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Plan finalisation report – PP-2021-6630

143 Stoney Creek Road, Beverly Hills

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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

Overview

1.1.1 Name of draft LEP

Georges River Local Environmental Plan 2021 (Map Amendment No. 3).

1.1.2 Site description

Table 1 Site description

Site Description	The planning proposal (Attachment A) applies to 143 Stoney Creek Road, Beverly Hills (the site) (Figure 1).
Lot and Deposited Plan	Lots 2 and 3, DP 1205598
Council / LGA	Georges River Council (Council)
LGA	Georges River

The site has an area of 2,454m² and has street frontages to Stoney Creek Road (a state classified road) and Cambridge Street. The site is located approximately:

- 500m south of Beverly Hills Station; and
- 200m south of the Beverly Hills town centre.

The site has been used as a Roads and Traffic Authority administration centre for over 40 years and contains an office building at the north-eastern corner of the site, with the remainder of the site occupied by a hard stand car park for approximately 40 cars. The site has been vacant for over 4.5 years.



Figure 1 – Aerial photo of the site highlighted red (Source: Nearmaps)

1.1.3 Purpose of plan

The planning proposal seeks to amend the Georges River Local Environmental Plan (GRLEP) 2021 to rezone a former public administration building to R4 High Density Residential and amend building height, floor space ratio and lot size control for land at 143 Stoney Creek Road, Beverly Hills (provision of approximately 38 homes, 0 jobs).

The planning proposal also seeks to include additional permitted uses for office premises and business premises.

The objective of the proposal is to *‘expand the uses which can be accommodated within the existing building on the site and also within the approved medical centre building on the site while rezoning the site to allow for the future development of an RFB’*.

Table 2 below outlines the current and proposed LEP provisions for the site.

Table 2 Current and proposed controls

Control	Current LEP Provisions	Proposed LEP Provisions
Zone	Part SP2 Public Administration (SP2) and Part R2 Low Density Residential (R2)	R4 High Density Residential
Maximum height of the building	R2 zone - 9 metres SP2 zone – no HOB provisions	16 metres

Control	Current LEP Provisions	Proposed LEP Provisions
Floor space ratio	R2 zone - 0.55:1 SP2 zone - no FSR provisions	1.4:1
Minimum lot size	R2 - 450m ² SP2 – no minimum lot size provisions	1,000m ²
Number of dwellings	0	38
Number of jobs	Not Clear	0
Additional Permitted Use	None	'Office premises' and 'Business Premises'

Concept Development Scheme

A concept scheme was submitted with the planning proposal, which demonstrates the intended built form and public domain outcomes.

The concept scheme proposes:

- a four-storey apartment building (38 dwellings);
- two levels of basement parking beneath (71 parking spots);
- a flood chamber between the ground level and first basement level with capacity for 2,000m³ of water; and
- a building with a total gross floor area of approximately 3,435m².

Development Application (DA2020/0227)

On 21 February 2021, development application DA2020/0227 was approved on the site, which includes the following:

- a three storey medical centre with an FSR of 1.4:1 (approximately 3,400m² of gross floor area) and height of 16 metres;
- three levels of basement car parking for 114 vehicles; and
- a 1,560m³ flood chamber.

A comparison of the approved built form and that facilitated by the planning proposal can be seen in **Figures 3** and **4**.

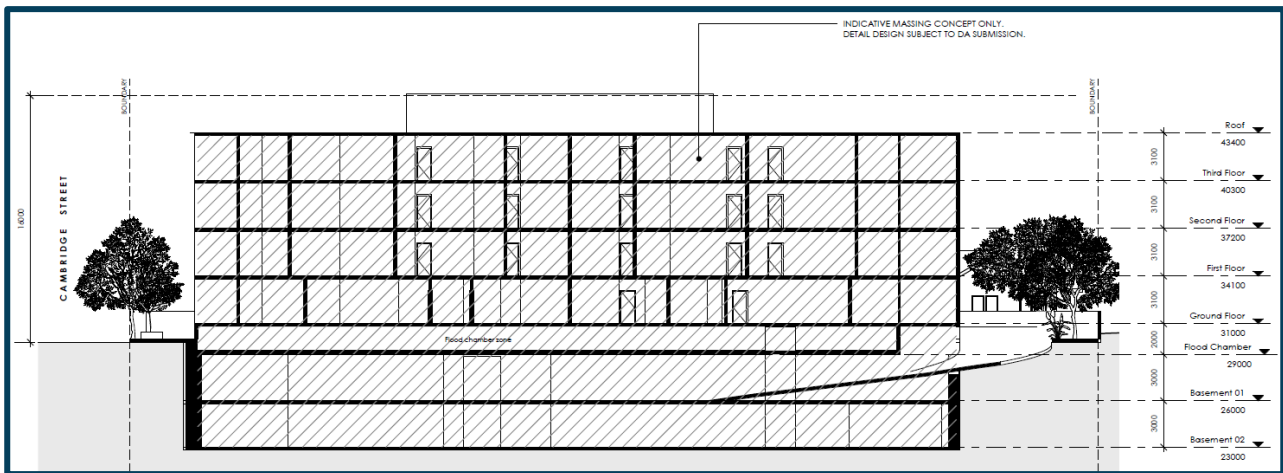


Figure 2: Section of Concept Design (Source: Planning Concept by Proponent)

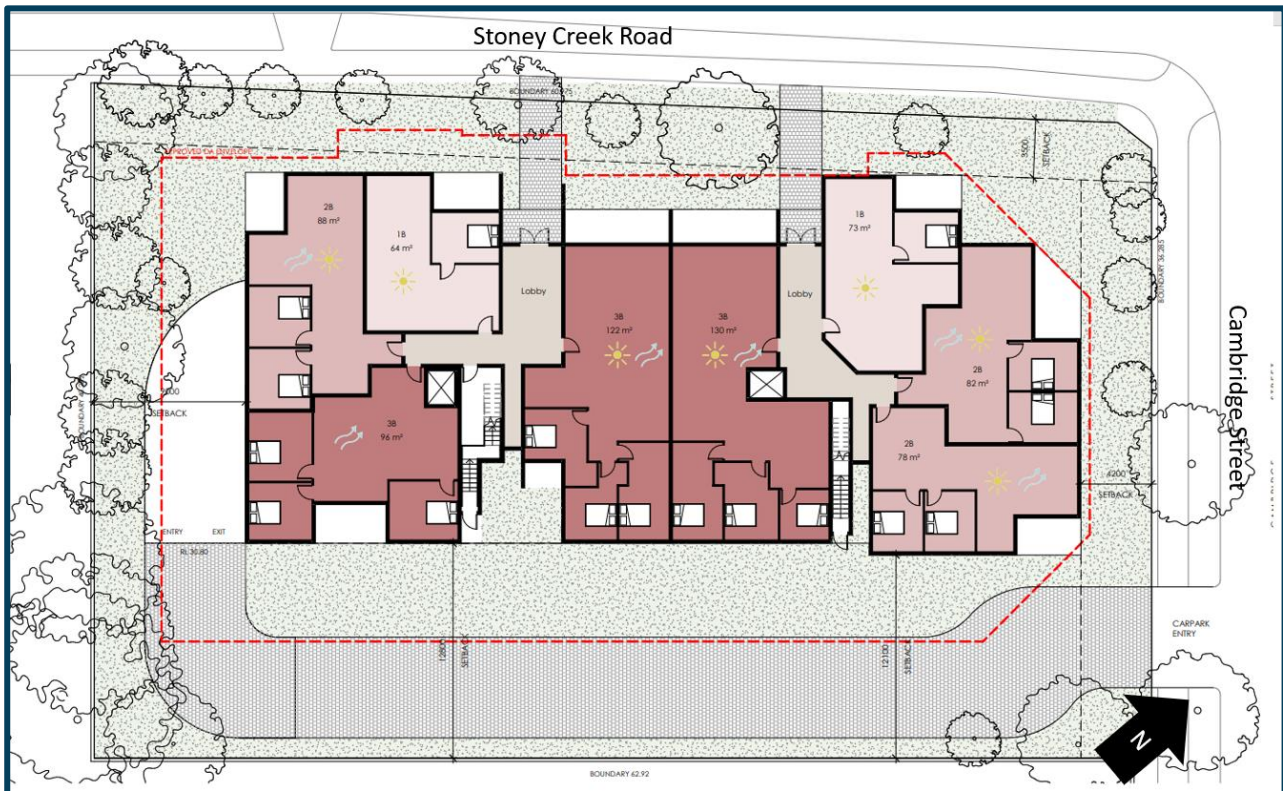


Figure 3: Site plan – red dash lines are the approved built form envelope under DA2020/0227 (Source: Planning Concept and Site Analysis prepared by the Proponent)

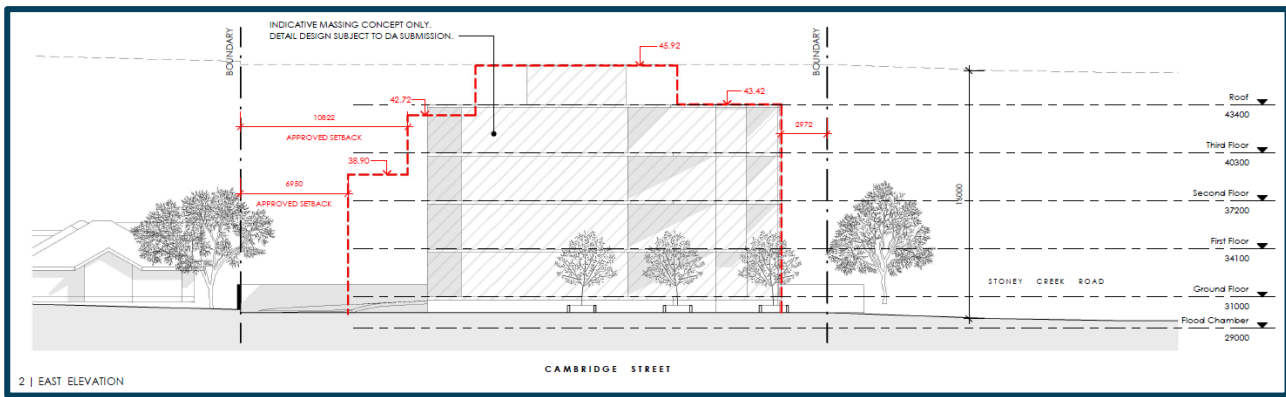


Figure 4: East Elevation – red dash lines are the approved built form envelope under DA2020/0227 (Source: Planning Concept and Site Analysis prepared by the Proponent)

Site Specific Development Control Plan (DCP)

The development concept scheme informs the site-specific development control plan (DCP) that has been prepared, which includes controls addressing:

- spatial proportions of the street and define the street edge;
- setbacks to streets are appropriate for the street widths and functions to ensure a comfortable urban scale of development;
- preservation and enhancement of the low-density street settings;
- visual and acoustic privacy for adjacent properties;
- overshadowing of adjacent properties;
- deep soil zones for planting of canopy trees and landscaping;
- mitigation of the visual intrusion of building bulk on neighbouring properties;
- provision of a flood storage chamber with a minimum capacity of 2,000m³; and
- the basement carpark entry threshold which is to be set at a minimum of the 1% AEP level plus a freeboard of 500mm. All other openings to the basement including the carpark intake and exhaust, basement carpark stairwells and lift shafts are to be positioned at or above the Probable Maximum Flood (PMF) level.

On 24 July 2023, the site-specific DCP was adopted by Georges River Council and will commence upon notification of the LEP amendment.

Voluntary Planning Agreement

A public benefit offer does not accompany the planning proposal.

1.1.4 State electorate and local member

The site falls within the Oatley state electorate and the federal electorate of Banks.

Mark Joseph Coure, MP is the State Member for Oatley and the Hon David Coleman MP is the Federal Member for Banks.

To the team's knowledge:

- neither MP has made any written representations regarding the proposal;
- there are no donations or gifts to disclose, and a political donation disclosure is not required; and
- there have been no meetings or communications with registered lobbyists with respect to this proposal.

2 Gateway determination and alterations

On 2 March 2023, the Gateway determination was issued determining that the proposal should proceed subject to conditions. The Gateway has not been altered since determination.

The Sydney South Planning Panel (the Panel) is the planning proposal authority (PPA) for this planning proposal because Council did not accept this role following rezoning review RR-2022-26.

The Department's Agile Planning Team has assisted the Panel in its role of PPA for this planning proposal.

The PPA has adequately addressed the conditions of the Gateway Determination.

3 Public exhibition

In accordance with the Gateway determination, the planning proposal and supporting material were publicly exhibited from 27 April 2023 to 26 May 2023.

There were 11 submissions received from individuals, Council, and government agencies during the exhibition period, including:

- 6 public submissions, comprising of 5 unique submissions and one submission submitted without content;
- 4 agency submissions; and
- 1 Council submission.

During the exhibition of the council led site-specific DCP, a submission was received by Council which was considered to relate to the Planning Proposal and was forwarded to the Department. Whilst this submission has not been officially counted as a submission received during the public exhibition of the Planning Proposal, the issues raised have been captured below and as part of the proponent's response to submissions.

All public submissions containing content objected to the proposal (5 submissions).

3.1 Community Submissions

The main concerns raised by the community during public exhibition were:

- built form impacts and local character;
- traffic and parking;
- proposed business and office premises uses; and
- flooding.

The key issues raised by the community, the Department's Agile Planning Team, and the Department's assessment are found in **Table 3** below.

Table 3 Summary of Key Issues

Issue raised	Council response and Department assessment of adequacy of response
<p>Concerns were raised with the height, density and scale of the proposal, the lack of connection to the existing local character and potential overshadowing.</p>	<p>Proponent Response:</p> <p>No height or FSR development standards currently apply to most of the site (SP2 zoned land). A 16-metre height of buildings control and 1.4:1 maximum FSR control are sought.</p> <p>These proposed controls were approved by Council (DA2020/0227) for the site in February 2021. As part of the assessment of the approved three storey medical centre on the site, Council found that the height and FSR of the development was compatible with the surrounding land uses and within its context.</p> <p>Agile Planning Response:</p> <p>Although the height controls that are part of this proposal are slightly higher than the surrounding high density residential zoned land, concept plans demonstrate that a residential flat building of a similar built form to the approved medical centre, will result in similar impacts to development already approved for the site.</p> <p>Should the site be developed for a residential flat building, it would be subject to detailed assessment against the provisions of scale, height, and compatibility with the surrounding characters at development application stage in accordance with the State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Buildings</p> <p>Department Assessment:</p> <p>Agile Planning's response is adequate.</p> <p>The Department undertook an independent urban design review of the concept residential scheme. This review found:</p> <ul style="list-style-type: none"> • Floor Space Ratio of 1.4:1 is achievable, within a 4-storey structure, with the proposed usage. • A four storey building, inclusive of the lift overrun, is achievable within the max. height of 16 metres. • Accommodating a fifth residential floor is unlikely, with the recommended minimum floor-to-floor height of 3.2 metres for residential purpose and higher for ground floor as well as inclusion of the lift overrun in the proposed maximum building height (HOB) of 16 metres. • Solar access to the residences is ADG compliant. <p>The Department is satisfied that the supporting development concept scheme demonstrates adequate built form outcomes which can be further refined through the development application process,</p>
<ul style="list-style-type: none"> • Concerns were raised that the proposal will add to the existing 	<p>Proponent Response:</p>

Issue raised	Council response and Department assessment of adequacy of response
<p>traffic congestion in the area and will exacerbate pedestrian safety and on-street parking issues.</p>	<p>The former RTA use of the site resulted in 130 peak hour trips, the approved medical centre results in 110 peak hour trips, whilst a potential residential flat development of the site will result in approximately 18 peak hour trips.</p> <p>The planning proposal will allow for alternative development of the site which will result in reduced traffic impacts when compared with the historical and recently approved uses of the site.</p> <p>The actual traffic impact associated with the redevelopment of the site will be assessed during a future development application.</p> <p>Car parking associated with the redevelopment of the site will be assessed during a future development application.</p> <p>Agile Planning Response:</p> <p>The proponent has provided traffic modelling in its Traffic Impact Assessment (Ason Group, April 2022) which concludes that any potential traffic impacts will be minor, and that car parking rates consistent with DCP requirements can be achieved on site. The Traffic Impact Assessment also found that traffic generation resulting from any potential residential flat building would be less than what is expected under the currently approved medical centre.</p> <p>Should the site be developed for a residential flat building, it would be subject to further detailed assessment to address traffic generation and the provision of on-site parking at development application stage.</p> <p>Department Assessment:</p> <p>Agile Planning's response adequately addresses the issues raised.</p> <p>TfNSW raised no objection to the proposal - see Section 3.2 of this report for further discussion below.</p>
<ul style="list-style-type: none"> Concerns were raised that office or retail uses are not in high demand in the area as a result of King George's Road existing retail and commercial areas. 	<p>Proponent Response:</p> <p>"Office premises" and "business premises" are proposed as additional permitted uses to broaden the range of uses that can occupy the existing building on the site and the approved three storey medical building.</p> <p>Agile Planning Response:</p> <p>The planning proposal has demonstrated strategic and site-specific merit to support the proposed rezoning and additional permitted uses to justify the progression of the proposal in its current form. It is considered that the proposal is consistent with the overarching State and local strategic documents and that the zoning would permit the site to achieve objectives within these strategic plans, such as the delivery of housing near jobs and homes, and work towards the goal of creating a 30-minute city with improved local access.</p> <p>Department Assessment:</p>

Issue raised	Council response and Department assessment of adequacy of response
	<p>The Department is not satisfied that the proposed additional permitted uses are necessary and adequately justified, see Section 4.1.2 Additional Permitted Uses.</p>
<ul style="list-style-type: none"> Concerns were raised in relation to flooding on the site and whether it had been assessed and mitigated 	<p>Proponent Response:</p> <p>The flood risk associated with the proposed residential development can be managed through engineered solutions and operational measures.</p> <p>Agile Planning Response:</p> <p>The proponent has submitted an updated FRIA to address the matters raised by DCCEEW (EHG) and SES as well as the Gateway determination. This work concludes that there is no significant change to flood hazard both on and off site compared to existing conditions.</p> <p>Department Response:</p> <p>Agile Planning's response is adequate.</p> <p>The planning proposal has adequately demonstrated that future development of the site is compatible with the flooding risks – see Section 4.1.1 of this report for further discussion.</p>

3.2 Advice from agencies

In accordance with the Gateway determination, consultation was required to with the following agencies:

- NSW Department of Planning and Environment's, Environment and Heritage branch;
- NSW State Emergency Service;
- Transport for NSW;
- Sydney Water; and
- Georges River Council.

Submissions were received from these agencies.

On 4 August 2023, the Sydney South Planning Panel (PPA) deferred its decision for further consultation with the NSW State Emergency Services (SES) and Department of Planning and Environment's Environment and Heritage Group (EHG) (now known as the NSW Department of Climate Change, Energy, the Environment and Water DCCEEW) on:

- the updated Flood and Risk Impact Assessment dated April 2023 (FRIA);
- the proponent's response to SES's and DCCEEW's submissions; and
- the proposal's consistency with the Section 9.1 Ministerial Decision Direction 4.1 Flooding.

The Proponent's, the Department's Agile Planning Team's (on behalf of the Panel as the PPA) and the Department's response to the agency submissions are in **Tables 4 to 8** below. This includes the further submissions from DCCEEW and SES in response to the Panel's deferred decision.

Table 4: NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) (formerly known as EHG)

Issues Raised	Response
<p>Isolation</p> <ul style="list-style-type: none"> Development intensification through rezoning the site to high-density residential development on the site which would become a high flood island should not be supported. Using the site as a refuge for residents of the adjoining properties during major flooding events would result in exposing more local residents to isolation during rarer flood events. 	<p>Proponent's Response:</p> <p>A secondary emergency management strategy (namely, on-site refuge) is available in the event where time does not permit evacuation. Shelter in Place where only limited warning time is available is recognised by the latest Draft Shelter in Place guidelines prepared by the Department of Planning and Environment (2023). Refuge is proposed to be available for all events up to and including the PMF and will be enforced by the requirements set out by the site-specific Development Control Plan.</p> <p>Agile Planning's Response:</p> <p>The Department's Draft Shelter in Place guideline sets several criteria to consider when determining if shelter in place is appropriate for any development. Of note to the site, the guidelines state shelter in place may be considered appropriate for use if the development is not located in an area of high-risk (e.g., floodway's and H5 or H6 flood hazard areas). As mentioned in this briefing report the subject site is in a defined floodway. However, the guideline does state that Councils can develop shelter in place related controls for their development control plans (DCP) and apply those controls when assessing development applications.</p> <p>Department's Response:</p> <p>The proposed development facilitated by the planning proposal is compatible with the flooding risk on the site – see Section 4.1.1 of this report for further discussion.</p>
<p>Evacuation</p> <ul style="list-style-type: none"> Evacuating the site during major and extreme events by residents and visitors would pose safety risks since the floodwater depth would be high. It would not be possible to set up an automated warning system at the development site possibly due to lack of predictive and forecast information and the flooding nature and characteristics. There would be considerable uncertainties for the development and 	<p>Proponent's Response:</p> <p>Evacuation from the site is possible during the peak of the 1% AEP (Annual Exceedance Probability) by continuing west from the site up Stoney Creek Road to a location above the PMF flood event.</p> <p>Evacuation from the site is expected to be possible prior to the peak of the PMF with up to 24 hours warning time possible prior to this event. It is important to recognise that the PMF is an extremely rare event with a nominal 10-7 AEP (1 in 10 million) chance of occurring. Extended warning time is expected to be available prior to an event of this magnitude. It is likely a PMF event will be associated with significant adverse weather patterns which would be closely monitored by Bureau of Meteorology prior to the event.</p> <p>Agile Planning's Response:</p> <p>Based on the modelling provided, it is noted that evacuation can be achieved in a 1% AEP event, however, may not be achievable based on hazard conditions during a PMF event. It is also noted that modelling shows the only</p>

Issues Raised	Response
<p>implementation of the proposed Flood Emergency Response Plan (FERP) and its efficient operations in addressing and managing flooding risks.</p> <ul style="list-style-type: none"> The FERP in its current form does not outline how these uncertainties would be addressed and managed in order to eliminate potential flooding risks to residents and visitors of the development site. 	<p>safe evacuation point from the site during a PMF event is from a small portion of the north-western corner of the site.</p> <p>Department's Response:</p> <p>The proposed development facilitated by the planning proposal is compatible with the flooding risk on the site - see Section 4.1.1 of this report for further discussion.</p>
<p>Private Emergency Plan</p> <ul style="list-style-type: none"> The Flood Emergency Response Plan (FERP) in its current form does not outline how deviations from the planned vs actual emergency response would be addressed and managed in order to eliminate potential flooding risks to residents and visitors of the development site. DCCEEW emphasises that, site specific flood response plans are not considered by the NSW SES to be an effective measure to strategically and effectively manage emergency management risks to the community during flooding. 	<p>Proponent's Response:</p> <p>The site specific Flood Emergency Response Plan (FERP) has the capability to better educate future users at the site of the expected flood risk and behaviour at the site, the likely available warning time, the necessary emergency response measures and the flood resilience of the facility. This information provides greater clarity for residents who would likely otherwise have very little knowledge of these conditions without the preparation of the Plan.</p> <p>Agile Planning's Response:</p> <p>The Agile Planning team notes that a draft Flood Emergency Response Plan (FERP) has been prepared in response to DCCEEW and SES's additional submissions. The FERP aims to outline the potential future Flood Emergency Response measures for future development, however, would not be finalised until the future development application or construction certificate phase of any development on site.</p> <p>Department's Response:</p> <p>The proposed development facilitated by the planning proposal is compatible with the flooding risk on the site - see Section 4.1.1 of this report for further discussion.</p>
<p>Ministerial Direction 4.1 - Flooding</p> <ul style="list-style-type: none"> The planning proposal is inconsistent with the Ministerial Direction 4.1 - Flooding (2) and (3) (c). 	<p>Proponent's Response:</p> <p>A response to the Ministerial Direction 4.1 - Flooding including the NSW Floodplain Development Manual (DPE, 2005) and Georges River Council Local Environmental Plan (LEP) has been prepared in the Flood Risk Impact Assessment (Northrop, 2023).</p>

Issues Raised	Response
<ul style="list-style-type: none"> Ministerial Direction 4.1 - Flooding (2), <i>'a planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Employment, Mixed Use, W4 Working Waterfront or Special Purpose Zones'</i>. The site is included within the FPA (flood planning area) as it is under the DFE (defined flood event), which is 1% AEP as per the FRM (flood risk management) process and the principles of the Flood Risk Management Manual (2023). <p>Ministerial Direction 4.1 - Flooding (3) (c) <i>'a planning proposal must not contain provisions that apply to the flood planning area which permit development for the purposes of residential accommodation in high hazard areas'</i>. The modelling works undertaken by the proponent as well as the modelling results from Georges River Council indicate that the site would be subject to H2 hazard under an 1% AEP Event, which would become H3 to H5 under the PMF Event.</p>	<p>An updated analysis of the planning proposal has been performed with respect to the latest Floodplain Risk Management Manual (DPE, 2023) and anticipated revised Ministerial Direction 4.1 - Flooding. The Direction highlights a planning proposal can be inconsistent with the direction provided it is consistent with the principles of the Manual (2005 / 2023) and the adopted Council flood study.</p> <p>Agile Planning's Response:</p> <p>A planning proposal may be inconsistent with Ministerial Direction 4.1 - Flooding if the proposal is in accordance with a floodplain risk management study or plan adopted by the relevant council in accordance with the Floodplain Development Manual 2005 and/or the proposal is supported by a flood and risk impact assessment accepted by the relevant planning authority (Georges River Council).</p> <p>Department's Response:</p> <p>The proposed development facilitated by the planning proposal is compatible with the flooding risk on the site - see Section 4.1.1 of this report for further discussion.</p>

Table 5: State Emergency Service (SES)

Please note that the submission from the State Emergency Services (SES) in response to the Panel's deferred decision refers to the matters raised in their initial submission dated 17 May 2023. This is discussed below.

Issues Raised	Response
<p>Isolation</p> <ul style="list-style-type: none"> Allowing such development will increase the number of people exposed to the effects of flooding. 'Shelter in place' strategy is not endorsed for flood management by the NSW SES for future development. Even relatively brief periods of isolation, in the order of a few hours, can lead to personal medical emergencies that have to be responded to. 	<p>Proponent's Response:</p> <p>It is understood that Shelter In Place (SIP) is not a strategy that is endorsed by the SES. This is recognised by the draft Flood Emergency Response Plan presented with the recommendation for early evacuation as the primary response to adverse flood events.</p> <p>Where sufficient time for evacuation is not available, on-site refuge is recommended. Early evacuation or on-site refuge are recognised emergency response measures identified in the Draft Shelter-In-Place guideline.</p> <p>Agile Planning's Response:</p> <p>The Department's Draft Shelter in Place guideline sets several criteria to consider when determining if shelter in place is appropriate for any development. Of note to the subject site, the guidelines state shelter in place may be considered appropriate for used if the development is not located in an area of high-risk (eg, floodway's and H5 or H6 flood hazard areas). As mentioned in this briefing report the subject site is in a defined floodway. However, the guideline does state that Councils can develop shelter in place related controls for their development control plans (DCP) and apply those controls when assessing development applications.</p> <p>Department's Response:</p> <p>The proposed development facilitated by the planning proposal is compatible with the flooding risk on the site - see Section 4.1.1 of this report for further discussion.</p>
<p>Evacuation</p> <ul style="list-style-type: none"> It is important to note that there is currently no formal flood warning system available for the proposed area, which is subject to flash flooding. Therefore, there are challenges associated with flood planning, 	<p>Proponent's Response:</p> <p>Severe Weather and Thunderstorm Warnings are expected to be issued by the Bureau of Meteorology with lead-times that can range from just an hour or two, up to 24 hours (SES, 2023). This highlights the significance for future development to provide safe refuge and vertical evacuation on the subject site.</p> <p>An opportunity exists for future development to use the flood behaviour at the subject site as a means to trigger necessary flood emergency response measures.</p>

Issues Raised	Response
<p>warning, evacuation, and response timing for any future development.</p>	<p>An analysis of the duration where flow conditions exceed H1 and H2 has been performed with a period of 48 minutes and 26 minutes observed respectively. This suggests there is relatively short period of time, up to 26 minutes, where access for large vehicles and pedestrians may be limited during the PMF design storm event. During this time, refuge on the site is expected to be required, and is made available through future development of the site.</p> <p>Agile Planning's Response:</p> <p>Based on the modelling provided, it is noted that evacuation can be achieved in a 1% AEP event, however, may not be achievable based on hazard conditions during a PMF event. It is also noted that modelling shows the only safe evacuation point from the site during a PMF event is from a small portion of the north-western corner of the site.</p> <p>Department's Response:</p> <p>The proposed development facilitated by the planning proposal is compatible with the flooding risk on the site - see Section 4.1.1 of this report for further discussion.</p>
<p>Private Emergency Plan</p> <ul style="list-style-type: none"> Unless occupants are able to self-evacuate, and the private emergency plan is owned, understood, practised and uncertainties of flooding are understood then the plan will be forgotten or fail to be effective particularly when plan assumptions are overwhelmed. the text indicates flood hazards of up to H5 at the subject site, Figure D4 shows areas of H6. We recommend that the potential risk is further explored, particularly as in H6 flooding, all buildings are subject to failure and would not be suitable for a flood refuge. 	<p>Proponent's Response:</p> <p>It is possible at the development application stage to condition the Private Emergency Plan to be readily available for residents.</p> <p>Agile Planning's Response:</p> <p>The Department's Draft Shelter in Place guideline sets several criteria to consider when determining if shelter in place is appropriate for any development. Of note to the subject site, the guidelines state shelter in place may be considered appropriate for used if the development is not located in an area of high-risk (e.g. floodway's and H5 or H6 flood hazard areas). As mentioned in this briefing report the subject site is in a defined floodway. However, the guideline does state that Councils can develop shelter in place related controls for their development control plans (DCP) and apply those controls when assessing development applications.</p> <p>The Agile Planning team notes that a draft Flood Emergency Response Plan (FERP) has been prepared in response to DCCEEW and SES's additional submissions. The FERP aims to outline the potential future Flood Emergency Response measures for future development, however, would not be finalised until the future development application or construction certificate phase of any development on site.</p> <p>The proponent's Flood Risk Impact Assessment (FRA) (Northrop, April 2023) demonstrates an FPL above the PMF is achievable on site and the concept plan proposes to locate a flood storage chamber below the FPL to further reduce the flood risk on site.</p>

Issues Raised	Response
	<p>Department's Response:</p> <p>The proposed development facilitated by the planning proposal is compatible with the flooding risk on the site - see Section 4.1.1 of this report for further discussion.</p>
<p>Surrounding Community</p> <ul style="list-style-type: none"> The proposal has not demonstrated that the development does not impact on the ability of the existing community to safely and effectively respond to a flood. 	<p>Proponent's Response:</p> <p>Development at the subject site has the potential to reduce flood depths and hazard conditions in adjacent properties through the introduction of mitigation measures on the subject site.</p> <p>Development at the subject site creates an opportunity to also informally reduce the risk to life for nearby flood affected properties by providing a place of refuge.</p> <p>Agile Planning's Response:</p> <p>No response was provided.</p> <p>Department's Response:</p> <p>The proposed development facilitated by the planning proposal is compatible with the flooding risk on the site – see Section 4.1.1 of this report for further discussion.</p>

Table 6: Transport for NSW (TfNSW)

Issues Raised	Response
<p>Transport for NSW (TfNSW) has reviewed the 'Traffic Impact Assessment' report (Prepared by Ason Group dated 08 April 2022) and 'Planning Concept & Site Analysis' (Prepared by Ionic Management, dated 27 May 2022) and raises no objection subject to all vehicular access to any proposed development being via Cambridge Street, as required by Clause</p>	<p>Proponent's Response:</p> <p>The proponent noted Transport for NSW's (TfNSW) submission.</p> <p>Agile Planning's Response:</p> <p>TfNSW raised no objection subject to all vehicular access to any proposed development being through Cambridge Street rather than from Stoney Creek Road.</p> <p>Department's Response:</p> <p>Agile Planning's response is adequate, with the supporting concept scheme and traffic analysis identifying the vehicle access from Cambridge Street rather than Stoney Creek Road. This is capable of being adequately</p>

2.119 of State Environmental Planning Policy (Transport and Infrastructure) 2021.	addressed through the development application process under Clause 2.119 of State Environmental Planning Policy (Transport and Infrastructure) 2021.
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Table 7: Sydney Water

Issued Raised	Response
<p>Approval to construct a driveway over the deviated stormwater pipe/channel or within 1 metre from the outside face of the new deviated stormwater pipe/channel may be supported subject to the following requirements:</p> <ul style="list-style-type: none"> • Driveway must be on existing ground level. • No elevated driveway or basement access • Quality of the driveway or footpath should not exceed rural road grade or rural footpath grade. • If concrete slab is to be provided, then it should not exceed the quality/strength of 150mm thick concrete or 100mm thick concrete with SL82 mesh 	<p>Proponent's Response:</p> <p>Any future development proposal on the site will adopt the same design approach in relation to the Sydney Water asset as that which was approved under development application DA2020/0227 and will comply with the identified requirements by Sydney Water.</p> <p>Agile Planning's Response:</p> <p>Sydney Water's response was not identified as an issue.</p> <p>Department's Response:</p> <p>The driveway design is capable of being designed to adequately address Sydney Waters requirements during the development application process. It is noted that adequate driveway and basement access was achieved and approved under approved DA2020/0227. The same driveway access is proposed under the concept design supporting the planning proposal.</p> <p>The basement access is also capable of being adequately resolved during the development application process - see Section 4.1.1 of this report for further discussion.</p>

Table 8: Georges River Council Submission

Issued Raised	Response
<p>Development Control Plan (DCP)</p> <p>Whilst Council officers acknowledge the Planning Proposal has strategic and site-specific merit, it is imperative that the draft DCP amendment be adopted to support the planning controls in the Planning Proposal. The draft DCP amendment has been prepared to ensure that the built form outcome reflects urban design considerations for any future development of the site.</p> <p>Following the public exhibition of the DCP amendment, Council will consider a report on the submissions received and seeking the adoption of the DCP. The DCP will become effective when the LEP (Amendment No. 6 to GRLEP 2021) is gazetted</p>	<p>Proponent's Response:</p> <p>This is not a complex or unique site which requires a site-specific approach to massing and site layout and therefore a site specific DCP. It is an ordinary site which is not dissimilar to any other site in the Georges River local government area and the future redevelopment of the site would be sufficiently guided by the Council's generic DCP, just as is the case for any other high-density development in the R4 zone.</p> <p>This is evidenced by the fact that Council recently approved a three storey medical centre on the subject site (DA2020/0227) without a site specific DCP.</p> <p>However, for cooperation the proponent has prepared a site-specific DCP.</p> <p>Agile Planning's Response:</p> <p>Council supports the planning proposal.</p> <p>The Department's Response:</p> <p>On 24 July 2023, the site-specific DCP was adopted by Georges River Council and will commence when the LEP amendment is notified.</p>
<p>Voluntary Planning Agreement (VPA)</p> <p>The Planning Proposal does not include an offer to enter into a VPA. Council considers that a VPA is essential in order to address the local demands and cumulative impacts of the new residential population that will be enabled by the Planning Proposal.</p> <p>The Georges River Council Local Infrastructure Contributions Plan 2021 (Contributions Plan) does not levy for the above local facilities and works. The proposed development of the site was not anticipated at the time the Contributions Plan was prepared. As such, the S7.11 contributions would</p>	<p>Proponent's Response:</p> <p>The Sydney South Planning Panel did not accept that a VPA was required and in their determination in fact advised that:</p> <p><i>.... Council should consider a review of its Development Contributions Plan.</i></p> <p>Furthermore, the Panel's rejection of Council's assertion that a VPA is required is evidenced by the fact that it removed Council's role as PPA and assumed this role itself. This was done at the proponent's request due to the concerns raised regarding Council's unlawful demand for a VPA.</p> <p>Agile Planning's Response:</p> <p>Council supports the planning proposal.</p> <p>Department's Response:</p>

Issued Raised	Response
not appropriately address the impacts of the development.	The site is near existing transport and social infrastructure, services, open space and recreational areas which are capable of supporting the proposed increase in development density. As part of a future development application local and State contributions will be payable. These will contribute towards infrastructure to support the development

3.3 Panel Post-Exhibition Decision

On the 27 October 2023, the Sydney South Planning Panel (Panel) reconvened as the Planning Proposal Authority (PPA) to consider whether the plan should be supported for finalisation. This included the further consultation with the State Emergency Service (SES) and the DCCEEW as well as consideration of the responses by the proponent and the Department's Agile Planning Team. At this meeting, the Panel determined:

'to not proceed with the planning proposal and to request the ministers delegate to determine that the matter not proceed. A Gateway determination alteration is to be submitted to the Department of Planning and Environment as the Local Plan Making Authority, requesting the planning proposal no longer proceed.'

The reasons for the Panel's decision were:

- *'the flood risks and uncertainty as to how those risks could be mitigated to an acceptable level;*
- *the increase in residential density exposes more people to risk; and*
- *the land is situated in a flood planning area, and the Planning Proposal's inconsistency with the Direction has not been justified when considered in accordance with the Floodplain Development Manual 2023.'*

On 30 October 2023, the Panel wrote to the Department requesting that the Gateway determination be altered to not proceed in accordance with its post-exhibition decision. The Department is now responsible for considering this request to not proceed with the planning proposal as the local plan making authority.

The reasons for the Panel's decision to not support making the plan are addressed in **Section 4.1.1** of this report.

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 with all relevant Section 9.1 Directions, or is justifiably inconsistent.
- 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 8 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
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
Local Planning Panel (LPP) recommendation	<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 – inconsistency with Direction 4.1 Flooding was unresolved at Gateway – see Section 4.1.1 of this report for further discussion.
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

Table 9 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

Detailed assessment

The following section provides details of the Department's assessment where the requires further analysis or requires reconsideration of any unresolved matters. This assessment should be read in conjunction with the assessment undertaken as part of the Department's original Gateway determination.

4.1.1 Ministerial Direction 4.1 Flooding

The Department's Gateway assessment determined that the planning proposal is inconsistent with Ministerial Direction 4.1 with matters unresolved. The Gateway determination required that the unresolved flooding matters be adequately addressed prior to finalisation, including:

- consistency and/or justification for inconsistency with the applicable Ministerial Direction 4.1 Flooding requirements;
- the full range of flooding events on the site, up to a PMF event;
- identify and map all flooding hazards associated with the full range of flooding events up to PMF;
- any flooding impacts which may arise from cut and fill on the site;
- any flooding impacts (on and off-site) which may arise from development which may occur within a 1% AEP and PMF impacted area of the site;

- climate change impacts; and
- evacuation management for the site.

The Gateway determination also required consultation with the NSW State Emergency Service (SES) and the NSW Department of Climate Change, Energy, Environment and Water (DCCEEW).

This Direction applies as the proposal seeks to alter development standards and the land use zone on flood affected land. The pre-development flooding affecting the site is overland flow and at:

- 1% AEP ranges in depth between 100mm and 500mm, flood hazard categories ranging from H1 to H3 (**Figure 5**), and a hydraulic categorisation of floodway and flood storage; and
- PMF ranges between 600mm and 1,000mm, flood hazard categories ranging from H1 to H5 (**Figure 6**) and a hydraulic categorisation of floodway and flood storage.

The probability of a PMF flood event on the site is approximately a 1 in 10million year chance of occurring.

This Direction seeks to ensure development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and principles of the Floodplain Development Manual 2005. It also seeks to ensure LEP provisions that apply to flood prone land that are commensurate with the flood behaviour and consider the potential impacts on and off the land.

The planning proposal is supported by a flood impact assessment package including the following documentation:

- a Flood and Risk Impact Assessment (FIA) prepared by Northrop (June 2022). The FIA refers to the flood impact assessment also prepared by Northrop (December 2020), which supported the approved medical centre development on the site. The Northrop 2020 flood impact assessment illustrates the existing case flood depth for the 1% AEP and PMF design storm events, as well as the ARR 2019 flood hazard categories across the site and neighbouring land during the 1% AEP and PMF design storm events;
- a response to the DCCEEW and SES submissions; and
- additional information (Northrop dated 28 November 2023) responding to:
 - the Panel's post-exhibition decision; and
 - additional clarification requested by the Department, including:
 - clarification on data used to model potential flooding behaviour;
 - cut and fill impacts;
 - details of engineering solutions for future built form which responds to flooding affectation; and
 - duration of inundation during a PMF flood event.

The Department has considered the following in the assessment of the proposal against the 9.1 Direction:

- DCCEEW and the SES submissions;
- the Panel's post-exhibition decision;
- the flood impact assessment package prepared by the proponent in accordance with the Gateway determination; and
- the recent updates to the NSW Flood Planning Framework in response to the NSW Government's Flood Inquiry. It is noted that the updated framework identifies local government as responsible for managing flood impacts on development, including requirements ensuring development is compatible with flooding risks.

The planning proposal is justifiably inconsistent with Ministerial Direction 4.1 - Flooding, because:

- during a PMF, post development flood levels can be reduced by approximately (**Figure 7**):

- 30mm in Cambridge Street;
- 100mm in Stoney Creek Road; and
- 50mm to adjacent properties.

These reductions in flood levels are facilitated by the proposed 2,000m³ flood storage chamber. The flood storage chamber responds to Council's flood mitigation requirements and forms part of the Council adopted site specific DCP.

An approximate increase up to approximately 150mm in flow is anticipated on adjoining properties to the immediate west and east during a PMF event. These increases are capable of being appropriately resolved during the development application through refinement of the final built form and on-site flood mitigation works. This can include refining the proposed flood storage chamber;

- demonstrates blockwork or a reinforced concrete design can withstand the forces generated by the expected flood behaviour during a PMF event. These engineering design and construction requirements can be implemented through the development application process;
- the finished floor level of future residential development (approximately 31.2m AHD including approximately 500mm of freeboard) can be designed to be above the PMF flood level whilst still enabling a residential flat building to be provided on the site (**Figure 8**). The future floor levels are capable of being refined as part of the development application process;
- the R4 High density residential zone permits a range of residential land use which facilitates flexibility in land use outcomes. This provides additional opportunities for responding to the flooding affectation through the development application process if necessary;
- the proponent has demonstrated that proposed development of the site does not require filling of land, and uses an example of a 2,000m³ flood storage chamber proposed to reduce flooding impacts against pre-development flows;
- presentation of the results in the Flood Impact Assessment (Northrop, 2020) and subsequent submissions have used guidance from the latest Australian Rainfall and Runoff¹ 2019, including the use of the latest hazard categories (H1 to H6).

On 23 October 2023, Council adopted their Overland Flow Floodplain Risk Management Study and Plan for Hurstville, Mortdale and Peakhurst Wards (the Flood Study) which reviews the expected change between the ARR2019 and ARR1987. The Flood Study includes the site and analyses the flooding impacts on the site.

The Flood Study concludes '*The assessment has determined that in general, peak overland flood levels in the Hurstville, Mortdale and Peakhurst Wards produced using ARR 2019 are mostly < 0.1 m lower than those produced using ARR 1987 with no significant change in flood extents. It is recommended to utilise ARR 2019 for the Overland Flow Floodplain Risk Management Study and Plan for Hurstville, Mortdale and Peakhurst Wards, as ARR 1987 methodologies are likely to overestimate the flood risk throughout overland catchment areas*'.

This reduced flooding impact and how development on the site responds is capable of being resolved during the development application process. This may include reducing finished floor level heights;

¹ Australian Rainfall and Runoff is a national guideline document, data and software suite that can be used for the estimation of design flood characteristics in Australia.

- the maximum flood hazard category affectation of the site post-development during a 1% AEP flood event is H2. This is a low risk hazard category and is safe for people (**Figure 9**);
- evacuation is possible from the site during all flood conditions except during a PMF event for a time period of approximately 40 minutes when the site is subject to high risk flood hazard (H5 and H6 flooding) (**Figures 10 and 11**). It is noted that a limited part of the site is identified as being affected by H6 flood hazard in the post-development flood modelling. Shelter in place (SIP) is not inappropriate in this circumstance considering the Department's draft Shelter in Place Guidelines, because:
 - the duration for flood inundation during the high hazard flooding is approximately 40 minutes on the part of the site at PMF suitable for evacuation (**Figure 11**);
 - SIP floor level is above the PMF;
 - access to on-site systems to provide power, water and sewerage services during and beyond the event for the full range of flooding can be adequately addressed during the development application process;
 - the location of storage of food, water and medical emergency for SIP purposes can be provided above the PMF level and available during and beyond the event for the full range of flooding. This can be adequately addressed during the development application process;
 - SIP areas can be structurally safe and accessible during floods up to the PMF;
 - it is anticipated that sufficient warning time will be available to adequately prepare of a PMF flood event noting it is a 1 in 10million chance of occurring;
 - the proposal can provide for reduce flood inundation on the north western corner of the site (evacuation location) during both 1%AEP and PMF flood events which is the proposed evacuation path from the site (**Figure 11**);
 - the proposal is supported by a Flood Evacuation Plan which can be further refined during the development application process; and
 - the intended residential flat building development will result in a reduction on site population in comparison to the approved medical centre of approximately 120 people based on census data for average apartment occupancy.
- in the event evacuation is not completed prior to the PMF event the site offers refuge as an SIP for residents of the development and surrounding properties. This is an improvement on the existing development on the site; and
- opportunities to raise basement protection to the PMF include raising the driveway crest before proceeding to the lower levels or through mechanical barriers in response to Sydney Water's submission. The Council adopted site specific DCP only requires the driveway basement access to address a 1% AEP flood event with 500mm freeboard.

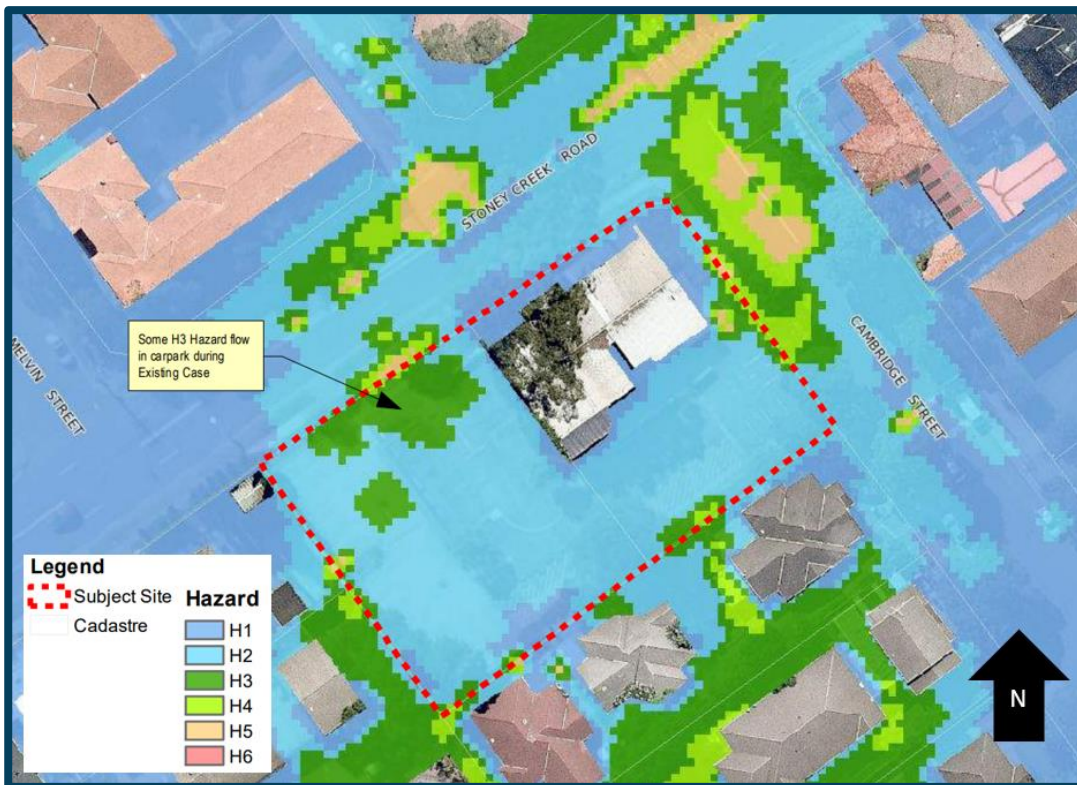


Figure 5: Flood affectation at 1%AEP pre-development (Source: Flood and Risk Impact Assessment (FIA) prepared by Northrop (June 2022))



Figure 6: Flood affectation at PMF pre-development (Source: Flood and Risk Impact Assessment (FIA) prepared by Northrop (June 2022))

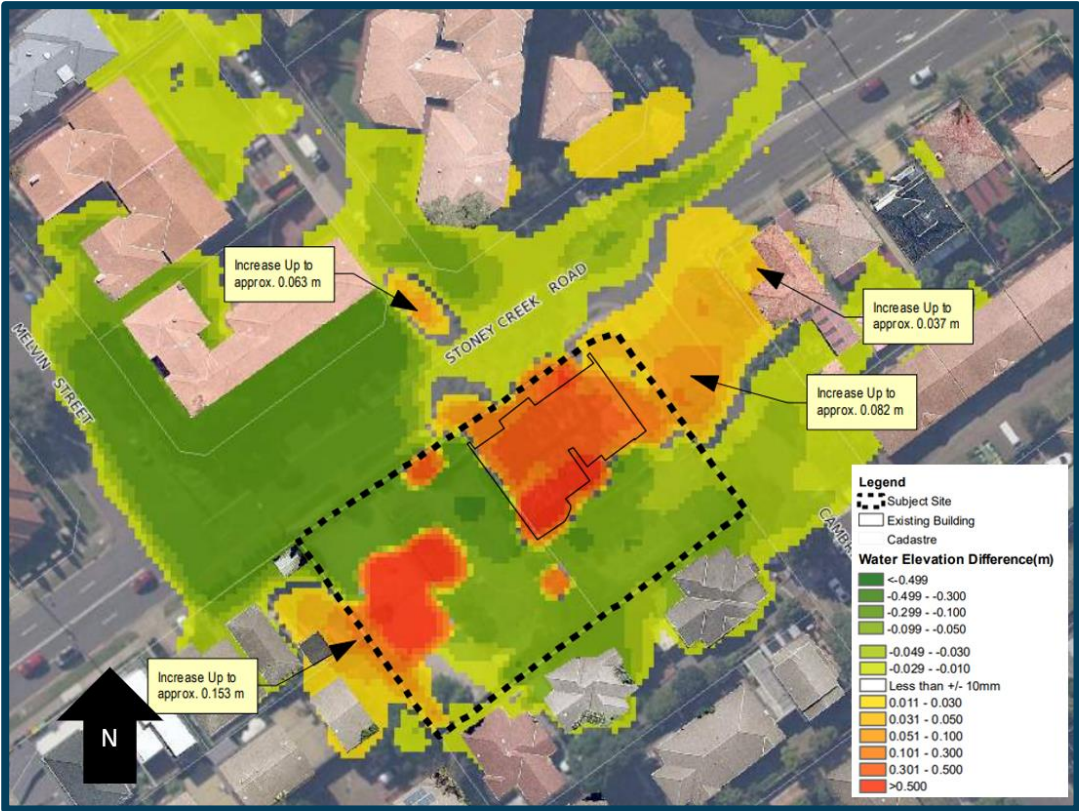


Figure 7: Comparison of change in pre and post development flood levels (Source: Flood and Risk Impact Assessment (FIA) prepared by Northrop (June 2022))

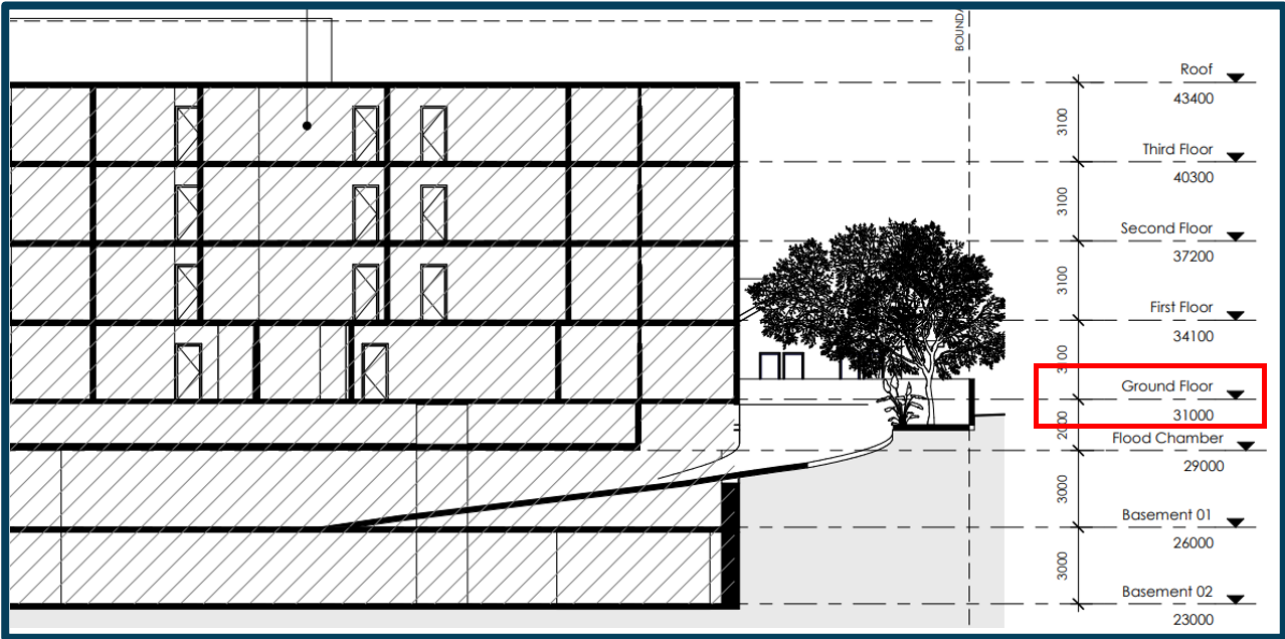


Figure 8: East-West Section of Concept Design (Source: Planning Concept by Proponent)

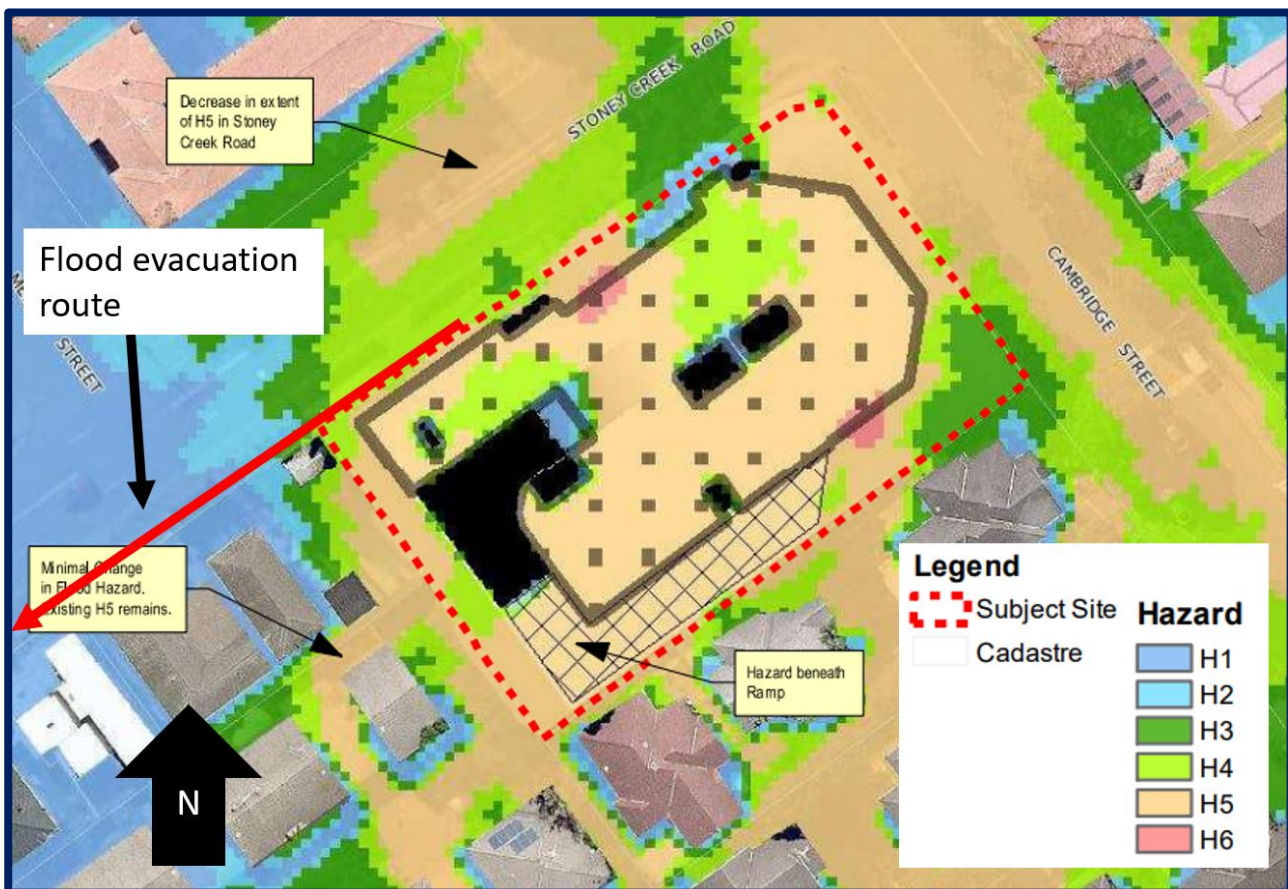
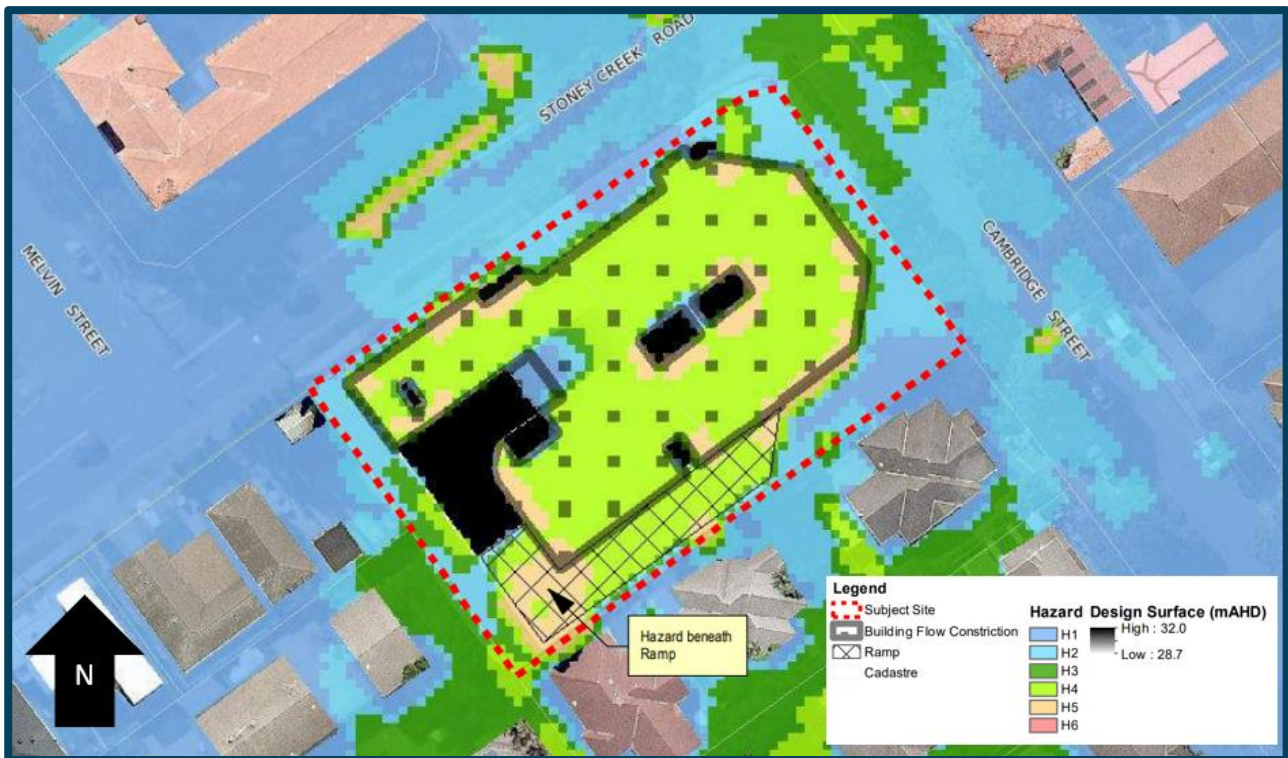


Table 2 - Comparison of Hazard Durations (1% AEP)

Location	Greater than H1		Greater than H2		Greater than H3		Greater than H4	
	Pre	Post	Pre	Post	Pre	Post	Pre	Post
Stoney Creek Road NW Corner of the Site (Identified Site Evacuation Location)	Max H1	Max H1	Max H1	Max H1	Max H1	Max H1	Max H1	Max H1
Cambridge Street SE Corner of the Site	30 mins	20 mins	Max H2	Max H2	Max H2	Max H2	Max H2	Max H2

Table 3 - Comparison of Hazard Durations (PMF)

Location	Greater than H1		Greater than H2		Greater than H3		Greater than H4	
	Pre	Post	Pre	Post	Pre	Post	Pre	Post
Stoney Creek Road NW Corner of the Site (Identified Site Evacuation Location)	56 mins	48 mins	44 mins	26 mins	Max H3	Max H3	Max H3	Max H3
Cambridge Street SE Corner of the Site	60* mins	60* mins	48 mins	48 mins	50 mins	50 mins	40 mins	40 mins

Figure 11: Period of flood inundation pre and post-development at 1% AEP and PMF (Source: Proponent's additional information (Northrop dated 28 November 2023))

4.1.2 Additional Permitted Uses

Community submissions raised concerns with the proposed office or any potential retail uses. Issues raised included that the site is detached from King George Road retail area and is surrounded by residential uses. Concerns were also raised in relation to potential competition with the existing shops and businesses in the local area, including King Georges Road.

The Department considers that the proposed additional permitted uses (business and office premises) enable a range of uses that are not adequately justified and that may compete with the nearby Beverly Hills local centre. In addition, there are sufficient non-residential uses permitted with consent within the proposed R4 High Density Residential zone.

Removing the additional permitted uses from the proposal will still enable to the core objectives and intended outcomes of the planning proposal.

The Department has made alterations to the draft LEP to align with post exhibition amendments and remove the additional permitted uses from the proposal, therefore constituting a mapping only proposal.

5 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 10 Consultation following the Department's assessment.

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	<p>4 maps have been prepared by the Department's ePlanning team and meet the technical requirements.</p> <p>As this is a map-only amendment, the Department does not require the Map Cover Sheet in addition to the draft instrument.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Panel	<p>The Panel was consulted on the terms of the amended draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>The Panel provided no further comment to the draft LEP. This response was received on 3 April 2024.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	<p>Council was provided a copy of the amended draft instrument and LEP maps. Council provided no further comment to the draft LEP. This response was received on 4 April 2024.</p>	
Parliamentary Counsel Opinion	<p>PCO is not required to issue an Opinion for map-only amendments.</p>	<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 amended draft LEP under clause 3.36(2)(a) of the Act, because:

- it has strategic site specific merit, being justified in accordance with the strategic planning framework under the EP&A Act, including Council's Local Strategic Planning Statement, Section 9.1 Ministerial Directions and State Environmental Planning Policies;
- it is consistent with the Gateway Determination;
- the issues raised during community and agency consultation and the Panel's post-exhibition decision have been adequately addressed; and
- provides housing near the Beverly Hills Town Centre and existing infrastructure, including Beverly Hills Station.



3 May 2024

Tom Kearney

Executive Director, Local Planning and
Council Support



24 April 2024

Alexander Galea

Manager, Eastern and South Districts

Assessment officer

William Pruss

Planning Officer, Eastern and South Districts

02 8229 2975