

Item: ENV045-21 PP2017/0005 - Planning Proposal for 53A – 59A Gloucester Road, Hurstville

Author: Manager Strategic Planning

Directorate: Environment and Planning

Matter Type: Committee Reports

RECOMMENDATION:

- (a) That Council endorse the Planning Proposal (PP2017/0005) to amend *Hurstville Local Environmental Plan 2012* (or if gazetted the *Georges River Local Environmental Plan*), in relation to 53A – 59A Gloucester Road, so as to permit a residential care facility with a maximum FSR of 1.6:1 and a maximum building height ranging from 12m, 14m and 16.9m at Nos. 53A-59A Gloucester Road, Hurstville.
- (b) That Council request as a condition of the Gateway Determination that:
 - a. the increase in FSR and maximum building height on the subject site is linked to a residential care facility land use only; and
 - b. a limit on the intensification of the new residential care facility is restricted to 110 beds, being bedroom space of 3,850sqm of a total development floorspace of 8,203sqm.
- (c) That Council endorse the Planning Proposal to be forwarded to the Minister for Planning and Public Places for a Gateway Determination under Section 3.34 of the Environmental Planning and Assessment Act 1979.
- (d) That the Planning Proposal be placed on public exhibition in accordance with the conditions of any Gateway Determination issued by the Department of Planning, Industry and Environment.
- (e) That Council resolve to prepare an amendment to the Hurstville Development Control Plan No. 1 (“HDCP No.1”), or the Georges River DCP if effective, at the proponent’s cost, to run concurrently with an amendment to the Hurstville LEP 2012 (or if gazetted the Georges River Local Environmental Plan), to reflect site specific provisions for any future development of the site.
- (f) That the amendment to the relevant development control plan be placed on public exhibition in accordance with the Environmental Planning and Assessment Act and its Regulation.

EXECUTIVE SUMMARY

1. A Planning Proposal request (PP2017/0005) was submitted by the RPS Group on 17 November 2017 that seeks to amend the Hurstville LEP 2012 in relation to 53A – 59A Gloucester Road, Hurstville (Lot 10 in Deposited Plan 1077198 and Lot Y in Deposited Plan 411930). Since lodgement, the proposal has been modified on multiple occasions. The current version submitted by Mecone (who has replaced RPS Group as consultant planner) in April 2021, seeks to permit a residential care facility with a floor space ratio (FSR) of 1.6:1 and a maximum building height ranging from 12m, 14m and 16.9m.

2. The concept scheme in its amended form was subsequently peer reviewed by Architectus (on behalf of Council) in December 2019 and April 2020. The most recent iteration of the Architectural Concept Scheme was considered appropriate for the site.
3. The Planning Proposal was referred to the Georges River Local Planning Panel (LPP) on 6 May 2021. The LPP deferred the matter requesting additional information on the distribution of heights and implications for adjoining sites and potential future developments; the setbacks in relation to the adjoining sites and potential future developments; and the provisions of the Housing for Seniors or People with a Disability SEPP and the draft Housing Diversity SEPP.
4. The LPP on 5 August 2021 considered a further report on the Planning Proposal addressing the reasons for deferral and recommended that Council endorse the forwarding of Planning Proposal PP2017/0005 to the NSW Department of Planning, Industry and Environment (DPIE) to request a Gateway Determination under Section 3.33 of the EP&A Act 1979.
5. The LPP further recommended that Council request as a condition of the Gateway Determination that the increase in FSR and maximum building height on the subject site is linked to a residential care facility land use only. The LPP also made recommendations on the content of the accompanying DCP amendment.
6. This report covers the LPP matters and recommends that Council endorse the forwarding of Planning Proposal PP2017/0005 to the NSW Department of Planning, Industry and Environment (DPIE) to request a Gateway Determination under Section 3.33 of the EP&A Act 1979 for an amendment to the Hurstville Local Environmental Plan (LEP) 2012 (or Georges River LEP 2020, if gazetted), to permit a residential care facility with a maximum floor space ratio (FSR) of 1.6:1 and a maximum height of building (HOB) ranging from 12m, 14m and 16.9m at 53A-59A Gloucester Road, Hurstville.
7. The report also recommends that Council resolve to prepare an amendment to the relevant development control plan and to place it on public exhibition alongside the Planning Proposal.
8. No planning agreement accompanies the Planning Proposal as there is no increase in the number of beds in the residential care facility. In this respect the proponent has agreed to:
 - a. the increase in FSR and maximum building height on the subject site being linked to a residential care facility land use only
 - b. a limit on the intensification of the new residential care facility to 110 beds, being bedroom space of 3,850sqm of a total development floorspace of 8,203sqm
9. The planning agreement is further discussed in this report in Paragraphs 121 to 136.

BACKGROUND

10. A Planning Proposal request (PP2017/0005) was submitted by the RPS Group on 17 November 2017 that seeks to amend the Hurstville LEP 2012 in relation to 53A – 59A Gloucester Road, Hurstville (Lot 10 in Deposited Plan 1077198 and Lot Y in Deposited Plan 411930).
11. Since lodgement, the proposal has been modified on multiple occasions. The current version submitted by Mecone (who has replaced RPS Group as consultant planner) in April 2021, seeks to permit a residential care facility with a floor space ratio (FSR) of 1.6:1 and a maximum building height ranging from 12m, 14m and 16.9m.

12. The concept scheme in its amended form was subsequently peer reviewed by Architectus (on behalf of Council) in December 2019 and April 2020. The most recent iteration of the Architectural Concept Scheme was considered appropriate for the site. The Indicative Development Concept provides for the following:
 - a. Demolition of existing structures and excavation to facilitate the delivery of a basement;
 - b. Construction of a part 3 and part 4 storey residential aged care facility with a Gross Floor Area (GFA) of 8,203sqm (FSR 1.6:1) comprising:
 - i. 94 residential care beds;
 - ii. 16 dementia beds;
 - iii. Communal facilities;
 - iv. Staff amenities;
 - v. Ancillary uses including a café, hairdresser, day spa and function rooms;
 - c. A basement with 41 vehicular spaces, comprising:
 1. 20 staff spaces;
 2. 11 residential spaces;
 3. 10 additional spaces above the minimum requirement; and
 - d. Provision of outdoor communal areas and landscaping.
13. The amended Planning Proposal is accompanied by the following documents:
 - a. Planning Proposal, prepared by Mecone (**Attachment 1**)
 - b. Indicative Architectural Concept, prepared by O'Neill Architecture (**Attachment 2**)
 - c. Site Survey, prepared by RPS (**Attachment 3**)
 - d. Transport Impact Assessment, prepared by JMT Consulting (**Attachment 4**)
 - e. Urban Design Principles, prepared by Mecone and O'Neill Architecture which has now developed into an amendment to the Georges River Development Control Plan (GRDCP) (**Attachment 7**)
 - f. Landscape Statement, prepared by Arcadia (**Attachment 5**)
14. The LPP considered a report at its meeting held on 6 May 2021 that recommended that the LPP support the Planning Proposal and recommend to Council that it be forwarded to the Minister for Planning and Public Places for a Gateway Determination under Section 3.34 of the EP&A Act. The report further recommended that the Gateway Determination include a condition that the increase in FSR and height on the subject site is linked to a residential care facility land use only.
15. In considering the Planning Proposal at its meeting held on 6 May 2021, the LPP deferred the matter requesting additional information as detailed below:

The Panel notes:

1. *The proposal results in adhoc zoning outcomes in relation to the surrounding zones (R2, R3, B1 and SP2) and built form uniformity. In particular having regard to a maximum height of the proposal.*
2. *Ideally the consideration of the Planning Proposal and rezoning would apply to the block bounded by Ruby Street, Millet Street, Pearl Street and Gloucester Road Hurstville in relation to the strategic planning intentions for this part of the Local Government Area.*

The Panel defers the Planning Proposal subject to:

- 1. Further consideration by the proponent of the Planning Proposal to assess and provide a further submission to the Panel that address the relationship of the future built form/development in regard to:*
 - a. Distribution of heights and implications for adjoining sites and potential future developments.*
 - b. Setbacks in relation to the adjoining sites and potential future developments.*
 - c. The provisions of the Housing for Seniors or People with a Disability SEPP and the draft Housing Diversity SEPP.*
 - 2. The submission of a Draft Development Control Plan that articulates a, b and c above.*
16. The LPP on 5 August 2021 considered a further report on the Planning Proposal addressing the reasons for deferral and which recommended that Council endorse the forwarding of Planning Proposal PP2017/0005 to the NSW Department of Planning, Industry and Environment (DPIE) to request a Gateway Determination under Section 3.33 of the EP&A Act 1979. A copy of the report that was considered by LPP on 5 August 2021 is contained in **Attachment 6** to this report. The report is comprehensive in covering the issues raised by the LPP at its meeting held 6 May 2021.
17. The LPP recommended:
- a. That the Georges River Local Planning Panel recommends that Council endorse the forwarding of Planning Proposal PP2017/0005 to the NSW Department of Planning, Industry and Environment (DPIE) to request a Gateway Determination under Section 3.33 of the EP&A Act 1979 for an amendment to the Hurstville Local Environmental Plan (LEP) 2012 (or Georges River LEP 2020, if gazetted), to permit a residential care facility with a maximum floor space ratio (FSR) of 1.6:1 and a maximum height of building (HOB) ranging from 12m, 14m and 16.9m at 53A-59A Gloucester Road, Hurstville.*
 - b. That the Georges River LPP further recommends to Council that Council request as a condition of the Gateway Determination that the increase in FSR and maximum building height on the subject site is linked to a residential care facility land use only. Within this report consideration is to be given to:*
 - i. The implications of the Draft Housing SEPP on the proposed planning proposal be reviewed specifically in respect of definitions, non refuse provisions and character tests.*
 - ii. That objectives be included to ensure that any plant to be located on the roof is included in the maximum permissible height limit and that this also be included in the site specific Development Control Plan.*
 - c. Consideration is given to requirement of the Plan of Management, compliance with the Housing SEPP car parking requirements, and consideration of site fencing and increasing the setbacks on the north western boundary along Gloucester Road.*
18. The matters raised by the LPP in its recommendation of 5 August 2021 are addressed in Paragraphs 39 to 48 of this report.

SITE DESCRIPTION & CONTEXT

19. The site is located at 53A – 59A Gloucester Road, Hurstville, NSW, 2220 and is occupied by an existing Regis Aged Care facility known as ‘Regis Hurstville’. The aged care facility

supports 96 beds and offers ageing in place, palliative care and respite care services (a maximum of 110 beds). The site is owned and operated by Regis Aged Care.

20. **Figure 1** indicates the location of the site. The subject site consists of two lots, legally described as Lot 10 in Deposited Plan 1077198 and Lot Y in Deposited Plan 411930.
21. The site is bounded by Gloucester Road to the east, low density residential to the north and south, Millett Street to the west and has an area of approximately 5,267sqm. The site has a frontage of 88m to Gloucester Road and 20m to Millett Street.
22. The site is well serviced by public transport. It is located 950m from Hurstville Railway Station and 1.3km from Penshurst Station as the crow flies.
23. The site is in proximity to Hurstville Private Hospital which is recognized for its maternity, men's health and cancer surgery services. The Hospital also provides numerous other services including spinal surgery and interventional cardiology.
24. Additionally, the site is in close proximity to open spaces including Hurstville Oval and Penshurst Park which are located approximately 500m and 1.1km away respectively.

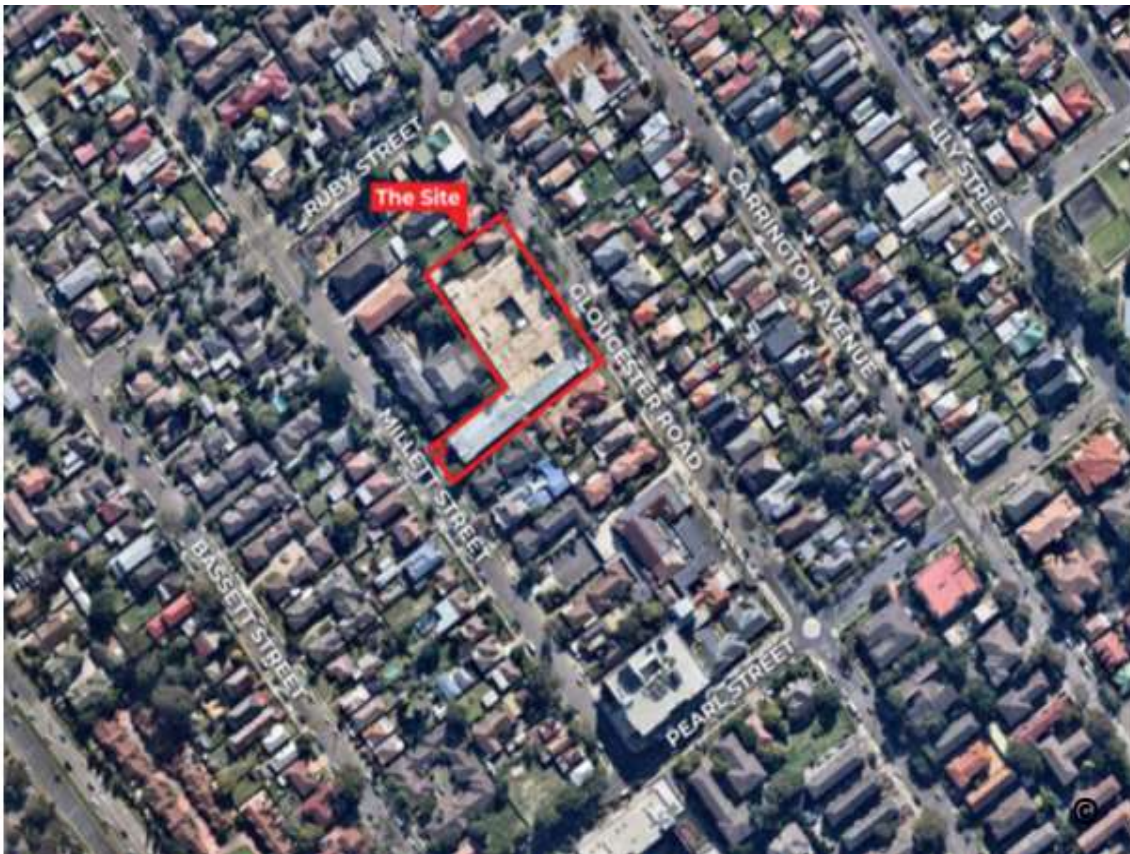


Figure 1: Location of Site (Source: Mecone/Mosaic)

25. The surrounding neighbourhood is characterized by a mix of land uses, including low to high density residential development. The nearby Hurstville City Centre is currently undergoing significant change with the existing built form being redeveloped into commercial and mixed-use tower clusters. **Table 1** below provides a summary of the surrounding neighbourhood.

Table 1 – Surrounding Development

Aspect	Surrounding Development
North	Land comprises low density detached housing of 1-2 storeys in height.
East	Land comprises low density detached housing of 1-2 storeys in height. Further east is Hurstville Private Hospital comprising buildings and structures from one (1) – five (5) storeys. Beyond this, the Hurstville City Centre is comprised of high density residential flat buildings and commercial towers.
South	Land comprises low density detached housing of single storey dwellings.
West	Land comprises low to medium density housing ranging from three (3) to four (4) storeys in height.

26. Views of the site, including interior images of the site, are shown in **Figures 2 to 7** below.



Figure 2: View south from Gloucester Road (Source: Mecone)



Figure 3: Photograph of existing interior of facility (Source: Mecone)



Figure 4: View north to Gloucester Road entrance of Regis Aged Care (Source: Google Maps)



Figure 5: View east to neighbourhood centre at the northern end of Gloucester Road (Source: Google Maps)



Figure 6: View east to vacant site zoned R3 located at corner of Millett Street & Ruby Street. (Source: Google Maps)



Figure 7: View north to loading dock of existing facility. (Source: Google Maps)

SUMMARY OF AMENDED PLANNING PROPOSAL REQUEST

27. The Planning Proposal has been amended since its lodgement based on the advice of Council and Architectus (who reviewed the design on behalf of Council). A revised Planning Proposal request was submitted by Mecone in September 2020 with further amendments made in April 2021.
28. The amended Planning Proposal lodged September 2020 and updated in April 2021 now seeks to amend the Hurstville LEP 2012 (or Georges River LEP 2020, if gazetted), so as to permit a residential care facility with a maximum FSR of 1.6:1 and a maximum building height ranging from 12m, 14m and 16.9m at Nos. 53A-59A Gloucester Road, Hurstville. The following amended documents now form the basis of the Planning Proposal request being considered in this report:
 - a. Planning Proposal, prepared by Mecone (**Attachment 1**)
 - b. Indicative Architectural Concept, prepared by O'Neill Architecture (**Attachment 2**)
 - c. Site Survey, prepared by RPS (**Attachment 3**)
 - d. Transport Impact Assessment, prepared by JMT Consulting (**Attachment 4**)
 - e. Urban Design Principles, prepared by Mecone and O'Neill Architecture which has now developed into an amendment to the Georges River Development Control Plan (GRDCP) (**Attachment 7**)
 - f. Landscape Statement, prepared by Arcadia (**Attachment 5**)

29. The intent of the Planning Proposal is not to alter the Zoning, FSR, and HOB Maps but permit with consent at the site a residential aged care facility with a FSR of 1.6:1, and a range of building heights being 12m, 14m and 16.9m. The range of heights is displayed in **Figure 8** below. The mechanism for the implementation of the range of heights - whether it requires a local provision or a Schedule 1 land use - will be the ambit of Parliamentary Counsel.



Figure 8 – Proposed Range of Heights at the Site

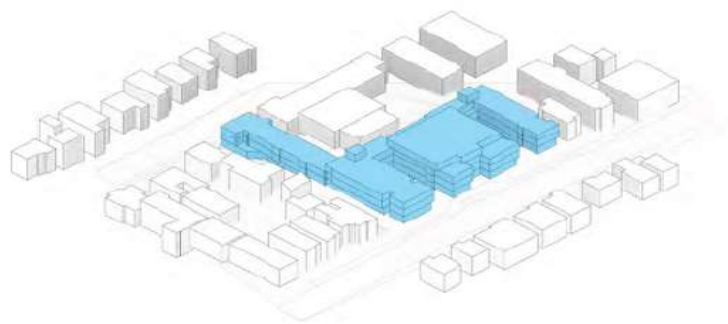
(NOTE: there are no proposed amendments to Hurstville LEP 2012 or Georges River LEP 2020 (if gazetted) HOB map. The image above is for reference purposes only.)

30. A Site-Specific Development Control Plan (Site-Specific DCP) was lodged by the proponent to:
- provide certainty that the built form outcome reflects the requirements of the appended Indicative Architectural Concept Design (**Attachment 2**) and Urban Design Principles; and
 - address the requirements of the LPP's recommendation on 6 May and 5 August 2021.
31. The DCP is discussed in Paragraphs 137 to 139 of this report.

Summary of Architectural Concept Scheme

32. This Planning Proposal is accompanied by an architectural concept scheme (Rev 10 dated 22 September 2020, refer to **Attachment 2**) prepared by O'Neill Architecture, demonstrating the following:
- Demolition of existing structures and excavation to facilitate the delivery of a basement;
 - Construction of a part 3 and 4 part storey residential aged care facility with a GFA of 8,203sqm (FSR 1.6:1) comprising:

- i. 94 residential care beds;
 - ii. 16 dementia beds;
 - iii. Communal facilities;
 - iv. Staff amenities;
 - v. Ancillary uses including a café, hairdresser, day spa and function rooms;
 - c) A basement with 41 vehicular spaces, comprising:
 - i. 20 staff spaces;
 - ii. 11 residential spaces;
 - iii. 10 additional spaces above the minimum requirement; and
 - d) Provision of outdoor communal areas and landscaping.
33. The concept scheme in its original form was considered by the Georges River Design Review Panel (DRP) on 3 May 2018. The DRP found the proposal could not be supported in its present form.
34. The proposal in its amended form was subsequently peer reviewed by Architectus in December 2019 and April 2020. The most recent iteration of the Architectural Concept Scheme was considered appropriate for the site.
35. The Indicative Architectural Concept prepared by O'Neill Architecture (**Attachment 2**) provides the amended concept resulting from the changes sought in increasing the FSR to 1.6:1 and HOB to a range of heights to 16.9m. **Figures 9 and 10** below illustrates the height and massing of the proposed development and its immediate context. **Figure 9** indicates the massing and bulk and **Figure 10 to Figure 12** show the proposed heights and surrounding heights in storeys and in reduced level heights.



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PROPOSED MASSING WITH SURROUNDING MAXIMUM BUILDING HEIGHT

Figure 9 – Extract from the Indicative Architectural Concept

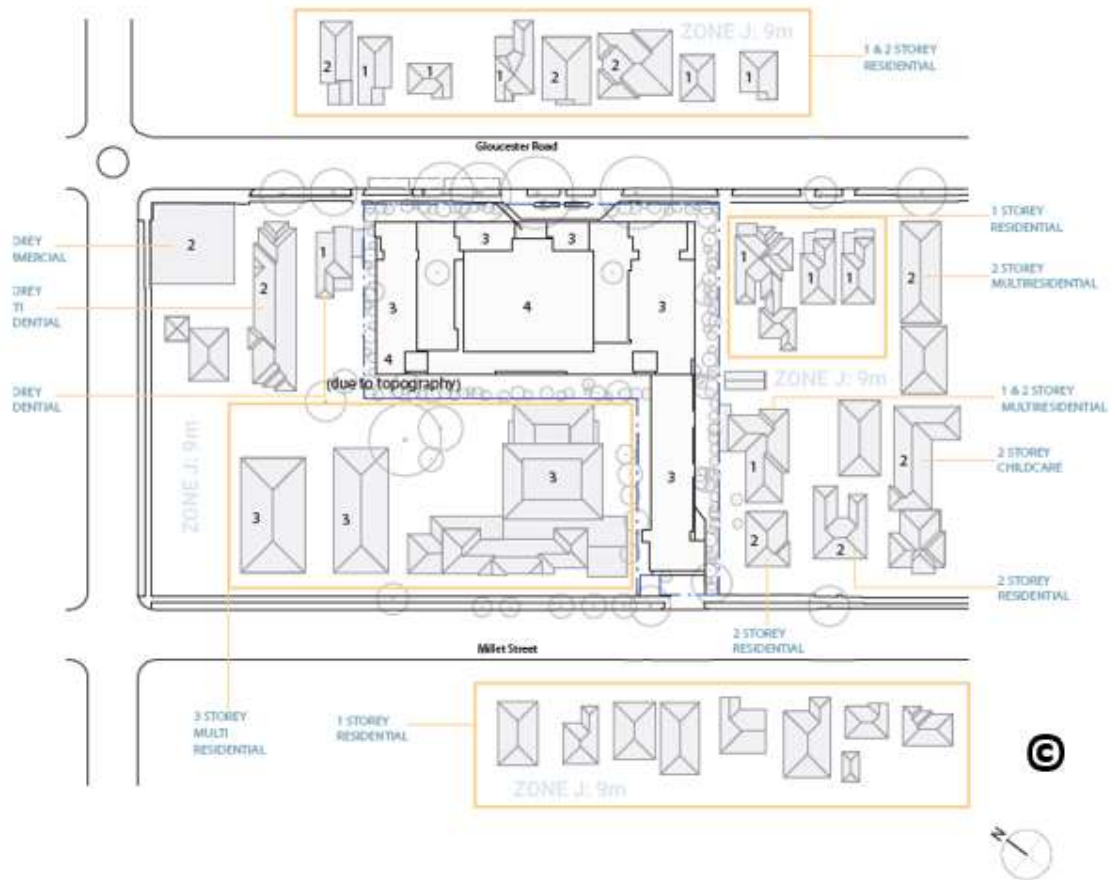


Figure 10 – Extract from the Indicative Architectural Concept – showing the maximum building heights in storeys



Figure 11 - Extract from the Indicative Architectural Concept – 14m Height Plane Diagram view from Gloucester Road

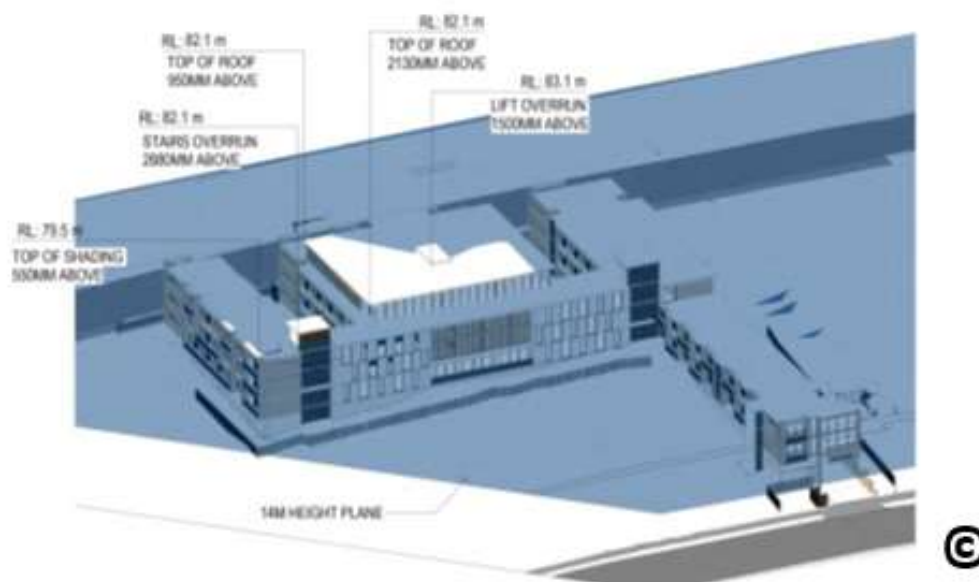


Figure 12 - Extract from the Indicative Architectural Concept – 14m Height Plane Diagram view from Millet Street

36. The Urban Design Principles Report accompanying the Architectural Concept, prepared by Mecone and O'Neill Architecture has now formed the basis of an amendment to the current DCP covering the site. In summary the Principles require:
 - a) The maximum building height in storeys (including plantrooms and lift overruns) shall be consistent with that shown in the **Figure 10** above to minimise visual impacts, building scale and overshadowing issues.
 - b) As a senior's residential care facility, the development is to have a minimum floor height of 3.4m.
 - c) A minimum front setback of 4.5m provided along Gloucester Road to maintain the streetscape character and site context. All existing street trees at the front of the site shall be maintained on and near the site.
 - d) A minimum 3m setback provided to the north-west boundary on Millett Street to ensure sufficient separation is provided between habitable rooms. Where this cannot be achieved, alternative design treatments such as screening or vegetation must be provided to maximise privacy.
 - e) A minimum 3m setback provided to the north-west boundary on Gloucester Road to ensure sufficient separation is provided between habitable rooms. Where this cannot be achieved, alternative design treatments such as screening or vegetation must be provided to maximise privacy.
 - f) A minimum 6m setback provided to the eastern boundary and southern boundaries to provide sufficient building separation to the adjoining developments.
37. The Planning Proposal is accompanied by a Transport Impact Assessment (TIA), prepared by JMT Consulting (refer to **Attachment 4**). The key findings of the assessment are as follows:

- a) *The site has good access to a range of public transport services as well as efficient access to the broader road network.*
 - b) *No changes to the existing vehicular access are proposed as part of the Planning Proposal which retains drop off / pick up activity via Gloucester Road and car park access via Millett Street.*
 - c) *The site proposes to provide a generous amount of parking, above the SEPP minimum requirements which will have the benefit of accommodating the parking needs of staff and visitors on-site without impacting the adjacent street network.*
 - d) *A basement car park is to be provided on the site to accommodate future car parking needs, which is to be designed in accordance with relevant Australian Standards for car parking.*
 - e) *The Planning Proposal may result in an increase of 3 vehicle trips during the peak hour of the day and 28 vehicle trips over the course of a typical day. This level of traffic generation is negligible in the context of the surrounding road network and would have no impact on the current road network performance.*
38. The TIA concludes that the transport impacts arising from the proposal are minimal and can be managed by existing facilities within the site as well as the external transport network.

PLANNING STRATEGIES, POLICIES AND CONTROLS

Existing Planning Controls under the Hurstville LEP 2012

39. The subject site is currently zoned R2 Low Density Residential under the Hurstville LEP 2012. Refer to the extract of the land zoning map in **Figure 13**.
40. The R2 Low Density Residential permits certain residential uses such as attached dwellings, boarding houses, dwelling houses, group homes, respite day care centres, secondary dwellings and semi-detached dwellings.
41. Seniors housing is not listed as a permissible use with consent in the R2 Low Density Residential Zone of the HLEP2012. However, Clause 15 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP) permits seniors housing “**development on land zoned primarily for urban purposes for the purpose of any form of seniors housing**”.
42. Despite Clause 15 of the Seniors SEPP the proponent cannot rely on the permissibility afforded by the Seniors SEPP alone as the proposal seeks a greater maximum building height (the proposed heights range from 12m, 14m and 16.9m) than what is permitted on the site under Hurstville LEP 2012 (being 9m) and under the Seniors SEPP (being 8m under Clause 40 of the Seniors SEPP).
43. Land adjacent to the north is zoned R2 Low Density Residential, R3 Medium Density Residential and B1 Local Neighbourhood Centre. Land to the south is zoned R2 Low Density Residential and SP2 Infrastructure under the Hurstville LEP 2012.

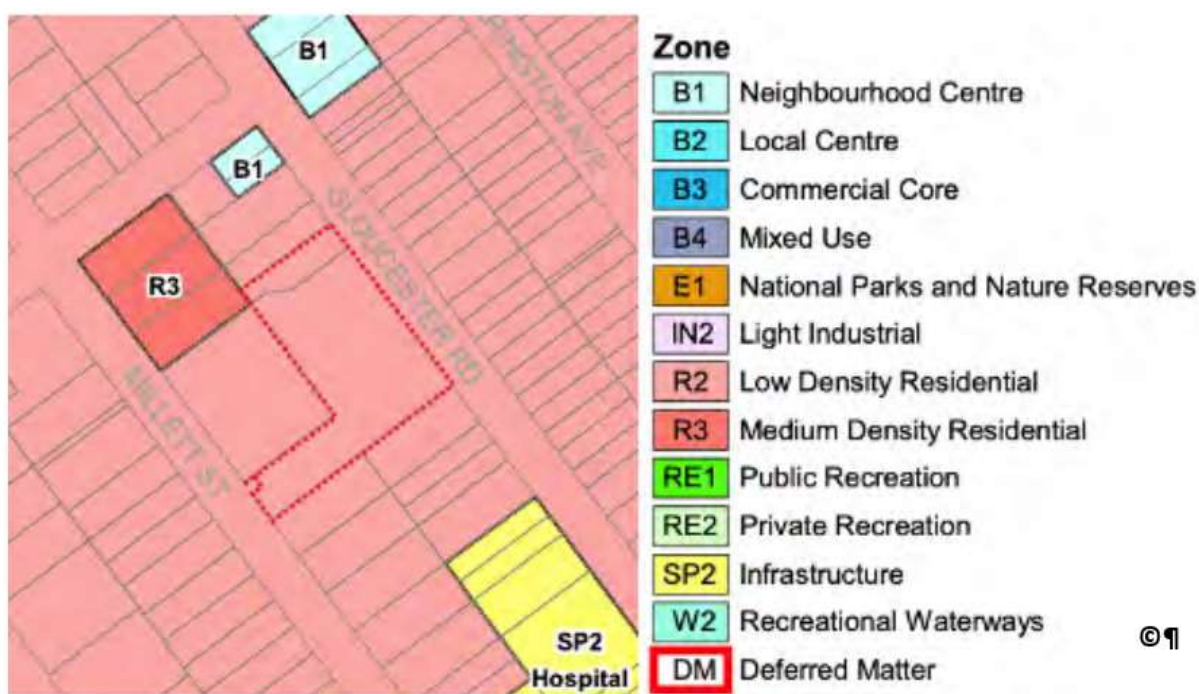


Figure 13: Existing Land Zoning Map Extract – HLEP 2012.

44. The maximum building height for the subject site is 9m. Refer to **Figure 14**.
45. The maximum building height of land surrounding the site is also 9m, with land further north (zoned R3 Medium Density Residential) having a maximum building height of 12m.

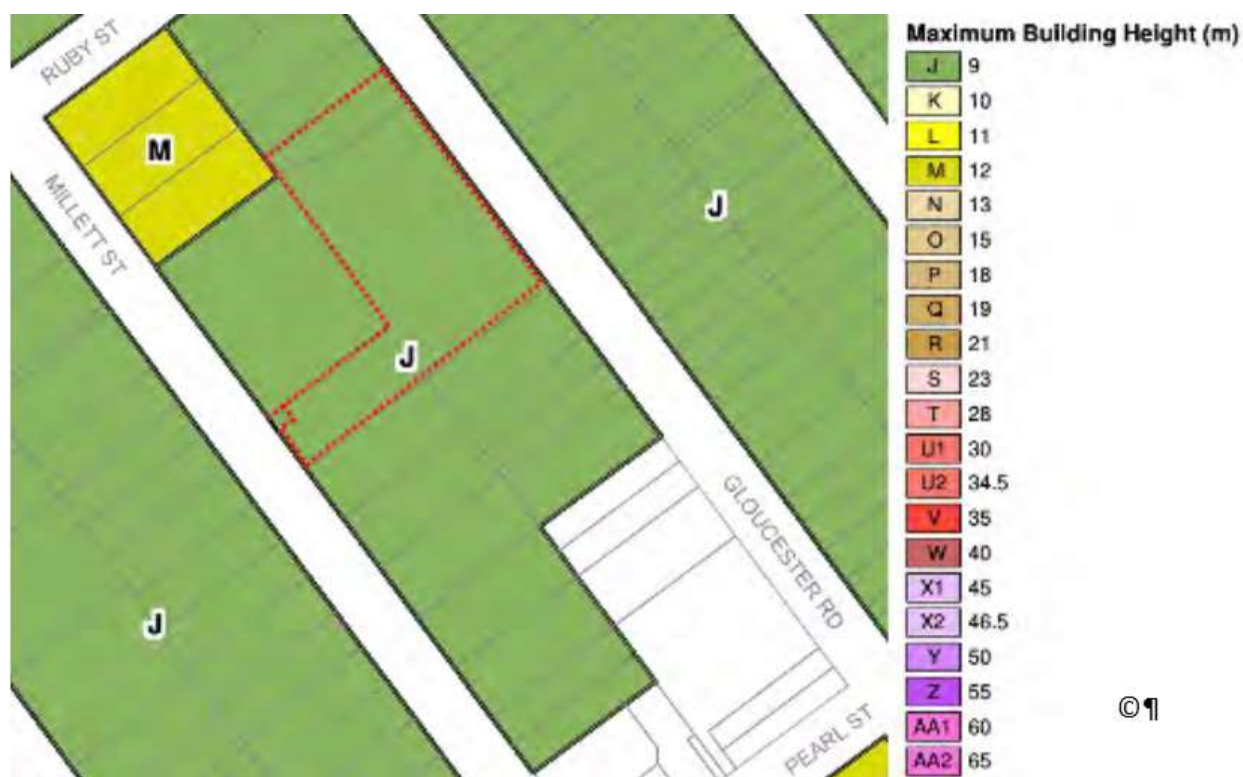


Figure 14: Existing Maximum Height of Buildings Map Extract – HLEP 2012.

46. The subject site has a maximum FSR of 0.6:1. Refer to **Figure 15**.
47. All land surrounding the site is subject to an FSR of 0.6:1, with land further to the north having FSRs of 1:1 and 1.5:1.



Figure 15: Existing Floor Space Ratio Map Extract – HLEP 2012

48. The site is not listed as a heritage item or in a heritage conservation area (HCA) under Hurstville LEP 2012. However, items I37 and I38 are in the vicinity of the site and comprise detached dwelling houses – Refer to **Figure 16**. Moreover, I38 is located across the road on Millett Street and thus will not be impacted by the proposed development on the subject site. I37 is located in the vicinity of the subject site, however, it is setback from the building line to minimise its impact to the adjoining property which also acts as a buffer to I37.



Figure 16: Existing Heritage Map Extract – HLEP 2012

Zoning, Height and FSR under draft Georges River Local Environmental Plan 2021

49. The site is zoned R2 Low Density Residential under the draft Georges River LEP (GRLEP) 2021. Seniors housing has been included as a permitted use in the R2. Seniors housing includes a residential care facility.
50. Land adjacent to the north is proposed to be zoned R2 Low Density Residential, R4 High Density Residential and B1 Local Neighbourhood Centre. Land to the south is zoned R2 Low Density Residential and SP2 Infrastructure under the draft GRLEP. As part of the draft GRLEP, the previously zoned R3 Medium Density Residential area to the north of the site has been proposed to be rezoned to R4 High Density Residential and the previously zoned R2 Low Density Residential area to the south of the site has been proposed to be rezoned to SP2 Infrastructure. The latter rezoning is due to the extension of Hurstville Private Hospital. Refer to **Figure 17** for an extract from the Zoning Map of the Draft GRLEP.



Figure 17 – Proposed land zoning map under Draft Georges River LEP 2020 Extract

51. Along with the subject site, all land surrounding the site has a proposed FSR of 0.55:1. Land further to the north of the site retains the existing FSRs of 1:1 and 1.5:1. One site further south of the subject site has a proposed removal of FSR from 0.6:1 to 0:1. This FSR removal relates to the rezoning of R2 zoned land to SP2 Hospital, which is absent of development standard controls. Refer to **Figure 18**.



Figure 18 – Proposed FSR map under Draft Georges River LEP 2020 Extract

52. The proposed maximum building height for the subject site is 9m under the draft GRLEP; with land further north having a maximum building height of 12m. Refer to **Figure 19**.

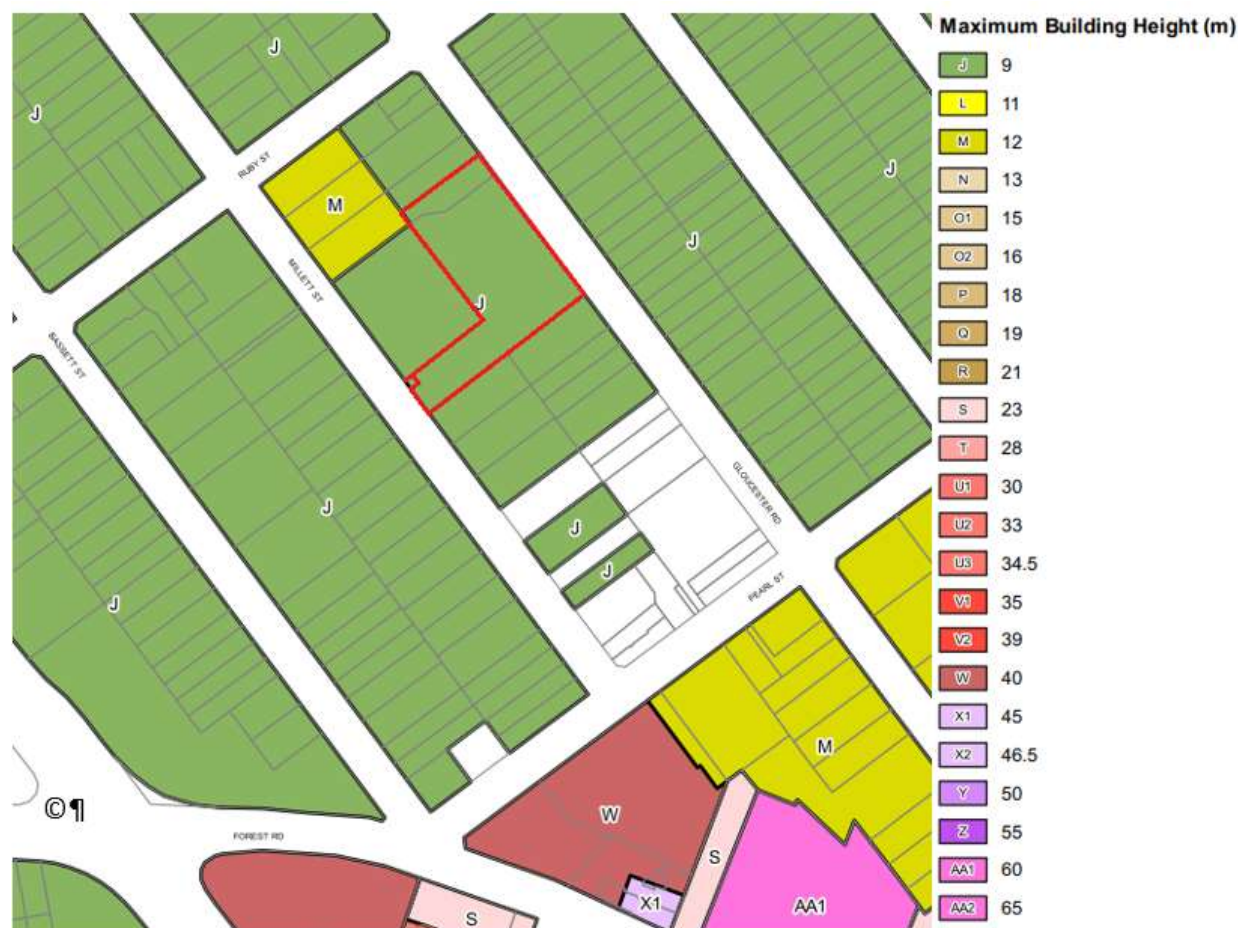


Figure 19 – Proposed HOB map under Draft Georges River LEP 2020 Extract

53. There is no change in the heritage listing surrounding the site.

Mechanism for the proposed planning amendments

54. This report has addressed both the HLEP 2012 and the draft GRLEP2021.
55. Under the HLEP 2012 the site is zoned R2 Low Density Residential which permits certain residential uses such as attached dwellings, boarding houses, dwelling houses, group homes, respite day care centres, secondary dwellings and semi-detached dwellings. Clause 15 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP) permits seniors housing development “*on land zoned primarily for urban purposes for the purpose of any form of seniors housing*”.
56. However as stated previously in this report the proponent was unable to rely on Clause 15 of the Seniors SEPP as the proposal seeks a greater maximum building height (the proposed heights range from 12m, 14m and 16.9m) than what is permitted on the site under the Hurstville LEP 2012 (being 9m) and under the Seniors SEPP (being 8m under Clause 40 of the Seniors SEPP).
57. The intent of this Planning Proposal is to amend the Hurstville LEP 2012 (or Georges River LEP 2020, if gazetted), to permit a residential care facility with a maximum FSR of

1.6:1 and a HOB ranging from 12m, 14m and 16.9m at Nos. 53A-59A Gloucester Road, Hurstville.

58. The following planning pathway options were provided to the proponent at the time of lodgement of the planning proposal:

- *Option 1: Include seniors housing as a permissible use in the R2 Low Density Zone.* This option would allow seniors housing as a permissible use with consent to all land zoned R2 Low Density Residential under the Hurstville LEP 2012.

This approach was not supported as a complete review and understanding of potential impacts of adding this use as a permitted use in all R2 Zones has not been undertaken.

- *Option 2: The inclusion of an additional local provision or the use of Schedule 1 Additional Permitted Use to the Hurstville LEP 2012, restricting the use specifically to the site. Proposed increases to FSR and maximum building heights on the subject site will be linked to a 'residential care facility' land use only.*

- *Option 3: Rezoning the site to R3 Medium Density Residential which currently permits both seniors housing and residential flat buildings.*

This option was not supported as it would result in a much broader change to permissible uses and development controls including FSR and HOB that have not been tested for.

59. Option 2 was recommended to the proponent as the most suitable approach as it would limit development, height and FSR for the purposes of residential care facility to the subject site only.
60. The Committee is advised that the Planning Proposal has also been discussed with officers of the Department of Planning, Industry and Environment, who have advised that the planning proposal should clearly address the intent of the amendment and the mechanism for its implementation - whether it requires a local provision or a Schedule 1 land use - will be the ambit of Parliamentary Counsel.
61. The proponent and Council officers have worked together to achieve a concept design for the site that addresses the retention of trees, the interface with the adjoining development and traffic impact. It also allows the existing land use to be retained with such retention being in the public interest.
62. The imminent gazettal of the GRLEP will make seniors housing permitted in the R2 zone over the site; however, the proposal seeks a greater maximum building height (the proposed heights range from 12m, 14m and 16.9m) than what is permitted on the site under the Georges River LEP 2021 (being 9m) and under the Seniors SEPP (being 8m under Clause 40 of the Seniors SEPP).

ASSESSMENT OF THE PLANNING PROPOSAL

Strategic Planning Context

63. Consideration of the Planning Proposal request in relation to the Greater Sydney Region Plan (A Metropolis of Three Cities) and the South District Plan are provided below.

Greater Sydney Region Plan (A Metropolis of Three Cities)

64. The Greater Sydney Region Plan was finalised and released by the Greater Sydney Commission in March 2018 and establishes the aspirations for the region over the next 40 years. The Region Plan is framed around 10 directions relating to infrastructure and collaboration, liveability, productivity, and sustainability.
65. The Proponent has provided their assessment of the Planning Proposal against the 10 Directions in **Table 3** below and is acceptable to Council:

Table 3 – Proponent's Assessment of A Metropolis of Three Cities Directions

A Metropolis of Three Cities Directions	Proponent's Assessment
A City Supported by Infrastructure	By providing additional aged care accommodation and jobs, the proposal will provide extra patronage to the existing public transport network
A Collaborative City	The proposal represents a proponent initiated Planning Proposal that responds to the feedback received by Council following an extensive consultation process
A City for People	The proposal will provide a state of the art residential aged health care facility that will support the growing ageing population and therefore responds to the community's changing needs
Housing the City	The proposal will provide aged care housing and therefore will responds to people's housing needs
A City of Great Places	The proposal includes a range of communal areas that will foster interaction. The development will facilitate and exhibit design excellence and has been designed to respond to the locality's identity
A Well Connected City	The proposal will increase a supply of jobs and provide needed services in proximity to public transport and will support the 30 minute city
Jobs and Skills for the City	The proposal will increase the provision of jobs close to the Hurstville Strategic Centre. It will also increase investment in health services and social infrastructure
A City in Landscape	The proposal seeks to retain the significant trees along the Gloucester Road frontage; by providing a 3m setback to the site's northern

A Metropolis of Three Cities Directions	Proponent's Assessment
	boundary. A statement by Arcadia Landscape Architecture supports the capacity for planting to succeed in this environment, both in regard to setbacks and available soil depth. The setbacks will permit significant planting, inclusive of screening and plant types to provide privacy between the proposed facility and existing residence
An Efficient City	The proposal is of high quality design as shown through the Indicative Architectural Design and Urban Design principles subject to a Development Application
A Resilient City	The planning proposal is accompanied by a set of design principles which address: environmental sustainability, particularly with regard to energy and water use; key elements such as a rainwater system, water saving devices, solar power collector and thermal insulation to minimise energy use and ensure the building performs well environmentally; sustainability targets, such as water and energy efficiency

South District Plan

66. The South District Plan was finalised and released by the Greater Sydney Commission in March 2018. The District Plan is a guide for implementing A Metropolis of Three Cities at the district level and proposes a 20 year vision by setting out aspirations and proposals for the South District.
67. The Planning Proposal is considered to be consistent with the following Planning Priorities of the South District Plan:

Table 4 - Planning Priorities of the South District Plan

Direction	Planning Priorities relevant to the Planning Proposal
A city for people	Planning Priority S3: Providing services and social infrastructure to meet people's changing needs Planning Priority S4: Fostering healthy, creative, culturally rich and socially connected communities
Housing the city	Planning Priority S5: Providing housing supply, choice and affordability with access to jobs, services and public transport
A city of great places	Planning Priority S6: Creating and renewing great places and local centres, and respecting the District's heritage
Jobs and skills for the city	Planning Priority S9: Growing investment, business opportunities and jobs in strategic centres

Direction	Planning Priorities relevant to the Planning Proposal
A well-connected city	Planning Priority S12: Delivering integrated land use and transport planning and a 30-minute city
An efficient city	Planning Priority S17: Reducing carbon emissions and managing energy, water and waste efficiency

Ageing Well in NSW Strategy 2021-2031

68. This strategy sets out a ten-year plan for responding to the opportunities and challenges of NSW's ageing population and notes the important role of Local Government in responding to the needs of ageing populations at a local level, with services modelled on the WHO domains for age-friendly communities. These include:
- Outdoor spaces and buildings
 - Transportation
 - Housing
 - Social participation
 - Respect and social inclusion
 - Civic partnership and employment
 - Communication and information
 - Community support and health services
69. The primary objective of the Planning Proposal is to facilitate the replacement of an existing aged care facility which is run down, and which currently provides several beds per room in relatively cramped conditions with limited on-site common facilities.
70. In accordance with the recommendations of the Royal Commission's report into Aged Care Quality and Safety, the proposed additional building height and floor space will allow each resident to be accommodated in their own room and common facilities will be expanded.
71. No increase is proposed to the maximum 110 beds of the current facility.

Council's Local Strategic Plans

72. Considerations of the Planning Proposal in relation to Council's local strategic plans are provided below.

Georges River Local Strategic Planning Statement 2040

73. The George's River Local Strategic Planning Statement (LSPS) was endorsed by the Greater Sydney Commission in March 2020. It informs all land use planning in the LGA for the next 20 years, drawing upon priorities listed under the Greater Sydney Region Plan - A Metropolis of Three Cities and the South District Plan.
74. The proposed development includes a number of services and facilities within the residential care facility that will cater to the needs of the ageing population present - including a hairdresser, café, day spa and function facilities.
75. An aged care facility is currently not permitted in the R2 Low Density Residential zone and is operating due to existing use rights. Permitting residential care facilities on this site will allow for the delivery of upgraded facilities and renovations.
76. The Planning Proposal will allow for additional employment opportunities close to the Hurstville Strategic Centre due to the existing aged care facility's expansion.

Georges River Community Strategic Plan 2018 – 2028

77. The Georges River Community Strategic Plan 2018 – 2028 (CSP) is a strategy that informs the activities and decision making of the future of the LGA. The CSP outlines six themes that relate to environment, accessible places and spaces, development, the economy and the community's needs.
78. The Planning Proposal responds to the objectives of the CSP, with the provision of aged care responding to the 92% of residents surveyed for community consultation for the CSP, identifying aged care facilities are a critical issue for Council.
79. The Planning Proposal will support the Council's employment target and provide critical social infrastructure for the growing ageing population.

State and Regional Statutory Framework

80. The Planning Proposal is consistent with the following relevant State Environmental Planning Policies (SEPPs) as assessed below:

State Environment Planning Policy (Building Sustainability Index: BASIX) 2004

81. This SEPP will be addressed at the Development Application phase.

State Environment Planning Policy (Infrastructure) 2007

82. The Planning Proposal does not alter the application of the SEPP to the development.

State Environment Planning Policy (Exempt and Complying Development Codes) 2008

83. This SEPP will be addressed at the Development Application phase.

State Environment Planning Policy (Housing for Seniors or People with a Disability) 2004

84. The subject site is currently zoned R2 Low Density Residential under the Hurstville LEP 2012. The R2 Low Density Residential permits certain residential uses such as attached dwellings, boarding houses, dwelling houses, group homes, respite day care centres, secondary dwellings and semi-detached dwellings.
85. Seniors housing is not listed as permissible use with consent in the R2 Low Density Residential Zone. However, under Clause 15 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP) seniors housing is permitted "*development on land zoned primarily for urban purposes for the purpose of any form of seniors housing*".
86. Despite Clause 15 of the Seniors SEPP the proponent cannot rely on the permissibility afforded by the Seniors SEPP alone as the proposal seeks a greater maximum building height (the proposed heights range from 12m, 14m and 16.9m) than what is permitted on the site under Hurstville LEP 2012 (being 9m) and under the Seniors SEPP (being 8m under Clause 40 of the Seniors SEPP). Hence the lodgement of this Planning Proposal.
87. Clause 40 of the SEPP states:

Development standards—minimum sizes and building height

- (1) *General A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.*
- (2) *Site size: The size of the site must be at least 1,000 square metres.*
- (3) *Site frontage: The site frontage must be at least 20 metres wide measured at the building line.*

- (4) *Height in zones where residential flat buildings are not permitted If the development is proposed in a residential zone where residential flat buildings are not permitted—*
- (a) ***the height of all buildings in the proposed development must be 8 metres or less, and***
 - (b) *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height,*
 - (c) *a building located in the rear 25% area of the site must not exceed 1 storey in height.*

88. The imminent gazettal of the GRLEP will make seniors housing permissible in the R2 zone over the site; however the proposal seeks a greater maximum building height (the proposed heights range from 12m, 14m and 16.9m) than what is permitted on the site under the Georges River LEP 2021 (being 9m) and under the Seniors SEPP (being 8m under Clause 40 of the Seniors SEPP).

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2007

89. This Planning Proposal is consistent with the objectives of the SEPP for future development.

State Environmental Planning Policy No. 19 (Bushland in Urban Areas)

90. This Planning Proposal is consistent with the objectives of the SEPP for future development.

Ministerial Directions

91. Ministerial Directions under Section 9.1 of the EP&A Act set out a range of matters to be considered when preparing an amendment to a Local Environmental Plan.
92. The Planning Proposal is consistent with all relevant Ministerial Directions in **Table 5** below:

Table 5 – Consistency with S9.1 Ministerial Directions

S9.1 Direction	Assessment
1.1 Business and Industrial Zones	The proposal will increase the supply of employment generating floor space and facilitate job creation. The proposal will assist in meeting the jobs targets for the LGA.
2.3 Heritage Conservation	The site is not a heritage item nor is it located in a heritage conservation area. The proposal will be designed and constructed to have no impact on the surrounding environment.
3.1 Residential Zones	The proposal will provide critical social infrastructure to the LGA.
3.4 Integrating Land Use and Transport	The proposal is well serviced by public transport and will provide more employment and housing in a strategic location. The traffic generation associated with the proposal will not impact the surrounding development.

S9.1 Direction	Assessment
5.10 Implementation of Regional Plans	The proposal is consistent with the Greater Sydney Region Plan – A Metropolis of Three Cities and the South District Plan.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. In contrast, the proposed provisions seek to provide a specific incentive only for ‘residential care facility’, not other permissible uses.

Urban Design Analysis

93. The Planning Proposal is accompanied by Urban Design Principles, prepared by Mecone and O'Neill Architecture (refer to **Attachment 5**) which will form the basis of site specific DCP covering the site and an Indicative Architectural Concept, prepared by O'Neill Architecture (**Attachment 2**) which provides the amended concept resulting from the changes sought in FSR and HOB.
94. The site is located to the north west of the Hurstville Strategic Centre in a traditional low to medium density area.
95. The existing building envelope adopts an irregular 'L' shape allotment configuration and has a primary frontage to Gloucester Road of approximately 88m. The building extends to southern rear boundary where it has a frontage to Millett Street of 20m.
96. The predominant existing built form of the site varies between 2 to 3 storeys. The Hurstville Private Hospital is to the east of the site and accommodates buildings of varying scales ranging from one (1) to five (5) storeys.
97. The proposal provides a high level of solar access compliance by achieving maximum solar access within the development, and to its surroundings. The solar access requirements have been sourced from the Apartment Design Guide (ADG) as an appropriate benchmark for which this development is advised to comply with at a minimum.
98. The building height proposed at 3 storeys with a partial fourth storey is supported given the demonstrated impacts associated with the additional height.
99. The 6m setback proposed along the rear south west boundary, and along the side south east boundary is considered appropriate from a privacy, deep soil, and amenity point of view, and the documentation provided also demonstrates adequate solar access is maintained to neighbouring properties.
100. The proposal provides for an appropriate level of deep soil landscaping having achieved this through an increase in the setback of the proposal.
101. The proposal has provided the level of articulation and modulation achieved along the Gloucester Road elevation and acknowledges that the architectural language and materiality will be further developed at the DA stage.
102. The shadows cast from the proposed envelopes do not create any additional overshadowing onto surrounding residential properties which prevent living rooms and private open spaces of at least 70% of dwellings in a building receiving a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.

103. The Planning Proposal and the accompanying architectural concept scheme demonstrate an appropriate urban design response to its urban context and also satisfies the relevant State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) Design Quality Principles. In this regard, the proposed density is considered to be suitable as the increased FSR and HOB does not compromise the amenity and design of any future development on site and the surrounding private and public spaces.
104. The proposal has made suitable amendments in response to the Independent Urban Design Reviews undertaken for the project.
105. An Urban Design Analysis has been incorporated into the draft amendment to the GRDCP.

Economic Analysis

106. The proposal will provide a range of positive economic benefits for the local area as follows:
 - a. Provide additional employment opportunities within a strategically located area;
 - b. Retain and increase the supply of employment generating floor space;
 - c. Provide an intensity of land use commensurate with the growth anticipated for the Hurstville Strategic Centre;
 - d. Achieve a diverse and productive economy through providing critical social infrastructure to accompany significant residential and employment growth;
 - e. Support the local health services sector; and
 - f. Increase employment opportunities during the construction and operational phase of the development.

Traffic and Transport

107. The Indicative Architectural Concept Design (Attachment 2) and Traffic Impact Assessment (Attachment 4) demonstrate:
 - a. The main entrance is on the Gloucester Road side, having space for a Portecochere for drop off and pick up.
 - b. A footpath is provided along Gloucester Road, to connect the site to public transport networks, including bus stops and train stations.
 - c. The Millett Street entrance is to be used for staff parking and delivery/ waste services.
108. The Traffic Impact Assessment prepared by JMT Consulting (refer to **Attachment 4**) submitted by the Proponent outlines the following key conclusions:
 - a) The site has good access to a range of public transport services, including train and buses;
 - b) No changes to the existing vehicular access are proposed as part of the Planning Proposal;
 - c) Retain drop off and pick up location on Gloucester Road and staff and services access on Millett Street;
 - d) The site proposes a generous amount of parking, causing no disruption to the surrounding road network;

- e) A basement car park is to be provided on the site to accommodate future car parking needs; and
 - f) The proposal will result in an increase of 3 vehicle trips during the peak hour of the day, and 28 vehicle trips over the course of a typical day.
109. The level of traffic generation resulting from the proposal is considered negligible in the context of the local street network. Augmentation to the capacity of the local road network is not warranted by the proposal.
110. Parking provision, car park layout and road safety issues were not reviewed in detail as these will be subject to a detailed assessment at the development application stage.

CONSIDERATION BY LOCAL PLANNING PANEL

111. The Local Planning Panel (LPP) considered a report at its meeting held 6 May 2021 that recommended that the LPP support the Planning Proposal to amend the Hurstville LEP 2012 (or Georges River LEP 2020, if gazetted), so as to permit a residential care facility with a maximum FSR of 1.6:1 and a maximum building height ranging from 12m, 14m and 16.9m at Nos. 53A-59A Gloucester Road, Hurstville and that the Planning Proposal be forwarded to the Minister for Planning and Public Places for a Gateway Determination under Section 3.34 of the EP&A Act. The report further recommended that the Gateway Determination include a condition that the increase in FSR and height on the subject site is linked to a residential care facility land use only.
112. The LPP deferred the matter requesting additional information as detailed below:

The Panel notes:

- 1. *The proposal results in adhoc zoning outcomes in relation to the surrounding zones (R2, R3, B1 and SP2) and built form uniformity. In particular having regard to a maximum height of the proposal.*
- 2. *Ideally the consideration of the Planning Proposal and rezoning would apply to the block bounded by Ruby Street, Millet Street, Pearl Street and Gloucester Road Hurstville in relation to the strategic planning intentions for this part of the Local Government Area.*

The Panel defers the Planning Proposal subject to:

- 1. *Further consideration by the proponent of the Planning Proposal to assess and provide a further submission to the Panel that address the relationship of the future built form/development in regard to:*
 - a. *Distribution of heights and implications for adjoining sites and potential future developments.*
 - b. *Setbacks in relation to the adjoining sites and potential future developments.*
 - c. *The provisions of the Housing for Seniors or People with a Disability SEPP and the draft Housing Diversity SEPP.*
- 2. *The submission of a Draft Development Control Plan that articulates a, b and c above.*

113. The LPP on 5 August 2021 considered a further report on the Planning Proposal addressing the reasons for deferral and which recommended that Council endorse the forwarding of Planning Proposal PP2017/0005 to the NSW Department of Planning, Industry and Environment (DPIE) to request a Gateway Determination under Section 3.33 of the EP&A Act 1979.

114. A copy of the report that was considered by LPP on 5 August 2021 is contained in **Attachment 6** to this report. A copy of the attachments to the report that LPP considered on 5 August 2021 are contained on Council's website at;

<https://www.georgesriver.nsw.gov.au/Development/Planning-Controls/Planning-Proposals/Planning-proposals-Hurstville-wards-en/Planning-proposal-for-53a-59a-Gloucester-Rd,-Hurstville>

115. The report in **Attachment 6** covers the issues raised by the LPP. A summary is provided as follows:

Panel Note One: *The proposal results in adhoc zoning outcomes in relation to the surrounding zones (R2, R3, B1 and SP2) and built form uniformity. In particular having regard to a maximum height of the proposal.*

Response:

- The subject site is zoned R2 Low Density Residential, and the block is zoned a mix of R2 Low Density Residential, R3 Medium Density Residential, B1 Neighbourhood Centre and SP2 Infrastructure - Hospital (Refer to **Figure 20**).
- The R2 zone comprises a maximum building height of 9m (Refer to **Figure 21**) which is equivalent to 3 storeys. The proposed building envelope predominantly reaches 14m or three storeys (as a residential care facility, the development is to have a minimum floor height of 3.4m). The fourth storey is proposed in the central portion of the floorplate and reaches 16.33m.
- The fourth storey is setback from the building line to minimise its visibility from the surrounds. The proposal includes sufficient setback which provides a balanced transition between built forms and the distribution of building heights have been shown in **Figure 22** below.
- It is not uncommon for health or social infrastructure of a larger scale, such as the proposed development, to be located within low density residential areas provided they remain compatible with the prevailing and desired character of the locality. This is evidenced by the Hurstville Private Hospital immediately to the south of the site.
- A draft amendment to the GRDCP has been prepared (**Attachment 7**) which prescribes the specific design controls and urban design principles that shall govern the future development of the site. The draft amendment will ensure that any future development of the site would not result in any unreasonable environmental or amenity impacts on surrounding properties. The controls will also ensure that the future development of the site achieves an optimal urban design outcome which is compatible with the established and desired future character of the neighbourhood.
- As illustrated in **Figure 10** above, the draft amendment will identify the location of the allowable built form and maximum number of storeys across the site.
- Architectus' May 2020 independent assessment concludes that they are supportive of the indicative internal floor plans and the amenity provided and that the Gloucester Road address is supported in responding to the form and character of the single detached dwellings along Gloucester Road.

Planning Control	Mapping Extract
Land Use Zone Subject site: R2 Low Density Zones in the block: R2 Low Density R3 Medium Density Residential B1 Neighbourhood Centre SP2 Infrastructure- Hospital	 Figure 20 Existing Zoning Map - Source: Mecone/HLEP 2012
Height of Building Subject site: 9m Heights in the block: 9m, 12m and no height	 Figure 21 Existing Height of Buildings Development Standard Map - Source: Mecone/HLEP 2012
Height for subject site: 12m, 14m and 16.9m	 Figure 22 Maximum Building Height Map – 53A-59A Gloucester Road - Source: Mecone/HLEP 2012

Panel Note Two: Ideally the consideration of the Planning Proposal and rezoning would apply to the block bounded by Ruby Street, Millet Street, Pearl Street and Gloucester Road Hurstville in relation to the strategic planning intentions for this part of the Local Government Area.

Response:

- Council has no current plans to investigate the extension of the Hurstville City Centre until mid-2023. This is reflected in the Georges River LSPS which does not identify the site or the immediate surrounds as an area for change, or investigation. In this light, the proponent has opted to proceed with the planning proposal.

Deferral Reason One (a): Further consideration by the proponent of the Planning Proposal to assess and provide a further submission to the Panel that address the relationship of the future built form/development in regard to:

- a. Distribution of heights and implications for adjoining sites and potential future developments.*

Response:

- The proposed building envelope for the residential care facility includes 12m, 14m and 16.9m building heights as illustrated in **Figure 22** above. The building envelope reaches a maximum height of 16.88m in the location of the lift core that occupies the western portion of the floorplate which is not perceptible from street level. The envelope's building height predominantly reaches 14m (3 storeys). A fourth storey proposed in the central portion of the floorplate that reaches 16.33m is setback from the building line to minimise its visibility from the surrounds.
- The Planning Proposal will facilitate the delivery of a building with a perceptible height of three (3) storeys and a maximum height of four (4) storeys. A Height in Storeys Map has been prepared as shown in **Figure 22** above, which illustrates the distribution of heights and the heights of the adjoining properties. This figure has been provided as a building height and distribution control within the draft amendment to the GRDCP (**Attachment 7**).
- The proposed building height distribution has been developed to minimise overshadowing impacts to the surrounding area and create a perceptible height that is in keeping with the predominant two to three storey heights in the surrounds.
- The building form facing Gloucester Road is in a W-form (refer to **Figure 10**) and supports the single detached dwellings along Gloucester Road. The gaps between the buildings are proposed to provide opportunities for planted courtyards presenting a green, landscaped streetscape.
- Subject to the indicative internal floor plans and the amenity provided to the rooms and communal spaces with 70% of the residents' bedrooms achieving 2+ hours of solar access in mid-winter, the additional fourth storey can be supported in the central area of the site with appropriate upper level setbacks. The key to the proposed heights is the premise that as a senior's residential care facility, the development is to have a minimum floor height of 3.4m. This results in 3 storeys within 14m and 4 storeys in 16.9m. As the planning proposal requests an increase in height and FSR specifically linked to a residential care facility, this is acceptable.

Deferral Reason One (b)

- b. Setbacks in relation to the adjoining sites and potential future developments.*

Response:

- A building setback map has been provided in the architectural package and the planning proposal report which provides the minimum street setback, side and rear setbacks as shown in **Figure 23** below. The setbacks are as follows:

- a. Gloucester Road - 4.5m
 - b. Millet Street - 6m
 - c. Eastern Boundary - 6m
 - d. Western Boundary - 3m
- The site adjoins low density residential dwellings to the east and west which provide varying side setbacks to the site. The northern and southern setbacks align with the established building lines along Gloucester Road and Millett Street and comply with the minimum setback requirements of the DCP.
 - The setbacks allow for the provision of comprehensive landscaping that will soften the appearance of the built form. As the built form along either street frontage does not encroach forward of the adjoining developments, views and vistas down either street frontage will be maintained.
 - **Figures 24 and 25** below demonstrate how the concept scheme provides adequate building separation and a high level of visual and acoustic privacy along with opportunities for landscaping and deep soil zones.
 - These plans provide an analysis of the proposed development's relationship with the existing surrounding development, as well as the potential future development under the existing planning controls.

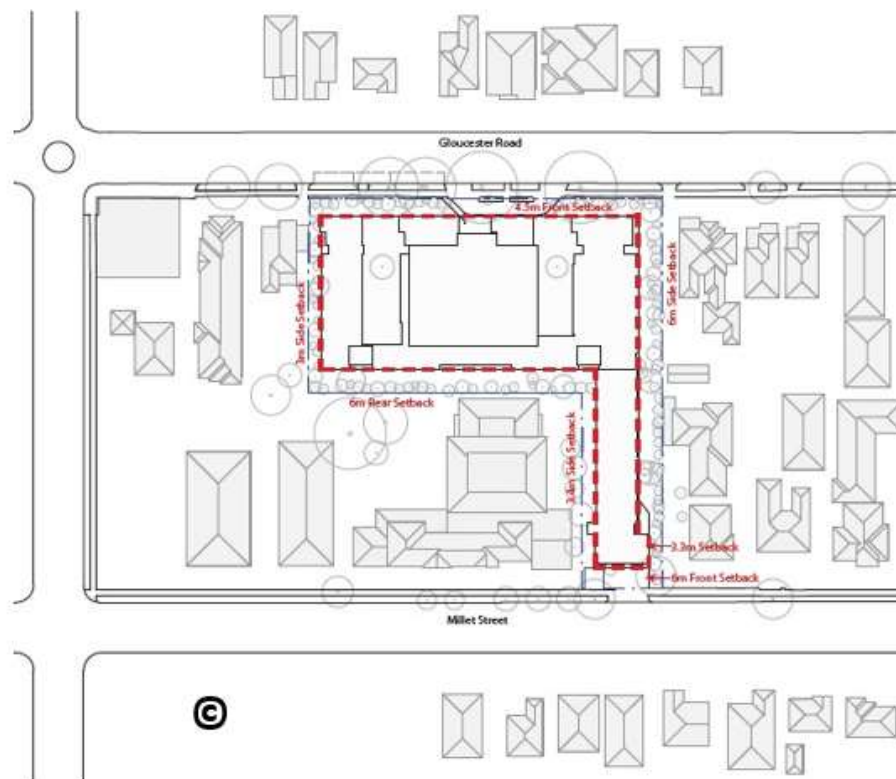


Figure 23 Setback Map
Source: O'Neil Architecture

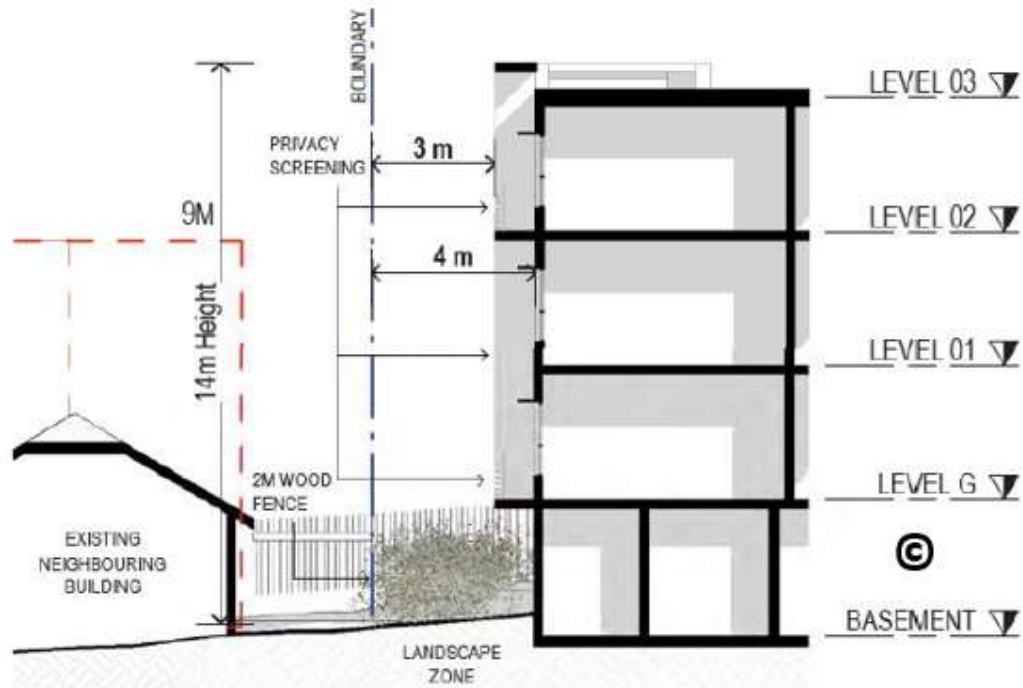


Figure 24 Western Boundary Section Plan
Source: O'Neil Architecture

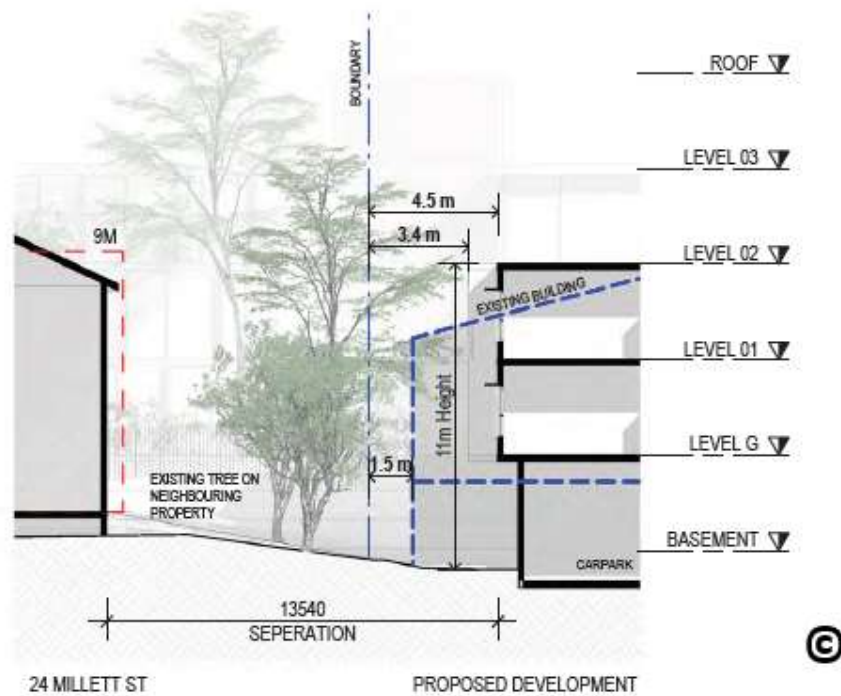


Figure 25 North Western Boundary Section Plan
Source: O'Neil Architecture

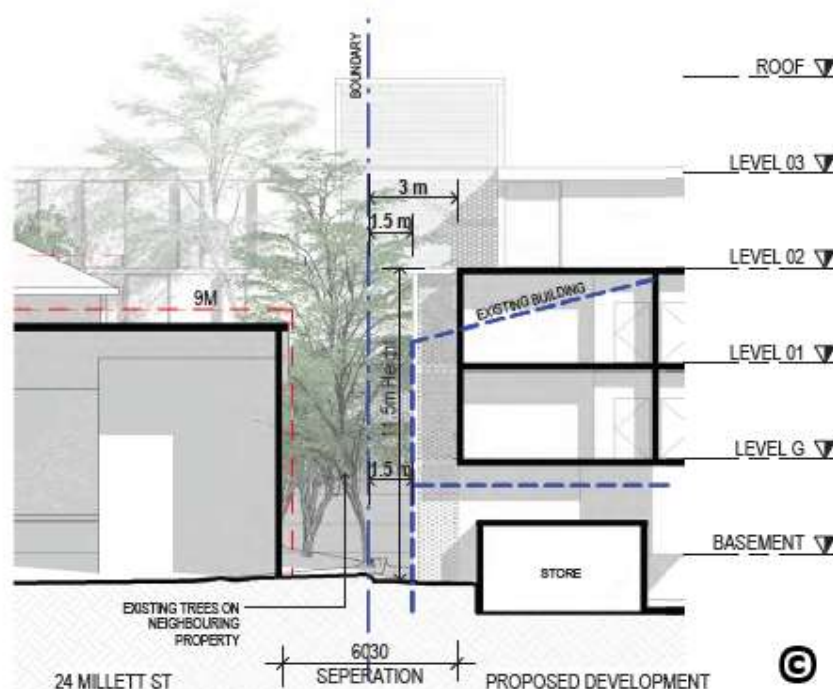


Figure 26 North Western Boundary Section Plan

Source: O'Neil Architecture

- The built form along Gloucester Road frontage, northwest and south-west boundaries is three storeys and in the central portion of the site are four storeys. The setbacks on the south-eastern and the south-western edge of the site are predominantly 6m, which is acceptable. The setbacks on the north-western edges of the site are 3m. Although this is not ideal, where separation between habitable rooms is not able to be achieved, alternative design treatments such as screening or vegetation are proposed to maximise privacy and provide visual relief (See **Figures 24, 25 and 26**). More sections are available in **Attachment 3 – Architectural Design Concept**

Deferral Reason One (c): *The provisions of the Housing for Seniors or People with a Disability SEPP and the draft Housing Diversity SEPP.*

- The R2 Low Density Residential permits certain residential uses such as attached dwellings, boarding houses, dwelling houses, group homes, respite day care centres, secondary dwellings and semi-detached dwellings.
- Seniors housing is not listed as a permissible use with consent in the R2 Low Density Residential Zone in the HLEP 2021. However, Clause 15 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP) permits Seniors Living “**on land zoned primarily for urban purposes for the purpose of any form of seniors housing**”.
- Clause 40 of the SEPP states:

Development standards—minimum sizes and building height

 - (1) *General A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.*
 - (2) *Site size: The size of the site must be at least 1,000 square metres.*

- (3) *Site frontage: The site frontage must be at least 20 metres wide measured at the building line.*
- (4) *Height in zones where residential flat buildings are not permitted If the development is proposed in a residential zone where residential flat buildings are not permitted—*
 - (a) ***the height of all buildings in the proposed development must be 8 metres or less, and***
 - (b) *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height,*
 - (c) *a building located in the rear 25% area of the site must not exceed 1 storey in height.*
- Despite Clause 15 and clause 40 of the Seniors SEPP, the proponent cannot rely on the permissibility afforded by the Seniors SEPP alone as the proposal seeks a greater maximum building height (the proposed heights range from 12m, 14m and 16.9m) than what is permitted on the site under Hurstville LEP 2012 (being 9m) and under the Seniors SEPP (being 8m under Clause 40 of the Seniors SEPP).
- On 31 July 2021, the Department of Planning, Industry and Environment (DPIE) placed on public exhibition the new Housing SEPP which will consolidate five existing housing-related SEPPs, including State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP).
- The Housing SEPP was on consultation until 29 August 2021.
- These provisions are still in draft and subject to change because of public consultation.
- Regis has advised Council that the draft SEPP has been not received well by the industry and they anticipate that there will be significant changes to the SEPP prior to its finalisation. At present the draft SEPP provides that the provisions of the SEPP would prevail over an LEP where there are inconsistencies. Mecone on behalf of Regis has advised that upon review of the draft SEPP, it is anticipated that all draft development standards (other than height/FSR) under Division 3 of the draft SEPP can be satisfied.
- The matter of the provisions of the Draft Housing SEPP will need to be addressed in any Gateway Determination provided by the Department of Planning, Industry and Environment (DPIE).

Deferral Reason Two: The submission of a Draft Development Control Plan that articulates a, b and c above.

Response:

- A site-specific draft DCP was lodged by the proponent to address the distribution of heights and setbacks in relation to the adjoining sites and potential future developments. It is noted that a site-specific DCP is generally prepared after the Gateway Determination however, for the purpose of transparency and assurance, the draft DCP has been prepared prior to Gateway Determination at the request of the LPP.
- The Urban Design Principles Report provided as part of the original planning proposal also provides detailed guidelines on building heights, built form and setbacks, landscaping, solar access, articulation and privacy.

- The DCP provided by the proponent has been adapted by Council officers to be an amendment to the GRDCP. The draft amendment includes sections including Introduction, Building Height, Built form and setbacks, Privacy, Communal Open Space, Solar Access, Architectural Diversity, Vehicular Access and Car Parking.
- The key section which comprises the Building Height includes objectives like:
 - a. Compatibility with the planned scale of surrounding development
 - b. Minimise overshadowing of surrounding properties and adjacent public domain
- The key objectives of the Built form and setbacks section include:
 - a. Ensure setbacks to streets are appropriate for the street widths and functions to ensure a comfortable urban scale of development
 - b. Provide visual and acoustic privacy for existing and new occupants

116. After considering the additional information the LPP on 5 August 2021 recommended:

- a. *That the Georges River Local Planning Panel recommends that Council endorse the forwarding of Planning Proposal PP2017/0005 to the NSW Department of Planning, Industry and Environment (DPIE) to request a Gateway Determination under Section 3.33 of the EP&A Act 1979 for an amendment to the Hurstville Local Environmental Plan (LEP) 2012 (or Georges River LEP 2020, if gazetted), to permit a residential care facility with a maximum floor space ratio (FSR) of 1.6:1 and a maximum height of building (HOB) ranging from 12m, 14m and 16.9m at 53A-59A Gloucester Road, Hurstville.*
- b. *That the Georges River LPP further recommends to Council that Council request as a condition of the Gateway Determination that the increase in FSR and maximum building height on the subject site is linked to a residential care facility land use only. Within this report consideration is to be given to:*
 - i. *The implications of the Draft Housing SEPP on the proposed planning proposal be reviewed specifically in respect of definitions, non refuse provisions and character tests.*
 - ii. *That objectives be included to ensure that any plant to be located on the roof is included in the maximum permissible height limit and that this also be included in the site specific Development Control Plan.*
- c. *Consideration is given to requirement of the Plan of Management, compliance with the Housing SEPP car parking requirements, and consideration of site fencing and increasing the setbacks on the north western boundary along Gloucester Road.*

117. The proponent was requested to respond to LPP's recommendation of 5 August 2021. By letter dated 13 August 2021 by Mecone on behalf of Regis replied and in summary advised:

118. Implications of the Draft Housing SEPP:

- a. It is anticipated that the development standards proposed under the Planning Proposal could be relied on for any future development, as opposed to being constrained by the Housing SEPP.
- b. The future development of the site as presented in the Planning Proposal would satisfy the relevant development standards and provisions of the draft Housing SEPP, other than the height and FSR standards, as the standards of the LEP in this case would apply.

- c. In relation to 'Division 6 Design Principles', as is typically the case, the concept scheme provided as part of the Planning Proposal has been subject to rigorous design review including being peer reviewed by Architectus (on behalf of Council) in December 2019 and April 2020 who concluded that the scheme is appropriate for the site. The future design of the facility is capable of recognising the desirable elements of the location's current character and maintaining reasonable neighbourhood amenity and appropriate residential character.
- d. The non-discretionary development standards for residential care facilities under the draft Housing SEPP are largely consistent with the current provisions of the Seniors SEPP. In some cases however, including in relation to car parking, landscaping, rear building heights, the provisions of the draft Housing SEPP are less onerous than those within the current Seniors SEPP. Accordingly, it is anticipated that the future Housing SEPP would not preclude the development outcome intended for the site under the Planning Proposal from being achieved,
- e. The definitions of 'building height' and 'gross floor area' in the draft Housing SEPP align more consistently with that of the Standard Instrument (LEP) definitions. The building height and floor space ratio standards applied for under the Planning Proposal are consistent with the Standard Instrument definitions.

119. Draft DCP:

- a. The draft DCP amendment has been updated to include objectives in relation to the location and scale of any future roof-top plant. The draft DCP already included controls in relation to the height of roof-top plant including that this be contained within the maximum permissible building height under the LEP.
- b. The draft DCP amendment has been updated to include provisions in relation to a Plan of Management; compliance with the Housing SEPP car parking requirements; and consideration of site fencing.

120. Setbacks on the north western boundary:

- a. In relation to the Panel's comments on the setbacks on the north western boundary along Gloucester Re Council is advised that this matter has been considered at length and been subject to rigorous design testing and analysis throughout the Planning Proposal. It is also important to reiterate that the proposed setbacks have been supported by Architectus through their peer review. Accordingly, the proposed setbacks along Gloucester Road are appropriate, particularly at this point in the planning process.

VOLUNTARY PLANNING AGREEMENT

- 121. The Planning Proposal 2017/0005 was accompanied by a commitment to enter into a voluntary planning agreement.
- 122. As outlined in this report, the Planning Proposal seeks to increase the maximum Floor Space Ratio (0.6:1 to 1.6:1) and Height of Buildings (9m to 16.9m) under Hurstville Local Environmental Plan 2012 for the site to enable the redevelopment of the existing aged care facility for a new residential care facility. The new residential care facility is proposed to provide the same number of beds as the existing facility (110 beds) and proposes an increase in on-site support and communal facilities that meets contemporary standards, including:
 - a. indoor communal facilities
 - b. café, hairdresser, day spa, and function rooms
 - c. cinema, bar private

- d. staff amenities
 - e. outdoor communal areas
123. As the Planning Proposal seeks an increase in the development standards under the LEP, the proposal was assessed under Council's Planning Agreements Policy (2016). Under the Policy (clause 2.4) "Council may consider entering into a planning agreement when a developer:
- a. *Proposes to, or has made a request for an Instrument change to facilitate the carrying out of development; or*
 - b. *Proposes to, or has made, a development application; or*
 - c. *Has entered into an agreement with, or is otherwise associated with, a person to whom (a) or (a) applies.*
124. The Policy (clause 5.3) states that "*where either a planning proposal is proposed, or a development consent is sought, which will result in an exceedance of development standards, resulting in an inherent increase in value of the land or development, the concept of land value capture may be used to assess the appropriate contribution. This concept may be applied in addition to other considerations in relation to the level of contributions*". The Policy also requires an Acceptability Test to be undertaken.
125. Council staff reviewed the community facilities and services that would support and address the demands from the proposed development and met with the Applicant (Mecone) and Regis Aged Care Pty Ltd in January 2021 to discuss a VPA and the public benefits. A range of public benefits were considered and discussed, including:
- increased community service provision directly to the development – including home library service, reminiscing therapy kits, Life Stories program, Brain Gymnasium, mobility recharge station/facilities at the library.
 - upgrade of local bus stops in the vicinity of the development.
 - upgrade of the streetscape / public domain on Gloucester Rd.
 - upgrade to local parks for seniors – seniors fitness stations and pathways.
126. On 19 January 2021 a draft letter of offer to enter into a VPA with Council was provided by the Applicant on behalf of Regis Aged Care Pty Ltd in relation to the Planning Proposal. The draft VPA Offer was submitted for Council's consideration and provided for:
- a monetary contribution that would be calculated in accordance with the value capture formula in Council's VPA Policy,
 - the final agreed value of the contribution to be tied to the actual approved floor space under a future Development Application yet to be lodged and after the Planning Proposal was gazetted,
 - the contribution to be indexed by the CPI,
 - the contribution amount to be calculated immediately prior to the issue of a construction certificate.
127. In February 2021 the Department of Planning, Industry and Environment issued a new *Practice Note on Planning Agreements (February 2021)* that provides detailed guidance on the negotiation, administration and making of VPAs. The Practice Note provides 'fundamental principles' that planning authorities and developers should adhere to, including:
- *"Planning authorities should always consider a development proposal on its merits, not on the basis of a planning agreement.*
 - *Planning agreements must be underpinned by proper strategic land use and infrastructure planning carried out on a regular basis and must address expected growth and the associated infrastructure demand.*

- *Strategic planning should ensure that development is supported by the infrastructure needed to meet the needs of the growing population.*
 - *A consent authority cannot refuse to grant development consent on the grounds that a planning agreement has not been entered into in relation to the proposed development or that the developer has not offered to enter into such an agreement.*
 - *Planning agreements should not be used as a means of general revenue raising or to overcome revenue shortfalls.*
 - *Planning agreements must not include public benefits wholly unrelated to the particular development.*
 - *Value capture should not be the primary purpose of a planning agreement”.*
128. A key change under the new Practice Note is that value capture should not be the primary purpose of a VPA. The Practice Note however is silent on what alternative mechanisms councils may use to determine a reasonable and transparent value for the public benefits in a VPA.
129. The draft VPA offer submitted to Council therefore required review. To ensure that the VPA process was open and transparent and to assist in ensuring that the value of the public benefits in the VPA were reasonable, Council engaged economic consultants Hill PDA to peer review the proposal and consult with applicant. Hill PDA held meetings with the applicant however an assessment of the proposal was not completed by Hill PDA prior to the VPA offer being withdrawn.
130. On 6 May 2021 the Local Planning Panel (LPP) deferred the Planning Proposal and requested further consideration by the applicant to review the future built form and to prepare a draft Development Control Plan. The additional information was presented to the LPP at its meeting on 5 August 2021. The LPP recommended that Council endorse forwarding the Planning Proposal to the Department for a Gateway Determination and that the increase in FSR and maximum building height on the site is linked to a residential care facility land use only.
131. On 13 August 2021 the Applicant submitted a letter to Council (**Attachment 8**) stating that the VPA offer does not satisfy the ‘Acceptability Test’ established within the Department’s Practice Note due to the primary purpose of the offer being for value capture. The letter requested that the VPA offer be withdrawn from consideration and that the Planning Proposal proceed to the Department for a Gateway Determination. The letter outlines key reasons why a VPA is not warranted in relation to the proposal:
- the proposed development will be subject to section 7.12 contributions and that these contributions are typically more appropriate because it simplifies transactions and is underpinned by clear strategic planning.
 - there will be no increase in population resulting from the development and residents would be afforded more on-site services as a result of the proposed development
 - the primary purpose of the proposal is to facilitate the replacement of the existing aged care facility which is run down and provides several beds per room with limited on-site common facilities. *“In accordance with the Royal Commission’s report into Aged Care Quality and Safety, the proposed additional building height and floor space will allow each resident to be accommodated in their own room and common facilities will be expanded.*
 - there is no intensification of the site and no increase proposed to the maximum 110 beds of the current facility. As such there is no increase in development yield, environmental impacts, demand on infrastructure or associated services.
 - adequate infrastructure is currently provided for the proposed development.

- the proposed development will deliver an increase of on-site support and communal facilities and would likely reduce demand on existing community.
 - the primary purpose of the proposal is to enable the retention and improvement of an existing aged care facility for residents who are not actively independent. The proposal is not for independent living units.
 - these types of residential care facilities contribute to Council's strategic direction and mandate to deliver adequate social infrastructure for the community with an aging population.
 - GRC Local Strategic Planning Statement does not identify the area as an area for change or for infrastructure improvements.
 - as per the Practice Note, a developer may offer to enter into a VPA, however this must be voluntary. VPAs may be directed towards achieving the following broad objectives:
 - o Meeting the demands created by the development for new or augmented public infrastructure, amenities and services.
 - o Securing off-site benefits for the community so that development delivers a net community benefit.
 - o Compensating for the loss of or damage to a public amenity, service, resource or asset by development through replacement, substitution, repair or regeneration.
132. Council staff meet with the Applicant and Regis Aged Care to discuss the letter, noting that the primary purpose of the VPA is to enhance and improve seniors' services and facilities that would directly benefit the residents in the proposed development. Services, such as the home library service, brain gymnasium, reminiscing therapy kits and life stories programs, may not be services offered within residential care facilities as they offer other specialised programs and resources. Also, it was noted that the current and draft Development Contributions Plans do not levy for aged facilities and services and as such the VPA would facilitate the delivery of aged services.
133. The applicant and Regis Aged Care gave further consideration of the proposed community facilities and services, however a new VPA offer was not submitted and the Applicant has requested that the Planning Proposal be progressed.
134. The assessment of this Planning Proposal and the VPA offer is different to normal proposals in that although it seeks to increase the development standards for the site under the LEP, the proposal is to replace the existing residential care facility with a new residential care facility with no proposed increase in the number of beds/residents (110 beds).
135. On this basis and as a VPA is a voluntary agreement, the potential options for Council's consideration in relation to the VPA and the Planning Proposal are:
- a. **Option 1:** The Planning Proposal is supported with no VPA – this option is supported if the Planning Proposal/LEP includes a local provision that limits the intensification of the new residential care facility (i.e. there is no increase in the number of beds from the existing nursing home) and there are site specific provisions in the DCP that address these controls; or
 - b. **Option 2:** The Planning Proposal is deferred subject to further negotiations on a VPA.
136. Council staff in this case support **Option 1** as:

- a. There will be no increase in population resulting from the development and residents would be afforded more on-site services as a result of the proposed development.
- b. The proponent has agreed to Council placing a limit on the number of bedrooms and floor area and that be included in the LEP. The proponent has provided the plans (lodged 24 September 2021) showing the floor plates with bedroom GFA identified as follows:
 - i. Ground Floor Plan: 37 beds
 - ii. Level 1 Plan: 41 beds
 - iii. Level 2 Plan: 32 beds
 - iv. Total 110 beds (Bed floorspace is 3,850sqm of the total development floorspace of 8,203sqm)
- c. The main purpose of the planning proposal is to facilitate the replacement of the existing aged care facility. The additional building height and floor space that is proposed on the site will allow each resident to be accommodated in their own bedroom and the expansion of common facilities.
- d. There is no increase on the 110 beds of the current facility and therefore no increase in development yield, environmental impacts, demand on infrastructure or associated services.
- e. The residential care facility will provide its own services for the occupants and will provide an increase of on-site support and communal facilities.
- f. The proposal is not for independent living – it is for a residential care facility whose occupants are not actively independent.
- g. Residential care facilities do contribute to Council's strategic direction and mandate to deliver adequate social infrastructure for the community with an aging population.

DEVELOPMENT CONTROL PLAN

137. A site-specific draft Development Control Plan (DCP) has been prepared and is attached in **Attachment 7**.
138. This report recommends that Council resolve to prepare an amendment to the relevant development control plan (DCP) and to place it on public exhibition alongside the Planning Proposal. The relevant DCP will be the Georges River DCP 2021.
139. The draft DCP addresses the LPP's 6 May and 5 August 2021 recommendations:
 - a. It includes controls in relation to the height of roof-top plant including that this be contained within the maximum permissible building height under the LEP.
 - b. It includes objectives in relation to the location and scale of any future roof-top plant.
 - c. It includes provisions in relation to a Plan of Management; compliance with the Housing SEPP car parking requirements; and consideration of site fencing.

SUMMARY OF ASSESSMENT/CONCLUSION

140. In summary the Planning Proposal seeks to amend the Hurstville LEP 2012 (or Georges River LEP 2020, if gazetted), to permit a residential care facility with a maximum FSR of 1.6:1 and a maximum building height ranging from 12m, 14m and 16.9m at Nos. 53A-59A Gloucester Road, Hurstville.
141. The intent of the Planning Proposal is not to alter the Zoning, FSR, and HOB Maps in the Hurstville LEP 2012 (or Georges River LEP 2020, if gazetted) but permit with consent at

the site a residential aged care facility with a FSR of 1.6:1, and a range of building heights from 12m, 14m and 16.9m. The mechanism for the implementation of the range of heights - whether it requires a local provision or a Schedule 1 land use - will be the ambit of Parliamentary Counsel; but the heights and FSR proposed only relate to a residential care facility.

142. A residential care facility is defined by the Standard Instrument as follows:

residential care facility means accommodation for seniors or people with a disability that includes—

- (a) meals and cleaning services, and*
- (b) personal care or nursing care, or both, and*
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,*

but does not include a dwelling, hostel, hospital or psychiatric facility.

Note—

Residential care facilities are a type of seniors housing—see the definition of that term in this Dictionary.

143. The proposed amendments to Hurstville LEP 2012 (or if gazetted the GRLEP) will facilitate the upgrade and expansion of the existing aged care facility in a manner that integrates well with the character of the surrounding areas. The proposed amendments can be illustrated through the Architectural Indicative Architectural Concept, appended at **Attachment 2**.

144. It is recommended that the Council support the request for the following reasons:

- a) The Planning Proposal and the accompanying architectural concept scheme demonstrate an appropriate urban design response to its context;
- b) The proposed maximum building envelope demonstrates an appropriate urban design outcome through the formal transition to adjacent developments;
- c) The proposed FSR will not adversely impact the amenity of adjacent land holdings whilst providing for additional social infrastructure in the form of Seniors Housing;
- d) The Planning Proposal is consistent with strategic planning policy at both a state and local level;
- e) The Planning Proposal provides for seniors housing for the Georges River LGA which is an identified need for the local community; and
- f) The proposal will not impact on the operation of the local traffic network with 3 additional car movements during peak hour generated as a result of the proposal.

COMMUNITY CONSULTATION

145. Should the Planning Proposal be supported, it will be forwarded to the delegate of the Minister for Planning and Public Places, requesting a Gateway Determination.

146. If a Gateway Determination (Approval) is issued, and subject to its conditions, it is anticipated that the Planning Proposal will be exhibited for a period of 28 days in accordance with the provisions of the EP&A Act, 1979 and Regulation, 2000 and any requirements of the Gateway Determination.

147. Exhibition material, including explanatory information, land to which the Planning Proposal applies, description of the objectives and intended outcomes, copy of the Planning Proposal, relevant maps and supporting reports will be available for viewing during the

exhibition period on Council's website and hard copies available at Council offices and libraries.

148. Notification of the public exhibition will be through:

- a. Newspaper advertisement in The Leader;
- b. Exhibition notice on Council's website;
- c. Notices in Council offices and libraries;
- d. Letters to State and Commonwealth Government agencies identified in the Gateway Determination (if required); and
- e. Letters to adjoining landowners (in accordance with Council's Notification Procedures).

149. The anticipated project timeline for completion of the Planning Proposal is shown below:

Task	Anticipated Timeframe
Report to Georges River LPP on Planning Proposal	5 August 2021
Report to Environment and Planning Committee on Planning Proposal	11 October 2021 (this report)
Report to Council on Planning Proposal	25 October 2021
Anticipated commencement date (date of Gateway Determination)	December 2021
Timeframe for government agency consultation	January/February 2022
Exhibition of the Planning Proposal	March 2022
Reporting to Council on community consultation and finalisation	May 2022
Submission to the Department to finalise the LEP	June 2022
Anticipated date for notification	August 2022

150. It is noted that the project timeline will be assessed by the DPIE and may be amended by the Gateway Determination.

NEXT STEPS

151. If the Planning Proposal is endorsed by Council, it will be forwarded to the Minister for Planning and Public Spaces for a Gateway Determination under Section 3.34 of the EP&A Act.

152. If Council resolves not to support the Planning Proposal, the Proponent has the opportunity to request a pre-Gateway Review (Rezoning Review) to DPIE. The DPIE requests comments from Council and the Joint Regional Planning Panels/Commissions Secretariat forwards the request to relevant regional panel/the Commission.

FINANCIAL IMPLICATIONS

153. Within budget allocation.

RISK IMPLICATIONS

154. No risks identified.

COMMUNITY ENGAGEMENT

155. Community engagement will be conducted after the Gateway Determination is received.

FILE REFERENCE

D21/222242 & PP2017/0005

ATTACHMENTS

Attachment 1 Planning Proposal prepared by Mecone

Attachment 2 Indicative Architectural Concept prepared by O'Neill Architecture

Attachment 3 Survey

Attachment 4 Transport Impact Assessment prepared by JMT Consulting

Attachment 5 Landscape Statement prepared by Arcadia

Attachment 6 Report to LPP on 5 August 2021

Attachment 7 Draft amendment to GRDCP 2021

Attachment 8 Letter dated 13 August 2021 from Mecone withdrawing planning agreement offer