

Ref No: D16/85903

Planning Proposal

Pre-Gateway Review application (PGR_2015_HURST_001 00) – JRPP Advice 1 June 2016

Amend Hurstville Local Environmental Plan 2012 in relation to 29-31 MacMahon Street, Hurstville by increasing the maximum building height from 40m to 50m and increasing the maximum floor space ratio from 4.5:1 to 5.5:1.

(PP2014/0003)



August 2016

GEORGES RIVER
COUNCIL

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- Appendix 1: CCL585-15 Planning Proposal Request - 29-31 MacMahon Street Hurstville (1 April 2015) - Report and Resolution
- Appendix 2: Department of Planning and Environment's Information and Assessment Recommendation Report - February 2016
- Appendix 3: JRPP Advice dated 19 April and 1 June 2016
- Appendix 4: Urban Design Study (May 2016)
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1. Introduction

A Planning Proposal request (PP2014/0003) was lodged with Hurstville City Council for 29-31 MacMahon Street Hurstville (the "Subject Site") on 7 November 2014. Hurstville and Kogarah City Councils merged on 12 May 2016 to become Georges River Council.

PP2014/0003 requested an amendment to the Hurstville Local Environmental Plan 2012 ("HLEP 2012") for the Subject Site by:

- increasing the maximum building height from 40m to 55m
- increasing the maximum floor space ratio (FSR) from 4.5:1 to 7:1
- including a bonus 1:1 FSR for a community facility within the proposed FSR of 7:1

The Planning Proposal was lodged by KPoint Investments Pty Ltd on behalf of the Churches of Christ Trust. The Subject Site currently includes a single storey Church and a two storey residential flat building.

Hurstville City Council at its meeting of 1 April 2015 resolved not to support the Planning Proposal request.

The Applicant lodged a Pre-Gateway Review Application which was considered by the Sydney East Joint Regional Planning Panel ("JRPP") which recommended that "the proposed instrument should be submitted for a Gateway determination" subject to a number of amendments as detailed in Section 2 below.

2. Background

Council considered PP2014/0003 on 1 April 2015 and resolved not to support the Planning Proposal request due to a number of reasons including:

- the request exceeded the adopted development controls by a significant amount,
- inconsistency with the Hurstville City Centre Transport Management and Accessibility Plan, 2013 (the "TMAP") recommendations,
- inconsistency with S117 Direction 3.4: *Integrating Land Use and Transport* and
- the setting of a precedent.

A copy of the Council report is provided in Appendix 1.

At the time of Council's decision the draft LEP for the Hurstville City Centre was awaiting finalisation. The amendment to the Hurstville LEP 2012 for the Hurstville City Centre came into force on 10 July 2015.

The Applicant lodged a Pre-Gateway Review application PGR_2015_HURST_001 00 ("PGR") on 22 May 2015 which was considered by the Sydney East Joint Regional Planning Panel (the "JRPP") on two (2) occasions, 19 April 2016 and 1 June 2016.

The Department of Planning and Environment, in their Information Assessment and Recommendation Report of February 2016 to the JRPP, noted that the PGR had merit to proceed to the Gateway stage as it had some strategic and site-specific merit, was generally consistent with the metropolitan, regional and local planning framework and would provide additional housing in support of the Hurstville Strategic Centre and Urban Renewal Corridor along the railway line, as identified in *A Plan for Growing Sydney*. The Department identified that a number of supporting studies may be required that included:

- urban design
- traffic
- heritage impact assessment
- development feasibility
- demand for recreation and community facilities.

On 19 April 2016, the JRPP considered the Department of Planning and Environment's Information Assessment and Recommendation Report as well as the views of Council and the Applicant and agreed that some variation in the controls on the site may be justified on the basis of previous approvals in the vicinity that do not comply with the controls in Hurstville LEP 2012. However, the JRPP did not consider that a 1:1 bonus for the provision of community facilities was justified as the FSR of 7:1 on the site would be unachievable. The JRPP advised the Applicant to provide additional work and consideration of the requirements of the Apartment Design Guideline (ADG).

The Applicant submitted this additional information in the form of an Urban Design Study (23 May 2016) (refer Appendix 4). The JRPP considered the Urban Design Study at its meeting of 1 June 2016 and determined that the Proposal should proceed to the Gateway stage and should be revised by:

- reducing the requested height from 55m (approx. 17 storeys) to 50m (approx. 15 storeys)
- reducing FSR from 7:1 (including bonus FSR) to 5.5:1
- requiring consultation with airport authorities regarding the maximum height.

The Applicant submitted an amended Planning Proposal request on 3 August 2016 reflecting the JRPP advice of 1 June 2016. The amended Planning Proposal was accompanied by a revised Urban Design Study. The other supporting studies identified by the Department in its February 2016 Report have not been submitted by the Applicant. These include:

- a comprehensive Traffic Study to demonstrate consistency with the TMAP, traffic impacts of the proposed place of worship and community facilities and consultation with TfNSW and RMS,
- a Heritage Impact Assessment to address any potential impacts of the revised Planning Proposal on the two heritage items,
- a Development Feasibility Analysis, and
- an analysis of additional demand for recreation and community facilities.

At the time of writing this report, these issues remain outstanding.

Subject Site

The Subject Site is located at Nos. 29 and 31 MacMahon Street, Hurstville within the Hurstville City Centre. The overall site area is 1,112.6m². The site is rectangular in shape with the MacMahon Street frontage of 30.18m and a depth of 47m. The Site is owned by The Churches of Christ Property Trust and contains an existing two storey residential apartment block (4 dwellings) and a single storey Church as shown in Figure 1. Vehicular access is provided off MacMahon Street.



Figure 1: Site Location

The Subject Site is located in the City Centre North precinct identified within the Hurstville City Centre Concept Masterplan and DCP 2 - Hurstville City Centre (Amendment No. 6) and forms part of a block bounded by MacMahon Street, Park Road, Woodville Street and Barratt Street.

The Site is within 70m of the transport hub that includes Hurstville Bus Interchange and Hurstville Railway Station. The Site is located directly opposite to the Hurstville Civic Centre and fronts MacMahon Street which is characterised by buildings that are set back from the street and having generous landscaping and quality public domain. Public buildings located along MacMahon Street include, the Hurstville Civic Theatre, the Marana Auditorium, the Hurstville City Museum and Gallery and four local heritage items

(the Old Fire Station, the Friendly Societies' Dispensary building, the Hurstville City Museum and Gallery and the Presbyterian Church).

The table below and Figure 1 describe the three (3) lots within the site.

Site Description	Site Area (Approximate)	Legal description	Owner
29 MacMahon Street, (north-eastern lot) Contains two storey residential flat building with four (4) apartments	556.3m ²	Lot 1 SP 12396	The Churches of Christ Property Trust (Proprietors of SP 12396)
31 MacMahon Street (central lot) Contains single storey Church	172.8m ²	Lot 11, DP 455603	The Churches of Christ Property Trust
31 MacMahon Street (south-western lot) Contains single storey Church	383.5m ²	Lot 10 Section A, DP 1297	The Churches of Christ Property Trust
Total Site Area	1,112.6m²		

Table 1: Site Details

Surrounding Land

North-east: Immediately adjacent to the site to the north-east is the old Fire Station building, which is a heritage item (I159). Located behind the old Fire Station is a thirteen (13) storey mixed-use building at 23-27 MacMahon Street as shown in Figure 2 below.



Figure 2: 13 storey building behind the heritage building (Old Fire Station)

South-west: To the south-west and adjacent the Site is a six (6) storey commercial strata building on the corner of MacMahon and Barratt Street (33 MacMahon Street). This corner has an active frontage to Barratt Street with a restaurant in the corner. Vehicle access is off MacMahon Street immediately adjacent to the Subject Site.



Figure 3: Six storey commercial building to the west of Subject Site



Figure 4: First floor Communal Open Space at the rear of Barratt/Woodville building

South-east: To the south-east of the Site and fronting Woodville Street is a newly constructed seven (7) and fourteen (14) storey mixed-use building (2A Barratt and 18-22 Woodville Street), that has active street frontage on the ground level (fronting Woodville Street) and communal open space on the first floor at the rear of the site. This communal space backs on to the rear of the Subject Site.



Figure 5: Ground level Active Frontage - new Barratt/Woodville development



Figure 6: Location of communal open space for the new Barratt/Woodville building

North-west: To the north-west and opposite the site on MacMahon Street is the two (2) storey Georges River Council Hurstville Civic Centre. The block bounded by Dora Street, MacMahon Street, Park Road and Queens Road is the Civic Precinct of the Peakhurst, Mortdale and Hurstville Wards of Georges River Council (previously Hurstville City Council). The block includes the Hurstville Service Centre, Civic Theatre, Marana Auditorium, Hurstville City Museum and Gallery and at grade public parking. This is a deferred site under the Hurstville LEP 2012 (refer Current Planning Controls below). The Baptist Church (on the corner of Queens Road and Dora Street) is not included in this “deferred site”.

A Planning Proposal request has been lodged by Georges River Council for the Civic Precinct in July 2016. Council has also recently received a Planning Proposal request from the Baptist Church for 2-4 Dora Street Hurstville in July 2015.

Two other Churches are located along MacMahon Street (outside the “deferred area”; the Church of Christ (on the Subject Site) and the Presbyterian Church at the corner of MacMahon Street and Park Road.



Figure 7: MacMahon Street - looking east - civic character with buildings set back



Figure 8: Hurstville Baptist Church and Georges River Council building (Hurstville Service Centre) – view from Dora Street and Queens Road



Figure 9: Hurstville City Museum and Gallery - (Heritage Item - I157)



Figure 10: Marana Auditorium, MacMahon Street, Hurstville



Figure 11: Presbyterian Church, MacMahon Street, Hurstville

Current Planning Controls

The Site is subject to the provisions of the Hurstville LEP 2012 and currently:

- Zoned B4 Mixed Use
- Maximum Building Height of 40m
- Maximum Floor Space Ratio of 4.5:1
- Active Street Frontage

The site is adjacent to heritage item I159 the Old Fire Station at 23 MacMahon Street Hurstville.

Extracts of the relevant Hurstville LEP 2012 maps are provided below:

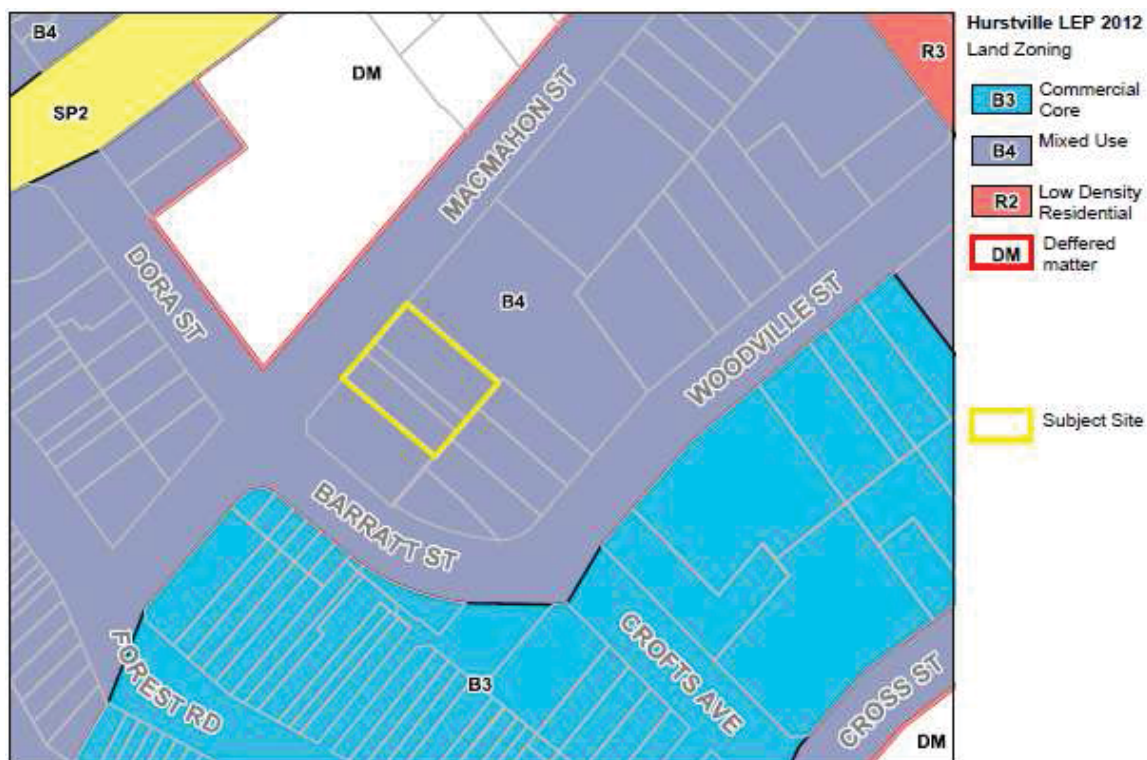


Figure 12: Existing Land Zoning (Source: Hurstville LEP 2012)

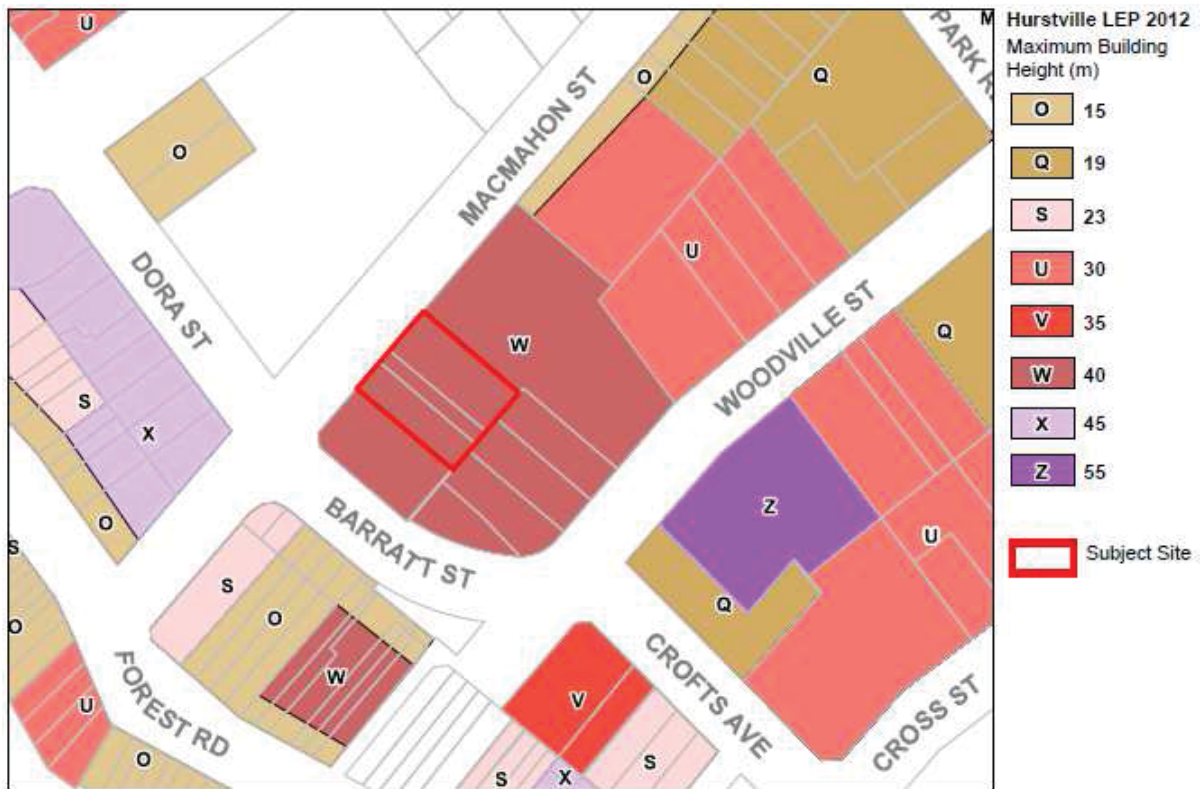


Figure 13: Existing Maximum Height of Buildings (Source: Hurstville LEP 2012)



Figure 14: Existing Maximum Floor Space Ratio (Source: Hurstville LEP 2012)



Figure 15: Heritage Map Extract (showing existing heritage items in the vicinity - (items I159, I158, and I156) (Source: Hurstville LEP 2012)



Figure 16: Existing Active Street Frontages (Source: Hurstville LEP 2012)

Applicant's Original Development Concept, November 2014

The Planning Proposal request by KPoint Investments Pty Ltd (November 2014) requested the following amendments to HLEP 2012 in relation to the Subject Site:

- Amend the Height of Buildings Map for the Site to increase the height from 40 metres to 55 metres (approx. 17 storeys)
- Amend the Floor Space Ratio (FSR) Map for the site to increase the FSR from 4.5:1 to 7:1 (this includes an FSR of 1:1 for a 'community facility' in accordance with a new proposed clause in Hurstville LEP 2012)
- Amend Clause 4.4 to allow the specified maximum FSR of 6:1 for the Site to be exceeded by up to 1:1 (allowing a total FSR of 7:1) if the additional FSR is used for a 'community facility' of which, at least part is located at ground floor level.

Council's consideration of Planning Proposal

Hurstville City Council considered the Planning Proposal request (PP2014/0003) at its meeting of 1 April 2015 and resolved not to support the Planning Proposal request due to a number of reasons including:

- the request exceeded the development standards in Hurstville LEP 2012 (Amendment No. 3) by a significant amount. This amendment was finalised in July 2015. At the time of consideration of the PP2014/0003, the Amendment No.3 was awaiting finalisation
- inconsistency with the Hurstville City Centre Transport Management and Accessibility Plan (the "TMAP") recommendations, which informed the development standards in Hurstville LEP 2012 (Amendment No. 3)
- inconsistency with S117 Direction 3.4: *Integrating Land Use and Transport* as the Planning Proposal did not examine the traffic movements from the total development (including the additional 70 dwellings), or the cumulative impacts of land uses and approved and proposed developments in the vicinity
- the setting of a precedent of amendments to the development standards in an instrument recently finalised which had considered the Hurstville City Centre as a whole and undertaken urban design analysis and transport modelling.

A copy of the Council report and resolution of 1 April 2015 is provided in Appendix 1.

Design Review Panel

The St George Design Review Panel (DRP) was established in accordance with State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development (SEPP 65) to provide design advice on major development in the Hurstville, Kogarah and Rockdale Council Areas, including:

- to give independent advice to councils on the design content of draft local environmental plans, development control plans, master plans, similar plans and draft planning policy documents having regard to the design quality principles.
- to give independent advice to councils on other mechanisms and initiatives to improve achievement of the design quality principles

The Planning Proposal (PP2014/0003) was not considered by the St George DRP as the recommendation not to support the Planning Proposal encompassed more reasons than only the urban design concerns.

If Council receives a Gateway determination for the PP2014/0003, it is recommended that PP2014/0003 be considered by the St George DRP, in accordance with the provisions of SEPP 65 – Design Quality of Residential Apartment Development to provide advice on design content, design outcomes of the proposed height and FSR increase and assessment against the Design Quality Principles.

Pre Gateway Review Application

The Applicant lodged a Pre-Gateway Review application (PGR_2015_HURST_001 00) on 22 May 2015 after Council's decision of 1 April 2015 to not support the Planning Proposal request.

The Pre-Gateway Review Application was considered by the Sydney East Joint Regional Planning Panel (the "JRPP") on two (2) occasions; 19 April 2016 and 1 June 2016 (refer below).

Department's Information Assessment and Recommendation Report

The Department in their Information Assessment and Recommendation Report, dated February 2016 (Appendix 2), recommended that PGR_2015_HURST_001 00:

- had some strategic and site-specific merit
- is generally consistent with the metropolitan, regional and local planning framework and would provide additional housing in support of the Hurstville Strategic Centre and Urban Renewal Corridor along the railway line, as identified in *A Plan for Growing Sydney*.

The Report noted there were examples in the vicinity where the existing 'as-built' heights of neighbouring buildings exceeded the current height controls. It is noted that the JRPP approved the majority of these development approvals; and the exceedances from the height and FSR maximums in the Hurstville LEP 2012 (which commenced in July 2015) were between 6m and 20m and 1:1 and 1.8:1 respectively. The Department noted the need for adequate urban design and development feasibility evidence to support an increase over the current planning controls for the site.

The Department also noted Council's concern that the proposal is inconsistent with the Hurstville City Centre Transport Management and Accessibility Plan (TMAP) and recommended TfNSW and RMS be consulted in regard to any inconsistency with the TMAP. While the retention of community and church uses on the ground and first floors of the proposed development was supported, the bonus FSR mechanism was not supported. The report noted that the height and floor space ratio controls should be based on sound urban design analysis.

The Department recommended the JRPP consider the following matters in preparing its advice on whether the proposal should proceed to Gateway for determination:

- reducing the maximum building height to approximately 50 metres to better align with the existing surrounding development and reducing the proposed floor space ratio to reflect the amended height. It is noted that additional urban design analysis and demonstrated compliance with the Apartment Design Guide may be required;

- requiring a comprehensive traffic study to determine the cumulative impact of development on this and nearby sites that exceed the existing development controls and justify any inconsistency with the Hurstville City Centre TMAP, including consultation with TfNSW and RMS prior to exhibition; and
- requiring a heritage study to address any potential impacts of the revised Planning Proposal on the two heritage items, the Fire Station (I159) at 27 MacMahon Street Hurstville and the Friendly Societies Dispensary Building (I158) at 17 MacMahon Street Hurstville including the visual, amenity and overshadowing impacts
- Development feasibility analysis
- Analysis of additional demand for recreation and community facilities

The Applicant has provided an Urban Design Study (included as Appendix 6) however this Study did not clearly demonstrate compliance with the SEPP 65 Design Quality Principles and the Apartment Design Guide. The Applicant has not provided the following additional studies as discussed above:

- Comprehensive Traffic Study
- Heritage Study
- Development Feasibility Analysis
- Analysis of additional demand for recreation and community facilities

Whilst it is noted that the Department report states that the Planning Proposal request had some “strategic and site-specific merit”, the site’s current B4 Mixed Use zoning and the development standards (maximum building height of 40m and maximum FSR of 4.5:1) under the HLEP 2012 already provide this strategic merit.

The proposed increase in the Planning Proposal request, which will result in an additional three (3) levels and approx. nine (9) dwellings, while adding to this existing merit, may also result in impacts not identified in the preparation of the Hurstville LEP 2012 (Amendment 3) which set the development standards (maximum height and FSR) for the Hurstville City Centre.

JRPP (19 April 2016)

The JRPP considered the Department of Planning and Environment’s Information Assessment and Recommendation Report as well as the views of Council and the Applicant at its meeting on 19 June 2016 and agreed that some variation in the controls on the site may be justified on the basis of previous approvals in the vicinity that do not comply with the controls in Hurstville LEP 2012 (refer consideration above). However, the JRPP did not consider that a 1:1 bonus for the provision of “community facilities” was justified as the FSR of 7:1 on the site would be unachievable.

The JRPP advised the Applicant to provide sufficient analysis and corresponding heights required by a residential building on the site, to the FSR of 4.5:1, 5:1, 5.5:1 and 6:1, that satisfied the requirements of the Apartment Design Guideline (ADG). The Applicant was advised to assume that the adjoining building to the west (No. 30 MacMahon Street) is developed as a mixed use development under the controls of the Hurstville LEP 2012.

The Applicant submitted this additional information in the form of an urban design study titled, 29-31 MacMahon Street Hurstville - Urban Design Study on 23 May 2016 (Refer **Appendix 4**).

JRPP (1 June 2016)

The JRPP considered the Urban Design Study on 1 June 2016 and advised that the Proposal should proceed to the Gateway stage as the revised development standards (produced below) “*will be reasonably compatible with the existing development around, with acceptable impacts on surrounding development*”. The JRPP advised that the Planning Proposal should be revised by:

- reducing the requested height from 55m (approx. 17 storeys) to 50m (approx. 15 storeys)
- reducing the requested FSR from 7:1 (including bonus FSR) to 5.5:1
- the Department of Planning and Environment to consult with the appropriate authorities about the height in relation to obstacle limitation surface.

The issues raised in the Department’s report (February 2016) were not addressed in the recommendations of the JRPP meeting of 1 June 2016. (Refer **Appendix 3**).

Department of Planning and Environment’s advice

The Department on 30 June 2016 advised that the Proposal should proceed to the Gateway determination stage and be updated to reflect the JRPP recommendations by:

- reducing the proposed maximum height to 50m (15 storeys approximately)
- reducing the proposed FSR to 5.5:1
- removing the site specific 1:1 FSR bonus for development involving a community facility

A copy of the Department’s advice is provided in **Appendix 2**.

The Department was advised on 15 July 2016 that Georges River Council would act as the Relevant Planning Authority (RPA) for this Planning Proposal.

Strategic Planning Studies – Business Zones and Employment Land

Since the lodgement of the Planning Proposal request, two (2) studies have been commissioned by Council to analyse and provide recommendations on the industrial (IN2 Light Industrial) and business (B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core and B4 Mixed Use) zones. The issue of employment floor space within the business zones, and development standards to ensure future development provides for employment opportunities (consistent with the zone objectives and the Metropolitan Strategy) have been identified. A summary of the studies is provided below:

Options Paper - Review of Hurstville Commercial Core Zone

An ‘Options Paper - Review of Hurstville Commercial Core Zone in Hurstville LEP 2012’ (Options Paper) was prepared by AEC Group and SJB Planning in August 2015 to