

**PLANNING PROPOSAL TO AMEND
MARRICKVILLE LOCAL ENVIRONMENTAL PLAN (MLEP) 2011**



***2-18 STATION STREET, 1 LEOFRENE AVENUE & STATION
STREET ROAD RESERVE, MARRICKVILLE
& MLEP 2011 DESIGN COMPETITION PROVISIONS***

OCTOBER 2013

Introduction

At its meeting of 17 September 2013, Council considered a report on a planning proposal request to amend the Marrickville Local Environmental Plan (MLEP) 2011 for 2-18 Station Street, 1 Leofrene Avenue and the Station Street road reserve, Marrickville (the subject site). Council resolved to progress the planning proposal and seek to amend the MLEP 2011 to increase the Height of Building and Floor Space Ratio controls for the subject site and to amend the Land Zoning for 1 Leofrene Avenue, Marrickville. These amendments are sought to allow for a 16-storey mixed-use development with 120 residential units and approximately 510 square metres of retail floorspace to occur on the subject site, along with a new public square as part of a Voluntary Planning Agreement

Following consideration of the report, Council resolved to proceed to Gateway with the planning proposal whilst concurrently obtaining a peer review of the proposed public domain space and the proposed building envelope and relationship to the character of the Marrickville town centre due to unresolved concerns regarding the potential impacts of the proposal.

Further, Council resolved to seek an amendment to the MLEP 2011 to require a design competition process as part of any development application for buildings of a (yet to be determined) significant scale, as part of this planning proposal.

2: THE PARTS OF A PLANNING PROPOSAL

2.1 PART 1: OBJECTIVES OR INTENDED OUTCOMES

To amend Marrickville Local Environmental Plan 2011 to enable 2-18 Station Street, 1 Leofrene Avenue and the Station Street road reserve, Marrickville, to be developed for a 16-storey mixed-use development with 120 residential units and approximately 510 square metres of retail floorspace. Public domain works that include a new elevated public space over Station Street have been included in a Voluntary Planning Agreement also submitted to Council as part of this proposal.

Additionally, to concurrently amend the MLEP 2011 to require a design competition process as part of any development application for buildings of a significant scale, including the development proposed for the subject site.

2.2 PART 2: EXPLANATION OF PROVISIONS

The intended outcomes of the planning proposal will be achieved by the following amendments to the MLEP 2011:

1. a. Amendment to Marrickville LEP 2011 Floor Space Ratio Map Sheet FSR_004 in accordance with the proposed floor space ratio map shown in **ATTACHMENT A** which amends the floor space ratio for the subject site to 5.0:1.

- b. Amendment to Marrickville LEP 2011 Height of Building Map Sheet HoB_004 in accordance with the proposed height of building map shown in **ATTACHMENT B** which amends the height of building for the subject site to 59.0 metres.
 - c. Amendment to the Marrickville LEP 2011 Land Zoning Map Sheet LZN_004 in accordance with the proposed land zoning map shown in **ATTACHMENT C** which amends the land zoning for 1 Leofrene Avenue, Marrickville, from R2 Low Density Residential to B2 Local Centre.
2. Amend the MLEP 2011 to include provisions to require a design competition process as part of any development application for buildings of a (yet to be determined) significant scale.

2.3 PART 3: JUSTIFICATION

Section A – Need for the planning proposal

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

The planning proposal is the result of a request received by Council from the proponents for a mixed-use development and associated public domain works at the subject site. A Voluntary Planning Agreement (VPA) has been lodged as part of the application.

The Marrickville LEP 2011 was developed to encourage increased residential development in accessible locations and includes the following relevant aims:

- 2(a) *to support the efficient use of land, vitalisation of centres, integration of transport and land use and an appropriate mix of uses; and*
- 2(b) *to increase residential and employment densities in appropriate locations near public transport while protecting residential amenity*

The subject site is located directly adjacent to Marrickville Railway Station and contained within the Marrickville town centre, and therefore supports aims to provide well located residential and commercial development. In April 2013, Transport for NSW (TfNSW) publicly exhibited plans for an easy access upgrade for Marrickville Station and has met with the proponent to discuss the inter-relationship between the two proposals.

The site was identified as part of the Marrickville Village Centres Study which was commissioned by Council and completed in 2009. The Village Centres Study identified areas/sites suitable for increased residential and/or commercial development which were then progressed through planning controls contained within the MLEP 2011 and Marrickville Development Control Plan (MDCP) 2011. The outcomes of this study were utilised in the development of planning controls for the Marrickville LGA, such as setting building heights and floor space ratio controls.

Within MDCP 2011 Section 9.40, the subject site is contained within the Marrickville Town Centre (Commercial Precinct 40). This precinct encompasses commercial and mixed-use development along Marrickville Road and Illawarra Road, Marrickville. Specific sites within the precinct were then subject to master planning to identify suitable development options. 2-18 Station Street is identified within Masterplan Area 40.7; however the master planned area did not include 1 Leofrene Avenue. Masterplan Area 40.7 establishes suitable development options for the site including building envelopes, building heights, site amalgamation and boundary setbacks. These planning controls were reflected through Height of Building and Floor Space Ratio controls within the MLEP 2011.

The MDCP 2011 Section 9.40 includes the following desired future characteristics for the precinct:

- 2. To allow and encourage a greater scale of development within the commercial centre, including the provision of new dwellings near local shops, services and public transport to meet market demand, create opportunity for high access to housing choice and support sustainable design.*
- 3. To support excellence in contemporary design.*
- 4. Where required, to ensure there are active commercial fronts to new buildings facing onto streets to create a vibrant and safe community.*
- 5. To support pedestrian access, activity and amenity including maintaining and enhancing the public domain quality.*
- 6. To ensure higher density development enables sustainable building design and provides adequate amenity for residents.*
- 7. To ensure the design of higher density development protects the residential amenity of adjoining and surrounding properties.*
- 8. To facilitate efficient parking, loading and access for vehicles that minimises impact to streetscape appearance, commercial viability and vitality and pedestrian safety and amenity.*

Therefore, it is evident that MLEP and MDCP 2011 envisaged redevelopment of the subject site (excluding 1 Leofrene Avenue) and suitable planning controls were developed accordingly. However, the scale of development proposed via the planning proposal is outside the scope of development permitted under the current planning controls or envisaged through the master planning process.

As discussed previously, Council undertook a master planning process of potential development sites as part of the development of the MLEP and MDCP 2011. Indicative building envelopes and related development controls were developed to assist and guide redevelopment of the identified sites.

However, since the commencement of the new planning controls Council has experienced problems in achieving the level of design quality envisaged within MLEP and MDCP 2011.

This has raised concerns for some of the larger development sites in the LGA particularly for those considered to be of strategic importance and gateway sites as Council has limited control over the quality of designs it receives. It is anticipated that this issue will persist as pressure for residential development close to the Sydney central business district increases.

It is essential that design quality is commensurate with the strategic importance of a development site. To ensure the achievement of design excellence, Council resolved at its meeting of 17 September 2013 to seek to include a clause in the MLEP 2011 requiring a design competition under certain circumstances. Whilst Council is committed to contributing to increasing the housing supply, it needs to be balanced with community expectations and standards. It is considered the requirement for a design competition will assist Council in balancing these needs.

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

The planning proposal is considered the best way of achieving the intended outcome of the proposed development of the subject site. As noted, the scale of development proposed significantly exceeds that permissible under the MLEP 2011. As a consequence, it is not appropriate to apply the provisions of MLEP 2011 clause 4.6 *Exception to development standards* due to the scale of the non-compliance.

Additionally, the current zoning of 1 Leofrene Avenue, Marrickville, as R2 Low Density Residential prohibits its use as part of the proposed development and this can only be mitigated through a planning proposal to amend the zoning of the site.

The inclusion of a design competition clause within MLEP 2011 is part of the planning proposal as Council has resolved to deal with these issues concurrently as they are interrelated. The proposed design competition clause within MLEP 2011 will ensure excellence in design is achieved for all larger development sites throughout the LGA. Inclusion within the MLEP 2011 will give this clause statutory weight it requires to be enforceable.

Section B – Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

- a. *Does the proposal have strategic merit and:*
 - *is consistent with a relevant local strategy endorsed by the Director-General or*
 - *is consistent with the relevant regional strategy or Metropolitan Plan or*
 - *can it otherwise demonstrate strategic merit, giving consideration to the relevant section 117 Directions applying to the site and other strategic considerations (e.g. proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc.)*

The objective of co-locating housing, employment, services and public transport is a common theme throughout relevant State government policies relating to planning and transport. It is universally recognised as an appropriate and sustainable response to providing for additional residential capacity within the Sydney region.

The Metropolitan Plan for Sydney (MPS) was first developed in 2005 and updated in 2010. The current plan aims to guide Sydney's growth to the year 2036. The MPS includes Metropolitan Strategy Action *B1.3: Aim to locate 80 per cent of all new housing within the walking catchments of existing and planning centres of all sizes with good public transport.*

The objectives of the MPS were utilised in the development of the draft South Subregional Strategy (dSSS) which was released in 2007 and established housing and employment targets for the Marrickville LGA. The dSSS included the following objective in relation to housing: *C2: Plan for a housing mix near jobs, transport and services.*

The draft Sydney Metropolitan Strategy 2031 (dSMS) was released in March 2013. This document also highlights the desire to locate housing in accessible locations. For example, one of its aims is to 'enable housing intensification throughout the [Central] subregion, particularly around established and new centres, key corridors and along the Airport and East Hills Line, Inner West Line, Eastern Suburbs and Illawarra Lines, North Shore Line, Bankstown Line and the Northern Line'. The subject site is located adjacent to Marrickville Railway Station, which is located on the Bankstown Line. It is considered that this development will assist in achieving the housing target for the Central Subregional (which includes Marrickville) of 138,000 additional houses to the year 2031.

The objectives and actions contained in the MPS and the dSSS were consistently referenced in the preparation of the Marrickville Local Environmental Plan 2011 which was gazetted in December 2011. Additionally, they were referenced in the preparation of all supporting studies undertaken by Council to assist in the development of the new planning controls. These studies include the Marrickville Urban Strategy, the Marrickville Employment Lands Study, Marrickville Integrated Transport Strategy and the Marrickville Village Centres Urban Design Study.

The MLEP and MDCP 2011 aim to support increased residential and commercial development in appropriate locations, including those close to existing services such as public transport. The subject site was identified for increased development within the MDCP 2011 due to its location within the Marrickville Town Centre Precinct and also its close proximity to the Marrickville Railway station. Increased residential and commercial development on the subject site is considered to be consistent with the applicable strategic planning framework and is considered to have strategic merit.

The dSSS highlights the importance of building design through its aim *C5.1 'Improve the design of new development and urban renewal'*. This is further emphasised within the MLEP 2011 which includes one of the aims of the Plan as being 'to promote a high standard of design in the private and public domain'.

The aim of achieving excellence in urban design is considered consistent with overarching strategic documents. For example, the MPS notes that 'good design is imperative to promote community acceptance of higher densities' (p. 124). Further it argues that 'high quality design is essential to improving the image, and market attractiveness of centres and other strategic locations'. (p. 125). Therefore, it is considered that the inclusion of a design excellence provision within the MLEP 2011 has strategic merit.

b. Does the proposal have site-specific merit and is compatible with the surrounding land uses?

As noted in Council officer's report of 17 September 2013 (shown at **Attachment D**) four key issues have been identified with the proposed development in its current iteration. Whilst Council concurs that the development has strategic merit, issues have been identified which require resolution before Council is satisfied that the proposed development also has site-specific merit and is compatible with the surrounding land uses.

The report contains a detailed assessment of the proposed development, including an examination of the public benefits of the proposal, as well as the identified key concerns. The report notes that many of the concerns could be dealt with as part of the planning process and do not need to be fully resolved as part of the planning proposal. However, four issues have been identified as being critical to the progress of the proposal.

These issues are as follows:

- Excessive bulk of the proposed development
- Impact of the proposed building on the character of the streetscape and townscape
- Encroachment and domination of the proposed building on the public space
- Non-compliance with solar access provisions.

As a consequence of the abovementioned issues, Council has requested a peer review of the proposed building envelope and relationship to the character of the Marrickville town centre; and of the proposed public space design.

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

Council's Local Environmental Plan was gazetted on 12 December 2011. The MLEP 2011 responds to housing and employment targets set through the dSSS and MS.

As discussed previously, the development of the MLEP and MDCP 2011 was accompanied by a number of supporting strategic studies. These were developed to be consistent with the overall strategic direction set by the MS and dSSS.

As noted, the subject site (with the exception of 1 Leofrene Avenue) was identified as a potential development site within the MLEP and MDCP 2011. Consequently, planning controls were development to reflect the scale of development deemed suitable for the site.

However, the scale of development proposed in the planning proposal significantly exceeds that master planned within the MLEP and MDPC 2011. Therefore although the redevelopment of the subject site is consistent with Council's local strategic plan, the scale of the development proposed needs to be further evaluated to determine whether the proposal is consistent with Council's planning strategies.

The peer review process will assist in determining this.

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

Below the planning proposal has been assessed against all relevant State Environmental Planning Policies (SEPPs). Based on this assessment, Council has concluded that overall, the planning proposal is consistent with all applicable (or potentially applicable) SEPPs.

SEPP (Exempt and Complying Development Codes) 2008

Description of SEPP: This SEPP simplifies assessment processes for development that complies with specified development standards. It identifies types of minor development that may be carried out without development consent, or carried out in accordance with a complying development certificate.

Assessment: None of the matters in this planning proposal raise issues in relation to this SEPP, and Council has concluded that overall, the proposed amendments are consistent with this SEPP.

SEPP (Infrastructure) 2007

Description of SEPP: This SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW. It is intended to provide greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.

Assessment: It is noted that the subject site adjoins Marrickville Station and this land is zoned SP2 Rail Infrastructure Facilities. It is also noted that a small portion of the subject site is located on land owned by Rail Corporation NSW. The proponent has provided the following information regarding compliance with this SEPP:

Control/Objective	Comment
85 Development immediately adjacent to rail corridors <i>(1) This clause applies to development on land that is in or immediately adjacent to a rail corridor, if the development:</i> <i>(a) is likely to have an adverse effect on rail safety, or</i> (b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or <i>(c) involves the use of a crane in air space above any rail corridor.</i> <i>(2) Before determining a development application for development to which</i>	To be considered by Railcorp who will be notified of the planning proposal. Railcorp will provide written response to Council which can be

<i>this clause applies, the consent authority must:</i> <i>(a) within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and</i> <i>(b) take into consideration:</i> <i>(i) any response to the notice that is received within 21 days after the notice is given, and</i> <i>(ii) any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.</i>	assessed by proponent as part of planning proposal review.
86 Excavation in, above or adjacent to rail corridors <i>(1) This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land:</i> <i>(a) within or above a rail corridor, or</i> <i>(b) within 25m (measured horizontally) of a rail corridor. or</i> <i>(c) within 25m (measured horizontally) of the ground directly above an underground rail corridor.</i> <i>(2) Before determining a development application for development to which this clause applies, the consent authority must:</i> <i>(a) within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and</i> <i>(b) take into consideration:</i> <i>(i) any response to the notice that is received within 21 days after the notice is given, and</i> <i>(ii) any guidelines issued by the Director-General for the purposes of this clause and published in the Gazette.</i> <i>(3) Subject to subclause (4), the consent authority must not grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor to which the development application relates, unless that rail authority is ARTC.</i> <i>(4) In deciding whether to provide concurrence, the chief executive officer must take into account:</i> <i>(a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:</i> <i>(i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and</i> <i>(ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and</i> <i>(b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.</i> <i>(5) The consent authority may grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor if:</i> <i>(a) the consent authority has given the chief executive officer notice of the development application, and</i> <i>(b) 21 days have passed since giving the notice and the chief executive officer has not granted or refused to grant concurrence.</i>	Railcorp notified of planning proposal. Geotechnical report provided as part of planning proposal Annexure G. Railcorp will provide response to Council as part of planning proposal review. Proponent to review comments as part of the assessment of the planning proposal.
87 Impact of rail noise or vibration on non-rail development <i>(1) This clause applies to development for any of the following purposes</i>	Detailed noise and

<i>that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration:</i> <i>(a) a building for residential use,</i> <i>(b) a place of public worship,</i> <i>(c) a hospital,</i> <i>(d) an educational establishment or child care centre.</i> <i>(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.</i> <i>(3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:</i> <i>(a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,</i> <i>(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.</i>	vibration report provided as part of the planning proposal. Refer to annexure F. Report identifies the requirements of the SEPP 2007 and adopted Australian Standards.
--	---

The proponent has failed to identify that part of the subject site is located on land owned by Rail Corporation NSW. Additional consultation with Rail Corporation will be required by the proponent due to the nature of land ownership of the subject site.

SEPP (Major Development) 2005

Description of SEPP: This SEPP defines certain developments as ‘major projects’ to be assessed under Part 3A of the EP&A Act and determined by the Minister for Planning. It also provides planning provisions for State significant sites.

Assessment: The subject site has not been identified as being of ‘State significance’. Council has concluded that the planning proposal is consistent with this SEPP. This SEPP is not relevant to the proposed additional new MLEP clause relating to design excellence.

SEPP (Building Sustainability Index: BASIX) 2004

Description of SEPP: This SEPP operates in conjunction with EP&A Amendment (Building Sustainability Index: BASIX) Regulation 2004 to implement consistent building sustainability provisions across NSW.

Assessment: Requirements for a BASIX certificate will apply to the subject site as part of any development application for the site and this planning proposal does not propose any changes to this requirement. This also applies for the proposed design competition clause within the MLEP 2011. Council has concluded the planning proposal is consistent with this SEPP.

SEPP (Housing for Seniors or People with a Disability) 2004

Description of SEPP: This SEPP encourages the development of quality accommodation for the ageing population and for people who have disabilities, in keeping with the local neighbourhood.

Assessment: The planning proposal will provide additional residential accommodation in an accessible location within an established area. It is considered that the planning proposal is consistent with this SEPP. This SEPP is not relevant to the proposed additional new MLEP clause relating to design excellence.

SEPP 65 - Design Quality of Residential Flat Development 2002

Description of SEPP: This SEPP aims to improve the quality of design of residential flat development across the NSW through the application of design principles. It provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development and involvement of a qualified designer throughout the design, approval and construction stages.

Assessment: SEPP 65 will apply to the proposed development on the subject site. Nothing in this planning proposal proposes to amend this requirement. Additionally, nothing within the proposed design competition clause will affect the provisions of this SEPP. It is considered that the planning proposal is consistent with this SEPP.

SEPP 55 - Remediation of Land 1998

Description of SEPP: This SEPP introduces planning controls for the remediation of contaminated land across NSW. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must be undertaken before the land is developed.

Assessment: A Stage 1 Environmental Site Assessment for 2-18 Station Street, Marrickville (Environmental Investigations) has been submitted to Council. The report notes the ongoing use of the site for commercial/retail purposes at ground floor level since the 1930s. Areas of Environmental Concerns were noted and the likelihood of contamination for both identified areas was listed as low to medium. The report concludes that a field-based investigation is recommended to occur after demolition of existing improvements but before any excavation or construction works.

Council notes that the proponent's Stage 1 contamination study did not investigate the Station Street road reserve, No. 1 Leofrene Avenue or the site identified for a potential public park at No. 2 Leofrene Avenue. Council will require that as these sites also be investigated for contamination to ensure compliance with Contaminated Lands Management Act. This SEPP is not relevant to the proposed additional new MLEP clause relating to design excellence.

SEPP 32 - Urban Consolidation (Redevelopment of Urban Land) 1991

Description of SEPP: This SEPP aims to ensure the NSW Government's urban consolidation objectives are met in all urban areas throughout the State. The policy focuses on the redevelopment of urban land that is no longer required for the purpose it is currently

zoned or used, and encourages local councils to pursue their own urban consolidation strategies to help implement the aims and objectives of the policy.

Assessment: This planning proposal involves the intensification of residential and commercial development within an existing centre. It is considered that the outcomes of the planning proposal will create new dwellings and jobs on the subject site within an existing activity centres near public transport services. This is considered to be consistent with the aims of this SEPP. This SEPP is not relevant to the proposed additional new MLEP clause relating to design excellence.

SEPP (Affordable Rental Housing) 2009

Description of SEPP: This SEPP establishes a consistent planning regime for the provision of affordable rental housing.

Assessment: This planning proposal will result in an increase in the amount of residential accommodation available within the Marrickville LGA. Council has raised some concerns about the lack of variety of unit types within the development and this matter will be dealt with further as part of any development application lodged for the subject site. The MLEP 2011 clause relating to design excellence is not considered to be inconsistent with the SEPP. Overall, the planning proposal is considered to be consistent with the objectives of this SEPP.

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

Below the planning proposal has been assessed against all relevant s.117 Directions. From this assessment, Council has concluded that overall, the proposed amendments are consistent with all applicable (or potentially applicable) Ministerial (s.117) Directions.

1. Employment and Resources

Direction 1.1: Business & Industrial Zones

Description of Direction: This Direction aims to encourage employment growth in suitable locations, protect employment land in business and industrial zones and support the viability of identified strategic centres. This Direction applies when a planning proposal will affect land within an existing or proposed business or industrial zone, including the alteration of any existing business or industrial zone boundary.

When this direction applies, a planning proposal must:

- (a) give effect to the objectives of this direction,
- (b) retain the areas and location of existing business and industrial zones,
- (c) not reduce the total potential floor space area for employment uses and related public services in business zones,
- (d) not reduce the total potential floor space area for industrial uses in industrial zones, and

- (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning

Assessment: Direction 1.1 Business and Industrial Zones applies to this planning proposal as it will affect land within an existing business zone and its consistency with this Direction is assessed as follows.

- (a) It is considered that this planning proposal is consistent with the relevant objectives of this Direction which are to encourage employment growth in suitable locations; protect employment land in business and industrial zones; and to support the vitality of identified strategic centres. The planning proposal will provide opportunity for additional employment opportunities through the creation of over 500 square metres of retail and commercial floorspace. It does not result in the reduction of any employment land and will assist in the ongoing revitalisation of an existing strategic centre within the Marrickville LGA.
- (b) The planning proposal expands the area and location of existing business zones through the extension of the B2 Local Centre zoning to 1 Leofrene Avenue, Marrickville.
- (c) The planning proposal increases the total potential floor space area for employment uses and related public services in business zones through the provision of proposed 500 square metres of commercial/retail floor space.
- (d) Not applicable to this planning proposal.

It is considered that this planning proposal is consistent with the aims and objectives of Direction 1.1 Business and Industrial Zones.

2. Environment and Heritage

Direction 2.3: Heritage Conservation

Description of Direction: The objective of this Direction is to conserve items, areas, objects and places of environmental and indigenous heritage significance. A planning proposal must contain provisions that facilitate the conservation of:

- (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area;
- (b) Aboriginal objects or Aboriginal places that are protected under the *National Parks and Wildlife Act 1974*, and
- (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

Assessment: No part of the subject site is identified as being a heritage item, located within a heritage conservation area, as an Aboriginal object or place, or an Aboriginal area, object, place or landscape identified through an Aboriginal Heritage Study. However, it is located adjacent to a heritage item known as the 'Marrickville Railway Station Group', which is listed in the MLEP 2011, State Heritage Inventory and s.170 Register for Rail Corporation NSW as the owner of the site.

A Statement of Heritage Impacts for 2-18 Station Street & 1 Leofrene Avenue, Marrickville, has been submitted to Council by the proponent. The report concludes that the existing building on the subject site have no significance, but notes its proximity to the Marrickville Railway Station Group. Council's Heritage & Urban Design Advisor has reviewed the proposal and the Statement of Heritage Impact and provided the following comments:

The Heritage Impact Statement is acceptable. There are no noteworthy impacts to heritage significance brought about by the proposal:

- *The scale of the development is evidently significantly higher than everything else around it. This however does not pose a negative heritage impact in itself. The nearest Heritage Conservation Area (HCA) is the Civic Precinct HCA located along the commercial precinct of Marrickville Road and is not impacted by this proposal.*
- *Marrickville Railway Station is the only heritage item in the vicinity and this will not be impacted by the development. The raised podium at this interface will not detract from the station itself. The optional stairs to the platform would be a positive in increasing connectivity between the two sites.*
- *The wall [on the edge of Illawarra Road] may be considered to have some significance due to its connection to the overbridge which is included as a significant component of the Item, although the boundaries may indicate that this significance halts at the end of the bridge. Having said that, if the wall is considered to have significance, it is low, and therefore its alteration will not detract from the item. Any alterations to it would be weighed up in light of the overall planning benefit.*
- *The shelter is probably 1980s in age and has no heritage value.*
- *The site of the proposal (2-18 Station Street) is currently a cluster of altered shops from the Federation and Interwar eras, little original detail remains. None of the buildings contribute in a significant way to the history or heritage of the area, therefore their retention is not deemed necessary.*
- *Likewise the demolitions required of houses at 1 and 2 Leofrene Ave would not have a significant impact on the streetscape because the demolitions would occur at the end of the street and therefore do not upset the character of the rest of the street. No. 2 Leofrene is an intact period building and therefore its conservation is preferred, however a pocket park would certainly be a positive urban design result in that location and improve the vista from Illawarra Road down Schwebel Street.*

- *The adjoining site at 20-22 Station Street has no heritage value.*
- *In summary the site is underutilised. Because it is in a key strategic location, intensification of use and improved public spaces will be positive for the area. The design does not generate negative heritage impacts.*

Therefore, it is concluded that the planning proposal is consistent with the aims and objectives of Direction 2.3 Heritage Conservation.

3. Housing Infrastructure and Urban Development

Direction 3.1: Residential Zones

Description of Direction: The objectives of this Direction are to (a) encourage a variety and choice of housing types to provide for existing and future housing needs; (b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure; and (c) minimise the impact of residential development on the environment and resource lands. This Direction applies to a residential zone or any other zone in which significant residential development is permitted.

When this Direction applies, a planning proposal must include provisions that:

- (a) broaden the choice of building types and locations available in the housing market, and
- (b) make more efficient use of existing infrastructure and services; and
- (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and
- (d) be of good design.

In relation to the land to which this Direction applies:

- (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to services it), and
- (b) not contain provisions which will reduce the permissible residential density of land.

Assessment: This Direction applies to this planning proposal as part of the proposal is the rezoning of 1 Leofrene Avenue, Marrickville, from R2 Low Density Residential to B2 Local Centre. In relation to required provisions the following assessment is made:

- (a) The planning proposal in its current form will provide approximately 120 additional residential units within the Marrickville LGA in an accessible location. Council has raised some concerns regarding the unit mix proposed and will seek to include some larger units within the development as part of any future development application.
- (b) The intensification of the subject site within an existing location will make more efficient use of existing infrastructure and services, especially due to its close proximity to Marrickville railway station.

- (c) Urban consolidation, such as the proposed development within this planning proposal, will increase the supply of housing and, to a lesser extent, employment opportunities in a well located, established centre. Theoretically this should assist in reducing demand for development on the urban fringe of Sydney.
- (d) Council has raised concerns regarding the preliminary design of the buildings including within the planning proposal, and resolved to review these externally whilst also progressing the planning proposal. The design competition clause proposed within this planning proposal for MLEP 2011 will seek to ensure that all larger developments within the LGA exhibit design excellence.

In relation to the land to which this Direction applies:

- (a) This planning proposal applies to land which has already been developed and is therefore already serviced.
- (b) This planning proposal does not contain provisions which will reduce the permissible residential density of land.

It is considered that this planning proposal is consistent with the aims and objectives of Direction 3.1 Residential Zones.

Direction 3.4: Integrating Land Use & Transport

Description of Direction: The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport; (b) increasing the choice of available transport and reducing dependence on cars; (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car; (d) supporting the efficient and viable operation of public transport services; and (e) providing for the efficient movement of freight.

This Direction requires planning proposals to locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of *Improving Transport Choice – Guidelines for planning and development* (DUAP 2001) and *The Right Place for Business and Services – Planning Policy* (DUAP 2001).

Assessment: This planning proposal is considered to be consistent with the objectives of the Direction. It is considered transport orientated development due to its close proximity to Marrickville railway station. It is also within close proximity to an existing centre offering employment opportunities and local services. This encourages alternate methods of transport, such as walking, and will reduce car dependency for residents. It is considered that this planning proposal is highly consistent with the aims to integrate development and transport options.

Direction 3.5: Development Near Licensed Aerodromes

Description of this Direction: The objectives of this direction are: (a) to ensure the effective and safe operation of aerodromes; (b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise. This direction applies to a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.

Assessment: The subject site is between ANEF contours 20 and 25. This Direction states that a planning proposal that rezones land for residential purposes or to increase residential densities in areas where ANEF is between 20 and 25 must include provisions to ensure that development meets AS 2021 regarding interior noise levels. The Marrickville LGA is heavily affected by aircraft noise within existing residential and commercial areas. The MLEP 2011 currently contains provisions relating to AS 2021 requirements. It is considered that the planning proposal is consistent with this direction.

The proponent as included a Preliminary Aeronautical Impact Assessment for the subject site which notes that the proposed development penetrates the OLS by up to 15.8 metres. Therefore, a future application to the Civil Aviation Safety Authority will be required under the Airports (Protection of Airspace) Regulation 1996.

4. Hazard and Risk

Direction 4.1: Acid Sulfate Soils

Description of Direction: The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. It applies when a planning proposal applies to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps held by the Department of Planning & Infrastructure.

Assessment: The subject site is identified as containing class 5 acid sulphate soils within the MLEP 2011. The proponents have lodged a Stage 1 Environmental Site Assessment for 2-18 Station Street, Marrickville, which does not comprise the entire proposed development site. The environmental assessment fails to identify the subject site as containing acid sulphate soils as shown in MLEP 2011. Council will require the submission of additional information regarding acid sulphate soils as part of any development application lodged for this site. Regardless, this planning proposal is considered to be consistent with this Direction.

6. Local Plan Making

Direction 6.1: Approval and Referral Requirements

Description of Direction: The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

Assessment: The planning proposal proposes to rezone a small portion of land owned by Rail Corporation NSW from SP2 Infrastructure to B2 Local Centre, to facilitate the proposed development. The portion of the development at ground level on land owned by Rail Corporation NSW relates to public access between Marrickville Railway station and the proposed public square which incorporates part of the development. Council currently leases this land from Rail Corporation NSW for the purposes of a public pathway, roadway and stairway. At its meeting of 17 September 2013, Council resolved to write to the Minister for Transport and Transport for NSW regarding the planning proposal request and the co-ordination of the public space component of the development and the proposed upgrade of Marrickville Railway Station.

However, there is no requirement within this planning proposal for additional concurrence, consultation or referrals to a Minister or public authority. Any development application lodged for this site will require owners consent from Rail Corporation NSW.

The design excellence clause proposed for inclusion within MELP 2011 will not include any requirements for concurrences, consultation or referrals to a Minister or a public authority. Therefore, this planning proposal is considered to be consistent with the aims of this Direction.

6.2 Reserving Land for Public Purposes

Description of Direction: The objective of this Direction are to facilitate the provision of public services and facilities by reserving land for public purposes and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

Assessment: The subject site is not reserved for acquisition within the MLEP 2011, and therefore the provisions of this Direction do not apply.

6.3 Site Specific Provisions

Description of Direction: The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls.

Assessment: This planning proposal applies to all planning proposal that will allow a particular development to be carried out.

This Direction states that a planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

- (a) allow that land use to be carried out on the zone the land is situation on, or
- (b) rezone the site to an existing zone already applying in the development planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or
- (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

This planning proposal rezones 1 Leofrene Avenue, Marrickville, to a zone already existing within the MLEP 2011 and does not apply any other development standards to this site, and is therefore consistent with this part of the Direction. The Direction does not apply to the remainder of the planning proposal as it only seeks to amend the height of building and FSR controls for the subject site, rather than applying an additional land use or different zone to the site. Therefore, this planning proposal is consistent with this Direction.

7. Metropolitan Planning

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Description of Direction: The objective of this Direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.

Assessment: As previously discussed in this document, this planning proposal is considered to be consistent with the Metropolitan Plan for Sydney to 2036 as it assists in achieving its aims to 'build at least 70% of new homes in the existing urban areas, and to 'build at least 80% of all new homes within the walking catchments of existing and planning centres of all sizes with good public transport'.

Section C – Environmental, social and economic impact

Q7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There are no identified critical habitats or threatened species, population or ecological communities or their habitats identified within the subject site, and therefore no likelihood of adverse results.

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

As mentioned elsewhere in this report the subject site is identified as Class 5 acid sulphate soils within the MLEP 2011. Council will require the submission of additional information regarding acid sulphate soils as part of any development application lodged for this site. There are not considered to be any other environmental impacts that cannot be managed through the development assessment process.

The proponent has lodged initial geotechnical and site assessment reports for the subject site. A noise and vibration intrusion assessment has also been lodged. Further information will be requested as part of any development application lodged for the site as deemed appropriate.

As mentioned previously, Council has raised concerns about some of the built form aspects and potential impacts of the development which are discussed below in more detail.

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

As discussed previously, Council has raised concerns regarding the proposed development in its current form due to some of the potential impacts, being:

- Excessive bulk of the proposed development
- Impact of the proposed building on the character of the streetscape and townscape
- Encroachment and domination of the proposed building on the public space
- Non-compliance with solar access provisions.

As a consequence of the abovementioned issues, Council has requested a peer review of the proposed building envelope and relationship to the character of the Marrickville town centre; and of the proposed public space design. It is considered that these reviews need to be undertaken, and the identified concerns addressed, due to potential social impacts of the proposal.

It is not anticipated that the planning proposal will have any negative economic effects which need to be addressed as part of the proposal.

Section D – State and Commonwealth interests

Q10 Is there adequate public infrastructure for the planning proposal?

The planning proposal relates to proposed development within an established area. It is considered that adequate public infrastructure for the development exists. Upgrading of the existing infrastructure can be undertaken should it be deemed necessary to support the proposed development.

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

As previously discussed, consultation with Rail Corporation NSW is required as the planning proposal affects a section of land in their ownership. Council resolved, at its meeting of 17 September 2013, inter alia, that Council write to the Minister for Transport and Transport NSW to inform of the planning proposal request and to seek consultation concerning the co-ordination of planning processes for the public space associated with the proposed development and the proposed upgrade of Marrickville Railway Station.

It is also proposed to undertake consultation with the Civil Aviation Safety Authority due to proposed breach of the Obstacle Limitation Surface.

Consultation will also be undertaken with Transport for NSW regarding the potential impacts on bus services and routes.

2.4 PART 4: MAPPING

Mapping to support this planning proposal has been prepared and is attached to this document.

2.5 PART 5: COMMUNITY CONSULTATION

This planning proposal is considered to fall into the category of 'all other planning proposals' in accordance with 'A guide to preparing local environmental plans'. This is due to the proposed scale of the development and level of non-compliance with the current height of building and floor space ratio controls for the subject site contained within MLEP 2011. It is considered necessary as the development includes works to Council owned land. Therefore, an exhibition period of 28 days minimum is considered appropriate for a project of this scale.

It is also proposed that the peer reviews of the proposed public space design and proposed building envelope be publicly exhibited as part of the information package accompanying this planning proposal.

The public exhibition will be undertaken in accordance with the requirements of the EP&A Act 1979 and EP&A Regulations 2000.

2.6 PART 6: PROJECT TIMELINE

MILESTONE	PROPOSED DATE
Council submits planning proposal to DP&I	October 2013
Gateway Determination issued by DP&I	December 2014
Completion of required technical information	December - March 2014
Government agency consultation (if required)	January-March 2014
Public exhibition	April – June 2014
Public hearing (if held)	July 2014
Consideration of submissions	August 2014
Post public exhibition report to Council	September 2014
Council submits final request to DP&I for LEP amendment	December 2014