

## Planning Services

### Submissions Report

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|---|---|
| <b>Sydney Eastern City Planning Panel</b> | PP_2017_IWEST_018_00  |
| <b>LGA</b>                                | Inner West LGA  |
| <b>Proposal</b>                           | <p>The planning proposal seeks to amend the Leichhardt Local Environmental Plan 2013 at 469-483 Balmain Road, Lilyfield by</p> <ul style="list-style-type: none"> <li>• introducing a maximum building height of 23m (6-7 storeys) for the site;</li> <li>• increasing the maximum floor space ratio (FSR) from 1:1 to 2.54:1;</li> <li>• introducing residential flat buildings as an additional permitted use; and</li> <li>• including a local provision that requires: <ul style="list-style-type: none"> <li>○ a minimum non-residential/employment space of 6,000m<sup>2</sup> with a minimum of 1,200m<sup>2</sup> of this creative employment / artists' space;</li> <li>○ any development of the site, must as far as practicable, incorporate the adaptive reuse of the character buildings on the site, and</li> <li>○ any development of the site is to have regard for any impacts created on the adjoining IN2 Light Industrial land, and</li> <li>○ a DA must be lodged within 3 years of the proposed amendment otherwise the additional permitted use and local provision will lapse.</li> </ul> </li> </ul> |
| <b>Address</b>                            | 469-483 Balmain Road, Lilyfield<br>Lot 2 DP 101583  |
| <b>Applicant/Owner</b>                    | Roche Group   |
| <b>Submissions</b>                        | <ul style="list-style-type: none"> <li>• public submissions</li> <li>• submission from Inner West Council</li> <li>• public authority submissions</li> </ul>  |
| <b>Recommendation</b>                     | Make submissions report publicly available and conduct public meeting.  |
| <b>Report by</b>                          | Kris Walsh, Planning Officer, Department of Planning, Industry and Environment  |

#### 1. INTRODUCTION AND BACKGROUND

The purpose of this report is to provide a summary of the key matters raised by members of the public, Inner West Council and public agencies during the public exhibition of the planning proposal for 469-483 Balmain Road, Lilyfield (the site).

## **1.1 The site and its local context**

The site is identified in the former Leichhardt Council's Industrial Lands Study 2014 as part of the Balmain Road Industrial Precinct. The precinct comprises local service industrial trade supplies with small-scale manufacturing, retail and office functions. The economic impact assessment included with the planning proposal estimates that 26 employees occupy the site, with most people employed by:

- a furniture wholesaler employing 12 people that occupies half the non-residential floor space; and
- industrial uses comprising a carpentry business employing two people and an aluminium window manufacturer employing 10 people.

The Urban Design Report provided with the planning proposal also states that it is estimated there are approximately 51 artist studios on the site, creating works in painting, photography, sculpture and illustration.

The site is 6,824m<sup>2</sup> in area and is bound by Balmain Road, Alberto Street, Fred Street and Cecily Street (Figure 1,). Three buildings built between 1907 and 1960 characterise the site, namely Pilchers Bakery, the former ABBCO Pty Ltd office building, and a factory that has two residential apartments above. These buildings are 1-2 storeys and 7-14m high and cover most of the site except for the hard-stand parking area at the south-west corner of the site. No trees or landscaping are on the site.

The Pilchers Bakery, the former ABBCO Pty Ltd office building and factory have been adapted to accommodate industrial and commercial uses. Tenants include artists' studios, an import business, a showroom and other industrial and commercial uses.

The Pilchers Bakery and the former ABBCO Pty Ltd office building have been identified as having heritage value in studies by Council and the proponent. Neither study recommended the buildings be heritage listed. These buildings are shown as blue in Figure 1 below.

The two dwellings on the site are shaded in red. To the north-west is Callan Park, which contains Sydney College of the Arts, sporting grounds and parkland. To the south the predominant built form is single and attached dwelling houses. To the north-east along Balmain Road are shopfronts and a timber yard.

The 2-3-storey blank brick facades face Cecily and Fred Streets. The Balmain Road frontage of the site is shown in Figure 2 below. The buildings do not address either street and provide no activation on these frontages. On Alberto Street there is a garage, and an at-grade car park is in the southern corner of the site. Another garage is accessed from Fred Street. There are 15 car parking spaces on the site.





Figure 1: The site is located at 469-483 Balmain Road, Lilyfield (outlined in red).



Figure 2: 469-483 Balmain Road, Lilyfield.

The site is approximately:

- 5km from the Sydney CBD.
- 1.5km from Birkenhead Point regional shopping facility; and
- 820m walking distance from the Lilyfield Light Rail Station;
- 500m from Balmain's high street commercial area along Darling Street;

To the east and south of the site there is a mix of 1-2-storey medium-density and small-lot housing (Figure 3).



Callan Park, a state heritage item, is located to the north-west of the site, across Balmain Road. The park is more than 60ha and is one of the largest and most regionally significant public facilities in Sydney's inner west. Originally built as a hospital for the mentally ill, it has several heritage buildings<sup>1</sup> and supports the Sydney College of the Arts, Callan Park Conservation Area and Balmain Road Sporting Ground.

A heritage-listed timber cottage is to the south-east of the site on Fred Street. Other conservation areas and heritage items are shown at Figure 4 (next page).



Figure 3: Context map.

<sup>1</sup> Former Leichhardt City Council. Callan Park [leichhardt.nsw.gov.au/Community-Issues/Callan-Park](http://leichhardt.nsw.gov.au/Community-Issues/Callan-Park)



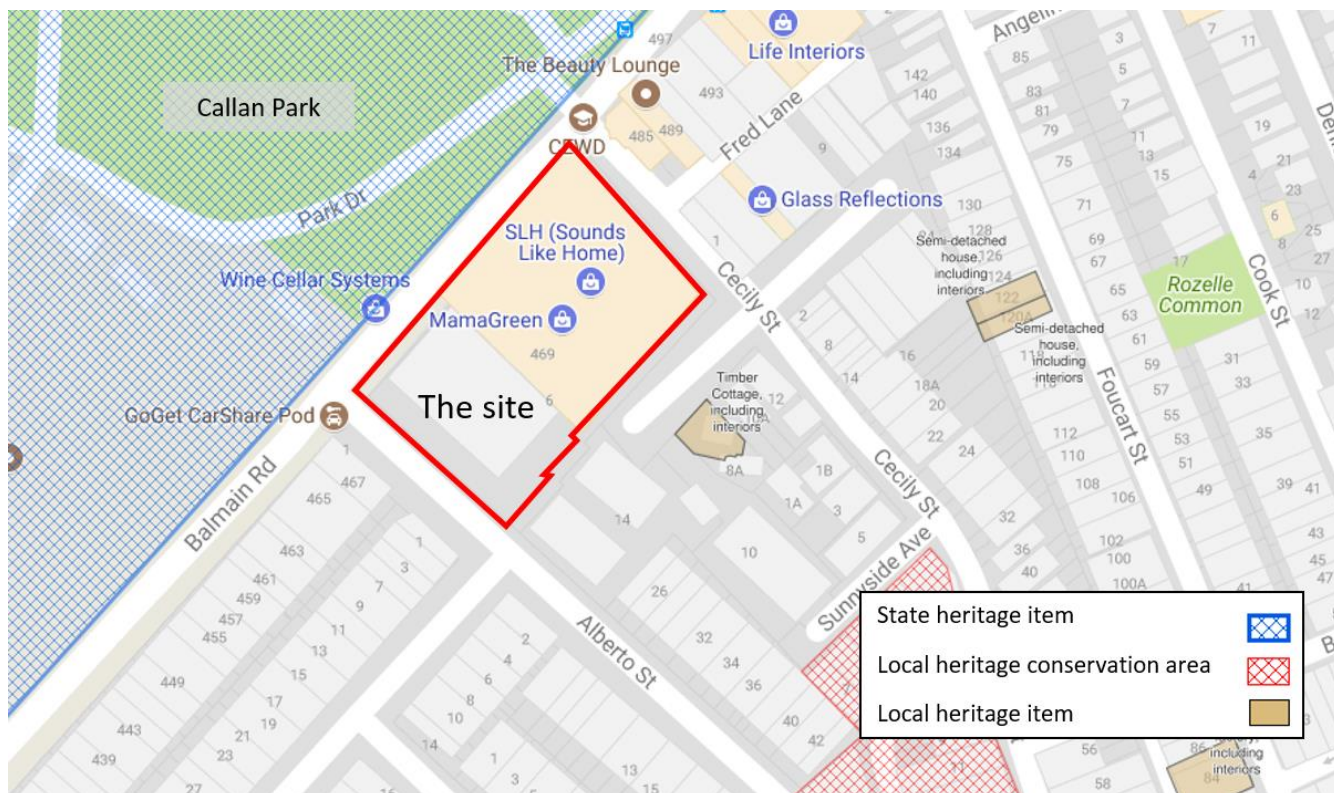


Figure 4: Heritage map.

## 1.2 The planning proposal

The planning proposal (**Appendix 1**) seeks to amend the Leichhardt LEP 2013 by:

- introducing a maximum building height of 23m (6-7 storeys) for the site;
- increasing the maximum floor space ratio (FSR) from 1:1 to 2.54:1;
- introducing residential flat buildings as an additional permitted use; and
- including a local provision that requires:
  - a minimum non-residential/employment space of 6,000m<sup>2</sup> with a minimum of 1,200m<sup>2</sup> of this creative employment / artists' space;
  - any development of the site, must as far as practicable, incorporate the adaptive reuse of the character buildings on the Site, and
  - any development of the site is to have regard for any impacts created on the adjoining IN2 Light Industrial land, and
  - a DA must be lodged within 3 years of the proposed amendment otherwise the additional permitted use and local provision will lapse.

The planning proposal is supported by a concept development for the site, which is the result of discussions with Council and an urban design exercise. The main components of the concept are shown in Figures 6-8 (pages 7 and 8) and include:

- a mix of building heights ranging from one to six storeys with a maximum height of 23m;
- setbacks at the second, third and fourth storeys of the development;
- transition in building height down to two storeys at the interface with the adjoining R1 General Residential zone;

- integration of the character buildings on the site by retaining the 1907 Pilchers Bakery Company building at the corner of Balmain Road and Cecily Street and the 1917 administrative building;
- a pedestrian link between Fred Street and Alberto Street;
- a modern multi-function industrial and creative space, which can be adapted for various uses;
- a stepped envelope divided into a series of smaller buildings; and
- widening of the Balmain Road and Alberto Street footpaths.

The concept is for employment uses on the ground floor with residential above. The concept provides for 6,000m<sup>2</sup> of employment floor space, including a minimum of 1,200m<sup>2</sup> for the retention of creative employment uses, and 11,325m<sup>2</sup> of residential development divided over 142 apartments. Indicative apartment layouts are provided, as is an assessment indicative of compliance with the Apartment Design Guide (ADG). The Department notes that the ADG does not consider mixed residential and industrial developments.

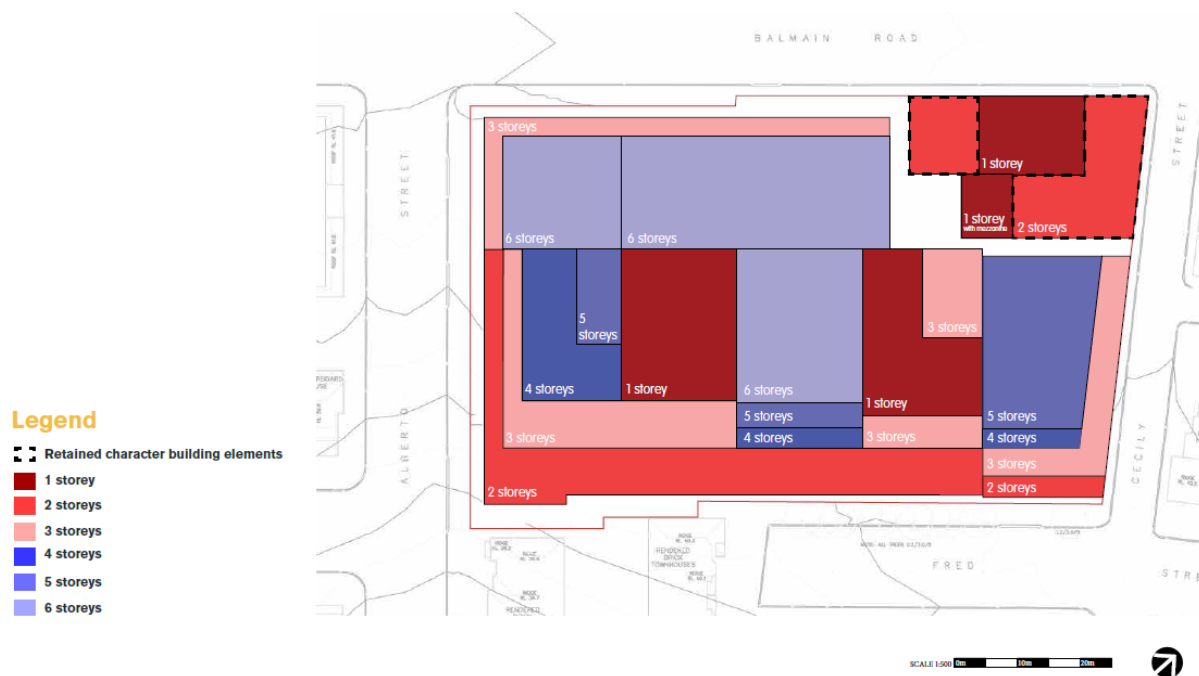
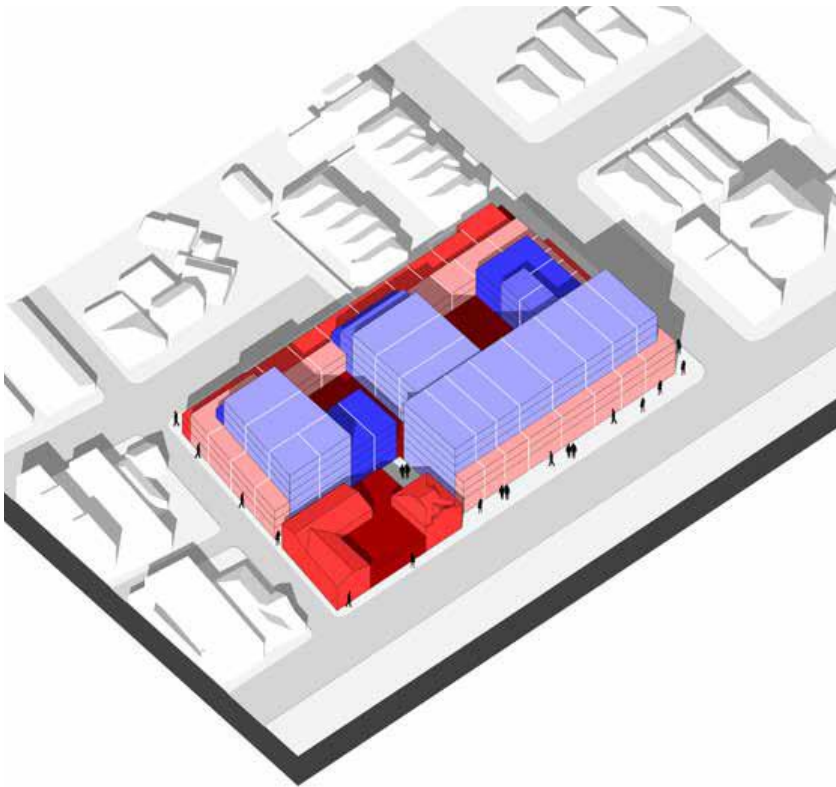


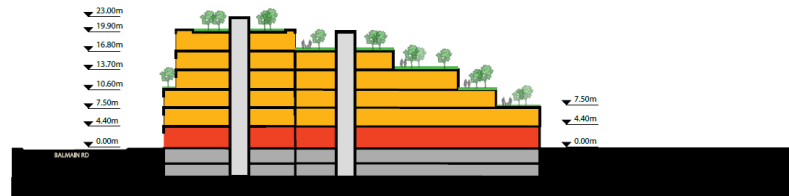
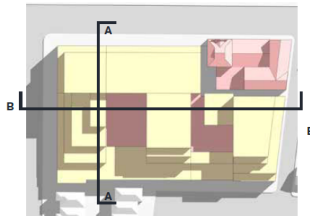
Figure 6: Concept plan.



#### LEGEND

|   | # Storeys | Footprint Area     | % of Site |
|---|-----------|--------------------|-----------|
| ■ | 1         | 810m <sup>2</sup>  | 11.8%     |
| ■ | 2         | 1049m <sup>2</sup> | 15.4%     |
| ■ | 3         | 1390m <sup>2</sup> | 20.4%     |
| ■ | 4         | 555m <sup>2</sup>  | 2.9%      |
| ■ | 5         | 196m <sup>2</sup>  | 37.64%    |
| ■ | 6         | 2059m <sup>2</sup> | 30.2%     |

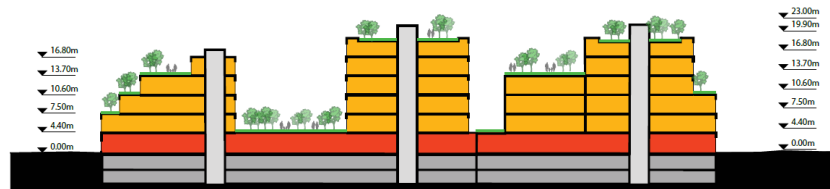
Figure 7: Concept massing.



Section AA

#### Legend

- Light Industrial
- Residential
- Basement



Section BB

SCALE: 1:500 0m 10m 20m

(6)

Figure 8: Concept section.

### **1.3 Pre-gateway review and assessment, and subsequent planning proposal**

On 9 November 2016, a planning proposal was submitted to Inner West Council by Roche Group. Over the next seven months the proponent worked with Council staff to revise the maximum building height, zoning and urban design of the planning proposal. A revised planning proposal was submitted to Council on 21 June 2017.

After Council failed to determine whether the planning proposal should proceed within 90 days, the proponent sought a rezoning review. In October 2017, the Sydney Eastern City Planning Panel determined that the proposal should be submitted for a Gateway determination as it demonstrated strategic and site-specific merit (**Appendix 2**).

The panel recommended further consideration of the following matters:

- include a provision that retains the viability of industrial uses on the site and of the current and future industrial uses in the adjoining IN2-zoned land;
- exhibit a rationale for the height, FSR, building massing and modulation for the site with the planning proposal;
- ensure mechanisms are provided for creative employment space;
- retain two historically important buildings on the site; and
- prepare a site-specific development control plan in accordance with Clause 6.14 Development control plans for certain development under the Leichhardt LEP 2013.

### **1.5 Relevant Planning Authority (The Panel)**

On 12 October 2017, Inner West Council was advised of the Panel's recommendation that the planning proposal should proceed to Gateway determination. Council was requested to advise within 42 days whether it would continue in the role of planning proposal authority (PPA) for the proposal. A response was not received in this timeframe and Council was advised that the Panel had been appointed as the alternate PPA.

### **1.6 Gateway determination**

On 2 November 2018, a Gateway determination was issued for the proposal.

The Gateway was conditioned to require, prior to exhibition, the planning proposal be updated to:

- address consistency with the Greater Sydney Region Plan and the Eastern City District Plan;
- change the additional permitted use from 'residential accommodation' to 'residential flat building';
- provide further examples and discussion on successful industrial and residential developments, and further explain how amenity will be provided to residents on the site;
- include discussion on how viability of the industrial uses will be retained if residential uses are also permitted on the site;
- demonstrate that it will not have a detrimental impact on the current or future uses of the adjoining industrial area;
- respond to the Sydney Eastern City Planning Panel recommendation that further consideration be given to retaining two buildings with heritage value on the site and Council's GML heritage report that supports retaining these buildings;
- include a rationale for the height, FSR, building massing and modulation for the site;



- ensure mechanisms are provided for creative employment space;
- include the results of testing to determine if contamination has occurred on the site and, if so, demonstrate that the site can be made suitable for the proposed land uses;
- include the current FSR and height of buildings maps from the Leichhardt LEP 2013 for the site;
- include a social impact assessment that addresses the impacts of the proposal on existing employment uses and artists' studios on the site, the impact on Council services, recreational lands and activities, particularly Callan Park;
- update the economic impact assessment to comment on the impact of the loss of the artists' space or the concept revised to include 1,200m<sup>2</sup> of artists' space;
- be accompanied by a site-specific development control plan consistent with clause 6.14 of the Leichhardt LEP 2013;
- revise the traffic report to demonstrate consistency with Council's DCP, including the required on-site parking spaces for all proposed land uses in the concept;
- provide more information on solar access and overshadowing that:
  - identifies the percentage of dwellings in the concept that will receive two hours of sunlight per day and whether this is consistent with the ADG; and
  - the number of hours of solar access that will be provided to primary living areas in existing dwellings to the south and west of the site;
- include a clause that requires the lodgement of a development application for a mixed-use development within three years of a LEP being made. If no development application is lodged within this time frame, the enabling provisions will cease to have effect. If the development application is lodged within three years and subsequently approved, then the local planning authority may remove the sunset clause the next time it updates the LEP to remove reliance on existing-use rights; and
- revise the timeline reflecting a 24-month period to finalise the LEP.

The Gateway required the final planning proposal and associated documents to be publicly exhibited for a minimum of 28 days and specified a range of State agencies to be consulted. A copy of the Gateway determination is attached at **Appendix 3**.

On 17 June 2019, the proponent provided an updated planning proposal responding to all Gateway requirements prior to community consultation.

The updated planning proposal included a number of changes to the concept plan, including:

- retention of all of the 1907 Pilchers Bakery Company building (rather than part);
- removal of the plaza fronting Balmain Road;
- addition of a publicly accessible laneway between the retained character buildings and the new building connecting Balmain Road and Cecily Street; and
- changes to the distribution of height / modulation across the site.

## 2. PUBLIC EXHIBITION

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The planning proposal was publicly exhibited from Tuesday 1 October 2019 to Tuesday 29 October 2019.

Notification was placed in the Inner West Courier. The planning proposal and associated documents were made available on the Panel's website.

In total, 75 (seventy five) submissions were received. A breakdown of the types of submissions, as well as their origins (where identified), is noted below.

### **3. SUMMARY OF SUBMISSIONS**

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A total of 71 (seventy one) submissions were received from members of the community (**Appendix 4**). Of the 71 submissions:

- 66 (sixty six) objected to the proposal.
- 1 (one) indicated support for the proposal; and
- 4 (four) indicated support for the proposal subject to conditions.

#### **3.1 Submissions opposing the proposal**

Of the 66 (sixty six) submissions opposing the planning proposal, concerns were raised in relation to the following key issues:

- traffic and transport impacts (85%);
- excessive building bulk and scale (73%);
- inconsistency with local character (73%);
- parking impacts (66%)
- loss of solar access and increased overshadowing (51%)
- impacts on social infrastructure (42%)
- loss of privacy (32%)

These issues are discussed in Section 4, below.

#### **3.2 Submissions by public agencies and council**

In accordance with the Gateway determination, the following public agencies were consulted:

- Office of Environment and Heritage – Heritage Division;
- Callan Park and Broughton Hall Trust
- Environment Protection Authority;
- Roads and Maritime Services (RMS);
- Transport for NSW (TfNSW);
- Department of Education; and
- Inner West Council.

Inner West Council provided a submission during the exhibition period (**Appendix 5**). Council's submission raised multiple concerns with the proposal, including:

- inconsistency with the Greater Sydney Region Plan and Eastern City District Plan objectives regarding the retention and management of industrial and urban services land;
- failure to demonstrate that industrial uses would be viable if residential uses were to be permitted on the site;
- failure to demonstrate that the development would not detrimentally impact current or future uses in the rest of the industrial and urban services precinct;

- lack of rationale for the height, floor space ratio, building massing and modulation proposed; and
- failure to provide a full range of appropriate controls for matters such as accessibility, waste management, vehicular access/management and parking in the proposed DCP.

Submissions were received from the following agencies after the closure of the exhibition period (**Appendix 6**):

- Office of Environment and Heritage – Heritage Division
- Callan Park and Broughton Hall Trust; and
- Transport for NSW.

The Department of Education also provided an email response stating that they did not consider a formal submission to be required.

These submissions are discussed in the follow section.

## **4. KEY ISSUES**

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The following section provides details of the key issues raised in submissions by the community and public agencies. The Department's comments are also provided below.

Council and the proponent were given the opportunity to respond to key issues raised in submissions. The responses are provided at **Appendix 7** and **Appendix 8** respectively and are summarised below.

### **4.1 Traffic generation, transport and parking**

#### **Public submissions**

Traffic generation, congestion, insufficient public transport and parking were some of the most common issues raised in public submissions. Eighty five percent of submissions expressed concerns around traffic and transport and sixty six percent of submissions expressed concerns around parking. The key issues raised were:

- inability of the existing road network to accommodate the additional traffic that would be generated by the proposal;
- inability of existing public transport (buses and light rail) to support the additional population with services described as at or over capacity in peak;
- poor access to the Lilyfield Light Rail stop which is located an approximate 20 min walk (1.2km) from the site and not the 800m as-the-crow-flies distance stated in the planning proposal);
- exacerbation of existing safety risks for pedestrians using the footpaths surrounding the development;
- exacerbation of existing safety issues at the intersection of Cecily and Balmain Roads;
- lack of consideration of weekend traffic and parking generating activities associated with Callan Park and the Rozelle Markets;
- lack of consideration of local traffic increases that will soon result from two new developments located in close proximity to the site (173 apartments and employment space on the corner of Darling St and Victoria Road and 16 apartments on Darling Street);
- lack of consideration of the impacts WestConnex will have on local traffic;



- lack of consideration of traffic flow impacts resulting from the proposed cycleway development on Lilyfield road;
- disturbance to neighbouring residents resulting from the proposed exit ramp on Alberto Street;
- inaccuracy of the traffic and transport report used to support the proposal;
- existing insufficient levels of parking which will be exacerbated by the development;
- lack of consideration of car-sharing facilities;
- lack of planning to accommodate the parking needs of workers at the site; and
- lack of clarity / certainty around how vehicle access to the site will function including separation of residential and commercial access and service vehicle access.

#### Transport for NSW comments

TfNSW comments are summarised below with the full submission found at **Appendix 6**.

- the site is within the boundary of the WestConnex M4-M5 Link project. The WestConnex project team has advised that TfNSW will need to compulsorily acquire 'subsurface' land underneath 469-483 Balmain Road Lilyfield to form the underground road corridor for the tunnels. They state that as a result, some or all of the site will become limited in stratum.
- due to the sites location within the project boundary, any future development applications (DA) for the site would be subject to Clause 103 of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) legislation.
- with regard to access arrangements, TfNSW advised that any future DA for the site would need to remove all existing vehicular access to and from Balmain Road during and after construction and provide vehicular access only to the surrounding local roads (Cecily Street, Fred Street and Alberto Street).
- vehicular access should be located as far as practical away from traffic signals and that this should be supported within the site specific DCP. No stopping is to be imposed and on-street parking removed along the Balmain Road frontage of the site to improve downstream capacity at the Cecily Street intersection. Council should determine if the parking is to be offset through the provision of additional on-site parking.
- with regard to pedestrian impacts, TfNSW advised that the future DA will need to provide improvements to, and consider pedestrian access across, the frontage of the site by widening the Balmain Road footpath as described in the planning proposal.
- the provision of missing pedestrian phases at the Balmain Road / Cecily Street intersection should be investigated to support the future development. An updated Traffic Report should be provided to demonstrate the impact of the additional pedestrian phases and the improved downstream merge fronting the site. TfNSW advised that subject to their agreement-in-principle, the above works should be considered for inclusion as works within a planning agreement to be delivered by the proponent to support the proposal (subject to the execution of a Works Authorisation Deed with TfNSW and submission of civil design and TCS plans to meet TfNSW requirements).

### Callan Park and Broughton Hall Trust

Callan Park and Broughton Hall Trust (the Trust) raised concerns regarding impacts resulting from increased traffic flows and potential conflicts between the primary entry to Callan Park and the carpark entry.

The Trust also raised concerns around the potential increase in cars parking in Callan Park as a result of the development in relation to amenity and safety. The Trust consider that any shortfall in parking space provision within the site may result in increased parking at Callan Park and stated that this is undesirable for two reasons:

- there is currently no regulation applying to the site resulting in an inability to issue infringements for unlawful parking; and
- there is currently insufficient parking provision within Callan Park, especially during weekend sporting events.

### Councils comments

In its response to public submissions (**Appendix 7**), Council

- concurs with the concerns raised by community members regarding inadequacy of public transport. Council notes that the traffic report provided with the planning proposal (CBRK, April 2019) states that there are 25-30 bus services between a two-hour period. Council considers that consideration of services across a two-hour period is inappropriate and states that it should be acknowledged that some of these services do not have destinations in the Sydney CBD. Council considers that the existing patronage of these services should be assessed to identify the current capacity during commuter peak hour.
- notes that the traffic report (dated April 2019) considers that a number of future residents of the site will utilise the train and ferry to travel to work. Council considers that these residents should be included as bus patrons due to the site's distance from train and ferry terminals.
- states in relation to the existing road networks capacity to accommodate the additional traffic and parking, Council states that it is unclear where the data for journey to work and residents with a job has been sourced from and from what year.
- states that the forecast traffic distribution has not been justified. Further, the proposal has not appropriately considered the increased traffic flows the surrounding road network will experience following the opening of WestConnex Stage 1. Council considers that although SIDRA may have indicated that the intersection of Cecily and Balmain Road performs at an acceptable level of service, it is unclear what the degree of saturation and queues may be without the summary report.

### Proponent comments

The proponent has provided a response to submissions (**Appendix 8**) with comments from their consultant CBRK. Responses to individual issues is also provided under Table 1.

- CBRK state that the site has good access to public transport and is around 800 metres walking distance from the Lilyfield light rail station which provides services connecting the City with Pymont and the Inner West as far as Lewisham. With regard to bus services, CBRK states that the following four local bus services operate along Balmain Road adjacent to the site with 25 to 30 buses stopping at bus stops around 50 metres east of Cecil Street in weekday AM/PM peak periods:
  - Route L37: Haberfield, Rozelle, City;
  - Route 440: Bronte, Bondi Junction, Central, Leichhardt, Rozelle;
  - Route 444: Campsie, Leichhardt, Balmain East; and

- Route 445: Campsie, Leichhardt, Lilyfield Light Rail, Balmain East.
- CBRK further note that Balmain Road and Cecily Street are identified as on-road cycle routes, providing east-west and north-south connections respectively.
- CBRK state that a detailed traffic assessment was undertaken as set out in Sections 2.29 to 2.43 of their traffic report dated April 2019. CBRK state that the assessment was based on weekday AM/PM peak period traffic counts at surrounding intersections and estimates of traffic generation based on RMS Guidelines. CBRK state that SIDRA was then used to assess the traffic effects of development traffic on surrounding intersections. CBRK state that the traffic assessment concludes that a minor increase in traffic could be accommodated by the surrounding road network.

A number of issues were raised in submissions, which the proponent has provided responses on below.

**Table 1:** Proponent response to traffic issues

| Issue   | Proponent response   |
|---|--|
| Concerns raised by community members with regard to the adequacy of parking provision   | CBRK state that a detailed parking assessment was undertaken to inform the planning proposal. CBRK state that their report (CBRK, April 2019) identified the minimum and maximum parking that could be provided under the DCP and catered for the site within any future development. CBRK note that final parking arrangements will be determined at the development application (DA) stage.  |
| Concerns raised in relation to construction parking   | CBRK states that as part of a future DA and prior to works commencing on the site a Construction Management Plan (CMP) will be prepared and approved by Council. CBRK states that the CMP will identify specific construction zones around or within the site to accommodate short term construction parking and that all reasonable attempts will be made to minimise construction stage impacts.   |
| Community concerns that the proposed exit ramp on Alberto St will generate excessive disturbance at night resulting from headlights of exiting vehicles | The proponent's consultant Roberts Day states that they consider that the traffic analysis undertaken for the proposal indicates minimal impact on the surrounding area. They further state that redevelopment of the site will likely result in improved amenity for surrounding residential uses. They state that driveways and parking areas have been located to minimise queuing and ensure vehicles can enter and exit in a single turning movement. |



| Issue   | Proponent response   |
|---|--|
| Community concerns regarding lack of consideration of car-sharing facilities  | The proponent states that this matter is for consideration at the DA stage.  |
| Concerns that Cecily Street is too narrow   | <p>CBRK states that the street is some 7m wide which it considers an appropriate width to accommodate one traffic lane in each direction.</p> <p>CBRK notes that the parking on the eastern side of the street that reduces Cecily Street to effectively one traffic lane between Fred Lane and Fred Street is an existing issue.</p> <p>CBRK considers that the minor increase in traffic in this section of Cecily Street will not change the streets operation.</p> |
| Concerns raised regarding the footpath on Balmain Road being too narrow   | The proponent states that footpath widening is proposed for parts of Balmain Road but is restricted in other parts as a result of the retention of the character buildings.  |
| Concerns raised that the current intersections are extremely congested  | CBRK states that based on their analysis and observations of traffic flow and intersections adjacent to the site, they do not consider this to be the case.  |
| Submissions requesting traffic lights on the corner of Balmain Road and Alberto Street  | CBRK states that traffic flows at this intersection with and without traffic from the Proposal, do not meet the RMS criteria for traffic signals.  |
| The community and Council's concerns that the proposal does not appropriately take into account the opening of WestConnex Stage 1 | <p>The proponent states that as per the CBRK report (April, 2019), the proposal has a low traffic generation and was assessed as having a minor impact of the operation of the adjacent road network.</p> <p>The proponent states that therefore any changes to traffic flow along Balmain Road resulting from WestConnex would not change these findings and the proposal would continue to have a minor impact.</p>  |

| Issue   | Proponent response   |
|---|--|
| <p>Submissions disagreed with the statement in proponent's report that "Vehicles waiting to turn right from Alberto Street are able to see through vehicles parked on Balmain Road"</p> | <p>CBRK state that sight lines at the intersection of Alberto Street and Balmain Road are typical of unsignalised intersections along Balmain Road. The proponent states that the comment was made in reference to typical conditions (such as cars parked at the location) and was not intended to cover circumstance where larger vehicles were parked at the location. The proponent states that a larger vehicle could limit sight lines and that at intersections where this can occur it would be appropriate for Council to implement parking restrictions. They note that this is an existing situation and not a result of the planning proposal.</p> |

#### Department comments

The Department notes that the site is reasonably located to utilise a variety of public transport types and options.

In relation to parking, a Gateway condition was included requiring the planning proposal to be updated to demonstrate consistency with Council's development control plan. The Department notes this requirement was undertaken and Council has not objected to this aspect of the planning proposal. Further consideration of final parking requirements should be addressed as part of any future development application.

It is noted that there are potential restrictions that may apply to the developments design as a result of the sites location within the WestConnex project boundary. The Department is satisfied that this matter is most appropriately addressed at the detailed design stage of the development.

Council has raised concern with some aspects of the proponent's traffic report. The Department considers that further consideration can be given to these issues once final design details are known with a development assessment. However, if the Panel request this be undertaken as part of the planning proposal the Department suggests that this be undertaken having regard to any amended planning proposal that may be required to respond to other matters raised below.

As per the advice provided by TfNSW, it is noted that further consideration should be given to pedestrian access to key locations surrounding the site. This matter should be appropriately addressed as part of any future development application once final design, car parking and access arrangements are clarified.

It is noted that TfNSW states that any necessary works should be considered as part of a Planning Agreement. The Department recommends these discussions occur between the proponent and Council as the Department cannot mandate any planning agreements for the site.

## **4.2 Building bulk and scale and impacts on amenity**

### **Public Submissions**

Seventy-three percent of the submissions expressed the view that the proposed building bulk and scale was excessive. The proposed bulk and scale was thought to result in negative impacts on the amenity of surrounding properties and on the public domain. The key issues raised were that the increased FSR and height would:

- reduce natural light and sunlight to internal and external areas of residences surrounding the development;
- have detrimental impacts to privacy for the existing residences surrounding the development;
- result in an out of character development being highly visible from the surrounding area, exacerbated by the sites location on a ridgeline; and
- visually dominate, and result in view impacts to and from, Callan Park.

A number of submitters considered that an adequate rationale for the height and FSR had not been provided and noted that the controls proposed would result in a development much larger than the surrounding buildings, setting a negative precedent.

Some concern is raised that the visualisations provided in the planning proposal that demonstrate the concept height and scale to be deceptive Comments have been provided claiming that the illustrations mislead the visual impacts by excluding upper stories in some circumstances.

Around eighteen percent of submitters stated that they would be supportive of renewal of the site but at a reduced bulk and scale than that put forward in the proposal.

### **Inner West Council Submission**

Council considers that the proposed maximum building height and FSR will adversely impact on the amenity of adjoining residents. In its response to public submissions (**Appendix 7**), Council raised the following associated issues:

- loss of privacy for adjacent and nearby houses resulting from the proposed development's apartments and roof top gardens; and
- lack of certainty around appropriate solar access provision for surrounding properties.
- Council considers that to minimise overlooking, a site specific LEP clause is needed that restricts the building heights at the sites perimeter to the equivalent of two residential storeys, with any higher building well set back (e.g. within a 22.5 degree height plane).
- the illustrative cross section in the Urban Design Report shows wall heights of approximately 12.4m (three storeys) to Balmain Road and 8.5m (two storeys) to Fred Street. Council considers that wall heights in this location should be a maximum of two storeys, particularly given the 4m floor-to-ceiling height for the ground floor and the 400mm+ slab between ground and first floors. Council notes that under Leichhardt DCP 2013, the Nanny Goat Hill Distinctive Neighbourhood which the site part of is located has a 7.2m maximum wall height (C13). Clause 6.14 of the Leichhardt LEP 2013 requires DCP's to consider "the compatibility of the proposed development with the desired future character of the area".
- the above outlined LEP height clause is also necessary to provide certainty that the existing winter solar access, or compromised 3 hours winter solar access, to surrounding houses would be ensured.



- the proposal assesses the development as having the ability to comply with State Environmental Planning Policy No 65— Design Quality of Residential Flat Development (SEPP 65) and the supporting Apartment Design Guide (ADG) but considers this inadequate given that SEPP 65 / the ADG do not deal with mixed industrial / residential developments. Council notes that the proposal does not consider this.
- Council considers that if 6,000m<sup>2</sup> of industrial floor space is to be provided, the scheme and resultant design would be different to that provided with the planning proposal making assessment difficult. Council considers that as the concept developed is not feasible, that the overshadowing analysis is not meaningful or representative.
- Council considers that an approach of establishing maximum building envelopes and then discounting the FSR by 30% as per guidance in the ADG is more appropriate for determining the building bulk and scale on the site.
- Council considers that to reduce apparent bulk and scale, thought should be given to increasing the upper level setback to Balmain Road (currently shown as 3m). Council also considers that setbacks between the ‘character buildings’ and the new buildings should be appropriate and confirmed.
- Council considers that the building lengths shown along Fred Street and Balmain Road are particularly long. Council considers that requirements on building wall lengths and articulation should be included in the proposal.

#### Proponent's comments

The proponent considers that a sensitive approach to design has been taken to ensure that no additional adverse impact is created from the proposal. The proponent states that proposal has been designed to provide an appropriate interface and transition to the surrounding area. The building envelope is set back at the Balmain Road frontage to create a human scale experience for people at the street level. The built form to Cecily Street, Alberto Street and Fed Street transitions down to be lower-rise elements providing an appropriate interface with the surrounding scale.

In response to amenity impacts arising from the proposal, a summary of their response to various issues is provided below:

**Table 2:** Proponent response to amenity issue

| Issue  | Proponent response  |
|--|---|
| Overshadowing                                      | Building envelopes are proposed to be stepped down towards Alberto Street and Fred Street which it considers would maintain sunlight to adjoining properties. The proponent considers that solar impacts will primarily be on existing roads and driveways during morning hours and after 3pm largely on roofs or blank walls. The proponent considers that the design has been carefully considered to ensure there is very little impact on existing private and public open space. |
| Overlooking into private courtyards on Fred Street | The proponent's consultant (Roberts Day) states that the width of the rear setbacks within the proposed stepped built form will ensure that views to the adjacent private   |

| Issue  | Proponent response   |
|--|--|
|  | courtyards are minimised through the configuration of the building volume itself. The proponent states that privacy would be considered further during the DA process to provide additional mitigation measures.   |
| Impacts to Callan Park   | Roberts Day states that given the scale of Callan Park, the Park topography falling away from Balmain Road, and size of the trees along the Balmain Road boundary, they do not consider it possible for the project at the scale proposed to visually dominate the Park. They state that the visual analysis provided in the Urban Design Report (2019) shows there are limited views of the project from Callan Park.   |
| Councils statement that the proposal fails to consider that SEPP 65 / the ADG do not deal with mixed industrial / residential developments | The proponent states that the proposal has addressed the key criteria of the ADG for the residential component. The proponent further considers that the integration of light industrial and residential uses on the site has been given consideration and is supported by site specific development controls to ensure the viability of these uses while maintaining residential amenity.   |
| In response to Councils suggestion that consideration be given to increasing the upper level setback to Balmain Road                       | The proponent's consultant (Roberts Day) stated that urban areas are characterised by a strong sense of enclosure. They state that street spaces in urban areas are often lined by buildings set along the front property boundary with varying setback distances at upper levels. They further state that surrounding context is important for defining a places character and that given the location of the existing front boundary being more than 20 metres from Callan Park as well as the additional 1.7 – 3 metre footpath provision on Balmain Road providing for larger scale tree planting, they consider the proposed setback to the upper levels of 3m to be appropriate. |
| In response to Councils concerns around the long building lengths to Fred Street and Balmain Road  | Roberts Day states that the draft Site Specific DCP prepared includes the following control <i>“Street fronting buildings elevations are to be articulated to complement the fine grain form of surrounding neighbourhoods and reduce the appearance of building bulk and scale. This can be achieved through windows,</i>   |

| Issue   | Proponent response   |
|---|--|
|   | <p><i>balconies and other fine grain elements and materials, colours and textures. The arrangement of these elements is in particular encouraged to emphasise the vertical along Balmain Road and Fred Street to counter the length of these buildings".</i> Roberts Day considers that this will result in the replacement of the poor industrial frontage with an active and/or attractive frontage and result in an improved pedestrian experience.</p>   |
| <p>In response to Councils comments regarding street wall heights</p>                         | <p>Roberts Day states that Fred Street and the majority of Alberto Street have two storey street wall heights. They state that under Leichhardt DCP 2013 Nanny Goat Hill Distinctive Neighbourhood a building wall height of 7.2 metres is advised for buildings "originally designed for non-residential use". They state that the street wall height of existing buildings on site are up to approximately 14m.</p> <p>They consider that a balance between variety and a more unified façade composition with setback upper levels from the street wall to provide a human scale is required due to the mixed-use nature of the proposal.</p> |
| <p>In response to concerns raised in the submissions regarding the concept visualisations</p> | <p>Roberts Day state that they consider the documentation submitted to exceed the requirements for planning proposals regarding visual communication.</p> <p>They further state that they consider that the images accurately depict the proposal and note that 3D files were issued to Government for verification.</p>   |

#### Department comments

The Department notes that the Panel in its rezoning review decision states that site specific merits of compatibility of use between industrial and residential requires further exploration. The Panel recommended that a rationale for the height, floor space ratio, and building massing and modulation of the site is prepared and exhibited with the planning proposal. This requirement was subsequently included in the Gateway determination.

Overall, the Department notes that the planning proposal seeks to deliver a development that is considerably higher and of more density than what currently exists in the vicinity. This is further exaggerated by the site being located along a significant ridgeline in Lilyfield and opposite extensive open space. The Department considers the significant variation to this predominate scale requires strong justification that demonstrates a clear public value and minimal adverse impacts.

A contributing factor to the perceived bulk of the development is the maximisation of light industrial gross floor area (GFA) at ground level. The scheme utilises the benefits of site coverage allocated to a light industrial zoning whilst also introducing a substantial amount of additional floor space not currently permissible in the zone. This results in mass ground floor cover of the site and creates deep floor plates that minimises deep soil planting opportunities.

The Department questions this design strategy and the subsequent outcomes which does not lend itself to the most adaptable or attractive environment. The proponent has been provided with an opportunity to justify the overall built form of the site and how it will successfully function with both residential and industrial uses.

In its current form, the Department does not consider this has been adequately demonstrated. It is recommended that the Panel explore this issue further with the proponent to allow this to be further addressed through potential amendments to the scheme.

#### **4.3 Inconsistency with local character and streetscape**

##### **Public Submissions**

Seventy three percent of submissions considered the height and density of the proposal will result in a building that is out of character with the surrounding area. The key issues raised were:

- the proposed development would be considerably higher than, and out of proportion with, the predominately low rise existing neighbourhood;
- the development site is situated at the crest of the Lilyfield ridge which would exacerbate the out of character nature of the developments proposed bulk and height;
- the proposed development is not in keeping with the 'village' feel of the neighbourhood;
- the built form shown in the concept design is not in keeping with the local architecture and builds; and
- the development would be in contradiction to the historic character of the area; and
- the development would set a precedent which it is feared could lead to further erosion of the character of the area.

One submission considered it unlikely that the locality will transition to higher densities similar to those indicated in the proposal due to:

- the predominant single ownership of properties in the surrounding area;
- heritage items; and
- heritage conservation areas in the vicinity of the site.

##### **Council comments**

Council considers that it is evident that the proposed maximum building height of 23m (approximately 6 -7 residential storeys) is alien to the predominant 2 storey residential character of the area, and significantly exceeds the maximum 2 storey building scale stated in the Leichhardt Development Control Plan 2013 (DCP 2013). It further considers that the impact of the proposed height would be exacerbated by the site's topography which falls approximately 2.5m to 3m to the rear.



### Proponent comments

The proponent's consultant Roberts Day states that the proposed concept is based on a context-responsive building envelope with building heights differing to respond to their adjoining streetscape context. They state that they consider that the proposal has been designed to provide an appropriate interface and transition to the surrounding area.

Roberts Day states that the building envelope is proposed to be set back at the Balmain Road frontage to create a human scale experience for people at the street level. They state that the built form on Balmain Road is a mix of 2 storeys and 6 storeys with a 2 storey street wall and upper levels setback. They state that the 6 storey built form within the proposed development comprises 30% of the site with the balance low-rise and of a scale consistent with the local context. They state that built form setbacks in the Site Specific DCP further integrate the proposed heights into the local context.

The proponent considers that except for the character buildings to be retained onsite (the former Pilchers Bakery Warehouse (1907) and the ABBCO site (1917)), the existing buildings on the site have limited architectural quality and detract from the area. The proponent considers that the proposal will therefore provide significant improvements.

### Department comments

The Department notes it is proposed to retain two character buildings on the site which would assist in preserving heritage and positively contribute to local character. However, as noted by the community and Council, the proposed bulk and scale of the development represent a significant deviation from the character of the surrounding area.

The Department is not satisfied that the planning proposal in its current form has adequately demonstrated that an acceptable built form outcome will be achieved for the context.

## **4.4 Industrial and residential land use conflicts and loss of industrial land**

### Public Submissions

Some submissions raised concerns with the proposals potential impact on industrial land as a result of the introduction of residential uses at the site. Submitters considered that there has been a decline in employment and industrial lands in the area and that the proposed introduction of residential uses on the site would impact its ability to support future industrial uses, adding to these losses.

One submitter considered that the site coverage proposed may be adequate for industrial uses but that it was not appropriate for residential uses and would result in the contravention of recommendations for communal open space and deep soil planting for residential development.

### Councils comments

Council considers the proposal does not provide convincing evidence to demonstrate the suitability of introducing residential permissibility on the site. In this regard, Council:

- considers a viability assessment of mixing industrial and residential uses on the same site is not provided in HillPDAs supporting Economic Impact Assessment. Additionally, Council consider that no evidence is provided that the building could not continue in its present state as affordable industrial and urban services accommodation.
- considers the proposal sidesteps the requirements of Gateway condition 1C ("provide further examples and discussion on successful industrial and residential developments, and further explain how amenity will be provided to residents on the site", pg. 1, **Appendix 3**).

- states that the proponent's proposition to include a new local provision requiring that any development of the site is to have regard for any impacts created on the adjoining IN2 Light Industrial land will ultimately shift consideration of this to the DA stage and does not consider this to be an acceptable approach.
- notes that Council's draft Employment and Retail Lands Study (HillPDA, 2019), forecasts that there will be a shortfall of industrial and urban services floorspace in the Balmain Road industrial precinct of between 18,151m<sup>2</sup> and 41,089m<sup>2</sup> by 2036.
- considers that the proposal does not address how it would avoid the introduction of residential uses for the wider industrial precinct.
- considers the proposal will reduce the total potential floor space for industrial uses on the site as a result of dwellings being built above the employment space. It states that this represents inconsistency with Ministerial Direction 1.1 (4)(C).
- states that the proposal is inconsistent with the Eastern City District Plan which requires the retention of all existing industrial and urban services land.

### Proponent comments

The proponent notes Council's concerns regarding the viability of industrial uses within the development should residential uses be permitted. In response, the proponent states:

- the site is currently used for a range of light industrial uses in very close proximity to residential uses and that a set of design measures have been developed to ensure the viability of industrial uses on the site and minimise the potential for impact on residential uses, including:
  - separate pedestrian entrances for employment uses and residential uses;
  - potential for separate employment and residential vehicle access/parking;
  - basement loading facilities for industrial uses, minimising adverse impacts on the surrounding areas;
  - separate vertical circulation for employment and residential uses;
  - adequate employment floor-to-floor heights with acoustic treatment;
  - flexible employment floor space which will be adaptable over time to accommodate a range of business and service needs; and
  - plant and equipment being located away from residential uses.

The proponent states that these measures have been incorporated in the draft Site Specific DCP.

- the proposal will not result in a reduction of industrial land as it includes a provision that requires any redevelopment of the Site to provide a minimum of 6,000m<sup>2</sup> of IN2 Light Industrial for employment uses. The proponent states that it considers Council's statement that there will be a shortfall of industrial and urban services floorspace in the Balmain Road industrial precinct of between 18,151m<sup>2</sup> and 41,089 m<sup>2</sup> by 2036 to be overstating the situation. The proponent states that the draft Employment and Retail Lands Strategy suggests a shortfall of between 6,295m<sup>2</sup> and 23,712m<sup>2</sup>. (pg. 35).
- the examples provided of mixed industrial and residential developments, in particular the new developments at Pyrmont and East Village, demonstrate the successful integration of these uses. The proponent states that these examples have informed the proposal and the draft Site Specific development controls, and considers that the Gateway determination requirements have been met.

- it does not consider that existing or future businesses in the adjoining industrial area would be impacted by the proposal through the introduction of residential dwellings. It states that the area is already interspersed with residential uses and considers that the proposal will reduce land use conflicts through more appropriate design. Further, the proponent states that it considers existing local urban services will benefit from the introduction of new residents to the area in terms of potential patronage.
- the Site Specific DCP includes a section on mitigating adverse impacts on light industrial and residential users.
- the GSC Information Note (SP2018-1) – Industrial and Urban Services Land (Retain and Manage) – Transitional Arrangements released on 5 October 2018 was issued to provide supporting information to the Greater Sydney Region Plan and Sydney District Plans. They state that the Information Note sets out that for planning proposals lodged prior to March 2018 that had been referred to and supported by the relevant Sydney District Planning Panel, the decision of the Panel should be the prevailing consideration of whether the proposal proceeds to a Gateway Determination.
- in relation to Council's concerns regarding the potential for the proposal to lead to the introduction of residential uses within the wider industrial precinct, the proponent states that the development is unlikely to have any significant impact on the ongoing operations of light industrial uses in the vicinity. The proponent states that the site is only adjoined by land zoned for industrial uses to its north east. This land comprises a precinct of small land parcels supporting a mix of residential, retail, commercial, employment, and light industrial uses with the closest lots comprising residential and retail uses. The proponent states that the light industrial uses further to the north east already operate in very close proximity to other residential uses, including dwellings which are much closer than the site. The proponent further states that the proposed inclusion of the site specific local provision seeks to provide an additional safeguard to these uses.

### Department comments

As discussed, the Department questions the design strategy of the scheme which seeks to maximise ground level coverage of the site. This restricts opportunities for optimal amenity outcomes to be realised for residents and workers with access to ground level open space and landscaping.

Rather than separate uses it appears the scheme attempts to integrate the uses which in turn negates separation and legibility. This is a complex matter to overcome and is a direct result of attempting to integrate industrial uses and residential uses on the same site.

The Department recommends the Panel explore other opportunities for improved separation opportunities. This will likely require a reduction in floor area for all land uses and consideration of dedicated residential and industrial addresses.

In relation to the GSC Information Note (SP2018-1), the Department notes that the planning proposal was lodged prior to March 2018 and had been referred to and supported by the Panel. Therefore, the progression of the planning proposal is in keeping with the Information Note and can proceed to be finalised if considered appropriate by the Panel.

## **4.5 Capacity to support diverse industrial uses**

### **Public submissions**

One submitter considered that the ground floor ceiling height put forward in the concept scheme of 4m to be inappropriate. The submitter considered that ground floor ceiling heights must be 6m internally to adequately support industrial businesses. The submitter explained that they considered this height is required to accommodate truck and container deliveries and to provide for the efficient use of the space with pallet racking etc. They stated that the 6m height would allow:

- the industrial spaces to be mezzanined for offices above showrooms and later returned to a clear space;
- the industrial spaces to be integrated rather on separate levels and not interfere with the residential amenity; and
- a range floor plates for business.

The submitter stated that successful local business need large floor plates of 500 to 1500m<sup>2</sup>.

### **Council comments**

In their response to submissions Council concurred with the above outlined public submission's statement that there is a need to provide greater floor to ceiling heights for the industrial uses than indicated on the concept scheme. Council stated that this is required if the space is to be flexible and adaptable to a wide range of uses.

### **Proponent comments**

The proponent states that it considers the proposal provides generous ground floor, floor-to-ceiling heights appropriate for light industrial, particularly creative industries. They state that the Roberts Day Urban Design Report indicates a typical height of 4.4m for the new buildings and 5.2m for the character buildings. The proponent considers that these heights provide flexibility for future uses in addition to the opportunity for appropriate acoustic attenuation between uses.

### **Departments comments**

The Department considers that in order to ensure the greatest levels of flexibility for future industrial uses at the site, a conservative approach should be taken to floor to ceiling heights in line with best practice. In order to justify the redevelopment, it should be ensured that opportunities for all permissible future employment uses are not restricted.

## **4.6 Viability of site's continuation for industrial uses only**

### **Public submissions**

Some public submissions raised that there was a lack of evidence provided in the planning proposal demonstrating that the current planning controls would not be able to support viable industrial uses.

### **Councils comments**

Council does not consider that sufficient evidence has been provided to justify the proponent's conclusion that the site is at the end of its economic life and that the redevelopment of the ageing building on the site is unviable under the current FSR and land use controls. Council does not consider that any evidence has been provided that demonstrates the building cannot continue in its present state as affordable industrial and urban services accommodation.



Council further states that the proposal fails to consider how the type of changes in planning controls identified in the draft Employment and Retail Lands Strategy (Inner West Council, 2019) could enhance the prospects for an employment only development.

#### Proponent comments

In the proponent's response to Council's submission, their consultants state that they (HillPDA) have independently reviewed the viability of redeveloping the site for continued industrial and creative uses looking at two new build options. HillPDA state that the modelling undertaken indicated a significant financial loss greater than 30% of the total project cost for both options. The proponent states that the statement 'at the end of its economic life' is based on observation and value judgement. The proponent states that whilst existing uses on site could continue for an unknown period, the proposal represents a higher and better use.

#### Department comments

The Department notes that information has been provided to convey the additional economic benefit arising from the planning proposal. It is understood the intent of the planning proposal is to facilitate a more intensive use of non-residential/employment space on the site with additional housing. A focus appears to be placed on high-tech and creative industries in this regard which is claimed is only viable with the introduction of residential permissibility accounting for approximately 65% of the overall gross floor area.

The Department considers the ongoing viability of all industrial uses needs to be balanced with the overall benefits arising from the planning proposal. The proponent acknowledges that existing uses could continue on site for an unknown period. Therefore, the Department considers this issue cannot be considered in isolation and requires consideration of the overall public benefit arising from the planning proposal, not just economic implications.

### **4.7 Heritage impacts**

#### Public submissions

A number of submissions raised concerns around the heritage impacts they considered would result from the development. These submitters generally considered that the proposal would impact on the local areas heritage character and/or impact the heritage items of Callan Park and 8 Fred Street.

One submitter stated that the site represents an opportunity to link the village heritage with interesting and sustainable new development however, considered that in order to appropriately respect the heritage the development should be no more than 2 – 4 storeys.

#### NSW Environment, Energy and Science - Heritage Division (Heritage NSW)

Heritage NSW acknowledge and support the proposed retention of the character buildings on the site.

They note that site's location is immediately opposite the State Heritage Register (SHR) listed Callan Park Conservation Area and Buildings (SHR0081) which includes the individually listed:

- Callan Park House – Rozelle Hospital (SHR 00823)
- Rozelle Hospital – Broughton Hall (SHR00831)

They advised that they support a change of use to activate the site however consider that the proposal documentation needs to adequately consider the impact of the increased height on the social, historical and aesthetic heritage values associated with views and site lines to and from Callan Park.

The further advise that proposal should be assessed for the incremental impact of increased heights that could result following the proposal on significant views to and from the Callan Park Conservation Area and its buildings.

#### Callan Park and Broughton Hall Trust comments

The Callan Park and Broughton Hall Trust advised that any potential adverse impacts on the state heritage listed sites of Callan Park and the Kirkbride Complex should be considered. This includes amenity impacts such as visual, noise, air, solar and streetscape amenity.

#### Councils comments

Council states that the supporting Heritage Assessment conducted by NBRS & Partners considers the potential heritage value of the buildings on the subject site but does not consider potential impacts of the proposal on adjoining heritage items (being the dwelling at 8 Fred Street (local item) and Callan Park Conservation Area (State item)).

Council considers that without this assessment, the appropriateness of the proposal's bulk and scale cannot be adequately considered. Council notes that the Urban Design Report states that taller building elements are proposed towards Balmain Road to take advantage of the Callan Park amenity. Council states that the impact of the scale of the development on the adjoining State heritage item has however not been considered.

Council considers that the proposed building height will have an uncharacteristic dominant visual impact on Callan Park. Council also considers that the modernist building style as shown in the indicative scheme would also result in an adverse visual impact on Callan Park.

#### Proponent comments

In its response to public submissions, the proponent provides a letter prepared by their consultants (NBRS Architecture) which provides further advice regarding the heritage impact of the proposal on the two heritage items identified by Council.

The advice states that NBRS Architecture have concluded the proposal would not impact or alter the heritage significance of 8 Fred Street or the Callan Park Conservation Area and that the heritage impacts are acceptable as:

- existing views between heritage items in the vicinity, and the character of the Callan Park Conservation Area, will be retained and conserved. Views looking northwards along Cecily Street and Alberto Street would be retained terminating at the main pedestrian and vehicular entrances to the Callan Park Conservation Area from Balmain Road.
- the Proposal would not alter the heritage curtilage of either the Callan Park Conservation Area or 8 Fred Street.
- the Proposal would not alter the identified historic or aesthetic significance of the 'Timber cottage and Interiors' of the building located at 8 Fred Street, Lilyfield.
- the Proposal would not alter the heritage significance of the Callan Park Conservation Area or its buildings.
- the works are generally consistent with the heritage objectives of the Leichhardt LEP 2013 and the Leichhardt DCP 2013.

- the works have been designed to address each of the surrounding streets, with upper level development set back from the street to reduce the visual scale of the development and to provide a transition to residential development in surrounding streets. External walls will include windows and openings to reduce the visual impact of large expanses on masonry walls on views along Fred Street and Alberto Street as shown in the Art Haus Urban Design Report (May 2019).
- the Proposal concept would be constructed of high quality materials and finishes.
- the taller elements of the Proposal have been designed as three separate buildings to retain solar access to the residential development to the south of Fred Street.
- the former Pilchers Bakery Warehouse (1907) and the ABBCO site (1917) would be retained as evidence of the previous light industrial development of the Site.

#### Department comments

The Department notes that the planning proposal was updated prior to exhibition (in accordance with Gateway condition 1(f)) to include the retention of all of the former Pilchers Bakery Warehouse building. As noted in section 4.3 of this report, this would assist in preserving heritage and positively contribute to local character.

It is also noted that in its response to submissions, the proponent provided an assessment of the impacts to 8 Fred Street and the Callan Park Conservation Area that determined the proposal would not impact or alter the heritage significance of these two items.

The Department has raised concern with the overall bulk and scale of the development for its context. Should any changes be undertaken to the proposal, the Department suggests that this should be undertaken having regard to the comments of Heritage NSW.

### **4.8 Impact on social infrastructure**

#### Public submissions

Approximately forty two percent of submissions raised concerns with the developments impact on social infrastructure, in particular the impacts on local schools and child care facilities. Submitters stated that the local public primary schools are already close to or at capacity and considered that child care facilities are also under pressure. Submitters raised that the information provided in the proposal for school and child care facilities was based on out of date figures and could therefore not be relied upon

Submitters also raised concerns with the developments impact on NBN services in the area.

#### Department of Education

The Department of Education advised via an email dated 20 February 2020 that they have no objection from a Statutory Planning or Service Planning Perspective to the proposal and as such would not be providing a formal submission.

#### Proponent comments

The proponent states that it considers the site to be supported by a wide range of services, facilities and open space due to its location in a densely populated metropolitan area in close proximity to the Sydney CBD. The proponent further states that it considers the number of dwellings proposed to not be significant in the context of the exiting servicing capacity surrounding the site.

The proponent states that any future DA for the site will need to demonstrate that servicing capacity exists or provide for any required upgrades.

The proponent states that HillPDA's Social Impact Assessment (April 2019) indicates that there is currently some capacity at the local government-based schools, however it is somewhat limited. They state that HillPDA found that greater capacity is available at the independent schools within the local area. HillPDA note that there is a planned upgrade to Orange Grove Public School.

#### Department comments

The Department notes the concerns raised by the community and Council with regard to the capacity of school infrastructure in the area. However, it is satisfied that based on the advice received from the Department of Education that there would be sufficient capacity to provide for the additional students that would be created by the development.

As noted by the proponent any future DA for the site will need to demonstrate that servicing capacity exists or provide for any required upgrades.

### **4.9 Lack of public benefit**

#### Public submissions

A number of submitters considered that the proposal would not provide sufficient public benefit. Key specific issues raised by submitters related to a considered lack of:

- affordable housing;
- affordable creative spaces;
- community spaces;
- open space; and
- surety around the delivery of green walls and street trees.

With regard to the provision of affordable creative spaces, a number of submissions noted that no information is provided in relation to likely rent amounts. Submitters raised concerns that the current users of the creative spaces at the site would not be able to afford to continue to locate there as the redevelopment would render the currently affordable spaces too expensive.

#### Councils comments

In their response to public submissions, Council states that they concur with submitters who consider that there would be very little community benefit as a result of the proposal and that it should incorporate community space.

Council considers that the new creative spaces to be provided as part of the proposal would be unaffordable for the existing occupants as a result of the need to recoup development costs. Council considers that this would also be the case for the other employment related occupants.

Council states in their response to public submissions that the Inner West Affordable Housing Policy, which was adopted in March 2017, requires 15% GFA to be dedicated to affordable housing when a development includes 20 or more dwellings or a GFA of 1,700m<sup>2</sup>.

#### Proponent comments

The proponent considers that the retention of 6,000m<sup>2</sup> of employment floor space, predominately on the ground floor, is a key priority of the proposal and that as such, creation of additional green space on the ground floor is constrained. The proponent states that the proposal does however include a new publicly accessible pedestrian lane between Balmain Road and Cecily Street, widened tree-lined footpaths and a pedestrian link connecting Fred Street and Alberto Street. They further state that green walls, green roofs and over 1,706m<sup>2</sup> of communal open space will be provided. The proponent states that the communal open space satisfies the criteria of the ADG.



Roberts Day notes that the draft DCP contains the following control - "Opportunities for green walls, green roofs and communal gardens within the Site are to be explored". They state that during the detailed design stage of the proposal, these opportunities will be explored and where possible and appropriate incorporated.

The proponent states that the artist space at the site is currently leased to a single operator who sub-lets to individual artists. The proponent states that this lease expired in 2014 and is currently on a holdover which means only a 3 month notice to vacate is required. There would be no requirement to release the space as artists space if a notice to vacate was issued to current sub letters. The proponent states that the proposal includes a local provision requiring a minimum of 6,000m<sup>2</sup> of IN2 Light Industrial space for employment uses. They further state that of that area, a minimum of 1,200m<sup>2</sup> is required to be provided for creative employment / artist space under the local provision, ensuring that this area is provided for these uses only, in perpetuity. The proponent considers that as no other use can occupy this space, the rent will not be above market and therefore will be a fair market rent, consistent with its niche use.

#### Department comments

The Department considers that the proposed design embodies some key principles that should be explored further to provide a greater contribution for the public life of the area. This could include aspects such as supporting increased pedestrian permeability through the site, increased deep soil planning and open space within the development.

The Department notes Council's comments on the provision of affordable housing. Under Section 7.32(3)(b) of the Act, any condition imposed relating to contributions for affordable housing on a development consent must be authorised by an LEP and must be in accordance with a scheme for dedications or contributions set out in or adopted by the LEP. To date, Inner West Council has not sought to amend the Leichardt LEP 2013 to reference and affordable housing contribution scheme to levy for affordable housing.

In the absence of an endorsed affordable housing contribution scheme, the Department encourages the proponent and Council to engage further on this matter through a potential voluntary planning agreement.

#### **4.10 Lack of commitment to sustainability**

##### Public submissions

A number of submissions raised concerns with regard to the development's sustainability. Submitters considered that the scale of the proposal would inherently lead to environmental impacts as a result of the increase in density.

One submission raised that the scale of the site is well suited to a strong ecologically sustainable development (ESD) design response however is concerned that the proposal does not articulate an unequivocal commitment to such an approach, leaving room for a dilution of design in terms of environmental performance.

##### Council comments

Council considers that sustainability commitments are lacking in the proposal and in response has recommended a number of provisions for inclusion in a DCP for the site.

##### Proponents response

In Ethos Urbans response to submissions, they state that they consider that policy regarding sustainability initiatives should be developed based on studies and other evidence and then applied to the site. They state that they do not consider it to be the role of the site to lead development of such policy.

##### Departments response

The Department notes that Council suggests a number of provisions for inclusion in the DCP for the site regarding sustainability commitments. The Department considers it appropriate for any future detailed design scheme to address this to the satisfaction of the consent authority.

#### **4.11 Surplus to housing needs**

##### **Public submissions**

A number of submitters did not consider that the addition of residential uses were required on the site as Council has already demonstrated its ability to meet housing targets.

##### **Council comments**

At the time of their submission on the proposal, Council stated that its draft Local Housing Strategy (LHS) (May 2019) indicates that the LGA is forecast to exceed the Eastern City District Plan (ECDP) 2016-2021 residential development target of 5,900 dwellings by around 950 dwellings without development at this site. Council states that it has received a letter from the GSC confirming Council is on track to meet this target.

Council further states that the medium and high growth scenario projections in the strategy show that the LGA will exceed the ECDP 2021-2036 targets of 15,000 by between 2,300 and 5,000 dwellings. Council states that this demonstrates that the LGA housing needs can be accommodated elsewhere in the LGA in developments that do not have a high risk of an adverse impact on industrial and urban services land.

##### **Proponent comments**

The proponent notes that the LHS is yet to be finalised and has not yet been endorsed. The proponent states that the site represents an opportunity to provide additional supply and diversity of housing within the short term while retaining and protecting employment/industrial uses. They further state that they consider the residential market to be strong in the area as demonstrated by high prices and low vacancies.

The proponent states that it considers the live work potential of the site to be a relevant consideration given the commitment to on site employment uses and the opportunity for “smaller (live work) businesses to either support, align and/or leverage off being in close proximity (either on Site or nearby) to other local and urban services businesses”.

##### **Department comments**

The Department notes that Inner West Council has submitted its LHS for endorsement. At the time of providing this report, the LHS has not been endorsed.

The Department’s supply forecast data is being used to inform the assessment of the LHS and has identified that Inner West Council currently has a shortfall of housing when compared to GSC housing targets as shown below. This shortfall was raised with Council in June 2020.

The Department intends to complete the assessment of the LHS and work with Council to address any dwelling shortfall through appropriate rezoning of land.

| <b>GSC Housing Target<br/>(0 – 5 years)</b> | <b>Expected Dwelling<br/>Completions</b> | <b>GSC Housing Target<br/>(6-10 years)</b> | <b>Expected Dwelling<br/>Completions</b> |
|---|--|--|--|
| 5,900                                       | 5,495                                    | 5,000-5,700                                | 4,910                                    |

The Department considers that the provision of additional housing in appropriate locations should be encouraged. In this instance, the site is in a location that is reasonably serviced and can cater for additional housing. However, as discussed this must be balanced with the overall site constraints, public benefits and development outcome.

#### **4.12 Development Control Plan**

##### **Councils comments**

Councils submission raises a number of concerns with the draft Site-Specific DCP. Council considers that the proposed DCP does not provide a full range of appropriate controls for matters such as accessibility, waste management, vehicular access/management and parking. Councils submission includes a range of suggested amendments.

Council states that it acknowledges that the proponent's draft DCP provisions were included in the material exhibited with the planning proposal, however, notes that there was no notification of a draft DCP in accordance with Clause 18 of the Environmental Planning and Assessment Regulation 2000. Council further states that the proponent's draft does not explain how it will be incorporated into the Leichhardt DCP 2013, or otherwise.

Council further considers that it is unclear whether the proponent proposes to include the controls for the site within a stand-alone DCP or within Part G of DCP 2013. Council notes its preference for inclusion of the provisions within Part G to remove the need for cross referencing/adopting provisions of DCP 2013.

##### **Proponent comments**

The proponent provided an updated draft DCP, prepared by their consultants Ethos Urban, in response to the issues raised by Council in their submission. An outline of the proposed changes are provided in **Appendix 8** along with commentary that responds to Councils specific comments. The updated draft Site Specific DCP is provided in Appendix 8.

##### **Department comments**

The Department is not responsible for the endorsement of any future development control plan for the site. The Department considers that any future DCP should be in keeping with Council requirements and encourages the proponent to engage with Council on the matter should the Panel consider the planning proposal be supported.

#### **4.13 Maximum RLs not included**

##### **Council comments**

Council considers that maximum RLs be should be included in both the Local Environmental Plan (LEP) and the DCP amendments.

##### **Proponent comments**

The proponent states that the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' provides guidance regarding Standard Instrument LEP mapping requirements as set out in the Environmental Planning and Assessment Act 1979. The proponent states that this document outlines that the Height of Buildings in the LEP Height of Buildings map is required to be shown in metres for the purpose of LEP amendments and is defined as the vertical distance between the ground level and the highest point of the building for the land application area. The proponent considers that applying this guidance ensures there is no unnecessary burden on the development application process.

##### **Departments comments**

The Department considers this issue should be addressed as part of any future drafting of the LEP should the proposal proceed to that stage.

#### **4.14 Noise impacts**

##### **Public submissions**

A number of submissions considered that the proposal would result in noise impacts for surrounding residents. Sources of noise identified by submitters included air conditioning units, refuse collection, cars entering and exiting the site, garage doors, communal outdoor spaces on rooftops or balconies and the location of the proposed footpath along Alberto Street. A submitter stated that consideration should be given to relocating the footpath to within the site.

A submitter stated that the current light industrial use is primarily restricted to business hours.

##### **Council comments**

Council considers that it is necessary to reconsider the planning for the entire site including re-examination of suitable locations for site links and pedestrian passageways.

##### **Proponent comments**

The proponent states that the future body corporate of the strata scheme for the eventual development will have by-laws which address noise restrictions within common areas and private open spaces.

##### **Department comments**

The Department advises that these matters could be further addressed as part of any future development application.

#### **4.15 Cumulative impacts**

##### **Public submissions**

A number of submitters raised concerns regarding the cumulative impacts of the proposal on local residents in light of other major construction and building works that are scheduled to occur in the surrounding area including WestConnex Stage 1 and two apartment developments on Darling Street.

##### **Department comments**

The Department considers that cumulative impacts of the development should be addressed at the DA stage.

### **5. STATE MEMBER COMMENTS/REPRESENTATIONS**

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No State Member representations were received by the Panel Secretariat during the statutory community consultation period.

### **6. CONCLUSION AND RECOMMENDATION**

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The Department notes that the Panel considered the planning proposal prior to the release of the Eastern City District Plan and found it had merit to proceed to Gateway. Since this Panel decision, the Eastern City District Plan was released which seeks to safeguard all existing industrial zoned land including conversion to mixed use or introduction of residential uses.



Whilst the planning proposal can proceed to be finalised due to its submission before the release of the District Plan, the Department considers that strong justification still needs to be provided to justify the introduction of residential uses on the site.

As part of the Gateway assessment, the Department advised that further work was needed to demonstrate that co-locating industrial and residential uses on the site is viable and compatible. This issue affects the success of future employment opportunities, amenity for residents and the overall building scale.

The Department agrees that the site provides an opportunity to transform the site into something that integrates into the wider urban environment and builds on an existing creative community in the area. However, the scheme in its current form doesn't adequately demonstrate how this will be delivered in a sympathetic and coherent manner.

The Department recommends that the Panel consider the comments of the community, Council, public agencies and the Department. The Department recommends the Panel explore whether there are further opportunities for amendments to the scheme to respond to these concerns.

It is recommended that the Sydney Eastern City Planning Panel, as relevant planning authority:

- **note** the matters raised in the submissions;
- **release** the submissions report publicly; and
- **conduct** a public panel meeting.

**Endorsed by:**



**21 August 2020**  
**Brendan Metcalfe**  
**Acting Director, Eastern and South District**  
**Eastern Harbour City**



**31 August 2020**  
**Malcolm Macdonald**  
**Executive Director**  
**Eastern Harbour City**

*Appendix 1 – Exhibited planning proposal*  
*Appendix 2 – Sydney Eastern City Planning Panel determination*  
*Appendix 3 – Gateway determination*  
*Appendix 4 – Public submissions*  
*Appendix 5 – Inner West Council submission*  
*Appendix 6 – Public agencies submission*  
*Appendix 7 – Inner West Council response to submissions*  
*Appendix 8 – Proponent response to submissions*