

Planning Proposal
Amendment to Zoning, Building Height Map
and Floor Space Ratio Map
Marrickville Local Environmental Plan 2011
466 – 480 New Canterbury Road &
26 to 38 Hercules Street, Dulwich Hill

March 2018

Mersonn Pty Ltd
6/20 Wylde Street
Potts Point NSW 2011

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1.0 Executive Summary

This Planning Proposal has been prepared on behalf of Angus Developments Pty Limited and is submitted to Inner West Council in support of an amendment to the provisions of the Marrickville Local Environmental Plan 2011 (LEP) as they relate to the site known as 466 – 480 New Canterbury Road, Dulwich Hill and the adjoining lots.

This Planning Proposal explains the proposed amendment to the LEP and the justification for the amendment in accordance with the provisions of Section 55 of the Environmental Planning and Assessment Act 1979 and has been prepared consistent with the Guide to Preparing Planning Proposals prepared by the NSW Department of Planning.

This Planning Proposal has been amended in accordance with the determination of the Sydney Eastern City Planning Panel dated 12 October 2017.

The objective of this Planning Proposal is to amend the MLEP 2011 as follows:

1. It is proposed to amend the zoning, with Marrickville Local Environmental Plan (MLEP) 2011 Zoning Maps being amended from IN2 Light Industrial zone to:
 - a) RE1 Public Recreation zone for the land on the western edge of the site adjacent to the Light Rail line, and the proposed pocket park on the south-eastern corner of the site (or RE2 Private Recreation for any of this land that Council does not agree to take ownership of);
 - b) B5 Business Development for Nos. 466-480 New Canterbury Road, (excluding the area proposed to be zoned RE1 Public Recreation) and the rear (approximately 9 m) parts of Nos. 26-28 Hercules Street, Dulwich Hill not proposed to be zoned RE1 Public Recreation or RE2 Private Recreation, being Lots 1, 2, 3 and 4 DP542147, Lot 1 DP540366, Lots 1, 2 and 3 DP236603 and rear (approximately 9 m) parts of Lot 4 DP540366 and Lot 14

Section 4 DP932, with an additional permitted use clause applying to such zoned land;

c) R4 High Density Residential for Nos. 34-38 Hercules Street, (excluding the area proposed to be zoned RE1 Public Recreation) and the rear of No. 474 New Canterbury Road fronting Hercules Street, Dulwich Hill, being Lots 5,6 and 7 DP236603 and Lot 2 DP540366; and

d) RE2 Private Recreation for No. 28 Hercules Street, (excluding the area proposed to be zoned B5 Business Development) and the part of No. 26 Hercules Street not proposed to be zoned RE1 Public Recreation or B5 Business Development, Dulwich Hill.

2. It is proposed to include additional wording in Schedule 1 Additional Permitted Uses in MLEP 2011 to read:

Use of certain land at 466-480 New Canterbury Road and 26-38 Hercules Street, Dulwich Hill

1) This clause applies to land at 466-480 New Canterbury Road and 26-38 Hercules Street, Dulwich Hill, being Lots 1, 2, 3 and 4 DP542147; Lots 1, 2 and 4 DP540366; Lots 1, 2, 3, 5, 6 and 7 DP236603; and Lot 14 Section 4 DP932.

2) Development for the following purposes is permitted with consent:

(a) residential flat buildings, as part of a mixed use development, on land zoned B5 Business Development but only if:

i. any dwelling located on the ground floor will not have frontage to New Canterbury Road;

(b) neighbourhood shops on the land at 478-480 New Canterbury Road, Dulwich Hill, being Lots 1 and 2 DP236603 in Zone B5 Business Development; and

(c) vehicular and pedestrian access, car parking and site facilities on the land at 34-38 Hercules Street and the rear of 474 New Canterbury Road, Dulwich Hill in Zone R4 High Density Residential to service the development on the land at 474-480 New Canterbury Road, Dulwich Hill in Zone B5 Business Development.

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3. It is proposed to amend the height of buildings (HoB), with MLEP 2011 HoB Maps being amended from no height identified to:

- a) 17 metres for Nos. 466-472 New Canterbury Road, the front part of No. 474 New Canterbury Road, 476 New Canterbury Road, the front 7.5 metres of Nos. 478 and 480 New Canterbury Road and the rear (approximately 9 m) part of Nos. 26-28 Hercules Street, Dulwich Hill, being Lots 1, 2, 3 and 4 DP542147, Lot 1 DP540366, Lot 3 DP236603 the front 7.5m of Lots 1 and 2 DP236603, and the rear (approximately 9 m) part of Lot 4 DP540366 and Lot 14 Sec 4 DP932;
- b) 20 metres for the rear part of No. 474 New Canterbury Road and No. 34 Hercules Street, Dulwich Hill, being Lot 2 DP540366 and Lot 7 DP236603;
- c) 29 metres for the rear part behind the front 7.5 m of Nos. 478-480 New Canterbury Road, Dulwich Hill, being Lots 1 and 2 DP236603 (excluding the area proposed to be zoned RE1 Public Recreation, which is to have no height control indicated);
- d) 32 metres for No. 36-38 Hercules Street, Dulwich Hill, being Lots 5 and 6 DP236603 (excluding the area proposed to be zoned RE1 Public Recreation, which is to have no height control indicated); and
- e) 9.5 metres for the front (approximately 22m) part of Nos. 26-28 Hercules Street not proposed to be zoned RE1 Public Recreation or B5 Business Development, Dulwich Hill, being the front (approximately 22 m) part of Lot 4 DP540366 and Lot 14 Sec 4 DP932 not proposed to be zoned RE1 Public Recreation or B5 Business Development.

4. It is proposed to amend the floor space ratio (FSR), with MLEP 2011 FSR Maps being amended from 0.95:1 FSR to:

- a) 3.0:1 for Nos. 466-472 New Canterbury Road and rear (approximately 9m) part of Nos. 26-28 Hercules Street, Dulwich Hill, being Lots 1, 2, 3 and 4 DP542147, and rear (approximately 9 m) part of Lot 4 DP540366 and Lot 14 Sec 4 DP932;

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- b) 2.2:1 for Nos. 474-476 New Canterbury Road, and No. 34 Hercules Street (excluding the western (approximately 5.5m) part of No. 476 New Canterbury Road and the western (approximately 6.0-7.5m) part of No. 34 Hercules Street), Dulwich Hill, being Lots 1 and 2 DP540366 and Lots 3 and 7 DP236603 (excluding the western (approximately 5.5m) part of Lot 3 DP236603 and the western (approximately 6.0- 7.5m) part of Lot 7 DP236603);
- c) 3.3:1 for Nos. 478-480 New Canterbury Road, the western (approximately 5.5m) part of No. 476 New Canterbury Road, Nos. 36-38 Hercules Street, and the western (approximately 6.0-7.5m) part of No. 34 Hercules Street, Dulwich Hill, being Lots 1, 2, 5 and 6 DP236603, the western (approximately 5.5m) part of Lot 3 DP236603, and the western (approximately 6.0-7.5m) part of Lot 7 DP236603;
- d) 0.6:1 for the front (approximately 22m) part of Nos. 26-28 Hercules Street not proposed to be zoned RE1 Public Recreation or B5 Business Development, Dulwich Hill, being the front (approximately 22m) part of Lot 4 DP540366 and Lot 14 Sec 4 DP932 not proposed to be zoned RE1 Public Recreation or B5 Business Development; and
- e) No FSR indicated for the front (approximately 22m) part of No. 26 Hercules Street, Dulwich Hill, being the front (approximately 22m) part of Lot 14 Sec 4 DP932, relating to the land proposed to be zoned RE1 Public Recreation for a pocket park on the south-eastern corner of the site.

5. It is proposed to include an additional Clause in MLEP 2011 to read:

Development on certain land at New Canterbury Road, Dulwich Hill

- (1) The objective of this clause is to ensure that development on land at New Canterbury Road, Dulwich Hill allows some flexibility in relation to the exact boundary between different height limits across the site so that the boundary between different height limits may be varied in any horizontal direction by up to 1m;

(2) This clause applies to land bounded by New Canterbury Road, Kintore Street, Hercules Street and the light rail corridor to the west.

(3) Despite Clause 4.3(2), the height of any building on land identified in subclause (2) may exceed the maximum height shown for the land on Height of Buildings Map by no more than any greater height limit on the Height of Buildings Map which occurs in any horizontal direction of no greater than 1m from the boundary between the different height limits;

The Planning Proposal provides an analysis of the site and its context with images, photographs and diagrams and provides an overview of the key elements of the proposed amendment. It includes a statement of objectives and the intended outcomes together with an explanation of the provisions of the planning proposal and a summary of the justification for the proposal. The details of the public benefit that will arise from the proposal are discussed and consideration is given to the relevant local and state planning provisions and S117 Directions.

The site is known as 466 – 480 New Canterbury Road, Dulwich Hill and includes 26 to 38 Hercules Street. The site plan below shows the street addresses, cadastre boundary lines and legal description.



Subject Site

Source: RPData 2017

The site comprises a primary site and a secondary site. The proponent Angus Development Pty Ltd has an interest in ten parcels of land comprising the primary site, which includes 26 to 38 Hercules Street but does not currently have an interest in the properties comprising the secondary site. The primary site comprises the following lots and part lots as reflected on the drawing below:

- Lot 1 DP236603;
- Lot 2 DP236603;
- Lot 3 DP236603;
- Lot 5 DP236603;
- Lot 6 DP236603;
- Lot 7 DP236603;
- Lot 1 DP540366;

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- Lot 2 DP540366;
 - South-eastern part of Lot 4 DP540366;
 - South-eastern part of Lot 14 Section 4 DP932;

The site the subject of the planning proposal necessarily includes a secondary site comprising four parcels of land not in the ownership of the proponent but effectively completing the island site, these include:

- Lot 1 DP542147;
- Lot 2 DP542147;
- Lot 3 DP542147;
- Lot 4 DP542147;
- North-western part of Lot 4 DP540366;
- North-western part of Lot 14 Section 4 DP932;



Primary and Secondary Site

Source: RPData 2017



Subject Site

Source: RPData 2017

Primary site



Secondary site



The site has been used by a variety of mixed uses, light industries, warehousing and some limited residential use and a church. These uses have repurposed the structures over time with very little works undertaken or improvements made.

The light rail has recently been completed, connecting the inner-west and the City, and Dulwich Grove Light Rail Station has been built on the north-western boundary of the site.

Following completion of the Light Rail, the NSW State Government has identified in the draft Sydenham to Bankstown Urban Renewal Corridor Strategy 2017 that the subject site is suitable for Medium-High Rise Housing in its draft Dulwich Hill Precinct Plan 2017.¹ The report describes the form of development for Medium-High Rise Housing as:

Medium high rise housing

- *Medium-high rise housing is to be a maximum of eight storeys;*
- *Built form is broken into three tiers, with upper level transitioning further from the setback to provide appropriate scale to the street;*
- *Landscape setbacks, typically 3 metres, will be required at street level;*
- *Ensure articulation in the facade is provided to reduce apparent scale and create interest; and*
- *Terrace style individual entries at ground level..²*

The subject site presents a unique opportunity to redevelop an existing degraded light industrial precinct by retaining and upgrading those facilities and buildings of architectural and social significance to satisfy contemporary access, fire safety and amenity standards and integrate them into a larger site redevelopment, creating pedestrian linkages and dealing with traffic and parking demands on site. A significant portion of the site is built upon area which creates the opportunity for an residential interface providing a buffer to the lower density residential uses beyond and providing a local population to support and enhance the broader Dulwich Hill town centre without competing with it. The site provides the opportunity for the provision of additional public open

¹ Department of Planning Sydenham to Bankstown Urban Renewal Corridor Strategy Dulwich Hill Station Precinct 2017 p12

² *ibid.* p13

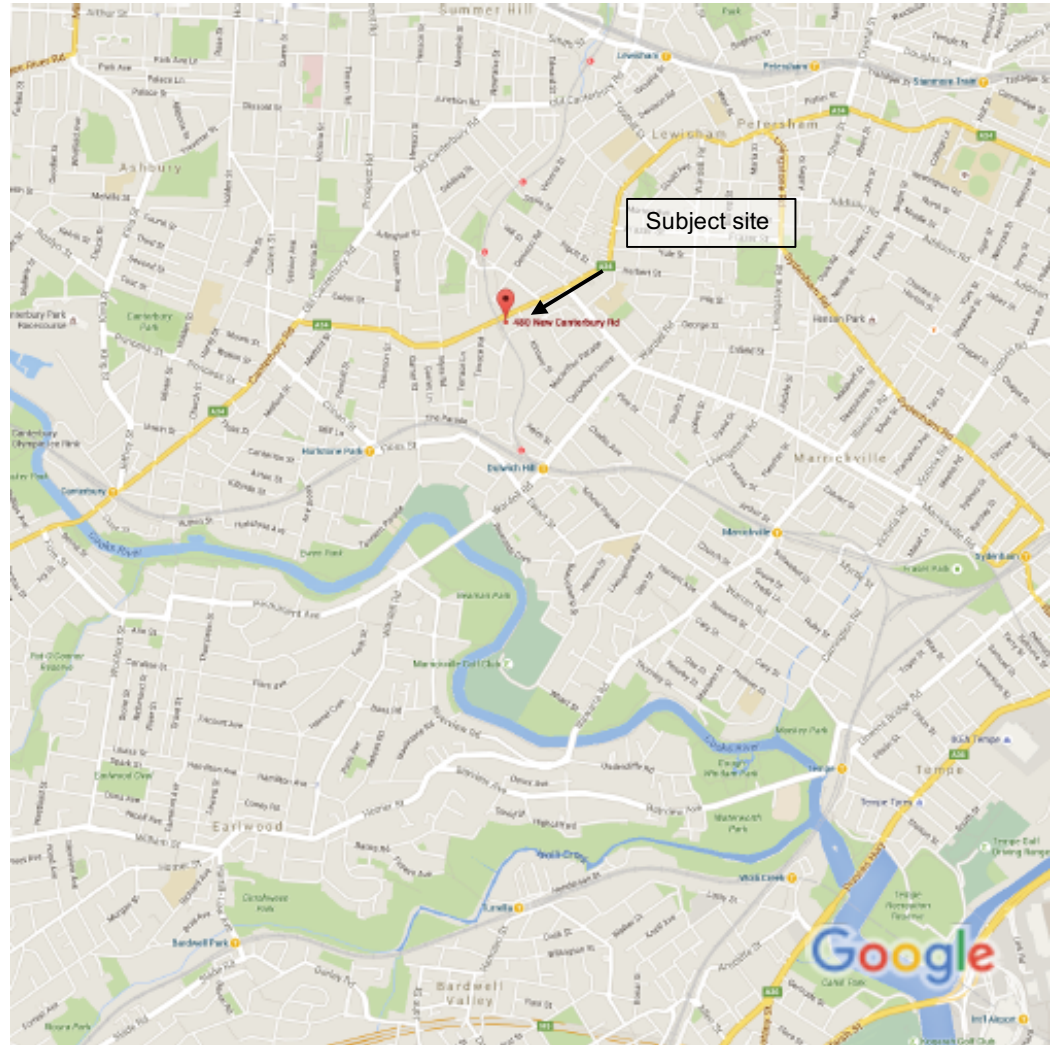
space and attendant pedestrian networks linking the area, through the site, to the light rail station and the Dulwich Hill town centre.

The uses and building form would require an amendment to the planning controls under Marrickville Local Environmental Plan 2011. It would require a change to the zoning from IN2 Light Industry to B5 Business Development (with an additional uses clause), R4 High Density Residential, RE1 Public Recreation and RE2 Private Recreation and a graduated change to the height control (where no height control exists at present) from 9.5m in the south-east of the site (consistent with the adjacent residential) rising to 17m and 20m over the central part of the site and 29m and 32m where it adjoins the light rail station.

This would result in clear benefits for the adjoining and surrounding residents in providing some employment, pedestrian linkages, extended public and semi-public open spaces but more importantly providing a residential buffer between New Canterbury Road and the adjoining low scale residential and school uses. The proposal would also result in benefits for the future occupants of the subject site and consistent with the good planning practice the accrual of these benefits are proposed to be offset by a Voluntary Planning Agreement towards the dedication and upgrade of a pocket park on each of the north-west and south-east of the site and an extensive pedestrian linkage along the western boundary providing access to the light rail station.

2.0 Site Analysis and Context

2.1 Regional and Local Context

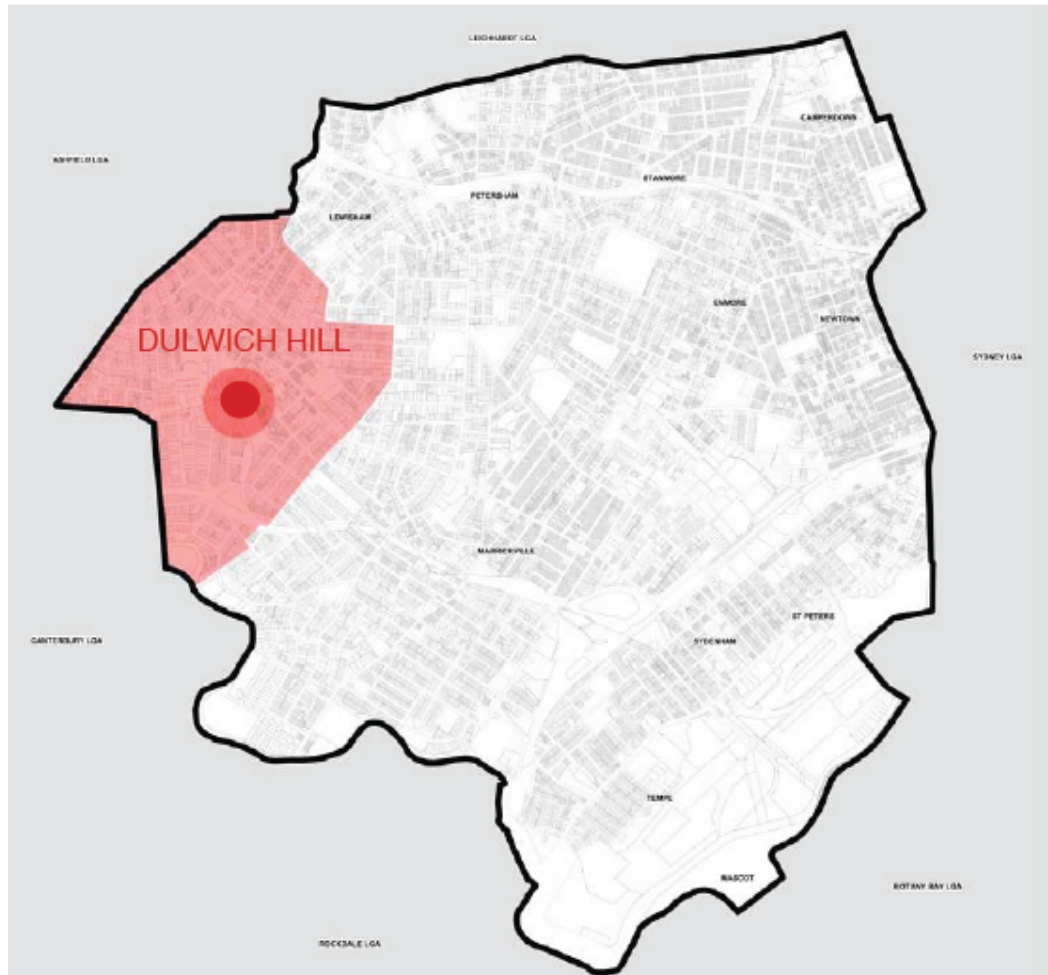


Location Plan: 466 - 480 New Canterbury Road, Dulwich Hill

Source: GoogleMaps 2017

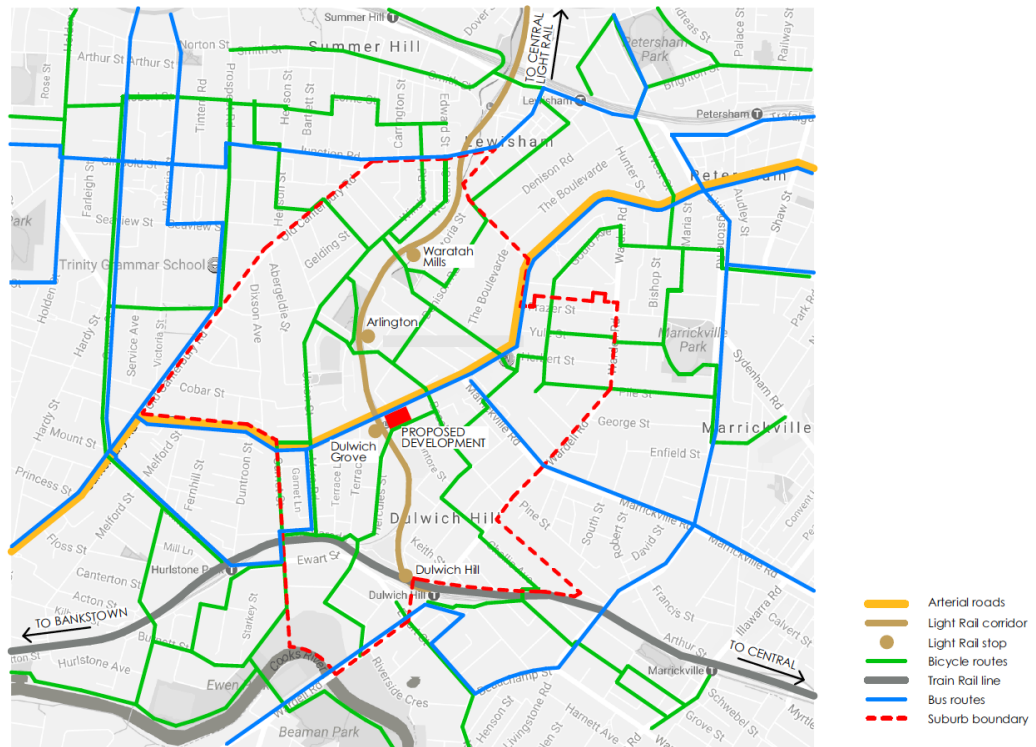
The site is located approximately 8km south-west of the Sydney CBD and within 50m of Dulwich Grove Light Rail Station. The site is located within the local light industrial precinct. The area is generally characterised by a mix of light industrial and employment uses with the sites adjoined to the north, west and east mixed use and medium

density residential and to the south school facilities and low density residential.



Metropolitan Context BKA 2017 p5

The subject site is bounded by New Canterbury Road to the north, Kintore Street on the east and Hercules Street on the south. The site has an extensive western frontage to the light rail corridor and directly adjoins the entrance to Dulwich Grove Light Rail Station on the north-west of the site. The immediate area is developed with mixed use medium density residential uses and the lands further south of the site beyond the Dulwich Hill Public School by single dwellings.

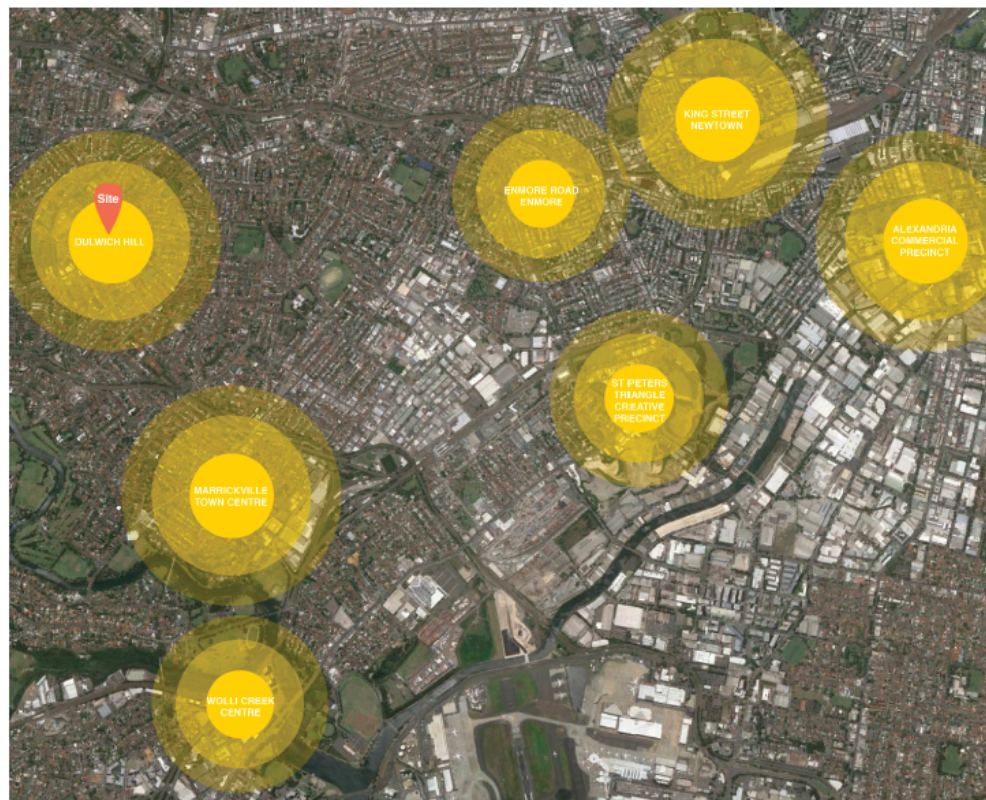


Public Transport and Movement Routes 2018

While the local area is relatively intensively developed for residential uses it is characterised by a lack of local facilities and public open space. The local context is also relatively poor in terms of pedestrian connectivity and the occurrence of local centres. The local and neighbourhood centres within the Marrickville Local Government Area tend to be concentrated further to the east and south with little in the way of retail or community precincts within close proximity of the site.



Local Amenity Plan BKA 2017 p12

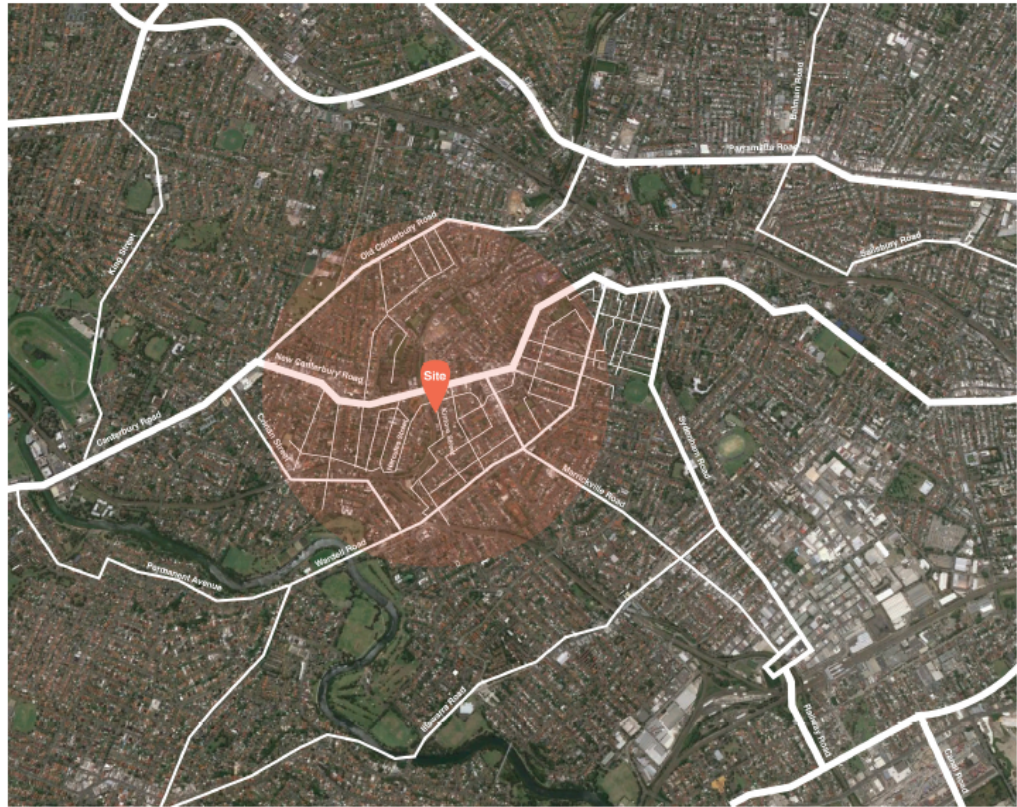


Centre Precincts Plan BKA 2017 p8



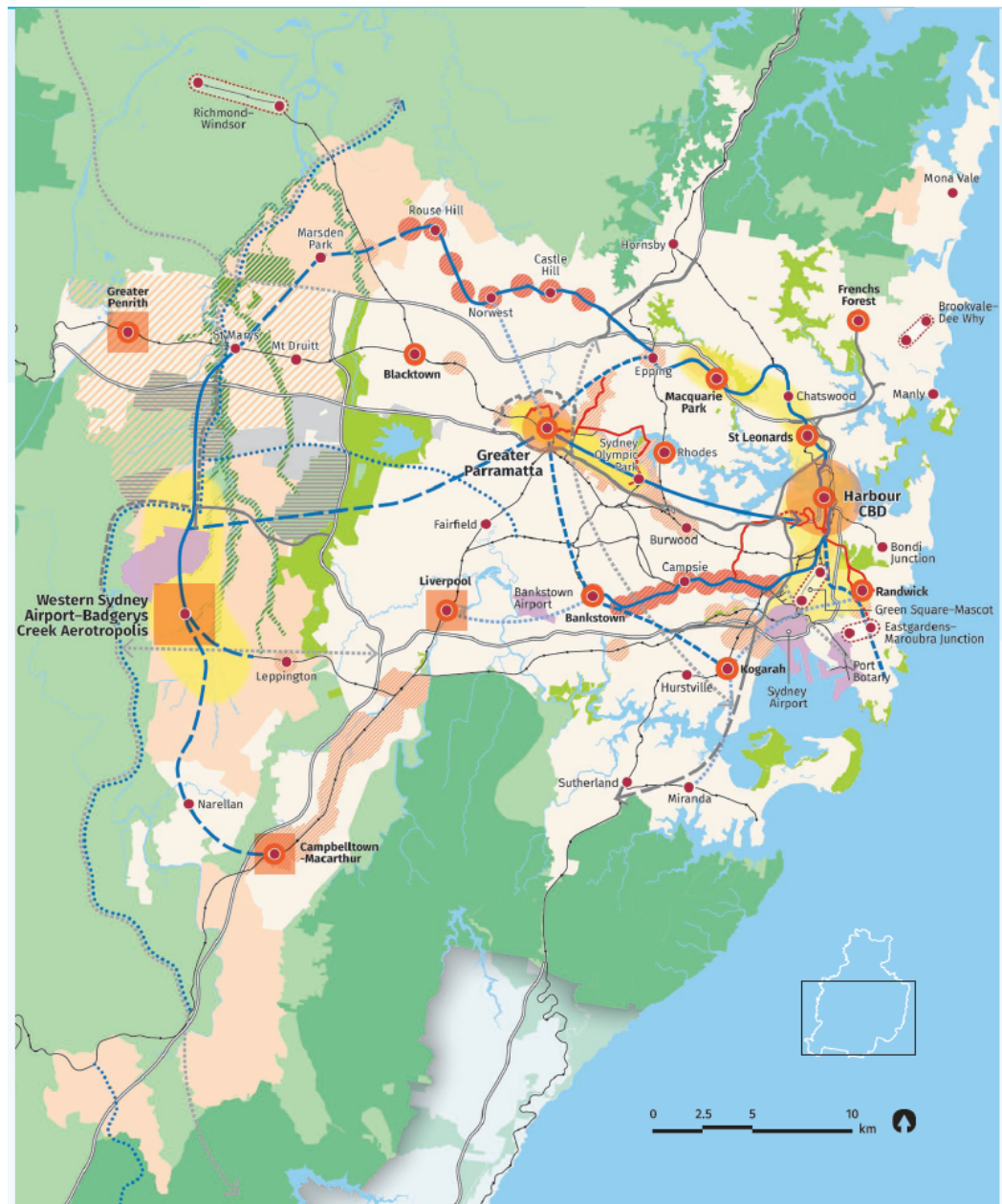
Open Space Plan BKA 2017 p7

The subject site is located between two major east-west arterials being New Canterbury Road and Wardell Road. These are highly traffic routes which offer little pedestrian amenity and the current local road network attempts to offer alternative pedestrian and bicycle routes between these corridors.



Road Network Plan BKA 2017 p9

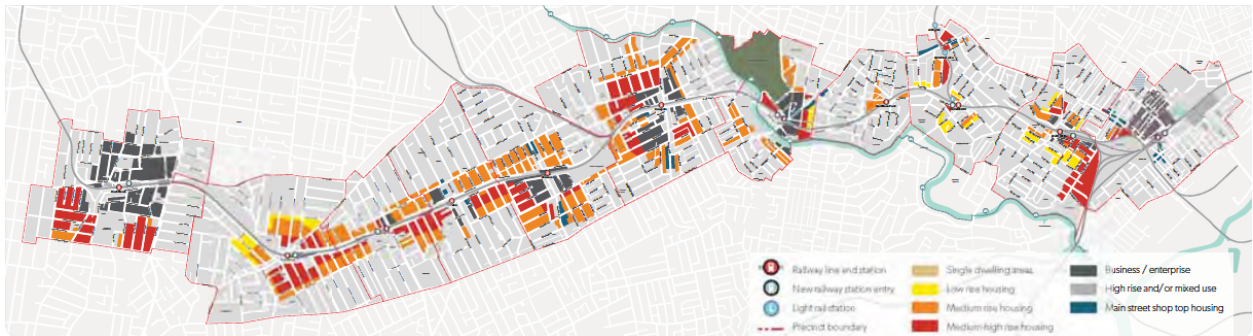
The future of the New Canterbury Road under the Greater Sydney Regional Plan and the Marrickville LEP is for the future development of this corridor as an intensive mixed use locality of residential, shops, restaurants and services.



Greater Sydney Regional Plan 2018



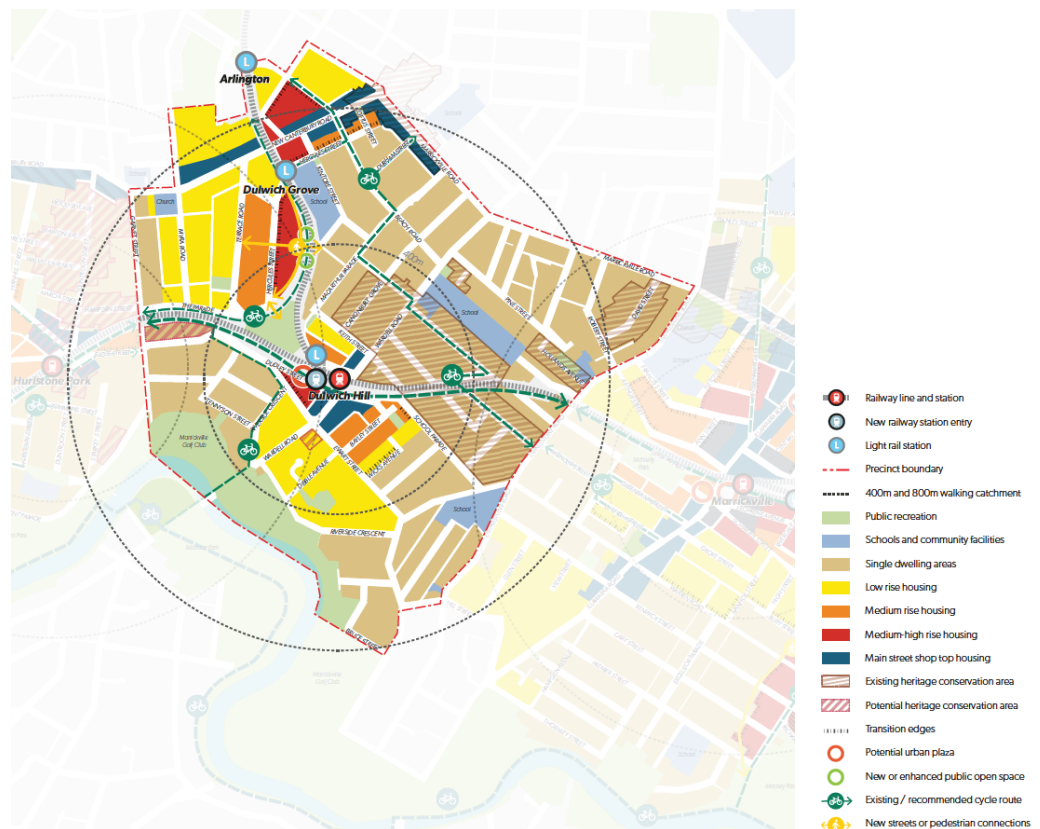
Eastern City District Plan 2018



Sydenham to Bankstown Urban Renewal Corridor Strategy 2018



Marrickville Urban Strategy BKA 2017 p33



Dulwich Hill Station Precinct 2018 p25

The Sydenham to Bankstown Urban Renewal Corridor Strategy provides the evidence base to support future growth in the Sydenham to

Bankstown Urban Renewal Corridor by identifying opportunities for additional homes and jobs close to public transport, employment areas and town centres. It contains detailed land use and infrastructure analysis for the Dulwich Hill Station Precinct.

The report describes the form of development for Medium-High Rise Housing as:

Medium high rise housing

- *Medium-high rise housing is to be a maximum of eight storeys;*
- *Built form is broken into three tiers, with upper level transitioning further from the setback to provide appropriate scale to the street;*
- *Landscape setbacks, typically 3 metres, will be required at street level;*
- *Ensure articulation in the facade is provided to reduce apparent scale and create interest; and*
- *Terrace style individual entries at ground level..³*

³ *ibid.* p13

2.2 Site Analysis

The site is known as 466 – 480 New Canterbury Road, Dulwich Hill and includes 26 to 38 Hercules Street. The site plan below shows the street addresses, cadastre boundary lines and legal description.



Subject Site

Source: RPData 2017

The site comprises a primary site and a secondary site. The proponent Angus Development Pty Ltd has an interest in ten parcels of land comprising the primary site, which includes 26 to 38 Hercules Street but does not currently have an interest in the properties comprising the secondary site. The primary comprises the following lots and part lots as reflected on the drawing below:

- Lot 1 DP236603;

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- Lot 2 DP236603;
 - Lot 3 DP236603;
 - Lot 5 DP236603;
 - Lot 6 DP236603;
 - Lot 7 DP236603;
 - Lot 1 DP540366;
 - Lot 2 DP540366;
 - South-eastern part of Lot 4 DP540366;
 - South-eastern part of Lot 14 Section 4 DP932;

The site the subject of the planning proposal necessarily includes a secondary site comprising four parcels of land not in the ownership of the proponent but effectively completing the island site, these include:

- Lot 1 DP542147;
- Lot 2 DP542147;
- Lot 3 DP542147;
- Lot 4 DP542147;
- North-western part of Lot 4 DP540366;
- North-western part of Lot 14 Section 4 DP932;



Subject Site

Source: RPData 2017

Primary site



Secondary site





Site with 5m contour overlay Source: RPData 2017



Site: Source RPData 2017

The site has a northern boundary to New Canterbury Road of approximately 78.46m and a southern frontage to Hercules Street of approximately 75.749m. The eastern frontage to Kintore Street is approximately 60.96m. The western frontage to the Light rail is stepped (13.565, 16.915m and 30.685m) 61.17m.

The site accommodates a number of buildings of various ages and styles which are used for light industrial and artisan purposes. On site parking is available in an existing at grade parking area on the southern portion of the site which also provides some limited servicing from Hercules Street. The buildings on the north-east of the site comprise traditional two storey shop top housing while the south-eastern corner of

the site accommodates a two story Church building and single storey brick and tile cottage.

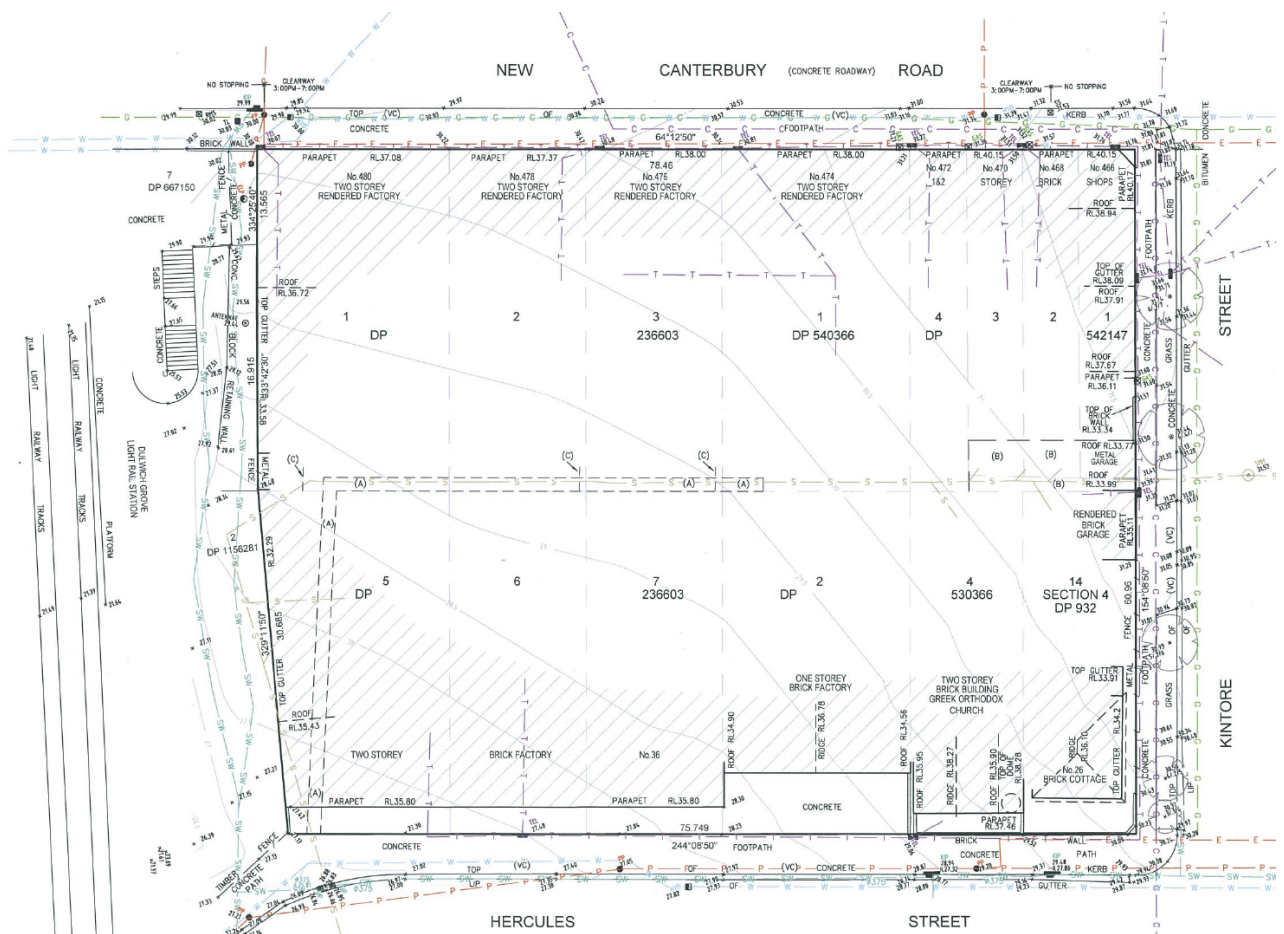
The land to the immediate west of the site has been significantly modified by its past use and recently completed transformation to the light rail corridor. The light rail corridor is located 6 – 9m below the level of the subject site within a deep cutting which currently has little landscaping and no significant relationship to the subject site.



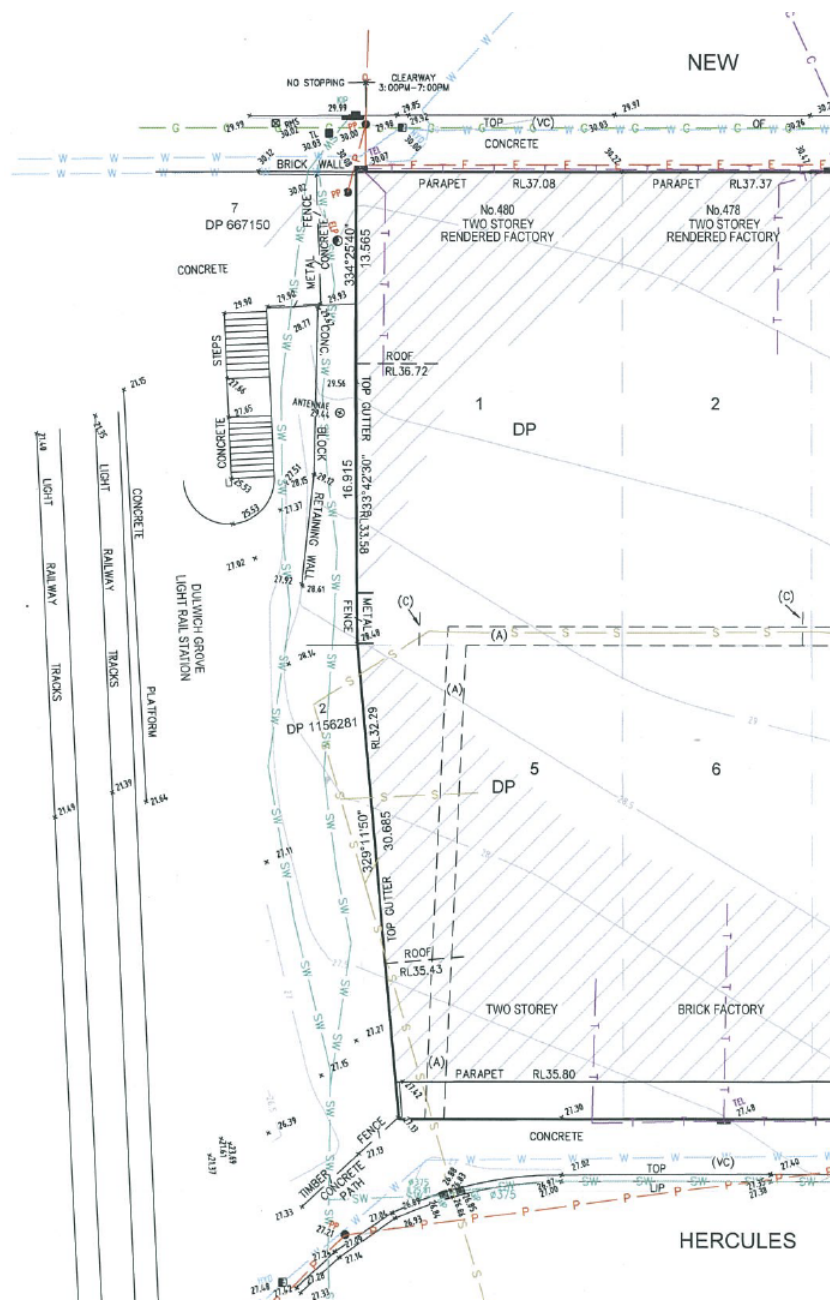
Light Rail Corridor and subject site from the west BKA 2017 p18



Light Rail Cutting BKA 2017 p18



Extract LTS Lockley Survey 2017



MADE AVAILABLE BY THE
CT TO FINAL SURVEY

Extract LTS Lockley Survey 2017

A detailed architectural and heritage assessment⁴ has been undertaken of the existing improvement on the site and identifies buildings and fabric of merit. The study also identifies the uses and tenancies within the buildings on the site. Generally, the buildings are an accretion of

⁴ Urbis Heritage Assessment 2016

structures of varying age and utility which have been combined and extended over time. The study comments:

The subject site is presently characterised by several mid twentieth century low-scale service and industrial buildings covering a majority of the site, four c1920s terrace style shops on the north eastern corner of the site, a late 1970s Greek Orthodox Church (also known as 'Church of the Holy Unmercenaries') located at 28 Hercules Street and an early 1930s inter war period face brick bungalow on the corner of Hercules Street and Kintore Street.



Terrace style shop top housing New Canterbury Road

The subject site is not a heritage listed item on Schedule 5 of the Marrickville Local Environment Plan (LEP) 2011, nor is it located within a Heritage Conservation Area (HCA) or in the vicinity of heritage listed items on the LEP. However, Marrickville Council requires a heritage assessment in order to assess the overall character and significance of the site and mainly that of the four 1920s terrace style shops and the late 1970s Greek Orthodox Church.

Based on this assessment, it is considered that the four c1920s terrace style shops pertain some historic and aesthetic value. Historically, they contribute to a key period of development along New Canterbury Road

and aesthetically they demonstrate the principal characteristics of the traditional suburban shopping area with their surviving parapeted roof forms, recessed shopfronts and generally intact first floor shop facades. However, the subject terraces do not meet the criterion for local heritage listing and they do not form a part of the *Dulwich Hill Commercial Precinct Heritage Conservation Area*, identified as being located further east of the subject site near the intersection of New Canterbury Road and Marrickville Road.



Church of the Holy Unmercenaries

Based on this assessment, it is also considered that the late 1970s Greek Church pertains some historic, aesthetic and social value. Historically and aesthetically, it is somewhat representative of the late twentieth century 'Immigrant's Nostalgic Style'; however, it is not considered to be a good example of the typology. Socially, it may have some significance to the local Greek Orthodox community. However, it does not meet the criterion for local heritage listing.

The study concludes that while the site in itself does not meet the criterion for local heritage significance; the history of use, contribution to the local character and the community contribute towards a recommendation that the terrace style buildings and Church site be retained and integrated into the redevelopment of the site as a sustainable outcome that retains a tangible link to the former uses.



DKA 2017 p26

An Overland Flow Flood Study has been carried out given the occurrence of Council/State Rail stormwater assets on the site.

This low point is located within the New Canterbury Road reserve which has a longitudinal grade of approximately 1% in a west-south-west direction. As can be seen in Figure 3 the surface levels at the top of the kerb at the boundary of the subject site are approximately 0.2 metres higher than the low point on the road. Assuming flow can be conveyed down two lanes of the road (half of the Canterbury Road width) the total flowpath width is approximately 7 metres wide. Using Mannings equation it was estimated that the peak 100 year ARI flows (1.2 m³/s) can be wholly contained within the road reserve in the event that the drainage system is fully blocked.

It is therefore estimated that the site is not affected by overland flow flooding from New Canterbury Road.⁵

⁵ Cardno Overland Flow Flood Advice 466 – 488 New Canterbury Road, Dulwich Hill 2016 p3

The low point in Hercules Street is located at the south-west corner of the subject site as shown in Figure 4. Flows that pond within the road reserve at this location are assumed to preferentially discharge south into the Dulwich Hill Public School which has a minimum ground level of 27.0 m AHD compared to the minimum site levels at the south-west corner of 27.2m AHD.

It is therefore estimated that the site is not affected due to ponding on Hercules Street.⁶

In summary, the report concludes that the site is not affected by the overland flow flooding in the local street network.

A consideration of the Acoustic Environment has been undertaken with attention to aircraft noise. The subject site is located below the ANEF 20 contours) with a predicted external noise level from aircraft fly over's does not represent an area with an excessive noise level and is similar to other sites which have been developed for residential use within the Sydney area. All internal noise levels within the development will be less than the required criteria within the Australian Standards and will result in an acceptable acoustic amenity for future tenants. It is noted that many buildings within the Sydney region have included suitable acoustic treatments to ensure internal noise levels comply with the relevant council and Australian Standards and additional treatments to the external balconies or gardens of residential buildings with exposure to environmental noise sources, greater than that of the proposed development.

⁶ Ibid. p5



An investigation of the traffic and parking environment has been undertaken by Transport and Traffic Planning Associates⁷.

Observations of the intersections in the vicinity of the site during the morning and afternoon peak periods have indicated that there are no undue delays or significant capacity issues. Pedestrian crossing movements in the area are facilitated by the crossing facilities provided at the traffic signals and the marked foot crossings.

The turning movements into and out of Kintore Street at New Canterbury Road are facilitated by the regular gaps in the New Canterbury Road traffic flows induced by the operation of the traffic signals to the east and west.

It is noted that the kerbside space in Kintore Street and the southern side of Hercules Street in the vicinity of the site is generally “parked out” (see Figure 2) and this is indicative of the current shortfall of parking for the various uses on the site (i.e. 17 spaces).

It is also noted that the only formal on-street “set-down/pick-up”

⁷ Transport and Traffic Planning Associates 466 – 480 New Canterbury Road, Dulwich Hill Assessment of Traffic and Parking Implications 2017

provision for the school is located in Kintore Street at the school entrance and the kerbspace on the northern side of Hercules Street is not available for parking due to the continuous driveway access for the on-street parking spaces.⁸

The proposed development scheme represents a mixed residential/retail use which is consistent with the planning objectives of the Council.

Assessment has concluded that:

- 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;
- the envisaged parking provision which would be suitable and compliant to the Council's DCP can be accommodated on the site;
- the envisaged internal circulation, parking and servicing arrangements will be satisfactory;
- the envisaged vehicle access arrangements will be acceptable;
- the envisaged loading arrangements will be appropriate and service vehicles will be able to enter and exit in a forward direction.⁹

⁸ Ibid. p6

⁹ Ibid. p14



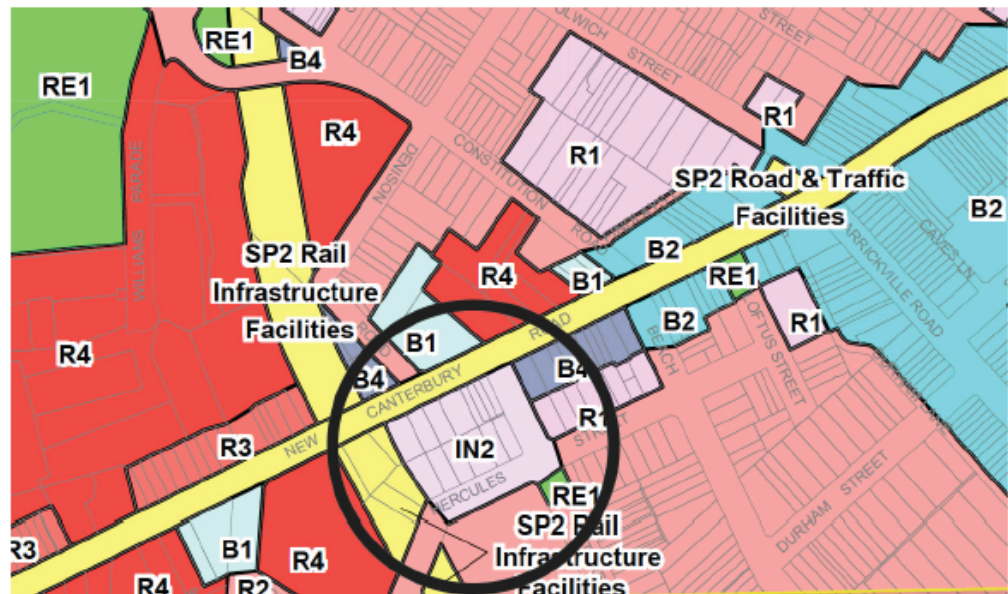
Common western boundary of the subject site interface with the light rail corridor

525 - 541 New Canterbury Road



Source: RPData 2017

The land on the northern side of New Canterbury Road is zoned variously R4 High Density Residential, B1 Neighbourhood Centre and B4 Mixed Uses. It accommodates a mix of residential and commercial uses and ranges in height and density from 2 – 4 storeys.



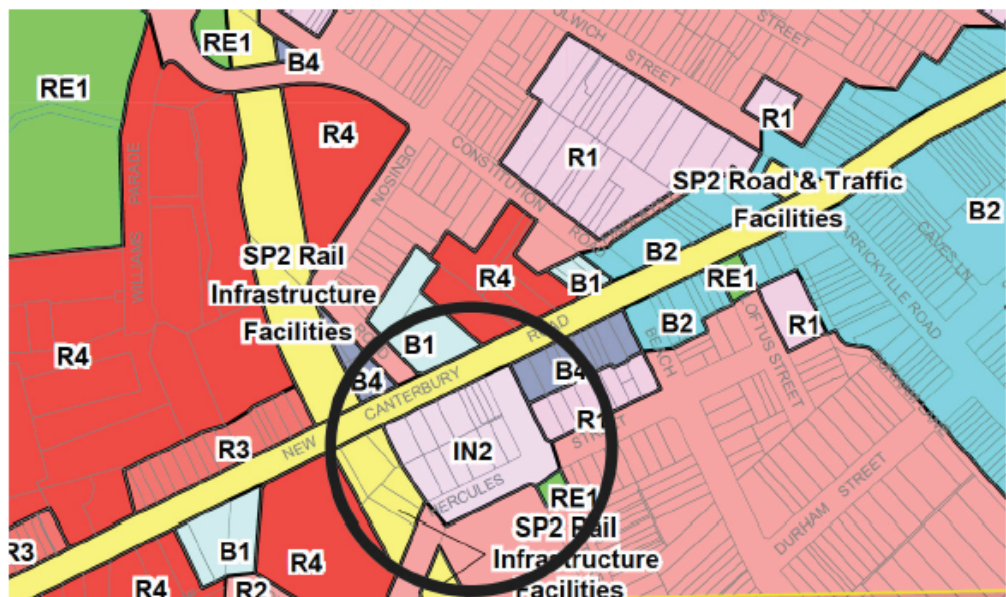
Extract from LEP 2011 zoning map

553 - 575 New Canterbury Road



Source: RPData 2017

The land to the north-west of the subject site is generally zoned R4 High Density Residential with a limited strip of R3 Medium Density fronting the street. It accommodates a mix of residential uses and ranges in height and density from 2 storeys on New Canterbury Road to 5 storeys on the lots behind.



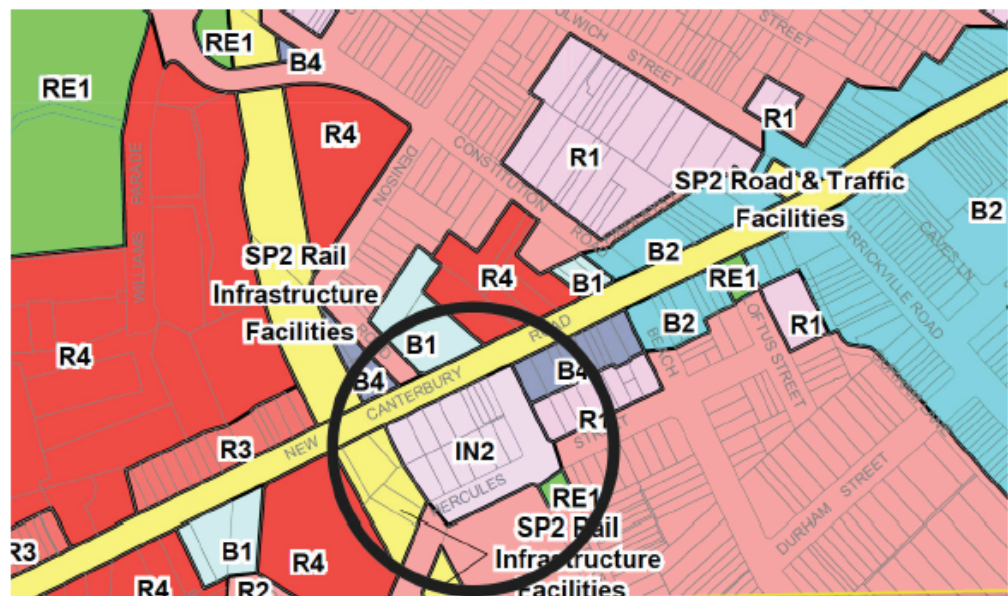
Extract from LEP 2011 zoning map

491 - 521 New Canterbury Road



Source: RPData 2017

The land to the north-east of the subject site is generally zoned B2 Local Centre. It accommodates a mix of residential uses and ranges in height and density from 3 – 4 storeys.



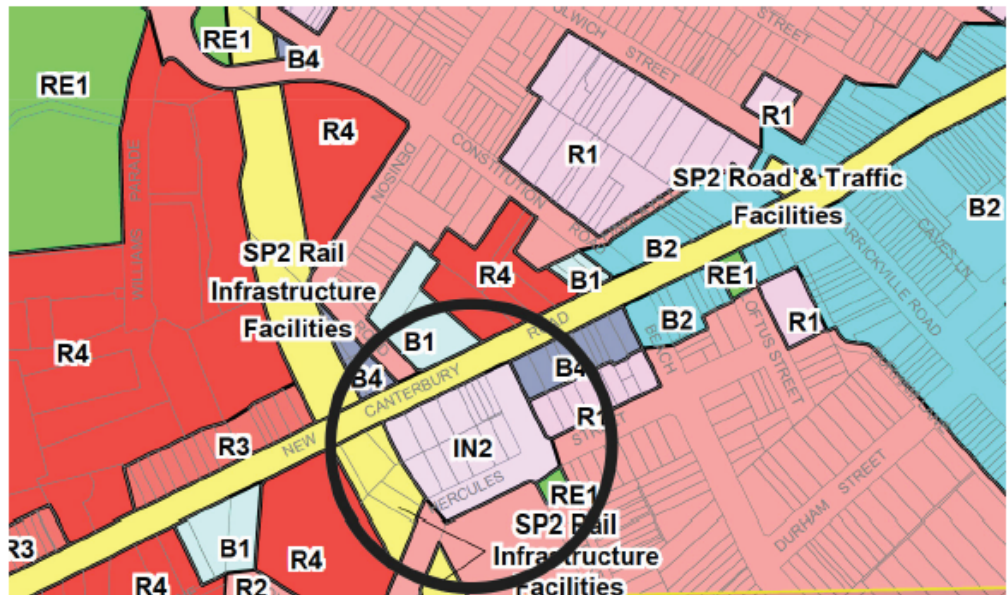
Extract from LEP 2011 zoning map

438 - 464 New Canterbury Road & 6 – 22 Hercules Street



Source: RPData 2017

The land to the east of the subject site is generally zoned B4 Mixed Use fronting New Canterbury Road and R1 General Residential fronting Hercules Street. It accommodates a mix of 2 storeys shop top housing on New Canterbury Road and 2 – 3 storey residential on Hercules Street.



Extract from LEP 2011 zoning map

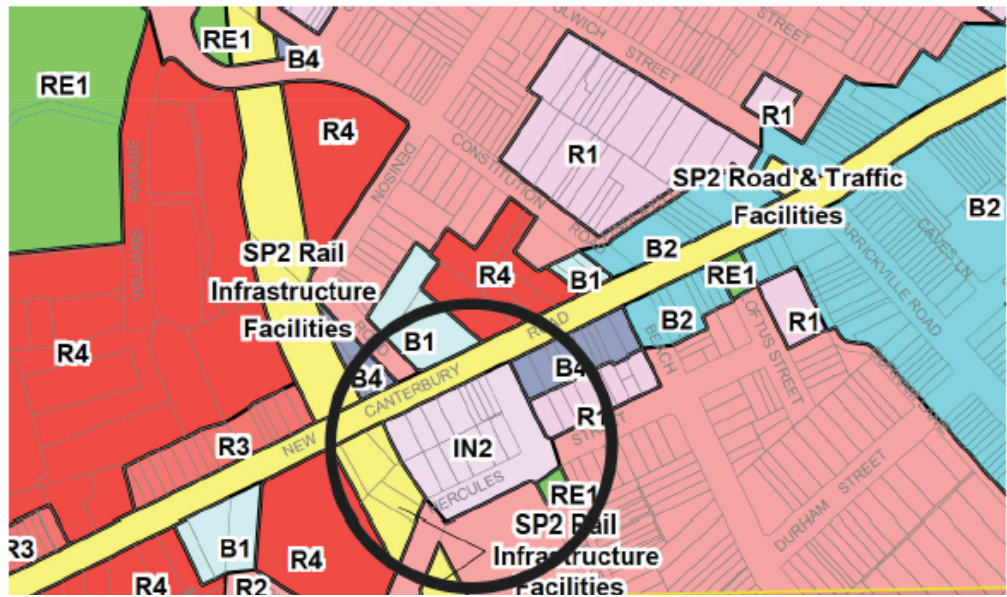
1 - 13 Kintore Street & 13 – 23 Hercules Street



Source: RPData 2017

Low density residential land adjoins the site across Hercules Street to the south-east and is zoned R2 under the provisions of Marrickville LEP 2011. The land is variously developed with single dwellings which generally fronts Hercules and Kintore Streets.

The dwellings are a mixture of detached and semi-detached single and two storey dwellings with a regular subdivision pattern of small lots. Dwellings are built close to the street alignment with open space to the rear.



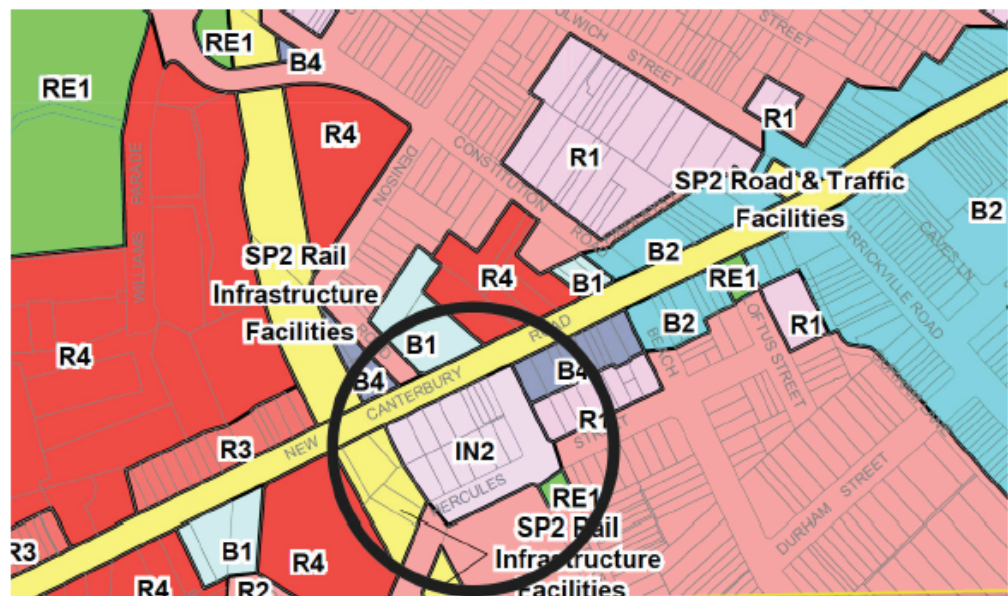
Extract from LEP 2011 zoning map

Dulwich Hill Public School



Source: RPData 2017

The land to the south of the subject site is generally zoned R2 Low Density Residential but accommodates a school with playing field and recreation areas fronting Hercules Street.



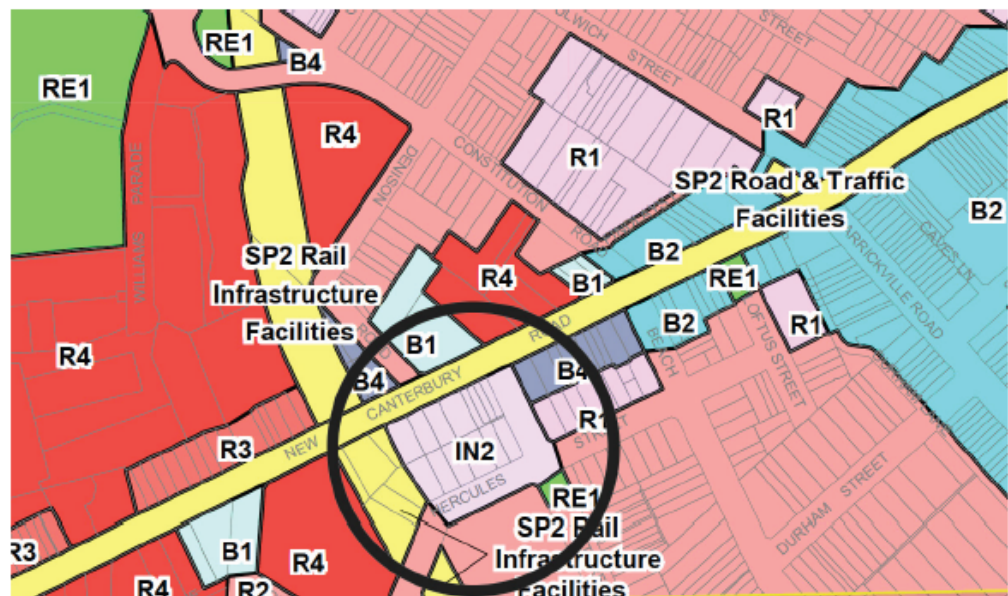
Extract from LEP 2011 zoning map

1 – 9 Terrace Road



Source: RPData 2017

The land to the west of the subject site beyond the light rail corridor is generally zoned R4 High Density Residential. It accommodates an extensive residential development uses and ranges in height and density from 3 - 4 storeys.



Extract from LEP 2011 zoning map

2.4 Development History

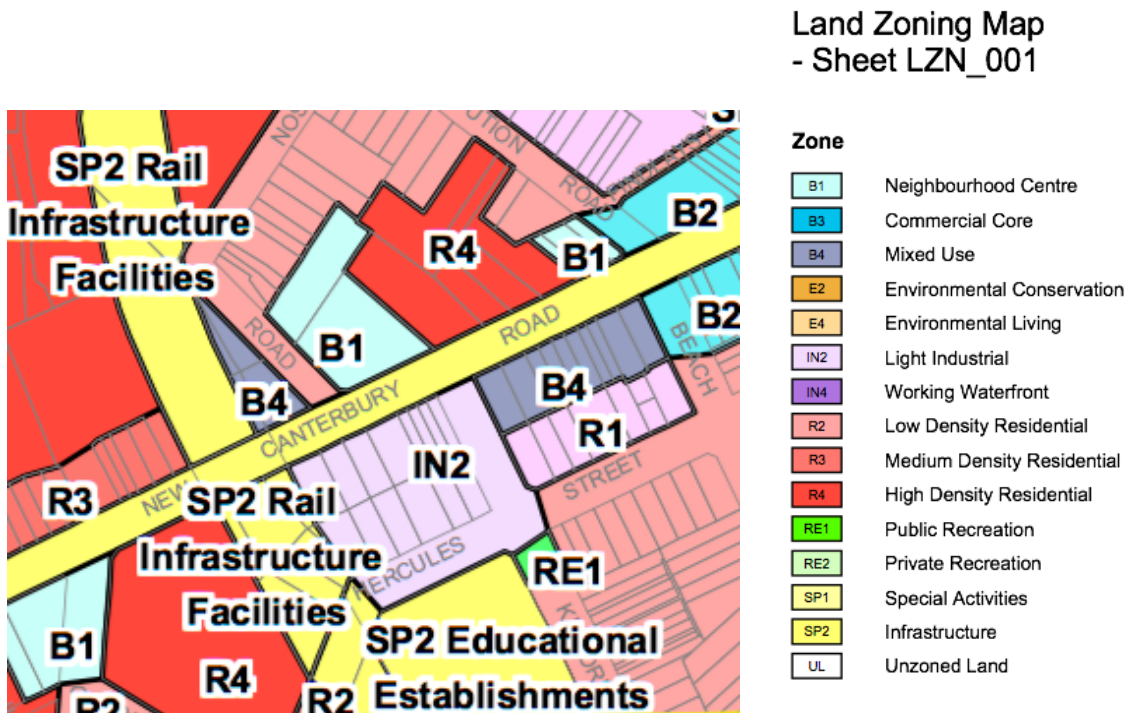
The subject site is presently characterised by several mid twentieth century low-scale service and industrial buildings covering a majority of the site, four c1920s terrace style shops on the north eastern corner of the site, a late 1970s Greek Orthodox Church (also known as 'Church of the Holy Unmercenaries') located at 28 Hercules Street and an early 1930s inter war period face brick bungalow on the corner of Hercules Street and Kintore Street.

A variety of use applications have been approved on the subject site for the light industrial and retail tenants since the 1960's.

3.0 Statutory Context

3.1 Zoning

The subject site is zoned Zoned IN2 –Light Industrial under Marrickville Local Environmental Plan 2011.



The specific objectives of the zone are:

Zone IN2 Light Industrial

1 Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.

-
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
 - To support and protect industrial land for industrial uses.
 - To provide business and office premises for the purposes of certain art, technology, production and design sectors.
 - To enable a purpose-built dwelling house to be used in certain circumstances as a dwelling house.

2 Permitted without consent

Home occupations

3 Permitted with consent

Depots; Dwelling houses; Garden centres; Hardware and building supplies; Hospitals; Industrial training facilities; Intensive plant agriculture; Kiosks; Landscaping material supplies; Light industries; Markets; Neighbourhood shops; Plant nurseries; Roads; Sewage reticulation systems; Take away food and drink premises; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Eco-tourist facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industries; Information and education

facilities; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Passenger transport facilities; Port facilities; Public administration buildings; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Restricted premises; Retail premises; Rural industries; Sewerage systems; Tourist and visitor accommodation; Vehicle body repair workshops; Waste or resource management facilities; Water recreation structures; Water supply systems; Wholesale supplies

3.2 Key Objectives and Development Control Standards

2.5 Additional permitted uses for particular land

(1) Development on particular land that is described or referred to in Schedule 1 may be carried out:

- (a) with development consent, or
- (b) if the Schedule so provides—without development consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.

(2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

This clause allows additional permitted uses for particular land as included in Schedule 1.

4.3 Height of buildings

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

- (a) to establish the maximum height of buildings,
 - (b) to ensure building height is consistent with the desired future character of an area,
 - (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,
 - (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Includes objectives of the building height controls for the site.

The subject site has no height control.

4.4 Floor space ratio

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

- (a) to establish the maximum floor space ratio,
- (b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,
- (c) to minimise adverse environmental impacts on adjoining properties

and the public domain.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

(2A) Despite subclause (2), development for the purposes of attached dwellings, bed and breakfast accommodation, dwelling houses and semi-detached dwellings on land labelled “F” on the Floor Space Ratio Map is not to exceed the relevant floor space ratio determined in accordance with the Table to this subclause.

(2B) Despite subclause (2), development for the purposes of residential flat buildings on land identified with a thick red line and labelled “F” on the Floor Space Ratio Map may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map by no more than 0.25:1.

0.95:1

Includes objectives of the FSR controls for the site.

A building cannot be erected on the subject site with a FSR exceeding 0.95:1.

5.3 Development near zone boundaries

(1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

(2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 25 metres.

(3) This clause does not apply to:

- (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or
- (b) land within the coastal zone, or

(c) land proposed to be developed for the purpose of sex services or restricted premises.

(4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:

(a) the development is not inconsistent with the objectives for development in both zones, and

(b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

(5) This clause does not prescribe a development standard that may be varied under this Plan.

The clause allows flexibility of uses across the zones.

5.6 Architectural roof features

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

(a) to permit variations to maximum building height standards for roof features of visual interest, and

(b) to ensure that roof features are decorative elements and that the majority of the roof is contained within the maximum building height standard.

(2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.

(3) Development consent must not be granted to any such development unless the consent authority is satisfied that:

(a) the architectural roof feature:

(i) comprises a decorative element on the uppermost portion of a building, and

(ii) is not an advertising structure, and

(iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and

(iv) will cause minimal overshadowing, and

(b) any building identification signage or equipment for servicing the

building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

This clause encourages visual interest amongst roof forms.

5.9 Preservation of trees or vegetation

(1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.

(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

- (a) development consent, or
- (b) a permit granted by the Council.

(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.

(5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.

(6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.

(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:

- (a) that is or forms part of a heritage item or that is within a heritage conservation area, or
 - (b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,
- unless the Council is satisfied that the proposed activity:

(c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and

(d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.

(8) This clause does not apply to or in respect of:

(a) the clearing of native vegetation:

(i) that is authorised by a development consent or property vegetation plan under the Native Vegetation Act 2003, or

(ii) that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or

(b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the Native Vegetation Act 2003)

that is authorised by a development consent under the provisions of the Native Vegetation Conservation Act 1997 as continued in force by that clause, or

(c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the Forestry Act 1916, or

(d) action required or authorised to be done by or under the Electricity Supply Act 1995, the Roads Act 1993 or the Surveying and Spatial Information Act 2002, or

(e) plants declared to be noxious weeds under the Noxious Weeds Act 1993.

Note. Permissibility may be a matter that is determined by or under any of these Acts.

(9) [Not adopted]

This clause protects significant trees on the site.

6.1 Acid sulfate soils

(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

(2) Development consent is required for the carrying out of works

described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the *Acid Sulfate Soils Manual* and has been provided to the consent authority.

(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if:

(a) a preliminary assessment of the proposed works prepared in accordance with the *Acid Sulfate Soils Manual* indicates that an acid sulfate soils management plan is not required for the works, and

(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.

(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):

(a) emergency work, being the repair or replacement of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,

(b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),

(c) minor work, being work that costs less than \$20,000 (other than drainage work).

(6) Despite subclause (2), development consent is not required under this clause to carry out any works if:

(a) the works involve the disturbance of less than 1 tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins), foundations or flood mitigation works, or

(b) the works are not likely to lower the watertable.

Class 5
The subject site is identified as Class 5 land.
<p>6.2 Earthworks</p> <p>(1) The objectives of this clause are as follows:</p> <p>(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,</p> <p>(b) to allow earthworks of a minor nature without requiring separate development consent.</p> <p>(2) Development consent is required for earthworks unless:</p> <p>(a) the work is exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the work is ancillary to other development for which development consent has been given.</p> <p>(3) Before granting development consent for earthworks, the consent authority must consider the following matters:</p> <p>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</p> <p>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</p> <p>Note. The <u>National Parks and Wildlife Act 1974</u>, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.</p>
This clause requires consideration of excavation in terms of stability, drainage and the constitution of excavated material.
6.3 Flood planning

-
- (1) The objectives of this clause are as follows:
- (a) to minimise the flood risk to life and property associated with the use of land,
 - (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
 - (c) to avoid significant adverse impacts on flood behaviour and the environment.
- (2) This clause applies to:
- (a) land that is shown as "Flood planning area" on the Flood Planning Map, and
 - (b) other land at or below the flood planning level.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
- (a) is compatible with the flood hazard of the land, and
 - (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
 - (c) incorporates appropriate measures to manage risk to life from flood, and
 - (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
 - (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.
- (4) A word or expression used in this clause has the same meaning as it has in the *Floodplain Development Manual* (ISBN 0 7347 5476 0), published in 2005 by the NSW Government, unless it is otherwise defined in this clause.
- (5) In this clause, *flood planning level* means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

The site is not identified as being flood affected.

6.4 Terrestrial biodiversity

- (1) The objective of this clause is to maintain terrestrial biodiversity

by:

- (a) protecting native fauna and flora, and
- (b) protecting the ecological processes necessary for their continued existence, and
- (c) encouraging the conservation and recovery of native fauna and flora and their habitats.

(2) This clause applies to land identified as “Biodiversity” on the Natural Resource—Biodiversity Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider whether or not the development:

- (a) is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
- (b) is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
- (c) has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
- (d) is likely to have any adverse impact on the habitat elements providing connectivity on the land.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

This clause requires consideration of the terrestrial biodiversity of the site. The site is not identified as being significant.

6.5 Development in areas subject to aircraft noise

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

- (a) to prevent certain noise sensitive developments from being located near the Kingsford Smith Airport and its flight paths,
- (b) to assist in minimising the impact of aircraft noise from that airport

and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,

(c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.

(2) This clause applies to development that:

(a) is on land that:

(i) is near the Kingsford Smith Airport, and

(ii) is in an ANEF contour of 20 or greater, and

(b) the consent authority considers is likely to be adversely affected by aircraft noise.

(3) Before determining a development application for development to which this clause applies, the consent authority:

(a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and

(b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and

(c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.

(4) In this clause:

ANEF contour means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for the Kingsford Smith Airport prepared by the Department of the Commonwealth responsible for airports.

AS 2021—2000 means AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*.

The site is not located above the 20 ANEF contour.

6.11 Use of dwelling houses in business and industrial zones

(1) The objective of this clause is to provide for the use of purpose built dwelling houses in business and industrial zones, for residential purposes, under particular circumstances.

(2) This clause applies to land in the following zones:

(a) Zone B1 Neighbourhood Centre,

-
- (b) Zone B4 Mixed Use,
 - (c) Zone B5 Business Development,
 - (d) Zone B6 Enterprise Corridor,
 - (e) Zone B7 Business Park,
 - (f) Zone IN1 General Industrial,
 - (g) Zone IN2 Light Industrial.
- (3) Development consent must not be granted to development for the purpose of a dwelling house on land to which this clause applies unless:
- (a) the development relates to a building that was designed and constructed for the purpose of a dwelling house and was erected before the commencement of this Plan, and
 - (b) the building will offer satisfactory residential amenity.

This clause allows the continued use of dwelling houses.

5.10 Heritage conservation

Note. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

(1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 - (i) a heritage item,

-
- (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,
 - (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
 - (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
 - (d) disturbing or excavating an Aboriginal place of heritage significance,
 - (e) erecting a building on land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
 - (f) subdividing land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) When consent not required

However, development consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
 - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place,

archaeological site or heritage conservation area, or
(b) the development is in a cemetery or burial ground and the proposed development:

- (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
- (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or

(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or

(d) the development is exempt development.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) Demolition of nominated State heritage items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of

heritage significance is facilitated by the granting of consent, and

(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and

(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and

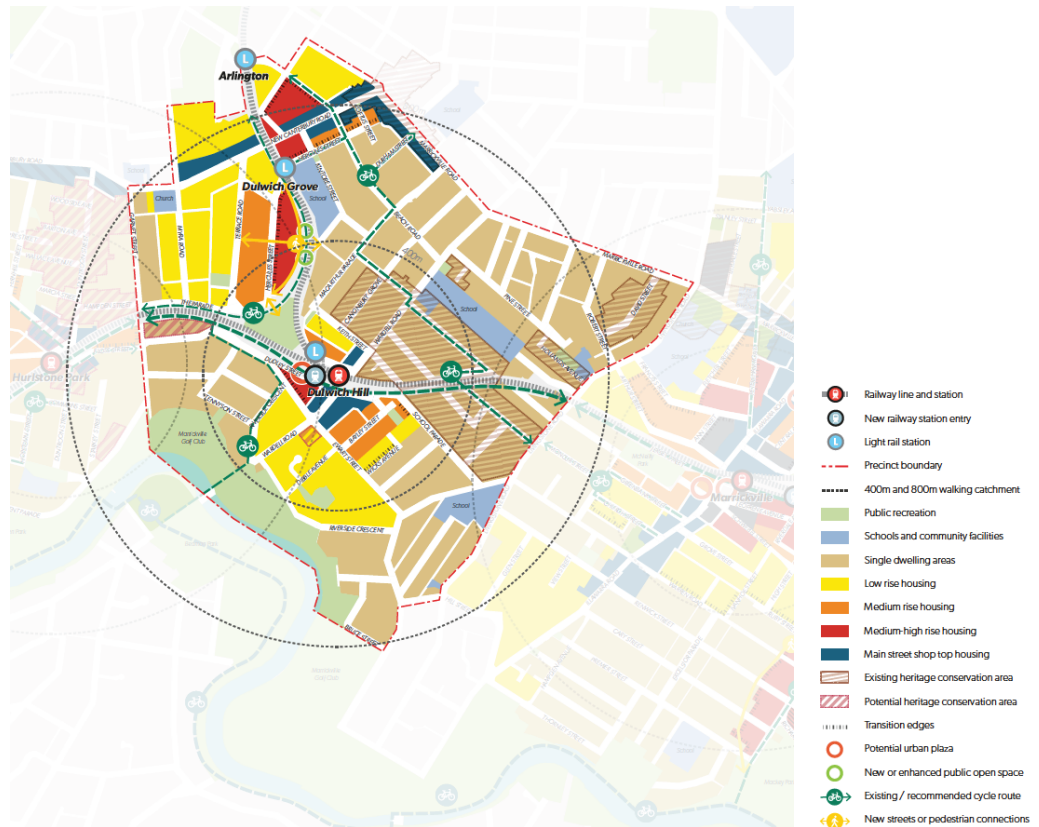
(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and

(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

The subject site is not identified as being located within a heritage conservation area and is not a heritage item.

3.3 Strategic Context

Dulwich Hill Station Precinct Sydenham to Bankstown Urban renewal Corridor Strategy 2017



Dulwich Hill Station Precinct 2018 p25

The Sydenham to Bankstown Urban Renewal Corridor Strategy provides the evidence base to support future growth in the Sydenham to Bankstown Urban Renewal Corridor by identifying opportunities for additional homes and jobs close to public transport, employment areas and town centres. It contains detailed land use and infrastructure analysis for the Dulwich Hill Station Precinct.

The report describes the form of development for Medium-High Rise Housing as:

Medium high rise housing

- *Medium-high rise housing is to be a maximum of eight storeys;*
- *Built form is broken into three tiers, with upper level transitioning further from the setback to provide appropriate scale to the street;*
- *Landscape setbacks, typically 3 metres, will be required at street level;*
- *Ensure articulation in the facade is provided to reduce apparent scale and create interest; and*
- *Terrace style individual entries at ground level..¹⁰*

The subject site presents a unique redevelopment of an existing degraded light industrial precinct by retaining and upgrading those facilities and buildings of architectural and social significance to satisfy contemporary access, fire safety and amenity standards and integrate them into a larger site redevelopment, creating pedestrian linkages and dealing with traffic and parking demands on site. A significant portion of the site is built upon an area which creates the opportunity for a residential interface providing a buffer to the lower density residential uses beyond and providing a local population to support and enhance the broader Dulwich Hill town centre without competing with it. The site provides the opportunity for the provision of additional public open

¹⁰ *ibid.* p13

space and attendant pedestrian networks linking the area, through the site, to the light rail station and the Dulwich Hill town centre.

Marrickville Urban Strategy 2007

Marrickville Urban Strategy preceded and informed the preparation of Marrickville Local Environmental Plan 2011. The Strategy included the following observations;

In responding to demands for future dwellings and employment, Marrickville is constrained by a number of physical and planning issues, including heritage, small lot sizes, noise (aircraft, road and rail freight), environment (flooding, contamination and acid sulphate soils), patterns of land ownership, and high land values in currently developed areas.

These issues discourage the incidence of redevelopment in many cases as a result of policy conflict or lack of commercial feasibility. An Urban Strategy Model was developed to assess the extent of these development constraint issues in Marrickville and to review the dwelling potential.

The analysis suggests that the Marrickville LGA is faced with many redevelopment constraints and that policy changes are required if anticipated dwelling demands are to be satisfied in Marrickville over the next 25 years. It is also apparent that if some form of policy intervention does not occur, the tightness of supply will contribute to continuing declining population, declining housing affordability and will consequently discourage community diversity.

Six urban renewal approaches were developed to inform policy options for future residential development and identify an appropriate dwelling target for Marrickville. The urban renewal approaches were informed by the Urban Strategy Consultation Process which took into account the policy considerations provided in the Metropolitan Strategy. The Marrickville urban renewal approaches can be described as:

- 1. Focus on residential density in and around centres;*

-
2. *Focus on commercial zoned land in centres;*
 3. *Rezone select industrial sites;*
 4. *Develop new centres;*
 5. *Rezone select special uses sites; and*
 6. *Increase density in infill areas* ¹¹

The Strategy notes the importance of changing local employment patterns and growing creative industries.

The area is also an important gateway to Global Sydney and Airport / Port that are located to the south of the LGA. Historically, the locality had a strong base of traditional manufacturing employment, with a “blue collar” resident workforce. This has changed, with more than 37 percent of the resident labour force travelling to work in the City of Sydney. Local employment in Marrickville has declined over the past ten years; however, there is still a significant amount of employment in the manufacturing and wholesale trade industries, as well as in retail, particularly food-related. There has been recent growth in new employment opportunities with the redevelopment of Sydney Airport, Port Botany and other planned business developments in the Sydney CBD to Airport Corridor.

Changing trends in employment and higher returns from residential development, mean that existing employment or industrial lands are experiencing some pressure for redevelopment to residential uses. In more recent times the area has seen a growing arts and cultural precinct in Newtown, Enmore and Sydenham. ¹²

The Strategy also identifies the traffic and noise and increasing tensions and conflict between road users. The narrow road network and reliance on railways and walking is identified and supported.

Marrickville has a high level of walking and cycling and low levels of car

¹¹ Marrickville Urban Strategy 2007 piii

¹² Ibid. p9

ownership compared to Sydney averages. It has a comprehensive rail and bus network that provides a strong infrastructure base to build improved services. The attractiveness of Marrickville as an inner city location with good access to the city brings additional pressures on the housing market and transport systems. There are some tensions arising from increasing through-traffic in residential areas. Aircraft noise, trucks and freight rail are also projected to increase in the future.¹³

The narrow streets and grid layout of the northern suburbs of the LGA reflect a reliance on the railways and walking at their time of development. Further south, the wider streets and larger blocks were developed at a time of increasing reliance on private vehicles. Marrickville suburbs contain a broad spectrum of people and housing types, with suburbs ranging from high density apartment style accommodation in parts of Camperdown and Newtown, to larger detached houses with backyards in Lewisham, Dulwich Hill and Marrickville.

Local heritage is highly valued and adds to the character of the LGA. Residents also value proximity to shops and services, transport, parks, recreation, leisure, arts and cultural opportunities. Communities are placing an increasing importance on access to open space as the value of an active lifestyle is recognised.¹⁴

The Strategy sets out the following vision for Marrickville for 2025:

The Marrickville area is a great place to live and visit that represents the best of multicultural inner-city living. The Marrickville Local Government Area is a diverse, vibrant and innovative area that acknowledges and is proud of its original people – the Cadigal - Wangal – and of each new generation of immigrants that have settled here. Marrickville Council will work with the people of Marrickville to ensure that we maintain and build upon those elements of the community that we value, in order to keep Marrickville a great place to live in 2025 and

¹³ *ibid.* p10

¹⁴ *ibid.* p10

beyond.

The people and Council of Marrickville will strive to:

- support and promote our community's well-being and harmony, cultural diversity and inclusiveness so as to ensure that all people continue to feel welcome and feel that they belong;*
- make Marrickville a centrepiece of inner-city ecologically sustainable development and environmentally sensitive principles through education, planning, programs, cooperation, and promotion of responsible individual and corporate conduct;*
- continue creating and maintaining clean, green and attractive public places of which citizens feel proud;*
- develop a community which is more liveable, safer and accessible to all citizens;*
- promote a vibrant street-life that encourages the community to engage and welcomes visitors, where local businesses flourish, and local village shopping precincts are attractive and sustainable;*
- have Marrickville recognised as a leading learning and creative arts centre of Sydney, that continues to celebrate and reflect on our Indigenous and post-settlement history and society;*
- plan, promote and lobby for a sustainable and integrated transport system that improves the quality of life for the people of Marrickville;*
- maintain the vibrancy and liveability of Marrickville by having balanced and guided development, clean industry, and work to minimise the noise and other pollutants of our environment; and*
- keep Marrickville Council a leading local government organisation that is progressive, responsive, efficient and accountable and that exists to serve and support the people of*

the Marrickville area.¹⁵

The Strategy includes the following guiding principles which are directly relevant.

There are a number of broad guiding principles that permeate the Urban Strategy as a whole, and influences activity at both the strategic and operational level. These are:

Sustainability

The Urban Strategy should promote sustainable development. The Urban Strategy objectives and actions have implications for Council, residents, business, visitors and the environment. Sustainable development is development that balances the use of natural resources and protection of the natural and built environment, whilst meeting the needs of the current generation and without compromising the ability of future generations to meet their needs.

Community

The Urban Strategy supports a strong participative framework for community decision making through consultation and an emphasis on community building initiatives. Social capital or 'belonging' is one of Marrickville Council's community building goals. Community engagement was a key component of the development of the Urban Strategy. The review and implementation of the Urban Strategy will also include a continued role for the community.

Equity

The Urban Strategy will complement other measures designed to reduce the financial, social and other inequalities apparent across the Marrickville LGA. The Urban Strategy places a strong emphasis on ensuring all stakeholders in Marrickville can benefit from, and participate fully, in the physical, economic, social and cultural life of the area. Improving access to and distribution of affordable housing, employment opportunities, public transport, health, child care,

¹⁵ Ibid. p11

education and other services, based on an understanding of community needs, is critical to enhancing the quality of life and sense of belonging in Marrickville.

Partnership, Innovation and Strategic Thinking

It is recognised that the Urban Strategy will be more effective through the adoption of a joint, collaborative approach to addressing needs and realising opportunities with innovation and strategic thinking at all stages of the process.

While the Strategy is able to quantify and identify housing targets employment targets and strategies for developing employment lands are limited by the available information. The subject site provides the opportunity to retain and achieve its employment potential under the plan by retaining the targeted employment floor space while supporting it with complimentary and compatible residential uses.

Employment Targets

There is a lack of information on the future retail, commercial and industrial land needs in the LGA.

One of the recommendations of the Urban Strategy is for Council to undertake a detailed land use audit of employment lands across the LGA combined with local industry surveys and consultation. Meanwhile, the Urban Strategy recognises the importance of maintaining jobs and employment lands in the LGA.¹⁶

3. STRENGTHEN AND RENEW THE MARRICKVILLE/SYDENHAM STRATEGIC EMPLOYMENT LANDS

The employment lands in Marrickville, Sydenham, St Peters and Tempe provide both metropolitan wide and local employment opportunities. These lands are coming under increasing pressure for conversion to other activities. The employment lands are close and well connected to the airport and port and play a vital strategic economic role for Sydney's and the country's benefit. They also provide spaces for new

¹⁶ Ibid. p20

enterprises and 'start-ups' for local businesses. As some large land users move to outer suburban locations, and production moves away from Sydney or offshore, there may be changes to the types of businesses in these lands with, in some cases, less land required. This may provide opportunities for mixed use redevelopment of selected employment sites. These redevelopments should occur according to strict criteria that ensure opportunities for economic development are not diminished. However, the strategic employment lands should be supported and strengthened to maintain suitable inner city locations to service future needs. It may be necessary to modernise "run-down" industrial areas where opportunities arise and this will require partnership with landowners and the State Government.¹⁷

The rezoning of employment lands was seen to present a threat to retaining local employment opportunities. However, activities on some employment lands were also seen as threatening residential amenity in a number of cases. The community was keen to maintain and revitalise local centres, and willing to support increased density within centres as part of this process provided it was in character with the surrounding area. The community highlighted the importance of protecting and retaining local employment opportunities, while addressing residential amenity issues. Retaining and developing suitable buffers around employment lands was seen as one way to achieve this.

The Sydney Metropolitan Strategy is planning for an additional 500,000 jobs by 2031. State policy guidelines include concentrating retail activities in centres, business development zones and enterprise corridors, supporting the role of economic and enterprise corridors, protecting and enhancing employment lands of state significance, and facilitating the use of old industrial areas.

Local employment in Marrickville has declined over the last decade by 7.8 percent (to 23,850 jobs at the time of the last census in 2001); however there is still a significant amount of employment in the manufacturing and wholesale trade industries, as well as in retail,

¹⁷ Ibid. p20

particularly food-related. The change in employment by industry from 1996 to 2001 is shown in Figure 10. Marrickville has a number of competitive strengths as a destination for investment including proximity to the Sydney CBD, the airport and port, location in the Global Economic Corridor, a high proportion of resident knowledge workers, and proximity to knowledge precincts such as the University of Sydney and Royal Prince Alfred Hospital.¹⁸

The Strategy includes the following actions for achieving these aims and objectives;

Action 3.2: Preserve and strengthen strategic employment lands

The Urban Strategy identifies selected employment areas that could be investigated for redevelopment of mixed use activities and new centres (Action 1.4 and 1.5). These actions were identified to cater for future housing needs, alternative and additional employment uses, and reduce residential conflict. This recommendation was made in recognition of the policy trade-offs which are required.

However, outside of these locations, the Urban Strategy supports the preservation and enhancement of employment lands across the LGA. This action recommends the development of a policy outlining strict rezoning criteria to be applied to future rezoning submissions consistent with Action 1.4. The criteria will be further informed by an understanding of demand and supply for employment lands gained from Action 3.1.

Action 3.3: Improve amenity in industrial areas

Consultation with key stakeholders revealed emerging conflicts with residential uses in a number of locations buffering industrial areas. These conflicts impact upon residential amenity, and hinder business competitiveness. This action proposes that amenity be improved in industrial areas and surrounds through the following means:

¹⁸ Ibid. p38

-
- *Rezoning of select industrial parcels to overcome residential conflict and provide for new forms of employment to act as transition areas (refer to action 1.4);*
 - *Improve the public domain in industrial areas through clean-up programmes and streetscaping;*
 - *Encourage private investment in services and facilities to meet worker needs (i.e. Childcare, retail and food outlets, and public transport);*
 - *Increased Council environmental reporting and monitoring; and*
 - *Establishment of business improvement districts to strengthen the management and competitiveness of precincts (see Action 4.1).*¹⁹

The following action is directly relevant to the subject site and the opportunities it provides:

Action 3.4: Review the existing industrial code

The existing code for industrial development provides built form guidelines and critical environmental standards for industrial development. A review of Council's Industrial Code will seek to ensure a balance can be struck between the intent of the zone and business competitiveness, and residential amenity issues.

Testing of the current industrial types demanded by market forces, within an appropriate environmental context, will inform the review. This overall development code for all industrial development would deal with access and amenity issues, and incorporate more place based development controls for key industrial precincts.

Appropriate treatment of transition areas to control potential amenity impacts between industrial and residential uses may present an opportunity for re-use of edge employment land to meet future demands (i.e. creative industries, community services etc) in addition to responding to housing needs.

¹⁹ Ibid. p41

The industrial code review will consider flexibility within industrial zones to encourage business competitiveness, whilst maintaining residential amenity. It may review uses, precinct and minimum lot sizes. Lot sizes may be made smaller in peripheral areas, near centres and on enterprise corridors to reflect industry demands. It will also review the requirements for environment reporting and monitoring.²⁰

The subject site further provides opportunity to improve public transport, walking and cycling connections.

5. IMPROVE LOCAL PUBLIC TRANSPORT, WALKING AND CYCLING CONNECTIONS TO CENTRES

Marrickville is close to the Sydney CBD, an employment, entertainment and shopping destination for many local residents. At most times of the day, there are good bus and train services to the CBD and other popular locations outside the LGA, such as the eastern beaches and Leichhardt. However, there is scope for continued improvements to services. Council will work with the NSW Government to improve the frequency, reliability, capacity and accessibility of rail and bus services. There are also major developments, either in or near Marrickville, that generate large amounts of traffic through the area.

At the local level, providing connections across the LGA, ('cross-regional' services), and increasing the popularity of walking and cycling for shorter trips is a priority. While Marrickville boasts a relatively low rate of car travel and ownership and high levels of walking and cycling, the increasing traffic and parking issues in the area demonstrate the importance of keeping up support for transport choices.

Using well planned development to encourage local trips by foot and bike will have benefits for the environment, the health of the community, and the viability of local services and facilities. Careful management of parking also plays a role.

²⁰ Ibid. p41

The subject site also provides the opportunity to improve local parks and the public domain in centres.

6. CONTINUE TO IMPROVE LOCAL PARKS AND PUBLIC DOMAIN IN CENTRES

There are many high quality parks in Marrickville LGA and nearby areas. However, increasing residential development is placing more pressure on the use of these facilities. While there is limited potential for increasing the amount of open space in Marrickville, there are many opportunities to improve the quality of existing facilities and satisfy community needs and expectations. New developments on major sites will be required to provide for open space and recreational opportunities, taking into consideration the needs of the broader Marrickville community. The revitalisation of centres and stations will also consider the importance of the urban domain and planning for public places. The Marrickville Community Plan already identifies the important role of public open spaces.

The actions in the Community Plan include improved management of picnic facilities, toilets, sports grounds, play grounds and facilities for dogs in parks. The Community Plan also includes implementing parks renewal programs to “green” Marrickville through new and replacement tree plantings in streets and parks and for provision of trees to residents.²¹

The subject site has a unique opportunity to draw upon and enhance an existing community by providing facilities to develop and maintain a healthy and inclusive community.

7. INVESTIGATE OPPORTUNITIES TO INCREASE COMMUNITY FACILITIES.

As the community grows and changes, so will the demand for

²¹ Ibid. p23

community facilities. To maintain a healthy and inclusive community, it is vital to keep abreast of demographic trends and changes to be able to cater to these needs. Community facilities include child care and school places, transport for older persons and people with a disability, community halls and meeting places, libraries and recreation centres. Council will look for opportunities across the LGA to provide for community facilities to meet increasing needs. Facilities should be sited in accessible locations close to where people live and work and that can be reached by a variety of transport modes. These opportunities may exist as part of redevelopment of major sites in centres, or in under utilised employment lands.

The potential for the provision of community services will be investigated in the redevelopment of major sites. As sites become available for redevelopment, opportunities for entering into voluntary planning agreements will be explored.²²

Consideration of the subject site as part of a mixed use employment generating precinct will create the opportunity for the redevelopment of the subject site to contribute to the costs of realizing the public benefits with the preparation of an appropriate Voluntary Planning Agreement where the residents and occupants of this site will experience a tangible positive effect on the quality of their lives as a result of the amendment.

servicing the whole of Sydney.

Sydney over the Next 20 Years – A Discussion Paper (May 2012)

This Discussion Paper is the first step in the State Government's development of a new Metropolitan Strategy for Sydney.

The Discussion Paper identifies the projected rise in Sydney's population by more than 1.3 million persons by 2031 requiring an estimated 570,000 more new homes as a major issue.

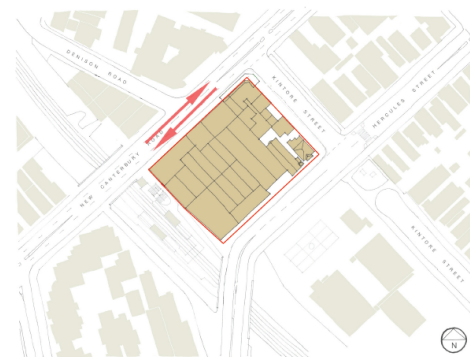
²² Ibid. p24

These estimates are significantly increased from those in the 2005 Metropolitan Strategy and are likely to have a flow on effect in terms of the contribution individual Council's will need to make towards housing supply.

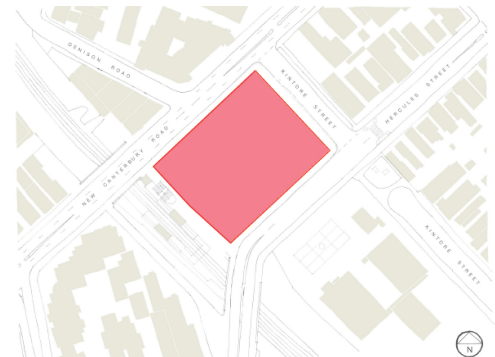
466 – 480 New Canterbury Road, Dulwich Hill – Design Report 2015

A detailed site analysis has been undertaken for the subject site by BKA in association with a variety of specialist consultants which identifies the site characteristics.

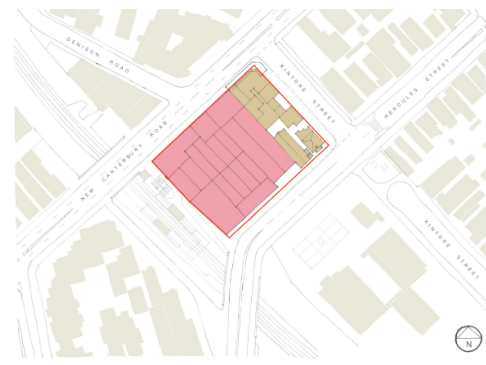
The studies have been used to understand the site constraints and in particular identify the areas of conflict which currently arise from the edge condition between the light industrial and residential zones. The study also looks at the broader area and identifies the areas requiring improvement which might be met through the opportunities presented in any redevelopment of the subject site.



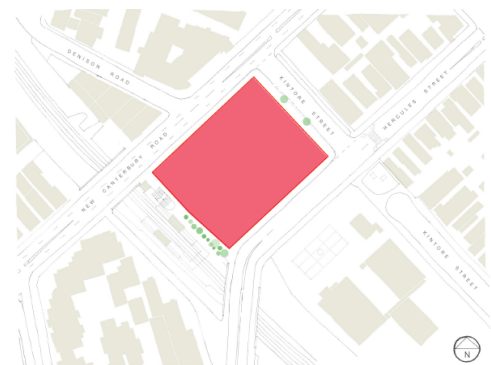
TRAFFIC



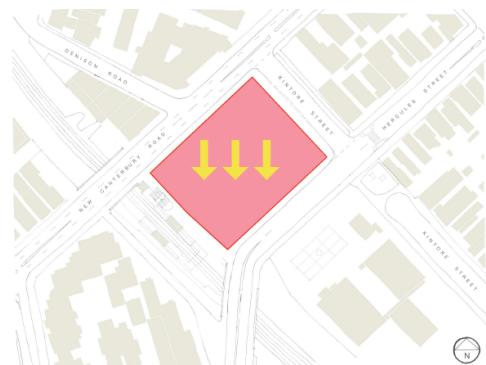
NO PUBLIC OPEN SPACE



INDUSTRIAL SITE SURROUNDED BY LOW DENSITY RESIDENTIAL AND SCHOOL



NO LANDSCAPE

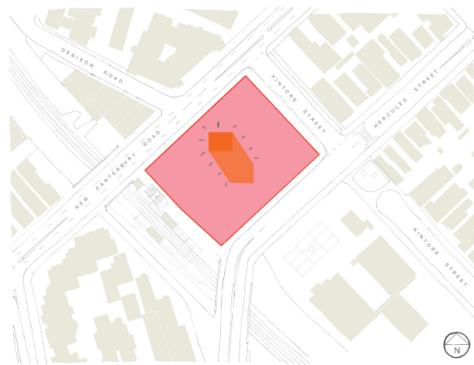


SIGNIFICANT SLOPE ACROSS SITE

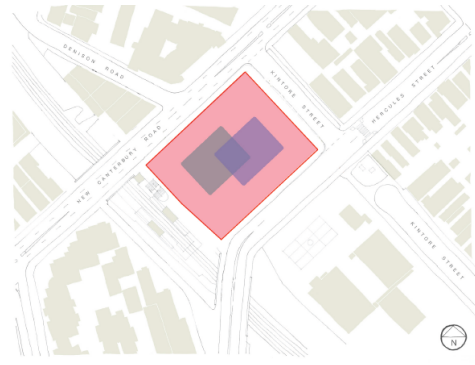
Summary of Site Constraints BKA 2017 p22 - 24

The study considers the existing fabric and uses in close detail to determine what contributes to the character of the site and local area to understand those elements which require to be enhanced and those which would benefit from removal.

The study together with a consideration of the statutory planning framework and supporting strategies and studies at the local and metropolitan level have then informed the opportunities provided by the site.



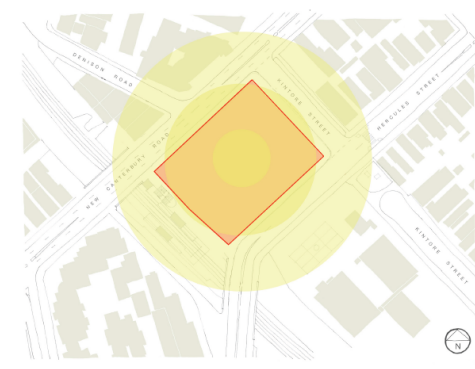
ARCHITECTURAL INTEREST



LIVE WORK



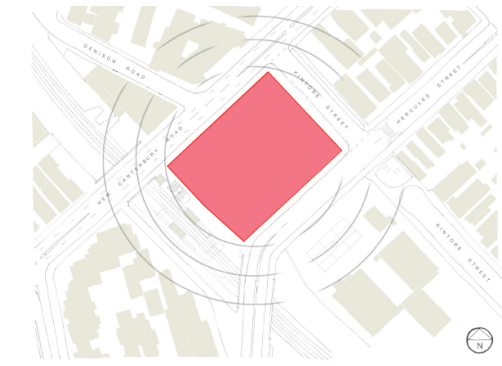
DEMOLITION



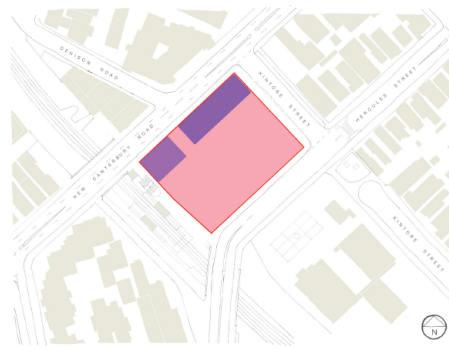
COMMUNITY



LANDSCAPE



VIEWS



COMMERCIAL OPPORTUNITIES



THROUGH SITE LINK

Summary of Site Opportunities BKA 2017 p22 - 24

4.0 The Planning Proposal

The Planning Proposal is prepared in accordance with “*A Guide to Preparing Planning Proposals 2012*” prepared by Planning & Infrastructure NSW.

The Planning Proposal is comprised of the following four (4) parts:

Part 1 Objectives or Intended Outcomes;

Part 2 An explanation of the Provisions;

Part 3 Justification;

Part 4 Mapping

Part 5 Community Consultation

Part 6 Project Timeline

4.1 Objectives and Intended Outcomes

The objective of this Planning Proposal is to amend the MLEP 2011 as follows:

2. It is proposed to amend the zoning, with Marrickville Local Environmental Plan (MLEP) 2011 Zoning Maps being amended from IN2 Light Industrial zone to:
 - a) RE1 Public Recreation zone for the land on the western edge of the site adjacent to the Light Rail line, and the proposed pocket park on the south-eastern corner of the site (or RE2 Private Recreation for any of this land that Council does not agree to take ownership of);
 - b) B5 Business Development for Nos. 466-480 New Canterbury Road, (excluding the area proposed to be zoned RE1 Public

Recreation) and the rear (approximately 9 m) parts of Nos. 26-28 Hercules Street, Dulwich Hill not proposed to be zoned RE1 Public Recreation or RE2 Private Recreation, being Lots 1, 2, 3 and 4 DP542147, Lot 1 DP540366, Lots 1, 2 and 3 DP236603 and rear (approximately 9 m) parts of Lot 4 DP540366 and Lot 14 Section 4 DP932, with an additional permitted use clause applying to such zoned land;

c) R4 High Density Residential for Nos. 34-38 Hercules Street, (excluding the area proposed to be zoned RE1 Public Recreation) and the rear of No. 474 New Canterbury Road fronting Hercules Street, Dulwich Hill, being Lots 5,6 and 7 DP236603 and Lot 2 DP540366; and

d) RE2 Private Recreation for No. 28 Hercules Street, (excluding the area proposed to be zoned B5 Business Development) and the part of No. 26 Hercules Street not proposed to be zoned RE1 Public Recreation or B5 Business Development, Dulwich Hill.

2. It is proposed to include additional wording in Schedule 1 Additional Permitted Uses in MLEP 2011 to read:

Use of certain land at 466-480 New Canterbury Road and 26-38 Hercules Street, Dulwich Hill

1) This clause applies to land at 466-480 New Canterbury Road and 26-38 Hercules Street, Dulwich Hill, being Lots 1, 2, 3 and 4 DP542147; Lots 1, 2 and 4 DP540366; Lots 1, 2, 3, 5, 6 and 7 DP236603; and Lot 14 Section 4 DP932.

2) Development for the following purposes is permitted with consent:

(a) residential flat buildings, as part of a mixed use development, on land zoned B5 Business Development but only if:

i. any dwelling located on the ground floor will not have frontage to New Canterbury Road;

(b) neighbourhood shops on the land at 478-480 New Canterbury Road, Dulwich Hill, being Lots 1 and 2 DP236603 in Zone B5 Business Development; and

(c) vehicular and pedestrian access, car parking and site

facilities on the land at 34-38 Hercules Street and the rear of 474 New Canterbury Road, Dulwich Hill in Zone R4 High Density Residential to service the development on the land at 474-480 New Canterbury Road, Dulwich Hill in Zone B5 Business Development.

3. It is proposed to amend the height of buildings (HoB), with MLEP 2011 HoB Maps being amended from no height identified to:

- a) 17 metres for Nos. 466-472 New Canterbury Road, the front part of No. 474 New Canterbury Road, 476 New Canterbury Road, the front 7.5 metres of Nos. 478 and 480 New Canterbury Road and the rear (approximately 9 m) part of Nos. 26-28 Hercules Street, Dulwich Hill, being Lots 1, 2, 3 and 4 DP542147, Lot 1 DP540366, Lot 3 DP236603 the front 7.5m of Lots 1 and 2 DP236603, and the rear (approximately 9 m) part of Lot 4 DP540366 and Lot 14 Sec 4 DP932;
- b) 20 metres for the rear part of No. 474 New Canterbury Road and No. 34 Hercules Street, Dulwich Hill, being Lot 2 DP540366 and Lot 7 DP236603;
- c) 29 metres for the rear part behind the front 7.5 m of Nos. 478-480 New Canterbury Road, Dulwich Hill, being Lots 1 and 2 DP236603 (excluding the area proposed to be zoned RE1 Public Recreation, which is to have no height control indicated);
- d) 32 metres for No. 36-38 Hercules Street, Dulwich Hill, being Lots 5 and 6 DP236603 (excluding the area proposed to be zoned RE1 Public Recreation, which is to have no height control indicated); and
- e) 9.5 metres for the front (approximately 22m) part of Nos. 26-28 Hercules Street not proposed to be zoned RE1 Public Recreation or B5 Business Development, Dulwich Hill, being the front (approximately 22 m) part of Lot 4 DP540366 and Lot 14 Sec 4 DP932 not proposed to be zoned RE1 Public Recreation or B5 Business Development.

4. It is proposed to amend the floor space ratio (FSR), with MLEP 2011 FSR Maps being amended from 0.95:1 FSR to:

-
- a) 3.0:1 for Nos. 466-472 New Canterbury Road and rear (approximately 9m) part of Nos. 26-28 Hercules Street, Dulwich Hill, being Lots 1, 2, 3 and 4 DP542147, and rear (approximately 9 m) part of Lot 4 DP540366 and Lot 14 Sec 4 DP932;
- b) 2.2:1 for Nos. 474-476 New Canterbury Road, and No. 34 Hercules Street (excluding the western (approximately 5.5m) part of No. 476 New Canterbury Road and the western (approximately 6.0-7.5m) part of No. 34 Hercules Street), Dulwich Hill, being Lots 1 and 2 DP540366 and Lots 3 and 7 DP236603 (excluding the western (approximately 5.5m) part of Lot 3 DP236603 and the western (approximately 6.0- 7.5m) part of Lot 7 DP236603);
- c) 3.3:1 for Nos. 478-480 New Canterbury Road, the western (approximately 5.5m) part of No. 476 New Canterbury Road, Nos. 36-38 Hercules Street, and the western (approximately 6.0-7.5m) part of No. 34 Hercules Street, Dulwich Hill, being Lots 1, 2, 5 and 6 DP236603, the western (approximately 5.5m) part of Lot 3 DP236603, and the western (approximately 6.0-7.5m) part of Lot 7 DP236603;
- d) 0.6:1 for the front (approximately 22m) part of Nos. 26-28 Hercules Street not proposed to be zoned RE1 Public Recreation or B5 Business Development, Dulwich Hill, being the front (approximately 22m) part of Lot 4 DP540366 and Lot 14 Sec 4 DP932 not proposed to be zoned RE1 Public Recreation or B5 Business Development; and
- e) No FSR indicated for the front (approximately 22m) part of No. 26 Hercules Street, Dulwich Hill, being the front (approximately 22m) part of Lot 14 Sec 4 DP932, relating to the land proposed to be zoned RE1 Public Recreation for a pocket park on the south-eastern corner of the site.

5. It is proposed to include an additional Clause in MLEP 2011 to read:

Development on certain land at New Canterbury Road, Dulwich Hill

-
- (1) The objective of this clause is to ensure that development on land at New Canterbury Road, Dulwich Hill allows some flexibility in relation to the exact boundary between different height limits across the site so that the boundary between different height limits may be varied in any horizontal direction by up to 1m;
 - (2) This clause applies to land bounded by New Canterbury Road, Kintore Street, Hercules Street and the light rail corridor to the west.
 - (3) Despite Clause 4.3(2), the height of any building on land identified in subclause (2) may exceed the maximum height shown for the land on Height of Buildings Map by no more than any greater height limit on the Height of Buildings Map which occurs in any horizontal direction of no greater than 1m from the boundary between the different height limits;

In addition to the amended FSR control and inclusion of a Height control, the intended outcome for the subject site is a built form consistent with the intention of providing a more appropriate edge development which retains and improves amenity while providing access through the site for residents of surrounding buildings and broader locality.

To provide greater certainty and clarity in regard to the outcomes of the Planning Proposal it is proposed to lodge a development application for the first stage of the site redevelopment so that it can be placed on public exhibition with the Planning Proposal (subject to the Gateway determination).



BKA 2017 p57



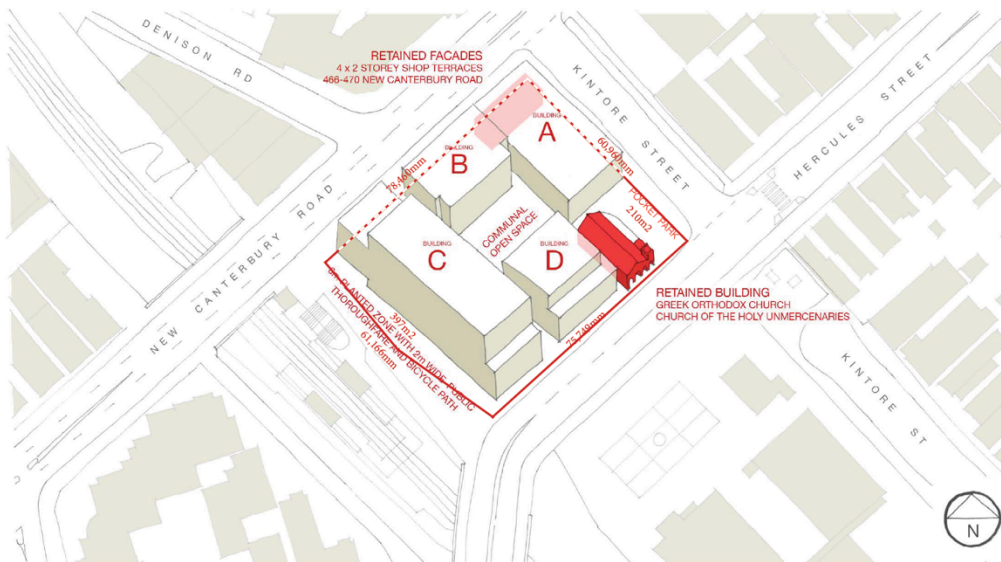
BKA 2017 p58



PERSPECTIVE VIEW FROM EAST ACROSS HERCULES STREET - INDICATIVE ONLY

BKA 2017 p59

PROPOSED PUBLIC BENEFITS ACCRUING FROM PROPOSAL



BKA 2017 p60

4.2 Explanation of Provisions

The following table provides a summary of how the amending LEP impacts on the relevant provisions of the MLEP 2011.

It is proposed to rezone the site to part B5 Business Development, part R4 High Density Residential, part RE1 Public Recreation and part RE2 Private Recreation:

Zone B5 Business Development

1 Objectives of zone

- To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of centres.*
- To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house.*
- To support urban renewal and a pattern of land use and density that reflects the existing and future capacity of the transport network.*

2 Permitted without consent

Home occupations

3 Permitted with consent

Bulky goods premises; Child care centres; Dwelling houses; Food and drink premises; Garden centres; Hardware and building supplies; Hotel or motel accommodation; Landscaping material supplies; Light industries; Markets; Passenger transport facilities; Respite day care centres; Roads; Serviced apartments; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Boat launching ramps;

Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Port facilities; Recreation facilities (major); Residential accommodation; Retail premises; Rural industries; Sewerage systems; Sex services premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities

Zone R4 High Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a high density residential environment.*
- To provide a variety of housing types within a high density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To provide for office premises but only as part of the conversion of existing industrial and warehouse buildings or in existing buildings designed and constructed for commercial purposes.*
- To provide for retail premises in existing buildings designed and constructed for commercial purposes.*
- To provide for well connected neighbourhoods that support the use of public transport, walking and cycling.*

2 *Permitted without consent*

Home occupations

3 *Permitted with consent*

Bed and breakfast accommodation; Boarding houses; Centre-based child care facilities; Community facilities; Dwelling houses; Group homes; Hostels; Neighbourhood shops; Places of public worship; Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Seniors housing; Shop top housing; Any other development not specified in item 2 or 4.

4 *Prohibited*

Advertising structures; Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Boat sheds; Bulky goods premises; Business premises; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Emergency services facilities; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Garden centres; Hardware and building supplies; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Landscaping material supplies; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Plant nurseries; Port facilities; Pubs; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Restricted premises; Rural industries; Rural supplies; Service stations; Sewerage systems; Sex services premises; Storage premises; Timber yards; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Waste or

resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities; Wholesale supplies.

Zone RE1 Public Recreation

1 Objectives of zone

- To enable land to be used for public open space or recreational purposes.*
- To provide a range of recreational settings and activities and compatible land uses.*
- To protect and enhance the natural environment for recreational purposes.*
- To provide for a range of community facilities, services and compatible land uses.*

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Boat launching ramps; Building identification signs; Community facilities; Electricity generating works; Emergency services facilities; Environmental facilities; Food and drink premises; Jetties; Kiosks; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Roads; Water recreation structures; Water storage facilities

4 Prohibited

Pubs; Any other development not specified in item 2 or 3

Zone RE2 Private Recreation

1 Objectives of zone

-
- To enable land to be used for private open space or recreational purposes.
 - To provide a range of recreational settings and activities and compatible land uses.
 - To protect and enhance the natural environment for recreational purposes.
 - To provide for a range of community facilities, services and compatible land uses.

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Animal boarding or training establishments; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Community facilities; Entertainment facilities; Environmental facilities; Flood mitigation works; Funeral homes; Information and education facilities; Kiosks; Markets; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Roads; Veterinary hospitals; Water storage facilities

4 Prohibited

Any development not specified in item 2 or 3

2.5 Additional permitted uses for particular land

(1) Development on particular land that is described or referred to in Schedule 1 may be carried out:

(a) with development consent, or

(b) if the Schedule so provides—without development consent, in accordance with the conditions (if any) specified in that Schedule in

relation to that development.

(2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

Schedule 1 is proposed to be amended to include:

Use of certain land at 466-480 New Canterbury Road and 26-38 Hercules Street, Dulwich Hill

1) This clause applies to land at 466-480 New Canterbury Road and 26-38 Hercules Street, Dulwich Hill, being Lots 1, 2, 3 and 4 DP542147; Lots 1, 2 and 4 DP540366; Lots 1, 2, 3, 5, 6 and 7 DP236603; and Lot 14 Section 4 DP932.

2) Development for the following purposes is permitted with consent:

(a) residential flat buildings, as part of a mixed use development, on land zoned B5 Business Development but only if:

i. any dwelling located on the ground floor will not have frontage to New Canterbury Road;

(b) neighbourhood shops on the land at 478-480 New Canterbury Road, Dulwich Hill, being Lots 1 and 2 DP236603 in Zone B5 Business Development; and

(c) vehicular and pedestrian access, car parking and site facilities on the land at 34-38 Hercules Street and the rear of 474 New Canterbury Road, Dulwich Hill in Zone R4 High Density Residential to service the development on the land at 474-480 New Canterbury Road, Dulwich Hill in Zone B5 Business Development.

4.3 Height of buildings

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

(a) to establish the maximum height of buildings,

(b) to ensure building height is consistent with the desired future character of an area,

(c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,

(d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

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

The subject site currently has no height control. It is proposed to include a graduated height control across the site from 9.5 metres to 17 metres to 20 metres to 29 metres and 32 metres.

4.4 Floor space ratio

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

(a) to establish the maximum floor space ratio,
(b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,
(c) to minimise adverse environmental impacts on adjoining properties and the public domain.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

(2A) Despite subclause (2), development for the purposes of attached dwellings, bed and breakfast accommodation, dwelling houses and semi-detached dwellings on land labelled "F" on the Floor Space Ratio Map is not to exceed the relevant floor space ratio determined in accordance with the Table to this subclause.

(2B) Despite subclause (2), development for the purposes of residential flat buildings on land identified with a thick red line and labelled "F" on the Floor Space Ratio Map may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map by no more than 0.25:1.

It is proposed to include a graduated FSR control across the site from 0:1 for the south-eastern portion of the site to 0.6:1, 2.2:1, 3.0:1 and 3.3:1.

5.3 Development near zone boundaries

(1) The objective of this clause is to provide flexibility where the

investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

(2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 25 metres.

(3) This clause does not apply to:

- (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or
- (b) land within the coastal zone, or
- (c) land proposed to be developed for the purpose of sex services or restricted premises.

(4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:

- (a) the development is not inconsistent with the objectives for development in both zones, and
- (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

(5) This clause does not prescribe a development standard that may be varied under this Plan.

Unchanged

5.6 Architectural roof features

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

- (a) to permit variations to maximum building height standards for roof features of visual interest, and
- (b) to ensure that roof features are decorative elements and that the majority of the roof is contained within the maximum building height standard.

(2) Development that includes an architectural roof feature that

exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.

(3) Development consent must not be granted to any such development unless the consent authority is satisfied that:

(a) the architectural roof feature:

(i) comprises a decorative element on the uppermost portion of a building, and

(ii) is not an advertising structure, and

(iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and

(iv) will cause minimal overshadowing, and

(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

Unchanged

5.9 Preservation of trees or vegetation

(1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.

(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

(a) development consent, or

(b) a permit granted by the Council.

(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.

(5) This clause does not apply to a tree or other vegetation that the

Council is satisfied is dying or dead and is not required as the habitat of native fauna.

(6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.

(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:

(a) that is or forms part of a heritage item or that is within a heritage conservation area, or

(b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,

unless the Council is satisfied that the proposed activity:

(c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and

(d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.

(8) This clause does not apply to or in respect of:

(a) the clearing of native vegetation:

(i) that is authorised by a development consent or property vegetation plan under the Native Vegetation Act 2003, or

(ii) that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or

(b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the Native Vegetation Act 2003)

that is authorised by a development consent under the provisions of the Native Vegetation Conservation Act 1997 as continued in force by that clause, or

(c) trees or other vegetation within a State forest, or land reserved

from sale as a timber or forest reserve under the Forestry Act 1916, or

(d) action required or authorised to be done by or under the Electricity Supply Act 1995, the Roads Act 1993 or the Surveying and Spatial

Information Act 2002, or

(e) plants declared to be noxious weeds under the Noxious Weeds Act 1993.

Note. Permissibility may be a matter that is determined by or under any of these Acts.

(9) [Not adopted]

Unchanged

6.1 Acid sulfate soils

(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the *Acid Sulfate Soils Manual* and has been provided to the consent authority.

(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if:

(a) a preliminary assessment of the proposed works prepared in accordance with the *Acid Sulfate Soils Manual* indicates that an acid sulfate soils management plan is not required for the works, and

(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.

(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):

(a) emergency work, being the repair or replacement of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,

(b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than

work that involves the disturbance of more than 1 tonne of soil),
(c) minor work, being work that costs less than \$20,000 (other than drainage work).

(6) Despite subclause (2), development consent is not required under this clause to carry out any works if:

(a) the works involve the disturbance of less than 1 tonne of soil, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins), foundations or flood mitigation works, or

(b) the works are not likely to lower the watertable.

Class 5

Unchanged

6.2 Earthworks

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

(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,

(b) to allow earthworks of a minor nature without requiring separate development consent.

(2) Development consent is required for earthworks unless:

(a) the work is exempt development under this Plan or another applicable environmental planning instrument, or

(b) the work is ancillary to other development for which development consent has been given.

(3) Before granting development consent for earthworks, the consent authority must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,

(b) the effect of the proposed development on the likely future use or redevelopment of the land,

(c) the quality of the fill or the soil to be excavated, or both,

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,

-
- (e) the source of any fill material and the destination of any excavated material,
 - (f) the likelihood of disturbing relics,
 - (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

Note. The National Parks and Wildlife Act 1974, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.

Unchanged

6.3 Flood planning

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

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

(2) This clause applies to:

- (a) land that is shown as "Flood planning area" on the Flood Planning Map, and
- (b) other land at or below the flood planning level.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to

the community as a consequence of flooding.

(4) A word or expression used in this clause has the same meaning as it has in the *Floodplain Development Manual* (ISBN 0 7347 5476 0), published in 2005 by the NSW Government, unless it is otherwise defined in this clause.

(5) In this clause, *flood planning level* means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

Unchanged

6.4 Terrestrial biodiversity

(1) The objective of this clause is to maintain terrestrial biodiversity by:

- (a) protecting native fauna and flora, and
- (b) protecting the ecological processes necessary for their continued existence, and
- (c) encouraging the conservation and recovery of native fauna and flora and their habitats.

(2) This clause applies to land identified as “Biodiversity” on the Natural Resource—Biodiversity Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider whether or not the development:

- (a) is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
- (b) is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
- (c) has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
- (d) is likely to have any adverse impact on the habitat elements providing connectivity on the land.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
- (b) if that impact cannot be reasonably avoided—the development is

designed, sited and will be managed to minimise that impact, or
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Unchanged

6.5 Development in areas subject to aircraft noise

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

- (a) to prevent certain noise sensitive developments from being located near the Kingsford Smith Airport and its flight paths,
- (b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,
- (c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.

(2) This clause applies to development that:

- (a) is on land that:
 - (i) is near the Kingsford Smith Airport, and
 - (ii) is in an ANEF contour of 20 or greater, and
- (b) the consent authority considers is likely to be adversely affected by aircraft noise.

(3) Before determining a development application for development to which this clause applies, the consent authority:

- (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and
- (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and
- (c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.

(4) In this clause:

ANEF contour means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for the Kingsford Smith Airport prepared by the Department of the Commonwealth responsible for airports.

AS 2021—2000 means AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*.

Unchanged

6.11 Use of dwelling houses in business and industrial zones

(1) The objective of this clause is to provide for the use of purpose built dwelling houses in business and industrial zones, for residential purposes, under particular circumstances.

(2) This clause applies to land in the following zones:

- (a) Zone B1 Neighbourhood Centre,
- (b) Zone B4 Mixed Use,
- (c) Zone B5 Business Development,
- (d) Zone B6 Enterprise Corridor,
- (e) Zone B7 Business Park,
- (f) Zone IN1 General Industrial,
- (g) Zone IN2 Light Industrial.

(3) Development consent must not be granted to development for the purpose of a dwelling house on land to which this clause applies unless:

- (a) the development relates to a building that was designed and constructed for the purpose of a dwelling house and was erected before the commencement of this Plan, and
- (b) the building will offer satisfactory residential amenity.

Unchanged

5.10 Heritage conservation

Note. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

(1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

-
- (c) to conserve archaeological sites,
 - (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) When consent not required

However, development consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the

proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:

- (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
- (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or

(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

(a) notify the Heritage Council of its intention to grant consent, and

(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and

(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) Demolition of nominated State heritage items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

(a) notify the Heritage Council about the application, and

-
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

Unchanged

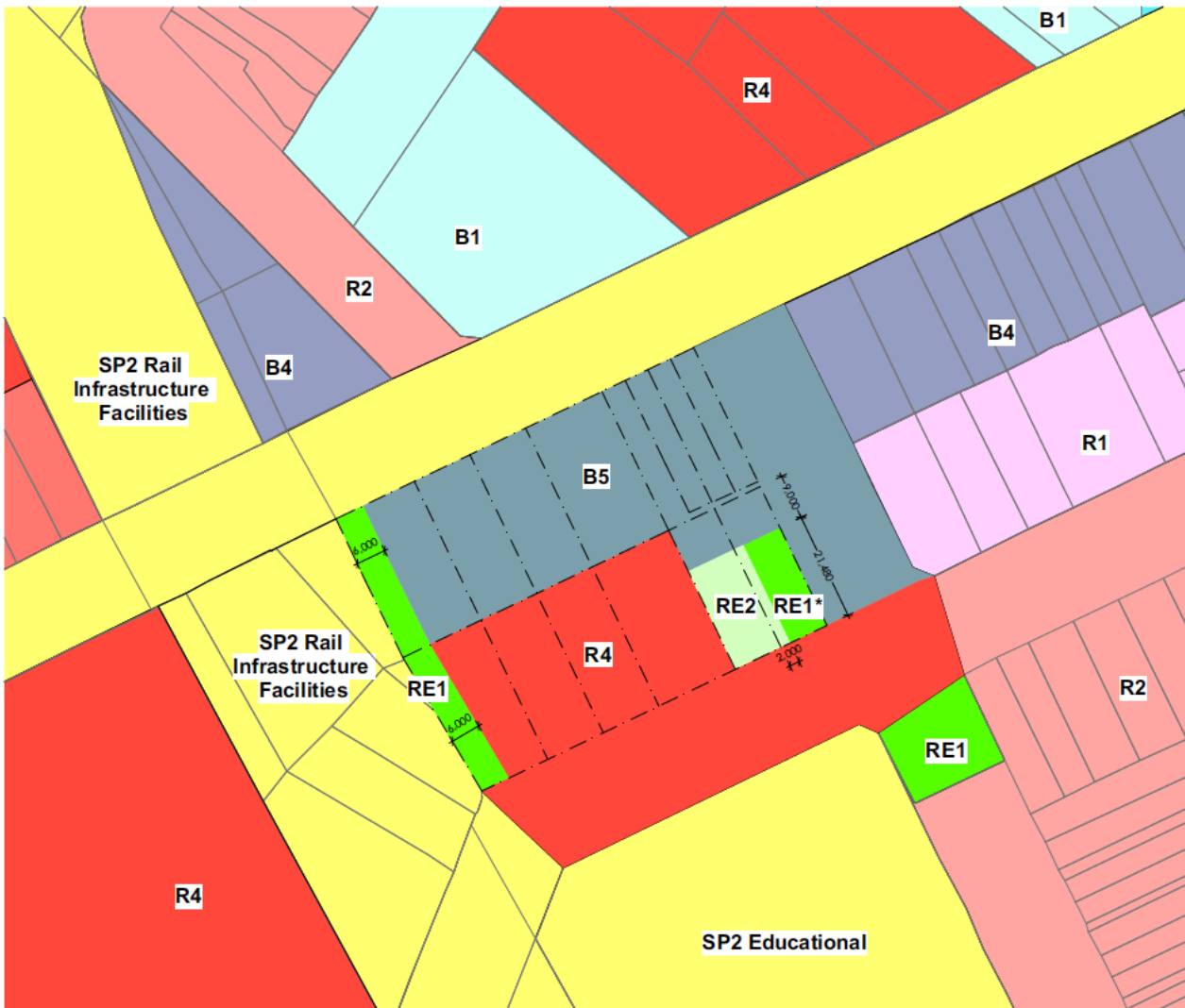
Development on certain land at New Canterbury Road, Dulwich Hill

- (1) The objective of this clause is to ensure that development on land at New Canterbury Road, Dulwich Hill allows some flexibility in relation to the exact boundary between different height limits across the site so that the boundary between different height limits may be varied in any horizontal direction by up to 1m;
- (2) This clause applies to land bounded by New Canterbury Road, Kintore Street, Hercules Street and the light rail corridor to the west.
- (3) Despite Clause 4.3(2), the height of any building on land

identified in subclause (2) may exceed the maximum height shown for the land on Height of Buildings Map by no more than any greater height limit on the Height of Buildings Map which occurs in any horizontal direction of no greater than 1m from the boundary between the different height limits;

This is an additional clause in the local provisions providing flexibility in height as recommended by the Planning Panel.

Proposed Amended LEP extract maps



Zone

B1	Neighbourhood Centre	R2	Low Density Residential
B2	Local Centre	R3	Medium Density Residential
B4	Mixed Use	R4	High Density Residential
B5	Business Development	RE1	Public Recreation
B6	Enterprise Corridor	RE2	Private Recreation
B7	Business Park	SP1	Special Activities
IN1	General Industrial	SP2	Infrastructure
IN2	Light Industrial	W1	Natural Waterways
R1	General Residential	W2	Recreational Waterways



Maximum Building Height (m)

J	9.5
L	11.0
N	14.0
P	17.0
Q	20.0
S	23.0
T1	26.0
T2	29.0
U	32.0



Maximum Floor Space Ratio (n:1)

F 0.60	S1 1.50	U1 2.50
H 0.70	S2 1.60	U2 2.60
I 0.75	S3 1.70	U3 2.70
J 0.80	S4 1.75	U4 2.80
K 0.85	S5 1.80	V1 3.00
L 0.90	S6 1.85	V2 3.10
M 0.95	S7 1.90	V3 3.30
N 1.00	T1 2.00	W 3.70
O 1.10	T2 2.05	
P 1.20	T3 2.10	
Q 1.30	T4 2.20	
R 1.40	T5 2.30	
	T6 2.40	

4.3 Justification

4.3.1 Section A – Need for a Planning Proposal

1. Is the Planning Proposal a result of any strategic Study or Report?

Details of the Study are provided in Section 3.3 of this proposal. It is considered reasonable to amend the controls for the subject site where it is an isolated industrial site surrounded by medium to high density residential uses which are compromised by the edge effects and the current development on the site is unable to provide for contemporary servicing and amenity controls. The redevelopment of this site will experience a tangible positive effect on the quality of their lives of the occupants and residents as a result of the introduction of residential uses and the inclusion of a height control and amended FSR control and can reasonably contribute to the cost of realizing the public benefits with the preparation of an appropriate Voluntary Planning Agreement

In relation to the proposal for the subject site, it is consistent with the planning study where it identified the following preferred built form option in the surrounds:

- B5 Business Development Zone, R4 High Density Residential Zone, RE1 Public Recreation Zone and RE2 Public Recreation Zone;
- Height – 9.5 metres;
 17 metres;
 20 metres;
 29 metres;
 32 metres;
- FSR 0.0:1;

0.6:1,
2.2:1,
3.0:1 and
3.3:1.

To achieve the preferred built form option for the subject site, it is necessary to amend the LEP through a Planning Proposal. The justification for the Floor Space increase is the following commensurate public benefit being provided:

Open Space and Pedestrian and Cycle Activation

A Voluntary Planning Agreement is being entered into that will deliver open space on the western side of subject site on the interface with the light rail corridor. This new space will:-

- effectively provide a through-site link between the residential lands to the south and the entry to the Dulwich Grove Light rail Station;
- provide improved pedestrian and bicycle access through the site; and
- form part of an important link within the broader pedestrian network that links Dulwich Hill and the light rail and bus network.

New Open Space Provision

A Voluntary Planning Agreement is being entered into that will deliver open space on the south-eastern corner of subject site. This new space will:-

- provide a pocket park for use by the broader residents of the

Hercules/Kintore Street precinct;

- provide a visual curtilage to the Church of the Holy Unmercenaries; and
- form part of an important link within the broader open space network of Dulwich Hill.

It should be noted that these benefits are in addition to what would be normally required by a new development. They are also public benefits that have been identified by Council as being needed in Dulwich Hill.

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The Planning Proposal is seen as the best means of achieving the objectives or intended outcomes because:

The justification to proceed with the amending LEP has taken into consideration the public interest and the consequence of not proceeding with the necessary changes to the planning controls. The following table provides an evaluation of the Planning Proposal against the key criteria for a Net Community Benefit Test set out in the Department of Planning's Draft Centres Policy. While the subject site is not located in a recognised centre it is considered appropriate to use the evaluation criteria to ensure consistency with the assessment process in determining the net community benefit test for the amending LEP.

The assessment of the key evaluation criteria in the table, it is considered that the proposed changes to the Marrickville LEP 2011 will produce a net community benefit.

Key Evaluation Criteria for net community benefit

Will the LEP be compatible with agreed State and regional strategic direction for development in the area?

The LEP is compatible with the following State and regional strategic directions;

- To achieve a balance between greenfield development and redevelopment in existing areas;
- To improve and enhance existing employment generating uses in established areas well served by public transport;
- To resolve the edge effects between employment generating uses and adjoining residential areas;
- To co-locate employment and residential development;
- To concentrate activity in accessible centres;
- To provide new housing within the walking catchments of existing and planned centres of all sizes with good public transport;
- To produce housing that suits our expected future needs; and,
- To improve the quality of new housing development and urban renewal

Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional or subregional strategy?

The LEP is located in the Transit Oriented Development corridor identified in the Greater Sydney Regional Plan.
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?
The LEP arises from the recommendations of the Marrickville Strategy which can consistently be extended to this block where the site conditions provide unique opportunities which are consistent with the desired outcome. The expectations of the landowner or other landowners in the precinct will be informed by the findings.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?
There are no identified cumulative effects from spot rezoning in the locality that needs to be considered.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?
Permanent employment activity will be enhanced and increased within the non-residential tenancies of the site and the management of the residential edge components.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?
The amending LEP will increase the quality of residential housing supply and affordability from the site.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity

to support future public transport.
<p>The existing public infrastructure (road, utilities and rail) is capable of servicing the proposed development of the site.</p> <p>There will be improved pedestrian access in the locality of the subject site.</p> <p>The subject site is well serviced by bus and train being within the proximity of the Dulwich Grove Light Rail Station.</p>
<p>Will the proposal result in changes to the car distances travelled by customers, employees and suppliers?</p> <p>If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?</p>
<p>The proposal is expected to reduce car distances travelled by co-locating work and residential uses and proximities to services and existing public transport.</p> <p>This will result in a decrease in greenhouse gas emissions and operating costs and result in improved road safety.</p>
<p>Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal?</p> <p>If so, what is the expected impact?</p>
<p>Yes. There is significant investment in the existing light rail network.</p> <p>The patronage on the light rail network will increase.</p>
<p>Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts?</p>
No
<p>Is the land constrained by environmental factors such as flooding.</p>
No
<p>Will the LEP be compatible or complementary with surrounding land uses?</p>
<p>The LEP will be compatible with existing development in the area.</p>
<p>What is the impact on amenity in the location and wider community?</p>

The proposal will provide for improved streetscape and contribute to the revitalisation of this precinct. In particular, the proponent will enter into a Voluntary Planning Agreement (VPA) that will contribute to the provision of new open space and pedestrian and cycle access in the precinct.
Will the public domain improve?
Yes. The VPA will contribute to the provision of more public open space in the precinct and provide improved movement interface.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?
The proposal will increase the number of employment uses operating in the area and will provide a mix of non-residential tenancies through the site.
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?
No
What are the public interest reasons for preparing the draft plan?
<p>The public interest for preparing the draft plan includes:</p> <ul style="list-style-type: none"> • Improved employment opportunities; • Improved facilities to service employment generating uses on the site; • Improved residential interface;

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- | |
|--|
| <ul style="list-style-type: none"> • Improved streetscape and pedestrian interface; • Provision of public open space; • Meet the demand for dwellings with high amenity and access to services; • Improved sustainability due to proximity to public transport and services. |
|--|

What are the implications of not proceeding at this time?

The site will be redeveloped at a lesser intensity with little public benefit accruing from the redevelopment with future uncertainty in the preferred future built form of the precinct.

4.3.2 Section B – Relationship to Strategic Planning Framework

3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies?

The Planning Proposal is consistent with the following objectives and Planning Priorities of A Metropolis of Three Cities Greater Sydney Region Plan 2018 and the Eastern City District Plan 2018:

Planning Priority E1. Planning for a city supported by infrastructure.	Consistent. The subject site is located aligning land use and infrastructure maximizie the use of existing
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	infrastructure.
Planning Priority E2. Working through collaboration.	Consistent The PP seeks a collaborative approach consistent with the various agencies.
Planning Priority E3. Providing services and social infrastructure to meet people's changing needs.	Consistent The PP provides walking and cycling connections to the network and services consistent with this priority.
Planning Priority E4. Fostering healthy, creative, culturally rich and socially connected communities.	Consistent The PP seeks to provide walkable streets that provide direct accessible and safe pedestrian and cycling connections from homes to schools, daily needs and recreation facilities to encourage greater physical activity and social connection and provide connectivity of, and access to, diverse open spaces and opportunities for recreational physical activity.
Planning Priority E5. Providing housing supply, choice and affordability, with access to jobs, services and public transport.	Consistent The PP seeks to provide increased capacity for a variety of residential dwellings on the site to provide increased capacity for residential dwellings, thereby increasing housing supply and improving housing options and affordability.
Planning Priority E6. Creating and renewing great places and local centres, and respecting the District's heritage.	Consistent The planning proposal seeks to provide a redevelopment that renews the place while respecting

	the local heritage.
Planning Priority E7. Growing a stronger and more competitive Harbour CBD.	Not relevant
Planning Priority E8. Growing and investing in health and education precincts and the Innovation Corridor.	Not relevant
Planning Priority E9. Growing international trade gateways.	Not relevant
Planning Priority E10. Delivering integrated land use and transport planning and a 30-minute city.	Consistent The PP seeks to provide increased capacity for residential dwellings on the site, which is within the 30 minute public transport network.
Planning Priority E11. Growing investment, business opportunities and jobs in strategic centres.	Not relevant
Planning Priority E12. Retaining and managing industrial and urban services land.	Consistent The subject site is not identified as an industrial or urban service precinct. The residential character of the surrounds make it appropriate to provide increased capacity for residential dwellings.
Planning Priority E13. Supporting growth of targeted industry sectors.	Not relevant
Planning Priority E14. Protecting and improving the health and enjoyment of Sydney Harbour and the District's waterways.	The PP provides walking and cycling connections to the network and services connecting to the harbor and District waterways consistent with this priority.
Planning Priority E15. Protecting and enhancing bushland and biodiversity.	Not relevant

Planning Priority E16. Protecting and enhancing scenic and cultural landscapes.	Consistent The planning proposal seeks to provide a redevelopment that renews the place while respecting the local heritage and cultural landscape consistent with this priority.
Planning Priority E17. Increasing urban tree canopy cover and delivering Green Grid connections.	Consistent The planning proposal seeks to improve the urban tree canopy and landscape with linkages and open space consistent with this priority.
Planning Priority E18. Delivering high quality open space.	Consistent The planning proposal seeks to improve the provision of open space consistent with this priority.
Planning Priority E19. Reducing carbon emissions and managing energy, water and waste efficiently.	Consistent The planning proposal seeks to reduce carbon emissions by locating residential density close to existing public transport and services and encourage walking and cycling consistent with this priority.
Planning Priority E20. Adapting to the impacts of urban and natural hazards and climate change.	Consistent The planning proposal reduces the impact of natural hazards adopting appropriate flood levels to address localized flooding consistent with this priority.
Planning Priority E21. Preparing Local Strategic Planning Statements informed by local strategic planning.	Consistent The planning proposal is considered consistent with the district plan.
Planning Priority E22. Monitoring and reporting on the delivery of	Not relevant

the Plan.	
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The PP is considered consistent with the Subregional Strategy. It is considered that the redevelopment of the site will also contribute to the following 'planning priorities' articulated in the Subregional Strategy:

Draft Sydenham to Bankstown Urban Renewal Corridor Strategy 2017

The Sydenham to Bankstown Urban Renewal Corridor Strategy provides the evidence base to support future growth in the Sydenham to Bankstown Urban Renewal Corridor by identifying opportunities for additional homes and jobs close to public transport, employment areas and town centres. It contains detailed land use and infrastructure analysis for the Dulwich Hill Station Precinct.

The report describes the form of development for Medium-High Rise Housing as:

Medium high rise housing

- *Medium-high rise housing is to be a maximum of eight storeys;*
- *Built form is broken into three tiers, with upper level transitioning further from the setback to provide appropriate scale to the street;*
- *Landscape setbacks, typically 3 metres, will be required at street level;*
- *Ensure articulation in the facade is provided to reduce apparent scale and create interest; and*
- *Terrace style individual entries at ground level..²³*

The proposal is consistent with these key points in the strategy relevant to the subject site.

4. Is the Planning Proposal consistent with the local council's

²³ *ibid.* p13

Community Strategic Plan, or other local strategic plan?

Marrickville Council has a number of local strategic plans that are relevant to the Planning Proposal. The following provides a summary of how the Planning Proposal is consistent with the objectives of the local strategic plans.

Marrickville Strategy 2007

The Planning Proposal is consistent with the Marrickville Residential Strategy because it will:

- Continue creating and maintaining clean, green and attractive public places of which citizens feel proud;
- Develop a community which is more liveable, safer and accessible to all citizens;
- Promote a vibrant street-life that encourages the community to engage and welcomes visitors, where local businesses flourish, and local village shopping precincts are attractive and sustainable;
- Have Marrickville recognised as a leading learning and creative arts centre of Sydney, that continues to celebrate and reflect on our Indigenous and post-settlement history and society;
- Plan, promote and lobby for a sustainable and integrated transport system that improves the quality of life for the people of Marrickville;
- Maintain the vibrancy and liveability of Marrickville by having balanced and guided development, clean industry, and work to minimise the noise and other pollutants of our environment; and

-
- Preserve and strengthen strategic employment lands
 - Improve amenity in industrial areas
 - Improve local public transport, walking and cycling connections to centres
 - Improve local parks and public domain in centres
 - Increase community facilities.
 - Develop a creative industry hub.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

There are a number of State Environmental Planning Policies that will apply to any proposed development of the site but are not applicable to the assessment of this Planning Proposal.

There are a number of State Environmental Planning Policies that will apply to any proposed development of the site but not all are applicable to the assessment of this Planning Proposal. The following table considers this consistency.

SEPP	Consistency	Comments
1. Development Standards	Yes	Yes The Standard Instrument Clause 4.6 supersedes the SEPP. The proposal seeks to allow for a maximum building height of 32 metres to the top of the building which satisfies the site

		specific building height sought via this PP. Further flexibility is provided by the LEP clause proposed allowing a 1m horizontal adjustment to the height controls.
4. Development Without Consent & Miscellaneous Exempt & Complying Development	Yes	The PP will not contain provisions that will contradict or would hinder the application of this SEPP.
6. Number of Storeys in a Building	Yes	The proposal is for a maximum building height as demonstrated on the proposed LEP mapping (Section 8).
14.Coastal Wetlands	N/A	Not applicable
15.Rural Landsharing Communities	N/A	Not applicable
19.Bushland in Urban Areas	N/A	Not applicable
21.Caravan Parks	N/A	Not applicable
22. Shops & Commercial Premises	Yes	The PP aims to be consistent with the SEPP having regard to the range of uses that may be appropriate for the site.
26. Littoral Rainforests	N/A	Not applicable
29. Western Sydney Recreation Area	N/A	Not applicable

30. Intensive Agriculture	N/A	Not applicable
32. Urban Consolidation (Redevelopment of Urban Land)	Yes	The PP aims to be consistent with the SEPP having regard to the range of uses that may be appropriate for the site.
33. Hazardous and Offensive Development Complex	N/A	Not applicable
36. Manufactured Home Estates	N/A	Not applicable
39. Spit Island Bird Habitat	N/A	Not applicable
41. Casino Entertainment	N/A	Not applicable
44. Koala Habitat Protection	N/A	Not applicable
47. Moore Park Showground	N/A	Not applicable
50. Canal Estate Development	N/A	Not applicable
52. Farm Dams, Drought Relief & Other Works	N/A	Not applicable
55. Remediation of Land	Yes	<p>The PP will not contain provisions that will contradict or would hinder the application of this SEPP.</p> <p>The site is capable of being used for commercial and residential purposes,</p>

		with any requirement for remediation of the site addressed in the detailed DA for the mixed use development.
59. Central Western Sydney Economic & Employment Area	N/A	Not applicable
62. Sustainable Aquaculture	N/A	Not applicable
64. Advertising and Signage	N/A	Not applicable
65. Design Quality of Residential Flat Development	Yes	The PP will achieve consistency with the SEPP through application of design excellence provisions. The Architectural Indicative Scheme addresses in detail the implications for realising the design quality principles in the SEPP and demonstrated an appropriate built form on the site.
70. Affordable Housing (Revised Schemes)	N/A	Not applicable
71. Coastal Protection	N/A	Not applicable
SEPP (Affordable Rental Housing) 2009	Yes	The PP will not contain provisions that will contradict or would hinder

		application of this SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	Yes	The PP will not contain provisions that will contradict or would hinder application of this SEPP.
SEPP (Exempt and Complying Development Codes) 2008	Yes	The PP will not contain provisions that will contradict or would hinder application of this SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	Yes	The PP will not contain provisions that will contradict or would hinder application of this SEPP.
SEPP (Infrastructure) 2007	Yes	The PP will not contain provisions that will contradict or would hinder application of this SEPP.
SEPP (Kosciuszko National Park-Alpine Resorts) 2007	N/A	Not applicable
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	N/A	Not applicable
SEPP (Temporary Structures and Places of Public	N/A	Not applicable

Entertainment) 2007		
SEPP (Rural Lands) 2008	N/A	Not applicable
SEPP (Western Sydney Parklands) 2009	N/A	Not applicable
SREP (Sydney Harbour Catchment) 2005	Yes	The PP will not contain provisions that will contradict or would hinder application of this SEPP.

6. Is the Planning Proposal consistent with applicable Ministerial Directions (s 117 directions)?

The following table provides an assessment of the Planning Proposal against the applicable Ministerial Directions. The Planning Proposal is generally consistent with the identified applicable Ministerial Directions.

Ministerial Directions

1. Employment and Resources 1.1 Business and Industrial Zones
<p>The proposal while providing for a mix of employment and residential uses will result in the loss on industrial lands. Consequently, it has been assessed against the Industrial Lands Strategic Assessment Checklist prepared by the NSW Government Employment Lands Task Force.</p> <p><i>Industrial Lands Strategic Assessment Checklist</i></p> <p><i>Is the proposed rezoning consistent with State and/or council strategies on the future role of industrial lands?</i></p>

The precinct benefits from proximity to Sydney Airport and Port Botany Container Terminal, however, it is also constrained by interfaces with adjoining residential areas and reliance on the suburban road network.

The most recent statistical data regarding employment is drawn from the NSW Bureau of Transport Statistics Journey to Work data for the Marrickville-Sydenham Employment Lands. Manufacturing is the largest industry of employment within the employment lands and accounts for a third of all employment, however, employment in this industry fell by 10% between 2006 and 2011. Employment in manufacturing, wholesale trade (the 2nd largest industry) and transport/postal/warehousing (the fourth largest industry) all declined over the period from 2006 to 2011. Journey to Work statistics indicate that the decline in manufacturing has been occurring at a similar rate since at least 1996.

Between 2006 and 2011, employment in the construction industry jumped by approximately 100 positions, whilst over 200 additional positions were added in industries including accommodation/food services, art and recreation services, retail, health care and education. Combined with the addition of a further 100 jobs in non-categorised industries, these increases saw a net increase in employment within the Marrickville-Sydenham Employment Lands of nearly 200 jobs.

The available employment data indicates a trend away from the traditional manufacturing and wholesale trade industrial uses for which the Marrickville-Sydenham Industrial Lands are zoned. With the growth of better-serviced industrial and logistics lands with better transport connections in Western Sydney, the constraints of land fragmentation in inner-city precincts, and the economic advantages to business by locating premises close to appropriately skilled labour markets, this trend away from inner-city industrial employment is expected to continue in the future.

The Planning Proposal will facilitate the renewal of outdated and

underutilized employment land by change from an industrial zoning to a mixed business zone. A key objective of the proposal is to ensure that there is no net loss in employment within the precinct. Furthermore, it is anticipated that by rezoning land for mixed business uses then employment within the precinct can be maintained or grow even as employment in manufacturing declines due to broader economic forces.

The Marrickville Urban Strategy states that:

The employment lands in Marrickville, Sydenham, St Peters and Tempe provide both metropolitan wide and local employment opportunities. These lands are coming under increasing pressure for conversion to other activities. The employment lands are close and well connected to the airport and port and play a vital strategic economic role for Sydney's and the country's benefit. They also provide spaces for new enterprises and 'start-ups' for local businesses. As some large land users move to outer suburban locations, and production moves away from Sydney or offshore, there may be changes to the types of businesses in these lands with, in some cases, less land required. This may provide opportunities for mixed use redevelopment of selected employment sites. These redevelopments should occur according to strict criteria that ensure opportunities for economic development are not diminished.

However, the strategic employment lands should be supported and strengthened to maintain suitable inner city locations to service future needs.

It may be necessary to modernise "run-down" industrial areas where opportunities arise and this will require partnership with landowners and the State Government.

The Planning Proposal is consistent with this provision in that it:

- targets no net loss in employment within the precinct;
- seeks to better accommodate and foster new enterprise and 'start-ups' within the Precinct, including for creative uses; and
- aims to modernise a 'run-down' industrial area and future-proof

the area to ensure the continuation of local employment within the precinct.

Is the site:

- *near or within direct access to key economic infrastructure?*

Access to Sydney Airport and Port Botany from is heavily constrained by the existing suburban road network. The site does not have direct access to any other key economic infrastructure.

- *contributing to a significant industry cluster?*

The precinct does not contribute to any significant industry cluster.

How would the proposed rezoning impact the industrial land stocks in the subregion or region and the ability to meet future demand for industrial land activity?

Demand for industrial activity has been in decline for over two decades and there is no indication of this trend reversing. Given the diminishing demand for inner-city industrial land it is therefore considered that the proposal, which includes mixed employment generating uses, will not impact upon the ability to meet future demand for industrial activity.

How would the proposed rezoning impact on the achievement of the subregion/region and LGA employment capacity targets and employment objectives?

The land use zones and development controls will ensure that employment is either maintained or increased from current levels.

Is there a compelling argument that the industrial land cannot be used for an industrial purpose now or in the foreseeable future and what opportunities may exist to redevelop the land to support new forms of industrial land uses such as high-tech or creative industries?

Existing industrial building land is not desirable to the industrial market (as evidenced by low occupancy and high frequency of non-industrial business uses within industrial premises), building stock is dilapidated and the precinct as a whole is not competitive with modern industrial lands located predominately in Western Sydney.

High-tech or creative industries are better supported by mixed business zonings that allow the establishment and clustering of other, non-industrial, businesses in the same area. The proposed land use zones would permit other supporting businesses to continue to be developed within the precinct.

The proposal will support the establishment and clustering of other businesses in the area.

Is the site critical to meeting the need for land for an alternative purpose identified in other NSW Government or endorsed council planning strategies?

The precinct has the potential to contribute to the employment and dwelling targets established for Sydney under the Metro Strategy.

The planning proposal is consistent with the objectives of the direction because it will continue to provide for employment within the area and improve the servicing and facilities for those uses.

3. Housing, Infrastructure and Urban Development

3.1 Residential Zones

3.4 Integrating Land Use and Transport

The planning proposal is consistent with the objectives of the direction because it will improve the choice, accessibility and distribution of housing stock. It will also help reduce the development of land on the urban fringe.

The planning proposal is consistent with the objectives of the direction because it provides for housing in close proximity to employment

opportunities and established public transport reducing travel demand with environmental benefits.
5. Regional Planning 5.2 Sydney Drinking Water Catchments
The planning proposal is prepared in accordance with the general principle that water quality within the Sydney drinking water catchment will be protected. The Planning proposal is consistent with SEPP (Sydney Drinking Water Catchment) 2011 and development will have a neutral or beneficial effect on water quality.
6. Local Plan Making 6.3 Site Specific Provisions
The objective of the planning proposal will amend Marrickville Local Environmental Plan 2011 in order to allow the particular development proposal to proceed.
7. Metropolitan Planning 7.1 Implementation of the Metropolitan Strategy
The Planning Proposal is shown to be consistent with the NSW Government's Metropolitan Plan for Sydney 2036.

Employment and Resources		
1.1 Business and Industrial Zones	Yes	The planning proposal is consistent with the objectives of the direction because it will continue to provide for employment growth within the mixed use area on the ground and first floor levels.
1.2 Rural Zones	N/A	Not applicable

1.3 Mining, Petroleum Production and Extractive Industries	N/A	Not applicable
1.4 Oyster Aquaculture	N/A	Not applicable
1.5 Rural Lands	N/A	Not applicable
Environment and Heritage		
2.1 Environment Protection Zones	N/A	Not applicable
2.2 Coastal Protection	N/A	Not applicable
2.3 Heritage Conservation	N/A	Not applicable
2.4 Recreation Vehicle Areas	N/A	Not applicable
Housing, Infrastructure and Urban Development		
3.1 Residential Zones	Yes	The planning proposal is consistent with the objectives of the direction because it will improve the choice, accessibility and distribution of housing stock. It will also help reduce the development of land on the urban fringe.
3.2 Caravan Parks and Manufactured Home Estates	N/A	Not applicable
3.3 Home Occupations	N/A	Not applicable
3.4 Integrating Land Use and Transport	Yes	The planning proposal is consistent with the objectives of the

		direction because it provides for housing in close proximity to established public transport reducing travel demand with environmental benefits.
3.5 Development Near Licensed Aerodromes	Yes	Confirmation that no residential accommodation is proposed to be within the part of the site within the ANEF 25-30. The proposal includes residential accommodation outside the 20ANEF.
3.6 Shooting Ranges	N/A	Not applicable
Hazard and risk		
4.1 Acid sulphate soils	N/A	The site is not located on acid sulphate soils. Accordingly, Direction 4.1 is not applicable.
4.2 Mine Subsidence and Unstable Land	N/A	Not applicable
4.3 Flood Prone Land	N/A	The site is not located within flood prone land. Accordingly, Direction 4.3 is not applicable.
4.4 Planning for Bushfire	N/A	The site is not located within a Bushfire

Protection		prone area. Accordingly, Direction 4.4 is not applicable.
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	The PP will be consistent with this Ministerial Direction.
5.2 Sydney Drinking Water Catchments	Yes	The planning proposal is prepared in accordance with the general principle that water quality within the Sydney drinking water catchment will be protected. The Planning proposal is consistent with SEPP (Sydney Drinking Water Catchment) 2011 and development will have a neutral or beneficial effect on water quality.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A	Not applicable
5.4 Commercial & Retail Development along the Pacific Highway, North Coast	N/A	Not applicable
5.8 Second Sydney Airport: Badgerys Creek	N/A	Not applicable
5.9 North West Rail	N/A	Not applicable

Link Corridor Strategy		
Local Plan Making		
6.1 Approval and Referral Requirements	Yes	The PP will be consistent with this Ministerial Direction.
6.2 Reserving Land for Public Purposes	Yes	The PP will be consistent with this Ministerial Direction.
6.3 Site Specific Provisions	Yes	The PP will be consistent with this Ministerial Direction.
Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Yes	The Planning Proposal is shown to be consistent with the NSW Government's Metropolitan Plan for Sydney 2036

4.3.3 Section C – Environmental, Social and Economic Impact

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

No, there have been no critical habitat or threatened species, populations or ecological communities, or their habitats, identified on this site.

8. Are there any other likely environmental impacts as a result of the Planning Proposal (and if so), how are they to be managed?

There are no likely environmental impacts as a result of this Planning Proposal. The proposed change to the zoning, FSR and height limit is not likely to give rise to any particular environmental impact given the

location of the subject site and the nature of existing built form in the area. Any future development of the site will be assessed against the environmental provisions of the applicable planning instruments.

9. Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal is likely to deliver significant local economic effects and will deliver positive social benefits, including improve local facilities, employment opportunities, movement networks, increased housing stock close to public transport, and amenities; greater housing choice; improved public domain facilities and an improved pedestrian interface with the surrounding streets.

4.3.4 Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the planning proposal?

The locality of the Planning Proposal is very well served by existing public transport and infrastructure. It is anticipated that the public infrastructure will adequately serve the area.

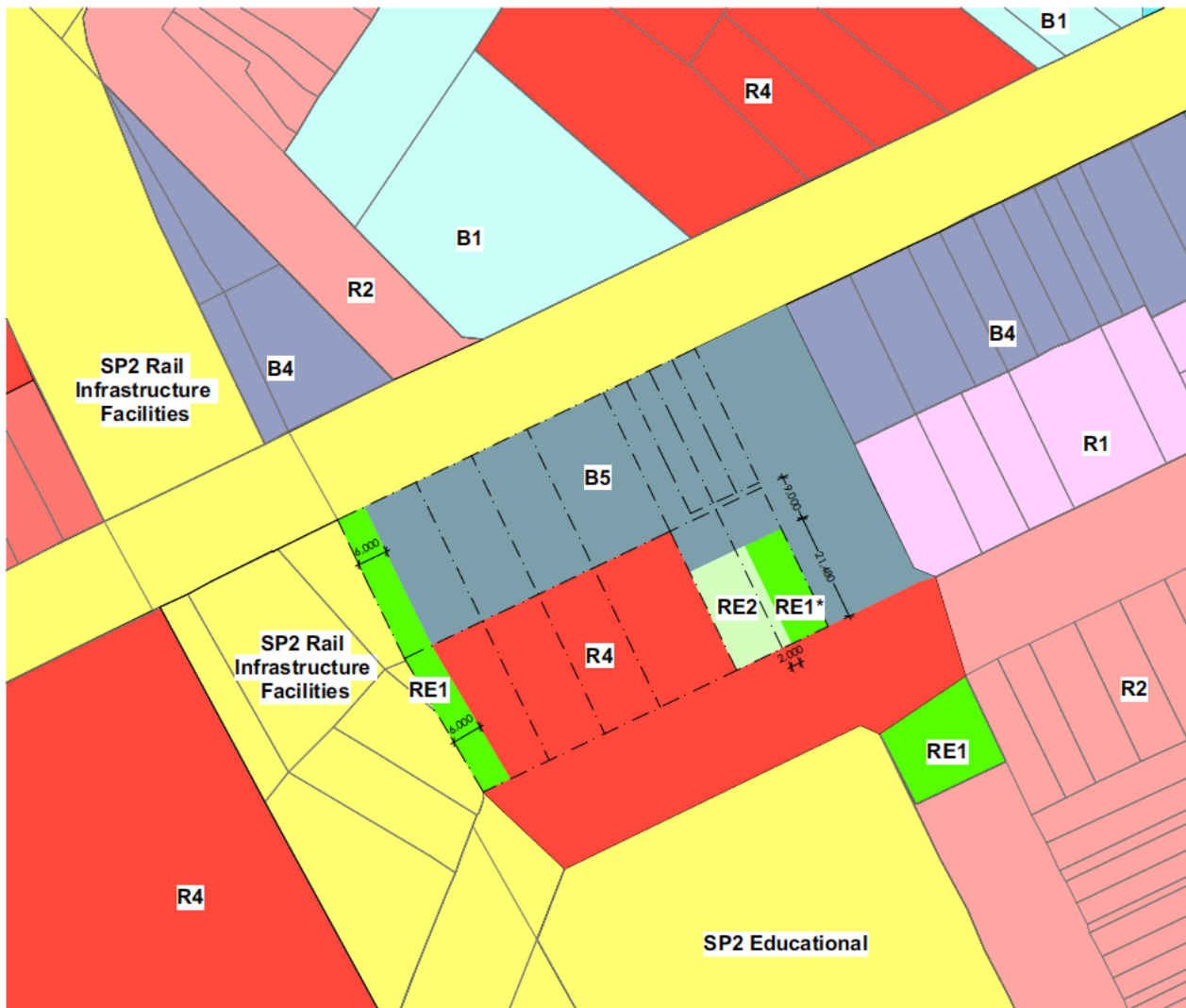
11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Consultation with other public authorities has been undertaken at this stage of the gateway process. It is expected that any required consultation will be identified following the gateway determination.

4.4 Mapping

The proposal is supported by relevant and accurate mapping in the form of the aerial photographs, surveys and mapping included in section 2.

The proposal includes the following amended maps to demonstrate the proposal.



Zone			
B1	Neighbourhood Centre	R2	Low Density Residential
B2	Local Centre	R3	Medium Density Residential
B4	Mixed Use	R4	High Density Residential
B5	Business Development	RE1	Public Recreation
B6	Enterprise Corridor	RE2	Private Recreation
B7	Business Park	SP1	Special Activities
IN1	General Industrial	SP2	Infrastructure
IN2	Light Industrial	W1	Natural Waterways
R1	General Residential	W2	Recreational Waterways



Maximum Building Height (m)

J	9.5
L	11.0
N	14.0
P	17.0
Q	20.0
S	23.0
T1	26.0
T2	29.0
U	32.0



Maximum Floor Space Ratio (n:1)

F 0.60	S1 1.50	U1 2.50
H 0.70	S2 1.60	U2 2.60
I 0.75	S3 1.70	U3 2.70
J 0.80	S4 1.75	U4 2.80
K 0.85	S5 1.80	V1 3.00
L 0.90	S6 1.85	V2 3.10
M 0.95	S7 1.90	V3 3.30
N 1.00	T1 2.00	W 3.70
O 1.10	T2 2.05	
P 1.20	T3 2.10	
Q 1.30	T4 2.20	
R 1.40	T5 2.30	
	T6 2.40	

4.5 Community Consultation

Community consultation will be undertaken in accordance with the requirements of the gateway determination.

4.6 Timeline

- anticipated commencement date (date of Gateway determination)

20 April 2018

- timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)

3 weeks

- commencement and completion dates for public exhibition period

1 month

- dates for public hearing (if required)

Not required

- timeframe for consideration of submissions

1 month

- timeframe for the consideration of a proposal post exhibition

6 weeks

- date of submission to the department to finalise the LEP

22 August 2018

-
- anticipated date RPA will make the plan (if delegated)

1 month

- anticipated date RPA will forward to the department for notification.

1 month

5.0 Summary

This Planning Proposal should be supported because;

1. It is consistent with both Local and State Government strategies on the provision of employment and new housing.
2. The subject site is ideally highly proximate to public transport, amenities and services.
3. Sydney's population is growing faster than previously expected causing increased employment and housing demand.
4. There are demonstrated social benefits resulting from the proposed amendment that include the provision of a range and diversity employment opportunities in creative industries, of housing types, the provision of growth within close proximity to a growth corridor and public transport corridor and the provision of public open space through a VPA.
5. A Net Community Benefit Test demonstrates a net community benefit arises from the Planning Proposal.

A handwritten signature in blue ink on a yellow rectangular background. The signature is stylized, starting with a large 'A' and ending with a long, sweeping horizontal stroke.

Andrew Darroch
Consultant Planner
March 2018