

# AMENDED

## PLANNING PROPOSAL

Amend Clause 4.4A Exceptions to *FSR for buildings on land in certain zones* and *Clause 6.6 Active street frontages*, in Hurstville Local Environmental Plan 2012

PP No. 2015/0002

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## SECTION A - OVERVIEW

### 1. Introduction

This Planning Proposal has been prepared by Georges River Council to amend *Clause 4.4A Exceptions to FSR for buildings on land in certain zones* and *Clause 6.6 Active street frontages*, in Hurstville Local Environmental Plan 2012.

This Planning Proposal explains the intended effect of, and justification for the amendments to Clause 4.4A and Clause 6.6 of the Hurstville LEP 2012. It has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979 (EP&A Act) and the relevant Department of Planning and Environment Guidelines including "A Guide to Preparing Local Environmental Plans" and "A Guide to Preparing Planning Proposals".

This Planning Proposal seeks to:

- a. Reduce the amount of non-residential floor space required from 0.5:1 to 0.3:1 in Clause 4.4A, rename the clause and add a clause objective.
- b. Amend Clause 6.6 Active street frontages by including "medical centres" as a land use which satisfies the Active street frontage definition.

The aim of the amendments are to ensure that the LEP is not inconsistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 and SEPP (Housing for Seniors or People with a Disability) 2004 in terms of maintaining its requirement for a reasonable amount of non-residential development within the B1 Neighbourhood Centre and B2 Local Centre zones.

### 2. Subject Land

The subject land is within the Local Government Area (LGA) of Georges River Council. The Planning Proposal will apply to all land zoned B1 Neighbourhood Centre, B2 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use under the Hurstville LEP 2012.

Below is a complete list of the location of the B1 Neighbourhood Centre zoned land under the Hurstville LEP 2012:

1. Hurstville (Kimberley St)
2. Hurstville (Gloucester Rd)
3. Lugarno (Lime Kiln Bay Rd)
4. Lugarno (Chivers Hill, Forest Rd)
5. Narwee West (Baumans Rd)
6. Oatley (Lansdowne Pde)
7. Oatley West (Mulga Rd)
8. Peakhurst (Isaac St)
9. Peakhurst (Park St)
10. Peakhurst (Boundary Rd)
11. Peakhurst (Forest Rd)
12. Peakhurst (Lorraine St)
13. Peakhurst South ( Pindari Rd)

14. Peakhurst North (Baumans Rd)
15. Peakhurst West (Ogilvy St)
16. Penshurst (Cnr Stoney Creek Rd & Penshurst St)

Below is a complete list of the location of the B2 Local Centre zoned land under the Hurstville LEP 2012:

1. Beverly Hills Local Centre
2. Hurstville East, Forest Rd Local Centre (between Hudson St and the LGA boundary).
3. Kingsgrove, Stoney Creek Rd Local Centre
4. Kingsgrove Local Centre (partly in Rockdale LGA)
5. Mortdale Local Centre
6. Narwee Local Centre (partly in Canterbury LGA)
7. Penshurst Local Centre
8. Peakhurst Local Centre (Forest Rd)
9. Riverwood Local Centre

The location of the B3 Commercial Core zoned land under the Hurstville LEP 2012 is located within the Hurstville City Centre (commercial only core).

The location of the B4 Mixed Use zoned land under the Hurstville LEP 2012 is located within the Hurstville City Centre (mixed use zone surrounding the core area).

### **3. Background**

The current Hurstville Local Environmental Plan 2012 (Hurstville LEP 2012) took effect on 7 December 2012 and applies to all land in the Hurstville, Mortdale and Peakhurst wards of the Georges River Council (with the exception of Deferred matter sites in the Hurstville City Centre).

Prior to Hurstville LEP 2012 coming into operation, there was a minimum numerical requirement for the amount of non-residential floor space within business zones set at a 1:1 Floor Space Ratio (FSR). The Draft Hurstville LEP 2012 was exhibited inclusive of Clause 4.4A in its current form (including a minimum non-residential FSR of 0.5:1) with the intention of maintaining the integrity of the business zones (B1 Neighbourhood Centre and B2 Local Centre) consistent with the stated objectives of those zones to serve the needs of people who live or work in the surrounding areas.

Through the public exhibition process, no submissions were received on this Clause and the minimum non-residential floor space amount of 0.5:1 and the Hurstville LEP 2012 was gazetted accordingly.

Court proceedings in 2015 in relation to a Development Application for a boarding house raised questions about the evidence base supporting the non-residential FSR requirement of 0.5:1 under Clause 4.4A.

#### **Original Planning Proposal**

Council resolved on 20 May 2015 to support the Planning Proposal to remove Clause 4.4A with the intention that the minimum non-residential floor space ratio of 0.5:1 would no longer be required for development in the B1 Neighbourhood Centre and B2 Local Centre zones. The reasons given for supporting this change were that it would address any inconsistency between Clause 4.4A and boarding house development where the provisions of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARH SEPP) apply. It was also proposed that Clause 6.6 Active street frontages of the Hurstville LEP 2012 be amended by expanding its application to land zoned B1 Neighbourhood Centre.

The Planning Proposal was given a Gateway Determination on 17 July 2015 and placed on public exhibition from 20 August to 4 September 2015.

The exhibited Planning Proposal sought to amend the Hurstville LEP 2012 by:

- Removing Clause 4.4A which requires that a minimum area of non-residential floor space of 0.5:1 be provided in the B1 Neighbourhood Centre and B2 Local Centre zones.
- Expanding the application of Clause 6.6 Active Street Frontages to land zoned B1 Neighbourhood Centre.

Two (2) submissions were received during the exhibition period, both from Government Agencies, the Department of Education and Transport NSW. Both submissions raised no issues with the Planning Proposal as noted below:

- The Department of Education submission notes that Government school sites are zoned SP2 Educational Establishment and as such the Planning Proposal to amend controls in the B1 Neighbourhood Centre and B2 Local Centre Zones will have no impact.
- The Transport for NSW submission indicated that the Planning Proposal had been forwarded to the Roads and Maritime Service (RMS) for review. No comment on the Planning Proposal was received subsequently from RMS.

### **Draft Hurstville Employment Lands Study**

In September 2014 the former Hurstville City Council commissioned independent consultants Jones Lang LaSalle and SJB Planning to prepare a Draft Hurstville Employment Lands Study ("draft strategy") to review all industrial areas (i.e. lands zoned IN2 Light Industrial) and commercial centres (i.e. lands zoned B1 Neighbourhood Centre and B2 Local Centre) under Hurstville LEP 2012. Initial findings of the Draft Hurstville Employment Lands Study in relation to industrial land were reported to Council in 9 December 2015.

The draft ELS considered the role of Clause 4.4A and the minimum level of non-residential floor space that should be required in the B1 Neighbourhood Centre and B2 Local Centre zones of the Hurstville LEP 2012, stating that:

*"We have had consideration to the minimum requirement of non-residential floor space in the B1 Neighbourhood and B2 Local Centre zones, currently at 0.5 FSR (although there is planning proposal with the Department to remove this clause). We are of the view this clause is beneficial to the employment lands to ensure a successful employment outcome; however, we believe the rate applied is too difficult to achieve and can prove to be an issue in the feasibility of projects. It is recommended that Clause 4.4A be amended to require a minimum provision of 0.3:1 of non-residential floor space in any development. Consideration was given to the inclusion of an active street front provision. This has not been pursued as the structure of Clause 4.4A provides a much greater level of certainty over the minimum delivery of employment floor space. The implementation of an active street frontage control in addition would simply add to the complexity and diminish the level of flexibility available to designers in preparing design proposals."*

Following the formation of the new Georges River Council, the scope of work was expanded incorporating land in the former Kogarah Council area to form a comprehensive Georges River Council Employment Lands Study.

### **Georges River Council Employment Lands Study (ELS)**

In September 2016, JLL were appointed by Georges River Council to expand the application of the draft Hurstville Employment Lands Study to include land within the former Kogarah City Council LGA (now known as Blakehurst and Kogarah Bay Wards of the Georges River LGA).

The draft Study has now been completed and is also on community consultation from Monday 1 May until Wednesday 31 May 2017. The Draft Study provides an assessment of all employment lands (excluding the Hurstville City Centre) within the former Hurstville City Council LGA and the IN2 – Light Industrial zoned land in the former Kogarah City Council LGA. The draft ELS study also supports the previous draft Hurstville Employment Lands Study.

The key findings of the Draft Study are:

- Georges River LGA has a reasonable self-containment level for employment (BTS JTW, 2011). Around 39,000 people come to work in the Georges River LGA from all around Sydney every day; 37% of these workers live in the LGA.
- The Georges River LGA is becoming increasingly more attractive as a location to live and work as Sydney's centre of population shifts westwards (Western Sydney Airport and the Broader Western Sydney Employment Area).
- There is an opportunity to increase housing densities within walking distance of its eleven railway stations and attract young, knowledge based workforce, around the local centres.
- That the Georges River LGA, which is situated between the South West and the Central Subregions has the opportunity to be recognised as major player in future metropolitan plans given its strategic location and should be included within the Global Economic Corridor (GEC)
- A need to improve the retail facilities in the Hurstville centre and local centres along the railway corridor in order to make railway related centres more attractive for multi-unit housing.
- There are opportunities to locate a university campus in the Georges River LGA.
- The Georges River LGA would benefit from the development opportunity of a business park at Kingsgrove. This needs to be promoted as the primary opportunity for the South Sydney market to have a highly functioning and desirable business park, close to major transport connections and with direct access to the South West and Sydney Airport.

The key general recommendations of the study include:

- Protect employment generating and urban services land (IN2 – Light Industrial) across the LGA.
- Review the height requirements for B1 – Neighbourhood Centre zoned land to allow realisation of the maximum FSR.
- Review the height and FSR requirements for land within the B2 – Local Centre zoned land, so as to encourage redevelopment.
- Review land uses in the IN2, B1 and B2 Zones to broaden the extent of permitted uses.
- Review the current on-site parking requirements for the B1 and B2 Zones to ensure that they are not an impediment to the viability of development.
- Review the requirement for non-residential floor space in the B1 and B2 Zones to assist in the feasibility of development, while at the same time ensuring that commercial centres retain some employment generating opportunities.

## **Overview of the B1 – Neighbourhood Centre zone and B2 – Local Centre Zone (former Hurstville City Council LGA)**

The Study provides an assessment of the B1 – Neighbourhood Centre and B2 – Local Centre zoned land in the former Hurstville City Council LGA.

The draft Study excludes the B1 – Neighbourhood Centre and B2 – Mixed Use zoned land within the former Kogarah City Council LGA. The former Kogarah City Council had commissioned an Employment Lands and Economic Development Strategy (SGS Economic and Planning: 2013) as part of the Background Work to the preparation of the amendments to Kogarah LEP 2012 (New City Plan). The *Employment Lands and Economic Development Strategy* was endorsed by the former Kogarah City Council in April 2013, and the recommendations included in the Strategy were incorporated into the recent amendments to Kogarah LEP 2012 (New City Plan), which is currently awaiting finalisation and gazettal by the Department of Planning.

The draft Study identifies a number of key issues which are summarised below:

- High vacancy rates in some centres.
- Significant residential activity in some B1 – Neighbourhood Centre Zones is limiting the achievement of the key objective of the zone, which is to provide a range of small scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- The low intensity of development in a number of the B1 – Neighbourhood Centre Precincts.
- Fragmented land ownership in the B1 and B2 Zones make it difficult to secure appropriate sized development sites.
- Limited availability of on-site parking within developments.
- Difficulty to attract key retail stores, and particularly supermarkets, within the B2 – Local Centre Zones across the former Hurstville City Council LGA (it should be noted that this was a key issue identified in the Strategy prepared by SGS for the former Kogarah City Council LGA).

The draft Study identifies 2 key barriers across all of the commercial centres (B1 and B2 Zoned Centres in the former Hurstville City Council LGA):

- The restrictive car parking requirements – currently high and are place constraints on the viability of development.
- Minimum non-residential floor space allocation – should be retained however consideration should be given to reducing the requirement (currently 0.5:1) so as to assist in the feasibility of development, while at the same time ensuring that commercial centres retain some employment generating opportunities.

### **The role of commercial centres**

The Hurstville, Penshurst and Mortdale Wards of the Georges River Council (the area where the Hurstville LEP 2012 applies) contain a number of small to medium sized commercial centres which are zoned either B1 Neighbourhood Centre or B2 Local Centre. The stated objectives of these zones are:

- *B1 Neighbourhood Centre*  
To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- *B2 Local Centre*

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To maintain a commercial and retail focus for larger scale commercial precincts.

Of the approximately 17km<sup>2</sup> of area where the Hurstville LEP 2012 applies there are 16 centres zoned B1 Neighbourhood Centre and 9 zoned B2 Local Centre with a combined area of 257,049m<sup>2</sup>. These centres range in size from small neighbourhood shops such as Isaac Rd, Peakhurst (600.7m<sup>2</sup>) to larger commercial centres like Beverly Hills (47,069.7m<sup>2</sup>). A number of these commercial centres benefit from good access to public transport, particularly those situated around train stations along the East Hills or Illawarra train lines.

It is also noted that of the approximately 17km<sup>2</sup> of land area where the Hurstville LEP 2012 applies (the Hurstville, Penshurst and Mortdale wards for the Georges River Council), a relatively low proportion of the land is zoned for business purposes. Just 1.5% of the land is zoned B1 Neighbourhood Centre or B2 Local Centre. In contrast to this, 63% of land is zoned residential (either R2 Low Density Residential or R3 Medium Density Residential).

Given the significant differences in the land areas where the business and residential zones apply, while residential apartments (in the form of shop top housing) are permitted as a part of mixed use developments in the B1 Neighbourhood Centre or B2 Local Centre zones it is Councils intention that the primary role of these centres will continue to be focused around providing the community with access to retail and business uses and allowing for local employment opportunities both now and into the future with shop top housing in the upper levels to take advantage of the services and facilities within these centres and good access to public transport. Retaining the minimum non-residential floor space requirement at a lower level of 0.3:1 in the B1 Neighbourhood Centre and B2 Local Centres zones is consistent with and will reinforce the stated objectives of these zones.

### **Post Exhibition Amendments to the Original Planning Proposal**

In light of the preliminary recommendations of the Draft Hurstville ELS and in accordance with Section 58 of the *Environmental Planning and Assessment Act 1979* which sets out that the Relevant Planning Authority may vary proposals or not proceed, Council at its meeting held 5 September 2016 resolved that the Planning Proposal be amended as follows:

- Retain Clause 4.4A and rename the clause “Non-residential floor space ratios”, include an objective to the clause and reduce the amount of non-residential floor space required for development in the B1 Neighbourhood Centre and B2 Local Centre zones from 0.5:1 to 0.3:1,
- Not proceed with the proposal to expand the application of Clause 6.6 Active street frontages to land zoned B1 Neighbourhood Centre because by retaining a non-residential floor space requirement (at a reduced level of 0.3:1) it is no longer necessary to have active street frontage provisions in these smaller centres. The application of active street frontages in the B1 Neighbourhood Centre zone is also inconsistent with the smaller scale of these centres.
- Amend Clause 6.6 Active street frontages by including medical centres as a land use which satisfies the active street frontage definition.

### **Proposed Clause 4.4A Amendments**

Council at its Meeting held 5 September 2016 proposed that Clause 4.4A be retained in the Hurstville LEP 2012 and amended as follows:

#### Name of the clause



The current name of the Clause 4.4A, “Exceptions to floor space ratios for buildings on land in certain zones”, does not make it clear that the clause essentially deals the level of non-residential floor space required in business zones. It is recommended that the name of Clause 4.4A be changed to “Non-residential floor space ratios”.

#### New objective

Clause 4.4A does not currently have an objective which identifies the outcome to be achieved by setting a minimum level of non-residential floor space for new development within business zones. It is recommended that the following objective be added to Clause 4.4A,

*“The objective of this clause is to encourage an appropriate mix of residential and non-residential uses and ensure a suitable level of non-residential floor space is provided to promote employment and reflect the hierarchy of the business zones”.*

#### Change to minimum non-residential floor space requirement

As noted above, as part of the Draft Hurstville Employment Lands Study (2015), the application of Clause 4.4A was considered. Particular focus was given to the suitability of requiring 0.5:1 of non-residential floor space in the B1 Neighbourhood Centre and B2 Local Centre zones. In summary it was found that Clause 4.4A should be retained as it is beneficial for the employment outcomes of the centres. It also aligns well with the stated objectives for the business zones. However, it was also found that the level of non-residential floor space is set too high at 0.5:1 and could be reduced to 0.3:1 for the B1 Neighbourhood Centre and B2 Local Centre zones to address the issue of development feasibility in these centres. This reduction in non-residential floor space has now been supported by the draft Georges River ELS which is now on community consultation.

Council resolved that the minimum non-residential floor space requirement for development in the B1 Neighbourhood Centre and B2 Local Centre zones be reduced from 0.5:1 to 0.3:1. This will ensure a suitable level of employment floor space continues to be provided in the B1 Neighbourhood Centre and B2 Local Centre zones consistent with the objectives of the zones and the goals and directions of *A Plan Growing Sydney* (the Metropolitan Strategy) and relevant Section 117 Directions. It was noted that shop top housing and boarding houses are the only forms of residential development permitted in the B1 Neighbourhood Centre and B2 Local Centre zones and that the total maximum floor space ratio allowable in these centres ranges from 1.5:1 to 3:1. Setting the minimum level of non-residential floor space at 0.3:1 equates to a 20% of the total floor space potential of sites with a maximum FSR of 1.5:1 and 10% for sites with a maximum FSR of 3:1.

Boarding Houses will continue to be permitted in the B1 Neighbourhood Centre and B2 Local Centre zones in accordance with the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARH SEPP). In the event of any inconsistency between the ARH SEPP and provisions of the Hurstville LEP 2012 (such as Clause 4.4A), the SEPP will prevail.

#### **Clause 6.6 Active street frontages**

Council resolved at its Meeting held 5 September 2016 that the expansion of active street frontages through Clause 6.6 to land zoned B1 Neighbourhood Centre not proceed. Guidance from the Department of Planning on the application of active street frontages sets out that they are suitable for the B3 Commercial Core and B4 Mixed Use zones and they will be considered in the B2 Local Centre zone only where soundly justified through Council's strategic planning for local activity centres. Extending the application of active street frontage provisions to the B1 Neighbourhood Centre zone is not in keeping with the objectives of the zone and the smaller scale of these centres.

The only forms of residential accommodation permitted in the B1 Neighbourhood Centre zone in Hurstville LEP 2012 are boarding houses and shop top housing which is defined as one or more dwellings located above ground floor retail premises or business premises. The shop top housing definition ensures the ground floor of any mixed use developments in the zone will feature retail premises or business premises on the ground floor and residential apartments above.

### **Changes to the Active Street Frontage definition - Medical Centres**

As Medical Centres do not fall within the definition of either “business premises” or “retail premises” they fall outside the definition of “active street frontages” as set out in Clause 6.6 for the Hurstville LEP 2012, which is based on the Standard Instrument LEP. Active street frontages apply to land zoned B2 Local Centre, B3 Commercial Core and B4 Mixed Use. In accordance with Clause 6.6(5), active uses are limited to land uses that fit within the business premises or retail premises land use definitions. Council considered that medical centres adequately satisfy the objective of Clause 6.6 to “promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use”. In particular, medical centres are considered to satisfy the objective to the same extent as land uses that fit within the business premises definition which include business uses such as post offices, hairdressers and travel agencies.

A precedent has been set in other LEPs where uses on the ground floor facing the street which are considered to constitute an “active street frontage” has been expanded to include a range of specific land uses, including medical centres. No change to the Hurstville LEP 2012 Dictionary will be required as the Dictionary only refers to the Map and the definition of active street frontages is defined in the clause.

Shop top housing and boarding houses will continue to be the only form of residential accommodation permitted in the B2 Local Centre zone in the Hurstville LEP 2012. In accordance with the shop top housing dictionary definition (see below), uses on the ground floor where there are residential apartments above will continue to be limited to retail premises and business premises. This means that when a medical centre is proposed on the ground floor in B2 Local Centre zone residential apartments will not be permitted above as this development does not satisfy the shop top housing definition. There will be potential to have a medical centre on the ground floor as the active use with apartments above in areas zoned B4 Mixed Use as residential flat buildings are also permitted in this zone. shop top housing means one or more dwellings located above ground floor retail premises or business premises.

A copy of the report adopted by Council at its Meeting held 5 September 2016 is attached – refer to **Attachment 1**.

Council resolved (Minute No. 117):

- a) *That Council resolve to note the public exhibition and the comments raised in submissions received.*
- b) *That Council endorse a change to the Planning Proposal to amend Clause 4.4A of Hurstville Local Environmental Plan 2012 by renaming the clause to “Non-residential floor space ratios”, including a clause objective and reducing the non-residential floor space requirement from 0.5:1 to 0.3:1.*
- c) *That Council endorse a change to the Planning Proposal and not proceed with the proposal to expand the application of Clause 6.6 Active street frontages of Hurstville Local Environmental Plan 2012 to include land zoned B1 Neighbourhood Centre.*

- d) *That Council endorse a change to the Planning Proposal to include an amendment to Clause 6.6 Active street frontages of Hurstville Local Environmental Plan 2012 which includes “medical centre” within the definition of Active street frontage.*
- e) *That Council forward the amended Planning Proposal to the Department of Planning and Environment and seek advice on whether public exhibition of the amended Planning Proposal is required.*

A Council letter dated 21 December 2016 was forwarded to the Department requesting its consideration of the proposed changes to the Planning Proposal and its advice on whether further community consultation is required under Section 57 of the Act – Refer to **Attachment 2**.

By letter dated 15 February 2017 the Department has advised that the additional community consultation (of 14 days) is required for the amended Planning Proposal. The Department issued an Alteration of Gateway Determination dated 15 February 2017 which is attached in **Attachment 3**.

The matter was reported to the Council meeting held 3 April 2017. The Council resolved:

- a) That Council note the contents of the report and the advice from the Department of Planning and Environment.
- b) That Council place the amended Planning Proposal which seeks to amend Clause 4.4A Exceptions to FSR for buildings on land in certain zones and Clause 6.6 Active street frontages, in Hurstville Local Environmental Plan 2012 on community consultation for a minimum of 14 days.
- c) That following the exhibition, the General Manager be delegated to assess submissions, undertake minor amendments and to lodge the Planning Proposal with the Department of Planning & Environment requesting notification.

A copy of the report adopted by Council at its Meeting held 3 April 2017 is contained in **Attachment 4**.

Council placed the Proposal on community consultation from 1 May 2017 until 31 May 2017 – in conjunction with the draft Georges River Employment Lands Study. Whilst a number of phone calls and emails were received requesting clarification of how the Planning Proposal affected specific sites only one (1) submission was received from SPP Services dated 31 May 2017 on behalf of the owners of 279 & 281 Belmore Road Riverwood. Instead of being dealt with under the delegated authority of the General Manager the Planning Proposal was referred to Council's IHAP on 20 July 2017 given the public submission received from SPP Services on behalf of the owners of 279 and 281 Belmore Road Riverwood.

Council on 5 July 2017 requested an extension to the Gateway finalisation timeframe of 23 July 2017. Council on 7 July 2017 received an Alteration of Gateway Determination which provides a new deadline of completing the LEP of 23 October 2017. **Attachment 5** contains a copy of the Department's letter dated 7 July 2017.

## **SECTION B – AMENDED PLANNING PROPOSAL**

### **PART 1 - OBJECTIVES AND THE INTENDED OUTCOMES**

#### **1.1 Objectives of the amended Planning Proposal**

- To maintain the integrity of the B1 Neighbourhood Centre and B2 Local Centre zones as described in the objectives of those zones by requiring an appropriate amount of non-residential development, inclusive of active street frontages, in all development in those zones; and
- To include medical centres as a land use which satisfies the active street frontage requirement in Clause 6.6.

#### **1.2 Intended Outcomes of the amended Planning Proposal**

The intended outcome of the Planning Proposal is

- Retain Clause 4.4A and reduce the amount of non-residential floor space required from 0.5:1 to 0.3:1, rename the clause and add a clause objective.
- Amend Clause 6.6 Active street frontages by including “medical centres” as a land use which satisfies the Active street frontage definition.

## PART 2 - EXPLANATION OF THE PROVISIONS

The objectives of the amended Planning Proposal shall be achieved through an amendment to the Hurstville LEP 2012 written instrument:

- Retain Clause 4.4A and reduce the amount of non-residential floor space required from 0.5:1 to 0.3:1, rename the clause and add a clause objective.
- Amend Clause 6.6 Active street frontages by including “medical centres” as a land use which satisfies the Active street frontage definition.

The proposed amendments are outlined in **Tables 1 and 2**.

### 2.1 Clause 4.4A Exceptions to floor space ratios for buildings on land in certain zones.

The following table (indicates the changes adopted by Council at its Meeting held 5 September 2016 to Clause 4.4A of the Hurstville LEP 2012 – the changes are in *red and italics*).

**Table 1 – Clause 4.4A of the Hurstville LEP 2012**

<b>Current Wording of Clause 4.4A in Hurstville LEP 2012</b>
<p>4.4A Exceptions to floor space ratios for buildings on land in certain zones:</p> <p>(1) Despite clause 4.4, development consent must not be granted for development on land in Zone B1 Neighbourhood Centre or Zone B2 Local Centre unless the non-residential floor space ratio is at least 0.5:1.</p> <p>(2) In this clause, non-residential floor space ratio means the ratio of the gross floor area of that part of a building used or proposed to be used for any purpose other than a residential purpose in a building on the site to the site area.</p>
<b>Proposed Wording of Clause 4.4A in Hurstville LEP 2012</b>
<p>4.4A <i>Non-residential floor space ratios</i></p> <p><i>(1) The objective of this clause is to encourage an appropriate mix of residential and non-residential uses and ensure a suitable level of non-residential floor space is provided to promote employment and reflect the hierarchy of the business zones.</i></p> <p>(2) Despite clause 4.4, development consent must not be granted for development on land in Zone B1 Neighbourhood Centre or Zone B2 Local Centre unless the non-residential floor space ratio is at least <i>0.3:1</i>.</p> <p>(3) In this clause, non-residential floor space ratio means the ratio of the gross floor area of that part of a building used or proposed to be used for any purpose other than a residential purpose in a building on the site to the site area.</p>
<b>Reasons</b>
<p>Draft Hurstville Employment Lands Study (2015) found that Clause 4.4A should be retained as it is beneficial for the employment outcomes of the centres. It also aligns well with the stated objectives for the business zones. However, it was also found that the level of non-residential floor space is set too high at 0.5:1 and could be reduced to 0.3:1 for the B1 Neighbourhood Centre and B2 Local Centre zones to address the issue of development feasibility in these</p>

centres.

This will still ensure a suitable level of employment floor space continues to be provided in the B1 Neighbourhood Centre and B2 Local Centre zones consistent with the objectives of the zones and the goals and directions of A Plan Growing Sydney (the Metropolitan Strategy) and relevant Section 117 Directions. It is noted that shop top housing and boarding houses are the only forms of residential development permitted in the B1 Neighbourhood Centre and B2 Local Centre zones and that the total maximum floor space ratio allowable in these centres ranges from 1.5:1 to 3:1. Setting the minimum level of non-residential floor space at 0.3:1 equates to a 20% of the total floor space potential of sites with a maximum FSR of 1.5:1 and 10% for sites with a maximum FSR of 3:1.

## 2.2 Clause 6.6 Active Street Frontages

The following table indicates the changes adopted by Council at its Meeting held 5 September 2016 to Clause 6.6 of the Hurstville LEP 2012 – the changes are in *red and italics*.

**Table 2 – Clause 6.6 of the Hurstville LEP 2012**

<b>Current Wording of Clause 6.6 in Hurstville LEP 2012</b>
<p>6.6 Active street frontages</p> <p>(1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use.</p> <p>(2) This clause applies to land identified as “Active street frontage” on the Active Street Frontages Map.</p> <p>(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.</p> <p>(4) Despite subclause (3), an active street frontage is not required for any part of a building that faces a service lane or is used for any of the following:</p> <ul style="list-style-type: none"><li>(a) entrances and lobbies (including as part of mixed use development),</li><li>(b) access for fire services,</li><li>(c) vehicular access.</li></ul> <p>(5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.</p>
<b>Proposed Wording of Clause 6.6 in Hurstville LEP 2012</b>
<p>6.6 Active street frontages</p> <p>(1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use.</p> <p>(2) This clause applies to land identified as “Active street frontage” on the Active Street Frontages Map.</p> <p>(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.</p> <p>(4) Despite subclause (3), an active street frontage is not required for any part of a building that faces a service lane or is used for any of the following:</p>

- (a) entrances and lobbies (including as part of mixed use development),
  - (b) access for fire services,
  - (c) vehicular access.
- (5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business premises, retail premises *or a medical centre.*

#### **Reasons**

The Council previously resolved not to amend the expansion of active street frontages through Clause 6.6 to land zoned B1 Neighbourhood Centre. Guidance from the Department of Planning on the application of active street frontages sets out that they are suitable for the B3 Commercial Core and B4 Mixed Use zones and they will be considered in the B2 Local Centre zone only where soundly justified through Council's strategic planning for local activity centres. Extending the application of active street frontage provisions to the B1 Neighbourhood Centre zone is not in keeping with the objectives of the zone and the smaller scale of these centres.

The only forms of residential accommodation permitted in the B1 Neighbourhood Centre zone in Hurstville LEP 2012 are boarding houses and shop top housing which is defined as one or more dwellings located above ground floor retail premises or business premises. The shop top housing definition ensures the ground floor of any mixed use developments in the zone will feature retail premises or business premises on the ground floor and residential apartments above.

As Medical Centres do not fall within the definition of either "business premises" or "retail premises" they fall outside the definition of "active street frontages" as set out in Clause 6.6 for the Hurstville LEP 2012, which is based on the Standard Instrument LEP. Active street frontages apply to land zoned B2 Local Centre, B3 Commercial Core and B4 Mixed Use. In accordance with Clause 6.6(5), active uses are limited to land uses that fit within the business premises or retail premises land use definitions. It is considered that medical centres adequately satisfy the objective of Clause 6.6 to "promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use". In particular, medical centres are considered to satisfy the objective to the same extent as land uses that fit within the business premises definition which include business uses such as post offices, hairdressers and travel agencies.

A precedent has been set in other LEPs where uses on the ground floor facing the street which are considered to constitute an "active street frontage" has been expanded to include a range of specific land uses, including medical centres. No change to the Hurstville LEP 2012 Dictionary will be required as the Dictionary only refers to the Map and the definition of active street frontages is defined in the clause.

## **PART 3 - JUSTIFICATION**

### **Section A - Need for a Planning Proposal**

#### **Question 1 - Is the amended Planning Proposal a result of any strategic study or report?**

The amended Planning Proposal is the result of work undertaken for the Draft Hurstville Employments Lands study and now supported by the Draft Georges River Council Employment Lands Study.

Both draft Studies identify 2 key barriers across all of the commercial centres (B1 and B2 Zoned Centres in the former Hurstville City Council LGA):

- The restrictive car parking requirements – currently high and are place constraints on the viability of development.
- Minimum non-residential floor space allocation – should be retained however consideration should be given to reducing the requirement (currently 0.5:1) so as to assist in the feasibility of development, while at the same time ensuring that commercial centres retain some employment generating opportunities.

The amended Planning Proposal has also been prepared in response to the Land and Environment Court proceedings in *Badaoui v Hurstville Council (LEC10559/14)*.

In *Badaoui*, the Court held that there is an inconsistency between Clause 4.4A of the HLEP 2012 and SEPP (Affordable Rental Housing) 2009. As a consequence, Clause 4.4A of the HLEP 2012 has no effect in relation to boarding house development under the SEPP.

Council's lawyers have reviewed the judgement and recommended Council consider:

*"Redrafting of Clause 4.4A - the clause is unclear as it does not itself require the provision of non-residential floor space and the wording is ambiguous;  
A requirement that the location of non-residential floor space be provided at street frontage of ground level;  
Consideration of the Affordable Rental Housing SEPP and implications of inconsistency principle with clauses of the LEP."*

It is noted that there is a similar clause (Clause 19) in SEPP (Housing for Seniors or People with a Disability) 2004 (SEPP (Housing for Seniors)), that may establish a similar situation in relation to permitting a seniors' housing development without a non-residential component.

During the course of the *Badaoui* proceedings, questions were raised as to the evidence base supporting the FSR requirement under Clause 4.4A. It is considered that in the



absence of a robust evidence base, it may be difficult to uphold a numerical standard such as this in the face of well-argued requests for variations.

Clause 6.6 Active Street Frontages in the Hurstville LEP 2012 has a complementary objective in terms of maintaining the integrity of certain key streets in Zone B2 Local Centre zoned areas.

Therefore, in order achieve a more robust and effective mechanism to realise the objectives of all business zones under the Hurstville LEP 2012, this Planning Proposal proposes to amend Clause 4.4A and Clause 6.6 in the manner described in Part 2 of this Planning Proposal.

These amendments, which assist in clarifying and simplifying the provisions of the Hurstville LEP 2012, should in turn assist in streamlining Council's development assessment processes and making them less prone to successful technical legal challenges.

**Question 2 - Is the amended Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The judgement in *Badaoui* demonstrated that it is problematic to seek to uphold the planning intent of Clause 4.4A through the development control mechanisms available under Part 4 of the Act. Consequently, the only way to ensure these intentions are upheld is by amending the Hurstville LEP 2012 accordingly.

## Section B- Relationship to Strategic Planning Framework

### Question 3 - Is the amended planning proposal consistent with the objectives and actions contained within the applicable region or sub regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Planning Proposal is consistent with the State Government's *A Plan for Growing Sydney* (Metro Strategy), particularly in terms of the following principles:

- Increasing housing close to centres and stations makes it easier to walk or cycle to shops or services; travel to work or other centres; reduces traffic congestion; and makes our neighbourhood more community oriented;
- Making it easy to get to centres and offering a range of services at centres makes them a focal point for the community and increases prospects for economic growth and job creation.

Whilst these principles are directed at housing and transport, achieving the stated outcomes relies on having viable and vital community centres which those communities can readily access.

The *Draft South District Plan* maps the NSW Government's 20 year vision for the South District of greater Sydney. It identifies priorities and actions to realise the vision for the District.

While councils are required to give effect to District Plans as soon as practicable after a District Plan is made, draft District Plans will guide the preparation of planning proposals under Part 3 of the Act. This is established by the Department of Planning and Environment's Guide to Preparing Planning Proposals (August 2016). The Guide lists assessment criteria for a planning proposal, which include but are not limited to consideration of the strategic merit of the proposal, the site-specific merit of the proposal and consistency with strategic plans, including draft District Plans, State environmental planning policies and Ministerial directions.

The Planning Proposal has merit as it is consistent with the Draft South District Plan. In preparation of Principal LEPs councils will reflect the subregional structure plan through identifying sufficient area of appropriate zones for retail activity. Retail will be located primarily in commercial core and mixed use zones in centres. In preparing Council's Draft Hurstville LEP 2012, effect was given to this specific outcome through the mechanism of Clause 4.4A, which required a minimum amount of non-residential development (including retail). The court's subsequent decision potentially undermines this approach and it will therefore be consistent with the Draft Strategy to clarify and restore the original intention.

The Planning Proposal will have site specific merit as a viable non-residential floor space is maintained in the B1 and B2 zones and includes medical centres as an active use at ground level in the B2, B3 and B4 zones.

#### **Question 4 - Is the planning proposal consistent with the council's local strategy or other local strategy plan?**

As indicated, Council's local strategy, consistent with Metropolitan and Draft Subregional Strategies, has been to seek to maintain and strengthen the role of business centres as community foci for retail, business and community uses.

The relevant objectives of the B1 Neighbourhood Centre and B2 Local Centre zones, respectively, in the Hurstville LEP 2012 are:

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood (B1 zone).
- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area (B2 zone).

Clause 4.4A was included in the Hurstville LEP 2012 to give clear and quantifiable statutory expression to these objectives. The court's subsequent decision potentially undermines this approach and it will therefore be consistent with the Council's local strategy to clarify and restore the original intention of the clause.

#### **Question 5 - Is the planning proposal consistent with applicable state environmental planning policies?**

The Planning Proposal is consistent with the applicable State Environmental Planning Policies in the table below.

**Table 3: Consistency with state environmental planning policies (SEPPs)**

SEPP Title	Consistency	Comment
14.Coastal Wetlands	N/A	Not applicable
19.Bushland in Urban Areas	N/A	Not applicable
21.Caravan Parks	N/A	Not applicable
26.Littoral Rainforests	N/A	Not applicable
30.Intensive Agriculture	N/A	Not applicable
33.Hazardous and Offensive Development Complex	N/A	Not applicable
36.Manufactured Home Estates	N/A	Not applicable
44.Koala Habitat Protection	N/A	Not applicable
47.Moore Park Showground	N/A	Not applicable
50.Canal Estate Development	N/A	Not applicable
52.Farm Dams, Drought Relief and Other Works	N/A	Not applicable

SEPP Title	Consistency	Comment
55.Remediation of Land	N/A	Not applicable
62.Sustainable Aquaculture	N/A	Not applicable
64.Advertising and Signage	N/A	Not applicable
65.Design Quality of Residential Flat Development	N/A	Not applicable
70.Affordable Housing (Revised Schemes)	N/A	Not applicable
71.Coastal Protection	N/A	Not applicable
SEPP (Building Sustainability Index: BASIX) 2004	N/A	Not applicable
SEPP (Housing for Seniors or People with a Disability) 2004	<b>Yes</b>	The Planning Proposal is consistent with the relevant provisions of the SEPP and clarifies that Clause 19 <i>Use of Seniors Housing in Commercial Zones</i> applies to commercial centres in Hurstville.
SEPP (Sydney Region Growth Centres) 2006	N/A	Not applicable
SEPP (Infrastructure) 2007	N/A	Not applicable
SEPP (Kosciuszko National Park-Alpine Resorts) 2007	N/A	Not applicable
SEPP (Kurnell Peninsula) 1989	N/A	Not applicable
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	N/A	Not applicable
SEPP (Exempt and Complying Development Codes) 2008	N/A	Not applicable.
SEPP (Rural Lands) 2008	N/A	Not applicable
SEPP (Western Sydney Parklands) 2009	N/A	Not applicable
SEPP (State and regional Development) 2011	N/A	Not applicable

SEPP Title	Consistency	Comment
SEPP (State Significant Precincts) 2005	N/A	Not applicable
SEPP (Urban Renewal) 2010	N/A	Not applicable
SEPP (Affordable Rental Housing) 2009	<b>Yes</b>	The Planning Proposal is consistent with the relevant provisions of the SEPP and clarifies that Clause 30(1)(g) applies to commercial centres in Hurstville.
Greater Metropolitan Regional Environmental plan No. 2 – Georges River Catchment (deemed SEPP)	<b>Yes</b>	The Planning Proposal is consistent with the provisions of the George River REP

**Question 6 - Is the planning proposal consistent with the applicable Ministerial directions (s.117 directions)?**

It is considered that the Planning Proposal is consistent with the relevant Directions issued under Section 117(2) of the Act by the Minister to Councils, as demonstrated in the assessment of the following:

**Table 4: Consistency with S117 Ministerial Directions**

Direction Title	Consistency	Comment
<b>Employment and Resources</b>		
1.1 Business and Industrial Zones	Consistent	In seeking to maintain the integrity of the B1 Neighbourhood Centre and B2 Local Centre zones by a requirement for active, non-residential street frontages, this Planning Proposal is consistent with the objectives of this direction, which are to: <ul style="list-style-type: none"> <li>• encourage employment growth in suitable locations,</li> <li>• protect employment land in business and industrial zones, and</li> <li>• support the viability of identified strategic centres.</li> </ul>
1.2 Rural Zones	N/A	Not applicable
1.3 Mining, Petroleum Production and Extractive Industries	N/A	Not applicable

Direction Title	Consistency	Comment
1.4 Oyster Aquaculture	N/A	Not applicable
1.5 Rural Lands	N/A	Not applicable
<b>Environment and Heritage</b>		
2.1 Environment Protection Zones	N/A	Not applicable
2.2 Coastal Protection	N/A	Not applicable
2.3 Heritage Conservation	N/A	Not applicable
2.4 Recreation Vehicle Areas	N/A	Not applicable
<b>Housing, Infrastructure and Urban Development</b>		
3.1 Residential zones	N/A	Not applicable
3.2 Caravan Parks and Manufactured Home Estates	N/A	Not applicable
3.3 Home Occupations	N/A	Not applicable
3.4 Integrating land use and transport	N/A	Not applicable
3.5 Development Near Licensed Aerodromes	N/A	Not applicable
3.6 Shooting Ranges	N/A	Not applicable
<b>Hazard and Risk</b>		
4.1 Acid sulphate soils	N/A	Not applicable
4.2 Mine Subsidence and Unstable Land	N/A	Not applicable
4.3 Flood Prone Land	N/A	Not applicable
4.4 Planning for Bushfire Protection	N/A	Not applicable
<b>Regional Planning</b>		
5.1 Implementation of Regional Strategies	N/A	Not applicable
5.2 Sydney Drinking Water Catchments	N/A	Not applicable

Direction Title	Consistency	Comment
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A	Not applicable
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A	Not applicable
5.8 Second Sydney Airport: Badgerys Creek	N/A	Not applicable
5.9 North West Rail Link Corridor Strategy	N/A	Not applicable
5.10 Implementation of Regional Plans	N/A	Not applicable
<b>Local Plan Making</b>		
6.1 Approval and Referral Requirements	Consistent	
6.2 Reserving Land for Public Purposes	N/A	Not applicable
6.3 Site Specific Provisions	N/A	Not applicable
<b>Metropolitan Planning</b>		
7.1 Implementation of A Plan for Growing Sydney	Consistent	See Section 3.2.1 of this Planning Proposal.
7.2 Implementation of greater Macarthur Land Release Investigation	N/A	Not applicable
7.3 Parramatta Road Corridor Urban Transformation Strategy	N/A	Not applicable

## **Section C - Environmental, Social and Economic Impact**

### **Question 7 - Is there any likelihood that critical habitat or threatened species will be adversely affected as a result of the proposal?**

Given the proposal only seeks to clarify, not change, the intent of the Hurstville LEP 2012 as it relates to non-residential uses in B1 Neighbourhood Centre, B2 Local Centre B3 Commercial Core and B4 Mixed use zones, there would be no likely effects on critical habitat or threatened species.

### **Question 8 - Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

Given the proposal only seeks to clarify, not change, the intent of the Hurstville LEP 2012 as it relates to non-residential uses in B1 Neighbourhood Centre, B2 Local Centre B3 Commercial Core and B4 Mixed use zones, it is not anticipated that there will be any adverse environmental effects.

### **Question 9 - Has the planning proposal adequately addressed any social and economic effects?**

The proposal seeks to confirm the intention of the current LEP to maintain the integrity of B1 Neighbourhood Centre, B2 Local Centre B3 Commercial Core and B4 Mixed use zones by providing retail, business and community uses that serve the needs of their surrounding communities. Consequently, the proposal should have positive social and economic effects by:

- Ensuring adequate supplies of retail, business and community floor space within Business Zones to meet local demands;
- Ensuring street activation within the Business Zones to enhance their attractiveness, vibrancy and economic performance; and
- Improving access to retail and other services for the social benefit of surrounding communities.



## **Section D - State and Commonwealth Interests**

### **Question 10 - Is there adequate public infrastructure for the planning proposal?**

The administrative nature of the proposal means it has no public infrastructure implications.

### **Question 11 - What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

The Alteration Gateway Determination does not further require consultation with State or Commonwealth public authorities.

## **PART 4 - MAPPING**

The amended Planning Proposal does not amend any of the LEP maps.

## PART 5 - COMMUNITY CONSULTATION

The amended Planning Proposal was required to be placed on community consultation for a minimum of 14 days. Council placed the Proposal on community consultation from 1 May 2017 until 31 May 2017 in conjunction with the draft Georges River Employment Lands Study.

The community were notified of the commencement of the exhibition period via a notice in a local newspaper and via a notice on Georges River Council's website. Owners of all land zoned B1 Neighbourhood Centre, B2 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use under the Hurstville LEP 2012 were also notified by letter.

One (1) submission was received from SPP Services dated 31 May 2017 on behalf of the owners of 279 & 281 Belmore Road Riverwood. **Attachment 6** contains a copy of the submission from SPP Services. The submission requests that:

- a) The entire Clause 4.4A be repealed and replaced with a mixed use zoning that provides for active street frontages and non-residential uses on the ground floor. The submission also states that achieving non-residential uses above the ground level is very problematic and often results in uses that do little to activate street frontages; and
- b) Council seek to make the Riverwood centre a priority precinct so that it can fulfil its potential as an important subregional centre and work with the Department to complete the LUIS currently underway without delay.

A non-residential floor space of 0.3:1 in the B1 Neighbourhood Centre and B2 Local Centre zones will still ensure a suitable level of employment floor space continues to be provided in these zones consistent with the objectives of the zones and the goals and directions of A Plan Growing Sydney (the Metropolitan Strategy) and relevant Section 117 Directions.

The reduction in non-residential floor space in the B1 and B2 zones from 0.5:1 to 0.3:1 has been supported by two studies to date:

- Draft Hurstville Employment Lands Study; and
- Georges River Council Employment Lands Study.

At present there are no other studies/strategies available that support a further reduction in the non-residential floor space in the B1 and B2 zones under the Hurstville LEP 2012.

With respect to submission's point relating to the Riverwood Land Use & Infrastructure Strategy (LUIS), IHAP is advised that the Riverwood LUIS will probably result in additional changes to the Hurstville Local Environmental Plan 2012. These changes will culminate into a further Planning Proposal at that time and will be supported by the studies currently being carried out by the NSW State Government.

## PART 6 - PROJECT TIMELINE

The anticipated timeline for the amended Planning Proposal is identified below.

	Anticipated Project Timeline	Proposed Date(s)
1	Commencement date (date of Gateway determination)	17 July 2015
2	Timeframe for the completion of required technical information	20 August 2015
3	Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	Not Required
4	Commencement and completion dates for public exhibition period	20 August – 4 September 2015
5	Dates for public hearing (if required)	Not Required
6	Report to Council – advising that the Planning Proposal was to be amended to reflect the strategic work being undertaken in respect of the Council's employment lands	5 September 2017
7	Letter to Department of Planning & Environment	21 December 2016
8	Alteration of Gateway Determination	15 February 2017
9	Report to council advising of Alteration of Gateway Determination	3 April 2017
10	Commencement and completion dates for public exhibition period	1 May to 31 May 2017
11	Timeframe for the consideration of a proposal post exhibition	June 2017
12	IHAP Meeting	20 July 2017
13	Council Meeting	7 August 2017
12	Drafting of instrument with Parliamentary Counsel's Office in consultation with Council. Parliamentary Counsel issue Legal Opinion that plan can be made.	September 2017
13	Date of submission to Planning and Environment to notify plan on legislation website	23 October 2017

## PART C - CONCLUSION

This amended Planning Proposal seeks to:

- Reduce the amount of non-residential floor space required from 0.5:1 to 0.3:1 in Clause 4.4A, rename the clause and add a clause objective.
- Amend Clause 6.6 Active street frontages by including “medical centres” as a land use which satisfies the Active street frontage definition.

The aim of the amendments are to ensure that the LEP is not inconsistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 and SEPP (Housing for Seniors or People with a Disability) 2004 in terms of maintaining its requirement for a reasonable amount of non-residential development within the B1 Neighbourhood Centre and B2 Local Centre zones.

The amended Planning Proposal is

- consistent with *A Plan for Growing Sydney* and the *Draft South District Plan*;
- consistent with relevant SEPPs and Ministerial Directions; and
- Advances the public interest by promoting positive social and economic outcomes without the likelihood of generating any adverse environmental outcomes.

In summary, there are appropriate planning reasons to support the proposed amendments to Hurstville LEP 2012.

## **PART D - ATTACHMENTS**

- Attachment 1:** Report Adopted at Council Meeting held 5 September 2016
- Attachment 2:** Council letter dated 21 December 2016 to the Department of Planning & Environment.
- Attachment 3:** Alteration of Gateway Determination 15 February 2017
- Attachment 4:** Report Adopted at Council Meeting held 3 April 2017
- Attachment 5:** Alteration of Gateway Determination which provides a new deadline of completing the LEP of 23 October 2017
- Attachment 6:** Copy of the submission from SPP Services dated 31 May 2017 on behalf of the owners of 279 & 281 Belmore Road Riverwood
- Attachment 6:** Report Adopted at IHAP Meeting held 20 July 2017