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Plan finalisation report – PP-2021-3619

Canada Bay LEP 2013 - Parramatta Road Corridor
Urban Transformation Strategy – 2016 - 2023 release
areas

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Introduction

1.1 Overview

1.1.1 Name of draft LEP

Canada Local Environmental Plan (LEP) 2013 (Amendment No. 21).

The planning proposal (**Attachment A**) seeks to amend the Canada Bay LEP 2013 to implement land use recommendations for the 2016-2023 release areas (Stage 1) of the [Parramatta Road Corridor Urban Transformation Strategy](#) (PRCUTS) 2016.

The PRCUTS was released by State government in November 2016 and sets out a vision and framework to guide renewal and redevelopment along the Parramatta Road corridor.

1.1.2 Site description

The planning proposal applies to land within three of the PRCUTS Precincts of Homebush (North), Burwood-Concord and Kings Bay (**Figure 1**).

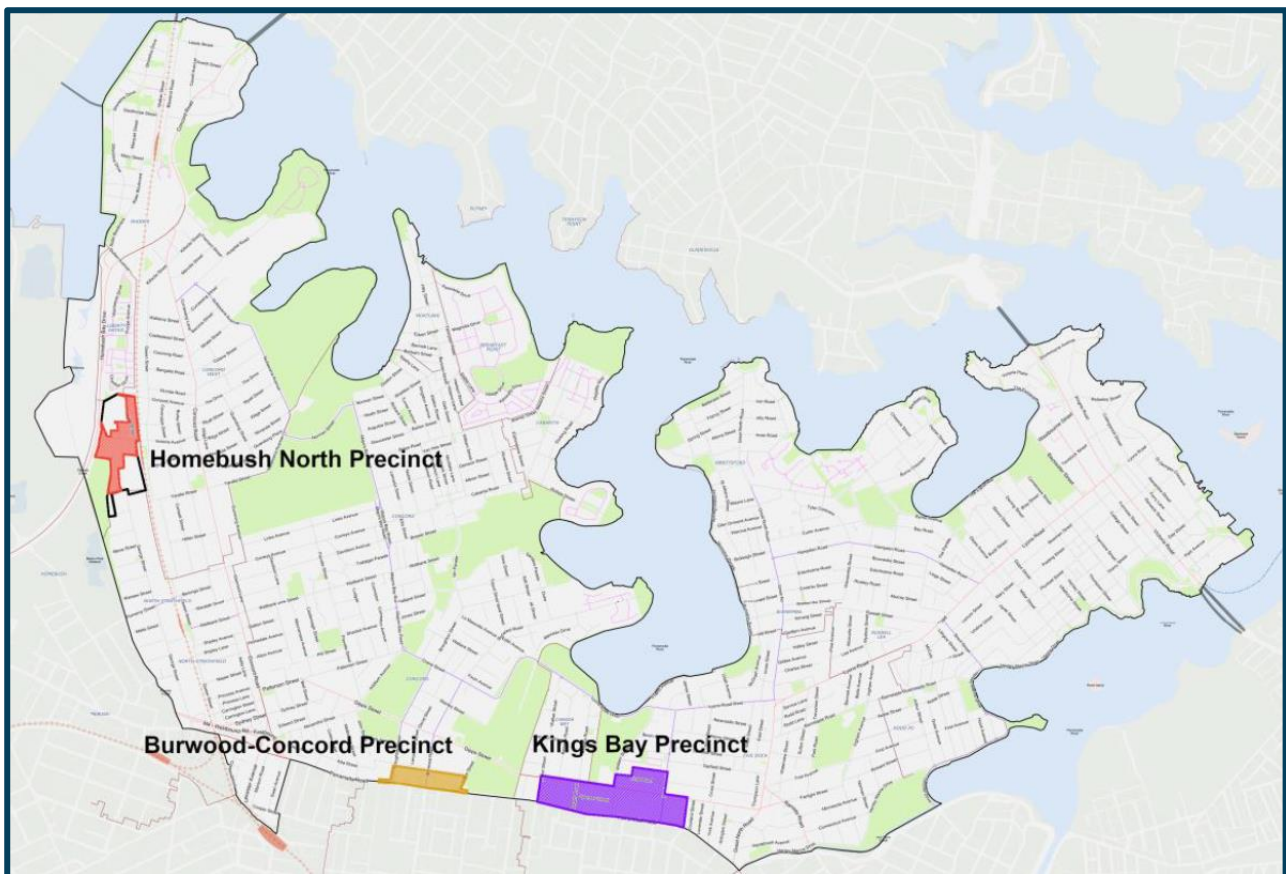


Figure 1 – Areas subject to the planning proposal (source: Planning proposal)

Kings Bay Precinct

The Kings Bay Precinct is located on Parramatta Road between Five Dock and Burwood (**Figure 2**). The precinct is characterised by industrial development, including car dealerships and mixed light industrial uses. The precinct also contains small pockets of residential development on Kings Road and Queens Road.

Rosebank College is a significant landholding in the precinct located between Parramatta Road and Queens Road and subject of a heritage listing. Five Dock Leisure Centre is immediately to the north of the precinct and forms part of network of green spaces connecting the precinct to the Parramatta River.

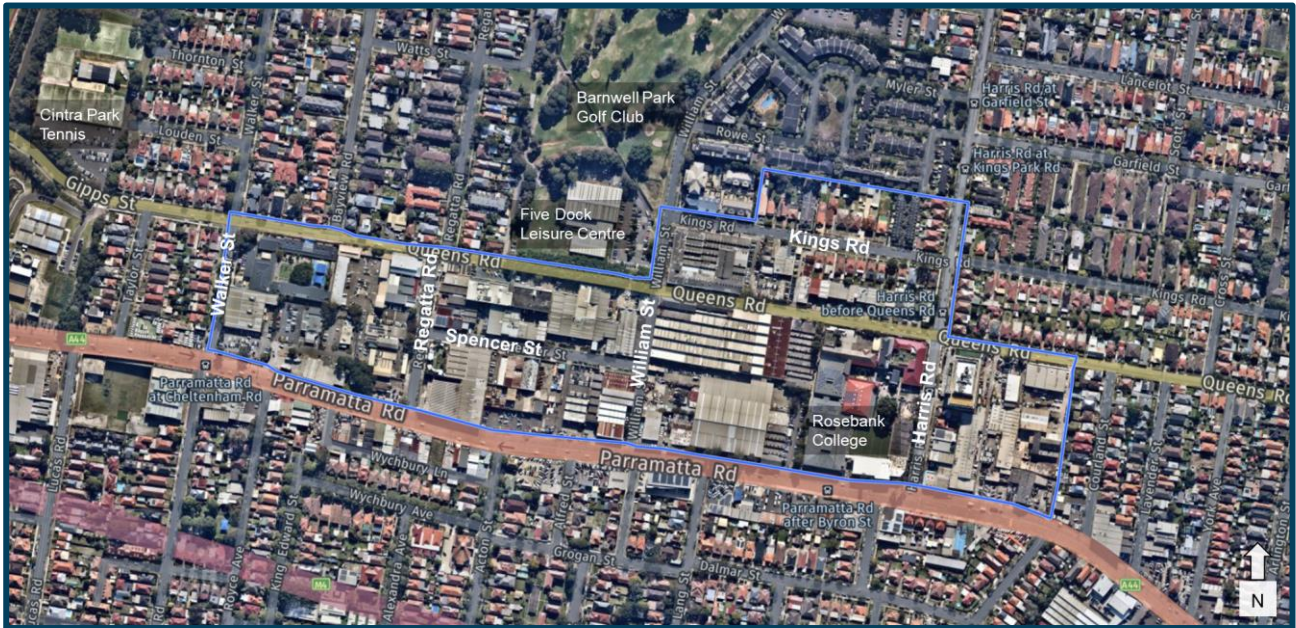


Figure 2 - Land within the Kings Bay Precinct planning proposal area (Base source: Nearmap)

Burwood-Concord Precinct

The Burwood-Concord Precinct is located on Parramatta Road and bound by Burton Street to the north, Concord Oval to the east and Broughton Street to the west (**Figure 3**). Burwood Road bisects the precinct east-west, providing a connection to the Burwood town centre to the south of Parramatta Road.

The precinct is characterised by a mix of industrial uses, including car dealerships and showrooms on Parramatta Road and detached dwellings along Burton Street. The future Burwood North Metro Station will be in the precinct, between Burwood Road and Loftus Street, with earthworks currently taking place on the site.



Figure 3 - Land within the Burwood-Concord Precinct planning proposal area (Base source: Nearthmap)

Homebush North Precinct

The Homebush North Precinct is located between Concord West Station and significant parklands, including Bicentennial Park. The precinct is bound by the rail corridor to the west, Homebush Bay Drive to the east and local streets, Rothwell Avenue and Conway Avenue in the south (**Figure 4**).

The precinct is characterised by low density housing on King Street, George Street and Victoria Avenue and a mix of and light industrial and business uses clustered in the north and south of the precinct. The precinct also includes Victoria Avenue Public School located directly north of Powells Creek Reserve.

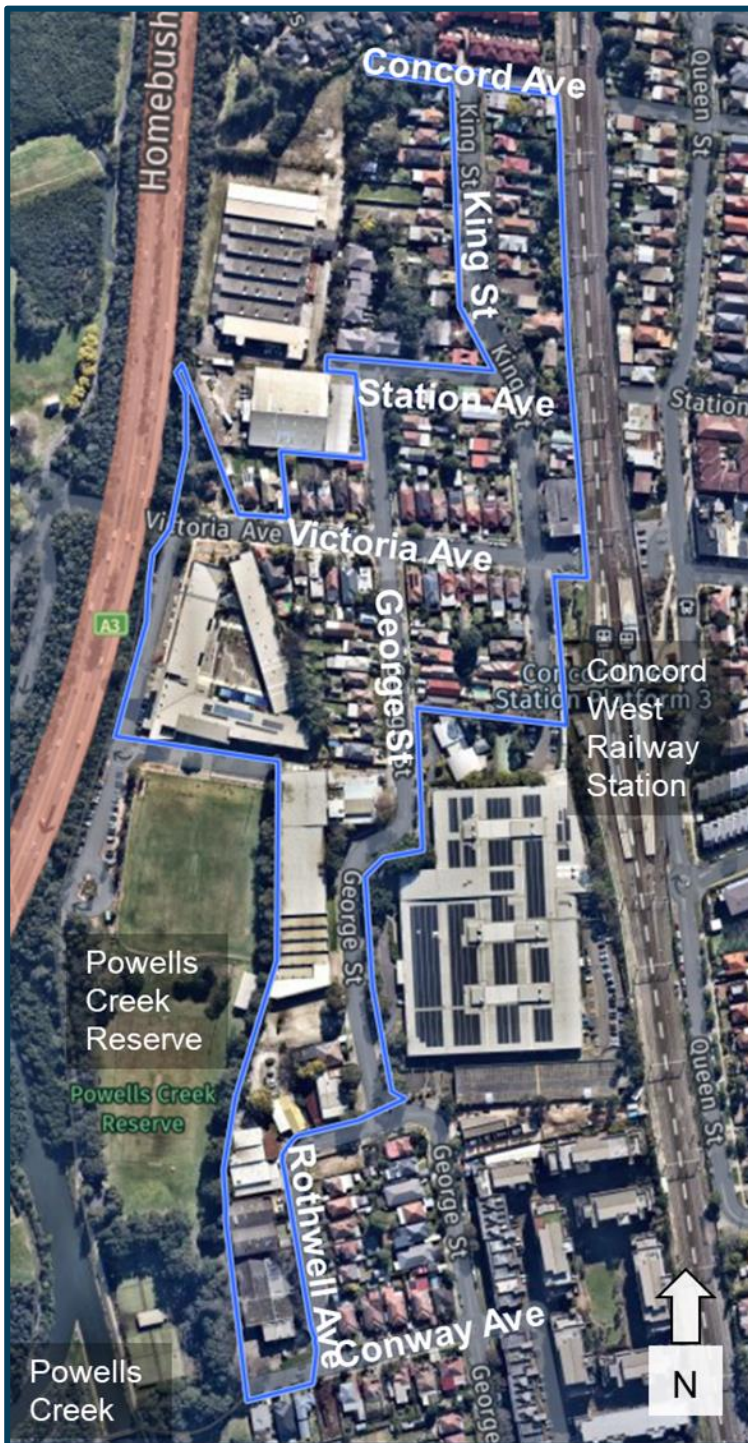


Figure 4 - Land within the Homebush Precinct planning proposal area (Base source: Nearmap)

1.1.3 Purpose of plan

The proposal seeks to implement the land use recommendations for the 2016-2023 release areas in the Homebush, Kings Bay and Burwood-Concord precincts of the PRCUTS.

The proposal would facilitate approximately 4,054 new dwellings, in the following precincts:

- 2,947 dwellings in the Kings Bay precinct;
- 537 dwellings in the Burwood-Concord precinct; and
- 570 dwellings in the Homebush North precinct.

The proposal seeks to amend the Canada Bay LEP 2013 to:

- amend land use zoning in the three precincts;
- amend height and floor space ratio (FSR) controls in the Homebush North precinct;
- introduce incentive height and FSR controls in the Kings Bay and Burwood-Concord Road precincts, where development achieves minimum site area requirements and delivers identified on-site local infrastructure;
- introduce a design excellence clause;
- amend clause 4.6(8) so the proposed minimum site area provisions cannot be varied under clause 4.6, and that developments cannot use this clause to increase beyond the base HOB and FSR by more than 10% if development does not rely upon the incentive clauses;
- introduce an incentive clause that permits additional floor space up to 5% for development that meets higher BASIX energy and water standards;
- introduce a requirement for new buildings to contain both potable water pipes and recycled water pipes;
- introduce a requirement for development to achieve at least 25% tree canopy cover across the site;
- apply a satisfactory arrangements for state infrastructure contributions to the precincts;
- identify additional permitted uses in the Kings Bay and Burwood-Concord precincts
 - introduce commercial premises and light industry as APUs on the ground floor of residential flat buildings on land in the proposed R3 Medium Density Residential zone that fronts Parramatta Road.
 - introduce commercial premises as an APU on the ground floor of RFBs for certain sites fronting Burwood Road and/or Neichs Lane.
 - introduce depot as an APU at 7 and 15-17 Regatta Road, Five Dock.
- introduce additional active street frontages in the Kings Bay and Burwood-Concord precincts.

A detailed explanation of the proposed changes and the Department's assessment at Gateway is contained in the Gateway determination report.

Draft Development Control Plan amendments

Council has prepared and exhibited draft amendments to its Development Control Plan (DCP). The draft DCP will apply to all land in the precincts and will support the proposed LEP controls. The draft DCP introduces detailed controls related to building siting, building envelopes, setbacks and landscaping requirements.

The draft DCP was exhibited concurrently with the planning proposal.

1.1.3.1 Kings Bay Precinct

The proposal's intent is for the Kings Bay Precinct to become a vibrant mixed-use centre, with fine grain retail and commercial ground floor uses and high-density apartments focused around Spencer Street and along Parramatta Road.

The height and density are proposed to be greatest between Parramatta Road and Queens Road, with heights and densities transitioning to lower scale apartments north of Queens Road, east of Harris Street and east of Walker Street.

Table 1 Current and proposed Kings Bay Precinct controls

Current zone	Proposed zone	Current/ Retained Base FSR	Proposed incentive FSR	Current/ Retained Base HOB	Proposed Incentive HOB
IN1 General Industrial	B4 Mixed Use	1:1	A range from 1.3:1 to 3:1	12m	A range from 17m to 79m (2.5m proposed for public domain)
	R3 Medium Density Residential	1:1	a range from 1.3:1 to 2.2:1	12m	A range from 10m to 28m (2.5m proposed for public domain)
	RE1 Public Recreation	1:1	3:1	12m	2.5m
B6 Enterprise Corridor	B4 Mixed Use (Rosebank College)	1:1	(no proposed change)	12m	(no proposed change)
	R3 Medium Density Residential	1:1	1.8:1	12m	20m to 35m (2.5m proposed for public domain)
R2 Low Density Residential	R3 Medium Density Residential	0.5:1	1.4:1	8.5m	13m and 17m

1.1.3.2 Burwood-Concord Precinct

The planning proposal's intent for the Burwood-Concord Precinct is to be a commercial mixed-use centre. The new Burwood North Metro Station will be located at the intersection of Parramatta and Burwood Roads.

New mixed use and commercial development is proposed along Parramatta and Burwood Roads, with high density residential setback from Parramatta Road and stepping down to lower scale residential areas.

Table 2 Current and proposed Burwood-Concord precinct controls

Current zone	Proposed zone	Current/ Retained Base FSR	Proposed incentive FSR	Current/ Retained Base HOB	Proposed Incentive HOB
B6 Enterprise Corridor	B4 Mixed Use	1:1 to 2:1	2.5:1 – 3:1	12m	24m to 55m (2.5m proposed for public domain)
	R3 Medium Density Residential	2:1	2.5	12m	42m (now 2.5m)
R3 Medium Density Residential	B4 Mixed Use	0.5:1	3:1	8.5m	21m and 56m (2.5m proposed for public domain)

Current zone	Proposed zone	Current/ Retained Base FSR	Proposed incentive FSR	Current/ Retained Base HOB	Proposed Incentive HOB
	R3 Medium Density Residential (no proposed change)	0.5:1	0.9:1 and 3:1	8.5m	A range from 37.5m to 78m (2.5m proposed for public domain)
	SP2 Infrastructure	0.5:1	0.5:1	8.5m	8.5m

1.1.3.3 Homebush North Precinct

The proposal's intent is for the Homebush North Precinct to be a residential precinct centred around George Street. The precinct will be characterised by a mix of housing types, including terrace housing, and mid-rise apartments in the south of the precinct.

As discussed in the Gateway determination report, the proposal excludes some IN1 and R3 zoned land in the precinct. These areas will be subject to further investigation in the future including the completion of the Powell's Creek flood study.

Table 3 Current and proposed Homebush North precinct controls

Current zone	Proposed zone	Current FSR	Proposed FSR	Current HOB	Proposed HOB
IN1 General Industrial	R3 Medium Density Residential	1:1	1.4:1 and 1.9:1	12m	16m and 22m
	IN1 General Residential (no proposed change)	1:1	1:1 (no change)	8.5m	8.5m (no change)
B1 Neighbourhood Centre	B1 Neighbourhood Centre (no proposed change)	2.3:1	2.3:1 (no change)	16m	16m (no change)
R3 Medium Density Residential	R3 Medium Density Residential (no proposed change)	0.75:1 and 1.4:1	0.75:1 and 1.4:1 (no change)	10m and 16m	10m and 16m (no change)
R2 Low Density Residential	R3 Medium Density Residential	0.5:1	0.7:1	8.5m	8.5m
	RE1 Public Recreation	Nil	Nil	8.5m	2.5m
SP2 Infrastructure	SP2 Infrastructure	Nil and 0.5:1	0.7:1	Nil and 8.5m	8.5m
	RE1 Public Recreation	Nil	0.7:1	Nil	2.5m
RE1 Public Recreation	RE1 Public Recreation	Nil	0.7:1	Nil	8.5m

1.1.4 State electorate and local member

The site falls predominantly within the Drummoyne state electorate. Mr John Sidoti MP is the State Member. Part of the Homebush precinct falls in the Strathfield state electorate where Mr Jason Yat-Sen Li MP is the State Member for Strathfield.

The site falls within the Reid federal electorate. Ms Sally Sitou MP is the Federal Member.

To the team's knowledge, none of the MPs has made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

The Gateway determination issued on 24/11/2021 (**Attachment B**) determined that the proposal should proceed subject to conditions. The Gateway determination required variations amendments to the planning proposal prior to exhibition.

In February 2022, Council amended the proposal and associated documents to satisfy conditions in the Gateway determination so that the proposal could proceed to public exhibition.

Council has met all the Gateway determination conditions.

3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 15 February 2022 to 15 March 2022.

Council received a total of 50 community and agency submissions.

On 18 October 2022, Council resolved that consideration of the planning proposal be deferred for further community consultation.

Specifically, Council resolved that:

1. *Consideration of the Planning Proposal – Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) - Stage 1 be deferred for further community consultation.*
2. *Council write to the Department of Planning, Industry and Environment (DPIE) requesting an extension of the Gateway Determination for the Planning Proposal – Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) - Stage 1.*
3. *The matter of the Gateway Determination and community consultation be the subject of a further Councillor workshop.*

This resolution was contrary to Council officers' report, which recommended the planning proposal be submitted to the Department for making the LEP amendment. The draft Development Control Plans for the precincts were proposed to be adopted and come into effect upon the gazettal of the LEP.

On 4 November 2022, the Department wrote to Council responding to its resolution. The Department explained that it would now proceed to finalise the plan as the local plan making authority in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act), because:

- the deferment would contribute to the delay of housing delivery in the Canada Bay LGA; and
- Council had undertaken extensive community and agency consultation in accordance with the relevant statutory requirements.

3.1 Public submissions during exhibition

There were 27 community submissions received from individuals and organisations including Crown Group, TOGA Group and Suttons Group, which either raised concern, requested amendments or objected to the proposal.

Key matters raised in the submissions included:

- requests for increases to floor space ratio (FSR) and height of buildings;
- site amalgamation and precinct boundaries;
- development feasibility and viability;
- concerns that increased development will impact on infrastructure, amenity and open space;
- public transport and Sydney Metro West;
- traffic and car parking;
- cycling infrastructure;
- local character;
- design excellence; and
- public domain.

The Department considers that Council officers have appropriately responded to all community submissions. The Council officers' and Department's responses to each of the key issues raised in the community submissions are discussed below:

Requests for increases to floor space ratios (FSRs) and height of buildings (HOB)

Submissions were received requesting:

- additional height and FSR further to that proposed by the planning proposal; and
- flexibility in applying for additional height and FSR under clause 4.6 of the LEP.

Some of the submissions provided justification, including 5 submissions that proposed significant new urban design schemes for their sites:

- 2-16 Burton Street and 1-3 Loftus Street, Concord;
- 235 Parramatta Road, Five Dock;
- 155-167 Parramatta Road and 7 Spencer Street, Five Dock;
- 129-153 Parramatta Road and 53-75 Queens Road, Five Dock; and
- 51-73 Parramatta Road and 31A-43 Queens Road, Five Dock.

Council officer response

In response, Council officers:

- noted that the PRCUTS and associated implementation toolkit are required to be implemented by Council in accordance with a section 9.1 Ministerial Direction. This Direction requires the PRCUTS planning proposal to be consistent with the strategy, including with the *Implementation Plan*;
- noted Action 5.1 of the Canada Bay Local Strategic Planning Statement (LSPS) also requires consistency with the PRCUTS;
- noted that a strategic and precinct-wide planning approach was adopted. This was underpinned by evidence-based supporting studies and strategies when developing the planning proposal.

This approach has enabled a holistic vision, and sustainable and integrated outcomes to be delivered, maximising best urban design, community infrastructure and public benefits

The supporting evidence base includes:

- masterplans;
- a public domain plan;
- community infrastructure strategy;
- flood risk assessment;
- preliminary contamination investigation;

- sustainability strategy;
- tree canopy coverage assessment;
- feasibility analysis; and
- local character statements.
- consider a precinct-wide planning approach and masterplan to enable buildings to be designed and constructed separately yet still be conceived as belonging and contributing to the same neighbourhood;
- noted the *PRCUTS Implementation Update 2021* permits and encourages Councils to progress planning proposals to exhibition prior to completion of a Precinct-wide traffic study. The traffic study, which must be completed prior to finalisation of the planning proposal, has now been completed. It found that, by 2036, the study area will see a 35% to 39% increase in traffic from 2019 levels, which places a significant constraint on the capacity for the precincts to absorb any additional population over what was envisaged under the PRCUTS. Importantly, the traffic study assumes the operation of both WestConnex and Sydney Metro West;
- noted the heights and FSRs proposed in the planning proposal are generally consistent with those recommended by the PRCUTS, except in some instances where the variation will deliver better urban design outcomes or community benefits.

These variations include the reallocation of floor space from one part of a proposed amalgamated site to the developable part of the same site resulting in increased heights to support the onsite provision of new public open spaces.

In each instance, the proposal has provided justification for the change based on enhancing urban design and community benefits;

- noted GroupGSA was engaged to peer review the submissions and provide objective urban design feedback and recommendations about both the precinct wide and site-specific merits of the requested amendments.

The peer-review considered built form and urban design, compliance with the NSW Apartment Design Guide, overshadowing, solar access and viability in the context of the PRCUTS.

In response to this peer review, Council officers recommended post-exhibition changes summarised below:

- all properties fronting Parramatta Road in Burwood and Kings Bay precincts - increased variable setback to Parramatta Road to facilitate a future dedicated bus lane supported;
- 92-96 Kings Road and 1-9 Harris Road (Key Site 23) – subdivision of Key site supported;
- 155-167 Parramatta Road and 7 Spencer Street, Five Dock (Key Site 20) – revised urban design response supported with amendments; and
- 2-16 Burton Street, Concord (Key Site 10) – relocation of proposed park and boundary realignment supported. Revised urban design response is not supported.

These are further discussed in **Section 3.3** of this report.

Informed by the peer review, Council officers did not support requested amendments outlined in submissions in relation to the following sites:

- 51-73 Parramatta Road and 31A-43 Queens Road, Five Dock (Key Site 35);
- 129-153 Parramatta Road and 53-75 Queens Road, Five Dock (Key Site 32);
- 2-8 Spencer Street and 79-81 Queens Road, Five Dock (Key Site 17);
- 235 Parramatta Road, Five Dock (Key Site 11);

- 8-10 Harris Road, Five Dock (Key Site 34); and
- 49-53 Parramatta Road, Concord (Key Site 6).
- recommended that the following submissions relating to land in Stage 2 of the PRCUTS implementation not be supported at this time and that the urban form be investigated by council during the development of its PRCUTS Stage 2 planning proposal:
 - 255-271 Parramatta Road, Five Dock;
 - 9-29 Courland Street, Five Dock; and
 - 19 Burton Street, Concord.

Department response

The Department considers the Council officers response adequate, noting:

- Council's amendments to FSRs and HOBs are discussed in further detail at **Section 3.3** of this report;
- future planning proposals will seek to implement PRCUTS areas outside of this proposal; and
- post-exhibition amendments to specific sites to increase development density need to occur in accordance with the plan making process under the EP&A Act, including being publicly exhibited to allow adequate opportunity for community and agency comment.

In this regard, this proposal does not preclude consideration of planning proposals which seek to implement the PRCUTS. These alternative proposals can be pursued in accordance with the plan making process under the EP&A Act and the Department's LEP Making Guideline dated December 2021. This includes demonstrating strategic and site specific merit against PRCUTS.

Site amalgamation and precinct boundaries

The planning proposal identifies Key Sites that require lot amalgamations that must be achieved in order for development to access the proposed bonus heights and FSRs and to enable coordinated development to occur. A number of submissions are seeking to change the proposed boundaries of the precincts or of the Key Sites.

Submissions were received requesting changes to precinct and lot boundaries for the following Key Sites:

- Areas 9 and 10 on the eastern side of the Burwood precinct, including Sydney Metro land;
- Area 17 between Spencer Street and Queens Road, Five Dock;
- Area 23 on Kings Road and Harris Road, Five Dock;
- Area 33 on Harris Road, Five Dock;
- Area 34 at the eastern boundary of the Kings Bay precinct; and
- Properties in the PRCUTS Stage 2 precinct on Courland Street, Five Dock.

Reasons for the requested changes include:

- to prevent land from becoming 'isolated' development sites, which could constrain opportunities to step down building heights towards the low-scale surrounding residential areas; and
- to facilitate development of sites that have been amalgamated with strata, commercial or other types of development that are unlikely or unwilling to be redeveloped in the short to medium term.

Council officer response

In response, Council officers noted:

- the precinct boundaries were established by the *PRCUTS Implementation Plan 2016-2023* and the *PRCUTS Implementation Update 2021*. The precinct boundary for the proposal relates to Stage 1 of the PRCUTS, being the 2016-2023 release areas.

The Stage 1 precincts and later Stages, including the Frame Areas, are intended to reflect a logical phasing for the co-ordination of land use change and development and infrastructure delivery, concentrating available resources and effort in areas of greatest priority. The PRCUTS states that “*decisions on phasing should take into account heritage, low-density areas, environmental overlays, efficient infrastructure rollout and market consideration*”. Changes to the Stage 1 boundary need to be justified against the PRCUTS ‘Out of Sequence Checklist’;

- the Key Sites boundaries were established by Masterplans for the Kings Bay and Burwood-Concord Precincts. Consideration was given to the current land ownership status, public domain dedication requirements, built form efficiency and desired urban design outcomes;
- GroupGSA was engaged to peer review the submissions and provide objective urban design feedback and recommendations about both the precinct wide and site-specific merits of the requested amendments.

The peer-review considered built form and urban design, compliance with the NSW Apartment Design Guide, overshadowing, solar access and viability in the context of the PRCUTS.

In response to this peer review, Council officers recommended post-exhibition changes summarised below:

- Key Sites 9 and 10 – Eastern side of the Burwood precinct

The requested boundary realignment between the two Key Sites will facilitate the delivery of the proposed laneway and new public park and improve the functionality of these spaces.

- Key Site 23 - 92-96 Kings Road and 1 - 9 Harris Rd, Five Dock

The strata building at 92-96 Kings Road is unlikely to be redeveloped in the short-medium term. The proposed Key Site area boundary amendment will facilitate redevelopment of the existing detached houses on Harris Street. The Key Site area amendment will not prevent or limit future, longer term redevelopment of the 92-96 Kings Road strata building to the height and density envisaged by the PRCUTS.

These are further discussed in **Section 3.3** of this report.

- It was recommended by the Council officer’s report that the following proposed boundary amendments not be supported:

- Key Site 17 - 2-12 Spencer Street and 79-81 Queens Road, Five Dock

The requested Key Site area boundary amendment would constrain the creation of the proposed 5-storey and 20-storey buildings, as Apartment Design Guide (ADG) and Building Code of Australia (BCA) requirements would be compromised. Further, this could create a blank party wall between the two subdivided sites, which would lead to undesirable visual impacts. Splitting the sites would also lead to part of the land benefitting from opportunity arising from the change to development standards.

- Key Site 34 – 75-77 Parramatta Road and 2-10 Harris Road, Five Dock

Subdividing the Key Site would prevent the realisation of the PRCUTS heights and densities and limit options to manage parking and access arrangements.

- Key Site 35 - 51-73 Parramatta Road and 31A-43 Queens Road, Five Dock
The land is part of Stage 2 of the PRCUTS and will be progressed as a separate planning proposal in 2023.
- PRCUTS Stage 2 sites - 9-29 Courland Street, Five Dock
The land is part of Stage 2 of the PRCUTS and will be progressed as a separate planning proposal in 2023.

Further discussion in response to submissions for these sites can be found under Part 6 below and in the Landowner submissions review prepared by GroupGSA.

Department response

The Department considers the Council officer's response adequate, noting:

- Council's amendments to site boundaries and Key Sites are discussed in further detail at **Section 3.3** of this report; and
- post-exhibition amendments to specific sites to increase development density need to occur in accordance with the plan making process under the EP&A Act, including being publicly exhibited to allow adequate opportunity for community and agency comment.

In this regard, this proposal does not preclude consideration of additional and separate planning proposals that seek to implement the PRCUTS. These alternative proposals can be pursued in accordance with the plan making process under the EP&A Act and the Department's *Local Environmental Plan Making Guideline* dated September 2022. This includes demonstrating strategic and site-specific merit against the PRCUTS.

Development feasibility and viability

Submissions raised concern that the proposed incentive HOBs and FSRs may not be economically viable for some sites. This was attributed to:

- the site amalgamation and community infrastructure requirements with resulting costs; which are in addition to state and/or local contributions; and
- sustainability requirements, including additional building costs associated with implementing these.

Council officer response

In response, Council officers noted that a feasibility analysis undertaken by Atlas Urban Economics considered the proposed zoning, height and FSR along with the other requirements for development including design excellence competitions, affordable housing contributions, state or local contributions and sustainability outcomes was prepared in accordance with the Gateway determination. The analysis found that the proposed development and FSRs are generally feasible. In a limited number of circumstances, the amount of commercial GFA relative to residential GFA was changed post-exhibition in accordance with the feasibility analysis recommendations.

Department response

The Department considers the Council officer's response adequate, noting a PRCUTS Infrastructure Strategy Feasibility Analysis for the Burwood and Kings Bay Precincts was undertaken by Atlas Urban Economics in accordance with the Gateway conditions – this is discussed further in **Section 4.1** of this report.

Concerns that increased development will impact infrastructure, amenity and open space

Submissions raised concerns about the impacts the proposed building heights and increased population and development density will have on the amenity of the local area, including:

- overshadowing;
- noise;
- loss of privacy;
- visual and wind impacts;
- inadequate open space and recreational space; and
- increased traffic congestion.

Council officer response

In response, Council officers noted:

- the proposed changes will permit development to access the increased building heights and FSRs, but only if the development forms part of a specified lot amalgamation to deliver the identified community infrastructure. This mechanism is intended to ensure that Council meets its obligations to deliver the PRCUTS to provide the infrastructure necessary to support the increased population;
- the proposal will facilitate new housing to contribute to Council meeting its housing targets, as required under the Eastern City District Plan and the GCC assured LSPS;
- the Masterplan was developed with the objective to deliver the number of dwellings and jobs required under the PRCUTS, whilst minimising overshadowing and loss of solar access (including land on the southern side of Parramatta Road), loss of privacy, and visual and wind impacts;
- the Masterplan was further revised to respond to issues raised in submissions with consideration given to the proposed built form and impacts of future development. Changes sought to minimise overshadowing of adjoining land and ensure building controls provide an appropriate interface with public spaces through the application of consistent ground and upper floor setbacks.

Council's amendments to FSRs and HOBs are discussed in further detail at **Section 3.3** of this report;

- the proposal is complemented by a draft PRCUTS DCP that seeks to:
 - *Arrange building forms including heights and massing that reinforce the future desired character of the area and protect valued character attributes.*
 - *Encourage new development that provides a transition in scale to surrounding properties.*
 - *Enhance development and its relationship with adjoining sites and the public domain, particularly in regard to access to sunlight, outlook, view sharing, ventilation and privacy.*
 - *Maximise visual and acoustic privacy.*
 - *Protect building users from negative impacts (noise, air quality, vibration) from Parramatta Road.*
 - *Integrate heritage items within development sites.*
 - *Encourage lower car ownership and support the uptake of walking, cycling and public transport use.*
- the proposed new open space is generally consistent with the requirements and locations outlined in the PRCUTS, with some changes that will enhance the public domain and community benefits. The planning proposal has sought to strike a balance between the provision of new open space with the ability to transfer floor space from dedicated land; and

- the embellishment of new open space and the public domain with appropriate finishes (surfaces, paving, trees, grass, lighting etc) is expected to be delivered in accordance with the LEP, DCP and Public Domain Plan.

Department response

The Department considers the Council officers response adequate, noting the PRCUTS:

- recognises that infrastructure in the Corridor must respond to population growth and change;
- recognises that some existing infrastructure is ageing or is insufficient to meet the needs of communities as they grow and change; and
- Infrastructure Schedule therefore identifies the transport, open space, community, education and health facilities required to support the proposed growth across the Corridor. It will also assist the coordination of infrastructure and services provided by state agencies, government owned corporations, local government and the private sector.

Local character

Submissions raised concerns that the proposed heights and densities are inconsistent with the existing character and heritage of the local area, which is a mix of low and medium density residential development of the early 1900s and industrial uses.

Council officer response

It is acknowledged that the character of the precincts will change over time to implement the PRCUTS.

Council has applied particular focus to ensuring that the impact of new development is managed, and appropriate provisions are imposed to deliver design quality.

The desired future character of the precincts include:

- Kings Bay - a focus on mixed use areas of fine-grained retail and urban services, centred on Spencer Street, with new high-rise residential towers. These will transition down towards the existing low-scale residential areas surrounding the precinct. The commercial centre will evoke the area's historical industrial uses and the public domain will comprise a network of inter-connecting parks, wide footpaths, laneways and cycleways;
- Burwood-Concord - a focus on a mixed use area centred on the new Sydney Metro West Station at the intersection of Parramatta Road and Burwood. The public domain will comprise new parks, footpaths, laneways and cycleways; and
- Homebush North - a focus on residential development centred on George Street and comprising diverse housing typologies (mainly terrace housing), new footpaths and cycleways.

Department response

The Department considers the Council officers response adequate, noting the PRCUTS seeks to:

- guide the rapidly changing character of the Corridor whilst ensuring future development responds to the distinct character and identity along different parts of the Corridor; and
- protect heritage items, heritage conservation areas and other highly valued characteristics across the Corridor.

Design excellence

Submissions were received which raised concern with the quality of new development.

Some submissions raised concerns that the costs and time required to undertake a design review process could undermine the viability of developments. Several submissions suggested that an additional provision be included in the Design Excellence clause to permit proposals that are the outcome of a design excellence process to vary the community infrastructure maximum building height and FSR.

Council officer response

In response, Council officers noted that:

- the proposal is consistent with the PRCUTS and section 9.1 Ministerial Direction 1.5 for PRCUTS in relation to objectives to ensure design excellence by:
 - requiring development from 12m/3 storeys to 28m/8 storeys be subject to a design review panel; and
 - development over 28m/8 storeys be subject to an architectural design competition.

Council officers consider this process will ensure that a high standard of architectural design, materials and detailing appropriate to the building type and location are achieved and that the form, arrangement and external appearance of the development improves the quality and amenity of the public domain;

- the feasibility analysis undertaken by Council found that the costs associated with design excellence competitions did not undermine the viability of proposed development; and
- to minimise the impact of tower buildings, a 750sqm gross floor area limit above any podium has been adopted post-exhibition in response to submissions. This Council post-exhibition change is discussed in further detail in **Section 3.3** of this report.

Department response

The Department considers the Council officers response adequate, noting the removal of Council's post-exhibition change to include a maximum tower floor plate provision – see **Section 3.4** for further discussion.

Public transport and Sydney Metro West

Submissions received raised concerns that:

- there was inadequate public infrastructure to support the future population; or
- raised concerns about the length of time to the commencement of Sydney Metro West which would not reduce traffic congestion or car parking demand in the short to medium term; and
- existing rail lines nearby are at capacity.

Other submissions raised concerns that the level of proposed residential and commercial development is not commensurate with the infrastructure potential of Metro and that the proposed FSRs should be increased.

Council officer response

In response, Council officers noted:

- The PRCUTS proposed significant increases in density within the Kings Bay and Burwood Precincts. This density was predicated on WestConnex. The vision outlined by the PRCUTS also encourages public transport use, walking and cycling;
- since the publication of the PRCUTS in 2016, the Sydney Metro West rail line has been announced and construction has commenced, which might be interpreted as meeting the intent of the condition. However, Council's *Parramatta Road Corridor Traffic and Transport Study and Action Plan* prepared by Bitzios Consulting states that:

“future year demand forecasting has demonstrated that this project alone is insufficient to deter traffic from using Parramatta Road and extensive congestion is expected by 2036. Further investigation of on-road rapid public transport services is warranted to provide alternatives to car travel for residents living and working along the Parramatta Road corridor.”

Whilst it is apparent that Sydney Metro West is necessary to “unlock” the planned dwelling growth contemplated by the PRCUTS, the additional public transport capacity created by Metro does not support or justify additional growth beyond what is envisaged under the PRCUTS. Indeed, further public transport will be necessary beyond the capacity delivered by Sydney Metro, to ensure that the local and regional roads are able to function and people are able to make local trips.

Therefore, submissions seeking to abandon the building heights and densities contemplated by the PRCUTS on the basis of Sydney Metro are not supported; and

- Council is progressing a separate planning proposal and is currently investigating new planning controls to increase densities around the three Metro Stations: North Strathfield, Concord Oval/Burwood North and Five Dock. Council has undertaken two rounds of community engagement to date and has developed local character statements that reflect the community’s desired future character for the areas.

Refer to <https://collaborate.canadabay.nsw.gov.au/metroprecincts> for more information.

Department response

The Department considers the Council officers response adequate, noting:

- the response to the TfNSW submission – discussed further in **Section 3.2** of this report;
- the response to the Sydney Metro submission – discussed further in **Section 3.2** of this report; and
- the completion of Council’s *Parramatta Road Corridor Traffic and Transport Study and Action Plan* (the Precinct Traffic and Transport Study) prepared by Bitzios Consulting – discussed further in **Section 4.1** of this report.

Traffic and parking

Submissions were received which raised concern that the proposal would cause increased traffic congestion, noise, air pollution, pedestrian safety concerns, vehicle speeds and lack of parking.

Submissions also raised the need for electric vehicle charging points and recommended unbundling private car parking spaces.

Council officer response

In response, Council officers noted:

- traffic congestion is an ongoing community concern, especially around school drop-off and pick-up times and weekend sporting events;
- a Precinct-wide traffic study supports the proposal and has been completed. This study is known as Council’s *Parramatta Road Corridor Traffic and Transport Study and Action Plan* (the Precinct Traffic and Transport Study) prepared by Bitzios Consulting. This study modelled impacts from traffic generated by the increased commercial space and dwellings, estimated by the PRCUTS Masterplan and used assumptions approved by TfNSW.

The Precinct Traffic and Transport Study found there will be an increase in traffic to 2036, with most of the growth being passing through traffic. The Precinct Traffic and Transport Study recommendations focus on relieving pinch points and enabling more efficient queue storage to minimise impacts on local road intersections and better cater for pedestrians and cyclists;

- Council will support the community through the continued monitoring of traffic vehicle speeds and nuisance on local streets. Where justified and appropriate, further traffic measures will be implemented as they are identified;
- Council has comprehensively considered the findings and recommendations of the Precinct Traffic and Transport Study and will continue to investigate traffic speeds and, where necessary, implement traffic measures on local roads as they are identified/warranted. the proposed maximum car parking rates are intended to encourage the use of active transport through induced travel demand. The maximum car parking rates could also improve development viability and housing cost, especially if that parking is unbundled, offering greater flexibility for home purchasers;
- given the substantial traffic growth envisaged for the corridor, it is recommended that the parking controls be elevated to a development standard to be included in the LEP. This approach will ensure that the development assessment process will have a strengthened ability to manage parking provision and the number of local vehicle trips;
- underground carparking or parking sleeved behind active facades will be encouraged to ensure best urban design outcomes and to minimise at grade visual impacts. The draft DCP also proposes to require parking to be unbundled from apartments, which provides flexibility to the developer and apartment purchasers to determine individual need for a parking space; and
- on-street parking has been integrated into the public domain plan for each precinct to ensure maximum use by and amenity for the surrounding community.

Department response

The Department considers Council's response to be adequate, noting:

- the response to the TfNSW submission – discussed further in **Section 3.2** of this report;
- further assessment and refinement of traffic and parking management solutions will occur at the development application (DA) stage;
- Council officers made a post-exhibition change to elevate the maximum car parking rates and unbundled parking requirements from the DCP to the LEP – discussed further in **Section 3.3** of this report; and
- the requirements for unbundled car parking in the LEP were removed by the Department – discussed further in **Section 3.4** of this report.

Cycling infrastructure

Submissions raised concerns about cycleways, especially where the existing cycleways are on busy or narrow roads.

Council officer response

In response, Council officers noted:

- The PRCUTS Planning and Design Guideline includes requirements for active transport, including to:
 - *Improve public and active transport quality, access and connectivity to and within Precincts and Frame Areas.*
 - *Encourage travel behaviour change to discourage car use and support more sustainable travel choices such as public and active transport.*
 - *Improve street network permeability across the Corridor, particularly for pedestrians and cyclists, by providing active transport routes where indicated on the Precinct Plans.*
 - Prioritise safe and direct links to rail stations, open spaces and community facilities.
 - Connect missing links, particularly in the regional network (existing or planned).

- Separate bikes from cars, where possible.
- *Provide bike parking and innovative, high quality and well designed end of trip facilities that promote multi-modal trips and the efficient use of existing public and private parking facilities.*
- the proposal is seeking to create a network of new bicycle lanes within the extent of the precincts, including dedicated cycleways and shared paths, on:
 - Parramatta Road, Queens Road, Harris Road, William Street, and Regatta Road in the Kings Bay precinct.
 - Parramatta Road, Burton Street, Broughton Street (under construction), and Loftus Street in the Burwood precinct.
 - George Street, King Street, and Victoria Avenue in the Homebush North precinct.

These new cycleways will assist in creating walking and cycling connections as ‘first/last mile’ trips to and from the new Metro.

Department response

The Department considers the Council officers response adequate to these matters.

All other issues raised in submissions

All other issues and matters raised in the community submissions are considered to have been resolved by the post-exhibition changes, adequately addressed by Council officers or are not considered to warrant further change to the plan.

3.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with the agencies and councils listed below.

- | | |
|--|---|
| • Environment, Energy and Science Group; | • Sydney Water; |
| • Environmental Protection Agency; | • Ausgrid; |
| • Sydney Metro; | • Jemena Gas; |
| • Department of Education; | • State Emergency Service; and |
| • Transport for NSW; | • Adjoining councils: Inner West, Strathfield and Burwood councils. |

All agencies except, Ausgrid, Jemena Gas and Strathfield Council provided a submission.

The Department considers that Council officers have appropriately responded to all agency submissions. The Council officers’ and Department’s responses to each of the key issues raised in the agency submissions are discussed below:

Environment Protection Agency (EPA)

The EPA:

- states that the masterplans, strategies, LEPs and DCPs all contain the necessary information to ensure that Stage 1 of the PRCUTS is delivered effectively; and
- further encourages the state and local councils involved to include current and future guidelines and policy documents relating to design excellence for residential and mixed-use buildings as the project progresses, particularly noting where the project intersects with Metro rail developments and protections for residential development from noise and vibration.

Council officer response

In response, Council officers noted this submission and referred to its responses to the community concerning public transport, Sydney Metro West and design excellence.

Department response

The Department notes this submission and the Council officer's adequate response.

Transport for NSW (TfNSW)

TfNSW provided an initial submission on the proposal dated 30 March 2022. This included:

- detailed comments on the Traffic and Transport Study;
- Parramatta Road/ Walker Street/ Cheltenham Road Intersection;
- future transport improvements on Parramatta Road;
- funding & implementation;
- car parking rates;
- active transport; and
- freight and servicing.

A further response was provided by TfNSW to Council on 12 May 2022 further clarifying its initial 30 March 2022 submission.

A detailed response to each of the issues raised in the TfNSW submissions is provided below.

Parramatta Road/ Walker Street/ Cheltenham Road intersection

TfNSW comment

The PRCUTS Precinct Transport Report (UrbanGrowth, November 2016) identified an intervention of a new westbound right turn lane from Parramatta Road into Walker Street. This is not investigated in the Traffic and Transport Study.

TfNSW notes Walker Street is currently closed so would require opening of the existing full road closure and would have to be supported by Council and the local community. If this intervention was taken up it would require acquisition/dedication of some land from adjoining properties to accommodate compliant swept paths for turning traffic.

Council officer response

In response, Council officers noted that Council's traffic engineers advised not to open Walker Street to through-traffic and that north-south through-traffic be directed along Regatta Road instead.

Council's the Precinct Traffic and Transport Study has been revised and now states '*Walker Street is a 'No Through Road' [and] is only wide enough for one travel lane in each direction. There is an opportunity to widen Walker Street, as well as upgrade its intersections at Parramatta Road and Queens Road. However, this would increase the traffic pressures on Walker Street, which has a more local road environment bordered by residential dwellings and a school. An alternative option would be to upgrade the Regatta Road intersections at Parramatta Road and Queens Road, given Regatta Road is already a wide road and borders the proposed (B4) Mixed Use zone.*'

The Precinct Traffic and Transport Study has also been revised to now state that the intersection upgrade was not supported by Council as it would contribute towards 'opening up' Walker Street to traffic and elevate its role as the main north-south through road between Parramatta Road and Queens Road.

The Precinct Traffic and Transport Study identifies that for the Kings Bay Precinct, Regatta Road has been identified as the preferred main north-south route rather than Walker Street.

Department response

Council has adequately investigated the Parramatta Road/Walker Street intersection intervention. It is acknowledged that the identified upgrades in the 2016 UrbanGrowth PRCUTS Precinct Transport Report are stated as *'indicative only and may require alternative solutions.'* Council has identified Regatta Road as the preferred key north-south route. It is also noted that TfNSW acknowledged that the Walker Street traffic intervention should only be pursued subject to Council and community support.

Future transport improvements on Parramatta Road*TfNSW comment*

TfNSW is investigating potential transport options for the Parramatta Road corridor, including the proposal area. A plan is being prepared for potential short, medium and long-term options to enhance public transport and support urban transformation of the corridor.

TfNSW note the proposal proposes a 6m setback along Parramatta Road for public domain enhancement identified to be dedicated to Council in the future.

TfNSW advised preliminary investigations identified land along Parramatta Road that could be potentially used to accommodate a future new road reserve. TfNSW provided 3 draft plans illustrating the extent of the affected land beyond Council's proposed 6m setback, offset from the future new road reserve boundary as follows:

- Plan 1 – Parramatta Road (Broughton Street to Loftus Street)
- Plan 2 – Parramatta Road (Walker Street to William Street)
- Plan 3 – Parramatta Road (William Street to Courland Street)

TfNSW also provided further confirmation on this request in a letter to Council dated 12 May 2022, advising the additional land requested *'is to provide opportunities for future public transport and/or active transport enhancements along the Parramatta Road Corridor in accordance with the PRCUTS.'*

TfNSW includes excerpts from the PRCUTS, which states *'Transport for NSW is committed to delivering an on-street rapid transit system to support the shared vision for the growth of the Parramatta Road Corridor... The Parramatta Road Corridor on-street rapid transit route, from Burwood train station to the Sydney CBD...'*

TfNSW requests that the planning proposal allow for this widening and suggests it could be achieved either by allowing TfNSW to utilise the proposed 6m green edge setback; adding additional land to incorporate the proposed widening; or by some other means.

Council officer response

In response, Council reviewed and supports the wider road reserve requested by TfNSW as this can facilitate dedicated bus lane opportunities along Parramatta Road and future proof the Parramatta Road corridor to allow for new forms of rapid transit.

This process included Council's urban design peer review testing the implication of implementing the wider road reserve (6m plus additional variable width) with the subject floor space reallocated within the amalgamated lots. Council considers that the request can be accommodated without loss of development capacity or creation of overshadowing impacts, subject to minor amendments to the proposed development standards.

Council amended the built form in its revised Burwood-Concord and Kings Bay masterplans to include the additional areas for road widening whilst accommodating the 6m green edge setback along Parramatta Road - see **Section 3.3** of this report for further discussion.

Department response

The Department considers Council's response to be adequate, noting that on 29 July 2022 TfNSW further qualified to the Department that:

- the road widening to retain the ability to deliver the Parramatta Road Corridor on-street rapid transit route in the future, as envisaged in the Parramatta Road Corridor Urban Transformation Strategy (November 2016);
- the road widening request is TfNSW's final position, however it should be noted that these are indicative draft plans and will be subject to possible change following further investigations and the necessary assessments, approvals and funding;
- TfNSW provided these plans to Council to assist in updating the draft Stage 1 planning proposal, which should demonstrate consistency with the PRCUTS, by operation of the direction issued by the Minister for Planning on 9 December 2016 (now Local Planning Directions 1.5);
- TfNSW will be in the position to provide similar road widening plans for the relevant constrained sections of the Parramatta Road Corridor in the future upon request by other councils; and
- in March 2022, the Cabinet Infrastructure Committee (CIC) endorsed the Parramatta Road Integrated Transport Strategic Business Case and the recommended funding strategy. The Strategic Business Case vision for Parramatta Road considers Sydney Metro West and recommends delivery of a high-quality, rapid trunk bus service along the Parramatta Road corridor.

Funding and implementation*TfNSW comment*

There are actions in the Precinct Traffic and Transport Study (Table 10.1) that identify TfNSW as the responsible delivery agency however these actions are not committed/funded projects in TfNSW's forward works program and would need to be funded/implemented via an appropriate funding mechanism (i.e. 7.11 or 7.12 contribution plans and/or planning agreements).

The proposed interventions and actions are subject to further investigations and planning over the medium to long term and may require approved business cases prior to implementation.

Future development along the corridor associated with the PRCUTS has the potential to fall under the proposed Regional Infrastructure Contribution (RIC) scheme. Consideration needs to be given to a planning mechanism to capture developer contributions, including land dedication, towards regional transport infrastructure if the RIC is not implemented ahead of rezoning and development.

TfNSW notes the proposed inclusion of future development in the proposal area being included in clause 6.9 *Arrangements for designated State public infrastructure* of the Canada Bay LEP to identify the land subject to state/regional infrastructure contributions.

TfNSW's May 2022 letter to Council raised concern with the clause 6.9 mechanism for contributions, including concern that the clause only applies to the development for the purposes of residential accommodation (whether as part of a mixed-use development or otherwise) and therefore won't capture any developer contributions for designated State public infrastructure from non-residential developments as envisaged in the RIC. TfNSW recommends Council consult with TfNSW and the Department on the way forward prior to making the LEP.

Council officer response

In response, Council officers:

- do not support TfNSW's proposal that local development contributions should be used to pay for State infrastructure, or land acquisition for State infrastructure; and

- propose the additional land requested by TfNSW along Parramatta Road be included in the proposed community infrastructure clause. It is proposed to implement the wider road reserve with the subject floor space reallocated within the amalgamated lots.

Department response

The Department notes:

- the proposed RIC scheme, the infrastructure contributions legislation before Parliament will, at this stage, not be progressing. However, the Department is investigating how similar contributions outcomes may be achieved under the current legislative framework; and
- that TfNSW is progressing a strategic business case to improve transport along the Parramatta Road Corridor to support the PRCUTS.

Nonetheless, the proposal provides that future development in the precincts will be subject to State or Regional Infrastructure Contributions.

The Department has made post-exhibition changes:

- to ensure non-residential development is also subject to the arrangements for designated State public infrastructure provision – see further discussion in **Section 3.4** of this report; and
- to the mechanism providing TfNSW's required road widening – see further discussion in **Section 3.4** of this report.

Car parking

TfNSW comment

TfNSW recommends Council consider maximum car parking rates for the precincts within 800m of the new Metro West stations that are lower than the recommended maximum parking rates in the PRCUTS Planning and Design Guidelines, on the basis that the Metro is anticipated to change the future mode share of the precincts and further reduce car dependence.

TfNSW also encourages Council to consider:

- unbundled and decoupled car parking;
- rationalised future access points; and
- interconnected/shared basement car parking between sites.

Council officer response

In response, Council officers noted that:

- the proposed maximum car parking rates are consistent with the rates outlined in the PRCUTS. It is acknowledged that the Metro will improve public transport options however the parking rates are considered to strike an appropriate balance between providing on site parking to meet future occupants needs whilst providing flexibility to provide less residential parking on a case-by-case basis; and
- provisions around vehicular entries are included in the draft DCP amendments. Council recommends investigating a DCP control that permits connected and shared basement car parking between sites.

In response to this submission, Council amended the proposal post-exhibition to elevate unbundled car parking and the maximum car parking from DCP to LEP requirements. See **Section 3.3** of this report for further discussion.

Department response

The Department notes the submission and Council officers' response.

Council's post-exhibition amendments to elevate maximum car parking rates discussed further in **Section 3.3** of this report.

The Department's post-exhibition change to remove unbundled car parking from the LEP discussed further in **Section 3.4** of this report.

Active transport

TfNSW comment

TfNSW:

- recommends Council consider improving walking and cycling connections as 'first/last mile' trips to and from the new Metro stations;
- encourages above minimum DCP requirements for bicycle parking and end of trip facilities; and
- future connections to existing local cycleway routes should be considered.

Council officer response

In response, Council officers noted that the draft DCP includes requirements for minimum bicycle parking and storage facilities generally in accordance with the Australian Standard (AS 2890.3).

Department response

The Department considers Council officers' response to be adequate.

Freight and servicing

TfNSW comment

TfNSW:

- Seeks to ensure loading and servicing demands can be accommodated within sites rather than relying on kerbside space;
- advises it supports provisions to prohibit vehicular access from a classified road; and
- that Council ensures an appropriate laneway network is established for rear servicing and vehicle access.

Council officer response

In response, Council officers noted provisions around vehicular entries and off-street loading docks for freight and service vehicles are included in the draft DCP, including prohibition of vehicle access including for freight and service vehicles off Parramatta Road.

Department response

The Department considers Council's response to be adequate.

Comments on the Precinct Traffic and Transport Study and Action Plan

TfNSW comment

TfNSW provided specific comments, suggestions and requests for clarifications on the Traffic and Transport Study, including:

- refinement of various traffic and intersection upgrades and solutions;
- updates to account for new and modified bus routes; and
- updates to account for recent road and pedestrian improvements.

TfNSW also raised concerns that the Precinct Traffic and Transport Study has not investigated and/or proposed certain interventions for the state road network that are recommended by the PRCUTS Precinct Transport Report (UrbanGrowth NSW, 2016).

Council officer response

In response, Council officers reviewed the detailed comments and made various amendments and updates to the Precinct Traffic and Transport Study to address the feedback from TfNSW. Changes made include the following:

- Council considered and removed most 'No Parking' or 'No Stopping' restrictions on all proposed Clearways in the study area, as TfNSW advised that Clearways are generally not used on local/regional roads;
- undertook a check that the Precinct Traffic and Transport Study and proposal are compatible with the most up-to-date Metro plans. This included an update to the Burwood-Concord Master Plan to include the latest information from the Metro project team on the Burwood North Metro station; and
- the estimated costs for various transport proposals presented in Table 10.1: Consolidated Actions Table in the study was updated to reflect increased construction costs.

Department response

The Department considers Council's response adequate, noting:

- the Precinct Traffic and Transport Study has been prepared to address the Gateway conditions, section 9.1 Direction and PRCUTS *Implementation Update 2021*;
- Council has considered each of these points raised by TfNSW and made various amendments to the Traffic and Transport Study, reflected in the final version dated 5 October 2022; and
- some matters that can be addressed separately to the proposal and the Department encourages Council and TfNSW's ongoing engagement and collaboration. This includes necessary road improvements which can be addressed as part of the development application process in consultation with TfNSW.

Sydney Metro**Active Street Frontages and FSR Mapping**

The northern site of the future Burwood North metro station is within the Burwood-Concord Precinct (the Burwood North Metro Station is identified as Key Site Area 9 in the proposal) and subject to proposed revised planning controls. Metro is supportive of the strategic intent of the proposal and the proposed changes to the LEP as they relate to the metro site.

Sydney Metro provided feedback and suggested changes to the proposal, including to:

- focus active street frontages on key locations along Parramatta Road and Burwood Road, and intersection with new laneways rather than the entirety of these frontages; and
- apply the Community Infrastructure FSR map on development areas.

Council officer response

In response, Council officers undertook the following actions:

- amended the active street frontages maps to align with Metro's concept design for frontages to Parramatta and Burwood Roads and new laneways; and
- advised the Community Infrastructure FSR Map consistently applied FSR to development areas, excluding only existing public roadways.

Department response

The Department considers Council officers' response to be adequate, noting:

- that it gives effect to the future Burwood North Metro Station; and

- Council's post-exhibition changes are discussed in further detail in **Section 3.3** of this report.

DCP and Masterplan comments

Sydney Metro provided the following comments on the draft DCP and Burwood-Concord Master Plan:

- relocate the 'potential open space' within 19-26 Parramatta Road to the intersection of Burwood Road and Burton Street;
- suggest a four-storey street wall height along Burton Street;
- metro's current concept master plan supports the realisation of Council's masterplan for the whole block. Metro supports ongoing discussions with adjacent landowners and Council to review the proposed Burton Street Plaza's optimal siting, function and design;
- supports adaptable and unbundled maximum residential car parking rates to reduce car dependency in areas with access to public transport;
- suggests noting the design and operation of future links and their interface with any future development and public spaces is subject to final design of the metro station; and
- notes any future development on land above the Sydney Metro West tunnel must consider the SEPP (Transport and Infrastructure) 2021 and relevant Metro Corridor Guidelines.

Council officer response

In response, Council officers:

- relocated the 'potential open space' in the Masterplan as requested to provide an activated public space adjacent to future development and enable a more positive interface with the metro station entry and bus interchange; and
- made no change has been made on the street wall height along Burton Street. The PRCUTS Masterplan modelled the two-storey street wall heights proposed based on the key priority of the PRCUTS local character statements and an aim to accentuate horizontality along the streets which has been consistency applied through the precincts.

Department response

The Department notes these matters, the Council officers' response, including the post-exhibition changes. The post-exhibition changes made by Council officers and the Department's post-exhibition response are discussed further in **Section 3.4** of this report.

School Infrastructure NSW (SINSW)

SINSW has advised that:

- while the overall growth proposed by the PRCUTS will result in demand for additional educational infrastructure within the corridor, a portion of the growth stemming from the Stage 1 proposal can likely be absorbed by the existing schools (within and around) each precinct. Optioneering has commenced to identify appropriate solutions to accommodate the projected enrolment demand;
- measures should be prioritised to increase walkability from the uplift areas to the schools within each precinct; and
- infrastructure required to facilitate increased travel demand from the residential areas should be considered.

SINSW requests that:

- it be consulted on any proposed designs and works which may impact existing school travel paths (such as the proposed new road connection from Victoria Avenue public school to George Street) prior to implementation;
- transport planning for the precincts include fine-grain analysis of connectivity and active travel options, and consideration of the proposal's contribution to the functional and active transport networks to service the remainder of the PRCUTS area; and
- transport planning for each precinct be guided by the NSW Government's Movement and Place Framework (MAPF) and its Built Environment Performance Indicators.

Council officer response

In response, Council officers noted:

- with concern the Agency's advice that *some* of the growth associated with Stage 1 of the PRCUTS *can likely* be absorbed by the existing schools. Council is available to assist investigations to ensure that planning is undertaken to accommodate projected demand for school places; and
- the proposal prioritises the design and delivery of active transport, including linking to schools within the precincts. Council intends to extend and consolidate the active transport network as part of the PRCUTS Stage 2 project, to fill gaps in and integrate with the existing network. Schools Infrastructure NSW will be consulted in relation to further staged PRCUTS implementation work.

Department response

The Department considers Council officers' response to be adequate and encourages Council to continue collaborating with SINSW to ensure delivery of education infrastructure.

State Emergency Service (SES)

SES noted that the proposal includes land that subject to flash flooding and will result in a substantial increase in population in the flood planning area.

SES raise the following concerns:

- inadequate evidence to support shelter in place as a primary risk management strategy, placing a large population at risk of flash flooding;
- limited flood information available for some of the areas identified in the planning proposal to enable a detailed risk assessment by NSW SES; and
- deferral of addressing the CB DCP for the sites until a later stage of the approval process.

In response, SES made the following recommendations:

- commercial development (including retail) - All ground floor businesses and retail floors must be above the 1% AEP flood levels and access to the basement must be above Probable Maximum Flood (PMF) level. There must also be the provision of sufficient readily accessible habitable areas above the PMF to cater for the safety of potential occupants, clients and visitors in commercial development;
- sensitive development - Any childcare facilities, schools, medical centres, day hospital within the building must be located with floor levels above the PMF level;
- making buildings as safe as possible to occupy during flood events- ensuring buildings are designed for the potential flood and debris loadings of the PMF so that structural failure is avoided during a flood;
- limiting exposure of people to floodwaters - this can be aided by providing sufficient readily accessible areas above the PMF to cater for potential occupants, clients and visitors.

Building security and access should ensure accessibility to habitable areas within the building above the PMF;

- car parking - any parking should be above ground level to facilitate safe and effective vehicular evacuation and have pedestrian access to a podium level above the PMF to increase human safety. Pedestrian evacuation and shelter in place are not appropriate primary flood risk management strategies. The Flood Assessment for Concord West Precinct Masterplan should be updated to reflect this, as well as any future changes to the DCP;
- provision of publicly accessible space for the itinerant population in areas surrounding intensive development - provision of publicly accessible space or access to space above the PMF (with adequate infrastructure to enable the physically impaired to access such space) that is easily accessible 24 hours a day for seven days a week which is clearly identified for this purpose with associated directional signage;
- providing adequate services so people are less likely to enter floodwaters - this includes access to ablutions, water, power and basic first aid equipment. Consideration must be given to the availability of on-site systems to provide for power, water and sewage services for the likely flood duration of surrounding areas (which may exceed several hours) plus a further period to provide allowance for restoration of external services;
- addressing secondary risks of fire and medical emergencies during floods - to minimise the increased risk of fire and to reduce both the potential for adverse outcomes in the case of a medical emergency and the risks to those who may aid the patient, Council, DPE, NSW SES, Ambulance NSW and the relevant Health Functional area and fire agency servicing the area, should be consulted to determine appropriate risk management strategies during flooding; and
- remove the first paragraph on page 43 of the *PRCUTS Flood Risk Assessment*. The submission also requests that the flood study for the area to be uploaded to the NSW Flood Data Portal, including the spatial data associated with the Powells Creek Flood Study once complete.

Council officer response

In response, Council officers noted:

- that under the LEP, development must be consistent with the DPE *Considering Flooding in Land Use Planning Guideline* (14 July 2021);
- the Flood Controls define and pertain to commercial development, sensitive development, car parking and driveway access, evacuation, flood warning and management. The Flood Controls also specify that an evacuation plan does not negate requirements for compliance with planning and building regulations;
- Council's flood engineers have reviewed the submission and advised that:
 - the planning controls in the DCP are deemed adequate to manage flood risks in flood affected land, noting that Council is currently finalising additional flood studies and that the DCP controls will be further updated at that time;
 - the Draft Powells Creek Flood Study was recently publicly exhibited for community consultation, it will be uploaded to the NSW Flood Data Portal following endorsement by Council;
 - the DCP controls have been updated to:
 - include references in the controls to refer to Annual Exceedance Probability (AEP); and
 - clarify the conversion of ARI to AEP by including Figure 1.2.1. from Australian Rainfall and Runoff – A Guide to Flood Estimation 2019.

- removal of the first paragraph on page 43 of the PRCUTS Flood Risk Assessment is not supported. Council's DCP currently prescribes variable freeboards to tailor the magnitude of the freeboard to local circumstances; and
- the Powells Creek Flood Risk Management Study and Plan will further analyse several locations for possible flood mitigation works and evacuation strategies.

Department response

The Department considers Council officers' response to be adequate, noting:

- the Gateway assessment considered the proposal's inconsistency with Ministerial Direction to be minor and justified, because:
 - no changes are proposed to the zoning of flood affected lots in the Homebush North Precinct. This includes land at 7 Concord Avenue, 2 Station Avenue, 2020 George Street, 71-73 Victoria Avenue and residential properties west of King Street and north of Victoria Avenue.
Council has commenced a flood study for the Powell's Creek catchment which is expected to be completed mid-2022. The flood study will inform any future land use change and planning proposal for deferred areas in the Homebush North (areas identified above);
 - Council has undertaken the Parramatta Road Corridor Flood Risk Assessment (2020) for the Kings Bay and Burwood-Concord Precincts. The assessment was prepared in accordance with the technical requirements of the Floodplain Development Manual 2005 and consistent with Council's existing flood planning controls.

The study identified land in the Kings Bay Precinct, within the vicinity of William and Spencer Streets subject to flooding in a 1% AEP event. The flood risk is limited to properties fronting Spencer Street, with flood depths ranging from 15cm to 1m with the greatest depth concentrated within the Spencer Street road reserve.

Based on the proposed built form in the PRCUTS, the Flood Risk Assessment identified that the planning proposal would result in decreased flood levels within the Precinct, but an increase to flood levels downstream of more than 0.01m.

The planning proposal seeks to permit a significant increase in the development in the Kings Bay Precinct; however, the planning proposal does not seek to permit development in any floodway areas or allow development for the purpose of residential accommodation in high hazard areas.

To address flood risk and mitigate any impacts as part of future development, the planning proposal seeks to introduce a flood planning level equal to the 1 in 100-year flood level plus freeboard for the Kings Bay Precinct.

- NSW Flood Planning Manual notes the prime responsibility for local planning and land management, including floodplain risk management, rests with councils. In this regard, Council considers that the proposal does not cause unacceptable flooding risk.

Environment, Energy and Science Group of the Department of Planning and Environment (EES Group)

EES (now Environment and Heritage Group (EHG)) considers that the planning proposal has the potential to improve environmental and planning outcomes; however, would benefit from additional consideration of potential flooding impacts.

Flooding

EES notes:

- that some of the proposed rezoning seeks to allow B4 zoning on flood prone land. The flood study identifies that sea level rise will have a significant impact on flood heights in some areas proposed for rezoning. It is unclear what measures will be in place to mitigate flood risks, including under likely climate change scenarios, at these locations to ensure that the proposed zoning is appropriate;
- that changes to the Homebush North Precinct are inconsistent with the Local Planning Direction (LPD) on flooding and as such would not be pursued until the inconsistencies can be given proper consideration. EES supports review of the rezoning of the relevant properties when suitable information is available. However, Council should consider the option of retaining the existing zoning to avoid intensification of development;
- the Kings Bay Precinct of the proposal presents an opportunity to consider existing local flooding problems in a holistic sense, with a view to improving the current situation. This would be consistent with the objectives of the Floodplain Development Manual and the flooding section of the *Canada Bay Development Control Plan 2017*;
- the proposal appears to consider how future development may be sympathetic to flooding and help mitigate flooding to some degree. However, the proposal is predicted to have adverse impacts in the probable maximum flood and should document if this includes any existing critical or sensitive uses;
- the Kings Bay and Burwood precincts proposal documentation does not appear to address inconsistencies with the LPD on flooding. The consultant's flood report refers to the direction but does not discuss or justify inconsistencies between the proposal and the direction;
- the proposal should be clear on how the flood model results for climate change will be incorporated into the design. Given flood level increases, of up to 0.17 m, Council may consider it prudent to include climate change in flood planning levels. EES does not consider the freeboard accommodates the expected impact of climate change on flood levels; and
- the provided flood modelling uses zero blockage of pipes, culverts or bridges with a diameter greater than 300mm. EES considers that it would be reasonable to consider appropriate blockage factors before using flood modelling results to determine flood planning levels.

Department response

The Department notes this submission, agrees that the proposal presents an opportunity to consider existing local flooding problems in a holistic sense and refers to the detailed response to the SES submission earlier in **Section 3.2** of this report.

Climate change and resilience

EES:

- supports the improved BASIX water and energy targets for residential development, demonstration of meeting a 25% canopy cover target, and provision of recycled water as measures to improve the resilience to climate change;
- recommends a more holistic assessment of climate risk using an appropriate risk management approach, consistent with *AS 5534:2013 Climate Change Adaptation for Settlements and Infrastructure* or *ISO 31000-2018 – Risk Management – Principles and Guidelines*. Used at the DA stage, this will assist in ensuring future climate change risks and opportunities are understood and either built into design or into management plans; and

- regarding canopy cover, EES considers that there would be additional benefit to include a preference for native, preferable local, species to be used, as appropriate and feasible. Species will differ in their vulnerability to climate change. EES recommends use of the *Climate Ready Revegetation Guide* to inform decision making around species selection and planting design. The guide provides instruction on how to use climate change projections to determine the suitability of species and provenance selection.

Department response

The Department acknowledges these matters raised in the submission, noting:

- *AS 5534:2013 Climate Change Adaptation for Settlements and Infrastructure* or *ISO 31000-2018 – Risk Management – Principles and Guidelines* can be applied through the development application process; and
- *Climate Ready Revegetation Guide* can be implemented through Council's DCP and the development application process.

Sydney Water

Sydney Water:

- support Council's vision for growth, water efficiency and sustainability; and
- requests advice on anticipated yearly staging of growth to assist in assessing the impact of the proposed changes. This will Sydney Water to plan for water related infrastructure in a sequenced manner and assist with the agency's internal funding processes.

Council officer response

Council will contribute to update the PRCUTS Collaborate webpage to advise stakeholders of progress.

Department response

Council has adequately addressed Sydney Water's submission.

Burwood Council

Burwood Council expressed:

- disappointment that they and the Burwood community were not more involved in the planning of the Burwood Precinct; and
- concerns that the proposed FSRs may not be economically viable.

Burwood Council requested that:

- Canada Bay Council consult more fully with Burwood Council and the Burwood community on any significant changes to either the planning proposal or the DCP that require re-exhibition and for future issues that span both LGAs;
- Burwood Council be able to review any land use economic testing by Canada Bay Council to ensure viability and alignment of methodology between the two LGAs;
- further information be provided to Burwood Council about the three new map series for Community Infrastructure Height of Buildings, Community Infrastructure FSR and Design Excellence Map, which Burwood Council support to provide an incentive for the provision of infrastructure by developers; and
- solar performance and solar impacts do not compromise the pedestrian environment in mid-winter on the southern side of Parramatta Road and the entrance to the new Metro station, with regard to positioning of the higher tower forms towards the southern side.

Council officer response

In response, Council officers noted:

- The PRCUTS was adopted by the NSW Government in 2016 following engagement with communities and councils along the corridor. The proposal and supporting documents are generally consistent with the outcomes contemplated by PRCUTS;
- Canada Bay Council will seek to fully engage with Burwood Council and the Burwood community in the event that the proposal or DCP be re-exhibited, and other future issues that span both LGAs;
- Council offices are available to meet with Burwood Council Officers to discuss the draft planning proposal's mechanism to deliver community infrastructure; and
- the Masterplan and any subsequent revisions were produced to ensure that a majority of the pedestrian environment and building frontage on the southern side of Parramatta Road will have at least 2 or more hours of direct solar access on 21 June (mid-winter) between 9am and 3pm.

Department response

The Department considers Council officers' response to be adequate, with Councils encouraged to continue ongoing collaboration to implement the PRCUTS.

Inner West Council (IWC)

Inner West Council raised the following concerns with the following elements of the planning proposal:

- the Kings Bay Precinct:
 - the proposed 3:1 maximum FSR and 80m building heights and impacts on existing character of the surrounding area and potential adverse amenity impacts;
 - the lack of staging of the proposed FSRs and heights to reflect revised conclusions of the Precinct Traffic and Transport Study;
 - the lack of a firm commitment by TfNSW to provide additional public transport improvements to Parramatta Road, or a rapid transport system;
 - the development of 3,293 new dwellings, 20,450sqm retail GFA and 6,935sqm commercial GFA exceeds the proposed number of dwellings and jobs anticipated under PRCUTS of 2,510 new dwellings and 4,440 new jobs in the entire Kings Bay Precinct up to 2050; and
 - significant increase in local traffic of 35% to 39% from 2019 levels and pressures on local infrastructure, including within the Inner West LGA, which are based on only minor variation to existing public transport services along Parramatta Road and due to the relatively low level of direct public transport accessibility and heavy reliance on private cars.
- Parramatta Road lane widenings to support additional traffic movement. Acquisition of the 'green edge setback' for new traffic or a public transport lane will create two distinct, disjointed and distorted public domain outcomes in the Corridor;
- provision by the Precinct Traffic and Transport Study of:
 - generic actions which lack firm timeframes and budgets.
 - only minor discussion of public and active transport that do not directly link to the future Five Dock Metro Station.
 - discussion of additional bus lanes, which is an existing requirement of Westconnex and does not minimise traffic generated by the uplift.
 - lack of discussion about impacts on the surrounding local roads in the IWC LGA.

- adoption of a 'predict and provide' approach, rather than a 'vision and validate' approach, which should also be reflected in the planning proposal by staging growth or reducing uplift.
- provision of community and social infrastructure (separate to open space provision).

The submission makes the following recommendations:

- that the proposed uplift, FSRs and building heights be revised to be in keeping with the local amenity and infrastructure limitations of the locality;
- consider and appropriately respond to the outcomes of the Precinct Traffic and Transport Study;
- pause the level of growth envisaged in the planning proposal until there are committed agreements in place regarding provision of public and active transport; and
- IWC and Canada Bay Council collaborate on further analysis of future community and social infrastructure needs of the Kings Bay Precinct.

Inner West Council requests:

- clarification of the short and long term uses of the proposed 6m setback along Parramatta Road, including the existing verge, noting that IWC is seeking to reduce the green edge to 1.5m width (for kerbside extensions, landscaping and water sensitive urban design) to allow for larger rear setbacks to low-lying residential areas along Dalmar Street;
- that the Department pause progression of the planning proposal until all traffic and transport issues for the entire Kings Bay Precinct have been resolved and commitments in place by NSW Government to provide on-street rapid transit along Parramatta Road; and
- that Canada Bay Council collaborate and advocate with IWC for 24-hour public transport/ mass transit lanes for Parramatta Road.

Council officer response

In response, Council officers noted:

- the proposal is consistent with the revised conclusions of the Precinct Traffic and Transport Study;
- the supporting Masterplan has estimated that the proposal will deliver approximately 2,779 new dwellings, 43,913sqm retail GFA, 24,187sqm commercial GFA and 2,068 jobs in Stage 1 of the Kings Bay Precinct. This was predicated on full take-up of the rezoning;
- the Masterplan was predicated on implementing the required PRCUTS 6m wide 'green edge setback' along Parramatta Road. This will create a softer and more activated edge to a currently busy and congested road. Council was unaware that IWC was considering decreasing the 6m public domain;
- the Precinct Traffic and Transport Study states, *"TfNSW's shift from utilising 'Predict and Provide' to 'Vision and Validate' in transport planning is currently in development and its application tools are yet to be released to local government and industry. ... The approach used in this study essentially commenced on a 'predict and provide' basis but has since shifted to consider 'vision and validate' principles. Specifically, this means that all of the traffic congestion issues identified in the future are not intended to be 'solved'. Rather, a balanced approach has been taken, blending the interpretation of simulation modelling results with the achievement of broader objectives of more trips being made by walking, cycling and public transport in safer, 'people-friendly' street environments."*;
- the community and social infrastructure that will be provided is a requirement under the PRCUTS and supported by Council's *Social Infrastructure (Community) Strategy* (2019) and *Recreation and Open Space Strategy* (2019), which also informed the Canada Bay

LSPS. Council will, however, continue to work with all adjoining councils to ensure a common understanding of Council's objectives and plans;

- Council will continue to implement the planning proposal to ensure that the area is rezoned in a holistic manner, rather than by way of disconnected spot rezonings – which are now permissible under the PRCUTS Implementation Update 2021;
- Council will collaborate with neighbouring councils to ensure the impacts of the development are monitored and, where necessary, consider further actions to address impacts, including unforeseen additional needs for community infrastructure and public and active transport;
- Council will progress the 6m green edge setback to Parramatta Road with appropriate increases to accommodate a dedicated public transport lane as required by TfNSW; and
- Council will collaborate and advocate with IWC for 24-hour public transport/ mass transit lanes for Parramatta Road.

Department response

The Department considers Council officers' response to be adequate, noting:

- Councils are encouraged to continue ongoing collaboration to implement the PRCUTS; and
- supports Councils advocating for improved public transport outcomes.

3.3 Council officer post-exhibition changes

In response to community and agency submissions, Council officers recommended the following post-exhibition changes in the 18 October 2022 report to Council:

Table 4 Council officer recommended post-exhibition changes

<u>Post-exhibition recommendations</u>	
Maximum car parking rates	
Proposed amendment	<p>Introduce a clause that applies to development in the three Precincts that:</p> <ul style="list-style-type: none"> • identifies the maximum number of car parking spaces that may be provided as set out in Table below; • requires car parking for dual occupancies, multi dwelling housing, residential flat buildings and shop top housing to be provided as unbundled car parking; and • introduces definitions in the clause for: car parking space, visitor car parking space and unbundled parking.

Post-exhibition recommendations

Table 5 Proposed maximum car parking rates

*Note – during the Department's finalisation assessment, Council officers clarified that the proposed maximum car parking rates for commercial, retail and restaurants or cafes were inadvertently incorrect and should be as per the PRCUTS recommendations. The rates in the table above reflect the updated rates, the previous rates in the proposal were slightly lower.

Residential (max car spaces per dwelling)	Other uses (max car spaces per sqm of GFA)*
For dual occupancies, multi dwelling housing, residential flat buildings and shop top housing— <ul style="list-style-type: none"> • 0.3 spaces per studio; • 0.5 spaces per 1 bedroom; • 0.9 spaces per 2 bedrooms; • 1.2 spaces per 3 or more bedrooms; and • 0.1 visitor car parking space per dwelling.* 	<ul style="list-style-type: none"> • for commercial premises other than retail premises—1 space per 100 m² of gross floor area (GFA) used for that purpose; and • for retail premises—1 space per 70 m² of GFA used for that purpose.

Council comment The rates are in accordance with the PRCUTS and intend to limit trip generation and local traffic impacts.

Department assessment The PRCUTS Planning and Design Guidelines recommend maximum car parking rates for the Kings Bay, Burwood and Homebush Precincts which the proposal seeks to utilise. The proposal seeks to include restaurants and cafes in the retail premises rate, whereas the PRCUTS doesn't include a rate for these uses. There is no objection to the proposed rates.

The Department does not support the requirement for unbundled car parking to be included in the LEP. The Department's assessment of this is in **Section 3.4** below.

Council has provided indicative definitions for certain terms. The wording of the definitions may be subject to change as a result of the drafting process as the wording is for the Parliamentary Counsels Office (PCO) to determine.

Tower floor plates

Proposed amendment Introduce a new clause to limit floor plates above the level of podiums to a maximum of 750sqm gross floor area (GFA).

Council comment This is proposed to create slender tower forms, minimise the impact of tower buildings and ensure the PRCUTS requirement is met. The planning proposal states requirement has been adopted during the preparation of the master plans for the Burwood-Concord and the Kings Bay Precincts. It recommended this requirement be included as a development standard in the LEP to:

- minimise shadow impact on surrounding streets, open space and properties;
- minimise loss of sky view from the public realm;
- allow for natural light into interior spaces, and;
- visually diminish overall scale of building mass.

Post-exhibition recommendations

Department assessment	The Department acknowledges Council officers' reasoning, however, does not support the tower floor plate provision to be included in the LEP. The Department's assessment of this is in Section 3.4 below.
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BASIX incentive targets (reframing of proposed clause)

Proposed amendment	<p>Reframing of the proposed new BASIX incentive clause. The existing proposed clause is proposed where if certain increased BASIX energy and water targets are met, BASIX affected development in the precincts may exceed the maximum FSR shown for the land on the Floor Space Ratio Map and/or the Community Infrastructure Incentive FSR Map by up to 5%.</p> <p>The proposal as exhibited, set out specific proposed incentive BASIX energy and water targets as recommended in the PRCUTS. The energy target varied depending on the number of storeys.</p> <p>Council's post-exhibition recommendation is that the proposed BASIX energy and water targets be expressed differently. The up to 5% FSR bonus is intended to be accessed only if:</p> <ul style="list-style-type: none"> the building exceeds the BASIX commitment for energy for the building by at least 15 points; and the building exceeds the BASIX commitment for water for the building by at least 20 points.
Council comment	<p>The wording has been amended to account for the NSW State Government's proposed changes to BASIX standards set out in the <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> however the intention of the proposal is unchanged.</p> <p>The proposed change from numerical benchmarks to a percentage basis will also accommodate future changes to the standards without the need to amend the LEP.</p> <p>Council notes the intended approach is intended to be similar to clause 7.11 Additional floor space for certain BASIX affected buildings in Rhodes Precinct in the Canada Bay LEP.</p>
Department assessment	<p>The intent of the clause is unchanged in that the provision will incentivise increased BASIX energy and water standards for development in the precincts and encourage high performing residential buildings.</p> <p>The Department notes that higher BASIX energy standards are included in the Sustainable Buildings SEPP, commencing 1 October 2023. As such, the proposed higher energy standards (+15 points) will be harder to achieve from this date. The water standards will remain unchanged from those in the BASIX SEPP. Commentary against the Sustainable Buildings SEPP is included in Section 4.1 of this report.</p>

Schedule 1 – Additional Permitted Uses

Post-exhibition recommendations

Proposed amendment	<p>Remove two existing Canada Bay LEP clauses - 14A and 15A in Schedule 1 Additional Permitted Uses.</p> <ul style="list-style-type: none"> 14A Use of certain land at 95 and 97–99 Queens Road, Five Dock <ol style="list-style-type: none"> This clause applies to land at 95 and 97–99 Queens Road, Five Dock, being Lot 92, DP 1047100 and Lot 11, DP 1135519. Development for the purpose of a centre-based child care facility is permitted with development consent. 15A Use of certain land at 25–27 Spencer Street, Five Dock <ol style="list-style-type: none"> This clause applies to land at 25–27 Spencer Street, Five Dock, being Lots 12 and 13, DP 11967. Development for the purpose of a centre-based child care facility is permitted with development consent.
Council comment	The use as a centre-based child care facility becomes permissible under the proposed rezoning of these sites from IN1 General Industrial to B4 Mixed Use zone.
Department assessment	No objection – concurs with Council's justification. The rezoning of these sites to B4 means the APUs for centre-based child care facilities are not required. This aspect of the proposal has been included in the draft LEP.

Road widening along Parramatta Road

Proposed amendments	<p>Council officers amended the proposal to deliver the wider road corridor along Parramatta Road requested by Transport for NSW. The proposal seeks to retain the proposed 6m green edge setback to Parramatta Road and incorporate the road widening in addition to this setback.</p> <p>This resulted in the following amendments:</p> <ul style="list-style-type: none"> Inclusion of the road widening as part of the proposed local community infrastructure contribution mechanism in the LEP. It is intended to allow for the land acquisition to contribute to GFA calculations as exhibited. Revised proposed incentive building heights and FSRs for key sites with frontage to Parramatta Road. In particular, a wider public domain with 2.5m height limit.
Council comment	<p>The request is in response to the request in TfNSW's submission and further correspondence with Council. This amendment will facilitate a future dedicated bus lane which aligns with requirements in the PRCUTS.</p> <p>The revised post-exhibition Kings Bay and Burwood-Concord master plans recommends some adjustments to proposed maximum incentive heights and FSRs that achieve maximum development yields and ADG compliance.</p> <p>A wider public domain with 2.5m height limit is proposed to enable a future dedicated public transport lane along Parramatta Road.</p>
Department assessment	The Department notes Council's response above. It is acknowledged this amendment is made in response to TfNSW, a government agency's submission requesting the reservation of this land. The delivery of a Parramatta Road Corridor on-street rapid transit route in the future is envisaged in the PRCUTS.

Post-exhibition recommendations

The Department has made changes to the proposed mechanism for reserving the areas for road widening as outlined in **Section 3.4** of this report.

Amended incentive heights and floor space ratios

In response to submissions, Council officers made various amendments to proposed incentive HOB and FSR standards for sites in the Burwood-Council and Kings Bay Precincts post-exhibition.

As part of its post exhibition process, Council engaged GroupGSA to undertake an independent peer-review of the submissions. This review process considered:

- the proposed built form;
- impacts of future development, including:
 - minimising overshadowing in accordance with relevant requirements, such as the Apartment Design Guide;
 - ensure building form provided an appropriate interface with public spaces through the application of consistent ground and upper floor setbacks; and
 - providing appropriate transition to surrounding development, both existing and proposed.
- address feasibility recommendations;
- the vision and objectives of the PRCUTS; and
- the publicly exhibited proposal and its intended outcomes.

Council officers subsequently recommended various amendments to incentive heights and FSRs in the Burwood-Concord and Kings Bay precincts., This process has resulted in retention of exhibited development densities (i.e. FSR) with further refinement of building heights, with the exception of a limited number of sites, being:

- Key Site Map Area 5 - 1A Broughton Street, 55 and 57-59 Parramatta Road, Concord;
- Key Site Map Area 7 - 29-45 Parramatta Road, Concord;
- Key Site Map Area 9 - 19 Parramatta Road (Lot A DP 340812) 20 and 26 Burton Street, and 11 and 13 Burwood Road, Concord (Burwood North Metro Station Site); and
- Key Site Map Area 11 - 235 Parramatta Road, Five Dock.

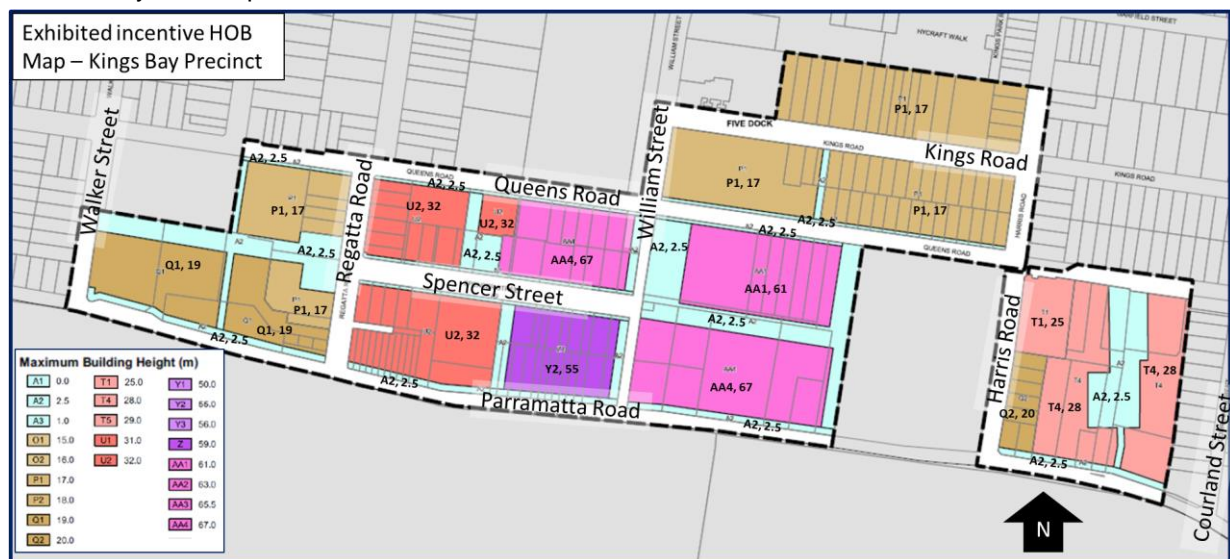


Figure 5 – Exhibited incentive HOB Map for Kings Bay precinct (Base source: planning proposal)

Post-exhibition recommendations

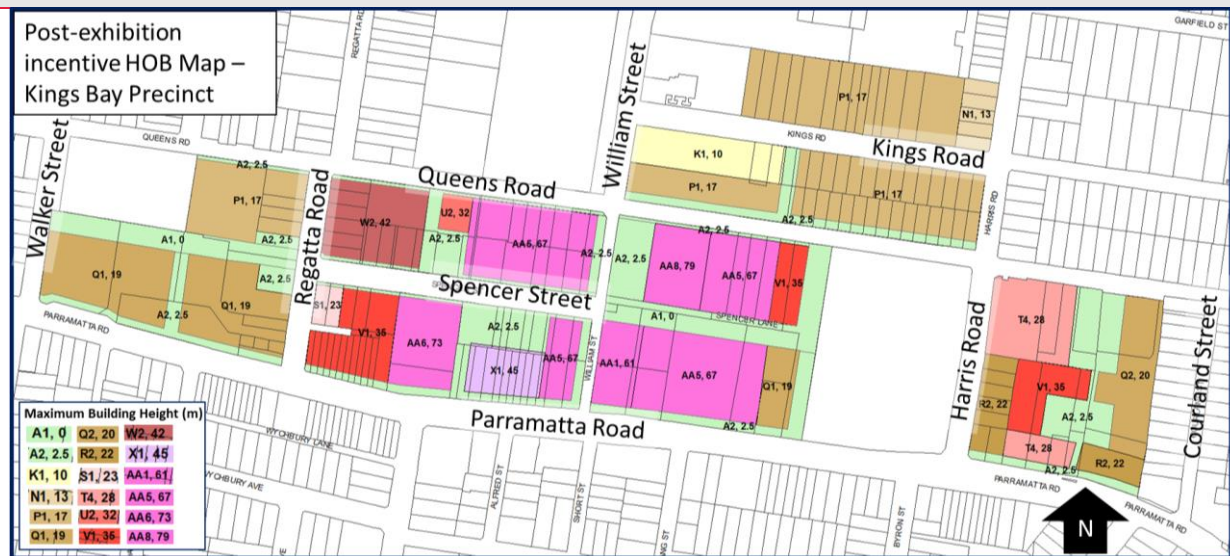


Figure 6 – Post-exhibition incentive HOB Map for Kings Bay precinct (Base source: planning proposal)

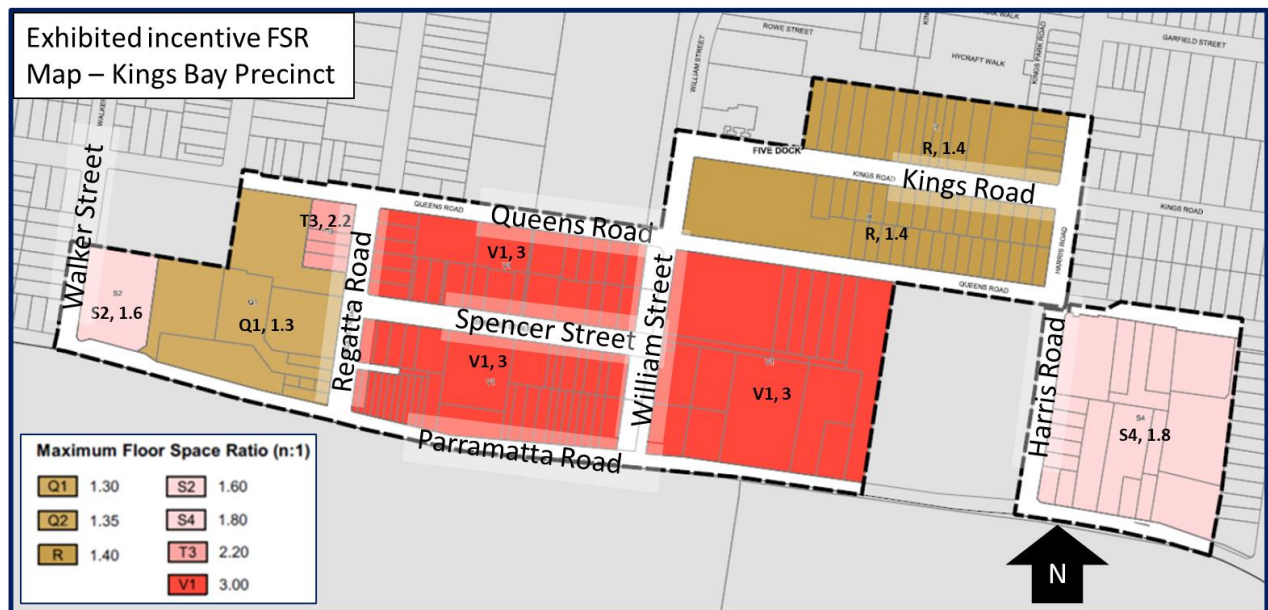


Figure 7 – Exhibited incentive FSR Map for Kings Bay precinct (Base source: planning proposal)

Post-exhibition recommendations

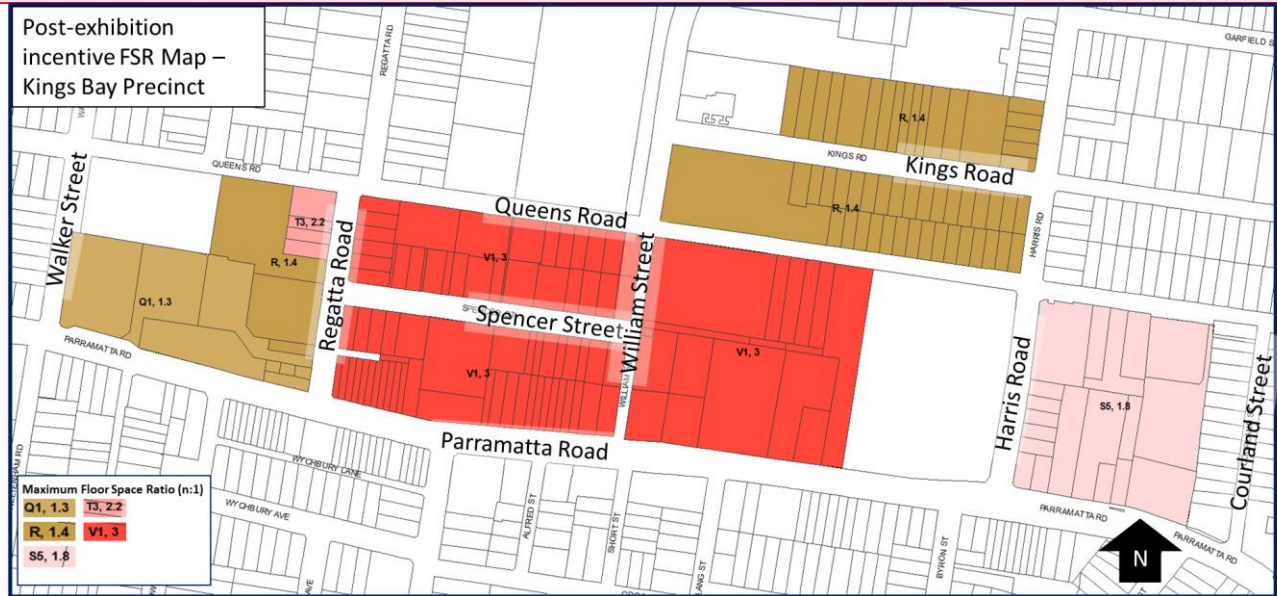


Figure 8 – Post-exhibition incentive FSR Map for Kings Bay precinct (Base source: planning proposal)

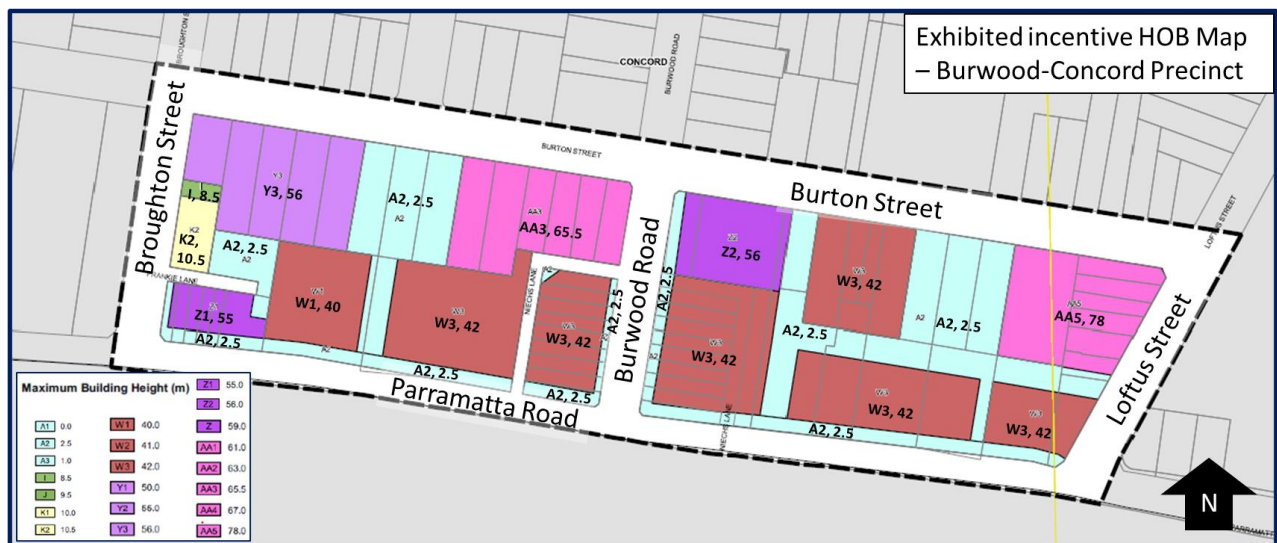


Figure 9 – Exhibited incentive HOB Map for the Burwood-Concord precinct (Base source: planning proposal)

Post-exhibition recommendations

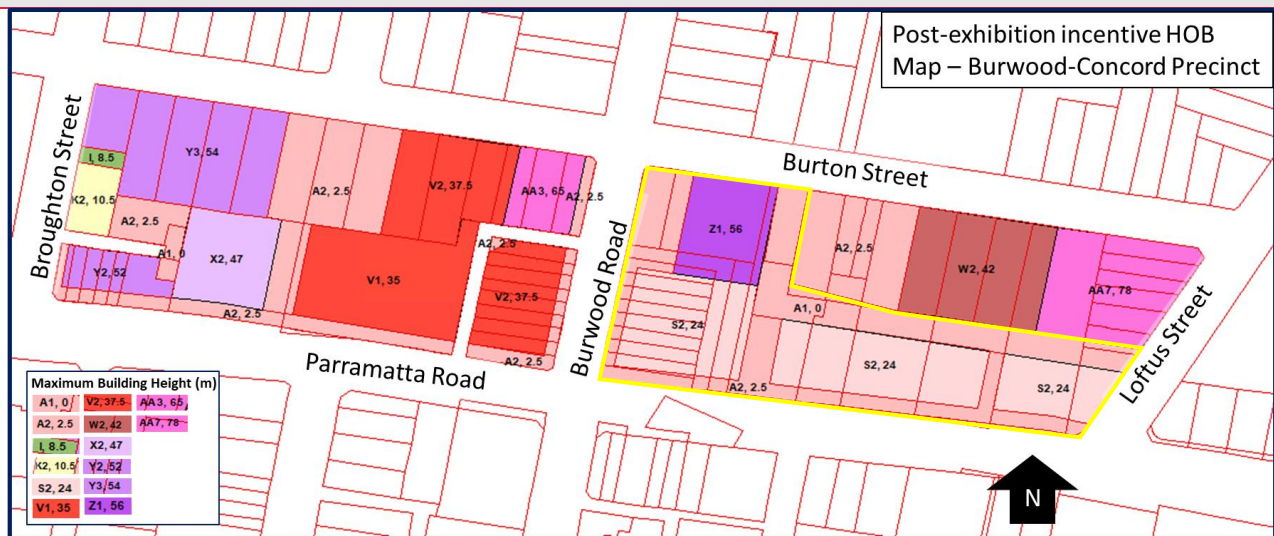


Figure 10 – Post-exhibition incentive HOB Map for the Burwood-Concord precinct (Base source: planning proposal)



Figure 11 – Exhibited incentive FSR Map for the Burwood-Concord precinct (Base source: planning proposal)

Post-exhibition recommendations

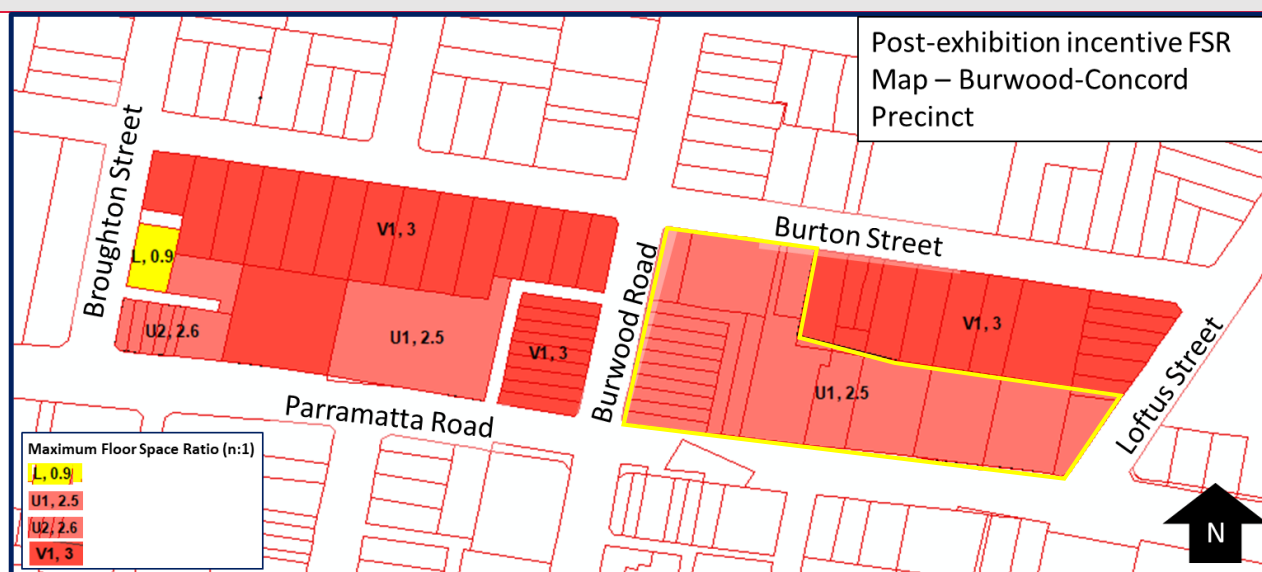


Figure 12 – Post-exhibition incentive FSR Map for the Burwood-Concord precinct (Base source: planning proposal)

Department's Assessment

The Department considers Council's approach to be adequate, noting:

- in some instances, this has resulted in higher maximum building heights than exhibited. These further refinement of maximum building heights are acceptable, as they:
 - respond to submissions;
 - retain acceptable built form outcomes;
 - give effect to the exhibited proposal; and
 - give effect the objectives of the PRCUTS.
- the reduction of development density on a limited number of sites is generally supported, as they:
 - respond to submissions;
 - retain acceptable built form outcomes by providing alignment with amended building heights;
 - give effect to the exhibited proposal; and
 - give effect the objectives of the PRCUTS.

Despite the Department supporting Council's approach to peer reviewing submissions post-exhibition, the amended incentive standards for the Burwood North Metro Station Site – (Key Site Map Area 9) are not supported. This has been amended by the Department and is discussed further in **Section 3.4** of this report.

Changes to Key Site boundaries

Proposed amendments

Amended the Key Sites boundaries on the proposed Key Sites Maps for the following sites:

- Key Sites 9 and 10** (Eastern side of Burwood-Concord precinct): Realignment of the boundary between these two Key Sites.
- Key Site 23** (92-96 Kings Road and 1-9 Harris Road, Five Dock) (Kings Bay precinct): Splitting Key Site 23 into two Key Sites (Key Site 23 and Key Site 24).

Post-exhibition recommendations	
Council comment	<p>The amendments are in response to requests in landowner submissions. The submissions seeking key site boundary changes were peer reviewed by urban design consultants who considered implications on future character, bulk and scale and potential impacts of the proposals on surrounding areas. Council reviewed the recommendations of the urban design review and recommended the boundaries be amended. Specific to each site, reasons included:</p> <ul style="list-style-type: none"> • Key Sites 9 and 10: The requested boundary alignment between the sites will facilitate the delivery of the proposal laneway, new public park and improve the functionality of these spaces. • Key Site 23: The strata building at 92-96 Kings Road is unlikely to be redeveloped in the short-medium term. Separating the Key Sites into two will allow redevelopment of the existing detached houses on Harris Street whilst not preventing or limiting future redevelopment of the strata building to the PRCUTS recommended densities.
Department assessment	<p>The Department raises no objection to the proposed amendments – the amendments respond to submissions and potential implications have been subject to urban design peer review.</p> <p>It is also noted that as a result of this change the height on proposed Key Site 24 has been reduced post-exhibition from 17m to 13m resulting from recommendations of the GroupGSA urban design peer review to limit overshadowing impacts to surrounding properties.</p>
Community infrastructure map series	
Proposed amendment	Introduce a new map series: Community Infrastructure Map (CINFR_003, _003A, _005, _)
Council comment	This map would identify the location of the community infrastructure identified in the community infrastructure provision requirements around public open space, roads, pedestrian links and setbacks.
Department assessment	<p>The Department notes the inclusion of this map series into the proposal.</p> <p>In response to the Parliamentary Counsels Office (PCO) drafting process, this map series has been largely removed, with the exception of a building setback map along Parramatta Road. This ensures the provision of the road widening and the 6m green edge setback.</p> <p>This amendment is administrative in nature as it responds to the PCO legal drafting process.</p>

3.4 The Department's post-exhibition changes

Following the receipt of the revised planning proposal from Council, the Department has made further changes to the proposal as discussed in **Table 6** below.

Other changes that are not discussed in the table are minor, mechanical administrative in nature that have arisen during the drafting process with Legal and Parliamentary Counsel Office.

Table 6 Department's recommended changes

Department's recommended changes	
Unbundled car parking	
Proposed amendments	Remove the proposed new clause that introduces a requirement that car parking for dual occupancies, multi dwelling housing, residential flat buildings and shop top housing is to be provided as unbundled car parking. Associated to this, remove the proposed definition of unbundled car parking in the clause.
Department assessment	It is recognised that the PRCUTS encourages parking that is unbundled or separated from dwellings and building ownership in developments. However, Council's proposed approach to make it an LEP requirement for developments is not supported. The PRCUTS Planning and Design Guidelines encourage unbundled car parking in developments but do not specify that this is to be mandatory. Despite this not being supported for inclusion in the LEP, this does not preclude the investigation and/or encouragement of unbundled parking through other mechanisms. In this regard, it is noted the draft DCP contains provisions requiring unbundled car parking in the Precincts.
Tower floor plates	
Proposed amendments	Amend the proposal to remove Council's post-exhibition amendment to limit floor plates above the podiums to a maximum of 750sqm GFA.
Department assessment	<p>The proposal states this clause is proposed to be ensure the PRCUTS requirements for maximum floor plates and amenity outcomes are met.</p> <p>The Department notes the Council officers' reasoning, however considers it unnecessary to include this provision in the LEP, because:</p> <ul style="list-style-type: none"> the detailed master planning of the precincts, which has accounted for 750sqm tower floor plates, has translated into detailed HOB and FSR controls in the precincts; noting the tower development is intended to be residential above any podiums, the Apartment Design Guide provides various planning controls which effectively regulate building depth, separation, ventilation, solar access and overshadowing to surrounding development. This ensures appropriate building mass; the supporting DCP gives further effect to the detailed master planning process undertaken by Council; and the PRCUTS does not prescribe this requirement for inclusion in the LEP.
Tree canopy target	
Proposed amendment	Remove the proposed new requirement for development in the precincts to achieve at least 25% tree canopy cover.
Department assessment	<p>A Gateway condition required that prior to finalisation, the planning proposal be revised to demonstrate how the tree canopy cover target of 25% can be achieved. This condition was to ensure that the proposed site-by-site canopy controls can be realised, noting that the Sustainable Precinct Strategy described a general precinct target including public domain.</p> <p>Council commissioned Context Landscape Architecture to prepare an Urban Canopy Assessment Report (April, 2022) of the planning proposal areas. For each precinct, the Canopy Report calculated existing canopy coverage, projected loss of existing canopy and</p>

Department's recommended changes

projected canopy capacity based off the public domain, built form and amalgamated lot boundaries from the precinct master plans and taking into account proposed DCP provisions.

For the projected canopy calculations, the Canopy Report calculated projected public canopy cover, private canopy cover and total overall canopy cover. The Canopy Report refers to the proposed DCP provisions for tree canopy.

The Department notes the draft DCP provisions for the precincts sets out numerous landscape design controls, both on a precinct-wide basis and zone-specific basis (controls for mixed use zones and residential zones). This includes a minimum of 40% projected tree canopy coverage on publicly accessible streets and laneways; minimum 75% projected tree canopy coverage for all parks; and a minimum 25% tree canopy cover across sites in residential zones and minimum 15% tree canopy cover across sites in the mixed-use zone.

It is noted that the Canopy Report makes certain recommendations for the draft DCP provisions but there is no reference to suggest tree canopy targets would be included in the LEP or any recommendations for this. Further, in the Canopy Report the 25% minimum tree canopy coverage sought by Council is treated as a percentage of the total precinct area.

The Canopy Report indicates that estimated projected canopy cover as a percentage of total precinct area would be over 25% for the three precincts. However, the report identified the projected private canopy requirements under the master plan layout for some lots could not achieve the draft DCP coverage requirements for residential zones and mixed use zones, which are less than 25%.

The planning proposal states it is seeking to add a new clause to require development to meet criteria relating to tree canopy coverage (target of 25%), as recommended by the PRCUTS and the Canada Bay Tree Canopy Strategy 2019. However, the PRCUTS Planning and Design Guidelines do not set a specific overall precinct target, or targets for development sites. Rather the Guidelines recommend on p. 48 that public domain and buildings be designed to reduce localised heat by *'targeting canopy cover of at least 60% over all pedestrian spaces (footpaths, trafficable pedestrian areas).'*

An LEP provision that sets out an overall precinct-based tree canopy target is not supported. It would be difficult to assess whether the canopy target is satisfied at the DA stage as the target would not apply on a site-by-site basis. The Department supports and recognises the need for increased tree canopy cover in the precincts to improve shade and promote urban cooling, however the LEP is not the most appropriate mechanism and tree canopy requirements should be contained in the DCP.

Similarly, minimum tree canopy cover targets for private property are more appropriate for inclusion in the DCP. This is in addition to the fact that the private tree canopy target of 25% of site area was not demonstrated to be achievable on all sites. There are certain sites that would be able to deliver higher canopy covers and others that are more constrained.

Overall, an LEP provision requiring a minimum 25% tree canopy cover target either on a precinct basis or site basis is not supported.

State infrastructure contribution requirements mechanism

Department's recommended changes

Proposed amendment	<p>The proposal seeks for future development to be subject to state/regional infrastructure contributions. It intends to apply the existing satisfactory arrangements clause under clause 6.9 Arrangements for designated State public infrastructure in the Canada Bay LEP to the land subject to this planning proposal.</p> <p>It is recommended that a “concurrence of the Planning Secretary” clause specific to the precincts is introduced rather than tapping into the existing clause 6.9. The clause will apply to development for the purposes of residential accommodation, commercial premises or mixed-use development and the Planning Secretary must consider the impact of the development on existing designated State public infrastructure and the need for additional designated State public infrastructure.</p>
Department assessment	<p>The change in approach will achieve the same outcome of securing the provision of infrastructure at the development application stage and ensuring future development in the precincts will be subject to state or regional infrastructure contribution. This mechanism aligns with changes in the model provisions that address these matters.</p> <p>The proposed clause will encapsulate both residential, mixed use and commercial developments. In this aspect, the change also responds to TfNSW's submission which raised concern that clause 6.9 does not apply to commercial development.</p>

TfNSW Parramatta Road widening mechanism

Proposed amendment	<p>Change in mechanism for securing the road widening requested by TfNSW from the road widening being identified in the proposed community infrastructure clause and map, to being included on the Land Reservation Acquisition Map and identifying Transport for NSW (TfNSW) as the relevant acquisition authority.</p> <p>As a result of this mechanism change, the following amendments are proposed:</p> <ul style="list-style-type: none"> • identify the areas along the Parramatta Road Corridor in the Kings Bay and Burwood-Concord precincts identified by TfNSW, as being reserved for potential future acquisition on the Land Reservation Acquisition (LRA) Maps in the LEP; • amend clause 5.1 Relevant acquisition authority in the Canada Bay LEP to identify Transport for NSW as the Authority of the State (relevant acquisition authority) and identify the type of land shown on the LRA Map as below: <ul style="list-style-type: none"> ○ zone R3 Medium Density Residential and marked 'Classified Transport for NSW road'; ○ zone B4 Mixed Use and marked 'Classified Transport for NSW road'; and ○ zone RE1 Public Recreation and marked 'Classified Transport for NSW road'; • include a provision which limits development on certain land intended to be acquired for a public purpose to that identified purpose.
Department assessment	<p>The key reasons for the mechanism change are outlined below.</p> <p>Council's intended approach of including the road widening in the proposed community infrastructure mechanism is not considered appropriate. The widening of Parramatta Road is the result of a State agency request to facilitate State transport infrastructure along a</p>

Department's recommended changes

classified/state road. This mechanism is also a cost recovery mechanism rather than a forward funding mechanism.

Subsequent to TfNSW's submission and subsequent clarification letter to Council, the Department made contact with TfNSW. On 29 July 2022, TfNSW reconfirmed with the Department that road widening was required and was their final position.

It is acknowledged that TfNSW indicated it does not currently have any funds to acquire the road widening areas of land for road widening. However, this does not preclude implementing this mechanism. It will be a matter for TfNSW to continue pursuing the necessary forward funding to provide for delivering the required road widening.

The proposed amendment is consistent with section 9.1 Ministerial Direction, 5.2 Reserving Land for Public Purposes objective and will facilitate the provision of public services and facilities by reserving land for public purpose. Assessment of consistency with this Direction is at **Section 4.1** of this report.

Amendments to clause 4.6 Exceptions to development standards

Proposed amendment

Remove the proposed amendments to clause 4.6(8) that sought to prevent development consent from being granted under clause 4.6 for development that would vary:

- the minimum site area requirement provisions proposed in the community infrastructure incentive clause; and
- the base height of buildings and FSR under clause 4.3 and 4.4 of the LEP by more than 10%;

This is intended to limit the extent to which a development could use clause 4.6 to achieve building heights and FSRs in excess of the base height and FSR without relying on the proposed incentive clause, and without having to provide community infrastructure.

Department assessment

Upon further review, the Department does not support the inclusion of these additional development standards that cannot be varied as:

- the operation of clause 4.6 is not considered to undermine the intent of the proposal, because development of the land would achieve a larger increase in height and floor space through the incentive option anyway and these built form outcomes have been tested to work effectively as part of the proposal;
- the incentivised uplift for additional height and floor space in exchange for community infrastructure isn't applied to all areas relating to the proposal, specifically Homebush North. Clause 4.6 will still continue to apply in these areas. This creates inequity;
- not all sites are expected to be able to provide community infrastructure on their site to then be able to utilise the uplifts in height and floor space – so clause 4.6 may provide a suitable pathway to substantial change and find other ways to provide community benefits. Noting that this development will still be subject to the payment of local contributions. This may also hinder development opportunities to realise the PRCUTS; and
- note the proposal doesn't seek to exclude the application of clause 4.6 for any provisions other than those set out here. Variations could be sought to other proposed standards such as the maximum car parking rates and requirement for dual water reticulation.

Burwood North Metro Station Site

Proposed Council officer amendment

As previously discussed in this report, Council undertook a peer review process of submissions received during exhibition. This included the Burwood North Metro Station site.

Council reviewed the exhibited provisions for this site, because:

- Sydney Metro's submission requested refinement of adjoining public open spaces; and
- ongoing discussions with Sydney Metro, including what was understood to be final station designs, resulted in further refinement of the proposed incentive HOB and FSRs to give effect to this concept station design.

In response, Council recommended a reduced incentive FSR to the site and reduced incentive heights to part of the site (**highlighted yellow in Figures 10 and 12 on pages 22 & 23 above**)

Following the Department proceeding with the finalisation of the proposal, further clarification was requested from Council concerning the post-exhibition changes to reduce the incentive HOB and FSR. This included further correspondence with Sydney Metro concerning the reduction to the incentive HOB and FSR.

Council further clarified that:

- it understood this concept station design would result in a realised FSR of approximately 1.84:1 and building heights ranging from 18m (at Burwood Road) to 24m (at Loftus Street); and
- was reflected in the Environmental Impact Statement (EIS) supporting the Metro Station Approval.

Nonetheless, Council's review process determined that the proposed post-exhibition amendments could provide for adequate built form and amenity outcomes.

Subsequently, Sydney Metro raised concern with Council's reduction in the incentive HOB and FSR, clarifying to the Department that:

- Sydney Metro has maintained ongoing dialogue with Canada Bay Council as the Sydney Metro West project has evolved. Material was shared on draft designs on the basis that it was all work-in-progress. The final design of the station buildings will be determined once a contractor is appointed;
- the submission dated 11 April 2022 is Sydney Metro's position on the proposal. This submission supported an overall FSR of 3:1 and heights of part 56m and part 42m. Sydney Metro also noted that 42m HOB and 3:1 FSR are consistent with the PRCUTS; and
- it appears Council's amendments have been based on draft plans.

Department's Assessment

The Department notes Council's proposed amendments, Sydney Metro's submission and subsequent correspondence from both agencies.

The Department notes that Council has sought to refine the incentive FSR and HOB controls to give effect to what was understood to be the concept station design to facilitate state significant infrastructure and suitable amenity outcomes, including overshadowing.

In this instance, the Department does not support this post-exhibition amendment to reduce the incentive FSR and HOB and subsequently retained the exhibited incentive FSR and HOB, because:

- the amendments do not give effect to Gateway determination condition 2(a)(i) which requires the proposal aligns with any transport or infrastructure plan developed by the NSW Government in response to Sydney Metro West.

It is noted this is drawn from the PRCUTS Implementation Update dated 2021, which must be given effect in accordance with section 9.1 Ministerial Direction 1.5 Parramatta Road Corridor Urban Transformation Strategy.

This amendment does not satisfy the Directions consistency criteria noting Sydney Metro's outstanding objection to the post-exhibition amendment;

- the exhibited incentive 3:1 FSR and part 42m HOB are consistent with the PRCUTS recommendations for this site; and
- the reduced incentive FSRs and HOBs are based upon concept designs which remain subject to the State Significant Infrastructure (SSI) approvals processes.

Similarly, this process can ensure appropriate built form outcomes regarding the exhibited incentive FSRs and HOBs, including overshadowing.

It is acknowledged that there are other post-exhibition amendments relating to the location of the proposed park and key site boundary realignment with adjoining Key Site 10 as set out earlier in the report. These amendments are supported because they respond to Sydney Metro's requested amendments in its submission dated 11 April 2022 and thus align with the above matters.

4 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report, the planning proposal submitted to the Department for finalisation:

- remains consistent with the regional and district plans relating to the site;
- remains consistent with the Council's Local Strategic Planning Statement;
- remains consistent or justifiably inconsistent with all relevant Section 9.1 Directions; and
- remains consistent with all relevant SEPPs.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1.

Table 7 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1

	Consistent with Gateway determination report Assessment	
State Environmental Planning Policies (SEPPs)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No, refer to section 4.1

Table 81 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

4.1 Detailed assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

4.1.1 Section 9.1 Ministerial Directions

Consistency with applicable Ministerial Directions was assessed at the Gateway determination stage. A review and further consideration of Directions impacted by post-exhibition changes is provided below:

Direction 1.3 Approval and Referral Requirements

The proposal was previously assessed against Direction 1.3 in the Gateway assessment. However, pre-exhibition, as a result of a Gateway condition Council updated the proposal to include a requirement for development to be subject to state/regional infrastructure contributions.

The Department has since formed the opinion that rather than the clause 6.9 satisfactory arrangements clause, the model of requiring concurrence with the Planning Secretary is more appropriate, because:

- the existing clause 6.9 does not capture non-residential development; and
- clause 6.9 is a provision no longer supported for inclusion or amendment in LEPs. This means this provision cannot be updated to capture non-residential development or applied to other LEPs where the PRCUTS applies.

The Department considers the proposed concurrence clause retains the intent of the proposal, aligns with other LEPs and is acceptable and is consistent with the Direction.

Direction 1.5 Parramatta Road Corridor Urban Transformation Strategy

At the Gateway determination stage, the proposal's inconsistency with this Direction was considered minor and justified, and resolved through Gateway conditions. This included through the conditions requiring Council to update the proposal to address state infrastructure requirements and to incorporate any recommendations from the Precinct-wide traffic study. Council has satisfied these Gateway conditions.

At the Gateway determination stage, it was noted that minor variations to the PRCUTS Planning and Design Guidelines have resulted from Council's detailed Precinct master planning work and alignment with concept planning being undertaken by Sydney Metro for the Burwood North Metro Station. The Department's Gateway determination report provided an overview of the variations to the PRCUTS.

As outlined above in **Section 3.3** of this report, Council has made various post-exhibition amendments to proposed incentive heights and FSRs for certain areas in the Kings Bay and Burwood-Concord Precincts.

Any inconsistencies against the Direction are considered minor and justified, because:

- the outstanding objection from Sydney Metro concerning Council's post-exhibition amendments to the incentive FSR and HOB standards for the Burwood North Metro Station Site has been resolved by retaining the exhibited controls; and
- the other post exhibition amendments respond to Councils independent peer review process of submissions providing for a better planning outcome.

The Precinct Wide Traffic Study

At the Gateway determination stage, it was identified that the proposal would need to:

- be updated to address the recommendations of the precinct-wide traffic studies prior to finalisation; and
- be revised to address state infrastructure requirements for development and align with any plans prepared in response to Sydney Metro West, consistent with the PRCUTS Implementation Update 2021 actions.

The City of Canada Bay, together with Burwood Council and Strathfield Council, commissioned Bitzios Consulting in 2017 to prepare the Precinct Traffic and Transport Study for the Parramatta Road corridor area within their local government area boundaries. The methodology for the traffic modelling was agreed with TfNSW with input on assumptions from the then Department of Planning Industry and Environment (now Department of Planning and Environment (DPE)). The initial strategic modelling baseline (2019) outputs were completed in December 2020 with the uplift modelling for 2026 and 2036 and reporting occurring through 2021.

The Precinct Traffic and Transport Study satisfies the requirements of:

- the PRCUTS;
- Ministerial Direction 1.5;
- the PRCUTS Implementation Update 2021; and
- the Gateway determination for this proposal.

TfNSW provided a submission on the proposal which included detail comments on the Precinct Traffic and Transport Study. Council has taken this feedback into account when finalising the Precinct Traffic and Transport Study and the proposal.

The amended proposal gives effect to the Precinct Traffic and Transport Study as it:

- includes proposed maximum car parking rates in line with the PRCUTS which formed the basis of the traffic modelling. This will assist with providing car parking that facilitates a transition to low car dependency and promote active transport;
- appropriately responding to the further feedback provided by TfNSW during the consultation process; and
- includes provisions to improve local streets and connections in accordance with the PRCUTS. This includes new local roads and new or extended service access ways to improve vehicular and pedestrian movement and accessibility. This will minimise impacts to Parramatta Road and contribute to the vitality of the centres.

Feasibility Analysis

At the Gateway determination stage, it was noted that the planning proposal states feasibility was considered in the formulation of the proposed development controls.

In response, a Gateway condition was included which required feasibility advice be provided prior to finalisation to ensure the proposed provisions can be delivered. This advice also included the consideration of other requirements for development sought as part of the planning proposal including design excellence competitions, affordable housing contributions, regional infrastructure contributions, dual reticulation requirements and BASIX targets.

The proposal considered by the Department at finalisation includes a PRCUTS Infrastructure Strategy Feasibility Analysis for the Burwood and Kings Bay Precincts was undertaken by Atlas Urban Economics.

It is considered that this feasibility analysis demonstrates that proposal can be feasibly implemented, because:

- The feasibility analysis methodology utilised the Residual Land Value (RLV) feasibility modelling approach. This involves assessing the total potential revenue, deducts development costs and makes a further deduction for the profit and risk that a developer would require to take on the project.

The feasibility testing is undertaken in three steps:

Step 1 - Identify Areas and development yields for testing

Atlas worked with Council to identify Areas in the precincts for impact testing. Areas were selected as a representative of scale/ size of development, proportion of residential: non-residential floorspace and type of on-site infrastructure required under the draft Infrastructure Strategy.

Step 2 - Base Case feasibility (s 7.11 contributions, Affordable Housing and Regional Infrastructure contributions)

Generic feasibility testing carried on the sites selected assuming all applicable statutory fees are payable (including Affordable Housing contributions and RIC).

Step 3 - Impact testing of on-site infrastructure delivery

Step 3 examines the impact of the cost of on-site infrastructure delivery on development feasibility. Capital expenditure (CapEx) estimates are assumed for infrastructure delivery and operational expenditure (OpEx) estimates are assumed where land is to remain in private ownership.

- This analysis made the following conclusions:
 - the impact of on-site infrastructure as envisaged in the draft Strategy is generally minor when delivered on land to be dedicated. The one-off cost burden of delivery/ embellishment (as a proportion of overall cost) ranges from 2%-3%;
 - when on-site infrastructure is delivered on land to be retained in private ownership, the impact on development feasibility can be significant where the land is large in area. The larger the area retained in private ownership, the greater the recurring costs associated with maintenance, repairs and general life cycle requirements;
 - the inclusion of draft RIC rates (at 100%) in the cost of development does not materially affect the feasibility results. Following the rezoning of the precincts, DAs lodged before 1 July 2024 would be subject to the concessional draft RIC rates and accordingly, the impact to feasibility would be less than illustrated above; and
 - in existing urban areas, the feasibility of development is influenced by myriad factors including, critically, the cost of land. Where existing buildings are functional and valuable, their value may be too high to be economically feasible for development. Sites that are not feasible to develop in the first instance have no capacity to contribute, whether to on-site infrastructure or other charge. This is inevitably a reality that faces the revitalisation of urban renewal precincts.

Direction 5.2 Reserving Land for Public Purposes

The proposal was amended by Council post-exhibition to identify areas of land along Parramatta Road to be dedicated for a public purpose (road widening) through incentive height and FSR controls. In response, the Department has amended the proposal for the road widening to be provided through the land reservation acquisition map and clause 5.1 of the LEP – see **Section 3.4** of this report for further discussion.

This Direction requires a planning proposal not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Secretary of the Department. Consistent with Direction's objection, the planning proposal as amended will facilitate the provision of public services and facilities by reserving land for public purpose. The reservations will facilitate these areas of land to be used for future public and/or active transport needs

The proposal is consistent with this Direction as the amendments:

- have been approved by TfNSW, and
- as part of this finalisation, the LEP will be approved by a delegate of the Planning Secretary.

The planning proposal also identifies land to be dedicated to Council for a public purpose through incentive height and FSR controls, which has been assessed at the Gateway determination stage.

4.1.2 State Environmental Planning Policies (SEPPs)

Following the Gateway determination, various new SEPPs have been introduced. Consistency with applicable new SEPPs and consistency of post-exhibition amendments triggering reassessment of certain SEPPs is outlined below.

State Environmental Planning Policy (Housing) 2021

The State Environmental Planning Policy (Housing) 2021 (Housing SEPP) commenced on 26 November 2021. The Housing SEPP seeks to provide diversity in housing and encourage affordable and rental housing. The SEPP includes provisions transitioned from a number of other policies, including those in place at the time of Gateway determination and assessment (such as the Affordable Rental Housing and SEPP No 70 – Affordable Housing (Revised Schemes)).

The planning proposal seeks to encourage additional housing in a well serviced location and does not prevent the principles of the Housing SEPP from being achieved.

State Environmental Planning Policy (Sustainable Buildings) 2022 and SEPP (Building Sustainable Index: BASIX) 2004

Prior to public exhibition and in line with the Gateway determination conditions, the proposed higher BASIX standards were revised as an incentive provision for accessing up to 5% bonus FSR in lieu of a requirement, to avoid potential inconsistency with Clause 8 of the BASIX SEPP.

In August 2022, the NSW Government released the new SEPP (Sustainable Buildings) 2022 which will commence on 1 October 2023. The Sustainable Buildings SEPP incorporates and builds upon provisions in the BASIX SEPP and also introduces measures and standards for non-residential buildings. The Sustainable Buildings SEPP will repeal the BASIX SEPP upon commencement.

Similar to the BASIX SEPP, the Sustainable Buildings SEPP allows for provisions that incentivise exceeding BASIX standards, as long as they are not mandatory. The proposal is consistent with that intent as it proposes an incentive/bonus clause, and the proposal will not affect the operation of either SEPP.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 2 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
GIS	Amended digital maps have been prepared by the Department's GIS team and deemed to meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> (Attachment D).</p> <p>On 8/12/2022, Council noted that various post-exhibition changes it sought are not in the draft LEP (such as podium floor plate controls and tree canopy cover requirements) (Attachment E). Council also requested rewording of the community infrastructure setbacks/public domain enhancement requirements on multiple occasions.</p> <p>The Department's reasons for not supporting these post-exhibition changes are explained in this report. The Department considered Council officer's suggestions for the drafting of the LEP and has been in communication with Council during this process.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	On 13/12/2022, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Attachment PC .	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the *EP&A Act* because:

- the draft LEP has strategic merit being consistent with the Eastern City District Plan and Council's local strategic plans, including the Housing Strategy and Local Strategic Planning Statement;
- it will implement the strategic actions and land use recommendations in the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) – the NSW Government's strategic framework for transforming the Parramatta Road Corridor;
- it is consistent with the Gateway determination;

- it is consistent with all applicable SEPPs and has demonstrated consistency with section 9.1 Ministerial Directions and any inconsistencies are justified or are of minor significance; and
- issues raised during community and agency consultation have been addressed.



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