

**Item No:** C0717 Item 7  
**Subject:** 120C OLD CANTERBURY ROAD SUMMER HILL - PLANNING PROPOSAL  
**File Ref:** 17/4718/80217.17  
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### SUMMARY

Council has received a Planning Proposal for 120 C Old Canterbury Road Summer Hill, which seeks a change of Land Use Zoning for part of the site, increase in Maximum Building Height and increase in Maximum Floor Space Ratio in the Ashfield LEP 2013. It has been put on preliminary “upfront” public exhibition in accordance with Council’s policy - for the former Ashfield LGA area, and a large number of public submissions have been received and commented on in this report.

This report recommends that Council support the Planning Proposal subject to amendments being first made by the applicant as identified in the report, including amendments to reduce the Maximum Height of Buildings proposed to six storeys relative to Old Canterbury Road and reduce the Maximum Floor Space Ratio proposed to reflect this. After this has been carried out to the satisfaction of Council, the Proposal can be forwarded to the Department of Planning and Environment for Gateway Assessment, and for Council’s delegate being the General Manager to be given delegation (“The Authorisation”) to process the application. LRAC considered this report at its Meeting on 11 July and supported the staff recommendations as well as making some additional recommendations.

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### RECOMMENDATION

#### THAT:

1. **The Planning Proposal be amended to Council’s satisfaction addressing the recommendations outlined in this report, including a Maximum Height of Building equating to 6 storeys relative to Old Canterbury Road and a reduced Maximum Floor Space Ratio;**
2. **Council authorises the Interim General Manager to be Council’s delegate and use “the Authority” for the processing of the Planning Proposal as outlined in this report;**
3. **On satisfactory completion of Resolution 1 and 2, the Planning Proposal be referred pursuant to Section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) seeking a Gateway Determination and for Council to be the Relevant Planning Authority, and requesting the studies identified in the report be produced;**
4. **Council develop a site specific Draft Development Control Plan as outlined in this report and exhibit it concurrently with the Planning Proposal; and**
5. **Upon receipt of the Gateway Determination the Planning Proposal and Draft DCP be put on public exhibition pursuant to the *Environmental Planning and Assessment Act 1979* (the Act).**

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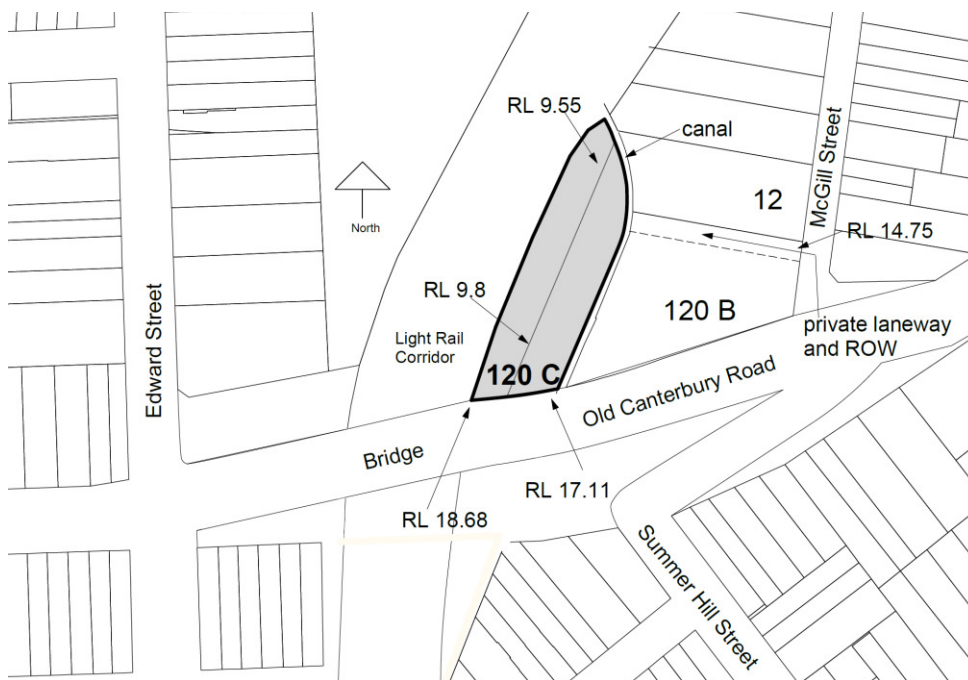
### 1.0 INTRODUCTION

A Planning Proposal (as amended 22 June 2017) has been submitted seeking a change of Land Use Zoning for part of the site, increase in Maximum Building Height and increase in Maximum Floor Space Ratio in the Ashfield LEP 2013 summarised below in **Table 1**, for the land shown in **Figure 1** below,.

**Table 1- Summary proposed changes to Ashfield LEP 2013.**

Control	Existing	Proposed
Land Zoning:	East side - B4 - Mixed Use	No Change
	West side – SP2 Infrastructure	B4 -Mixed Use
Max. Floor Space Ratio	East side -1.0:1	2.75:1
	West Side – no FSR	2.75:1
Max. Height of Buildings	East side –20 m. Ground level varies at approx. RL 9.55 to RL 10.	Maximum Height - RL 41.1.  This is 7 storeys relative to Old Canterbury Road, and 10 storeys relative to the lower part of the site adjacent the railway corridor.
	West side No MBH	Maximum Height - RL 41.1

**Figure 1-** location of site shown in grey.



LRAC considered this report at its Meeting on 11 July 2017 and recommended:-

### **L0717 Item 2 120c Old Canterbury Road Summer Hill - Planning Proposal**

#### **Recommendation: Cassidy / Stamolis**

THAT:

1. the Planning Proposal be amended to Council's satisfaction addressing the recommendations outlined in this report, including a Maximum Height of Building equating to 6 storeys relative to Old Canterbury Road and a reduced Maximum Floor Space Ratio;
2. Council authorises the General Manager to be Council's delegate and use "the Authority" for the processing of the Planning Proposal as outlined in this report;
3. on satisfactory completion of Resolution 1 and 2, the Planning Proposal be referred pursuant to Section 56 of the Environmental Planning and Assessment Act 1979 (the Act) seeking a Gateway Determination and for Council to be the Relevant Planning Authority, and requesting the studies identified in the report be produced;
4. a site specific Draft Development Control Plan be produced as outlined in this report and incorporated into any exhibition of the Planning Proposal; and
5. upon receipt of the Gateway Determination the Planning Proposal be put on public exhibition pursuant to the Environmental Planning and Assessment Act 1979 (the Act).

#### **CARRIED**

#### **Amendment: Drury / Lofts**

THAT the LRAC:

1. asks the Administrator to:
  - a) note that this proposal has no affordable housing and insist that the Department apply the IWC 15% policy;
  - b) note that the LEP is less than 5 years old and the LRAC cannot see how this proposal meets the strategic merit test;
  - c) highlight that the proposal is inconsistent with flood prone land
  - d) note that there needs to be an area wide traffic study and LRAC thinks it is reasonable for this planning proposal to address this

#### **CARRIED**

#### Officer Comment

As the Planning Proposal was submitted to Council prior to the introduction of the Inner West Council Affordable Housing Policy, the Policy only applies to the proposal as a guide and is not enforceable retrospectively. Notwithstanding, affordable housing remains an important element of urban renewal projects within the Inner West area. On this basis, any offer from the proponent for affordable housing will be considered in accordance with Council's VPA Policy and in consideration with any other infrastructure required as public benefit.

On strategic planning grounds, the Planning Proposal forms part of a broader renewal area that is in proximity to services and facilities at Summer Hill and transport Infrastructure at Lewisham West. The Planning proposal has also been considered in detail by a range of technical staff from across Council including flooding and traffic specialists which have identified that the quantum and scale of development that would be made permissible by the Planning Proposal could be accommodated subject to design conditions.

Council officers will recommend that a detailed traffic analysis be prepared to ensure the planning proposal will not unreasonably impact on the surrounding road network. This analysis will be made available for public comment during the exhibition period.

## **2.0 SITE CONTEXT**

The site has a unique context and characteristics which influence the extent of development that can be accommodated.

There are two allotments comprising 120C Old Canterbury Road. The eastern allotment is vacant and has past approvals for a light Industrial use and building set above columns so that the understorey can be void and accommodate flooding. The western allotment was acquired from the State Government, and was previously part of the “Railways Corridor”.

Most of the site topography is at approximately at RL 9.55 to RL 10 (varies), with a steep embankment at the southern end up to Old Canterbury Road at approximately at RL 17.11 – RL 18.68 (varies). The site’s only means of vehicular access is from a private laneway through the adjacent site at 120 B Old Canterbury Road, with access from a bridge over the canal at approx. RL 11.6.

The site is flood prone, with the freeboard floor level minimum being approx. RL 12.8. Based on past development approvals and Council’s engineers advice no building is permitted below that level apart from supporting columns. Adjacent is a Sydney Water stormwater canal, which receives stormwater from the surrounding locality.

Adjacent at 120 B Old Canterbury Road there is 5 storey apartment buildings above a ground level storey containing a childcare centre, which is in close vicinity to the site (see **Figure 3** below). At 12 McGill Street there is under construction a 7 storey apartment buildings in close vicinity to the northern part of the site. This affects separation distances for any new building and winter solar access to those apartments.

Adjacent the site to the west, there is the Railways corridor containing the light rail and residual land, where the GreenWay concept is intended to be applied.

Sites to the east along Old Canterbury Road have a building scale of 5- 6 storeys, approximating the maximum scale set in the Marrickville McGill Street DCP. There are R2 - Low Density zones within close vicinity to the south (also being within the Lewisham Estate Heritage Conservation Area), and nearby to the west in Summer Hill. Tall apartment buildings have been approved on the former Flour Mill Site (entire site is at approx. FSR 1.5:1), the closest tall buildings are approx. 45 metres to the south of Old Canterbury Road.

**Figure 3** – View of site as seen from Old Canterbury Road, 120 B Old Canterbury Road is on the right hand side.



### 3.0 PRELIMINARY NOTIFICATION

The Planning Proposal was notified between 31 January and 6 March 2017. This process is in place in order for Council (former Ashfield LGA policy) to obtain community feedback, so that relevant issues may be addressed “upfront” in the process. There were 568 visitations to Council’s “Have Your Say” website.

152 submissions were received. This included 5 letters of support, 75 individual submissions objecting to the proposal, and 72 submissions using a proforma letter objecting to the proposal.

**Table 2 – Objections to Proposal – Issues raised**

Concerns	Officer Response
<p><b>Traffic and Vehicular Access</b></p> <p>Adverse increase in traffic, and traffic gridlock.</p> <p>The private right of way laneway will be heavily congested due to its use by apartments at 120 B Old Canterbury Road and future (under construction) apartments at 12 McGill Street.</p>	<p>Refer to Council’s Traffic Engineers comments in <b>Part 8.1</b> of this report. A future site specific study and car parking level layout will be required to ensure the site layout has adequate capacity for vehicular entry and exit, on site queuing needed to address the use of the shared laneway at 120 B Old Canterbury Road which provides access for adjacent apartment buildings, and to ensure disruption is minimized to traffic flow in McGill Street.</p>
<p>Improvements are required to the McGill Street and Old Canterbury Road intersection to enable right turn movements onto Old Canterbury Road.</p>	<p>There have been many buildings constructed, or under construction in the McGill Street precinct which will impact on this intersection at Old Canterbury Road, and on traffic flow. Any change to road conditions at this intersection will require an area wide study. It is not reasonable to be expecting this particular Planning Proposal to</p>

	address this.
Proposal must provide adequate parking, there being a loss of onstreet parking due to low levels of parking provision in the McGill Street apartment blocks.	Car parking provision will be assessed with any future Development applications and will be required to comply with the applicable controls.

<b>Impact on apartments 120 B Old Canterbury Road</b>	
<p>Proposal will impact resident's view who reside at 120 B Old Canterbury Road, including their winter solar access.</p> <p>New buildings at the Flour Mills are blocking sunlight access in winter in afternoon, and the proposal will do the same.</p>	<p>120 B Old Canterbury Road has 5 levels of apartments, including apartments along its north west side which presently look over the site at 120 C Old Canterbury Road and received afternoon winter sun after midday(see <b>Figure 3</b> above).</p> <p>The applicants states that the Proposal has been amended to show building envelopes which will provide 2 hours winter solar access to apartments at 120 B Old Canterbury Road, and also achieve minimum building separation distance stipulated in the Apartment Design Guide. This will be carefully assessed during any future formal exhibition. <b>Part 9</b> of this report recommends a site specific DCP be produced to address solar access.</p>
Devalue property values at 120 B Old Canterbury Road	The valuation of adjacent apartments is not within the control of Council, is affected by a variety of market conditions, and does not form part of the strategic merit test.

<b>Impact of development on Child Care Centre at 120 B Old Canterbury Road</b>	
Will be impacted, including solar access, and overlooking	<p>The Child Care Centre is located at ground level, approx. at the same level as Old Canterbury Road (see <b>Figure 3</b>).</p> <p>The latest Design Concept building envelopes submitted 22 June 2017 provide for 1 hour winter solar access.</p> <p>The Design Concept building envelope plans also propose that part of northern part of the site be left as "open space", and this will provide a degree of outlook from the Childcare Centre north west toward the "GreenWay".</p> <p>It is also possible to have a deep soil areas along the eastern boundary of the site for tall tree planting for privacy screening.</p> <p>The above can be placed in a future site specific DCP and further refined through the detailed design phase and considered via the development application process.</p>

<b>Building Height and Scale</b>	
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<p>Will start a precedent where 4 storeys can be added over the established building scale</p> <p>Contradicts Marrickville DCP 2011 with regard to maintaining “desired future character”, “Health and Wellbeing”, “Heritage”.</p> <p>Building height should be two storeys lower than 9 storeys relative to Old Canterbury Road proposed in the February exhibition.</p> <p>Objects to height, should be same as 120 B Old Canterbury Road</p> <p>The proposal will not achieve a human scale adjacent the Greenway.</p> <p>New buildings will block views of the old historic Mills buildings and other views</p> <p>The resultant building will be able to be seen above existing tree vegetation along the east side of Old Canterbury Road, and this will be an “eyesore”.</p>	<p>Refer to <b>Part 6.2</b> of the report which assesses the proposed Maximum Building Height.</p>
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<p><b>Impact on GreenWay</b></p> <p>The land should be made part of the Greenway.</p> <p>There is no proposal for new or enhanced links to the Greenway.</p>	<p>The GreenWay area is adjacent the site, and presently consists of the Railway Corridor containing the light rail track, residual land either side, and is currently owned by Sydney Trains. Council does not have any strategy for acquiring private property for the purpose of enlarging a future GreenWay area.</p> <p>The applicants 22 June 17 design concept scheme shows that a pedestrian link is spatially possible from the laneway at 120 B Old Canterbury Road and continuing onto the site alongside the canal. This will be a matter for future negotiation with Council and the creation of easements enabling public access. It would also be included in a site specific DCP.</p>
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<p><b>Open Space</b></p> <p>There should be more “green space”</p> <p>Impact on people’s health, eg there are no green spaces that allows children to kick a ball and no provision on cycle ways” in the area.</p> <p>Trees within 120 C Old Canterbury</p>	<p>Council’s GreenWay project will include provision of additional public open space and also public pedestrian and bike paths, including along the adjacent railway corridor.</p>
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Road, along the boundary with the Railways corridor, should be retained.	
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<b>Unsuitable location</b>	
Poor Liveability location	The Proposal has unique constraints, explained in this report, which will affect future building design. Nevertheless the Design Concept ( <b>Attachment 2</b> ) shows that any future building will have apartments with the benefit of a north western outlook over a future “GreenWay”, and good solar access. The site is also close to public transport
Adjacent light rail trains will have an impact on the amenity of future residents	Refer to <b>Part 3</b> of the report which advises that Sydney Trains have raised no objection to the Proposal. The DA process will assess internal amenity impacts and define measures to mitigate and manage impacts.
Lewisham is affected by plane noise, and lies between the ANEF 20 and 25 contours.	The building that would result from the Planning Proposal is well below nearby buildings that are up to 10 storeys and higher. Any future development application will assess the specific building design and how plane noise is addressed.
Proposal is contrary to the stated objectives of the Ashfield LEP 2013	With respect to the proposed land use, this is not considered to be the case. Refer to <b>Part 6</b> of this report that discusses the proposed amendments to the Ashfield LEP 2103.

<b>Affordable Housing</b>	
There is no Affordable Housing provision in the proposal	Refer to <b>Part 7</b> of this report which discusses Council’s Affordable Housing Policy, and how this can be addressed.

<b>Impact on Lewisham Estate Heritage Conservation Zone</b>	
Adverse Visual Impact	Refer to <b>Part 6.2</b> of the report which discusses the Proposed Maximum Building Height.



<b>Impact on nearby residential buildings in R2 zones</b>	
Residents of the new buildings will be able to look into the backyards and front rooms of houses.	Refer to <b>Part 6.2</b> of the report which discusses the Proposed Maximum Building Height. This part of the process is considering the strategic and site specific merits of the proposal. If the site is rezoned, this matter would be assessed via a future Development Application and be subject to further community consultation.
<b>Inadequate Infrastructure</b>	
<p>Infrastructure, including schools, is not able to accommodate the Proposal.</p> <p>Light Rail is already at capacity at peak period times and cannot cope with more apartments.</p> <p>Light Rail is already at capacity at peak period times and cannot cope with more apartments.</p> <p>There is one bus service, 413, which is overcrowded at peak periods and stuck in the gridlocked traffic.</p> <p>There should not be more apartments</p> <p>Impact on sewerage and water drainage</p>	<p>The Council has no advice from the Department of Planning and Environment or relevant State Government departments that there is no capacity in local schools, and that public transport is beyond capacity. Nevertheless, at post Gateway Determination stage, referrals will be made to the relevant Government departments.</p> <p>There is adequate sewerage and water infrastructure.</p>
<b>Inappropriate Land Zoning</b>	
SP2 zoned land should not be rezoned to B4.	This land was formerly part of the railway corridor and acquired from Sydney Trains, and is flood affected. The Land Use zoning is discussed in <b>Part 6.1</b> of this report.
<b>Public Interest</b>	
Approval would be detrimental to the local community.	Refer to <b>Part 4</b> and <b>Part 5</b> of this report where the proposal is assessed against the Planning Proposal guidelines and draft Central District Plan and local Council Strategy, and proposed Development standards

**Table 3 - Submissions in support**

There were 5 submissions.

Proposal will provide more housing and so should be supported.	This is noted.
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**Table 4 - Public Authority comments**

<b>Sydney Water</b>	
<p>Raised no objection at this stage.</p> <p>They note the existing bridge at RL 11.6 is below the minimum freeboard level of RL 12.8 recommended by the applicant's consultant. They request with any future development application that emergency pedestrian access be provided from the site onto Old Canterbury Road in the event of a flood.</p>	<p><b>Part 8</b> of this report provides comments from Council's Engineers, and explains that it is Council's responsibility to determine the suitability of the site to take development taking into consideration the "Flood Plain Development Manual 2005". <b>Part 5</b> of this report explains it is also a requirement of a Section 117 direction that this matter must be resolved, and requires further detailed studies to be produced by the applicant. This can also explain how emergency access to Old Canterbury Road can be provided on site.</p> <p>Referral will again be made to Sydney Water post Gateway determination given the site is flood prone, and is adjacent a canal that collects local and regional storm water.</p>
<b>Sydney Trains</b>	
<p>Raised no objection at this stage.</p> <p>And advised any future Development Application can be assessed relative to the Department of Planning - "Development Near Rail corridors and Busy Roads".</p>	<p>Referral will again be made post Gateway determination, given the site is adjacent the Light Rail Corridor.</p>

#### 4.0 AMENDED PLANNING PROPOSAL

Council officers wrote to the applicant on 4 April 2017 advising of concerns with the Planning Proposal, including in relation to excessive building height, excessive FSR, and loss of afternoon winter solar access to apartments at 120 B Old Canterbury Road. In response the applicant deferred consideration of the Proposal to enable amendments to be made.

An amended Planning Proposal and ancillary Design Document was submitted to Council on 22 June 2017 (**Attachment 1**). Amendments include reducing the height of the southern part of buildings relative to Old Canterbury Road to 7 storeys (previously as exhibited 9 storeys), reducing the northern part of the site to 4 storeys relative to Old Canterbury Road level, reducing the maximum FSR to 2.75 (previously 3.0 :1). The Land Use Zoning and Development standards are assessed in **Part 6** of this report.

**5.0 COMPLIANCE WITH PLANNING PROPOSAL GUIDELINES AND DOCUMENT CONTENT**

In order for Council to act as the Relevant Planning Authority and be in control of the processing of the Planning Proposal, it is the Council’s responsibility to ensure there is adequate content and “justification” in a Planning Proposal document as required in “ Planning Proposal – A Guide to preparing Planning Proposal Guidelines” 2016. The following provides an assessment of the adequacy of the content.

**Table 5 - Planning Proposal Guidelines**

**Part 1 Objectives and intended outcomes and explanation of provisions**

	Guideline Requirements	Officer comments
2.1	Requires a concise statement setting out the objective or intended outcomes.	The statement given in the Planning Proposal is satisfactory.

**Part 2- explanation of provisions**

	Guideline Requirements	Officer Comments
2.2	Requires an explanation of the land use zones and development standards sought to be amended.	<p>The proposal seeks to make amendments to the Land Uses, Maximum Floor Space Ratio, and Maximum Height of Buildings, and this is adequately explained in the Planning Proposal.</p> <p>A Maximum Height of Building is expressed as RL of 41.1 is proposed, but it is not adequately explained how this can be implemented in an LEP Map, as the LEP map requires an actual linear building height measured from ground level to be stated. Refer to <b>Part 6.2</b> below of the report which discusses this and recommends an alternative Maximum Height of Building.</p>

**Part 3 – Justification**

	Guideline Requirements	Officer Comments
2.3	Requires adequate justification documentation to be provided for the specific land use and development standards proposed to the LEP.	Design concept documentation has been submitted which provides floor plans and building envelopes for the proposed maximum Building Height and Maximum FSR. These development standards are assessed and evaluated in detail <b>Part 6</b> of this report.

**2.3.1 Questions to consider when demonstrating the justification**

	Guideline requirements	Officer Comments
<b>Section A – Need for Planning Proposal</b>		
Q1	Is the planning proposal part of any strategic study or report?	<p>The proposal is not part of any strategic study or report.</p> <p>The eastern allotment was formerly owned by the State Government (Sydney Trains), and later acquired by the present owners, and the easement over the property benefiting Transport for NSW was later released. The land was zoned SP2 Infrastructure in the Ashfield LEP 2013, reflecting the then Railways Corridor use. This no longer reflects the use of the land, and so this needs to be corrected.</p> <p>It is also relevant that the site was considered as part of the reporting to the former Ashfield Council on the exhibition of the Draft Ashfield LEP 2012. At the time the site owners requested Council to reconsider the Land Use Zoning and Development Standards. Council resolved to receive a future Planning Proposal that would put forward suitable amendments for Council to consider. This is explained in the Planning Proposal.</p>
Q2	Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	Yes, the objectives require amendments to the Land Use zonings and Development Standards of the Ashfield LEP 2013. <b>Part 6</b> of the report below discusses and assesses these.
<b>Section B –relationship to strategic planning framework</b>		
Q3 a	Does the proposal have strategic merit? Is it:	
	Consistent with the relevant District Plan within the Greater Sydney region.	<p>The Proposal is consistent with <i>A Plan for Growing Sydney (2014)</i>, and <i>Towards Our Greater Sydney 2056</i>, and the objective to increase housing supply.</p> <p>The <i>draft Central District Plan (dCDP)</i> is also a consideration. One of the key objectives of the <i>draft CDP</i> is to provide for additional residential growth close to transport and services – which the proposal does. The <i>dCDP</i> provides an Inner West LGA housing target of 5,900 dwellings by 2021 which this proposal would contribute to.</p> <p>The <i>dDCP</i> also requires the Relevant Planning Authority to include an Affordable Rental Housing Target as a form of inclusionary zoning and sets a target of 5% to 10% of new floor space at rezoning stage. The Planning Proposal does not address this, and this needs to be resolved “upfront”. Refer to <b>Part 7</b> of this report which discusses this matter and Council’s Affordable Housing Policy.</p>
	Consistent with	The Ashfield Urban Planning Strategy 2010 was approved by the

	a relevant local council strategy that has been endorsed by the Department	Department of Planning and Environment and the B4 land use proposed for the western allotment is consistent with that Strategy since it mirrors the adjacent eastern portion land zoning.
	There will be a presumption against a rezoning review request that seeks to amend LEP controls that are less than 5 years old, unless the proposal can clearly justify that it meets the Strategic Merit Test.	The Ashfield LEP was gazetted in December 2013, and is less than 5 years old. As stated above the Planning Proposal can be considered given that Council (former Ashfield Council) resolved in 2013 to receive a future Planning Proposal that would put forward suitable amendments to the Ashfield LEP 2013 for Council to consider. The Planning Proposal also seeks to address a change of circumstances, being that the SP2 Infrastructure use of the western portion of the site is now redundant, and a new land use is required to enable orderly development of the site.
Q3b	Does the proposal have strategic merit with regard to the following :	
	The natural environment	<p>The site is subject to flooding, and this is acknowledged in the applicant's engineer's report (<b>Attachment 3</b>). Based on Council's engineer's advice and past Development Application approvals, this requires that the site ground level, which is at approx. RL 9.5 to RL 10.0, must not have any building apart from supporting columns, and that the floor level above that must be at a minimum freeboard level of RL 12.8.</p> <p>Council's engineers also advise in <b>Part 8.2</b> of this report that there will be a detailed floodwater study required to confirm minimum floor levels, and avoid impacts on adjoining properties since adjacent development has driveway entries to basement carparks at approx. RL 11.6.</p> <p>The Planning Proposal needs to have the relevant information and studies covering the above considerations, and this will be requested to be produced post any Gateway determination approval.</p>
	The existing uses, approved uses, and likely future uses of land in vicinity of the proposal.	<p>The site has no significant building and is mostly unused at the present.</p> <p>There will be an affectation to the existing apartments at 120 B Old Canterbury Road, and future apartments under construction at 12 McGill Street, in terms of ensuring they receive adequate levels of solar access, and there is adequate building separation. The amended Design concept demonstrates that it is possible to have building envelopes which will provide minimum winter solar access and adequate building separation.</p> <p>The Planning Proposal information is adequate for the purpose of Gateway Determination, subject to further studies recommended in this report.</p>

	<p>The services and infrastructure that are or will be available to meet the demand arising from the proposal and any proposed financial arrangement for infrastructure provision</p>	<p>There are existing water and sewerage service, and roadways for vehicular access. There are nearby primary and high schools, and public transport including bus and rail. The Planning Proposal information is adequate for the purpose of Gateway Determination</p>
Q4	<p>Is the proposal consistent with a council's local strategy or other local strategic plan?</p>	<p>The proposal's height of 7 storeys relative to Old Canterbury Road is not consistent with the McGill Street DCP which limits building height along Old Canterbury Road to 4 to 5 storeys This is discussed in more detail in <b>Part 6.2</b> of this report.</p>
Q5	<p>Is the planning proposal consistent with applicable State Environmental Planning Policy</p>	<p>With regard to SEPP 65, a Design Concept has been submitted. The proposed building heights and resulting FSR are commented on in <b>Part 6</b> below.</p> <p>For SEPP no 55 –Remediation of Land, there will be a Phase 1 Site Assessment provided post Gateway Determination.</p> <p>The Planning Proposal identifies the other applicable SEPPs, being SEPP (BASIX), SEPP (Complying Development), SEPP (State and Regional Development) 2011, Sydney REP Harbour Catchment, noting that these do not have an impact of consideration of the Planning Proposal.</p>
Q6	<p>Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?</p>	<p>The Planning Proposal in its Annexure B , states that it is consistent with the following Section 117 directions, being :</p> <p>“3- Housing, Infrastructure and Urban Development- Residential Zones” – and providing for future housing needs.</p> <p>“3.4 Integrating Land Use and Transport “- the site close to transport and services</p> <p>“6.0 Local Plan Making” – the LEP provisions will not compromise the efficient and appropriate assessment of development.</p> <p>“7- Metropolitan Planning” - the proposal is consistent with the NSW Government's – “A Plan for Growing Sydney” (2014) and its generalist directions, in particular “Principle 1 –Increasing housing choice around all centres through urban renewal in established areas,</p> <p>However more information is required in the Planning Proposal elaborating on the above.</p> <p>The Proposal is inconsistent with “4.3- Flood Prone Land”. There are</p>

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		<p>various considerations including :</p> <p><i>5) A Proposal must not rezone land that is zoned Special Use (in this case SP2- Infrastructure -western portion of site) and is flood prone, to a Residential or Business use.</i></p> <p><i>(6) A Planning Proposal must not contain provisions that apply to the flood planning areas which permit development in flood way areas</i></p> <p><i>A Planning Proposal may be inconsistent with the Direction only if the relevant planning authority can satisfy the Director General that :</i></p> <ul style="list-style-type: none"> <li>- <i>The planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Flood Plain Manual, or</i></li> <li>- <i>The provisions of the planning proposal that are inconsistent are of minor significance.</i></li> </ul> <p>The Applicants design concept shows in section there will not be any building structure at ground level other than structural columns, as was the case with a previous development approval for an Industrial use. Any structure's floor level is required to be at a minimum of RL 12.8- as recommended in the applicant's Consultant Hydraulic Engineer's report. However, as explained by Council's engineers at <b>Part 8.2</b> of this report there will be a detailed precinct flood study required to address this Section 117 direction, establish post development freeboard floor levels, ensure impacts on adjacent buildings are satisfactory, and ensure that there is no building at ground level storey and so no disruption to storm water flow.</p> <p>The Planning Proposal is therefore required to have a detailed flood study provided post Gateway to addressing this Section 117 Direction- this would be at the applicant's cost.</p>
Q7	Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?	No.
Q8	Are there any other likely environmental effects as a result of the planning proposal and how are they	There are no other substantial environmental effects that are known of.

	proposed to be managed?	
Q9	How has the planning proposal adequately addressed any social and economic effects?	The site contains no significant buildings and appears mostly unused. Previous use included a stone masons – light industry, with low employment generation. The Planning Proposal document adequately covers this matter.
Q10	Is there adequate public infrastructure for the planning proposal?	<p>The site has restricted vehicular access, with the main part of the site being approx. 7.5 - 8 metres below Old Canterbury Road and it not being clear whether there is opportunity for vehicular access onto Old Canterbury road- eg exit onto Old Canterbury Road.</p> <p>The site relies on vehicular access of laneway on the property at 120 B Old Canterbury Road, where the site owner has a Right of Way. Evidence for this ROW will need to be submitted post Gateway determination. Council’s Traffic Engineer’ in <b>Part 8.1</b> below explains the particular on site issues to enable proper use of the laneway which is shared with the existing apartment building at 120 B Old Canterbury Road and apartments under construction at 12 McGill Street. The required studies can be provided post Gateway Determination.</p>
Q11	What are the views of State and Commonwealth authorities consulted in accordance with the gateway determination?	Public Authorities will be formally consulted post Gateway Determination and the Guidelines require that Proposal should suggest who they should be. This will be a matter for the Greater Sydney Commission.
<b>2.4 Mapping</b>		
		The Planning Proposal has not provided the required Maps for Max FSR and Max Height of Buildings. These need to be provided with the Planning Proposal.
<b>2.5 Community Consultation</b>		
		It is considered that the Proposal should be formally exhibited for a minimum of 28 days in accordance with the Inner West DCP 2016 (former Ashfield Council area).
<b>2.6 Project Timeline</b>		
		The Gateway Determination will determine the maximum timeline, and so it is premature to state actual milestones. The Planning Proposal provides the necessary timeline table.

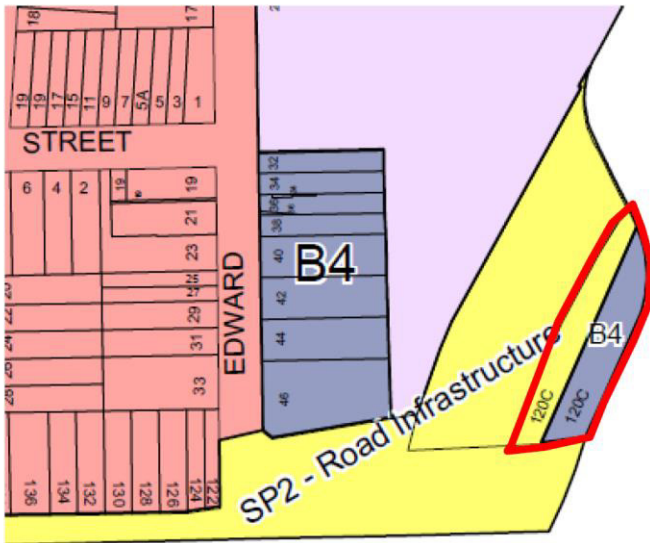
## **6.0 ASSESSMENT OF SPECIFIC AMENDMENTS BEING SOUGHT TO ASHFIELD LEP 2013, FOR LAND USE, MAXIMUM HEIGHT, MAXIMUM FSR.**

### **6.1 Amendment to Land Use zoning Map- Ashfield LEP 2013.**

The present land zoning is as indicated in the Figure below with the property shown within the red boundary.



**Figure 4 – Extract Zoning map.** Property is within the red boundary, Purple is B4-Mixed Use, Yellow is SP2 -Infrastructure



The applications seeks amendments to the Land Zoning maps as indicated in the Planning Proposal, and summarized in the Table below.

**Table 6**

Control	Existing	Proposed
<b>Land Use Zoning Map :</b>	East side B4 -Mixed Use	B4 - Mixed Use
	West side SP2- Infrastructure	No Change

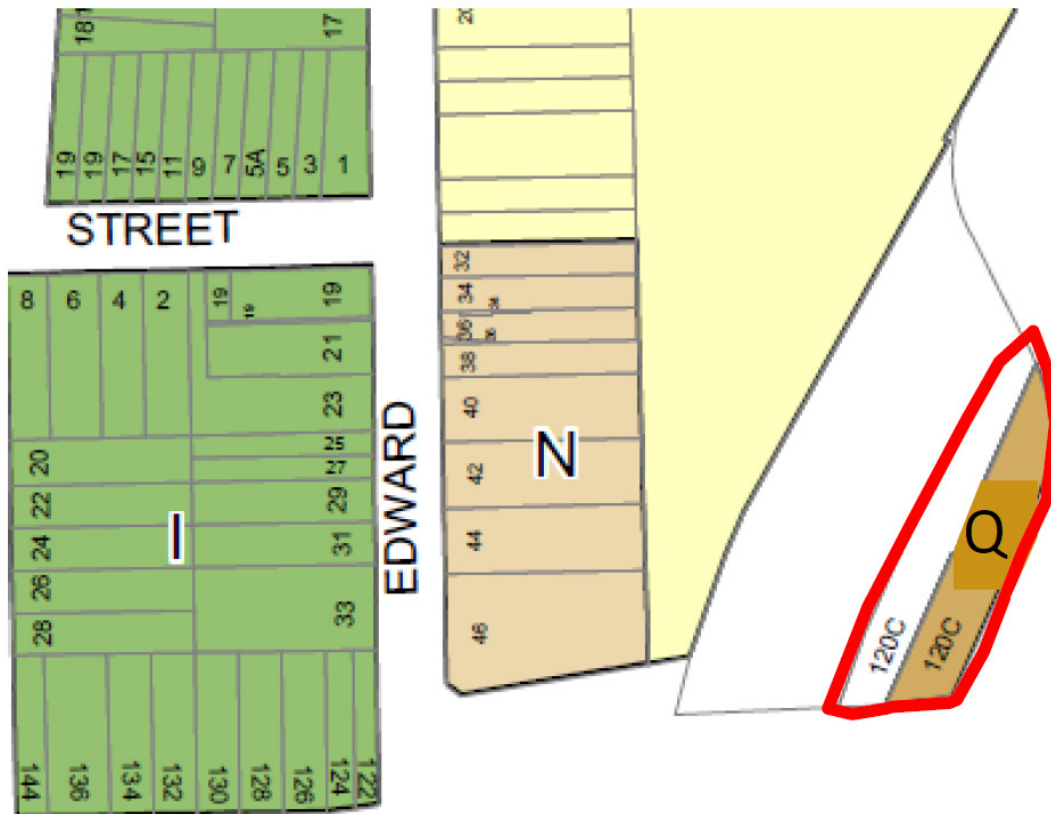
Officer Comment

The west side allotment zoning is now redundant and should be changed to match the adjacent B4 Mixed Use zoning.

**6.2 Amendment to Maximum Building Height Map.**

The present Maximum Building Height is as indicated in the Figure below with the property shown within the red boundary.

**Figure 5 - Extract Height of Buildings Maps.** Q denotes 20 m, N denotes 13m, I denotes 8.5 metres



The applications seeks amendments to the Maximum Building Height maps as indicated in the Planning Proposal and summarized in the Table below.

**Table 7**

Control	Existing	Proposed
Maximum Height of Building Map:	East side allotment– 20 m measured from ground level which varies and is approx... RL 9,55 to RL 10 at the flat lower part , resulting in approx. RL 30 relative to the predominantly flat lower part (Old Canterbury Road is varies between RL 17.1 to RL 18.8)	Maximum Height be RL 41.1, which equated to 7 storeys relative to Old Canterbury Road, and 10 storeys relative to the lower part of the site adjacent the railway corridor, as depicted in the Design Concept ( <b>Attachment 2</b> ).
	West side  No MBH	Maximum Height be RL 41.1

Officer Comment

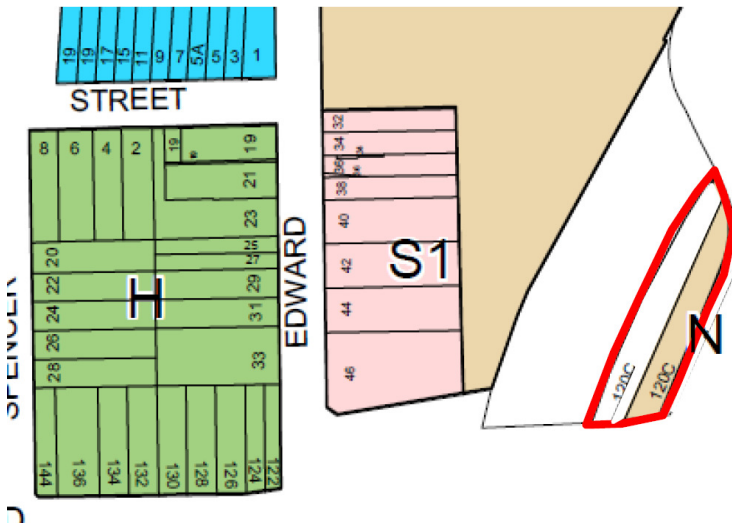
It considered that the maximum building height to be placed in Height of Buildings Map should equate to six storeys relative to Old Canterbury Road. This building scale is in line with the same number of storeys established at 120 B Old Canterbury Road building, and in line with the objectives of the McGill Street Precinct DCP which requires a medium rise scale along the road. This is also the view of Council's Architectural Excellence Panel (refer to **Part 8.3** of this report). This is also the advice Council officers have been providing to the applicant at pre-lodgement stages and in correspondence in April 2017.

Six storeys above Old Canterbury Road equates to a maximum RL of 37.9 m measured to the top of the building's roof. This will need to be translated into a linear height which can be placed in the Maximum Height of Buildings Map in the Ashfield LEP 2013. This would be 28 metres as measured from the lower flatter part of the site which ranges from RL 9.55 to RL 10.0. It will also be necessary to have a site specific clause that restricts the height of the sloping part of the southern part of the site (which goes from RL 10.0 up to approx. RL 17.11 to 18.68 at the roadway) in order to avoid having the southern last 20 metres with the equivalent of a 12 storey building. A future site specific DCP would ensure that the northern part of the site has lower building heights as currently portrayed in the Design Concept which enable afternoon winter solar access to 120 B Old Canterbury Road. The Planning Proposal should be amended to reflect the above, and provide the required LEP mapping.

**6.3 Amendment to Maximum Floor Space Ratio.**

The present maximum FSR is as indicated in the Figure below with the property shown within the red boundary.

**Figure 6** – Extract Floor Space Ration map. N denotes 1.0:1, S denotes 1.5:1, H denotes, I denotes 0.7:1



The application seeks amendments to the Maximum FSR maps as shown in the in the Table below.

**Table 8**

Control	Existing	Proposed
FSR:	East side -1.0:1	2.75 :1
	West Side – no FSR	2.75:1

Officer Comment

The Design Concept- Architectural Report (**Attachment 2**) has produced detailed floor layout drawings. These show 5,366 sqm of Gross Floor Area, and with a site area of 1956 sqm this equates to a Maximum FSR of 2.75:1. The maximum Floor Space Ratio needs to equate with the number of storeys containing Gross Floor Area that can be accommodated on site. The above proposed FSR is based on the building envelopes in the Design Concept which include 7 storeys adjacent Old Canterbury Road, and resulting gross floor area.

As explained in Part 6.2 above, it is considered that there should be a maximum of 6 storeys above Old Canterbury Road, and so the FSR resulting from the applicant's proposed Level 7 is required to be discounted and the maximum Floor Space Ratio reduced. The Planning Proposal should be amended to reflect the above, and provide the required LEP mapping provided. This will also require amended Design Concept drawings to be produced by the applicant in order to show compliance with SEPP 65 and the Apartment Design Guide.

**7. 0 Affordable Housing**

It is relevant that the Draft Central District Plan requires the provision of affordable Housing, at a rate of 5-10 percent of any development. Council's Affordable Housing Policy was adopted in March 2017, and this application was submitted in Dec 2017. To date the applicants have not agreed to the provision of affordable housing in accordance with Council's Policy.

Part 1.8 of the Policy states:

*“Timing – in consideration of reasonableness and equity, the value capture requirement should apply to land that is subject to a proposal for rezoning or variation to planning controls whether that application is received after the Policy is approved by Council. For applications that have been made or under consideration prior to the Policy's approval, this Policy will provide guidance as to the quantum of affordable housing contribution that is considered appropriate”.*

Part 2.5.2 Sharing Land value Uplift for Affordable Rental Housing, states:

Major Planning Agreements:

*“The Council share of land value uplift will be taken as 15% of Gross Floor Area of the development for developments with a Gross Floor Area of 1.700 sqm or greater, or where development results in 20 or more dwellings”.*

Pursuant to the Council Policy and the Draft Central District Plan, negotiations may be carried out with the applicant to provide a Voluntary Planning Agreement for the provision of affordable housing, and such a document could operate alongside the Planning Proposal. The final form of the VPA document can be provided post Gateway

approval stage when Council becomes the Relevant Planning Authority, to Council's satisfaction. Any offer from the proponent will be considered in accordance with Council's VPA Policy.

## **8.0 OTHER STAFF COMMENTS**

### **8.1 Traffic Engineer**

Council's Traffic Engineer has advised:

*From a vehicular access and servicing consideration, the site has particular restrictions, as identified below.*

*The site has a shared vehicular right of way laneway on land at 120 B Old Canterbury Road accessed off McGill Street (side street), and there is a bridge constructed over the canal to link into the subject site. At the moment there is no vehicular access available off Old Canterbury Road which is approx. 7.5 metres above the site. There is shortfall of available on street parking in the McGill Street Precinct, and traffic congestion at peak hour on Old Canterbury Road. It is considered that for any future studies, and to confirm the suitability of the site to take development, that:*

- 1. There needs to be car parking provided on the site at the minimum rate stipulated in the applicable controls.*
- 2. There should be illustrative designs showing car parking layouts, vehicle movements showing the method of access from the bridge onto the site at RL 12.8, template vehicle movements and also showing that vehicles can move out in a forward direction, areas assigned for servicing such as deliveries and capacity for providing an area for potential on site waste collection by a garbage truck. Also, allowance for vehicle queuing on site due to use of the private right of way laneway, which is shared and will be heavily congested due to its use by apartments at 120 B Old Canterbury Road and future (under construction) apartments at 14 McGill Street.*
- 3. Evidence provided that the right of way belonging to 120 B Old Canterbury Road, may be used for access, and will be able to take the weight and use of garbage trucks so as to not cause any structural damage.*
- 4. Evidence that the site owner intends to give Council indemnity to enable Council garbage vehicles to access the site.*
- 5. Plans showing McGill Street and the right of way laneway and access into the site at 120 C Old Canterbury Road, that show a garbage truck and emergency vehicles are able to access the site and exit in a forward direction.*

The above can form part of a study submitted post Gateway determination stage, and would be at the applicant's cost.

### **8.2 Stormwater Engineer**

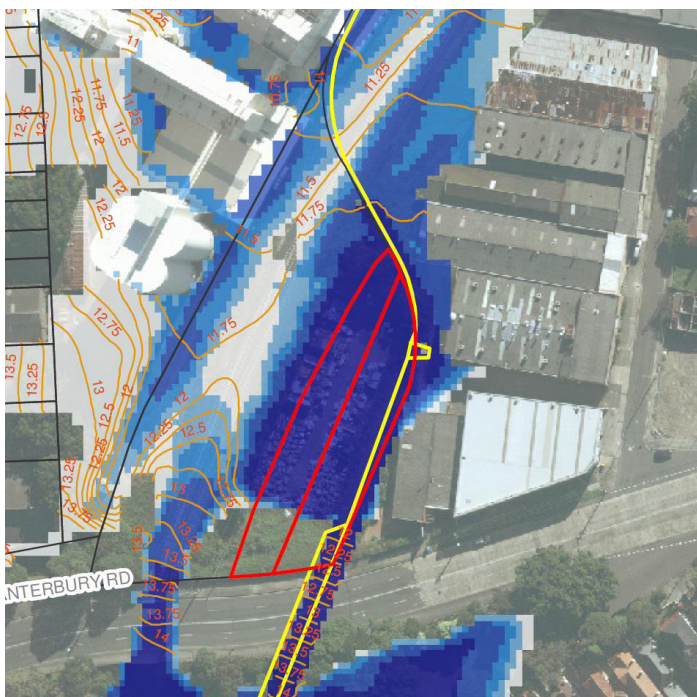
Council' Stormwater Engineer has advised:

*The property has been identified in Council's 2014 Flood Study for the Hawthorne Canal catchment as being flood prone. In accordance with past development applications as a minimum any building must be elevated above the peak flood level.*

*In order for Council to be satisfied and remain consistent with the NSW Flood Prone Land Policy and the principles of the “Floodplain Development Manual 2005” a Flood Impact Report shall be required to be submitted. The objectives of the “Flood Impact report” will be to ensure the development does not adversely affect neighboring properties and to provide adequate free board against the peak storm event. In order to achieve this, the following is required:*

- *A review of the existing topography maps, flood inundation maps, flood hazard maps etc.*
- *The Implementation of Council controls & State Government policies to ensure adequate safety and design of the proposed development during a flood event.*
- *Engineering assessment and reporting of the development and its impact on the existing surrounding developments.*
- *A review of the impact of flooding on the proposed development and the surrounding properties & modifications to the design that might be required to minimise any adverse impact.*
- *Identify the flood risk management procedures necessary for the proposed development*
- *Quantify post development flood water levels*

**Figure 7 – Extract of Report in Attachment 3.** Site is within red boundary. Blue shows extent of flooding.



The required studies should be provided post Gateway determination stage, and these would be at the applicant’s cost.

### **8.3 Architectural Excellence Panel**

The Panel visited the site on 6 June 2017 and met with the proponent and Council officers, and considered the design merit of the Planning Proposal.

The Panels comments (**Attachment 4**) are based on interim sketch design amendments submitted to Council on 29 May 2017 which sought feedback from the Panel. These

comments included that any building should be consistent with the objectives of the McGill Street DCP, and should not be any higher than the building scale established by the 6 storey building at 120 B Old Canterbury Road. They also requested more detailed architectural documentation be provided in the future. This can be forthcoming post Gateway determination given that the purpose of the Planning Proposal is to determine Development standards, and these have been adequately assessed in this report in

**Part 6.**

The Planning Proposal design scheme was later amended on 22 June 2017 and reduced to 7 storeys relative to Old Canterbury Road (previously 9 storeys as exhibited), and shows a scheme where an easement can be provided on the north part of the site for public access from the private laneway right of way, along the canal, and linking to the Railway corridor- future Greenway.

**9.0 Draft Site Specific Development Control Plan**

This planning report has explained the special constraints that affect future development on the site. Considerations include impacts on adjacent apartments, specially configured building envelopes with varying heights, floodway clearance, vehicular access to the site, interface with the Greenway, comments made by the Architectural Excellence Panel, and the various technical matters explained in this report.

A draft site specific DCP should therefore be produced to provide guidelines for future development. This is required to be in the format of the Inner West DCP 2016 (former Ashfield Council) and can be produced post Gateway determination stage.

**FINANCIAL IMPLICATIONS**

The Planning Proposal does not raise any financial implications for Council at this stage. As explained in the report, future flooding impacts will need to be identified in future studies produced by the applicant, to Council's satisfaction, to ensure there are no impacts on adjacent properties, and no impact on Council's liability.

**CONCLUSION**

The Planning Proposal is at a preliminary stage and requires additions and amendments to its content in order to meet Planning Proposal Guidelines, Council's Affordable Housing Policy for the processing of the proposed amendments to the Ashfield LEP 2013.

Amendments to the proposed Land Use zoning are supported. It is agreed that the site should have an increased maximum FSR and increased Height of Building, however as proposed these are considered excessive, and need to be reduced as identified in the report so that any resulting building at Old Canterbury is a maximum of 6 storeys noting this will have an impact on the recommended maximum FSR. In addition various additional studies also will be required to be produced by the applicant. A site specific Development Control Plan will also be required to provide guidelines for future development. A Voluntary Planning Agreement for affordable housing should also be considered consistent with Council's policy and for any public benefits that may be derived from the proposal.

It is recommended Council supports the Planning Proposal subject to it being amended as outlined in this report. Upon receipt of the amended Planning Proposal from the applicant, Council would then forward the documentation to the Department and request the Minister to issue the relevant “Gateway Determination” to allow the process of preparing an LEP to commence with progression to formal public exhibition, with Council being in control of this process.

It is also recommended that Council seek permission from the “Gateway Panel” to use the Council “Authorisation” to process the Planning Proposal, and that Council authorise the General Manager to activate the delegation as part of the plan-making process. This will put Council in control of the Plan making process.

#### **ATTACHMENTS**

1. Planning Proposal
2. Design Concept
3. Engineers Flooding Report
4. Architectural Excellence Panel Report