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1 June 2018

Department of Planning and Environment
Sydney Region East
GPO Box 39
Sydney NSW 2001

Attention: Amanda Harvey- Director

Dear Amanda,

REQUEST FOR REZONING REVIEW FOR PLANNING PROPOSAL| 1-1A CHELTENHAM ROAD, CROYDON

1. INTRODUCTION

On behalf of Star Auto Properties (the Proponent), we hereby request a Rezoning Review of a Planning Proposal submitted to Burwood Council on the 8 September 2017. The Planning Proposal seeks to amend the zoning, maximum building height and floor space ratio controls under the *Burwood Local Environmental Plan 2012* (BLEP 2012) as it applies to 1-1A Cheltenham Road, Croydon (the site).

The intent of the Planning Proposal is to rezone the site from R3 Medium Density Residential to B6 Enterprise Corridor and increase the building height and floor space ratio controls from 8.5m to 12.5m and 0.55:1 to 1.5:1, which we note is less than that allowed under the adjoining B6 zoned land.

This Planning Proposal is sought to formalise the use of the site as an ancillary car storage (commercial) use to the former Nissan Dealership to the north-west. It also seeks to introduce development standards to facilitate a viable future commercial development that appropriately reflects the sites 'transition zone' between the commercial development to the north and the low-medium density residential development to the south.

This Rezoning Review request has been initiated by the Proponent as Burwood Council at its meeting on 24 April 2018 resolved not to support the Planning Proposal because "*as it stands there have not been substantial planning reasons to change the zoning from R3 to B6*" (Minutes of Burwood Council Meeting on 24 April 2018). This decision was made contrary to the recommendation made by Burwood Council's Planning Officers in their Assessment Report (dated 24 April 2018) which recommended that the Planning Proposal should be supported with the development standards requested and submitted to the Department of Planning and Environment (DP&E) for a Gateway Determination.

This request for a Rezoning Review has been prepared in accordance with Section 5.1 of '*A guide to preparing local environmental plans*' and includes an overview of the site and its context, strategic and site-specific merit of the proposal and a summary of the engagement with Council.

This letter is accompanied by the following documentation:

- A copy of the Planning Proposal and supporting documentation;
- A copy of relevant correspondence with Council;

- A copy of Council's Assessment Report (dated 24 April 2018) and Council's Meeting Minutes (dated 24 April 2018);
- A completed Rezoning Review Application Form; and
- A cheque of \$20,000 addressed to the Department of Planning and Environment (DP&E).

2. SITE CONTEXT

The subject site is located at 1-1A Cheltenham Road, Croydon. The site is legally described as Lot 1 in Deposited Plan (DP) 817488, comprising a total site area of 1287.7m² including a frontage of 20.40m to Cheltenham Road and a depth of up to 63.54m.

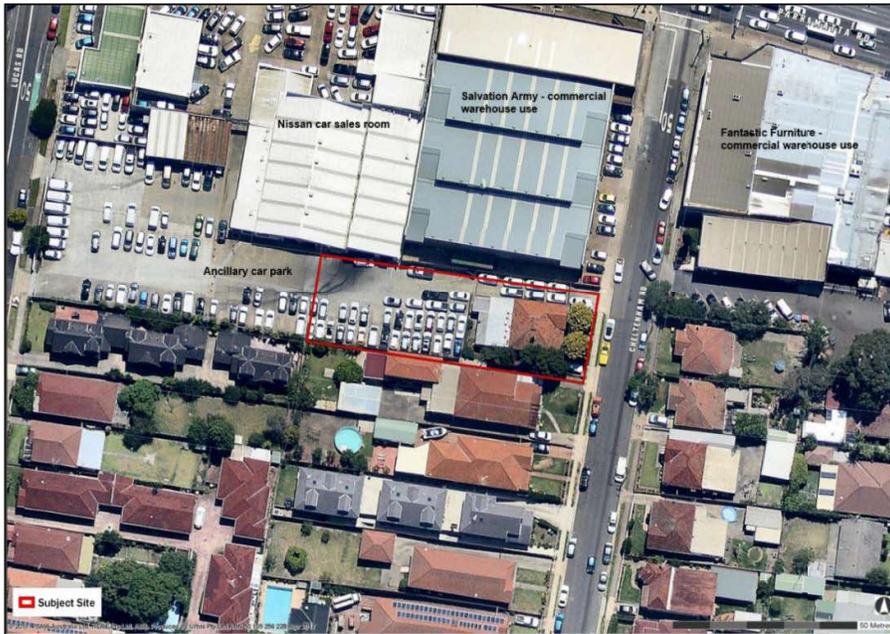
The site features a fall to the western rear boundary and existing vegetation scattered around the site.

The site comprises a single-storey dwelling house, a driveway along the northern boundary and a completely covered concrete surface to the rear. Prior to September 2017, the site was used for ancillary commercial premises to the adjoining Nissan car dealership comprising at-grade car parking/storage along the northern boundary and to the western rear. The subject site and the adjoining Nissan Dealership were held in the same ownership and formed part of a single car dealership operation.

The adjoining Nissan car dealership to the north-west ceased operation in September 2017 following the sale of the site and subsequent granting of Development Consent for 'Early Works' and 'Main Works' associated with the redevelopment of the site for a 4-storey Mercedes Benz vehicular dealership and workshop (DA reference: DA:88/2017 and DA:89/2017).

An aerial photograph of the site and an illustration of the site's former use is provided in **Figure 1**.

Figure 1 – Aerial Photograph of the Site (April 2017)





The surrounding development context is characterised by a 2-storey Salvation Army Warehouse Store to the immediate north, with commercial development continuing along either side of the Parramatta Road Corridor. Development to the south and east of the site is primarily low-medium density residential uses.

3. SUMMARY OF PLANNING PROPOSAL

3.1. INTENDED OUTCOME

The site is significantly constrained by overshadowing and visual impacts primarily from the Salvation Army warehouse immediately abutting the site's northern boundary and the recently approved Mercedes Benz Dealership to the north west (refer to Shadow Diagrams at **Attachment 2.4**). The site was, until September 2017 and for many years, used as car storage associated with the Nissan Dealership that fronted Parramatta Road. This use of the site reflected its significantly constrained nature and lack of desirability for redevelopment for higher density residential purposes as permitted by the R3 Medium Density Zone.

The Parramatta Corridor, comprising the development lots to the immediate north and west of the site, is entering a new period of further growth and expansion as envisioned by the Parramatta Road Urban Transformation Strategy. This Strategy recommends that these sites are rezoned to B4 Mixed Use, with increased built form development standards of 21m and 1.8:1.

The subject site sits just outside of the Parramatta Road corridor and thus was not included in the strategy study area. The site however acts as a transition zone between the commercial development concentrated along Parramatta Road as well as the desired future mixed-use character and the medium density residential area to the south.

The intended outcome of the Planning Proposal is therefore to amend the Burwood LEP 2012 to formalise the use of the site for commercial premises and introduce a height and FSR control that enables the 'stepping down' built form transition to be maintained. This will reflect the existing and potential future built form controls of the surrounding context as well as allow for a reasonably scaled theoretical future development, while encouraging and supporting future redevelopment to occur on the neighbouring sites to the south.

The Planning Proposal seeks the following amendments to BLEP 2012:

- A B6 Enterprise Corridor Zoning;
- A maximum building height of 12.5 metres; and
- A maximum floor space ratio of 1.5:1.

3.2. CONCEPT PROPOSAL

Turner Architects have prepared an Indicative Concept Design for the site. This design was refined from the original submission following feedback from Burwood Council dated 16 October 2017 and 29 January 2018.

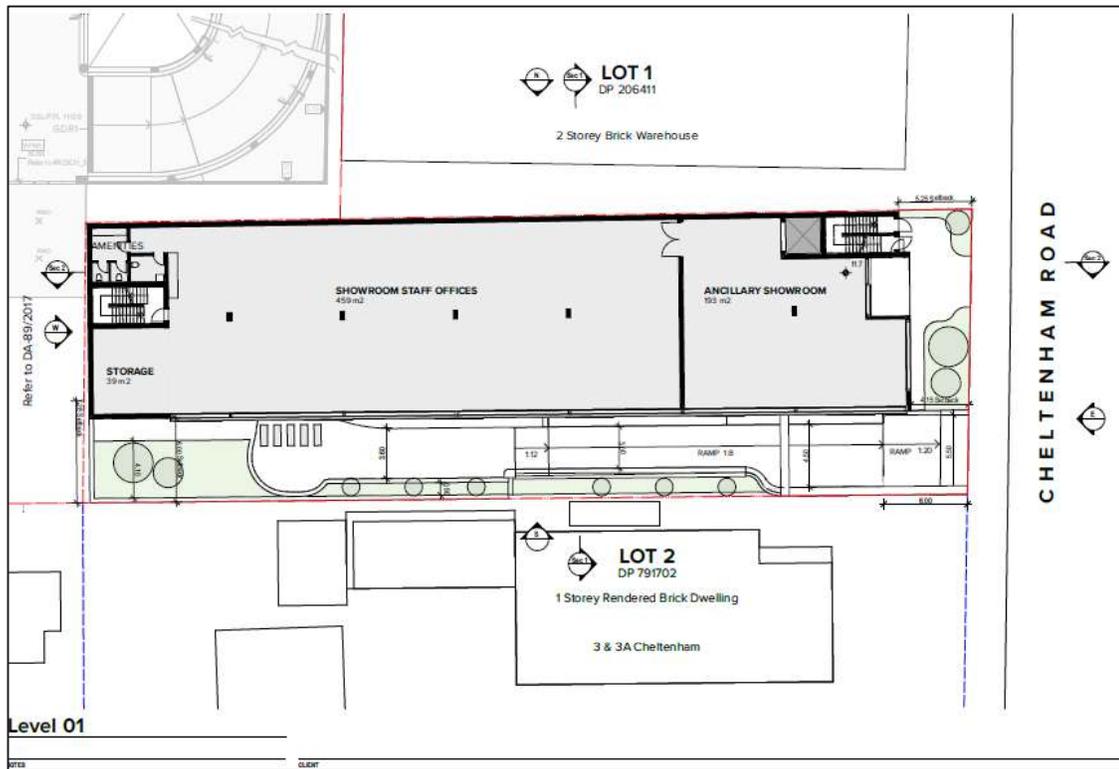
The amended concept proposal constituted a tailored approach to the built form controls (12.5m instead of 15m and 1.5:1 instead of 1.75:1) compared to those that apply to the B6 zoned lands elsewhere under Burwood LEP, in direct response to the site's context and correspondence from Council's officer.

3.3. BUILT FORM

The design included in the final Planning Proposal package presented at the Council Meeting on the 24 April 2018 comprises the following:

- A potential boutique 3-storey car showroom comprising:
 - Basement car park accessible via a driveway along the southern site boundary;
 - Ground level workshop and parts storage;
 - Level 1 and 2 showroom and ancillary offices; and
 - Rooftop plant room.

Figure 2 – Indicative Concept Design





A numeric overview of the preferred design concept is provided below in **Table 1**.

Table 1 – Summary of indicative Development Concept

Element	Proposed
Site area	1287.7m ²
Building height	12.25 metres <i>Note: the proposal seeks a rounded LEP Height Control of 12.5m to allow for a small degree of tolerance for future detailed designs with specialist services advice which is considered reasonable and an orderly approach to limit potential for the need for clause 4.6 variations in the future.</i>
Car parking	30 spaces
Gross Floor Area (GFA)	1,952m ²
Floor Space Ratio (FSR)	1.5:1
Built form	3-storey built form; setback from the southern residential boundary interface.
Setbacks	5.25 metres to Cheltenham Road. 6 metres to southern side boundary at Ground Level and Level 1. 12.48 metres to southern side boundary at Level 2. <i>Note: the proposed setbacks demonstrate a greater relationship to the 45-degree height plane applicable under the Burwood DCP 2012 for commercial development adjoining a residential boundary.</i>

3.4. ENVIRONMENTAL IMPACTS

The Concept Design demonstrates that a viable commercial building envelope can be achieved on the site without significant adverse amenity impacts to residential properties to the south.

Potential built form impacts arising from the proposed change in urban form on the neighbouring R3 zone were considered. Such impacts included overshadowing, privacy and amenity impacts. It was concluded in Councils Assessment Report that such built form impacts are considered capable of being managed through the detailed design stage and assessed as part of the subsequent development application process.



Overshadowing

Post-lodgement of the Planning Proposal, Council requested a number of design amendments to demonstrate a built form together with the height and FSR controls would not significantly overshadow the neighbouring residential properties to the south.

In response, the proposal was modified to a reduced height and FSR (12.5m instead of 15m and 1.5:1 instead of 1.75:1) compared to the adjoining B6 zoned land – providing a suitable ‘scaling down’ transition from Parramatta Road to the R3 zone to the south.

The Indicative Concept also proposed a greater relationship to the building height plane control, an area specific built form DCP control that applies to commercial development adjoining a residential zone. We note that Burwood Council enforces this DCP control strongly and requests further setbacks to assist in mitigating overshadowing impacts. This was requested by the Council during the assessment of the neighbouring Mercedes Benz DA (DA reference: DA:89/2017) and reflected in the Planning Proposal design development.

As demonstrated by the Shadow Diagrams (refer to **Attachment 2.4**) included in the Planning Proposal package, the Indicative Concept Design demonstrates that a building envelope (with height and FSR controls sought) would not unduly impact any surrounding dwelling or comprise its ability to achieve the required 2 hours of sunlight during the winter solstice. Taking guidance from the ADG (part 3B-2), in the absence of any solar access controls in the Burwood DCP 2012 for medium density residential development, the affected residence to the immediate south at 3-3A Cheltenham Road would still achieve the minimum required solar access to private open space and living areas under the proposed concept.

Turner Architects also prepared an indicative design of a townhouse development on-site that could be achieved under the current R3 zoning and development standards (refer to **Attachment 2.6**). It is noted that the 45-degree height plane does not apply to residential developments, instead a far reduced side and rear setback of 2-3m applies under the Burwood DCP 2012. The analysis demonstrated that a permissible townhouse built form would in fact create considerably worse overshadowing impacts than that of the proposed commercial concept design to surrounding properties to the south. Council’s Assessment Report notes that such overshadowing resulting from a compliant setback is “*normally accepted as part of medium density development on adjoining sites*”.

The proposed commercial building envelope is therefore a superior built form outcome in terms of minimising shadow impacts compared to what could be achieved under the existing R3 zoning and development standards.



4. MERIT ASSESSMENT CRITERIA

4.1. STRATEGIC MERIT

The Planning Proposal has strategic merit for the reasons outlined in the table below.

Table 2 – Strategic Merit Test

Strategic Merit Criteria	Response
<p>Is the planning proposal:</p> <p><i>consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney region, or corridor/precinct plans applying to the shire, including any draft regional, district or corridor/precinct plans released for public comment <u>or</u></i></p>	<p>The site has the potential to contribute to the economic growth of the region due to its strategic location off Parramatta Road and within a growing centre, either as a standalone development or as an integrated development with the recently approved Mercedes Dealership fronting Parramatta Road. The proposal is therefore aligned to the demand for increased employment and economic opportunities along Parramatta Road and the broader Burwood District Centre.</p> <p><u>A Plan for Growing Sydney (Metropolitan Plan)</u> <i>(*which applied at time of lodgement)</i></p> <p>The Planning Proposal assists in meeting the objective of developing mixed-use economic activity within proximity to the Parramatta Road Corridor. The Proposal is consistent with the goals of the Metropolitan Plan as it will:</p> <ul style="list-style-type: none"> • Support the expansion of commercial uses in proximity to the Burwood Strategic Centre and the Parramatta Road Urban Transformation Corridor; • Diversify economic activity along the Parramatta Road Corridor; • Intensify employment opportunities along the Parramatta Road Corridor; • Contribute to the revitalisation of the Kings Bay Area within the Parramatta Road Urban Transformation Corridor through diversity in land uses; and

Strategic Merit Criteria	Response
	<ul style="list-style-type: none"> • Provide commercial services necessary to support growing densities along the Parramatta Road Corridor. <p>The Planning Proposal is consistent with the aims and objectives of the Metropolitan Plan and has strategic merit.</p> <p><u>Greater Sydney Region Plan</u></p> <p>The site forms part of 'Eastern Harbour City'.</p> <p>The proposal will support the realisation of the following plan objectives:</p> <ul style="list-style-type: none"> • <i>Objective 5 – Benefits of growth realised by collaboration of governments, communities and business</i> <ul style="list-style-type: none"> – Supports the growth and revitalisation of the Parramatta Road Corridor under the Parramatta Road Urban Transformation Strategy and proposes a built form that maintains the 'stepping down' built form approach with the higher density concentrated along Parramatta Road. • <i>Objective 14 - A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities</i> <ul style="list-style-type: none"> – Facilitates the 30-minute city concept by co-locating with other similar jobs and services along the Parramatta Road Corridor and in proximity to public transport modes with easy access to the Harbour CBD. • <i>Objective 22 - Investment and business activity in centres</i> <ul style="list-style-type: none"> – Provides jobs closer to home and within an established cluster of commercial development along the Parramatta Road corridor. • <i>Objective 23 – Industrial and urban services land is planned, retained and managed</i> <ul style="list-style-type: none"> – Provides for a logical commercial zoning of land within an established commercial corridor. The Strategy acknowledges that the location and infrastructure requirements of urban services land is close to residential and commercial centres that they serve.



Strategic Merit Criteria	Response
	<ul style="list-style-type: none"> • <i>Objective 24 – Economic sector are targeted for success</i> <ul style="list-style-type: none"> – Aligns with the direction for managing competing opportunities and protecting land values for industries that are fundamental to the overall economy. <p><u>Eastern City District Plan:</u></p> <p>The Planning Proposal is consistent with the three overarching goals of the Eastern City District Plan; a Productive City, a Liveable City and a Sustainable City. Specifically, the Planning Proposal is consistent with the following priorities under these goals:</p> <ul style="list-style-type: none"> • <i>Productivity Priority 1 – Creating opportunities for the growth of commercial floor space</i> <ul style="list-style-type: none"> – Support growth through providing employment opportunities and commercial services in a targeted location. – Enable the provision of a diverse range of commercial activities to meet the retail and service needs of the community. • <i>Productivity Priority 3 – Manage growth and change in strategic and district centres, and, as relevant, local centres</i> <ul style="list-style-type: none"> – Attract jobs in a location which is supported by transport networks, existing urban services and residences. The site is located in proximity to the Burwood strategic centre which has the capacity to grow. The rezoning of the site will contribute to the Centre meeting the forecast demand for jobs and services. – The concentration of commercial activity along an existing commercial hub on the Parramatta Road Corridor will create a competitive market and increase the net productivity of both the centre and the overall District.



Strategic Merit Criteria	Response
	<ul style="list-style-type: none"> • <i>Productivity Priority 4 – Prioritise the provision of retail floor space in centres</i> <ul style="list-style-type: none"> – Provide for retail floor space within proximity to the Burwood District Centre and support the viability and vitality of the centre. – Based on the Department of Planning and Environment’s projected population growth, the Burwood LGA is forecast to increase from 34,200 to 57,500 over the next 25 years, representing an annual growth of 2.1%. The conversion of floor space to retail is a direct response to the future demand for commercial floor space within the area. – The proposal presents the opportunity for a commercial land use, generating the potential for a range of business types within the local community. • <i>Productivity Priority 5 – Protect and support employment and urban services land</i> <ul style="list-style-type: none"> – The rezoning protects and supports employment and urban services land as the future intended use of the site involves a car showroom or similar development, which will attract a range of employment opportunities. <p>Furthermore, the renewal of Parramatta Road is reiterated throughout the plan as an important economic opportunity. The Planning Proposal takes advantage of this opportunity outlined in the Plan. Despite being located on the periphery of the Strategy area, it is clear the proposal directly responds to the priorities outlined in the Plan, and will result in a net community benefit.</p> <p>We also note that the proposal won’t undermine District housing objectives. The immediately surrounding area will experience significant housing growth along the Parramatta Corridor through the GSC Urban Transformation Strategy and by DPE through the planned precinct work. The site if developed to its full extent as a residential development under the existing R3 zoning and built form controls will yield approx. 4 dwellings. Given this and the fact that the site has not been used for residential for many years the rezoning</p>



Strategic Merit Criteria	Response
	<p>would not have any detrimental impact for council to meet their housing targets.</p> <p>Furthermore, the overshadowing of the site means that most dwellings will be extensively overshadowed. Therefore, the residential zoning of the site is not considered to be suitable.</p> <p>We further note that Council concluded in their assessment that there are no strategic planning reasons, or any inconsistency with a strategic plan, that would preclude the proposed amendments to the zoning, height or FSR of the site under the BLEP 2012.</p>
<p><i>Consistent with a relevant local strategy that has been endorsed by the Department; <u>or</u></i></p>	<p><u>Burwood 2030</u></p> <p>Burwood Council has prepared a local strategic plan that reinforces the key local matters relevant to the LGA. Of relevance to this planning proposal is the strategic goal of a vibrant economic community. The theme aims to “<i>ensure an economically sustainable and prosperous future in Burwood with a strong network of services that support existing businesses and institutions, and attract new and diverse organisations</i>”. The Planning Proposal is consistent with Burwood 2030 as it will enable a proposal which will provide diversity in business services along the Parramatta Road corridor, and improve the standard of shopping precincts along Parramatta Road Corridor. The proposed development will have an active street frontage to promote engagement and vibrancy in the public domain.</p> <p>The Strategy does not identify areas for planned housing growth. However, it does recognise the need to find a balance between demand for residential areas and demand for commercial space. This Planning Proposal has demonstrated the merits of commercial over residential, which is not considered to have a material impact on housing supply given the existing medium density zoning of the site and the significant growth that will be delivered</p>



Strategic Merit Criteria	Response
	<p>elsewhere in the District such as along the Parramatta Road corridor.</p> <p>The Planning Proposal is consistent with the relevant local strategy, and has strategic merit.</p>
<p><i>Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic that have not been recognised by the existing planning controls.</i></p>	<p>The planned future planning control amendments to properties within the Parramatta Road Corridor was informed by a government led process to revitalise the corridor as WestConnex motorway will play a key role in diverting local and district car and truck volumes away from the local area.</p> <p>The Planning Proposal will formalise the former commercial use of the site, which is not recognised under the current planning controls.</p> <p>Council officers noted in their assessment of the Planning Proposal that there is precedence for this approach and rezoning. Under BLEP Amendment No.2, several sites that had side-street frontages to Lucas Road and Cheltenham Road which adjoined the B6 Enterprise Zone and were rezoned to B6. These sites also had long-standing uses consistent with the B6 zone, and constraints to residential development.</p>



4.2. SITE-SPECIFIC MERIT

The Planning Proposal has site-specific merit for the reasons outlined below:

Table 3 – Site-Specific Merit

Site-Specific Merit Criteria	Response
Does the planning proposal have site specific merit with regard to:	
<p><i>the natural environment (including known significant environmental values, resources or hazards)?</i></p>	<p>The site is fully developed for urban purposes and does not hold any significant environmental values, resources or hazards.</p> <p>There are no known environmental constraints that could not be suitably mitigated through detailed design at DA stage.</p>
<p><i>the existing uses, approved uses and likely future uses of land in the vicinity of the land subject to a proposal?</i></p>	<p>The Planning Proposal seeks to introduce a B6 Enterprise Corridor zoning that is consistent with the former commercial use of the site and association with the Nissan Dealership.</p> <p>The current zoning allows for medium density residential development. This potential outcome is impractical due to the existing warehouse development to the north and recently approved Mercedes Benz dealership to the north west which extensively overshadows the site. These sites form part of the Parramatta Road Urban Transformation Strategy. Under this strategy it is recommended these sites are rezoned to B4 Mixed Use, with increased built form development standards of 21m and FSR of 1.8:1. This increased density will only exacerbate the environmental impacts on the subject site and its undesirability for residential development.</p> <p>Consequently, a residential dwelling on the site would not be able to achieve adequate residential amenity as anticipated under the current residential zoning, which brings into question the appropriateness of the zone considering the existing and planned future desired character of development to its immediate north.</p> <p>Council officers further noted in their assessment of the Planning Proposal that the site:</p> <p><i>“would be undesirable as a dwelling location” and is “unlikely to revert solely to a single dwelling house...and faces</i></p>



Site-Specific Merit Criteria	Response
	<p><i>significant constraints for a future medium density development in accordance with its R3 zoning”.</i></p> <p>It is acknowledged that the site represents a ‘transition’ between the commercial buildings to the north along Parramatta Road, and the Croydon residential area to the south. The Planning Proposal originally sought to introduce height and FSR controls consistent with the adjacent B6 Enterprise Zoning, however was revised in December 2017 to seek lower height and FSR controls specific to the site.</p> <p>The reduction from 15 metres to 12.5 metres in height and 1.75:1 FSR to 1.5:1 FSR enables a ‘stepping down’ transition between the commercial and residential zones, without comprising the viability of a commercial development on the site. Council supported this approach in their assessment of the Planning Proposal (dated 24 April 2018).</p> <p>The Planning Proposal has duly considered the existing use of the site as an ancillary commercial premise, and its transitional role between the land use zones. The Concept Design prepared by Turner Architects demonstrates that a commercial building envelope can be achieved without compromising residential amenity to the dwellings to the south.</p> <p>In particular, the Planning Proposal has demonstrated that the Indicative Concept encompasses the tailored DCP building height plane control for commercial development adjoining residential zoned land. This building height plane together with the height and FSR controls sought results in acceptable overshadowing impact whereby all affected residences are still capable of achieving a minimum of 2 hours of solar access during the winter solstice (refer to Attachment 2.4).</p> <p>Redevelopment of the site under the existing R3 zoning and 8.5m and 0.55:1 standards including application of the Burwood DCP setbacks for residential development would result in a built form erected far closer to the southern boundary and as such would result in far more adverse</p>



Site-Specific Merit Criteria	Response
	<p>overshadowing impacts compared to what is being proposed by this Planning Proposal request.</p> <p>All other environmental impacts arising from the proposed change in urban form are capable of being managed and mitigated as part of the detailed design stage and subsequent development application assessment.</p> <p>Therefore, despite the proposed increased development standards, the proposal will result in a better outcome compared to what currently exists as well as what may be developed on the site under the existing R3 Medium Density zoning.</p> <p>In view of the above, the proposed amendments to the BLEP 2012 have considerable site-specific merit.</p>
<p><i>the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision?</i></p>	<p>The site is serviced by several bus routes, and in close proximity to Burwood and Croydon train stations. A number of infrastructure projects are planned in the area, as well as and upgrades to Parramatta Road as part of the Parramatta Road Urban Transformation Study.</p> <p>The Planning Proposal does not significantly alter the infrastructure requirements that would be required when compared to the existing zoning of the site.</p>



5. CONSULTATION WITH COUNCIL

A copy of all correspondence with Council regarding the Planning Proposal is provided in **Attachment 2**. A summary of this consultation is also provided below:

Pre-Lodgement:

17 March 2017:

Meeting with Diwei Luo (Manager, Strategic Planning) and Brian Olsen (Manager, Development Assessments)

- Agreed by Council that existing use rights under section 4.65 of the *Environmental Planning & Assessment Act 1979* could not be relied upon as a legal use could not be established.
- Agreed by Council that a Planning Proposal would be the best means of achieving a land use zoning that would permit a commercial development on the site.

Post- Lodgement:

16 October 2017

Letter from Council:

- Council raised concerns regarding the proposed height and FSR controls as they would create additional overshadowing impacts to neighbouring residential properties:
 - **Response:** The Proponent amended the Planning Proposal to reduce the maximum building height from 15m to 12.5m and the maximum FSR from 1.75 to 1.5:1. This approach significantly reduced shadow impacts to ensure a minimum of 2 hours was received to affected residences, and was a design outcome supported by Council.
- Further information required on how service vehicles would access the site:
 - **Response:** The Proponent submitted a revised Traffic and Parking Report to demonstrate that light commercial vehicles (vans, utes etc.) could access the site and these would be accommodated towards the eastern section of the carpark.
- The subject site falls outside of the Kings Bay Precinct strategic boundary. The Section 117 Direction for the Parramatta Road Corridor seeks the “incremental transformation” of the Corridor and deliberately limits development that falls outside of the set staging and infrastructure provision.
 - **Response:** The Strategy demonstrates how the immediate surrounding area will be undergoing gradual urban renewal, including increased building height and density. The proposed rezoning of the site will make a meaningful contribution to the growth and enhanced physical quality of the Parramatta Road Corridor once redeveloped. The height and FSR sought is an appropriate density for the site reflecting its role as a transition between commercial development to the north where controls are proposed to be increased to 21m and 1.8:1 under the Strategy and residential development to the south.



- Council are not confident that the 45-degree height plane would sufficiently mitigate impacts to southern residential properties and future development should be compliant with the Codes SEPP setbacks.
 - **Response:** It is not viable to accommodate a development concept compliant with the Codes SEPP setbacks based on the site-characteristics. These controls are also more onerous than Council's DCP controls as they are not subject to merit assessment at DA stage.
- BLEP Amendment No.2 rezoned similar sites to B6 but retained the lower height and FSR controls.
 - **Response:** It is unreasonable to maintain the lower height and density controls as it can be demonstrated that a commercial development can be achieved with higher height and density that does not impact surrounding properties. The proposed height and FSR are appropriate for a transitional site.

29 January 2018:

Letter from Council (including subsequent meeting with Diwei Luo - Manager, Strategic Planning to discuss the letter on the 22 February 2018)

- Council must base the assessment on the potential for the site to be redeveloped for any use permitted in the B6 zone and that utilises all or most of the capacity of the proposed development standards:
 - **Response:** The revised Indicative Concept Design illustrates a scheme that reflects the height and FSR sought by this Planning Proposal request, with some minimal and minor tolerance for height to allow future flexibility. The Indicative Concept has used the principle of the 45-degree height plane, and setback the building further to result in an improved overshadowing outcome.
- The new Indicative Concept Design is not adequate in this regard as it appears that significant additional floor space could be added in a manner that would expand the bulk of the building and increase adverse impacts on the adjoining land to the south in particular by way of shadowing.
 - **Response:** It is acknowledged that other schemes could in theory be explored that seek to relocate floor space to the setback areas, which would expand the bulk of the building toward the southern boundary. This additional bulk would however result in far greater overshadowing impacts on the site to the south. For this reason, it would not be appropriate to present an indicative scheme that conceptualises the proposed built form controls that creates an unacceptable environmental impact which would not be likely to secure future DA approval. The concept of establishing a building height plane is not premised on the notion that the envelope would be completely filled, it's about scaling height in this instance. If the envelope were to be filled, the proposal would need to seek increased FSR. The Apartment Design Guide (ADG) prepared by the Department of Planning and Environment (DPE) confirms this in Part 2B where it states that a building envelope should be 25-30% greater than the achievable floor area allowed.



- Are there any north-facing windows or dwelling entrances of the existing dwelling house 3-3A Cheltenham Road to the south that would be overshadowing?
 - **Response:** The dwelling house will achieve the following solar access provision:
 - Around 4-hours to habitable windows of the rear extension between 10am-2pm;
 - Above 2 -hours to habitable windows of the principle dwelling between 11am and 2pm;
 - 4 hours to the private open space fronting Cheltenham Road between 9am-12pm;
 - Around 2-hours to at least 50% of the rear open space area between 11am and 1pm.

In summary, the affected residence achieves the minimum required solar access to private open space and living areas under the ADG, and this is considered acceptable.

- What shadow impacts would there be if 3-3A Cheltenham Road were to be redeveloped as multi-dwelling housing:
 - **Response:** A two-storey building envelope on the site was modelled by Turner Architects. The drawings illustrate that the Concept Design is capable of allowing in excess of 2-hours of solar access on June 21 to the living rooms of these dwellings as required by the ADG. It is noted that the private open space areas of these dwellings would be compromised, however this is also consistent with the existing situation.
- Reconsider the approach of the BLEP Amendment No.2 in retaining lower height and density controls:
 - **Response:** The sites under this rezoning are considerably different to the subject site. If the existing height and FSR were maintained and only the zoning changed, the site would be undevelopable as a viable built form could not be realised. The proposed controls are appropriate for the site and will not result in significant adverse impacts to surrounding properties.

6 April 2018:

- Council requested a section drawing that shows an envelope of a town house development on the 1-1A site (south side only) which complies with the BDCP's side boundary setbacks which are 2m at ground level and 3.5m for 1st floor level, and also complies with the BLEP's 8.5 m building height limit
 - **Response:** The Proponent provided an additional drawing as requested by Council to demonstrate that a townhouse development on the site that is permissible under the current R3 zoning would cause greater overshadowing impacts compared to the Concept Scheme accompanying the Planning Proposal request.

24 April 2018:

- Council's Assessment Report determines the Planning Proposal has merit and should be supported to proceed to DPE for Gateway determination.



6. CONCLUSION

This letter has been prepared in support of a Rezoning Review Request to DP&E in relation to the Planning Proposal for 1-1A Cheltenham Road, Croydon.

The Planning Proposal will enable the site to be redeveloped for commercial premises in the future. This is a superior outcome to the current planning controls which, if redeveloped in line with the current zoning, would enable a residential development to be achieved which would have poor amenity and create considerably greater overshadowing impacts to neighbouring residential dwellings.

The proposed zoning, height and floor space ratio controls will enable the site to act as 'transition zone' between the commercial and residential land use interface, whilst ensuring a viable development can be achieved on the site. This is a logical and appropriate use of the site into the future.

We further note that the Proponent worked closely with Council to achieve the built form controls that are presently proposed under the Planning Proposal. As a result, Council's Planning Officer's recommended that the Planning Proposal be supported by Council and that it proceed to DP&E for Gateway Determination. Despite this recommendation, Council at its meeting on 24 April 2018 resolved to not support the Planning Proposal.

For the reasons outlined in this letter and accompanying documentation, we submit that the Planning Proposal has considerable strategic and site-specific merit, and thus warrants support from the Panel to proceed to Gateway determination.

Should have any queries regarding the above, please do not hesitate to contact the undersigned on 8233 9900.

Yours sincerely,

A handwritten signature in black ink that reads "Stephen White".

Stephen White
Director - Planning