

Ref No: D17/233738

Planning Proposal

**Amendment to Schedule 1 Additional Permitted Uses
(PP2017/0001 - 84D Roberts Avenue, Mortdale)**

January 2018

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Attachments

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Attachment 2:	SEPPs Compliance Table
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Attachment 4:	Planning Proposal Request – Urbis Report (December 2017) and supporting documentation

1. Introduction

Georges River Council considered a Planning Proposal (PP2017/0001) at its meeting on 23 October 2017 and resolved to support the amendment to the *Hurstville Local Environmental Plan 2012* (“HLEP 2012”) by way of a Schedule 1 amendment to permit the uses of retail premises, bulky goods premises and centre-based child care facilities, in relation to 84D Roberts Avenue, Mortdale (legally known as Lot 21 DP 542051).

This Planning Proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979 and Regulation 2000* and the following advisory documents prepared by the Department of Planning and Environment:

- “A guide to preparing planning proposals” (August 2016); and
- “A guide to preparing local environmental plans” (August 2016).

Subject Site

The site is known as 84D Roberts Avenue, Mortdale and is legally described as Lot 21 DP 542051. The site is in an irregular battle-axe configuration with the access way on Roberts Avenue (refer **Figure 1 and 2** below).

Figure 1 – Aerial of 84D Roberts Avenue, Mortdale (Source: Nearmap)



Figure 2 – Site Cadastre (Source: Urbis Report)



The site is irregular in shape with an area of approximately 1.121 hectares and has the following boundaries:

- Roberts Avenue frontage of approx. 15.25m
- Shared side boundary with No. 84 of approx. 45.71m
- Shared boundary with rear of No. 84 of approx. 16.47m
- Eastern side boundary of approx. 92.8m
- Rear boundary of approx. 131.06m
- Western side boundary of approx. 58.61m
- Shared boundary with rear of No. 86 of approx. 99.83m
- Shared side boundary with No. 86 of approx. 37.93m

The site contains one existing development at the eastern boundary, a shopping centre known as Mortdale Plaza, shown in **Figure 3** below.

The shopping centre currently contains the following tenancies as listed in **Table 1** below.

Figure 3 – The site as viewed from Roberts Avenue (Source: Urbis Report)

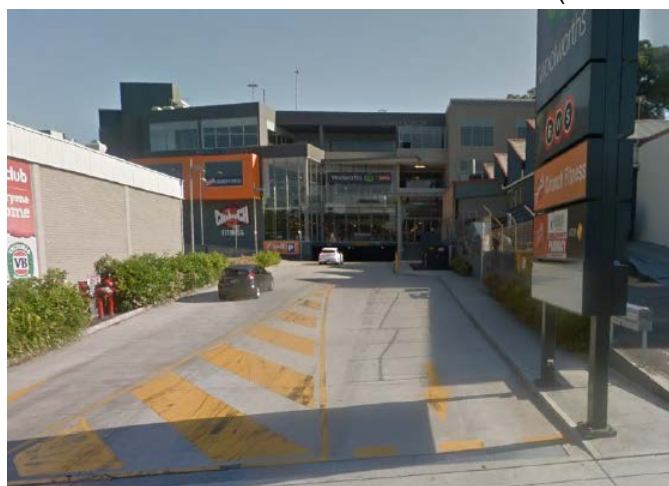


Table 1 – Current Tenancies and Land Use Type

Shop Name	Shop Type	Standard Instrument Definition	HLEP 2012 Land Use
Woolworths	Supermarket	Shop (a type of retail premise)	Prohibited
Diana Sadig	Pharmacy	Shop (a type of retail premise)	Prohibited
The Brasserie Club	Café	Food and drink premise (a type of retail premise)	Prohibited
BSW Liquor	Liquor Shop	Shop (a type of retail premise)	Prohibited
Crunch	Fitness Club / Gymnasium	Recreation facility (indoor)	Permitted with consent

Within the western section of the site is an unbuilt upon area that surrounds a watercourse which cuts through this area, shown in **Figure 4** below.

Figure 4 – Aerial view of site (Source: Nearmap)



The ground surface of the site generally slopes down from the eastern side towards the western side with an average difference of approx. 2m in height. There is a localised portion of change in topography at the watercourse in the western portion of the site as the existing watercourse is approx. 5m lower than the rest of the site.

Site History

In 2009 under Development Application 08/DA-411, the former Hurstville City Council approved the development of the site for a “three storey mixed use development comprising supermarket, bulky goods retail, gymnasium and office with basement parking”. The Development Application sought to replace the existing structures on the eastern portion of the site, which generally had comprised of a depot and service yard for motor mechanics and a temporary office building.

At the time of the development approval, the site was located within Zone No 4 (Light Industrial Zone) under the *Hurstville Local Environmental Plan 1994* (“HLEP 1994”). The Land Use Table of Zone No 4 specified that any land use which was not listed as a prohibited use would be permitted with development consent. As such, the proposed uses of bulky goods retail and gymnasium were considered to be permissible developments as they were not listed as prohibited uses in the zone.

A number of land uses were listed as “Prohibited” in the Light Industrial Zone, for example, boarding houses, caravan parks, dwellings, residential flat buildings, etc. Office premises and shops were also included in the list of prohibited land uses. However, *HLEP 1994* specifies that office premises and shops may be permitted if Council deems the uses to be appropriate to the industrial zone as per below *HLEP 1994* provision:

Prohibited ... office premises and shops (other than those ordinarily incidental or subsidiary to industry, or which are primarily intended to serve persons occupied or employed in uses otherwise permitted in this zone, or which by virtue of their nature, the services provided, or the products produced, distributed or sold are, in the opinion of the council, appropriately located in an industrial zone);

Council’s assessment of the suitability of shops and commercial premises in the Light Industrial Zone was subject to Clause 16(1) of the *HLEP 1994*. The clause (as below) identifies a number of considerations Council must be satisfied of prior to granting consent for developments containing commercial purposes or shops (other than bulky goods salesrooms or showrooms which were already permitted with consent in the zone).

16 Development in industrial zones

- (1) *The council may grant consent to the carrying out of development on and within Zone No 4 for the purpose of shops (other than bulky goods salesrooms or showrooms) or for commercial purposes only where it is satisfied that:*
 - (a) *where the proposed development may otherwise have been carried out within a business centre in the locality, suitable land for the development is not available in that business centre, and*

- (b) *the proposed development is of a type appropriate to an industrial zone, or to the general character of existing structures or uses within the industrial zone.*

Supermarkets were identified as a form of “shop” and were therefore not permitted in the Light Industrial Zone under the *HLEP 1994*. However, the application was assessed using the Clause 16(1) mechanism of the *HLEP 1994* and the proposed supermarket development was considered to be appropriately located in the industrial zone as it will service the needs of the local workforce. Furthermore, the proposed “office premise” land use was also deemed to be permissible as it is ancillary in function to the other permitted uses in the Light Industrial Zone, in line with the Land Use Table as noted above. Subsequently, the proposed development (08/DA-411) comprising of a supermarket, bulky goods retail, gymnasium and office with basement parking was approved in 2009 using the Clause 16(1) mechanism of the *HLEP 1994*.

Surrounding Land

Roberts Avenue is a two way road with one lane of traffic for each direction. It also features street parking on both sides. It is used by both local residents and workers at the Peakhurst Industrial Precinct.

The site is located at the interface of light industrial, residential and recreational land uses. Land immediately surrounding the site to the north, east, and west is characterised by light industrial uses, known as the Peakhurst Industrial Precinct. Further to the east, south, and west of the site are single dwelling houses.

The primary interfaces of the site are described below in **Table 2**. The surrounding context is shown below in **Figures 5 to 8**.

Table 2 – Surrounding Land Uses

Aspect	Land Uses
North	Light industrial warehouses are located to the north of the site.
East	Light industrial warehouses are located immediately to the east of the site. A series of single dwelling houses begin approximately 200m east of the site.
South	Immediately to the south-west of the site is St George Masonic Club (86 Roberts Avenue). The site is bound to the south by Roberts Avenue. Beyond Roberts Avenue is a series of single dwelling houses and Hurstville Golf Club.
West	Land immediately to the west of the site is landscaped. Beyond this are light industrial warehouses.

Figure 5 – St George Masonic Club as viewed from Roberts Avenue
(Source: Urbis Report)

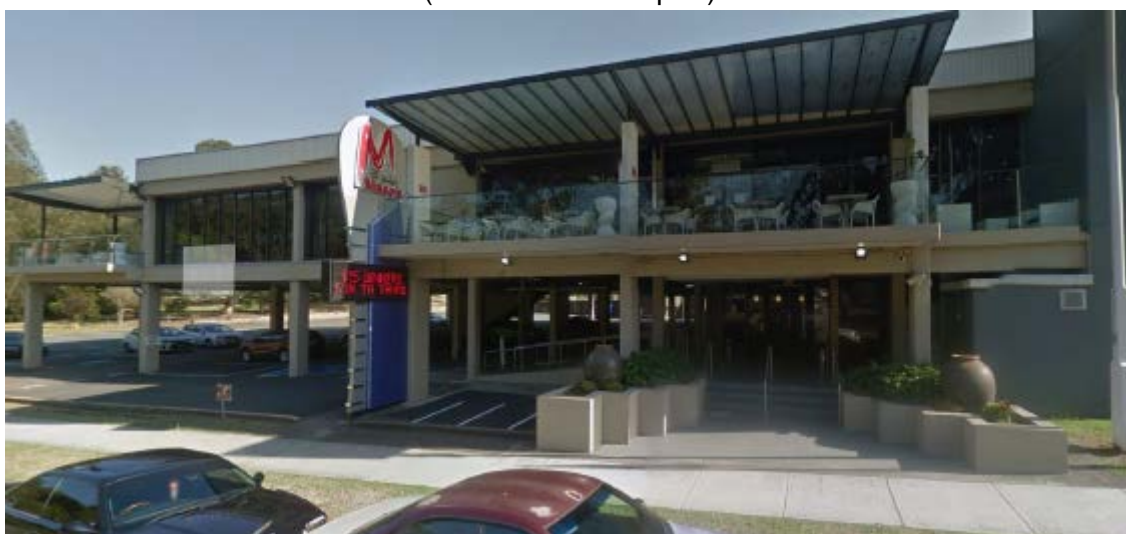


Figure 6 – Light industrial land uses as viewed from Roberts Avenue
(Source: Urbis Report)

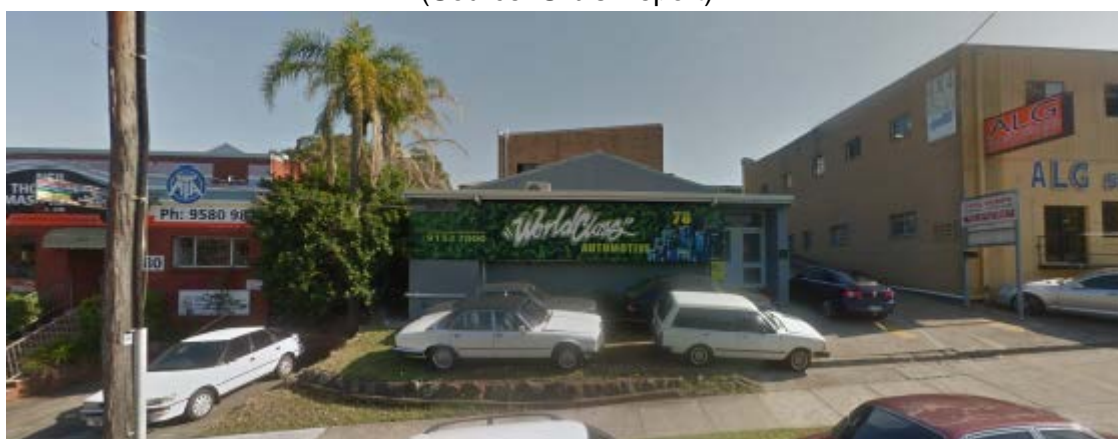


Figure 7 – Hurstville Golf Club as viewed from Roberts Avenue
(Source: Urbis Report)

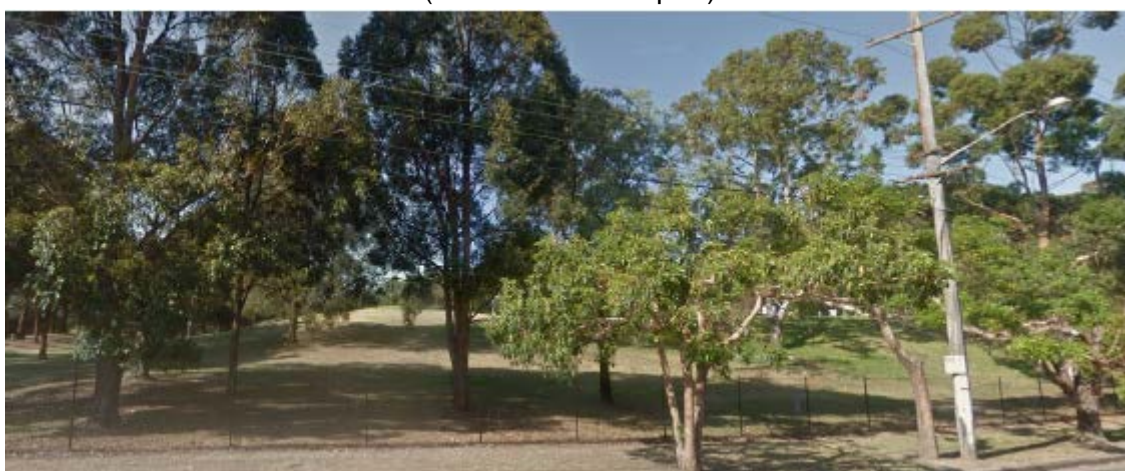
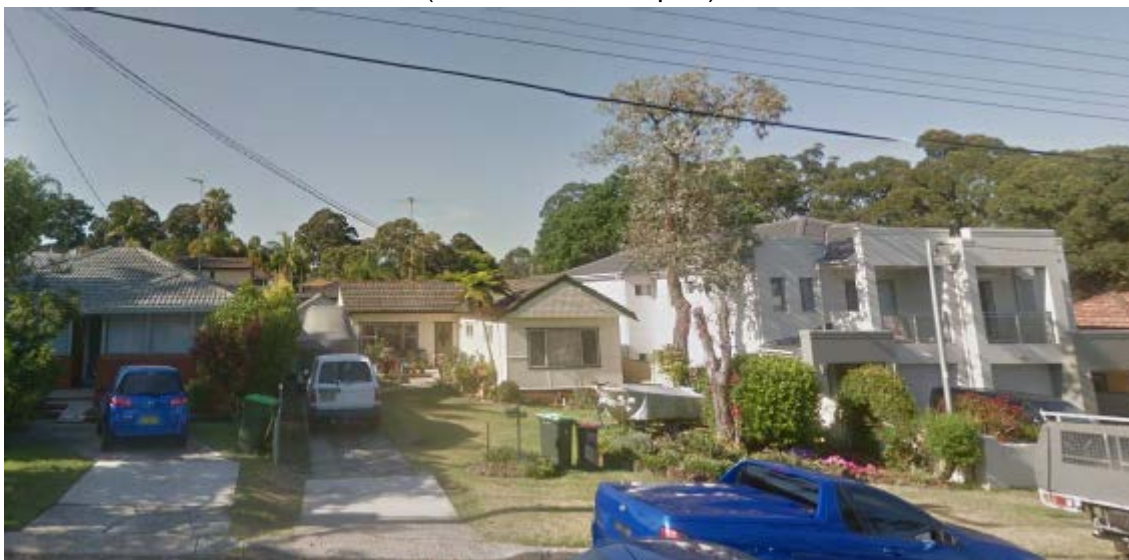


Figure 8 – Low density residential dwellings as viewed from Roberts Avenue
(Source: Urbis Report)



Existing Planning Controls

Hurstville Local Environmental Plan 2012

The site is currently zoned IN2 Light Industrial under the *HLEP 2012* (refer to **Figure 9** below). The allotments immediately adjoining the site are zoned IN2 Light Industrial. Surrounding lots are zoned IN2 Light Industrial, R2 Low Density Residential, and RE1 Public Recreation. Refer to **Table 3** below for the *HLEP 2012* Zone IN2 Light Industrial Land Use Table.

Figure 9 – Land Zoning Map (Source: Urbis Report)



Table 3 – Zone IN2 Land Use Controls (*HLEP 2012*)

Zone IN2 Light Industrial
<p>1 Objectives of zone</p> <ul style="list-style-type: none"> • 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 enable industrial development which does not pollute or adversely affect adjoining land, air or water. • To ensure industrial development creates areas that are pleasant to work in, safe and efficient in terms of transportation, land utilisation and service distribution.
<p>2 Permitted without consent</p> <p>Home occupations</p>
<p>3 Permitted with consent</p> <p>Depots; Garden centres; Hardware and building supplies; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Neighbourhood shops; Places of public worship; Plant nurseries; Roads; Take away food and drink premises; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Water recycling facilities; Any other development not specified in item 2 or 4</p>
<p>4 Prohibited</p> <p>Agriculture; Air transport facilities; Airstrips; Amusement centres; Biosolids treatment facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Centre-based child care facilities; Charter and tourism boating facilities; Commercial premises; Community facilities; Correctional centres; Crematoria; Eco-tourist facilities; Educational establishments; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Function centres; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Information and education facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Respite day care centres; Rural industries; Sewage treatment plants; Tourist and visitor accommodation; Water recreation structures; Water supply systems; Wholesale supplies</p>

Hurstville Development Control Plan (“DCP”)

The *Hurstville DCP No.1* currently applies to the site. The DCP details specific controls that govern building form, such as site coverage and landscaping, building materials and finishes, parking requirements, and dwelling mix.

The proposal does not seek development uplift or redevelopment of the site, and is only concerned with land use.

Georges River Council Policy on Planning Agreements

The Georges River Council 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.

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.

The proposal does not seek development uplift, and is only concerned with land use permissibility. As such, Council has not applied the VPA Policy to the Planning Proposal.

2. The Planning Proposal

The Planning Proposal has been assessed under the relevant sections of the *Environmental Planning and Assessment Act 1979 and Regulation 2000* and the following advisory documents prepared by the Department of Planning and Environment:

- “A guide to preparing planning proposals” (August 2016); and
- “A guide to preparing local environmental plans” (August 2016).

The assessment includes a review of the strategic planning framework and a site-specific assessment as listed below:

- Hurstville Local Environmental Plan 2012;
- State Environmental Planning Policies;
- Ministerial Section 117 Directions;
- Environmental, Social and Economic Impacts; and
- Services and Infrastructure.

Section 55 of the *Environmental Planning & 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:

- Part 1: A statement of the objectives and intended outcomes of the proposed instrument;
- Part 2: An explanation of the provisions that are to be included in the proposed instrument;
- Part 3: The justification for those objectives, outcomes and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117);
- Part 4: Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies; and
- Part 5: Details of community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

Parts 1 – 5 below address the information requirements for Planning Proposals.

Part 1: Objectives or Intended Outcomes

The objective of the Planning Proposal is to enable the current use on the site for retail premises, and additional uses of centre-based child care facilities and bulky goods premises to be permissible with consent under the *HLEP 2012*.

The intended outcome of the Planning Proposal is to permit the uses of retail premises, bulky goods premises and centre-based child care facilities on the site by way of a Schedule 1 Additional permitted uses amendment to the *HLEP 2012*.

Part 2: Explanation of the Provisions

The intended outcome (refer Part 1) will be achieved by amending Schedule 1 Additional Permitted Uses of the *HLEP 2012* to insert a clause with specific reference to the subject site as follows:

Use of certain land at 84D Roberts Avenue, Mortdale

- (1) *This clause applies to land at 84D Roberts Avenue, Mortdale being Lot 21, DP 542051.*
- (2) *Development for the purpose of a retail premise, bulky goods premise, and centre-based child care facility is permitted with development consent.*

The proposed amendment to the *HLEP 2012* does not propose any changes to built form provisions (i.e. maximum building height and maximum floor space ratio) and is concerning land use only.

Part 3: Justification

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

No, the Planning Proposal is not a direct result of any strategic study or report. However, the draft *Georges River Employment Lands Study* considers the subject site and its current land uses which are discussed below in Section B.

The Planning Proposal is prepared in response to a request by Urbis on behalf of Romanous Construction; a copy of the Planning Proposal request and supporting studies are included in **Attachment 4**.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The site is currently operating as a retail premise in accordance with its development consent 08/DA-411 and has been approved for bulky goods retail uses. As such, the existing development benefits from existing use rights as per Division 10 Existing uses of Part 4 Development assessment of the *Environmental Planning and Assessment Act 1979*.

However, the approved supermarket and bulky goods retail uses are not identified as Standard Instrument land use terms; thus cannot be distinctively identified in the *HLEP 2012* and need to be substituted by similar terms, which creates a level of ambiguity in the permissible land uses on the site based on existing use rights. By translating the existing land uses of supermarket and bulky goods retail to 'retail premises' and 'bulky goods premises' respectively through the Planning Proposal request, permissible land uses will become defined under the *HLEP 2012* and no longer open to interpretations under existing use rights.

The proposed Schedule 1 amendment is considered the best means of achieving permissibility for the existing uses and a centre-based child care facility on the site and constitutes best planning practise by removing unnecessary existing use rights situations in land use planning.

Overall, it is considered that the proposal will enable the shopping centre to continue existing operations. The proposal will also contribute to utilising the established physical and social infrastructure which currently services the site and adjacent urban areas, whilst contributing to local employment.

Given these considerations, a Planning Proposal is the best way of achieving the objectives and intended outcome. Alternative approaches are considered inadequate for the following reasons:

- **Existing use rights:** whilst retail premises currently operate on site, existing use rights will not permit the use of a centre-based child care facility. The 2009 development consent permits “supermarkets” and “bulk goods retail”, which are not Standard Instrument land use terms. Additionally, this approach will not protect the viability of the shopping centre in the event of long transitions between tenancies and does not provide for long term investment certainty for the centre.
- **Application of Clause 5.3 of the HLEP 2012:** Clause 5.3 Development near zone boundaries of the HLEP2012 permits 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. The clause does not apply to Zone IN2 Light Industrial.

Section B – Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

The site, while not specifically identified in NSW planning strategies, is within the area of Mortdale and the context of the wider Hurstville locality. The following paragraphs outline the relevance of the various State strategies that apply to Mortdale and Hurstville in a planning sense.

A Plan for Growing Sydney (Metropolitan Strategy)

The Planning Proposal is consistent with the aims of *A Plan for Growing Sydney* and achieves the following relevant Goals and Directions:

Goal 1: *A competitive economy with world-class services and transport*

Direction 1.11: Deliver infrastructure

Action 1.11.3: Undertake long-term planning for social infrastructure to support growing communities

The proposal will enable the provision of a centre-based child care facility in a prominent location near residents. With the expected increase in demand for child care facilities across Sydney, the proposal provides an approach to incorporate this important facility into an existing accessible building.

Goal 3: *A great place to live with communities that are strong, healthy and well connected*

Direction 3.1: Revitalise existing suburbs

Action 3.1.1: Support urban renewal by directing local infrastructure to centres where there is growth

The NSW Government has identified that the provision of social infrastructure such as child care centres will make a significant contribution to making vibrant local centres. Permitting the use of a centre-based child care facility on the site will contribute to further vibrancy to this local shopping centre.

Furthermore, the Planning Proposal will legitimise existing uses including the supermarket and bulky goods premises, which will assist in the revitalisation of the precinct as the local community is granted access to a greater variety of retail premises closer to home.

Sydney South Subregion

Priority: *Accelerate housing supply, choice and affordability and build great places to live.*

The proposal will enhance the liveability of the Mortdale area by protecting and enhancing access to essential services. The proposed provisions will give confidence to the landowner and operator of surrounding properties and businesses to continue to invest and improve their operations into the future as the precinct remains anchored by a major supermarket. The proposal will contribute towards making Mortdale a great place to live by providing additional bulky goods premises, and the important local service of a centre-based child care facility.

Priority: *Retain a commercial core in Hurstville, as required, for long-term employment growth; and provide capacity for additional mixed-use development in Hurstville including offices, retail, services and housing.*

Whilst the site is not in the Hurstville core, it will contribute to employment in the wider locality. The objectives associated with mixed-use commercial development are achieved with this proposal as it ensures that local services, employment and housing are located in close proximity.

Draft Greater Sydney Region Plan

The Planning Proposal is consistent with the aims of the draft *Greater Sydney Region Plan* and achieves the following relevant Directions and Objectives:

Direction 5: *A city of great places*

Objective 12: Great places that bring people together

The Planning Proposal has been proposed to legalise existing uses on the site to allow for future investment on the site. This security will ensure that Mortdale Plaza can continue to develop as an essential local service provider that brings people together.

Direction 7: *Jobs and skills for the city*

Objective 22: Investment and business activity in centres

The proposal will allow for continued investment into an existing centre and is in keeping with Objective 22.

Direction 7: Jobs and skills for the city

Objective 23: Industrial and urban services land is planned, protected and managed

The proposal does not seek to rezone industrial land but rather allow for the existing land uses to be considered. The existing development is recognised as a significant local shopping centre anchored by a major supermarket which provides essential retail functions for the surrounding residents and workers.

There will be no reduction to the availability of existing industrial land. The proposal seeks to enable the continued usage of existing non-industrial purposes, which is isolated to the subject site through existing use rights.

Revised Draft South District Plan

The Planning Proposal is consistent with the aims of the revised draft *South District Plan* and achieves the following relevant Directions and Planning Priorities:

Direction 3: A city for people

Planning Priority S3: Providing services and social infrastructure to meet people's changing needs

The proposal seeks to allow for the use of a centre-based child care facility on the site. With the expected increase in demand for child care facilities within the South District, the proposal provides an approach to incorporate this important facility into an existing accessible building.

The proposal also seeks to incorporate a bulky goods premise into the existing shopping centre. This will enhance the attractiveness of Mortdale Plaza as a centre that provides a wide range of services that meets the needs of its surrounding residents and workers.

Direction 5: A city of great places

Planning Priority S6: Creating and renewing great places and local centres, and respecting the District's heritage

The proposal protects the existing economic activity produced by the shopping centre. This will have positive effects on and will support both the local centre and the wider strategic centre of Hurstville.

Direction 6: A city of great places

Planning Priority S12: Delivering integrated land use and transport planning and a 30-minute city

The proposal seeks to allow for the continuation of the retail premises on the site and allow for the additional use of a centre-based child care facility and bulky goods premises. This in turn supports the '30 minute' city concept, as it provides local employment and important local services close to residents.

Direction 7: Jobs and skills for the city

Planning Priority S10: Protecting and managing industrial and urban services land

The proposal does not seek to rezone industrial land but rather allow for the existing land uses to be considered. The existing development is recognised as a significant local shopping centre anchored by a major supermarket which provides essential retail functions for the surrounding residents and workers.

There will be no reduction to the availability of existing industrial land. The proposal seeks to enable the continued usage of existing non-industrial purposes, which is isolated to the subject site through existing use rights.

The applicant has stated that the proposed use of a centre-based child care facility will be provided within the existing Mortdale Plaza development.

Standard Instrument (Local Environmental Plans) Amendment Order

The NSW State Government released the draft *Standard Instrument (Local Environmental Plans) Amendment Order (No 2) 2016* which proposed to amend all Local Environmental Plans to permit centre-based child care facilities in all R2 Low Density Residential and IN2 Light Industrial zones. The intent of the draft Amendment Order was to allow child care centres in more locations closer to homes and workplaces.

On 30 August 2017, the *Standard Instrument (Local Environmental Plans) Amendment (Child Care) Order 2017* was passed. The *Standard Instrument Amendment (Child Care) Order 2017* has carried out the intent of the draft by permitting centre-based child care facilities in all R2 Low Density Residential zones with development consent. However, the same amendment has not been made for all IN2 Light Industrial zones.

The Planning Proposal was assessed by Council prior to the gazettal of the *Standard Instrument Amendment (Child Care) Order 2017*. At the time of assessment, the request to permit centre-based child care facilities on the subject site was aligned with the intent of the *Standard Instrument Amendment Order (No 2) 2016* and was deemed to be appropriate for the site in light of its existing site context, the adjacent R2 Low Density Residential setting and present retail uses on the site; as the proposed land use of centre-based child care facilities will present minimal additional conflicts with existing developments on surrounding IN2 Light Industrial land.

The applicant has advised that the proposed centre-based child care facility is intended to be located within the existing Mortdale Plaza shopping centre, which will not create any reduction to the availability of existing industrial land. Permitting the use of a centre-based child care facility on the site will contribute to the vibrancy to this local shopping centre by offering an essential service close to homes and workplaces.

Furthermore, the *Kogarah Local Environmental Plan 2012* permits centre-based child care facilities in its IN2 Light Industrial zoned lands with the intention of supporting and encouraging a range of local services that provide for the needs of the local community.

In the process of harmonising the existing Kogarah and Hurstville Local Environmental Plans, it is considered that centre-based child care facilities may be appropriately located within IN2 Light Industrial zones to meet the growing demand for child care facilities across Sydney, provided that the existing industrial activities are not compromised. The absence of heavy and offensive industries within the Light Industrial zones of the Georges River LGA allows long term planning that encourages local services like child care facilities which meet the needs of local communities without disrupting existing light industrial uses.

Given the above considerations, a Schedule 1 amendment is required to permit centre-based child care facilities on the subject site.

Assessment Criteria

a) *Does the proposal have strategic merit? Is it:*

- *Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or*

As detailed above in Q3, the Planning Proposal is consistent with *A Plan for Growing Sydney*, the draft *Greater Sydney Region Plan* and the revised draft *South District Plan*.

- *Consistent with a relevant local council strategy that has been endorsed by the Department; or*

There is no relevant local council strategy applying to the subject site that has been endorsed by the Department of Planning and Environment. As considered below in Q4, the Planning Proposal is consistent with the *Hurstville Community Strategic Plan 2025* and the draft *Georges River Employment Lands Study*.

- *Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.*

There has been no change in circumstances, such as investments in new infrastructure in the vicinity of the subject site since the preparation of the *HLEP 2012*. The Planning Proposal intends to allow for the continuation of existing uses on the site pursuant the 2009 development consent, so that the existing employment within the shopping centre is protected and the centre remains economically viable.

The proposal will prescribe specific land uses to enable retail and bulky goods premises. This will replace the current provision of existing use rights on the site and restrict the permitted land use to the Standard Instrument land use terms of retail premises and bulky goods premises. Additionally, a centre-based child care facility is intended to be located within the existing structure on the site to provide a community service that is increasing in demand.

b) *Does the proposal have site-specific merit, having regard to the following:*

- *the natural environment (including known significant environmental values, resources or hazards) and*

The applicant's proposal indicates that the additional permitted land uses will be located within the existing Mortdale Plaza shopping centre and therefore will not present any additional impacts on the natural environment.

The existing development had received approval in 2009 under the development consent 08/DA-411, indicating that the site is unlikely to be subject to further contamination. As required by the development consent, Phase 2 remediation of land works were carried out by the applicant and were expected to have been completed in November 2017. Refer to the Location Plan and Erosion & Sediment Control Plan as provided by the applicant in **Attachment 4** for the location of the Phase 2 remediation works.

- *the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and*

The site is located at the interface of light industrial, residential and recreational land uses. The existing development was approved in 2009 for the purposes of a "supermarket, bulky goods retail, gymnasium and office with basement parking". Given the economic vitality and employment provided by the subject site, it is unlikely that the site will cater to industrial uses as the provision of a large supermarket and associated retail premises offer significant amenity to the surrounding area.

In addition, the proposal provides an approach to incorporate a child care facility into an established shopping centre which is located in an accessible location close to residential neighbourhoods.

- *the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

The Planning Proposal seeks to enable retail premises and bulky goods premises to legitimise these current uses on the site and remove the ambiguity associated with the existing use rights. As such, there will be no additional demand on existing services and infrastructure.

The proposed land use of centre-based child care facilities will promote opportunities for the future provision of social infrastructure on the subject site.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The following paragraphs outline the relevance of the various local strategies that apply to site.

Hurstville Community Strategic Plan 2025

The former Hurstville City Council had endorsed the *Hurstville Community Strategic Plan 2025* as the overarching strategy for Council's objectives and operations. Key issues addressed in the City Plan that are relevant to the proposal include:

- *Building and maintaining community facilities and services.*

The proposal will allow for the provision of a centre-based child care facility within the existing plaza. This is essential to meet the community's growing needs for child care centres and in doing so will assist in satisfying the objective of this strategic plan in permitting the provision of more community facilities.

- *Supporting and attracting local businesses and encouraging local employment.*

The proposal will protect existing local employment opportunities within the shopping plaza, whilst expanding the variety of these opportunities by legitimising bulky goods premises.

Draft Georges River Employment Lands Study

The draft *Georges River Employment Lands Study* ("ELS") was recently publicly exhibited until 31 May 2017. The ELS provides Council with a strategic direction for employment lands across the Georges River local government area to ensure that sufficient land is zoned to accommodate future employment growth.

The site (known as Mortdale Plaza) is located within the Peakhurst Industrial Precinct. The provision of a large supermarket on the site is identified by the ELS as one of the strengths of the precinct through the amenity it provides to the area. The proposal is consistent with the desired character of the precinct.

In the Peakhurst Industrial Precinct, Mortdale Plaza is noted as providing a range of retail uses and a supermarket. The ELS supports the retention of Mortdale Plaza and its uses, and does not indicate that the site should cater to another use, including industrial.

The site, despite currently being zoned IN2 Light Industrial, plays a vital role in the precinct with its existing land uses. This document clearly indicates that Mortdale Plaza and its current uses should be retained as they strengthen the precinct and support the surrounding industrial uses. This Planning Proposal will protect the existing uses, which in turn will protect the amenity of this industrial precinct and its surrounding residential areas.

Hurstville Discussion Papers

In the preparation of the *HLEP 2012* by the former Hurstville City Council, a series of 'discussion papers' relating to specific land use zones across the former Hurstville local government area were prepared. The *Commercial and Industrial Land Discussion Paper* proposed the direct conversion of the planning controls for Zone No 4 (Light Industrial Zone) to IN2 Light Industrial under the Standard Instrument LEP.

The flexibility of Clause 16(1) of the *HLEP 1994* in enabling retail uses in Light Industrial zones was acknowledged in the discussion paper as noted in the following commentary:

The Hurstville LEP 1994 includes a clause (16(1) Development in industrial zones), which identifies a number of considerations Council must be satisfied of prior to granting consent for the purpose of shops (other than bulky goods salesrooms or showrooms) or for commercial purposes.

The types of shops that would be permissible within the Industrial Zone will be associated with industrial uses within the area and small neighbourhood shops which service the needs of the local workforce. As noted above development for the purposes of a neighbourhood shop will have a maximum retail floor area.

The adopted *HLEP 2012* has translated the intent of this clause into the 'neighbourhood shops' land use, which is permitted with consent in the IN2 Light Industrial land use table. As a supermarket is considered to be a large format retail use, the more appropriate land use term in the Standard Instrument LEP is 'retail premise', which is currently prohibited in the IN2 Light Industrial zone under the *HLEP 2012*. The discussion paper did not consider large format retail uses as a land use that would undermine the integrity of industrial zoned land.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The full assessment of the Planning Proposal against all the State Environmental Planning Policies ("SEPPs") is provided in **Attachment 2**. Consideration of the SEPP relevant to the Planning Proposal is provided below:

- State Environmental Planning Policy No. 55 – Remediation of Land

The existing development had received approval in 2009 under the development consent 08/DA-411, indicating that the site is unlikely to be subject to further contamination. This Planning Proposal is for the purpose of permitting land uses only and will not result in any activities which would be likely to expose humans or the environment to risks of contamination, therefore is consistent with this SEPP.

- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

The subject site is wholly located within the Georges River Catchment. This Planning Proposal does not affect the way the *Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment* applies to the site.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Yes. A checklist of the Planning Proposal's consistency with the full set of Section 117 Ministerial Directions is included in **Attachment 3**. The Directions that are relevant to the Planning Proposal are considered in the Table below.

Section 117 Directions	Comment
1.1 Business and Industrial Zones	<p>The proposal protects the employment that stems from the existing shopping centre, as well as expanding the variety of employment opportunities by permitting the use of a child care centre.</p> <p>This proposal will result in the site's continued usage for purposes that are not industrial, but will not result in the reduction of available industrial land. The existing uses were considered appropriate in the approval of</p>

Section 117 Directions	Comment
	08/DA-411. The Planning Proposal is consistent with this Direction.
3.4 Integrating Land Use and Transport	The proposal seeks to expand the variety of retail and social services offered by the existing development, therefore improving access to jobs and services by the local community. The Planning Proposal is consistent with this Direction.
4.1 Acid Sulfate Soils	The site is affected by the presence of Class 2 and Class 5 acid sulfate soils as identified in the Acid Sulfate Soils Map of the <i>HLEP 2012</i> . This Planning Proposal is for the purpose of permitting land uses only and is consistent with this Direction.
6.1 Approval and Referral Requirements	This proposal does not include provisions for referrals or concurrences of future development applications.
6.2 Reserving Land for Public Purposes	This proposal does not affect land for public purposes.
6.3 Site Specific Provisions	The proposal prescribes specific land uses to enable retail and bulky goods premises. The translation of the existing uses of supermarket and bulky goods retail to 'retail premises' and 'bulky goods premises' will allow permissible land uses to become defined under <i>HLEP 2012</i> and no longer open to interpretations under existing use rights. As such, the Planning Proposal will allow the existing approved land uses to be carried out in the zone the land is situated on, which is consistent with this Direction.
7.1 Implementation of <i>A Plan for Growing Sydney</i>	The proposal is consistent with the objectives of <i>A Plan For Growing Sydney</i> , as assessed in <u>Section B</u> above.

Section C – Environmental, social and economic impact

Q7. 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?

This Planning Proposal will not result in development uplift on the site as it seeks to permit land uses only. Therefore, the proposal will not have a negative impact on critical habitat or threatened species, populations or communities, as the existing development was approved in 2009.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

As this proposal does not include additional development on the site, there are no predicted environmental effects. The uses proposed have been approved in a previous development application which is currently in operation as Mortdale Plaza. The additional use of a centre-based child care facility will not result in any adverse effects to the natural or built environment as the facility will be located within the existing shopping centre development.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The proposed development is considered to generate the following positive social and economic effects:

- Contributes to the protection of an important local shopping centre by ensuring it remains economically viable in a manner consistent with the existing approval for the site;
- Contributes to the protection of employment within the existing shopping centre;
- Contributes to the protection of important local services, including a supermarket, close to a residential area;
- Enhances the social infrastructure of the Mortdale area and meeting the needs of residents through the provision of a centre-based child care facility; and
- Enhances the liveability and vibrancy of the Mortdale area.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

The existing infrastructure accommodates the existing development on the site. This proposal is to permit existing and additional uses only and does not include plans for development uplift. Accordingly, it is not anticipated that the Planning Proposal will place unnecessary additional demands on public infrastructure.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

No consultation with State or Commonwealth authorities has been carried out to date on the Planning Proposal. State and Commonwealth public authorities will be consulted following the outcomes, and in line with any recommendations, of the Gateway Determination.

Part 4: Mapping

No mapping is required as the Planning Proposal is seeking an amendment to Schedule 1 of the *HLEP 2012*. The *HLEP 2012* does not include mapping pertaining to Schedule 1 Additional Permitted Uses.

Part 5: Community Consultation

It is anticipated that the Planning Proposal will be exhibited in accordance with the provisions of the *Environmental Planning and Assessment Act 1979 and Regulation 2000* and any requirements of the Gateway Determination.

Exhibition material, including a copy of the Planning Proposal will be available for viewing during the exhibition period on Council's website and hard copies available at Council offices and libraries.

Notification of the public exhibition will be through:

- Newspaper advertisement in The St George 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).

Part 6: Project Timeline

The anticipated project timeline for completion of the Planning Proposal is shown below:

Task	Timeframe
Lodgement of Planning Proposal request by Urbis	12 April 2017
Report to Georges River IHAP on Planning Proposal	21 September 2017
Reporting to Council on Planning Proposal	23 October 2017
Anticipated commencement date (date of Gateway determination)	February 2018
Anticipated timeframe for the completion of required technical information (if required)	March 2018
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	April/May 2018
Commencement and completion dates for public exhibition period (twenty eight days)	April/May 2018
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	June 2018
Timeframe for the consideration by Council of a proposal post exhibition	July 2018
Date of submission to the Department to finalise the LEP	August 2018
Anticipated date for notification.	September 2018

It is noted that the anticipated project timeline may be amended by the Gateway Determination.

3. Conclusion

The Planning Proposal seeks to amend *Hurstville Local Environmental Plan 2012* by way of a Schedule 1 amendment to permit the uses of retail premises, bulky goods premises and centre-based child care facilities, in relation to 84D Roberts Avenue, Mortdale (Lot 21 DP 542051).

This Planning Proposal report has considered the objectives and intended outcomes of the proposed amendment to the *HLEP 2012* and an explanation of the provisions. The proposal is consistent with the relevant local, regional and State strategic plans.

As identified in the draft *Georges River ELS*, the subject site provides amenity to the area through the availability of retail services. The requested Schedule 1 amendment to the *HLEP 2012* allows for the continuation of existing retail premises on site.

The existing development, Mortdale Plaza, was approved by the former Hurstville Council in 2009 for the uses of a supermarket, bulky goods retail, gymnasium and offices. As such, retail premises and bulky goods premises are considered as existing uses under Division 10 Existing uses of Part 4 Development assessment of the *Environmental Planning and Assessment Act 1979* as these were approved prior to the adoption of the *HLEP 2012* which prohibits these uses.

It is considered that a precedent is unlikely to be established as the proposed uses of retail premises and bulk goods premises are only supported due to existing use rights.

Furthermore, the request to permit centre-based child care facilities on the subject site is aligned with the intent of the *Standard Instrument Amendment Order (No 2) 2016* to permit centre-based child care facilities in all R2 Low Density Residential and IN2 Light Industrial zones. In light of its existing site context and present retail uses on the site, the proposed land use of centre-based child care facilities will present minimal additional conflicts with existing developments on surrounding IN2 Light Industrial land.

For the reasons outlined above, Council requests the Minister to issue a Gateway determination for this Planning Proposal.

Attachments

Provided under separate covers