

**Attachment 1: Council Report and Resolution (18 December 2017)**

**Item:** CCL243-17 Planning Proposal PP2017/0002 - 12-14 Pindari Road, Peakhurst Heights

**Author:** Manager Strategic Planning

**Directorate:** Environment and Planning

**Matter Type:** Environment and Planning

### Recommendation

- (a) That Council forward the Planning Proposal to amend Hurstville Local Environmental Plan 2012 (HLEP 2012) as follows, to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979:
- To change the land use zoning from SP2 Church and Community Purpose to R2 Low Density Residential;
  - To include a maximum Floor Space Ratio (FSR) control of 1:1;
  - To include a maximum building height of 9m; and
  - To amend Schedule 1 to include the following additional uses for the site: office premises; restaurant or café.

### Executive Summary

- The Independent Hearing and Assessment Panel (IHAP) at its meeting on 5 December 2017 considered a report on the Planning Proposal for 12-14 Pindari Road, Peakhurst Heights as identified in **Figure 1** on the next page.
- The Georges River IHAP recommends the following to Council:
  - That the Georges River IHAP recommends to Council that the Planning Proposal to amend Hurstville Local Environmental Plan 2012 (HLEP 2012) as follows, be forwarded to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979:
    - To change the land use zoning from SP2 Church and Community Purpose to R2 Low Density Residential;
    - To include a maximum Floor Space Ratio (FSR) control of 1:1;
    - To include a maximum building height of 9m.
    - To amend Schedule 1 to include the following additional uses for the site: office premises; restaurant or café.
  - That a report to Council be prepared to advise of the IHAP recommendations.



**Figure 1: Aerial view of 12-14 Pindari Road, Peakhurst Heights**

3. Refer to **Attachment 1** for a copy of the report to the IHAP and the associated annexures. The IHAP report is comprehensive in its assessment and should be read in conjunction with this report.
4. This report recommends that Council supports the IHAP recommendation and endorse the Planning Proposal.

### **Background**

5. The request to prepare a Planning Proposal (PP2017/0002) for two (2) lots at the Leaning Links site (No. 12-14 Pindari Road, Peakhurst Heights) was submitted by Capital Syndications Pty Ltd on behalf of the owner on 8 June 2017.
6. The two lots are known as Lot 58 DP 206906 and Lot 59 of DP 206906 and have a primary street frontage to Pindari Road and a secondary frontage to Pindari Road Reserve.
7. The Planning Proposal lodged on 8 June 2017 sought:
  - a. To change the land use zoning from SP2 Church and Community Purpose to B1 Neighbourhood Centre;
  - b. To include a maximum Floor Space Ratio (FSR) control of 1.5:1; and
  - c. To include a maximum building height of 9m.

8. The IHAP considered the Planning Proposal for the site at its meeting on 26 October 2017. The IHAP resolved to defer the Planning Proposal at the request of the proponent and recommended that the proponent address the following:
  - a. Consistency of the existing zoning pattern;
  - b. The required land uses for the continued operation of Learning Links and to ensure the future long term economic viability of the site; and
  - c. Built form controls that minimise the adverse impact on the adjoining low scale R2 Low Density Residential development. It is advisable that a built form analysis of the proposed controls is undertaken.
9. In making the decision to defer the planning proposal, the Georges River IHAP discussed with the proponent the following recommended changes to the current planning controls:
  - a. A change to the land use zoning from SP2 Church and Community Purpose to R2 Low Density Residential;
  - b. Changing the maximum Floor Space Ratio (FSR) control to 1:1;
  - c. Changing the maximum building height to 9m; and
  - d. Amending Schedule 1 to include Educational establishments as an additional land use for the subject property.
10. The Panel provided the following reasons for its decision:

*The Panel did not consider the proposed change of the zoning to B1 to be an appropriate planning outcome in relation to the existing and likely future zoning and built form. The Panel did not consider the proposed change of the zoning to B1 Neighbourhood Centre to be an appropriate planning outcome in relation to the existing and likely future zoning and built form outcome.*
11. As a result of the IHAP consideration of the Planning Proposal at its meeting on 26 October 2017, the Planning Proposal has been amended by letter dated 6 November 2017 from Innova Capital and now requests the following:
  - a. To change the land use zoning from SP2 Church and Community Purpose to R2 Low Density Residential zone;
  - b. To include a maximum Floor Space Ratio (FSR) control of 1:1;
  - c. To include a maximum building height of 9m; and
  - d. To amend Schedule 1 to include the following additional uses for the site: office premises; restaurant or café.
12. The Planning Proposal as amended also proposes to include maximum FSR and building height controls for the site that are consistent with adjoining R2 Zoning. The maximum FSR proposed is 1.1 and the maximum building height proposed is 9m.

### **The Site and Locality**

13. The subject site includes two (2) lots within a combined area of 1,170m<sup>2</sup> which are known as No. 12-14 Pindari Road, Peakhurst Heights and comprise:

- a. Lot 58 in DP 206906 (No. 12 Pindari Road) is generally rectangular in shape which measures approximately 580m<sup>2</sup> and has a frontage of approximately 15.85m to Pindari Road.
  - b. Lot 59 in DP 206906 (No. 14 Pindari Road) is irregular in shape which measures approximately 590m<sup>2</sup> and has a frontage of approximately 18.97m to Pindari Road and 38.105m to Pindari Road Reserve.
14. The subject site is owned and occupied by Learning Links which from a legal entity perspective is a company. Learning Links provide a range of services that help support children with learning difficulties and disabilities such as speech pathology and occupational therapy.
15. The subject site consists of the following building and open space elements as shown in **Figures 2, 3 to 4** below:
- a. An elevated building facing Pindari Road with basement area (former church building) that is partitioned as used as an administrative office, tuition rooms and storage space.
  - b. A single storey building to the rear of the site accessed from Pindari Road Reserve that is connected to the main building. This is used as a child care centre (pre-school).
  - c. An outdoor play and recreation area that is partly covered and adjoins the neighbouring dwelling at No. 10 Pindari Road. A high security gate to the outdoor play area runs along the Pindari Road front boundary.



**Figure 2: Site as viewed from Pindari Road frontage**





**Figure 3: Site viewed from Pindari Road Reserve**



**Figure 4: Outdoor play/recreation area as viewed from Pindari Road**

16. A summary of the surrounding land is provided below and shown in **Figures 5 and 6** below:

- North: To the north of the site are low density residential dwelling houses. No.10 Pindari Road which immediately adjoins the site is a single storey brick dwelling



house with pitched roof form and side carport. No. 8 Pindari Road is a two storey dwelling house with pitched roof form.

- East: To the east of the site, on the opposite side of Pindari Road, is Peakhurst South Public School.
- South: Immediately to the south of the site is a public open space area that is known as Pindari Road Reserve. The child care component of the subject site is accessed from this reserve. Further south of the reserve is the Peakhurst Heights Pindari Road Neighbourhood Centre.
- West: To the west of the site are low density dwelling houses that front Karwarra Place, which is a cul-de-sac. The rear boundaries of Nos. 4 and 5 Karwarra Place border the rear boundary of the subject site.

17. It should be noted that there are no heritage items on or within the vicinity of the site.



**Figure 5: Adjoining low density residential uses along Pindari Road**



**Figure 6: Adjacent shop top housing development in the Peakhurst Height Pindari Road Neighbourhood Centre**

## **EXISTING PLANNING CONTROLS**

18. The Hurstville LEP 2012 applies to the site and the following provisions are relevant to the Planning Proposal:

### **Zoning**

19. The site is zoned SP2 Infrastructure (Church and Community Purpose). The Learning Links component of the site is defined as a community facility under the HLEP 2012 and is therefore a permissible use in the SP2 zone. However, the centre-based child care facility, although previously approved, is prohibited under the current SP2 zone of the HLEP 2012. The child care centre was approved by the former Municipality of Hurstville in 1968
20. The current SP2 zone under the HLEP 2012 restricts redevelopment of sites for alternative uses by prohibiting all development types except for “roads” and “for the purposes shown on the Land Zoning Map”.
21. The SP2 Infrastructure zone under the HLEP 2012 is considered overly restrictive to allow the range of uses that are existing on the site and is out of date as the site has not been used as a public of public worship for over 25 years.
22. The adjoining land to the south is zoned RE1 Public Recreation and B1 Neighbourhood Centre. Peakhurst South Public School on the opposite side of Pindari Road is zoned SP2 Infrastructure (Educational Establishment).



23. An assessment was undertaken as to the most appropriate future zoning of the site, consistent with the surrounding zoning. The intention of Learning Links is to formalise the existing uses on the site and to allow future expansion of the community facility to permit offices ancillary to the existing uses, health consulting rooms.
24. With respect to the adjoining R2 – Low Density Residential Zone, the objective of the zone is to provide for the housing needs of the community as well as to encourage development of sites for a range of housing types. Community facilities, health consulting rooms and centre based child care facilities would be permissible in the R2 – Low Density Residential zone. The additional land uses sought by the proponent - office premises; restaurant or café – would need to be included in Schedule 1 to the Hurstville LEP 2012.
25. This approach would allow the primary use of the site as a community facility being maintained. The proposed zoning – now R2 and maximum FSR (1:1) and height limits (9m) are considered appropriate in the context of the adjoining low density residential development. It should be noted that the adjoining low density residential zone and the adjoining B1 Neighbourhood Centre zone both set height limits of 9m.

### **Development Standards**

26. Height of Buildings: the site has no nominated maximum building height. The adjoining and surrounding land has a maximum building height of 9m.
27. Floor Space Ratio: the site has no nominated maximum Floor Space Ratio.
28. The surrounding and adjoining low density residential housing has a maximum FSR of 0.6:1. Land to the south in the B1 Neighbourhood Centre zone has a maximum FSR of 1.5:1.

### **THE PLANNING PROPOSAL**

29. The Planning Proposal requests the following amendments to the HLEP 2012 in relation to the site:
  - a. Amend Land Zoning Map – Sheet LZN\_002 to rezone site from SP2 Infrastructure (Church and Community Purpose) to R2 Low Density Residential.
  - b. Amend the Height of Buildings Map - Sheet HOB\_002 to include a maximum height limit of 9m.
  - c. Amend the Floor Space Ratio Map – Sheet FSR\_002 to include a maximum FSR of 1:1.
  - d. Amend Schedule 1 – Additional permitted Uses to include the following:

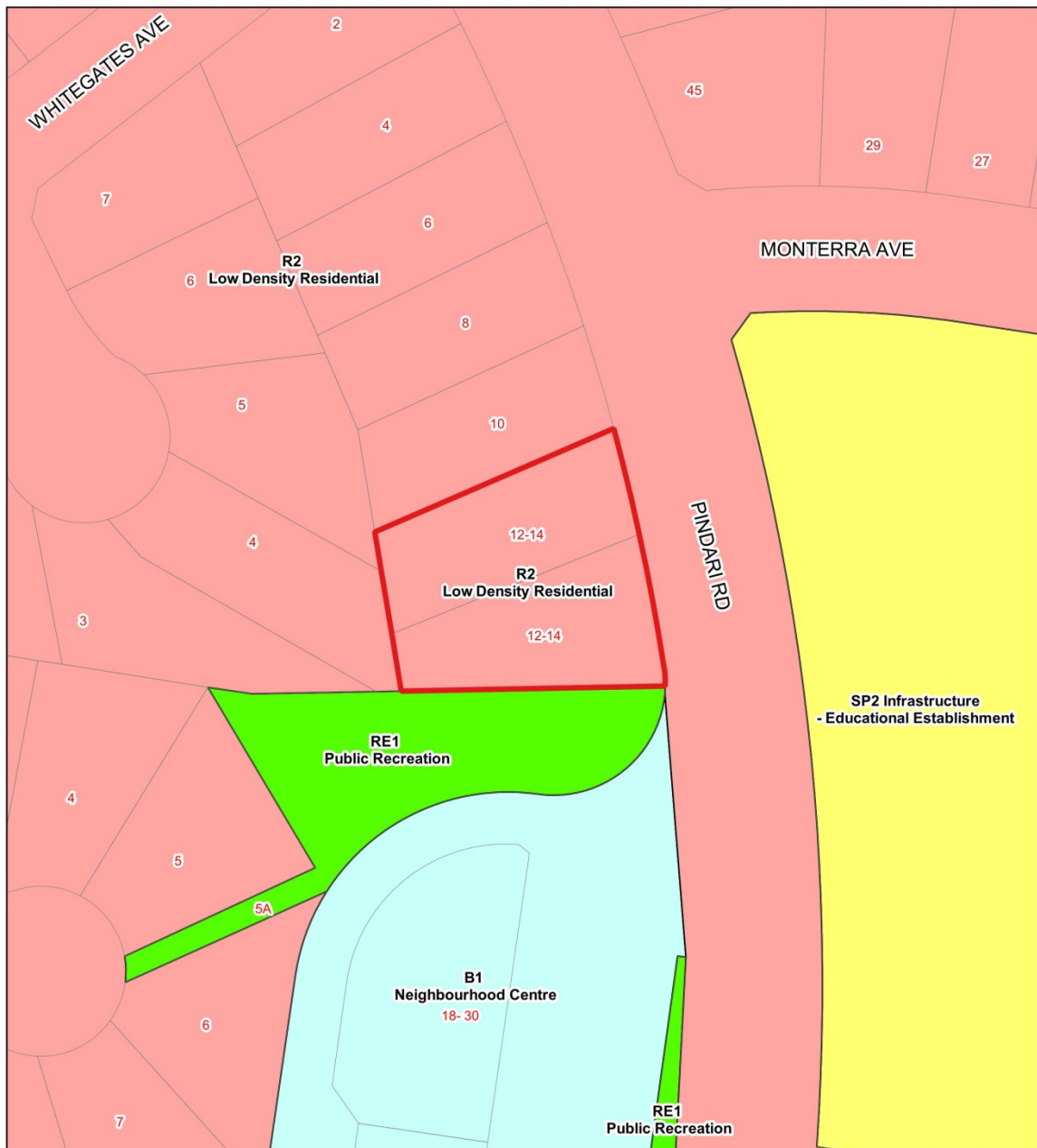
Use of certain land at 12 and 14 Pindari Road, Peakhurst

(1) *This clause applies to land at 12 and 14 Pindari Road Peakhurst being Lot 58 and Lot 59 DP.206906.*


(2) *Development for the purpose of an office premises; restaurant or café is permitted with development consent.*

30. The proposed changes to the LEP maps are outlined below (**Figures 7 to 9**):

**Planning Proposal - 12-14 Pindari Road, Peakhurst Heights  
PROPOSED Land Zoning Map**



**Legend**

 Subject Site



Date: 24/11/2017  
I:\PLANNING and LEP\Amendments and Proposals\PP2017-0004 - SP2-R2 - 12-14 Pindari Rd, Peakhurst Heights

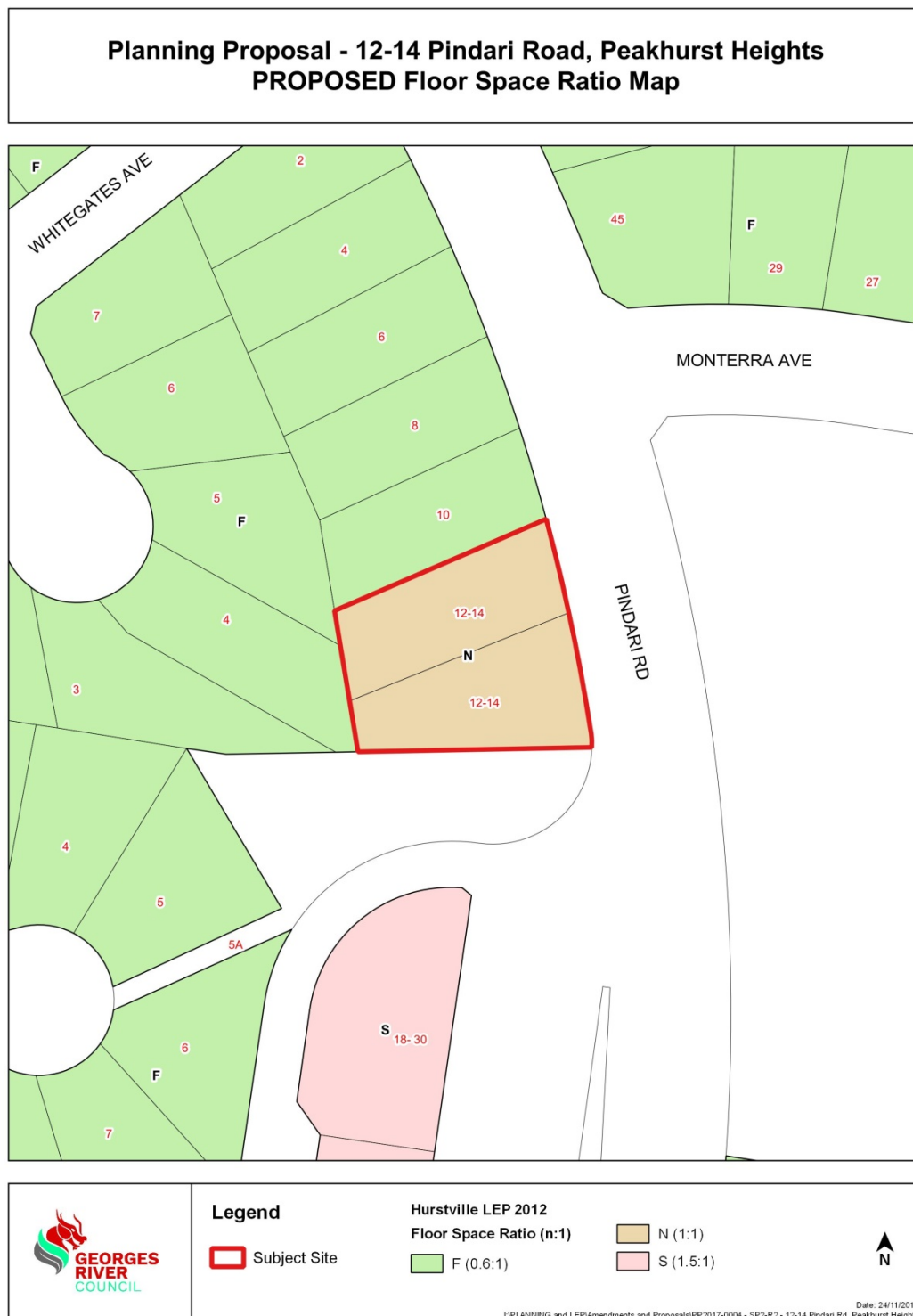
**Figure 7: Proposed R2 Low Density Residential Zone**

**Planning Proposal - 12-14 Pindari Road, Peakhurst Heights  
PROPOSED Height of Buildings Map**



**Figure 8: Proposed Building Height Map to 9m**





**Figure 9: Proposed FSR Map of 1:1**

31. The Planning Proposal has been assessed under the relevant sections of the Environmental Planning and Assessment Act 1979 and Regulation 2000 and against the following advisory documents prepared by the Department of Planning and Environment:
  - a. "A guide to preparing planning proposals" (August 2016).
  - b. "A guide to preparing local environmental plans" (August 2016).
32. Section 55 of the Environmental Planning and Assessment Act 1979 outlines that a planning proposal must explain the intended effect and the justification for making the proposed instrument and must include the following components:

- a. A statement of the objectives and intended outcomes of the proposed instrument (Part 1).
- b. An explanation of the provisions that are to be included in the proposed instrument (Part 2).
- c. The justification for those objectives, outcomes and the process for their implementation (Part 3).
- d. Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies (Part 4).
- e. Details of the community consultation that is to be undertaken on the planning proposal (Part 5).

33. The information below addresses the requirements for Planning Proposals.

### **Objectives and Intended Outcomes**

34. The objective of the Planning Proposal is to amend the Hurstville LEP 2012 by:
- a. Changing the land use zoning from SP2 Infrastructure (Church and Community Purpose) to R2 Low Density Residential.
  - b. Providing a height of building control of 9m (currently there is no maximum height).
  - c. Providing a Floor Space Ratio control of 1:1 (currently there is no maximum FSR).
  - d. Amending Schedule 1 – Additional Permitted Uses to include office premises; restaurant or café.
35. The intended outcomes of the Planning Proposal are to:
- a. Ensure the existing and approved use of the land is a permissible form of development in the zone.
  - b. Ensure principal building envelope controls (height and FSR) are legislated to allow for any future redevelopment of the site.
  - c. Provide certainty in the community in relation to any future redevelopment of the site.

### **Explanation of Provisions**

36. The proposed intended outcomes will be achieved by amending the Hurstville LEP 2012 as follows:
- a. Amend the Land Zoning Map to rezone site from SP2 Infrastructure (Church and Community Purpose) to R2 Low Density Residential.
  - b. Amend the Height of Buildings Map to include a maximum height limit of 9m.
  - c. Amend the Floor Space Ratio Map to include a maximum FSR of 1:1.
  - d. Amend Schedule 1 – Additional Permitted Uses to include office premises; restaurant or café as being permitted with consent on the site
37. It is noted that currently under the HLEP 2012 there are no maximum height or FSR controls for the site due to its SP2 Infrastructure zoning.

38. The Planning Proposal seeks to adopt the standard controls that apply to the development of R2 Low Density Residential zoned land from the perspective of permissible uses and maximum building heights. This is considered appropriate given the surrounding context and the existing usage of the site as a community facility and centre-based child care facility.
39. The maximum FSR surrounding the site is 0.6:1. The Planning Proposal seeks an FSR of 1:1.
40. The Planning Proposal impacts the relevant zoning map, height of buildings map and FSR map. The Planning Proposal also impacts Schedule 1 to the Hurstville Local Environmental Plan 2012.

### **Strategic Planning Context**

41. The revised draft South District Plan (October 2017) and draft Greater Sydney Region Plan A Metropolis of Three Cities are on public exhibition until mid-December 2017 and apply to the Georges River Council area.
42. Consideration of the Planning Proposal request in relation to the current plans and strategies (A Plan for Growing Sydney (Metropolitan Strategy), draft plans, draft Greater Sydney Region Plan A Metropolis of Three Cities, draft revised South District Plan, Hurstville Community Strategic Plan 2025 and Draft Employment Lands Study is provided below.

#### *A Plan for Growing Sydney (Metropolitan Strategy)*

43. The Planning Proposal is consistent with the aims of A Plan for Growing Sydney which was adopted in December 2014. It achieves the following relevant Goals and Directions:
  - a. Goal 1: A competitive economy with world-class services and transport

Direction 1.10: Plan for education and health services to meet Sydney's growing needs.

The Planning Proposal will contribute towards achieving this Direction by retaining employment land that is currently used as a child care centre and community facility that helps support children with learning difficulties and disabilities. The location of the site, opposite Peakhurst South Public School, benefits the community and future residents.

- b. Goal 3: Sydney's great places to live

Direction 3.1: Revitalise existing suburbs

The Planning Proposal will contribute towards achieving this Direction by allowing permissible uses that revitalise the local community and contribute to an attractive suburb. The proposal ensures the site be used for employment land providing business activity for the area and meeting the needs of a growing population.

#### *Draft Greater Sydney Region Plan – A metropolis of three cities*



44. The draft Greater Sydney Region Plan has ten directions:

- A city supported by infrastructure
- A collaborative city
- A city for people
- Housing the city
- A city of great places
- A well connected city
- Jobs and skills for the city
- A city in its landscape
- An efficient city
- A resilient city

45. The Planning Proposal is not inconsistent with the ten provisions of the draft Plan.

*Draft South District Plan*

46. In relation to the revised draft South District Plan (October 2017) which proposes a 20 year vision for the South District, the Planning Proposal is consistent with the following planning priorities:

- Planning Priority S1 Planning for a city supported by infrastructure
- Planning Priority S2 Working through collaboration
- Planning Priority S3 Providing services and social infrastructure to meet people's changing needs
- Planning Priority S4 Fostering healthy, creative, culturally rich and socially connected communities
- Planning Priority S5 Providing housing supply, choice and affordability, with access to jobs and services
- Planning Priority S6 Creating and renewing great places and local centres, and respecting the District's heritage
- Planning Priority S7 Growing and investing in the ANSTO research and innovation precinct
- Planning Priority S8 Growing and investing in health and education precincts, and Bankstown Airport trade gateway as economic catalysts for the District
- Planning Priority S9 Growing investment, business opportunities and jobs in strategic centres
- Planning Priority S10 Protecting and managing industrial and urban services land
- Planning Priority S11 Supporting growth of targeted industry sectors
- Planning Priority S12 Delivering integrated land use and transport planning and a 30-minute city
- Planning Priority S13 Protecting and improving the health and enjoyment of the District's waterways

- Planning Priority S14 Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes and better managing rural areas
  - Planning Priority S15 Increasing urban tree canopy cover and delivering Green Grid connections
  - Planning Priority S16 Delivering high quality open space
  - Planning Priority S17 Reducing carbon emissions and managing energy, water and waste efficiently
  - Planning Priority S18 Adapting to the impacts of urban and natural hazards and climate change
47. The Planning Proposal to rezone the site to R2 Low Density Residential addresses a number of planning priorities in the Plan but specifically in relation to: S3 Providing services and social infrastructure to meet people's changing needs; S4 Fostering healthy, creative, culturally rich and socially connected communities; S6 Creating and renewing great places and local centres, and respecting the District's heritage; and S8 Growing and investing in health and education precincts, and Bankstown Airport trade gateway as economic catalysts for the District.
48. The proposal protects the employment land of the Learning Links site and the provision of existing children's educational support services in the local community.
49. The proposed rezoning provides opportunities for new ancillary uses to cluster around existing health and education facilities. The site's immediate adjacency and accessibility to Peakhurst South Public School addresses priorities of the Plan in relation to planning for connected and stronger economic and employment centres where proximity of health and education assets creates significant opportunity to drive economic activity and a sustainable and liveable city.

#### *Hurstville Community Strategic Plan 2025*

50. The former Hurstville City Council endorsed the Hurstville Community Strategic Plan 2025 on 3 June 2015. It is the overarching strategy for Council's objectives and operations. The Planning Proposal is not inconsistent with the principles of the Plan.

#### *Draft Employment Lands Study*

51. A report on the draft Georges River Employment Lands Study was considered by Council at its meeting on 3 April 2017 where Council resolved to place the draft Study on public exhibition.
52. The area to the south of the subject site is zoned B1 – Neighbourhood Centre zone and is known as the Peakhurst Heights – Pindari Road Precinct.
53. The draft Study considers Peakhurst Heights – Pindari Road Precinct as a centre that has opportunity to accommodate growth. The Precinct is zoned B1 Neighbourhood Centre. Key land uses in the zone are neighbourhood shops and shop top housing such as hairdressing, yoga studio, and podiatry.

54. Surrounding land uses are predominantly low density residential. The Learning Links site and Peakhurst South Public School are located on Pindari Road and adjoin the Precinct.
55. The current development standards within the Precinct are a maximum FSR of 1.5:1 and building height limit of 9m. The draft Study makes the following recommendations in respect to the Peakhurst Heights – Pindari Road Precinct:
  - a. Retain the existing B1 – Neighbourhood Centre Zone.
  - b. Increase the maximum permitted height of buildings from 9m to 12m so as to allow realisation of the maximum FSR of 1.5:1.
  - c. Review land uses in the B1 – Neighbourhood Centre zone to allow additional land uses.
56. The draft Study identifies the opportunity across all B1 Neighbourhood Centres as an increase of permitted maximum height of building. The current height limits the potential for the permitted FSR of 1.5:1 to be realised.
57. The subject site is not included in the Peakhurst Heights – Pindari Road Precinct as it is not currently zoned B1 Neighbourhood Centre.
58. The Learning Links facility is one of the largest employers in the Peakhurst Heights – Pindari Road Precinct. The site generates a significant amount of employment for the local area and wider community.
59. It comprises approximately 22 full time staff, 47 part time staff, 122 casual staff and 1 volunteer. Submissions on behalf of the subject site were made during the public exhibition of the draft Employments Lands Study requesting consideration of inclusion into the Peakhurst Heights – Pindari Road Precinct.
60. The site, despite currently being zoned SP2 Infrastructure plays a vital role in providing employment for the precinct. The Planning Proposal supports the viability of the Peakhurst Heights – Pindari Road Precinct.

#### *State and Regional Statutory Framework*

61. State Environmental Planning Policies (SEPPs) deal with matters of State or regional environmental planning significance. A review of the prevailing list of SEPPs was conducted by the applicant at the time of lodgement (dated 8 June 2017) and no applicable SEPP was identified.
62. On 1 September 2017, the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 was gazetted.
63. The SEPP aims to facilitate the effective delivery of educational establishments and early education and care facilities across the State by:



- (a) *improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and*
- (b) *simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and*
- (c) *establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and*
- (d) *allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and*
- (e) *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (f) *aligning the NSW planning framework with the National Quality Framework that regulates early education and care services, and*
- (g) *ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process, and*
- (h) *encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design.*

64. The SEPP also introduces a common assessment framework made up of the Child Care Planning Guideline and non-discretionary development standards. The Guideline contains key national requirements and planning and design guidance for child care facilities and will generally prevail over local development control plans.

65. The Planning Proposal is considered to be consistent with the aims of the SEPP by legitimising the existing centre-based child care facility land use on the subject site and henceforth allowing future upgrades and/or expansion of the early education facility on site. This will ensure the essential services currently provided on the site are protected whilst promoting the employment growth and viability of the Peakhurst Heights Neighbourhood Centre.

### **S117 MINISTERIAL DIRECTIONS**

66. Ministerial Directions under Section 117 of the Environmental Planning and Assessment Act 1979 set out a range of matters to be considered when preparing an amendment to a Local Environmental Plan.

67. The Planning Proposal is consistent with all relevant ministerial directions as assessed by the applicant in **Table 1** below:

S117 Direction	Assessment
3.1 Residential Zones	The proposal is consistent with the objectives of this direction. The Planning proposal seeks to rezone the land from SP2 to R2. The R2 zone will allow a range of residential uses as well as uses that support the local community.
6.3 Site Specific Provisions	<p>The proposal is consistent with the objectives of this direction. The site is proposed to be rezoned to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone.</p> <p>The proposal also seeks to amend Schedule 1 to include the following additional uses for the site: office premises; restaurant or café.</p>
7.1 Implementation of A Plan for Growing Sydney	The proposal is consistent with the objectives of A Plan For Growing Sydney, as assessed in report above.

## EXISTING USE RIGHTS

68. Under Division 10 Existing uses of Part 4 Development assessment of the Environmental Planning and Assessment Act 1979, existing use is defined as the use of a building, work or land for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use.
69. In accordance with the above definition, the existing development on the site is deemed to possess existing use rights in that the use of a ‘centre-based child care facility’ was approved prior to the commencement of the HLEP 2012. The use was approved as a ‘pre-school kindergarten’ under BA-758 in 1968 by the former Municipality of Hurstville. The former Hurstville City Council also approved ‘office space and after school accommodation’ in 1990 under development application DA 479/90.
70. The Planning Proposal request to rezone the site from SP2 Infrastructure (Church and Community Purpose) to R2 Low Density Residential Zone will ensure the ‘centre-based child care centre facility’ is a permissible form of development in the zone. The existing child care centre benefits the community which is the intent of the existing special use zone ‘Church and Community Purpose’.

## VOLUNTARY PLANNING AGREEMENT

71. The Voluntary Planning Agreement (“VPA”) Policy was adopted on 1 August 2016 and sets out Council’s objectives in relation to the use of planning agreements. The Policy has been consistently applied to planning proposals and development applications alike since its adoption.
72. Clause 5.3 of the Policy states that where either a Planning Proposal is proposed, or development consent is sought, which will result in an exceedance of development standards, resulting in an inherent increase in value of the land or development, the concept of land value capture may be used to assess the appropriate contribution.
73. Although the proposal seeks a rezoning from SP2 to R2, which will result in a broader range of land uses being permitted on the site, the proposal does not seek development

uplift given that there are currently no FSR or height controls under the SP2 Infrastructure zone and the proposal is requesting height and FSR controls that are consistent with the adjoining R2/B1 zones.

74. The formula in Council's VPA Policy for calculating land value capture, applies to existing residual value under the LEP and the proposed residual land value under the PP or DA. In this regard, it would be difficult to assess the uplift as there may not be any uplift due to the existing use rights on the land.
75. As outlined above, the existing development is community facility registered as a not for profit organisation. The site is owned by Learning Links and operates as a community facility that services children with learning difficulties and disabilities such as speech pathology and occupational therapy. The site also consists of a community based pre-school that is owned and run by Learning Links.
76. The Planning Proposal is seeking to validate the existing employment based land uses on the site and allowing for a broadening of land uses that would be consistent with the existing uses on the site by rezoning from SP2 to R2. The proposed height and FSR are consistent with the adjoining R2/B1 zones, being 9m and 1:1
77. The proposal also provides a significant public benefit to the community by providing services for children with learning difficulties.
78. For these reasons, Council has not applied the VPA Policy to the Planning Proposal.

### **Community Consultation**

79. Should the Planning Proposal be supported it will be forwarded to the Greater Sydney Commission (GSC) requesting a Gateway Determination.
80. If a Gateway Determination (Approval) is issued, and subject to its conditions, it is anticipated that the Planning Proposal will be exhibited for a period of 28 days in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 and Regulation, 2000 and any requirements of the Gateway Determination.
81. Exhibition material, including explanatory information, land to which the Planning Proposal applies, description of the objectives and intended outcomes, copy of the Planning Proposal and relevant maps will be available for viewing during the exhibition period on Council's website and hard copies available at Council offices and libraries.
82. Notification of the public exhibition will be through:
  - Newspaper advertisement in The St George and Sutherland Shire Leader,
  - Exhibition notice on Council's website,
  - Notices in Council offices and libraries,



- Letters to State and Commonwealth Government agencies identified in the Gateway Determination (if required),
- Letters to adjoining landowners (if required, in accordance with Council's Notification Procedures).

## Conclusion

83. The Planning Proposal request to rezone the site from SP2 Infrastructure (Church and Community Purpose) to R2 Low Density Residential Zone allows for the continuation of existing and approved community facility and centre-based child care facility uses.
84. The proposed R2 zoning is considered an appropriate zone for the site. It allows for the continuation of the existing uses on site within a permissible zone and provides greater flexibility for redevelopment of the site for future upgrades and expansions. The primary use of the site as a community facility is being maintained. The proposed new zone ensures that future uses are compatible with existing surrounding uses.
85. The proposed zoning and maximum FSR and height limits are considered appropriate.
86. The anticipated the project timeline for completion of the Planning Proposal is shown below:

Task	Anticipated Timeframe
Lodgement of Planning Proposal request	8 June 2017
Report to Georges River IHAP on Planning Proposal	December 2017 (
Report to Council on Planning Proposal	December 2017 this report)
Anticipated commencement date (date of Gateway determination)	March 2018
Anticipated timeframe for completion of any further technical information	April 2018
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	May 2018
Commencement and completion dates for community consultation period	June 2018
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	July 2018
Reporting to Georges River IHAP on community consultation	August 2018
Reporting to Council on community consultation and finalisation	August 2018
Submission to the Department to finalise the LEP	September 2018

<b>Task</b>	<b>Anticipated Timeframe</b>
Anticipated date for notification.	September 2018

87. It is noted that the project timeline will be assessed by the DPE and may be amended by the Gateway Determination.

## **NEXT STEPS**

88. If the Planning Proposal is endorsed by Council it will be forwarded to the delegate of the Greater Sydney Commission for a Gateway determination in accordance with Section 56 of the Environmental Planning and Assessment Act 1979.
89. If Council resolves not to support the Planning Proposal, the Applicant has the opportunity to request a pre-Gateway Review by the Planning Panels under the delegation of the Greater Sydney Commission. An applicant has 40 days from the date of notification of Council's decision to request a review.

## **ATTACHMENTS**

Attachment 1 Report to IHAP held on 5 December 2017

## **Council Resolution (18 December 2017)**

### **CCL243-17 Planning Proposal PP2017/0002 – 12-14 Pindari Road, Peakhurst Heights**

- (a) Resolved:** Councillor Badalati and Councillor Hindi
- (b) (a) That Council forward the Planning Proposal to amend Hurstville Local Environmental Plan 2012 (HLEP 2012) as follows, to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979:
  - (c) a. To change the land use zoning from SP2 Church and Community Purpose to R2 Low Density Residential;
  - (d) b. To include a maximum Floor Space Ratio (FSR) control of 1:1;
  - (e) c. To include a maximum building height of 9m; and
  - (f) d. To amend Schedule 1 to include the following additional uses for the site: office premises; restaurant or café.