

PRE-GATEWAY REVIEW – Information Assessment and Recommendation Report

LGA:	City of Hurstville	
LEP to be amended:	Hurstville LEP 2012	
Address:	29-31 MacMahon Street, Hurstville	
Reason for review:	☒ Council notified proponent it will not support proposed amendment	☐ Council failed to indicate support for proposal within 90 days
Is a disclosure statement relating to reportable political donations under s147 of the Act required and provided?	☒ Provided ☐ N/A Comment: No donations or gifts to disclose.	

1. SUMMARY OF THE PROPOSAL

The planning proposal (Tab D) seeks to amend the maximum building height and floor space ratio applicable to 29-31 MacMahon Street, Hurstville ('the site'). The site comprises three allotments along MacMahon Street between Barratt Street and Park Road (see Figure 1). The site currently contains a place of public worship and a two storey residential flat building.



Figure 1: Site Context. Source: Google Maps 2015

The subject site was zoned 3(b) City Centre Business Zone under Hurstville LEP 1994 when the planning proposal was originally submitted to Council. The site is located within the area subject to the draft Hurstville City Centre LEP 2014, which was notified in July 2015 as an amendment to Hurstville LEP 2012. The City Centre LEP was notified after Council refused the planning proposal and after the applicant submitted a request to the Department for a Pre-Gateway Review. The site is now zoned B4 Mixed Use under Hurstville LEP 2012 (see Figure 2).

The current zoning permits the development of residential flat buildings with consent, therefore the proposal does not seek a change in zoning.

The proposal seeks to change the maximum permissible building height for the site from 40 metres to 55 metres (see Figure 3) and change the maximum floor space ratio from 4.5:1 to 6:1 (see Figure 4). The proposal also seeks to apply a site specific bonus floor space ratio of 1:1 for development involving a community facility.

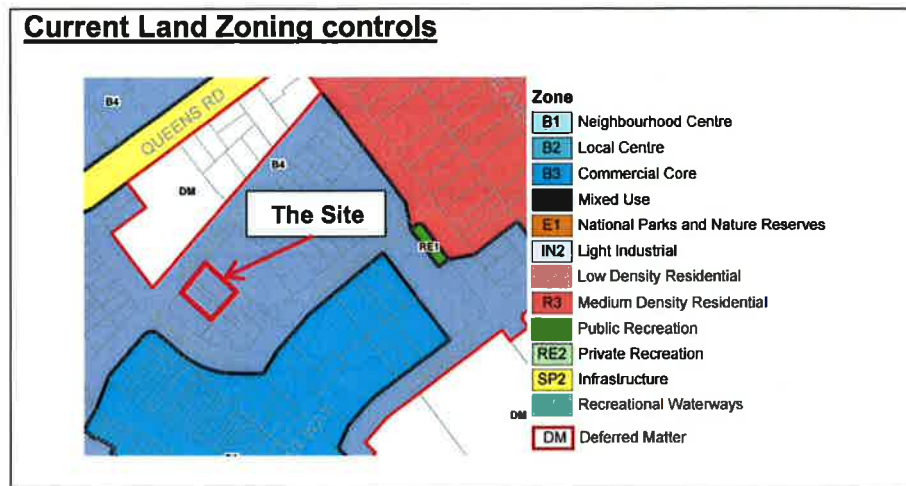


Figure 2: Current land zoning controls Source: NSW Legislation 2015

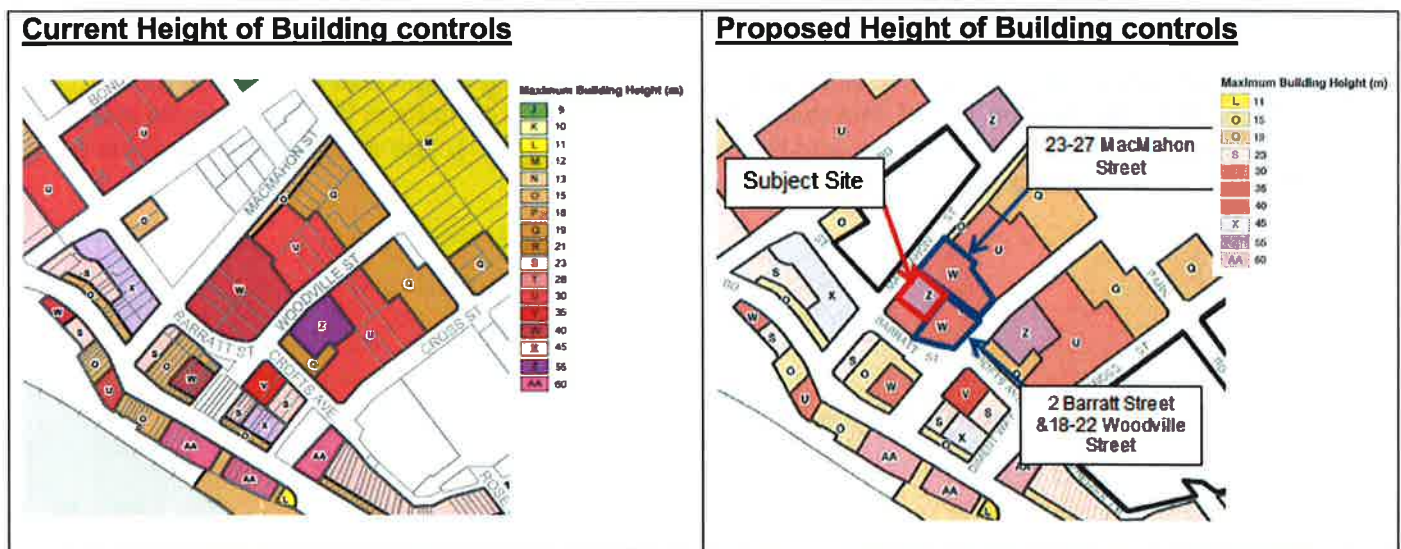


Figure 3: Current and Proposed building height controls. Source: KPoint Investments 2014

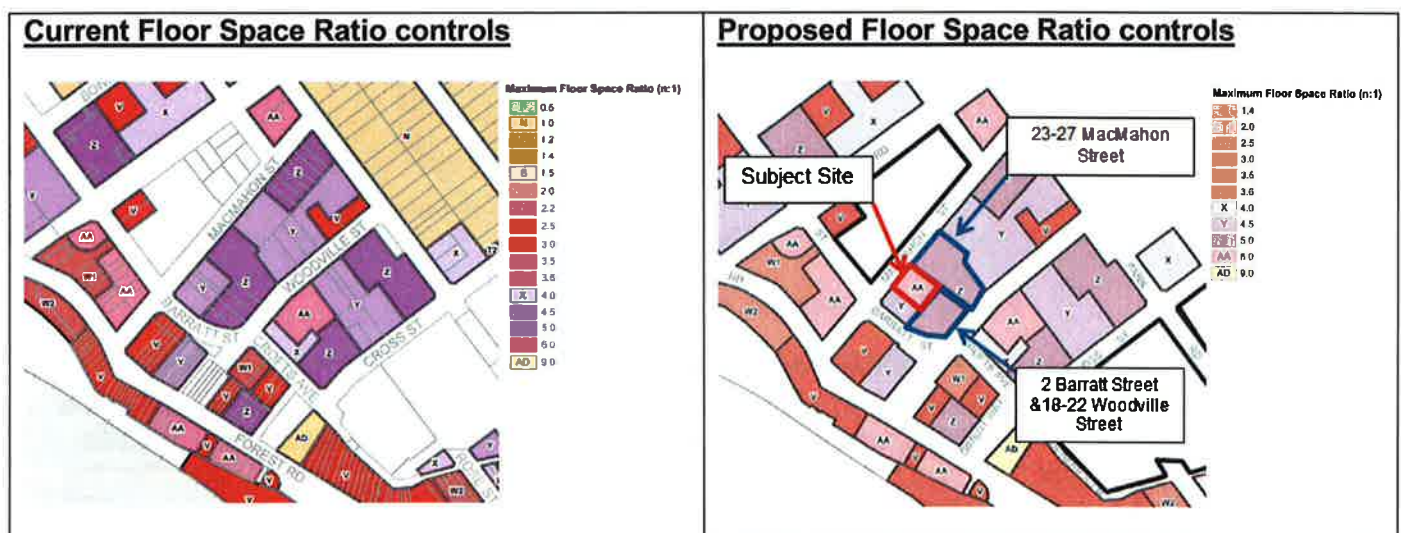


Figure 4: Current and Proposed FSR controls. Source: KPoint Investments 2014

The proposal will facilitate a 17 storey mixed use development with a gross floor area of 7,789m² containing:

- a place of public worship and community facilities on the ground and first floor with a total floor area of 1,200m²;
- 70 residential apartments across 14 floors;
- 115 car parking spaces at basement level; and
- a plant room on the roof level (17th floor).

The site is surrounded by a mixture of low to high density mixed use buildings, residential flat buildings, low density housing, shops and community facilities. The site is within close proximity to the Hurstville Railway Station and Bus Interchange (north of the site), as well as the Hurstville Westfield Shopping Centre (east of the site).

The site is in the Hurstville Local Government Area (LGA). *A Plan for Growing Sydney* identifies the site within the Hurstville Strategic Centre and in the Urban Renewal Corridor where additional housing will be delivered.

The Department is concerned, based on the evidence provided with the planning proposal, that the proposal may have an undesirable impact on the character of the area and that there is no compelling reason to amend the controls to the extent proposed. However, the Department recognises the proposal has some strategic merit and would provide additional housing to support the Hurstville Strategic Centre and Urban Renewal Corridor identified in *A Plan for Growing Sydney*, and recommends it proceed to the Sydney East Joint Regional Planning Panel for independent review.

2. REQUIREMENTS UNDER SECTION 55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

2.1 Objectives and intended outcomes:

The following objective and intended outcomes have been put forward by the proponent:

- to provide a higher yield for the site under the current B4 Mixed Use zoning; and
- to facilitate an outcome which fully funds the development of a new community facility on the first and ground floor of the proposed development, with associated car parking.

2.2 Explanation of provisions:

The proponent has suggested the following amendments to the Hurstville LEP 2012 for the site:

- increase the maximum building height from 40m to 55m, by amending the Height of Building Map;
- increase the maximum floor space ratio from 4.5:1 to 6:1, by amending the Floor Space Ratio Map; and
- apply a site specific bonus Floor Space Ratio of 1:1 for development involving a community facility.

2.3 Mapping:

The planning proposal contains sufficient mapping. It demonstrates current and proposed height and FSR controls and contains images illustrating the site in context.

2.4 Community consultation (including agencies to be consulted):

A community consultation and public exhibition period has been suggested, with the time for exhibition to be determined by the Gateway. Should the proposal proceed to Gateway, consultation with the following public agencies is recommended: Transport for NSW (TfNSW), Roads and Maritime Services (RMS), Energy Australia, Sydney Water, Telstra, NSW Police Service, Department of Education and Communities and NSW Ministry of Health.

A public exhibition period of 28 days is recommended should the proposal proceed to Gateway.

3. VIEWS OF COUNCIL

3.1 Comments from Hurstville City Council

Council resolved not to support the planning proposal to increase the building height and floor space ratio on the site as it was considered premature at that time to seek an amendment to the draft Hurstville LEP (Hurstville City Centre) 2014 (draft LEP). In addition:

- the proposed building height and floor space ratio exceed the draft LEP planning controls and the existing Development Control Plan No. 2 – Hurstville City Centre (DCP 2);
- the Hurstville LEP 1994 applied to the site which does not include development standards, the proposal would not be consistent with the Standard Instrument LEP as the planning controls were in the DCP;
- the site should not be considered in isolation and an integrated approach should be undertaken when reviewing planning controls for development within the Hurstville City Centre, having regard to the potential and cumulative impacts of those controls on traffic, urban design outcomes and infrastructure;
- it would set a precedent if supported;
- it is inconsistent with the Hurstville City Centre Transport Management and Accessibility Plan Report 2013 adopted by Council; and
- it is not consistent with Direction 3.4 Integrating Land Use and Transport (Section 117).

The draft Hurstville City Centre LEP and amendments to the DCP were adopted in July 2015 as Hurstville LEP 2012 (Amendment No 3) which was after the pre-Gateway review request was received by the Department.

This report will assess the planning proposal against the current controls in the Hurstville LEP 2012.

4. PROPOSAL ASSESSMENT

4.1 Strategic merit assessment

4.1.1 A Plan for Growing Sydney

In December 2014, the Department released *A Plan For Growing Sydney* ('the Plan'), the long term strategic plan for metropolitan Sydney.

The site is located in the South Subregion and is within the Hurstville Strategic Centre. The site is also identified as being within an "Urban Renewal Corridor" (see Figure 5) identified for "more housing through targeted urban renewal around centres on the transport network to provide more homes closer to jobs and boost the productivity of the city".



Figure 5: Extract from South Subregion. Source: *A Plan for Growing Sydney 2014*

The planning proposal is consistent with the Plan, as it would:

- facilitate the growth of Hurstville and reinforce its role as a Strategic Centre by accelerating housing choice and encouraging higher density redevelopment (Direction 1.7 and Action 1.7.1);
- increase the local housing supply and choice in close proximity to jobs and serviced by frequent public transport (Direction 2.1 and Action 2.1.1);

- facilitate urban infill and increase housing production around a local centre, transport corridors and public transport access point (Direction 2.2 and Action 2.2.2);
- revitalise an existing suburb, potentially acting as a catalyst for redevelopment of the precinct to the north of the city (Direction 3.1);
- facilitate housing intensification around an established local centre and along a key public transport corridor (South Subregion Priority);
- provide mixed-use development in Hurstville, by offering housing closer to jobs near the commercial core of Hurstville's City Centre and additional community services to residents living within the area (South Subregion Priority); and
- support the Hurstville B3 Commercial Core area, being located just outside the area.

4.1.2 Section 117 Directions

Direction 1.1 Business and Industrial zones

The proposal is consistent with this direction as the site is zoned B4 Mixed Use and the proposal seeks to provide community facilities on the street level with residential uses above. However other business and commercial uses are not identified for the proposed development on the site.

Direction 2.3 Heritage Conservation

The objective of this direction is to conserve items which have heritage significance. The planning proposal states the site is not heritage listed. However, two lots north of the site contain local heritage items, being the Fire Station (I159) and the Friendly Societies Dispensary Building (I158) (Figure 6). These heritage buildings are both two storeys fronting MacMahon Street with 11 storey and 9 storey residential flat buildings at the rear of each lot respectively.

The proponent does not state whether these heritage items would be directly impacted by the planning proposal. Should the proposal proceed to Gateway, the proponent should address this direction by assessing any potential heritage impacts, including the visual, amenity and overshadowing impacts.

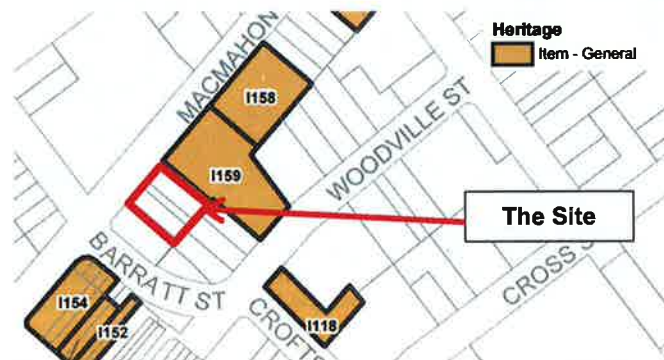


Figure 6: Heritage Conservation and Items Map. Source: NSW Legislation 2015

Direction 3.1 Residential Zones

The proposal is consistent with this direction as it encourages a variety of housing types in a location well serviced by existing infrastructure and in close proximity to services

Direction 3.4 Integrating Land Use and Transport

The proposal is considered to be consistent with this direction as it provides additional housing in close proximity to jobs and in a location well serviced by existing public transport infrastructure.

The proponent analysed the proposal against the Council's Transport Management and Accessibility Plan (TMAP) Report 2013. The TMAP was prepared to support the LEP Amendment and DCP for the Hurstville City Centre and provides Council with strategies for catering with increasing vehicle demand, including road network improvements and an action plan to assist in delivering these outcomes. The proposal concludes the additional FSR would have minimal impact on the TMAP.

However, Council argues the proposal does not fully meet the objectives of this Direction as it is not consistent with all the aims and principles of *Improving Transport Choice – Guidelines for Planning and*

Development (DUAP 2001) and *The Right Place for Business and Services – Planning Policy* (DUAP 2001). Council also states the proposal would facilitate additional floor space above that recommended in the TMAP.

Transport for NSW has advised the Department that it would work with Roads and Maritime Services and Council to develop infrastructure solutions to manage future travel demands generated by proposed developments in the Hurstville City Centre.

Should the proposal proceed to Gateway, TfNSW and RMS should be consulted prior to public exhibition of the proposal.

4.1.3 Local Strategy

Council retained the mixed use objective of the 3(b) Zone by allocating a B4 Mixed Use zone to the site in the Hurstville City Centre LEP. Council also established new built form controls for residential, commercial and mixed use developments in the Hurstville City Centre LEP (i.e. building height and FSR) and DCP No. 2 – Hurstville City Centre. These controls were formerly in Section 4 – Built Form Controls of the DCP, which defined the built form and envelopes for all street blocks in the Centre.

DCP No. 2 – Hurstville City Centre

The DCP No. 2 – Hurstville City Centre divides the centre into six precincts defined geographically and by land use function. The site is located within the City Centre North Precinct which is considered to be a transitional area between the commercial core to the south and the residential area to the north (see Figure 7).



Figure 7: City Centre North Precinct Map. Source: DCP No. 2 – Hurstville City Centre 2015

The desired future character for the precinct is for community and civic activities with high-rise residential and commercial development throughout. The planning proposal is considered to be consistent with this objective as it provides a mixed use development with a place of public worship, additional community facilities and housing.

The key land use principles for the precinct include:

- promoting a civic presence – proposed built form should adopt a strong civic presence created by well-defined streets and civic spaces, and facilitate community interaction and gatherings with emphasis placed on creating community meeting points of interest;
- activating the street – promote active uses at the ground and lower levels of development to promote vibrancy and passive and active surveillance of the public domain; and
- transitional role with residential areas – design new development that adjoins established residential areas on the boundary of the City Centre to maintain the amenity of these residential land uses.

4.2 Site-Specific merit assessment

4.2.1 Existing use of land

The site is located along MacMahon Street (between Park Road and Barratt Street) and is zoned B4 Mixed Use. The site has a total area of approximately 1,113 square metres and the existing land uses include a single storey Church of Christ development and a two storey residential building.

The following development controls currently apply to the site:

Control	Explanation
<i>Zoning</i>	B4 Mixed use. Residential flat buildings are permissible with consent
<i>Building height</i>	40 metres (existing building height is approximately 9 metres)
<i>Floor space ratio</i>	4.5:1
<i>Active street frontage</i>	Active street frontage required along MacMahon Street boundary

The built form of the area surrounding the site consists of mixed-used buildings (up to 11 storeys), residential flat buildings, 2-3 storey walk up flat buildings, low scale commercial premises and community facilities.



Figure 8: Subject site and adjoining sites at 33 and 23-27 MacMahon Street (Source: Willana Assoc 2014)

4.2.2 Proposed use of land

The planning proposal is for a 17 storey mixed use development, containing community facilities and a place of worship on the ground and first floor, up to 70 residential apartments, and 115 car parking spaces at basement level.

The planning proposal seeks to amend the development controls for the site to the following:

Control	Explanation
<i>Building height</i>	55 metres
<i>Floor space ratio</i>	6:1 + bonus 1:1 for community facility (Total FSR of 7:1)

The subject site and surrounding lands are identified for active street frontages under the Hurstville LEP 2012 (i.e. along MacMahon Street, Barratt Street and Woodville Street). The objective is to promote uses that attract pedestrian traffic along certain ground floor street frontages, such as retail, commercial or community uses, and this has generally occurred in nearby buildings (except the ground floor of 2 Barratt Street & 18-22 Woodville Street which has been converted to residential).

The principle of street activation within centres is supported by the Department and should be implemented as part of this proposal.

4.2.3 Urban Design Issues

The Department supports high density mixed use and residential development in this location, consistent with the relevant strategic planning for Hurstville City Centre. It is noted from the proponent's urban design analysis, that although the maximum building height and density controls in the surrounding area are limited to 40 metres and 4.5/5:1 (see Figures 1 and 2), that there are a number of examples where the 'as-built' heights of existing buildings exceed the current controls. For example, in determining the proposed height and floor space ratio, the planning proposal considers the following mixed use developments within the vicinity of the site:

Mixed-use development location	Existing Use	Existing (as-built) development height	Hurstville LEP 2012 height	Existing (as-built) FSR	Hurstville LEP 2012 FSR
2 Barratt Street & 18-22 Woodville Street	Residential (s96 converted commercial ground floor into residential)	48.4m	40m	6:1	5:1
23-27 MacMahon Street (adjacent site)	Ground and 1 st floor retail/ commercial and residential above	46m	40m	3.37:1	5:1

In addition, the proponent states there are a number of existing buildings and approved developments within close proximity to the MacMahon Street precinct that exceed the existing controls, with heights above 45 metres and density above 6:1.

Based on the proponent's analysis, there is an argument that the height and density controls for the subject site should at least match the 'as-built' height and density of surrounding buildings. The proponent has not however provided any compelling urban design or development feasibility evidence that the current standards are inappropriate.

The question remains whether the controls should be changed to exceed the heights of adjoining and surrounding buildings and whether there is sufficient evidence to support this change. The proponent concludes the proposal complies with the amenity criteria outlined in the former *SEPP 65 – Residential Flat Design Code* and results in acceptable impacts (e.g. views and overshadowing). Should the proposal proceed to Gateway, the proposal should be revised to demonstrate compliance with the Department's new *Apartment Design Guide*.

A shadow analysis ([Tab D](#)) has been provided with the planning proposal to demonstrate how the additional height will impact on neighbouring properties. During the winter solstice, the proposed development would overshadow the adjacent site to the south-west of the site at 9am and then overshadow the mixed use development behind the site (south-east), affecting them between 12pm and 3pm. Currently overshadowing occurs from the buildings at 23-27 MacMahon Street and 2 Barratt Street and 18-22 Woodville Street to the south-west and south-east of the site. The proposed development would expand the overshadowed area, especially to the south-east of the site where minimal overshadowing currently occurs from the two storey buildings.

While the planning proposal gives consideration to the context of the site, with a particular reliance on the 'as-built' heights of existing nearby development, the justification for an increase in height and floor space above the height and density of adjoining development is considered insufficient. Neither is there adequate supporting justification for an increase in maximum building height to match existing surrounding development. Should the proposal proceed to Gateway, this evidence should be provided.

The dedication of the first two floors of the development to community uses is supported, but the increase in FSR to accommodate these uses should be based on urban design principles, and not a bonus mechanism.

The proponent has not undertaken an assessment of the proposed development's impact on the nearby heritage items (refer to section 4.1.2). Should the proposal proceed to Gateway, the proponent should be required to prepare a heritage impact assessment prior to public exhibition.

4.3 Services and infrastructure

4.3.1 Public transport – Trains and Buses

The site is well serviced with public transport. The site is within a 300m walking catchment of Hurstville Railway Station with regular services to the Sydney CBD, Cronulla, Waterfall, Bondi Junction, Wollongong and Kiama. The site is also close to the Hurstville Bus Interchange, providing connections to various locations across the Sydney metropolitan region.

4.3.2 Traffic and car parking

The planning proposal is supported by a preliminary traffic study which estimates that the proposed 70 residential apartment development would generate 40 vehicle trips per hour two-way during peak periods. This is an increase of 10 vehicle trips for the additional 30 residential apartments proposed above the existing development controls which permit the development of 40 apartments. The study concludes that the increased traffic on the surrounding road network from the proposed development will be manageable and any impacts could be mitigated by the strategies within the TMAP.

Council argues that any proposal to increase floorspace within the city centre is inconsistent with the TMAP which is a traffic management strategy based on a specific amount of floorspace. Council concedes that the permissible floorspace within the city centre already exceeds the TMAP figure. The Department agrees with the proponent's preliminary traffic study conclusion that the minimal traffic increase created by the increase in permitted residential development will have an insubstantial impact on implementation of the TMAP strategies.

The study however does not examine the traffic impacts of the proposed place of public worship and community facilities. Should the proposal proceed to Gateway, a comprehensive traffic study is recommended, including consultation with TfNSW and RMS prior to exhibition.

4.3.3 Infrastructure and services

The site has access to existing infrastructure, utilities and services. As the proposal will intensify development on the site, it is recommended that relevant state infrastructure service providers are consulted, including Sydney Water, Energy Australia, NSW Ministry for Health, NSW Department of Education and Communities, should the proposal proceed to Gateway.

4.3.4 Open space and community facilities

The site is accessible to a range of open space and community facilities, including Hurstville Oval, Woodville Park, Arrowsmith Park, Hurstville City Library, Hurstville Civic and Entertainment Centre, local schools, places of public worship, Waratah Private Hospital and Hurstville Private Hospital.

The proposed development would also provide additional community facilities and an upgraded place of public worship (Church of Christ).

The proponent has not undertaken analyses of the additional demand for recreation and community facilities should the proposal proceed.

5. BACKGROUND SUPPORTING INFORMATION

5.1 Adequacy of existing information

The planning proposal document provides sufficient information to address the key issues and clearly describes the location and the nature of the site and its surroundings in relation to what it is seeking to achieve. The supporting information comprises:

- Pre-Gateway Review Application, Willana Associates, May 2015.
- Hurstville Council response to Pre-Gateway Review request, June 2015
- Planning Proposal for 29-31 MacMahon Street, Hurstville, KPoint Investments, October 2014 (as refused by Council).
- Submission on the draft Hurstville City Centre LEP, Willana Associates, August 2014.
- Survey Plan, Map and Survey Surveyors and Engineers, January 2014.
- Building Envelope Plan, Blackwood Seddon Architects, July 2014.
- Concept Plans, Blackwood Seddon Architects, July 2014.
- Traffic and Transport Report, Colston Budd Hunt & Kaffes Pty Ltd, June 2014.
- Correspondence between Council and KPoint Investments, November 2014 – March 2015.
- Hurstville Council Meeting Agenda and minutes, April 2015.

Is the supporting information provided more than 2 years old?

Yes ☐

No ☒

If 'yes', explain/detail currency of information

Is there documented agreement between the proponent and the council regarding the scope/nature of supporting information to be provided?

Yes ☐

No ☒

Is there evidence of agency involvement in the preparation of any supporting information or background studies?

Yes ☐

No ☒

5.2 Requirement for further information

No Additional information is required.

6. CONCLUSION

It is recommended the proposal be referred to the Sydney East Joint Regional Planning Panel (Panel) for independent review. The planning proposal demonstrates some strategic and site-specific merit and is generally consistent with the current metropolitan, regional and local planning framework. The planning proposal 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 proposal would facilitate a development type that is consistent with the existing built form of the surrounding area and would seek to reinstate the community and church uses. It is also noted there are a number of examples where the existing 'as-built' heights of neighbouring buildings exceed the current height controls. The Department is not however convinced that adequate urban design and development feasibility evidence has been provided to support an increase over the current planning controls for the site.

The Department notes Council's concern that the proposal is inconsistent with the Hurstville City Centre Transport Management and Accessibility Plan (TMAP). It is recommended TfNSW and RMS be consulted in regard to any inconsistency with the TMAP.

While the Department supports the retention of community and church uses on the ground and first floors of the proposed development, the bonus FSR mechanism is not supported. The height and floor space ratio controls should be based on sound urban design analysis.

It is recommended the Panel 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. Additional urban design analysis and demonstrated compliance with the *Apartment Design Guide* may be required;
- reducing the proposed floor space ratio to reflect the amended height of the building;
- requiring a 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 assess the impacts of the proposal on the nearby heritage items.

7. RECOMMENDATION

It is RECOMMENDED that the Deputy Secretary:

1. **form the opinion** that the request is eligible for review and sufficient information has been provided; and
2. **agree** that the request may proceed to review by the Joint Regional Planning Panel .

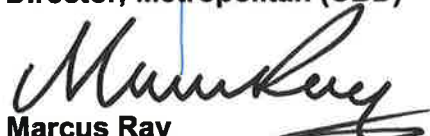
Endorsed by:


Lee Mulvey
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11 February 2016


Marcus Ray
Deputy Secretary, Planning Services

19/02/2016

