a better planning outcome and this inconsistency is therefore considered of minor significance.



## **State environmental planning policies (SEPPs)**

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

A mechanical workshop and printing station are located on the site. Clause 6 of SEPP 55 requires consideration of whether the site is contaminated and the suitability of the land for the proposed use.

The original proposal includes a preliminary site investigation report, which concludes that the site can be made suitable for the proposed mixed commercial and high-density residential land use subject to further detailed investigations and remediation measures. It is considered that sufficient information has been provided with the planning proposal to demonstrate its consistency with the aims and objectives of SEPP 55 to enable the rezoning and density uplift to be supported. Further detailed investigation can be undertaken at the development application stage.

### State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)

SEPP 65 will apply to the proposed residential component of the future mixed-use building. A concept plan submitted as part of the original proposal (**Attachment A**) considers the SEPP 65 *Apartment Design Guide* and demonstrates general adherence with the key parameters of the guide.

The proposal is otherwise consistent with all SEPPs and deemed SEPPs.

## **SITE-SPECIFIC ASSESSMENT**

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### **Social**

It is considered that the proposal will generate positive social impacts for the site and the broader community through the delivery of new housing and the provision of a new green pedestrian link and public domain improvements, which will improve accessibility to the light rail station. Additionally, the retention of the church and the shop facades will help to retain the character of the site.

### **Environmental**

#### Contamination

The subject site has a history of predominantly light industrial usages. As previously noted in this report (see SEPP 55), a preliminary site investigation report was prepared and submitted to Council as part of the original planning proposal (**Attachment A**). The report found the northern portion of the site was previously used for commercial/industrial purposes dating back to the 1930s, while the southern portion comprised residential allotments before being progressively redeveloped for commercial/industrial purposes between the 1940s and 1950s.

Soil sampling showed low concentrations of chemical contaminants that would not be expected to present an unacceptable risk to human health or the environment for the proposed use. The preliminary site investigation report concluded the site could be made suitable for the purposes of the proposed uses.

#### Geotechnical

The light rail corridor adjoins the subject site to the west and is 6-9m below the sight level of the subject site. Due to the proximity of the light rail line and a proposed excavation depth of greater than 2m as shown in the original concept plans, consultation with Transport for NSW (TfNSW) is recommended to assess if further

geotechnical investigations are required during the plan-making process. A condition requiring consultation during public exhibition is included as part of the Gateway determination.

### Traffic

A traffic and parking assessment prepared by Transport and Traffic Planning Associates was submitted with the planning proposal in December 2017. The assessment concluded the development will not present any unacceptable traffic implications as the projected traffic generation will be no greater than that of the existing uses on the site and the envisaged parking provision will be compliant with Council's DCP requirements and can be accommodated on the site.

Consultation will be required with Roads and Maritime Services (RMS) given the proposal fronts New Canterbury Road, where turning movements into and out of Kintore Street are not facilitated by traffic signals.

Additionally, RMS and TfNSW are finalising the Canterbury Road network plan, which extends from Newtown to Liverpool. The plan will identify objectives for the desired future transport outcomes of each portion of the Canterbury Road corridor, balancing the need for movement with the need for accessible liveable places. The section of New Canterbury Road on which the subject site sits is a transition zone between a movement corridor and a local street, where a higher emphasis is placed on liveability and local traffic movement. However, this is subject to change based on transport investment, demographic trends and likely future land uses along the corridor.

Given the current planning stages of the road network plan, it is considered appropriate to refer the proposal to RMS and TfNSW to ensure it is consistent with future objectives and transport outcomes for this corridor and the broader road network.

### Flooding and stormwater

The site is not identified on the Marrickville LEP 2011 flood planning map. However, advice from Council identifies the site as being adjacent to Council/State Rail stormwater pipes that drain the two low points in the area. One of the low points is adjacent to 480 New Canterbury Road and the other is adjacent to 38 Hercules Street. The proposal includes overland flow flood advice prepared by Cardno to assess if there are any significant overland flows at the two identified locations that may result in flooding that impacts the proposal.

The advice estimates that even if the existing drainage system is fully blocked, the site would not be affected by the 100-year average recurrence interval overland flow flooding from New Canterbury Road or Hercules Street.

Further assessment of stormwater and overland flow impacts may be required at the development application stage. It is considered that sufficient information has been provided to proceed to public exhibition.

### Local character and heritage

The subject site does not contain a heritage item in Schedule 5 of the Marrickville LEP 2011 and is not in a heritage conservation area or near heritage items.

A detailed heritage assessment report prepared as part of the original proposal notes that terrace shopfronts on the corner of New Canterbury Road and Kintore Street (Figure 5, page 4), and the Greek Orthodox Church (Figure 2, page 3), have some heritage significance for their contribution to the historical development of Marrickville.

Given the importance of these items and their contribution to local character, the proposal seeks to retain and incorporate these into the development to maintain the character of the streetscape. The proposal also seeks to limit the future redevelopment potential of the Greek Orthodox Church by implementing an RE2 Private Recreation zone over this portion of the subject site.

#### Overshadowing and visual privacy

The proponent has worked with Council to establish an appropriate building envelope for the site's development. Council's architectural excellence panel is generally supportive of the planning proposal and the proponent supports the planning controls to improve the built form on the site. The urban design study supporting the proposal includes shadow diagrams modelling the impact of the concept plan on the adjoining school.

The diagrams indicate the Dulwich Hill Public School playground will only be significantly shadowed in midwinter after 1.30pm, which is after the lunchtime period. SEPP 65 does not provide guidance on minimum solar access to schools. The concept envelope does not overshadow any other residential properties.

Solar access to apartments in the development will be acceptable. However, there are several apartments with a south-western orientation from primary living spaces. Any development application for the site will be required to respond to SEPP 65 solar access parameters under the *Apartment Design Guide*.

As previously noted, the concept plans have not been updated since the Sydney Eastern City Planning Panel met in October 2017, therefore a condition of the Gateway is to update these as part of the planning proposal documentation.

#### **Economic**

As discussed in the section 9.1 Directions above, the proposal did not include an economic impact study but included an Industrial Lands Strategic Assessment Checklist. The planning proposal states it will facilitate the renewal of outdated and underused employment land by changing from an industrial zoning to a mixed-business zone.

The planning proposal should be updated to provide an economic impact assessment of the rezoning on the subject site and employment lands in the Inner West LGA.

#### **Infrastructure**

As part of the Sydenham to Bankstown Urban Renewal Corridor Strategy, a special infrastructure contribution (SIC) plan is being investigated. This will ensure infrastructure such as additional public transport, health care, road upgrades, new schools and open space will be coordinated to support the community's needs at the same pace as the delivery of new homes and jobs in the area.

Until the strategic review and approved SIC is complete, and as an interim measure, all planning proposals within the Sydenham to Bankstown corridor should acknowledge that a satisfactory arrangements provision for contributions to designated state public infrastructure may be required in the final instrument. This is consistent with advice from the Department's Urban Renewal team on how the planning proposal should respond to state infrastructure requirements.

A Gateway condition requiring consultation with infrastructure providers such as TfNSW, RMS and the Department of Education will be included in the determination.



## **CONSULTATION**

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### **Community**

In accordance with *A guide to preparing planning proposals*, the planning proposal is not considered to be low impact due to the proposed rezoning of industrial land. Therefore, a community consultation period of a minimum of 28 days is considered appropriate.

### **Agencies**

The following agencies and public authorities are recommended to be consulted as part of the public exhibition of the planning proposal:

- Transport for NSW – Sydney Light Rail;
- Department of Education; and
- Roads and Maritime Services.

## **TIME FRAME**

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It is considered that a time frame of 24 months from the date of the Gateway determination is sufficient to complete the proposed LEP amendment. This will provide sufficient time for agency and community consultation, drafting and plan finalisation.

This extended time frame for finalisation is recommended as the GSC's advice states that no extension to the Gateway should be given once issued.

## **LOCAL PLAN-MAKING AUTHORITY**

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Following the rezoning review, Council accepted the role of planning proposal authority. Council has not requested to be the local-plan making authority. Given the nature of the planning proposal and that it was subject to a rezoning review, Council should not be authorised to be the local plan-making authority to make this plan.

## **CONCLUSION**

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It is recommended that the planning proposal proceed subject to conditions as:

- the GSC released an information note on planning proposals that apply to employment land. The information note stated that proposals relating to employment land that were recommended to proceed to Gateway by a district panel and were submitted prior to the release of the relevant district plan could proceed;
- the proposal is broadly consistent with the Eastern City District Plan including relevant planning priorities E3, E4, E5, E6, E10 and E17;
- the planning proposal was submitted to Council prior to the release of the Draft Eastern City District Plan and has been in development for more than two years;
- it is broadly consistent with the draft Sydenham to Bankstown Urban Renewal Corridor Strategy, which proposed the site be developed for medium to high-rise residential uses;
- it is consistent with the Marrickville Urban Strategy (2007) as it will facilitate mixed-use development near public transport, a local centre and services;
- the proposal generates significant public benefit through the delivery of a green pedestrian link that will improve access to the light rail station, additional housing, introduction of public open space within the site, and commits to retaining character buildings and features; and

- the Sydney Eastern City Planning Panel determined the proposal has strategic and site-specific merit, and the proposal has been updated to reflect the panel's recommendations.

The planning proposal is required to be updated prior to exhibition to respond to Gateway conditions, as identified below.

## **RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 6.2 Reserving Land for Public Purposes and 6.3 Site Specific Provisions are minor or justified; and
2. note that the consistency with section 9.1 Direction 1.1 Business and Industrial Zones is unresolved and will require justification.

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

- 1) Prior to community consultation, the planning proposal is to be amended to:
  - (a) reflect the updated *Environmental Planning and Assessment Act 1979*;
  - (b) address the Greater Sydney Region Plan and its priorities;
  - (c) address the Eastern City District Plan;
  - (d) update the objectives and intended outcomes to describe what is proposed for the site, as per *A guide to preparing planning proposals*;
  - (e) remove draft clauses from all sections of the planning proposal and replace with plain English explanations of the provisions as per *A guide to preparing planning proposals*;
  - (f) confirm the proposed RE1 and RE2 zoning of the site;
  - (g) include an intent to allow for minor variations to the prescriptive zoning, height and floor space ratio standards on the site by 1m horizontally except the zonings for open space;
  - (h) include an acknowledgment that satisfactory arrangements will be required to address state infrastructure needs as the site is in the Sydenham to Bankstown Corridor;
  - (i) include an intention to require that a development application pertaining to the site for residential and/or mixed-use development will be lodged within three years of the LEP being made. If no development application is lodged within this time frame, the effect of the amendments to rezone the site will cease;
  - (j) undertake an economic impact analysis assessing the loss of industrial zoning and urban service uses on the site with regards to the local economy; and
  - (k) update the concept design for the proposal to demonstrate the likely built forms and masterplan layout for the site and reflect the proposed LEP amendments.
- 2) Prior to community consultation, the revised planning proposal is to be forwarded to the Department for review.

- 3) The planning proposal should be made available for community consultation for a minimum of 28 days.
- 4) Consultation is required with the following public authorities:
  - Transport for NSW – Sydney Light Rail;
  - Roads and Maritime Services; and
  - Department of Education.
- 5) Prior to finalisation, the planning proposal should be updated with any available findings of the Sydenham to Bankstown Urban Renewal Corridor Strategy.
- 6) The time frame for completing the LEP is to be 24 months from the date of the Gateway determination.
- 7) Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.

*B Metcalfe 25/10/2018*

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*A Harvey*

**25/10/2018**

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