

Item No: C0219(2) Item 8

Subject: PLANNING PROPOSAL - 120C OLD CANTERBURY ROAD, SUMMER HILL

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Projects and Daniel East - Acting Manager Planning Operations

Authorised By: David Birds - Group Manager Strategic Planning

# **SUMMARY**

This report advises Council on the outcomes of the community consultation carried out in October/November 2018 for a Planning Proposal and associated Development Control Plan (DCP) amendment for 120C Old Canterbury Road, Summer Hill.

The Planning Proposal will amend the Ashfield Local Environmental Plan (ALEP 2013) along with an amendment to the Inner West Development Control Plan 2016. The western lot SP2 Infrastructure rezoning will change to B4 Mixed Use to be the same zoning as the eastern lot, with a maximum Floor Space Ratio of 2.5:1, and a maximum Height of Building of RL 38.0 equivalent to 6 storeys above Old Canterbury Road. This will enable the development for a 6 storey building of up to 62 apartments with ground floor retail and 2 lower ground car parking levels.

The report recommends that Council endorse the Planning Proposal and proceed to finalise the amendments to the ALEP 2013 and adoption of the draft Development Control Plan (DCP) amendment subject to minor changes identified in the report.

An associated draft Voluntary Planning Agreement (VPA) has already been approved by Council for public exhibition which is due to take place in February 2019.

# RECOMMENDATION

# **THAT Council:**

- 1. Amend the Ashfield Local Environmental Plan 2013 for 120C Old Canterbury Road, Summer Hill, as indicated in the report, in the terms of recommendation (3) below:
- 2. Liaise with the Department of Planning and Environment (DPE) and Parliamentary Counsel's Office to draft and finalise the LEP Amendment;
- 3. Finalise the post-exhibited Voluntary Planning Agreement with the Proponent in accordance with the Environmental Planning & Assessment Act 1979 (EP&A Act);
- 4. Following the completion of (3) above request DPE to notify the Plan;
- 5. Adopt the site specific amendments for 120C Old Canterbury Road, Summer Hill in the "Inner West Comprehensive Development Control Plan 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill" recommended in the report; and
- 6. Delegate the making of the LEP amendments and the adoption of the amended site specific Development Control Plan as indicated in this report to the Group Manager Strategic Planning.

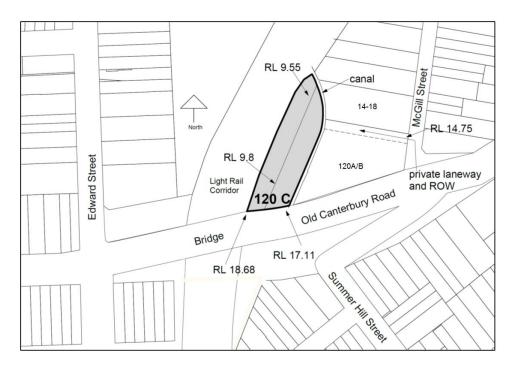


# 1.0 Background

A Planning Proposal has been submitted for 120C Old Canterbury Road, Summer Hill (**Figure 1**) seeking a change of Land Use Zoning for part of the site and increases in the Maximum Building Height and Maximum Floor Space Ratio controls in the Ashfield LEP 2013 as summarised below in **Table 1**.

Table 1- Summary proposed changes to Ashfield LEP 2013.

Control	Existing	Proposed
Land Zoning:	East side -	No Change
	B4 - Mixed Use	
	West side –	B4 - Mixed Use
	SP2 Infrastructure	
Max. Floor	East side -1.0:1	2.5:1
Space Ratio		
	West Side – no FSR	2.5:1
Max. Height	East side lot – 20m, as	Maximum Building Height - RL 38.
of Buildings	measured from natural ground	
(MBH)	level which varies at approx. RL	This is 6 storeys relative to Old
	9.55 to RL 10.	Canterbury Road, and 8-9 storeys
		relative to the lower part of the site
	Equivalent of varying maximum	adjacent the railway corridor.
	height between RL 29.55 to	
	RL 30.	
	West side lot - no MBH.	MBH - RL 38



**Figure 1** - location of site shown in grey. Note the existing site levels are substantially lower than Old Canterbury Road.



Figure 2- aerial photo of the site (within the red boundary)



**Figure 3** - The site with the trees in the Transport for NSW (TfNSW) light rail property. On the right is a stormwater canal and a terrace level for the childcare centre at 120 A/B Old Canterbury Road with apartments above that.

The proposal was put on preliminary exhibition in early 2017 and reported to Council on 25 July 2017 (**Attachment 4**).

The former Ashfield Council as part of consideration of submissions on the Draft Ashfield LEP had resolved in 2012 to receive a Planning Proposal for a revised land use zoning, maximum FSR and maximum building height. The report to Council in July 2017 recommended that the buildings heights and FSR should be reduced to a maximum of 6 storeys relative to Old Canterbury Road. It also advised that more intensive development on the site might be possible providing flooding was addressed by a study and an appropriate building design.

Council resolved (**Attachment 4**) to support the Planning Proposal subject to the July 2017 report recommendations to reduce the maximum Floor Space Ratio to 2.5:1 and to reduce the maximum building height to 6 storeys. These amendments were made and the Planning Proposal was submitted to DPE on 10 October 2017. Council also resolved to produce a site specific DCP.

A Gateway Determination (**Attachment 5**) was received on 25 October 2017 making Council the Planning Proposal Authority. Prior to commencement of the Community Consultation stage the Determination required the approval of a flood study by DPE. The proponent submitted the required flood study to Council's engineer's satisfaction in August 2018. Council's engineers approved the proponent's flood study in August 2018 and DPE approved it in October 2018. The Planning Proposal (**Attachment 1**) was updated to reflect the requirements of the October 2017 Gateway Determination.



#### 2.0 Public Exhibition

Condition 2 of the Gateway Determination required the Planning Proposal to be placed on public exhibition for a minimum of 28 days and in accordance with section 5.5.2 of *A guide to preparing local environmental plans*. The Planning Proposal (**Attachment 1**) and site specific DCP amendments (**Attachment 2**) were placed on public exhibition between 16 October 2018 – 13 November 2018. The public exhibition was notified in the Inner West Courier, on Council's Have Your Say website and letters sent to residents in the vicinity of the site.

The following State agencies identified in the Gateway Determination were also notified:

- Transport for NSW;
- · Sydney Water;
- NSW Roads and Maritime Services;
- Office of Environment and Heritage;
- Transdev.

During this period, the public exhibition materials were made available at the Ashfield Customer Service Centre.

# 2.1 Submissions from public

A total of 40 submissions were received from the public (7 support and 34 objections). The majority of the submissions were submitted on Have Your Say with one submission submitted by email. The submissions are summarised below.

Table 2 - Submissions supporting the Proposal

Support Reasons	Officer's Comments
"Want to move into area and buy one of the dwellings".	Noted.
Support development.	

Table 3 – Submissions objecting to Proposal

buildi	tions from adjacent apartment ngs at 14-18 McGill Street and 120 ld Canterbury Road	Officer's Comments
I.	Height is taller than existing	The site fronts Old Canterbury Road and so
	buildings, should be maximum 4	this is the reference point used to explain the scale of the building, given that there is
	storeys.	a 7-8 metre drop from the road to the lower
	Resulting building will be higher than 120 A/B Old Canterbury Road.	natural ground level of the site.
		The proposed 6 storey scale is the same as the building at 120 A/B Old Canterbury
		Road, noting this building has a setback at
		the 6 <sup>th</sup> level. The draft site specific DCP
		also requires a setback at the 6 <sup>th</sup> level and so this will match the scale set by the
		adjacent building. The proposed height is
		therefore compatible with the established
		building scale and has an acceptable visual
		impact on nearby houses to the south in
		Summer Hill Street which are already
		affected by the existing 6 storey buildings.



II. Maximum Floor Space Ratio should be reduced.	The Maximum FSR has been reduced from 3.0:1 as originally submitted to 2.5:1 as resolved by Council in July 2017. This FSR is a LEP development standard which sets the parameters for the maximum that must not be exceeded. It generally accords with the potential building heights and envelopes in the illustrative Design Concept (Attachment 11). It will ensure 2 hours winter solar access and adequate building separation to adjacent apartments at 120 A/B Old Canterbury Road and 14-18 McGill Street.  The Development Application (DA) stage will need to ensure the detailed building design uses an FSR which achieves the site specific DCP objectives.
III. Resulting building will be too close, affect privacy and block solar access to apartments at 120 A/B Old Canterbury Road.	The draft DCP makes reference to the Apartment Design Guide which has the minimum building separation distances, shows the position of the sun between 12 noon and 2 pm to identify where there must be a lower building form to achieve 2 hrs winter solar access, and has a clause to require a deep soil podium level planter box for tree planting screening between apartments.
	The illustrative Design Concept (Attachment 11) shows that it is possible to have a building layout which maximises the number of apartments that are oriented to the west and not towards adjacent apartments.
IV. Resulting buildings will block views from 120 A/B Old Canterbury Road toward the railways land (future potential Greenway).	The eastern part of the site already has a B4 zoning, FSR of 1:1 and maximum building height of 20m. Development under these provisions would have potentially led to a slim new building blocking these views in any event.  The current Planning Proposal combines lots to have a wider site with a 12m setback to 120 A/B Old Canterbury Road building. This will ensure there are northerly sideway views from existing apartment balconies towards a future GreenWay.
V. Health concerns resulting from construction and noise and dust.	This matter will be addressed at Development Application stage with conditions to contain dust and restrict construction times.
VI. The existing right of way used to access the site on the adjacent site at 120 A/B Old Canterbury Road will suffer congestion, restrict traffic flows, and create safety problems.	The proposed DCP has clause DS4.1 to address this and, for example, requires that the onsite parking level has a design which will accommodate vehicular queuing and turning areas to avoid vehicles waiting in



	the shared laneway.
Proposal will add to congestion in McGill	·
Street and adversely affect traffic flow in the	The RMS and Council engineers have not
area.	objected to additional traffic on McGill
	Street and surrounding roads.
VII. There is no on-street parking in the	Any residential development of the site is
surrounding area.	required to provide the minimum parking
	numbers stipulated in State Environmental
	Planning Policy 65 and its referenced
	Apartment Design Guide. Any carparking
	for a non-residential component must
VIII Dublic transport in abuding	comply with the Inner West DCP 2016.
VIII. Public transport, including	TfNSW has not advised this is the case.
light rail, is beyond capacity at peak	
hour.	Dravisian of an aita anan angga ia
IX. Need more open space on the site and in the area.	Provision of on site open space is considered at Development Application
and in the area.	stage.
	stage.
	The Apartment Design Guide requires 25
	percent communal open space to be
	provided on the site.
	'
	Due to flooding at natural ground level the
	Design Concept for the Planning Proposal
	shows it is possible to provide some
	communal open space on the roof above
	the 4th storey with the residue at the
	northern corner of the site at ground level.
	This is proposed as a 'pocket park' in the
	VPA. The draft DCP has clauses to reflect
	this scenario.
	landon satelian of the Control W. Control
	Implementation of the Council's GreenWay
	masterplan will provide additional open
	space, pedestrian trails and linkages for recreation and exercise. There is also a
	current development application for the GreenWay 'Central Missing Links' works
	relating to the area opposite the site on the
	west side of the GreenWay corridor.
	West side of the Oreenway Contidor.

Objections from Local Residents	Officer's Comments
X. McGill Street has no safe footpath	Pedestrian access to the site will be from 3m
width for children or prams, constant	wide footpaths on Old Canterbury Road not
traffic and no safe crossing area.	McGill street.
XI. Concerns from parents of children using childcare centre during construction stage such as dust.	This would be addressed at Development Application stage by applying conditions of approval for construction stages such as having boundary screening, and watering of building components and ground level material storage areas.
XII. Impacts on future GreenWay	The Former Marrickville's 9.11 Hoskins Park
including:	(Precinct 11) DCP does not apply. The site



Marrickville "Hoskins Park" DCP applies which outlines requirements for development adjacent to the Greenway Corridor below, and the proposal does not comply with this.

Proposal should provide links to the Greenway.

Building material and elevations should complement the Greenway.

Buildings should be stepped back from the future Greenway so as to provide a human scale.

Trees adjacent to the boundary of the site within the GreenWay and within the northern part of the site should be preserved as they provide habitat for small birds and biodiversity for the area.

relates to the Comprehensive Inner West Development Control Plan (DCP) 2016.

The draft DCP has provisions for a ground level open space at the northern part of the site adjacent the future GreenWay corridor as reflected in the Design Concept (**Attachment 11**). Use of this area will depend on future negotiations with Council and what use any future adjacent GreenWay corridor is put to, including the following:

To the west of the site along the light rail corridor the present GreenWay development application shows the GreenWay area planted out with dense trees for biodiversity and visual scenic value. The GreenWay area adjacent to the site contains high voltage electrical cabling and existing trees that should be retained for biodiversity and habitat reasons (refer to Tree Manager's comments below).

Any future building will provide a visual backdrop to the GreenWay. There are clauses in the draft DCP which require serious consideration be given to architectural composition, including use of "green walls".

The Design Concept does not propose this as any alternative location would result in more building on the eastern side of the site and compromising the amenity, solar access and outlook, of apartments at 120 A/B Old Canterbury Road. Other buildings along the railways land in the McGill Street precinct have not applied any significant setbacks. Also this eastern part of the future GreenWay adjacent to the site contains mostly the light rail tracks and includes high voltage cable rendering the area unusable by pedestrians.

The substantial trees are located adjacent to, but not within the site and consist of Camphor Laurel, Date Palm and Privet which are classed as "noxious weeds". Also TfNSW who have jurisdiction of this land may elect to remove them at any time.

Refer to part 4 below and comments from Council's Manager of Trees that recommend that those trees should be retained by TfNSW for biodiversity reasons. Whilst this is agreed with in principle, practically Council is not in control of this. The current GreenWay



	Development Application proposes that a high number of new trees be planted in the corridor.
XIII. Adverse impact on Fred	Fred Street Bush Care is located to the south
Street bush care site – loss of visual	of Old Canterbury Road.
amenity, light (night time) pollution	
affecting nocturnal	The subject site is substantially separated
biodiversity(animals) loss of	from the bush care site by the Old Canterbury
connectivity to north as a result of	Road embankment.
affecting "weedy habitat".	
XIV. Resulting buildings will	Nearby houses to the south of Old Canterbury
shadow houses in Summer Hill.	Road and to the east in Edward Street will not
	have any reduction in their current solar
	access.

XV.Impacts on adjacent Childcare Centre at 120 A/B Old Canterbury road including: Loss of natural light and solar access	The draft DCP has clause DS9.2 that will ensure there is a minimum two hours winter solar access to 40 sqm of the existing Childcare external terrace play areas. For other periods of the year a greater amount of the solar access will be available to these terraces - noting that for health reasons children should have limited amount of exposure to the sun.
Construction vehicles blocking vehicular access to carpark.	There is a stormwater canal and reservation approximately 3.3m wide adjacent to the childcare centre and any future building will have the required building separation and so there will be adequate daylight for the childcare centre.
Heath concerns for children noise and dust from construction.	The proposed DCP has clause DS4.1 to address this and for example requires that the on-site parking level has a design which will accommodate vehicular queuing and turning areas to avoid vehicles waiting in the laneway.
	This would be addressed at Development Application stage by applying conditions of approval for construction stages such as having boundary screening, and watering of building components and ground level material storage areas.

XVI. A submission on the site specific DCP was also received from the proponent/site owner and each part is commented on in detail in **Attachment 7** of this report and summarised with a recommendation given below in Part 6 of this report.

# 3.0 Referrals and submissions from State Agencies

Condition 3 of the Gateway Determination required consultation with the community and the following State Agencies:

Transport for NSW;



- Sydney Water;
- NSW Roads and Maritime Services;
- Office of Environment and Heritage;
- Transdev.

Comments from these agencies are as outlined in the tables below. Full copies of the agencies' comments are in **Attachment 6**.

**Table 4 - Consultation with Public Authorities** 

Transport for NSW	Officer comments
State no objection	
Stated: "Resulting buildings are required to have an adequate setback from the TfNSW railways land boundary to enable maintenance. They must not rely on use of railways land". Separate email recommends there should be a minimum of 1.5 m.	Council officer's original position was that there should be a 3m building setback to provide a landscaped backdrop to the GreenWay. However the applicants advised that TfNSW would allow a 1 metre building setback and given this a 3 m setback was not reasonable. Hence the draft DCP control states a minimum upper level building of 1 m but also requires a "green wall" beyond this to provide a backdrop to the GreenWay which will likely mean a 1.2 m setback to the building walls to account for that structure.
	It is recommended that the building setback be a minimum of 1.5 m. This would logically account for room needed for machinery such as a cherry picker platform to access the building walls. The draft DCP should be amended as underlined.

Sydney Water via Urban Growth	Officer comments
No objection was raised.	Noted.

Office of Environment and Heritage (OEH)	Officer Comments
Noted the flood study and	
illustrative building design	
and raised no objections to	
these items.	
Acknowledged that:	It is Council's role as the Planning Proposal Authority to ensure that any objections from a State Agency are
• subject site is not	addressed. OEH have not objected to the Planning
shown on their	Proposal but have instead made a recommendation as
Aboriginal Heritage Information	indicated in the left column.
Management System	The Gateway Determination was issued by DPE without
(AHIMS) register to be	requiring the actions sought by OEH given that the site is
in a potential area of	not identified as a heritage item or having any
aboriginal	archaeological relics and the standard Clause 5.10 of the
archaeological	Ashfield LEP already had provisions for addressing any
sensitivity	potential aboriginal archaeology that might be found.
subject site is not	Ministerial Direction 9.1 2.3 - Heritage Conservation
heritage listed in the	requires that there are LEP (Planning Proposal) provisions
Ashfield Local	requires that there are LET (Flaming Froposal) provisions



- Environmental Plan (ALEP) 2013
- subject site and surrounding areas and sites have had significant ground level disturbance
- ALEP 2013 has provisions that provide for Aboriginal Archaeological remains or heritage significance that are applicable at future Development Application Stage

The submission suggested that the site is in a potential area of aboriginal sensitivity and there should be an archaeological and cultural heritage assessment, including land excavations prior to rezoning.

OEH considers that without such a detailed assessment, the proposal is inconsistent with Ministerial Direction 9.1: 2.3 Heritage Conservation. in place where there are already <u>identified</u> heritage places or relics or similar in order to protect such items. There is no such identification for the subject site. The site is not identified under the Heritage Act 1977 in its State Heritage Register. It is not identified under the National Parks and Wildlife Act 1974 which deals with aboriginal areas, places and relics. Previous local heritage studies have not identified the site. The proposal is therefore consistent with Direction 2.3.

The applicants submitted an Aboriginal Heritage Due Diligence assessment to Council on 22 January 2019 (Attachment 9) prepared by a professional archaeologist. This confirms the site does not require full heritage assessment prior to rezoning. This is primarily because of the very large degree of land disturbance on this site, surrounding sites including the 2.5 hectare former Flour Mill site and the light rail corridor. The assessment also refers to a previous aboriginal heritage study for the adjacent Flour Mill site which included consultation with representatives of the aboriginal community.

Clause 5.10 of the Ashfield LEP already protects aboriginal heritage and comes into play when a Development Application is lodged.

This clause ensures that Council can require the preparation of a heritage management plan that assesses the extent to which the development might affect aboriginal heritage significance of the site. The OEH recommendation can be addressed through this LEP provision.

This is practical since to adequately examine whether a site has archaeological remains that have not yet been discovered first requires the entire site to be examined to a required depth, prior to any land disturbance or commencement of construction. Both of these situations require prior development consent. The Inner West DCP 2016, Chapter E1 Clause 1.6 also protects Aboriginal Heritage. In addition flooding issues on this site mean that there will not be any basement levels and a substantial ground level open void is required under the lower carparking basement level. In this situation there are no obstacles to carefully examining what is under the ground prior to any construction and structural column locations can be adjusted to reflect any archaeological features that might be identified through the DA related investigation.

Recommends that for sustainability reasons a future Development Application should have green walls and green roofs, and advises that green roofs can be used for native plant species and habitat.

There are already numerous interrelated building design matters that must be considered for achieving sustainable building design which are covered by legislation which architects must address. A future development application for residential development must comply with the BASIX SEPP including energy efficiency and water usage. At Construction Certificate stage compliance must be achieved with Australian Construction Code for energy efficiency thresholds. SEPP 65 and the Apartment Design Guide also



	have guidelines for particular building components and location of vegetation.
	Clause DS1.2 of the DCP recommends a "green wall" along any west side building wall to complement the GreenWay.
Biodiversity - recommends that an ecological study be undertaken prior to removal of any trees from the site, and Council be satisfied removal will not impact on any threatened species or fauna.	The trees are in the TfNSW curtilage and TfNSW can remove them at their discretion. Should this occur any fauna (animals) utilising these trees are able to use the "bushcare site" on the south side of Old Canterbury Road. These trees are also adjacent to high voltage lines and the ground level area has been significantly disturbed by the construction of the light rail tracks and surrounds.  Council's Manager of Trees has advised that the trees are
	Council's Manager of Trees has advised that the trees are Campher Laurels and Privet species classed as 'weeds". Refer to his comments in Part 4 below.

Roads and Maritime	Officer comments	
Services (RMS)	Officer comments	
Did not object to Planning		
Proposal but stated as		
follows:		
Would not support future	This is indicated in the draft DCP.	
vehicular access off Old		
Canterbury Road – must be		
off the private right of way		
laneway at the rear of 120 A/B Old Canterbury Road.		
There should be on-site	This is indicated in the draft DCP.	
parking.	This is indicated in the draft bor .	
Garbage trucks are not to	This is indicated in the draft DCP.	
service (park) along Old		
Canterbury Road, and are		
to use the right of way lane at the rear of 120 A/B Old		
Canterbury Road.		
Suggest Council put in any	On-site parking requirements for residential flat	
DCP maximum carparking	development are contained in SEPP 65 and the Apartment	
controls, and this will	Design Guide which already references the RMS carparking	
encourage use of public	standards. A DCP cannot be more onerous than these.	
transport.	It is also processory to recognize that the area already has	
	It is also necessary to recognise that the area already has over 1,000 new apartments in the Flour Mills and McGill	
	Precinct. The former Ashfield and Marrickville Councils and	
	local community raised numerous concerns about loss of	
	on-street parking and additional traffic congestion. In the	
	locality, Council should minimise "spill over" into local	
	residential areas and avoid further loss of on-street local	
	parking.	
No stopping should be	Agreed.	
implemented on Old		
Canterbury Road from the		
corner Old Canterbury		
Road and Edward Street, to approx. 30m west of corner		
Old Canterbury Road and		
Cid Carricidary Road and		



McGill Street. This should	
be indicated in DCP.	

Transdev	Officers Comment
	No responses were received from Transdev who are
	responsible for the light rail corridor.

# 4.0 Staff Comments

Staff comments  Council Engineer  They have assessed the proponents flood report and found it acceptable.  Have no objections to the Planning Proposal being finalised.  Support the draft DCP and consider the clauses pertaining to carparking design, applicing truck turning simple within the site.	on.
They have assessed the proponents flood report and found it acceptable.  Have no objections to the Planning Proposal being finalised.  Support the draft DCP and consider the clauses pertaining to carparking design,	on.
Proposal being finalised.  Support the draft DCP and consider the clauses pertaining to carparking design,	
clauses pertaining to carparking design,	
servicing, truck turning circles within the site and waste collection are essential for future development on the site and catering for the use of the shared right of way in order to minimise any traffic flow disruption.	
Stated the minimum floor levels stipulated in the applicant's Cardno Flood Report to accommodate flooding must be referenced in the draft DCP as it was on this basis that support was given for the Planning Proposal.	
Environmental Engineer This has been taken into consideration	on.
The SEPP 55 report on potential land contamination (Attachment 10) was examined, found to be sound and following the procedures of the Land Contamination Guidelines for consideration of LEP amendments. Further more detailed investigations will occur at a future development application stage.	
Urban Forest Manager  Advised trees on the site appear to be a mix of Camphor Laurel, Date Palm and  As advised above in the report these are within the TfNSW light rail corridor TfNSW can elect to remove them at time.	or and
Privet, and are not affected by the Ashfield	
LEP 2013 and the Inner West DCP 2016 for The current GreenWay Developmen	t
tree preservation. It was noted they  Application for works on the railways	
contribute to the ecology and canopy cover has shown new dense tree planting in	
of the area, and if they were to be retained   current open space areas on the wes	st side



that any future buildings will need to be adequately setback to protect those trees.

Also advised that the NSW Department of Planning and Environment have announced the '5 Million trees' program which is tasked with the objective of increasing Greater Sydney's tree canopy by 40% by 2030. The Inner West's overall canopy cover is currently under 20%.

of the rail tracks. If the subject trees on the east were removed they could be replaced with suitable tree species.

# 5.0 Assessment of Planning Proposal

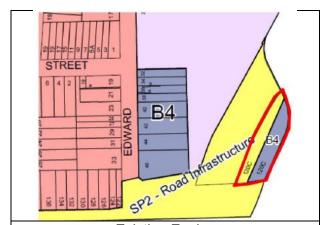
Under Clause 3.35 of the EP&A Act Council as the delegated Planning Proposal Authority is responsible for the content of the Planning Proposal and its adequacy.

An assessment of the updated Planning Proposal against the *A guide to Preparing Planning Proposals 2016* (the Guidelines) is provided in a compliance table (**Attachment 12**). The Planning Proposal complies with the criterion in the Guidelines as indicated in the Attachment, including the relevant State Plans, compliance with State Environmental Plans and being consistent with relevant Ministerial directions.

What follows is a more detailed assessment of the specific salient proposed Ashfield LEP amendments for Land Use Zoning and Development standards for maximum building height and floor space ratio.

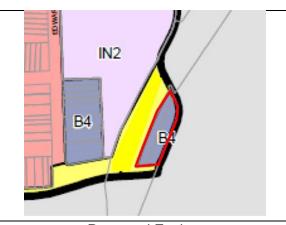
# 5.1 Land Use Zoning

Figure 4 – Existing and Proposed Land Use Zoning



**Existing Zoning** 

Site is within the red boundary. Existing Land Use zoning map only has the eastern allotment as a B4 mixed use zone.



Proposed Zoning

Site is within the red boundary.
Proposed map shows the entire site with a B4 mixed use zone.

# Officer Comment

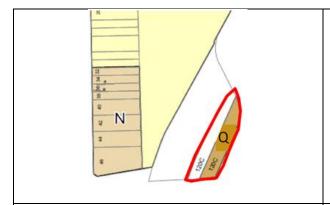
Amending the western lot to a B4 zone is evidently consistent with the adjacent B4 zone within the same site, consistent with adjacent lots to the east of and around McGill Street, and should be



supported. The land was sold by the State Government to the site owner and should be able to accommodate a viable land use and not left in a vacant, deteriorating state.

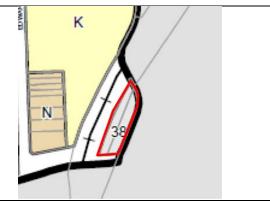
# 5.2 Maximum Building Height

Figure 5 – Existing and Proposed Height



**Existing Height** 

Site is within the red boundary. Existing map shows Code Q which denotes a maximum height of 20 m. This is measured from natural ground level which is mostly on average of RL 9.5 – 10 resulting at approximately RL 30m, or the equivalent of 4 storeys above Old Canterbury Road.



**Proposed Height** 

Site is within the red boundary. Proposed map shows "38" in grey shade for the site. This denotes RL 38.0 which is the equivalent of 6 storeys above Old Canterbury Road.

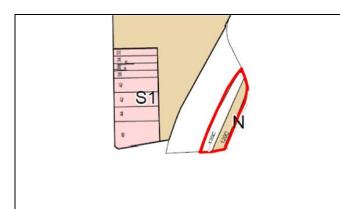
# Officer comment

As stated above in **Table 3** (submissions) of this report: The proposed 6 storeys is the same as the neighbouring building at 120 A/B Old Canterbury Road, noting this building has a setback at the 6<sup>th</sup> level. The draft site specific DCP also calls for a setback at the 6<sup>th</sup> level of the proposed new building to match the scale set of the adjacent building. The proposed height is compatible with the now established scale of existing buildings along Old Canterbury Road. It would have a modest visual impact on nearby houses to the south in Summer Hill Street as there are already affected by existing buildings. The proposed Maximum Building Height should be supported.



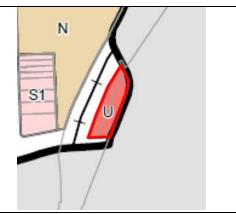
# 5.3 Maximum Floor Space Ratio

Figure 6 – Existing and Proposed FSR





Site is within the red boundary. Existing map shows Code N which denotes a maximum FSR of 1:1 for the eastern lot part of the site (presently zoned B4 Mixed Use).



Proposed FSR

Site is within the red boundary. Proposed map shows Code U which denotes a maximum FSR of 2.5:1 over the entire site.

# Officer comment:

The Maximum FSR is an LEP development standard which should not be exceeded. It accords with the potential building heights and envelopes illustrated in the applicant's Design Concept in **Attachment 11** and ensures there would be 2 hours winter solar access solar and adequate building separation to affected apartments at 120 A/B Old Canterbury Road. The proposed Maximum FSR should be supported. At Development Application stage the precise FSR will be established which accommodates all the detailed design issues that must be addressed.

# 6.0 Draft Site Specific Development Control Plan (DCP)

Council resolved in July 2017 to also exhibit the DCP (**Attachment 2**) to provide key controls to address the unique site constraints, including having building envelopes that achieve adequate amenity, privacy and minimum levels of winter solar access for adjacent apartments. The DCP will ensure that the proposed buildings would be configured to have adequate servicing arrangements and account for flooding by having raised sections.

The site owner has lodged a submission on the draft DCP which is commented on in **Attachment 7**. It essentially seeks to remove key controls. It is considered the content of the DCP should remain substantially as exhibited, except for the minor amendments underlined in the attachment. This response is necessary to ensure adequate solar access and privacy for affected apartments at 120 A/B Old Canterbury Road.

Council should adopt the DCP amendments subject to the minor clerical and information amendments indicated in **Attachment 8**.

# 8.0 Voluntary Planning Agreement (VPA)

Council's Properties, Major Building Projects and Facilities Group is responsible for the assessment and processing of any VPA. This is a type of contractual document setting out how a site owner/proponent explicitly and strictly offers to carry out certain works as a result of a particular proposal such as an amendment to a Local Environmental Plan.



A final draft VPA from the site owner was reported to Council on 11 December 2018. Council resolved to have the proposed VPA proceed to exhibition as follows:

- 1. Endorsed in principle, subject to The Yard 120C Pty Ltd (the proponent):
- a) Construct a park of approximately 300m<sup>2</sup> located within the Land and to provide rights of way for public access through the park to the Greenway corridor and the Lewisham Light Rail station from Old Canterbury Road and McGill Street;
- b) Provide 2 studio units which will be allocated to Affordable Housing units. The ownership of the units will be transferred to Inner West Council at the completion of the project;
- c) Community Office Space located within retail Ground Floor 5 Year Rental Agreement \$1 Peppercorn rent per year 35sgm office area; and
- d) Provide Council a payment of \$1,045,000 million to be used for public works in the community and surrounding area (Inner West Council will provide a summary of how this payment will be allocated at later date)
- 2. Placed on public exhibition for a minimum of 28 days; and
- 3. Reported back to Council after public exhibition.

Council's Property Services has advised that the exhibition of the VPA will occur during February 2019.

#### **FINANCIAL IMPLICATIONS**

Nil

# CONCLUSION

In accordance with the Environmental Planning and Assessment Act 1979 and the "Guide to preparing local environmental plans" this report has considered the submissions made during the Community Consultation Process as discussed in **Part 2** of this report. Concerns raised by adjacent affected apartment residents, including solar access and privacy, will be addressed by the site specific Development Control Plan as discussed in this report. **Part 3** of this report advises that no objections were raised by the Roads and Maritime Services, Sydney Trains, Transport NSW or Transdev. OEH has made a submission and its concerns have been addressed in this report.

The exhibited proposed site specific Development Control Plan and ancillary amendments to the "Inner West DCP 2016" should be adopted by Council as recommended in **Part 6** of this report. This will provide guidelines for ensuring future buildings are designed to have satisfactory impacts on adjacent apartment buildings and the future GreenWay.

A draft Voluntary Planning Agreement (VPA) for 120C Old Canterbury Road was approved for public exhibition by Council on 11 December 2018. Procedurally the gazettal of the Planning Proposal should as far as possible coincide with the legal finalisation of the VPA.

Council should now progress the Planning Proposal to the final stages for the making of the ALEP amendment which includes referral to Parliamentary Counsel. Subject to the exhibition of the VPA and its finalisation, Council should request Department of Planning and Environment to publish the Ashfield LEP amendment on the NSW Legislation website. To enable this process Council should resolve to delegate completion of the LEP making process within the terms of this report to the Group Manager Strategic Planning.



Attachments are available as hard copies in the Council Agenda except for the following which are available online as electronic attachments:

- 4. Council Report and Minutes of 25 July 2017
- 5. Gateway Determination and Letter
- 10. SEPP 55 Report
- 11. Design Concept Plan
- 13. Flood Report

The online attachments can be viewed on the following link on Council's website: <a href="https://www.innerwest.nsw.gov.au/develop/planning/planning-proposals/planning-proposal-tracker/120c-old-canterbury-road-summer-hill">https://www.innerwest.nsw.gov.au/develop/planning/planning-proposals/planning-proposal-tracker/120c-old-canterbury-road-summer-hill</a>

# **ATTACHMENTS**

- 1. Planning Proposal Exhibited
- 2. Site Specific DCP amendments exhibited
- 3.↓ Proposed LEP Maps
- 4. Council Report and Minutes of 25 July 2017
- **5.** Gateway Determination and Letter
- **6.** Use State Agency Submissions
- 7. Council's response to proponent's draft DCP submission
- 8. 4 Amendments to the Draft DCP
- 9.4 Aboriginal Heritage Assessment
- 10. SEPP 55 Report
- 11.4 Design Concept Plan
- 12. Planning Proposal Guidelines Assessment
- 13. Flood Report



# **INNER WEST COUNCIL**

# **PLANNING PROPOSAL**

To amend the Ashfield Local Environmental Plan (LEP) 2013 as it applies to

No. 120C Old Canterbury Road, Summer Hill

8 October 2018



Prepared by GSA Planning

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Prepared by GSA Planning

# **ANNEXURES**

Annexure A: List of State Environmental Planning Policies and Responses

Annexure B: Consideration of Section 9.1 Directions

Annexure C: Deed of Release from Rail Corporation New South Wales

Annexure D: Supplementary Photos of Surrounding Development

Annexure E: Mapping, including proposed Land Use Zone, Maximum Height of

Building and Maximum Floor Space Ratio.

Annexure F: Flood Risk Assessment Report – 23 August 2018

Annexure G: SEPP 55 Contamination Report

Annexure H: Design Concept



# 1.0 INTRODUCTION

Inner West Council is the Planning Proposal Authority for processing and determining this Planning Proposal.

This Planning Proposal is for the property known as No. 120C Old Canterbury Road, Summer Hill, legally described as Lot 1 in DP 817359 and Lot 100 in DP 875660 (hereafter referred to as the "subject site").

It is proposed that Inner West Council amend the Ashfield LEP 2013 to rezone the western portion of the subject site (Lot 1 DP817359) from SP2 Infrastructure to B4 Mixed Use as well as alter the FSR and maximum building height across the entire site. This Planning Proposal has been prepared in accordance with and responds to the criterion of the NSW Department of Planning and Infrastructure's "A Guide to Preparing Planning Proposals", as indicated in Part 7 of this report. The subject site comprises two allotments and the LEP currently applies two different zones to each of the allotments. The eastern portion (Lot 100 DP817359) is zoned B4 Mixed Use and the western portion is zoned SP2 Infrastructure.

The Planning Proposal document was originally submitted by GSA Planning consultants acting on behalf of the site owners being "The Yard" PL. and then later revised by the applicant as reported to Council on 25 July 2017 (prior to Gateway Determination). The content and structure of that document has been used by Council, acting as the responsible Planning Proposal Authority (PPA), as the basis for this Planning Proposal document version – 8 October 2018, except for adjustments to make the necessary updating amendments including to reflect the Council resolution of 25 July 2017, Gateway Determination requirements, amendments to Environmental Planning Assessment 2018, the relevant Regional Plan (March 2018) and District Plan (March 2018), and responding to Ministerial Directions. The Department of Planning and Environment advised Council that as they were the PPA it was expected that this occur.

The applicant advises (in italics):

Our clients purchased the western allotment of the subject site from Transport for NSW at or around 2009. At the time of purchase, this land was zoned 5(b) Railway Uses and was subject to an easement in favour of Transport for NSW. This easement has now been extinguished. As part of the translation to the standard instrument, the Ashfield LEP 2013 zoned the site SP2 Infrastructure (Railway). During the preparation of the LEP, the Council resolved to revisit the sites redundant zoning as a separate process, prompting the preparation of this Planning Proposal. The resolution stated, inter alia:

"No change is recommended to the Draft LEP at this time. However, the request can be considered as part of an amendment to a future 2013 Ashfield LEP subject to a planning proposal application with adequate detail and justification being submitted for any variation to FSR."

As the site is now in the private ownership of our clients is no longer used by a public authority for railway purposes, and is no longer encumbered by an easement for access the SP2 zoning is no longer appropriate. This is the basis to amend the zoning of Lot 1 DP817359. Public benefit will be provided by provided via a through site connection to the greenway.

In recent years, significant development has occurred in the area directly surrounding the site, resulting in a change to character and built form of the locality. This includes at least 10 residential flat buildings or mixed use developments in the vicinity comprising five to



six storeys with an FSR of 2.5-3:1. On this basis we request that Council support this Planning Proposal, which seeks the following:

- Rezone the western allotment from SP2 Infrastructure to B4 Mixed Use to apply consistent zoning to the entire site.
- Apply a maximum height of RL38.0 across the entire site (which accounts for sloping topography and flood affectation).
- Apply an FSR of 2.5:1 across the entire site.

There are compelling planning reasons to support the rezoning as well as increases in height and FSR for the subject site. These include the following: Change in Ownership; Consistency with the current Inner West (Marrickville) Planning Controls; Consistency of FSR with Height Limit; Existing and emerging Character and Context; and Site Suitability.

# 2.0 LODGEMENT DATE, AMENDMENTS AND RESOLUTION OF COUNCIL

The Planning Proposal was lodged on **16 December 2016**. The proposal initially sought a maximum height of RL46.50 (9 storeys above Old Canterbury Road) and an FSR of 3:1 across the entire site.

The Proposal was put on "upfront Consultation" from 1 February 2017 to 6 March 2017, in accordance with the policy of the former Ashfield Council which applies to the Ashfield LEP 2013

In **June 2017**, in response to submissions, a revised Planning Proposal was submitted to Council and included that the proposed building height was lowered by 2 floors to a maximum RL of 41.1 and the proposed FSR was reduced to 2.75:1

In 20 **July 2017**, the Planning Proposal was considered by Council who resolved to proceed with the Planning Proposal subject to further amendments indicated in the Council report. This has been incorporated into this amended document, with the proposal lowered to a maximum RL of 38.0 (6 storeys above Old Canterbury Road) and maximum FSR of 2.5:1.

Part 2.1- 2.4 of this section of the Planning Proposal provides an overview of amendments made prior to the Council meeting of 25 July 2017 as well as those made following the resolution.

# 2.1 Preliminary Public Exhibition and Initial Correspondence from Council to applicant prior to Gateway Determination

The Planning Proposal was placed on preliminary public exhibition from 1 February 2017 to 6 March 2017, where residents were given the opportunity to provide feedback to Council on the proposed changes to the Ashfield LEP.

Following the conclusion of the exhibition period, Council wrote to the applicant on 4 April 2017. Council's correspondence raised issues relating to submissions, excessive maximum building height and maximum FSR, and impact on adjacent apartment building. A number of submissions were received during the public exhibition period. The majority of submissions raised issues relating to building height and overshadowing. In addition, Council's Architectural Excellence Panel later undertook a site inspection on 6 June 2017



and delivered a report on **19 June 2017** (their comments are found in the Council report of 25 July 2017).

A further email was received from the applicant by Council on **7 June 17** requesting that for the amended Proposal's justification be updated in terms of providing additional architectural material in particular floor plans to assist in determination of appropriate FSR, revised sections indicating relationship to adjacent buildings and plans accounting for car parking. The architectural material referred above was prepared by Fox Johnston.

The email from Council on 7 June 2017 reiterated that the Planning Proposal should respond to Inner West Council's Affordable Housing Policy.

Clarification was also requested in relation to the intent to express the building height as an RL. The applicant advised that the use of RLs to determine height is a very common practice in urban renewal areas, for example by the City of Sydney in Green Square and often relates to concept envelopes.

# 2.2 Applicant's Response to Preliminary Exhibition and Amendments

In response to the submissions received during the preliminary public exhibition and comments from Council and the Architectural Excellence Panel (19 July 17), the applicant chose to have the building height lowered by 2 floors to a maximum RL of 41.1 and the FSR was reduced from 3:1 to 2.75:1 for the June 2017 version Planning Proposal.

For the June 2017 version Planning Proposal the illustrative potential building envelope provided as part of the Design Concept (by Fox Johnston Architects) was also reduced and refined to demonstrate that 2 hours of solar access could be achieved to No.120B Old Canterbury Road in accordance with the Apartment Design Guide (ADG). The applicant considered that those amendments appropriately responded to the issues of height and solar access, and minimised any impact to existing dwellings located in the Lewisham Estate Conservation Areas.

The Council officer's report on 25 July 2017 recommended a further reduction in Maximum Building Height and Maximum Floor Space Ratio to respond to scale and height issues, and this was resolved by Council (refer to Council report for more detail). This is reflected in **Part 7.4 -Mapping** of the Planning Proposal.

# 2.3 Proposed Public Benefit Contribution and GreenWay Works

The applicant advised in the Planning Proposal (June 2017):

The Light Rail Corridor to the west of the subject site is intended to incorporate a portion of the GreenWay which is an environmental, active transport and cultural corridor extending some five kilometres from the Cooks River at Earlwood in the south, to Iron Cove at Haberfield in the north. The GreenWay corridor passes through Canterbury, Marrickville, Ashfield and Leichhardt Council areas of Sydney's Inner West and incorporates Hawthorne Canal and the Rozelle freight rail corridor.

In addition to the documentation surrounding the GreenWay proposal, Inner West Council is currently developing Public Domain Guidelines for the Lewisham West



Precinct. In part, this public domain strategy includes a connectivity diagram. This diagram indicates that the primary GreenWay Shared Path would travel north-south on the western side of the Light Rail Line with a potential secondary path being located on the eastern side of the Light Rail, adjacent to the subject site. It also shows a stairway link from this shared path up to Old Canterbury Rd, adjacent to the overpass.

A contribution could be made to these GreenWay connections to provide public benefit in the immediate locality. This contribution would be subject to a formal Voluntary Planning Agreement (VPA) process however would include the following:

- In kind contribution including construction of stair and public pathway to connect
  to greenway along the length of the subject site.
- Provision of a secondary through site link from McGill Street, via the access handle, to the GreenWay. This will incorporate public domain and landscape improvements in a 'pocket park' configuration.
- Further monetary contribution of up to \$500,000 towards construction of the GreenWay secondary shared path adjacent to the subject site.

These matters are subject to a formal VPA process and detailed discussions with Council Officers at a later stage. An indicative layout of the proposed linkages has been prepared by Fox Johnston in their Design Concept document and is separately submitted. This is extracted in Figure 1.

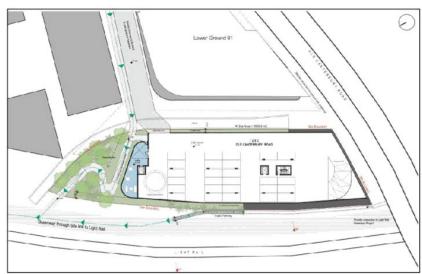


Figure 1: Floorplan Showing Through Site Link from McGill St Note - the means of access from McGill Street to the subject site is only available through a vehicular laneway located on 120 B Canterbury Road for which the applicant has a right of way.

#### 2.4 Inner West Council Affordable Housing Policy

On 28 March 2017, Council adopted the Inner West Council Affordable Housing Policy. The policy aims to value capture from planning proposals seeking increased height or density. In respect of timing and the application of the policy to Planning Proposals lodged prior to the Affordable Housing Policy coming into effect, the policy states, inter alia:



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

The applicant advised in August 2017:

As noted in Section 7.0 of the Council Officer's Report of 25 July 17, the subject Planning Proposal was lodged before the Affordable Housing Policy was adopted by Council and as such, the policy applies as a guide only. Notwithstanding this, affordable housing will be negotiated via a Voluntary Planning Agreement (VPA) following Gateway determination in accordance with Council's resolutions.

A Voluntary Planning Proposal for the provision of affordable housing is being considered by Council separately to this Planning Proposal.



# 3.0 RESOLUTION OF COUNCIL 25 JULY 2017

Inner West Council considered a report on the Planning Proposal at its meeting of 25 July 2017. The Council resolved to support the proposal subject to amendments stating the following, inter alia:

"Council on the 25 July 2017 considered Item No. C0717 Item 7 (Council report) and resolved as follows:

- 1/6 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.
- 2/6 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.
- 3/6 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.
- 4/6 Council develop a site specific Draft Development Control Plan as outlined in this report and exhibit it concurrently with the Planning Proposal
- 5/6 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).
- 6/6 Council write to the NSW Roads and Maritime Service and request that an area wide traffic network analysis be prepared for the McGill Street precinct and surrounds to determine local area traffic management opportunities that may be implemented to mitigate and better manage traffic impacts in this locality."

In accordance with Part 1 of the recommendation, the Planning Proposal has been updated to reflect a six (6) storey building height to Old Canterbury Road at a maximum RL of 38m, and a reduced FSR of 2.5:1, which is the subject of the Planning Proposal Exhibition. Additionally, changes have been made to address the LEP Making and Planning Proposal Guidelines outlined in Table 5 of the Council report. These matters are discussed throughout the remainder of this document.



# 4.0 SITE ANALYSIS

#### 4.1 The Site

The subject site is located on the northern side of Old Canterbury Road. It is legally described as Lot 1 in DP 817359 and Lot 100 in DP 875660. The subject site is approximately 7km from the Sydney CBD and is within the Local Government Area (LGA) of Inner West Council (see Figure 2).

The site is affected by the Ashfield LEP 2013, is within the boundary of the former Ashfield LGA and affected by the Ashfield Urban Planning Strategy 2010.

The site is irregular in shape with a total area of 1,956m², excluding the right of way (see Figures 3 and 4 on the following page and survey plan separately submitted). The southern end of the site is a steeply sloping site with a fall of approximately 9.83m from Old Canterbury Road. Accordingly, from the opposite side of Old Canterbury Road only the timber boundary fence is visible (see Photographs 1 - 3 on page 7).

Due to the steeply sloping nature of the site, vehicular and pedestrian access is only available via a right of way which forms part of No. 120 Old Canterbury Road. This right of way is accessed from McGill Street, via a bridge over the existing stormwater channel. This bridge was constructed in accordance with DA 283/2013 and Sydney Water's predicted flood levels (see Photograph 4 on page 7). The site is currently vacant, except for a number of shipping containers along the western boundary.

The site was previously burdened with a right of way access easement in favour of Transport for NSW, however this easement has now been extinguished.

The site is within a flood affected zone.



Figure 2: Context Map





(Source: SIX Maps, 2016 - Image dated 6/1/14)

Figure 3: Location Plan

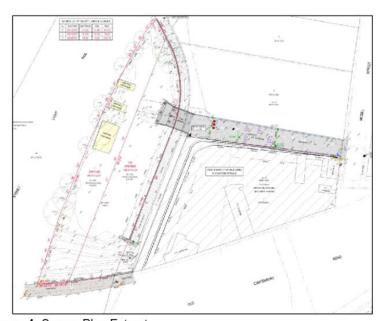


Figure 4: Survey Plan Extract

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**INNER WEST COUNCIL** 

Photograph 1: The subject site as viewed from Old Canterbury Road



Photograph 2: The subject site looking towards the south



Photograph 3: The subject site as viewed from Old Canterbury Road, with the storm water channel to the east



Photograph 4: Right of way providing access to the subject site

# 4.2 The Surrounds and Context

The subject site is constrained by a storm water channel to the east, Old Canterbury Road to the south and the Inner West Light Rail Line to the west. The subject site is bounded by former industrial sites to the north and east which is known as the McGill Street Precinct. The majority of these sites have now been approved for residential flat buildings and mixed use developments, with a number of these completed or under construction.

The built form in the surrounding area is changing rapidly and currently comprises a mix of industrial, commercial and newly constructed residential development. More established residential development is evident on the opposite side of Old Canterbury Road. The built form of recently approved developments generally comprises multi storey developments above basement level car parking. The subject site is in close proximity to the Summer Hill Local Business Centre and adjoins Old Canterbury Road, which is serviced by public transport.

## Development to the North

To the north are a number of former industrial buildings which form part of McGill Street Precinct (see Photograph 5 on the following page) within the former Marrickville Council area. No. 14 McGill Street, on the opposite side of the right of way, has development approval for a seven storey residential flat building comprising 65 apartments and four levels of basement parking (see Photograph 6 on the following page). The site is



currently under construction.

Further to the north is Nos. 4-12 McGill Street which has development approval for a six storey mixed use building fronting McGill Street and a five storey mixed use building fronting the light rail line. These buildings will comprise 80 apartments, one commercial tenancy to be used as an art and education space.

Further to the north is Nos. 78-90 Old Canterbury Road, also known as 'Luna Lewisham' which is currently being developed by Meriton and nearing completion (see Photograph 6). The site will comprise seven multi storey towers between four to ten storeys which contain 314 dwellings and two levels of basement car parking.



Photograph 5: McGill Street to the north, with various sites either approved for or currently undergoing redevelopment



Photograph 6: Further to the North at Nos. 78-90 Old Canterbury Road, looking north-east from the Light Rail Corridor

### Development to the East

To the east is the rear of Nos. 120A and 120B Old Canterbury Road. The recently constructed six storey mixed use development at 120B Old Canterbury Road is reflective of the scale and contemporary style of development in the area surrounding the subject site (see Photograph 7) within the McGill Street precinct.

Further to the east is No. 118 Old Canterbury Road which comprises a recently completed five storey mixed use development comprising 21 apartments (see Photograph 8).



Photograph 7: Six storey mixed use development at Nos. 120A & 120B Old Canterbury Road with an FSR of 2.95:1, as viewed from Old Canterbury Road.



Photograph 8: 5 storey mixed-use development under construction at No. 118 Old Canterbury Road with an FSR of 2.67:1, as viewed from Old Canterbury Road.



#### Development to the South

To the south is Old Canterbury Road. Further to the south are a number of residential dwellings, these however cannot be seen from the subject site due to dense vegetation (see Photograph 9).



Photograph 9: The opposite side of Old Canterbury Road as viewed from the subject site

# Development to the West

To the west is the Inner West Light Rail Line, with Lewisham West Light Rail Station approximately 100m from the site. On the opposite side of the light rail track is the former Allied Mills site at Nos. 2-32 Smith Street Summer Hill (within the former Ashfield LGA) which has masterplan approval for 360 dwellings, 4,000m² of commercial space and 2,500m² of retail space, set within large open space comprising 25 % of the site area. The development is currently under construction. Also to the west on the opposite side of the rail corridor is No. 46 Edward Street. The site has development approval for a four storey residential flat building above two levels of basement car parking comprising 25 apartments (see Photographs 10 and 11).



Photograph 10: Inner West Light Rail Line to the west of the subject site, looking south-east towards the subject site

Photograph 11: Former Allied Mills Site



# 5.0 PRE-LODGEMENT BACKGROUND

As advised by the applicant:

At or about 2009, Mr. Rick Timperi and Mr. Tyron Timperi purchased No. 120C Old Canterbury Road, Summer Hill. The site comprises Lot 1 DP 817359 and Lot 100 of DP 875660. Lot 1 in DP 817359 was previously owned by Transport for NSW.

On 11 December 2012, a Development Application (DA 144/2011) was approved by Council for the redevelopment of Lot 100 DP 875660 for the purposes of a two (2) storey industrial building with associated facilities. The western portion of the site that is the subject of this Planning Proposal did not form part of the application due to the 5(a) Railway Purposes zoning.

The Draft Ashfield LEP 2012 was on public exhibition between 27 June 2012 and 21 August 2012. During this time, GSA Planning made a submission to the draft LEP, on behalf of the site owners requesting that Council consider rezoning the subject site to B4 Mixed Use as part of the draft LEP. While Council did not resolve to rezone the site as part of the draft, Council resolved to support a Planning Proposal for the subject site. The Council resolution stated the following, inter alia:

"No change is recommended to the Draft LEP at this time. However, the request can be considered as part of an amendment to a future 2013 Ashfield LEP subject to a planning proposal application with adequate detail and justification being submitted for any variation to FSR."

The applicant advised the Planning Proposal application was lodged in light of this recommendation.



# 6.0 STATUTORY PLANNING CONTEXT

# 6.1 Ashfield Local Environmental Plan (LEP) 2013

The subject site is located on the boundary of the ex-Ashfield LGA. As indicated, it comprises two allotments with different zonings. Lot 100 DP 875660 (the eastern lot), is zoned B4 Mixed Use while Lot 1 DP 817359 (the western half) is zoned SP2 Infrastructure (see Figure 5).

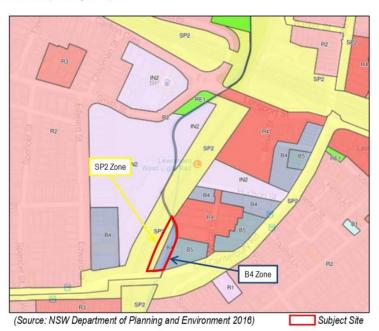


Figure 5: Extract from existing LEP Zoning Maps (Composite of Ashfield LEP and Marrickville LEP)

# 6.1.1 B4 Mixed Use Zone - Permissible Uses

The permissible uses for B4 Mixed Use Zone are listed, inter alia:

### 3 Permitted with consent

Amusement centres; Boarding houses; Car parks; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Exhibition homes; Function centres; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Residential flat buildings; Roads; Seniors housing; Service stations; Storage premises; Shop top housing; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals; Water recycling facilities; Water storage facilities; Wholesale supplies. Any other development not specified in item 2 or 4.

#### 4 Prohibited

Advertisements; Agriculture; Airstrip; Air transport facilities; Animal boarding and training facilities; Boat launching ramps; Boat building and repair facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Crematoria; Depots; Eco tourist facilities; Electricity generating works; Environmental facilities; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Heavy industrial storage

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establishments; Helipad; Highway service centres; Home occupations (sex services); Industries; Jetties; Marina; Open cut mining; Mooring; Mooring Pens; Mortuaries; Port facilities; Recreation facilities (major); Restriction facilities; Rural industries; Sewerage systems; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities

# 6.1.2 SP2 Infrastructure Zone (Railways) - Permissible Uses

The permissible uses for the SP2 Infrastructure Zone are listed, inter alia:

#### 2 Permitted without consent

Roads

#### 3 Permitted with consent

Building identification signs; Business identification signs; Car parks; Child care centres; Community facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Information and education facilities; Kiosks; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Water recycling facilities. The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

#### 4 Prohibited

Any other development not specified in item 2 or 3.

As outlined the purpose shown on the map for the subject site is 'Railways'.

#### 6.1.3 Floor Space Ratio (FSR) and Building Height

#### B4 Mixed Use Zone

Under the Ashfield LEP, the portion of the site zoned B4 Mixed Use has a maximum FSR of 1:1 and maximum building height of 20 metres.

#### SP2 Infrastructure Zone

There is no FSR or height control which applies to the portion of the site zoned SP2 Infrastructure.

#### 6.2 Adjacent Marrickville Local Environmental Plan (LEP) 2011

The access handle (refer **Figures 3** and **4**), which includes use as a vehicular laneway and is within the site at 120B Old Canterbury Road, located to the east is within the former Marrickville LGA and subject to the provisions of the Marrickville LEP 2011 which was gazetted on 12 December 2011. The access handle is zoned B5 Business Development under the Marrickville LEP 2011.

Surrounding sites that are subject to the Marrickville LEP 2011 are predominately zoned R4 High Density Residential, B5 Business Development and B4 Mixed Use. The site immediately to the east (which is under the Marrickville LEP) has an FSR of 3:1 and height limit of 20m. The height and FSR of surrounding sites are shown in Figures 6 and 7 on the following page.

INNER WEST COUNCIL

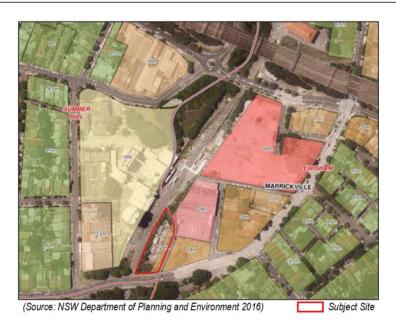


Figure 6: Diagrammatic extract from existing LEP Height Maps (Composite of Ashfield LEP and Marrickville LEP)

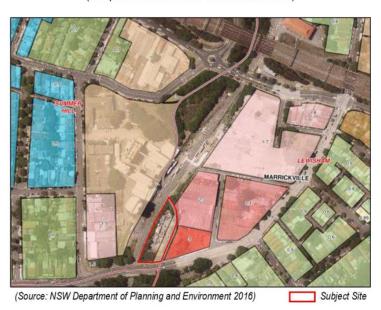


Figure 7: Diagrammatic extract from LEP FSR Map (Composite of Ashfield LEP and Marrickville LEP)



Prepared by GSA Planning

# 7.0 PLANNING PROPOSAL

This section has been prepared in accordance with the NSW Department of Planning and Infrastructure's, "A Guide to Preparing Planning Proposals" which includes: the Objectives and Intended Outcomes; an Explanation of the Planning Provisions; a justification; and consideration of DoPE Guidelines.

# 7.1 Part 1 - Objectives or Intended Outcomes

This section sets out the objectives or intended outcomes of the planning proposal and comprises a statement of what is planned to be achieved, not how it is to be achieved.

The objective of this Planning Proposal is to provide for medium to high density residential development in an appropriate location.

The intended effect of this planning proposal is to amend the Ashfield LEP 2013 to apply consistent zoning, FSR and Height provisions to the land known as No.120C Old Canterbury Road, being Lot 1 in DP 817359 and Lot 100 in DP 875660.

The intended outcome is to increase the density on the subject site to provide opportunities for additional dwellings, in accordance with Council's opportunity sites and housing targets set by the NSW State Government.

By increasing the maximum height and FSR, the development potential of the site and housing opportunities also increase. Increased densities around and near transport nodes, particularly Lewisham West Light Rail Station and near Lewisham Railway Station, is consistent with good planning practise with regard to transport oriented development.

# 7.2 Part 2 - Explanation of the Planning Provisions

The intended outcomes will be achieved by amending the zoning, FSR provisions and maximum building heights that apply to the subject site. The Planning Proposal requests the following amendments to the Ashfield LEP:

- Amend the Land Zoning Map to apply a B4 Mixed Use Zoning to Lot 1 DP 817359;
- Amend the Height of Buildings Map to apply a maximum height of buildings of RL 38.00 across the entire site;
- Amend the Floor Space Ratio Map to apply an FSR of 2.5:1 to both lots comprising No.120C Old Canterbury Road Lot 1 DP 817359 and Lot 100 of DP 875660).

Refer to Part 7.4 and Annexure E for the proposed Maps.

# 7.2.1 Height Limit based on RLs

As the site slopes significantly and is affected by stormwater and flooding, it is proposed that the maximum building height be represented as a maximum RL on the LEP mapping rather than a height in metres above existing ground level. This approach has been adopted and approved by the Department of Planning and



Environment in the past for sites, particularly in areas of concentrated urban renewal.

This includes Green Square, Harold Park and areas of Waterloo within the City of Sydney and the North Sydney CBD within the North Sydney LEP 2013. Similarly in the Inner West LGA, the Victoria Road Precinct Planning Proposal includes RL's as the maximum building height for some areas of the precinct.

The applicant advises that the proposal proposes a public benefit by providing a through site link to the Greenway which runs adjacent to the Lewisham Light Rail Station, by having access from McGill Street from the laneway at 120B Old Canterbury Road.

# 7.3 Part 3 - Consideration of NSW Department of Planning and Environment Guidelines

This section assesses the planning proposal against the matters contained in the NSW DoPE Guide to Preparing Planning proposals, in its clause 2.3 - Part 3 – Justification, which requires a response to specific questions indicated below.

# (2.3.1) Questions to consider when demonstrating the justification

#### Section A - Need for the Planning Proposal

Question 1 - Is the planning proposal a result of any strategic study or report?

The proposal is not part of any strategic study or report.

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.

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.

#### The applicant advises:

The Planning Proposal has resulted from a recommendation of the former Ashfield Council following the exhibition of the Draft Ashfield LEP 2013. As part of the translation to the standard instrument, the Ashfield LEP 2013 zoned the site SP2 Infrastructure (Railway). A submission was made by the owner of the subject site during this transition process to rezone the western allotment. During the preparation of the LEP, the Council resolved to revisit the sites redundant zoning as a separate process, prompting the preparation of this Planning Proposal. The resolution stated, inter alia:



"No change is recommended to the Draft LEP at this time. However, the request can be considered as part of an amendment to a future 2013 Ashfield LEP subject to a planning proposal application with adequate detail and justification being submitted for any variation to FSR.

In addition, the proposed rezoning from SP2 to B4 is compatible with the Ashfield Council Urban Planning Strategy for that area and matches the zoning of adjacent sites within the former Marrickville LGA.

Question 2 - Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, implementation of the objectives and intended outcomes requires amendments to the Land Use zonings and Development Standards of the Ashfield LEP 2013.

The Planning Proposal facilitates the site specific changes to planning controls that have been requested without compromising the integrity of the Ashfield LEP 2013.

# Section B - Relationship to Strategic Planning Framework

Question 3 - Is the planning proposal consistent with the objectives and actions contained within the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

#### Assessment Criteria

3a Does the proposal have strategic merit? Is it:

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 site, including any draft regional, district or corridor/precinct plans released for public comment; or

## Response:

- Directions for a Greater Sydney (July 2017). The Directions include the (1)
  - A city supported by infrastructure;
  - 2. A collaborative city;
  - A city for people;
  - Housing the city;
  - A city of great places;
  - 6. A well connected city;
  - Jobs and skills for the city;

  - 8. A city in its landscape;
  - An efficient city;
  - A resilient city.

The Proposal is consistent with the Directions for a Greater Sydney, including "Housing the City".

The Gateway Determination requires a response to the Draft Greater Region Plan 2017, noting this has now been superseded, the Proposal complies with that document.

In accordance with the Environmental Planning and Assessment Act as amended in March 2018, the following Greater Sydney Regional Plan and District Plan apply:

Planning Proposal for Planning Control Changes No. 120C Old Canterbury Road, Summer Hill - Job No. 12193



# (ii) Greater Sydney Region Plan: "A Metropolis of Three Cities" (18 March 2018)

The Proposal is consistent with the Plan including the following Parts.

Part 4 – Liveability Housing the city	
Objective 10 - Greater Housing Supply	The proposal will provide more housing supply, in the established McGill Street precinct growth area.
Objective 11- Housing is Diverse and Affordable	A separate Voluntary Planning Agreement is proposed for provision of affordable dwellings. There will also be opportunities for a mix apartment sizes including studios or one bedroom apartments.

A city of great places	
Objective 12- Great places that bring people together	The proposal's development standards are:
3 F P 3 1	- Compatible in height with the building at 120B Old
	Canterbury Road and being of an equal number
	of storeys relative to Old Canterbury Road.
	- Via a site specific Development Control Plan, will
	be able to accommodate a floor space ratio which is contained within building envelopes that provide 2hrs winter solar access to apartments 120B Old
	Canterbury Road.
	The Planning Proposal creates potential to provide a
	linkage to the Greenway corridor, and linkage from Old
	Canterbury Road, as demonstrated in the illustrative Design Concept and reinforced in the site specific
	Development Control Plan. It will also provide surveillance
	of the Greenway corridor and surrounding public areas
	improving public safety.

Part 5 – Productivity A well connected city		
Objective 14- Integrated land use and transport	1 1 1	
creates walkable and 30- minute cities	Close vicinity to the Lewisham light rail station and Lewisham train station.     10 -15 minutes walk to the Summer Hill shopping centre	
	Nearby local public primary and high schools     20 minutes walking distance of local parks.	

Jobs and Skills for the city	
urban services land is	The site does not have any land used for any substantial "industrial" or "urban services" land uses that would be removed, and so does not compromise this objective.



Part 6 Sustainability A city in its landscape	
Objective 28 - Scenic and	The site is parallel to the Greenway corridor. It creates
Cultural Landscapes are	potential to provide a linkage from McGill Street to the
protected	Greenway corridor, and linkage from Old Canterbury Road, as demonstrated in the illustrative Design Concept
Objective 31 Public Open	and reinforced in the site specific Development Control
Space is accessible, protected and enhanced,	Plan.
and	The Greenway corridor is part on the Eastern District's
	"Green Grid" indicated in the E17 of the District Plan.
Objective 32 .The Green	
Grid links paths, open	
spaces, bushland, and	
walking and cycling paths.	

In accordance with the amendments to the Environmental Planning and Assessment Act in March 2018, the following District Plan applies:

# (iii) District Plan: "Eastern City District Plan" (18 March 2018)

The Proposal is consistent with the Plan including the following Parts.

Part 3 - Liveability	
Planning Priority E5. Providing housing supply, choice and affordability with access to jobs, services and public transport.	The proposal will provide more housing supply, in the established McGill Street precinct growth area.
Objective 11- Housing is Diverse and Affordable	A separate Voluntary Planning Agreement is proposed for provision of affordable dwellings. There will also be opportunities for a mix apartment sizes including studios or one bedroom apartments.

Part 4 Productivity		
Planning Priority E10 Delivering integrated land	The proposal is within:	
use and transport planning and a 30 minute city	Close vicinity to the Lewisham light rail station and Lewisham train station.     10 -15 minutes walk to the Summer Hill shopping centre	
	<ul> <li>Nearby local public primary and high schools</li> </ul>	
	<ul> <li>20 minutes walking distance of local parks.</li> </ul>	

Part 5 Sustainability	
Planning Priority E16 –	The proposal has potential to contribute connectivity to the
Protecting and enhancing	Eastern Districts Green Grid network identified in Figure 1
scenic landscapes	of Planning Priority E17 as part of the Greenway corridor.
Planning Priority E17	
Increasing urban tree	
canopy cover and	
delivering Green Grid	
Connections	



Consistent with a relevant local council strategy that has been endorsed by the Department; or

## Response:

The Ashfield Urban Planning Strategy 2010 was approved by the Department of Planning and the B4 land use proposed for the western allotment is consistent with that Strategy since it mirrors the adjacent eastern portion land zoning.

 Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.

#### Response:

The Planning Proposal seeks to address a change of circumstances, being that the existing SP2 Infrastructure use of the western portion of the site is now redundant, that the State Government transferred ownership chose to dispose of the land to a privately owned company, and that a new land use is required to enable orderly development of the site.

 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.

# Response:

The Ashfield LEP was gazetted in Dec 2013, and is less than 5 years old. 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. 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.

Question 3b. Does the proposal have site-specific merit, having regard to the following:

 the natural environment (including known significant environmental values, resources or hazards) and Response:

The site is subject to flooding and this is discussed in **Annexure B** dealing with Ministerial Directions, and which references a detailed report contained in **Annexure F**. A SEPP 55 Contamination Report is contained in **Annexure G**.



 the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and

#### Response:

The site has no significant building and is mostly unused at the present.

There will be an affectation to the existing apartments at 120B Old Canterbury Road, and future apartments under construction at 12 McGill Street, in terms of ensuring they receive adequate levels of solar access, and that there is adequate building separation. The Design concept demonstrates that it is possible to have building envelopes which will provide minimum winter solar access and adequate building separation in accordance with the Apartment Design Guide (SEPP 65), and that this generally corresponds with the proposed Maximum Floor Space Ratio.

 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.

#### Response:

There are existing water and sewerage services, and roadways for vehicular access. There are nearby primary and high schools, and public transport including bus and rail.

# The applicant advises:

The proposal appropriately responds to the existing natural environment of the site, including constraints relating to flooding. This is expanded upon in the consideration of Section 9.1 directions. The existing and likely future uses of land in the vicinity of the proposal has been one of the major factors for the planning proposal, with the proposed rezoning and development standards consistent with surrounding land uses and scale of development. This is demonstrated in the Concept Architectural Plans prepared by Fox Johnson Architects and discussed further is Section 8 of this report. As noted, the proposal is in close proximity to existing light and heavy rail stations, with these facilities available to meet the transport demands arising from the proposal whilst financial arrangements for infrastructure provision are discussed in Section 2.3 of this report.

# Question 4 - Is the planning proposal consistent with Council's local strategy or other local strategic plan?

The Ashfield Urban Planning Strategy sets a B4- Mixed Use land use zoning for the Edward Street area near the site, this is reflected in the Ashfield LEP 2013 for the easterly portion of the site which has a B4 zoning. Rezoning of the westerly lot to a B4 land use zoning is therefore consistent with this strategy.



With regard to contextual considerations and the maximum proposed building height, the site is adjacent to properties found in the area for the former Marrickville LGA which are affected by the following: The Marrickville Development Control Plan (DCP) 2011, Part 9.45 – McGill Street, limits building height in this part of Old Canterbury Road to 5 storeys, (that DCP technically does not apply to 120C Old Canterbury Road which is in the former Ashfield LGA). However a precedent for maximum building height has been set with the construction of 120B Old Canterbury road which has established a 6 storey scale, with the 6th storey having a building setback to Old Canterbury Road so as to present visually a 5 storey form along the road.

The applicant advises: Yes. The Ashfield LEP 2013 has been informed by the Ashfield Urban Planning Strategy which was adopted by Council on 28 September 2010. The site is located in close proximity to the Allied Mills site which is identified as a key urban renewal site. In addition, the location of the subject site adjacent to the existing Light Rail line and proposed location of the Cooks River Greenway provides a highly connected strategic location.

It is proposed that part of the northern portion of the site could form a pocket park adjacent to the greenway, whilst connections through to the greenway through the site would also be facilitated, in accordance with Council's Draft Greenway Program of May 2017 (see Architectural Drawings separately submitted).

The area to the west of the subject site is also identified as key employment land in the Ashfield Urban Planning Strategy. In our opinion, the proposed consistent application of a B4 Mixed Use zoning will provide additional employment opportunities, satisfying the intent of the Ashfield Urban Planning Strategy.

# Question 5 - Is the planning proposal consistent with applicable State Environmental Planning Policies?

There are a number of State Environmental Planning Policies (SEPPs) that apply to the subject site which are listed in **Annexure A** where their relationship with the Planning Proposal is discussed, and the Planning Proposal is found to be consistent. This includes responding to State Environmental Planning Policy no 55 as required by the Gateway Determination.

# Question 6 - Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

There are a number of Section 9.1 directions that apply to the subject site which are listed in **Annexure B** where their relationship with the Planning Proposal is explained. The Proposal is found to be consistent with the Directions, except for:

The Proposal is inconsistent with direction "4.3- Flood Prone Land". The requirements of this Direction are explained in **Annexure B**. It explains that a Flood Risk Assessment Report (**Annexure F**) has been provided, assessed by Council Engineers and the Department of Planning and Environment, and is considered that the inconsistency is of "minor significance".

# Section C - Environmental, Social and Economic Impact

Question 7 - Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, would be adversely



#### affected as a result of the proposal?

No. The subject site is within an established urban area and is not identified as having any ecological significance. An assessment of the environmental impacts of any future development of the site would be undertaken at development application stage.

# Question 8 - Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The planning proposal will not result in any environmental impacts. Any impacts associated with the future redevelopment of the site would be considered at development application stage.

# Question 9 - Has the planning proposal adequately addressed any social and economic effects?

The planning proposal would have a positive social impact in terms of providing more housing, including the potential for affordable housing in accordance with Council's Affordable Housing Policy.

The proposal will not have any adverse economic impacts-effects.

The applicant has advised:

It is our opinion that the proposal would have a positive social and economic impact. As outlined, rezoning the subject site would allow for its orderly development in accordance with the provisions of the Environmental Planning and Assessment Act 1979 as well as relevant Local and State planning policies and strategies.

# Section D - State and Commonwealth Interests

# Question 10 - Is there adequate public infrastructure for the planning proposal?

The site has restricted vehicular access, with the main part of the site being approx. 7.5 - 8 metres below Old Canterbury Road.

The site relies for vehicular access on laneway on the property at 120B Old Canterbury Road, where the site owner advises he has a Right of Way enabling use of the laneway. There is a bridge structure constructed between the laneway and the site, which spans over the canal zone separating the two properties.

The applicant advises:

The subject site is currently serviced with adequate water, sewer and electricity infrastructure to service any future development. Furthermore, the proposal is located within close proximity to a variety of public transport connections including the bus network operating along Old Canterbury Road, Lewisham Railway Station and Lewisham West Light Rail Station. These would increase the transport sustainability of the proposal.



Question 11 - What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

In accordance with the Gateway Determination, the following public authorities are to be consulted.

- Transport for New South Wales
- Sydney Water
- NSW Roads and Maritime Services
- Office of Environment and Heritage

# 7.4 Part 4 - Mapping

In order to give effect to the planning proposal, a number of mapping amendments are required which are contained in **Annexure E** and summarised in **Table 1**.

TABLE 1: PROPOSED MAPPING AMENDMENTS TO ASHFIELD LEP 2013			
Ashfield LEP Map Sheet Number	Proposed Amendments		
Land Zoning Map Sheet LZN_002	Rezone the western portion of No. 120C Old Canterbury Road from SP2 Rail Infrastructure to B4 Mixed Use.  The eastern portion will remain unaltered as B4 Mixed Use.		
Height of Buildings Map Sheet HOB_002 Floor Space Ratio Map Sheet FSR_002	Apply a Maximum Height of Building of RL 38.0 to the entire subject site.  Apply a Maximum Floor Space Ratio of 2.50:1 to the entire subject site.		

# 7.5 Part 5 – Community Consultation

The requirements for community consultation have been determined by the Gateway Determination issued by the NSW DoPE.

The Planning Proposal is to be exhibited by Council for a minimum of 4 weeks.

# 8.0 ADDITIONAL INFORMATION

Parts 8.1- 8.8 below, pages 29 to 42, consist of additional comments provided by the applicant's town planner in the Planning Proposal version as considered by Council in 2017. They include extracts of the Design Concept version from 2017 for illustrative purposes.

The applicant advises:

In our view, there are a number of compelling planning reasons to support the subject being considered for rezoning and associated planning control changes. The reasons include the following:

Redundancy of Special Use Zone;

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- 2. Consistency with the current Marrickville Planning Controls;
- 3. Consistency of FSR with Height Limit
- Character and Context;
- 5. Site Suitability.

These will now be discussed below.

#### 8.1 Redundancy of Special Use Zone

The western portion of the subject site has been sold by Transport for NSW and has been in private ownership since around 2009. On this basis, the SP2 Infrastructure Zone is redundant.

Rezoning the site from SP2 Infrastructure to B4 Mixed Use can predominately be justified on the basis of the change of ownership. As outlined, the site is located on the western portion of the site, adjoins railway tracks and was previously owned by Transport for NSW. This particular site has been purchased outright by our clients who intend to amalgamate the lot with Lot 100 DP 875660 to the east. As the western allotment is now in freehold private ownership, an infrastructure zoning is inappropriate. The deed of release from Rail Corporation New South Wales for the previously held easement is attached as Annexure C.

As both lots will now be under the same ownership, a rezoning to provide consistency between planning controls is considered appropriate. The proposed rezoning, and application of FSR and height controls, which will be discussed below, will encourage further development to revitalise an important area in the LGA.

# 8.2 Consistency with Current Marrickville Planning Controls

As stated, the access handle is located in the former Marrickville LGA and subject to the Marrickville LEP 2011 and Marrickville DCP 2011. Marrickville Council has gazetted planning controls which upzone and increase the density of properties surrounding the access handle and the subject site.

More importantly, No. 120 and 120B Old Canterbury Road have both been prescribed a height limit of 20m and a maximum FSR of 3:1. These sites are also identified as Key Sites and their redevelopment for the purposes of a six storey mixed use development has recently been completed. As will be discussed, the area surrounding the subject site is currently undergoing significant revitalisation.

# 8.3 Consistency of FSR with Height Limit

The Ashfield LEP applies a height limit of 20 metres to the eastern portion of the subject site however applies only a 1:1 FSR. It is our submission that a 1:1 FSR for a site with a height limit of 20 metres is a planning anomaly and this should be revised. This will provide consistent built form and height along Old Canterbury Road and result in a high quality urban design outcome.

#### 8.4 Character and Context

The surrounding development comprises predominately new residential flat buildings with some mixed-use buildings comprising commercial uses on lower floors. A small number of existing industrial uses are also still prevalent. Low density



housing is located further to the east and south.

As previously indicated, the site is in close proximity to a number of approved and proposed Major Projects. These include the Allied Mills Site; Lewisham Estate and the Inner West Light Rail.

The Allied Mills Site is located on the opposite side of the light rail track to the west and comprises approximately 380 new dwellings; 3,500 – 4,000m² of commercial space; 450 – 500 car parking spaces and 8,400m² of public open space.

The Lewisham Estate is located approximately 100m north east of the subject site. This project includes seven multi-storey towers ranging from four to ten storeys, with 314 dwellings and 113m<sup>2</sup> of retail space.

Construction of the Inner West Light Rail extension is completed and has been operating since March 2014. The extension provides light rail access from Dulwich Hill to the City via Lilyfield. The aim of the project is to accommodate for increased patronage as a result of the Metropolitan Strategy and various housing targets set out by the Department of Planning. Undoubtedly, the addition of public transportation and increased convenience to the CBD will attract a greater number of people to the locality.

As the site is in close proximity to a number of mixed use buildings, it is likely to form a nodal point for the area. A number of properties in the vicinity of the area have been approved for redevelopment. These are shown in Figure 8 and detailed in Table 2 on the following page. Images of these redevelopments are shown in Photographs 12 to 22 on pages 21-26.



Figure 8: Proximity of Approved Mixed Use Buildings (refer to Table 2 for detailed information of each site)



	Table 2: Recent Approved Development in the Vicinity of the Area			
	Property Address	Status	Description	
A	Allied Mills Site – Nos. 2-32 Smith Street	Approved DoP 7 December 2012	Masterplan approval for 360 dwellings and up to 33,500m <sup>2</sup> GFA, 4,000m <sup>2</sup> of commercial floor space, 2,500m <sup>2</sup> of retail floor space	
В	Meriton Site – Nos. 78-90 Old Canterbury Road	Approved 22 December 2014, multiple s96 modifications have followed	7 multi-storey buildings, between 4 & 10 storeys, over 2 levels of basement car parking, containing 314 dwellings	
С	Nos. 4-12 McGill Street	Approved JRPP 28 July 2016	6 storey building fronting McGill Street and a 5 storey building fronting the light rail line containing a total of 80 dwellings and 1 commercial tenancy	
D	No. 14 McGill Street	Approved LEC, Multiple s96 modifications under assessment	7 storey residential flat building containing 65 dwellings with 4 basement car parking levels	
E	Nos. 120A & 120B Old Canterbury Road	Approved 13 February 2013	6 storey mixed use development, nearing completion	
F	Nos. 1-5 McGill Street and Nos. 102-106 Old Canterbury Road	Deferred commencement consent granted 15 April 2015	5 storey mixed use development consisting of 55 apartments across 3 towers	
G	Nos. 7-15 McGill Street	Approved 13 May 2015	6 storey residential flat building consisting of 42 units	
Н	Nos. 17-21 McGill Street and Nos. 114-116 Old Canterbury Road	Deferred commencement consent granted 11 December 2014	6 storey residential flat building and 5 storey mixed use building resulting in a total of 39 units	
I	No. 118 Old Canterbury Road	Approved 11 December 2013	5 storey mixed use development consisting of 21 units	
J	No. 46 Edward Street	Approved 23 February 2016	4 storey residential flat building comprising 25 units	

In addition to the images and montages contained in this section, supplementary photographs of development that has already occurred in the area are attached at Annexure D.



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Photograph 12: A – Photomontage of former Allied Mills site at Nos. 2-32 Smith Street Source: www.domain.com.au



Photograph 13: A – Photomontage of former Allied Mills site at Nos. 2-32 Smith Street Source: www.domain.com.au



Photograph 14: A – Photomontage of former Allied Mills site at Nos. 2-32 Smith Street



Photograph 15: B - Photomontage of Nos. 78-90 Old Canterbury Road



Photograph 16: B – Photomontage of Nos. 78-90 Old Canterbury Road Source: Meriton





Photograph 17: C – Photomontage of Nos. 4-12 McGill Street Source: Tony Owen Partners



Photograph 18: D – Photomontage of No. 14 McGill Street Source: www.domain.com.au





Photograph 19: E - Photomontage of Nos. 120A & 120B Old Canterbury Road Source: Tony Owen Partners



Photograph 20: F - Photomontage of Nos. 1-5 McGill Street Source: Binyan Studio



Photograph 21: G - Photomontage of Nos. 7-15 McGill Street Source: Chanine Design



Photograph 22: H - Photomontage of Nos. 17-21 McGill Street Source: Binyan Studio





Photograph 23: I - Photomontage of No. 46 Edward Street Source: Town Owen Partners

It is also noted that B4 Zoned sites on Edward Street, in close proximity to the subject site, currently have an FSR of 1.5:1 under the Ashfield LEP 2013.

On this basis, the proposed rezoning, height limit and increase in density is, in our opinion appropriate for the subject site.

### 8.5 Site Suitability

The subject site has a total area of 1,956.8m<sup>2</sup>, excluding the right of way. By virtue of its size, the subject site provides greater development potential in terms of site layout (see Figure 10 below and Figure 11 on the following page).

It is considered that zoning the entire site to B4 Mixed Use, applying a height limit of RL 38.0 and increasing the FSR to 2.5:1 will ensure that future developments provide an appropriate contextual fit with the other projects to the west and north of the subject site.

In addition, as there is a 7.52m fall from Old Canterbury Road to the mid-section of the subject site, an increase in density and height would be appropriate for the area. Any proposed development is likely to respond to the topography and not present as overly bulky in the streetscape.

Also as indicated, the subject site is in close proximity to public transport and established infrastructure and services. Increasing the density of this site is consistent with the Metropolitan, Subregional, local and masterplan Strategies and promotes sustainable and public transport oriented development. Changes to the planning controls for the subject site will provide additional housing in a transition area which will become a transport hub for the inner west.

Section 5 of The Environmental Planning and Assessment Act 1979 provides the objectives for the Act, which is stated, inter alia:

## (a) to encourage:

 (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities,



towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

(ii) the promotion and co-ordination of the orderly and economic use and development of land.

The proposed planning control changes to the subject land will create a redevelopment site that is a more economic use of the land. A redevelopment site with higher densities will provide additional employment floor space close to public transportation and services. This will have social, economic, community and environmental benefits, which will assist Council in satisfying the objectives of the Metropolitan, Subregional Strategy, Urban Strategy and the Environmental Planning and Assessment Act.

Detailed modelling has been undertaken by Fox Johnston Architects for the subject site to determine an appropriate height and density. As indicated, this includes careful consideration of Apartment Design Guide compliance including separation distances and solar access to adjoining properties. This has resulted in a concept envelope with a maximum RL of 38.0 to Canterbury Road, stepping down to an RL of 31.8 at the northern end of the site (see Figures 9 to 14 on the following pages).

The subject site is adjacent to the existing Light Rail line and proposed location of the Cooks River Greenway. This is a highly connected strategic location. It is proposed provide a public benefit via the creation of a through site link to the greenway. It is proposed that part of the northern portion of the site could form a pocket park adjacent to the greenway, whilst connections through to the greenway through the site would also be facilitated, in accordance with Council's Draft Greenway Program of May 2017 (see Architectural Drawings separately submitted).



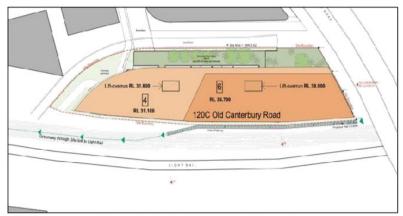


Figure 9: Indicative Building Footprint



Figure 10: Indicative Elevation Viewed from Old Canterbury Rd
(Note Separation Distances and Step Down)

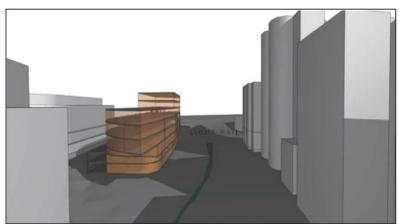


Figure 11: Building Envelope Viewed Light Rail Corridor (Rear)
(Note Separation Distances and Step Down to Rear)



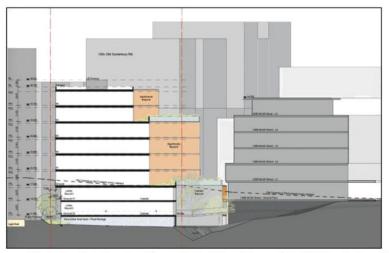


Figure 12: Indicative Section Through Building Massed to Old Canterbury Rd

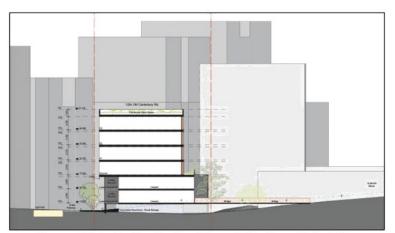


Figure 13: Indicative Section Through Northern End of Site



Figure 14: Indicative Photomontage from Old Canterbury Rd



#### 8.6 Consideration of Architectural Excellence Panel Report

The Planning Proposal was referred to Council's AEP who undertook a site inspection on the 6 June 2017. The AEP report was received on 19 June 2017 and has made a number of recommendations which will be briefly considered below:

### Urban Design Study

An assessment of the Urban Design issues in the locality has been undertaken by Fox Johnston architects and is separately submitted. As outlined throughout this report, the area has been subject to significant development activity in recent years and the subject site is now anomalous in the context of the surrounding area. The urban design study that has been prepared draws on the following key aspects:

- Providing ADG compliant solar access to neighbouring developments (including the childcare centre) and the subject site;
- Transitioning from higher western buildings to the six storey zone to the east:
- Providing a public connection to the greenway;
- Ensuring high quality façade treatment to the greenway; and
- Maintaining the street setback alignment.

As shown in the 3D Perspective below, which models the approved and constructed built forms in the locality, the proposal is clearly in context with the surrounding development pattern (see Figure 15).

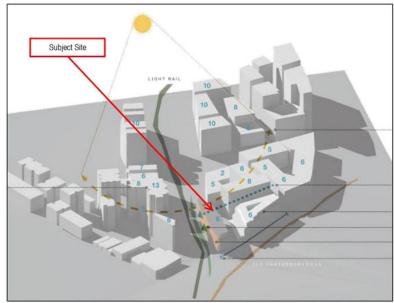


Figure 15: 3D Perspective of Urban Design Study Showing the Subject Site and the Surrounding Context

### Public Benefit

Discussions have been held with Council Officers throughout the process in relation to a public benefit contribution to the GreenWay. This is discussed in detail in



Section 2 and includes construction of a stair link and public access to the secondary greenway shared path, a landscaped through site link and a monetary contribution to works.

## Rail Corridor Setback and Building Treatment

The setbacks adopted from the rail corridor are based on advice from Sydney Trains and discussions with Council. As the proposal is only at rezoning stage, detailed design of this façade interface should not yet be required. This matter can be dealt with via a site specific DCP at a later stage and would be required to form part of a detailed DA documentation and VPA material. Fox Johnston are award winning architects with significant experience designing buildings to respond to highly challenging sites and they will be well placed to deliver an interface that responds to the various challenges.

#### **Building Height**

The building height has been carefully tested in terms of solar access to nearby properties and for consistency with the emerging development pattern in the locality. As set out in the urban design statement prepared by Fox Johnston architects, the revised built form (being 3 storeys lower than the original proposal) is appropriate for the subject site.

#### Building Separation and Alignment to Old Canterbury Rd

The panel's support of the building separations adopted and the intention to align as closely as possible to Old Canterbury Road (subject to challenging topography) is noted.

## Floor Space Ratio

As indicated, the floor space ratio adopted for both the original and revised scheme is based on the methodology set out in the ADG and the ability to provide ADG compliant solar access and separation to nearby properties.

#### Site Specific DCP

The preparation of a site specific DCP has been foreshadowed by Council as being required at a later stage of the proposal and our clients have expressed their willingness to undertake this exercise at that time.

## 8.7 Car Parking Considerations and Layout

The amended concept drawings include a potential car parking layout for the subject site. As a result of the site's flooding constraints, car parking has been designed to be above flood level. This results in two car parking levels above the minimum flooding level.

The concept design results in a yield of 62 units and under the Ashfield DCP, this requires 73 car parking spaces. The proposal includes 63 spaces and therefore against the DCP controls has a shortfall of 10 spaces.



Firstly, the rate of parking required by the Ashfield DCP is unusually high, the Marrickville DCP (which applies to the McGill St properties) has a lower rate of provision and would only require 59 spaces (including retail and excluding accessible spaces) for the concept scheme. The proposal is therefore close to complying with this requirement.

The site is located within very close proximity of the Lewisham Light Rail stop. Objective 3J-1 of the Apartment Design Guide indicates that developments within 800m of a light rail stop can adopt the relevant parking rate of provision from the RMS Guide to Traffic Generating Developments.

The RMS guide requires 52 parking spaces for the residential component of the current scheme. There is no rate in RMS guide applicable for proposed retail. The Ashfield DCP gives retail rate of 1 space per  $40m^2$  and based on the  $92m^2$  in the concept scheme, this would result in a requirement of 2.3 spaces. The parking requirement based on RMS for units and Ashfield DCP for retail is 54 spaces and the scheme complies.

#### 8.8 Conclusion

In conclusion, it is our opinion that there is compelling planning reason to support the following amendments to the Ashfield LEP 2013:

- Rezoning of Lot 1 DP 817359 from SP2 Infrastructure to B4 Mixed Use to apply a consistent zoning to the entirety of No.120C Old Canterbury Road;
- Application of a maximum building height to RL 38.0 to the entire site; and
- Application of an FSR of 2.5:1 to the entire site.

As outlined, this Planning Proposal has been prepared in accordance with the DoPE Guidelines and is consistent with the considerations contained therein. The proposal is consistent with the draft Metropolitan Strategy, the Central Sub-Regional Strategy and also the local Urban Planning Strategy.

Making the requested amendments to the Ashfield LEP would provide the potential for additional housing to be provided close to public transport. This will support the completed Inner West Light Rail and proposed redevelopment of the Allied Mills site in close proximity.

Accordingly, for the above reasons, we consider a consistent application of the B4 – Mixed Use Zone with a maximum building height limit to RL 38.0 and an FSR increase to 2.5:1 to be justified and appropriate on the subject site from a planning point of view.

The proposal will provide a public benefit by facilitating a through site link to the GreenWay which runs adjacent to the site and the Light Rail. The detail of the link would be finalised as part of detailed design however, a potential linkage is shown on the architectural drawings prepared by Fox Johnston and separately submitted.

### ANNEXURES FOLLOW

INNER WEST COUNCIL

# ANNEXURE A: LIST OF STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)

0500	A DDI IEG/GOMMENTO
SEPP	APPLIES/COMMENTS
SEPP No 1—Development Standards	Not Applicable Ashfield LEP 2013 is a Standard Instrument Format and includes Clause 4.6 Exception to Development Standards
SEPP No 19—Bushland in Urban Areas	Applies, however not relevant in this instance as subject site does not have bushland nor is it zoned for public open space
SEPP No 21—Caravan Parks	Applies, however not relevant in this instance as a Caravan Park is not proposed
SEPP No 30—Intensive Agriculture	Applies, however not relevant in this instance as intensive agriculture is not proposed
SEPP No 33—Hazardous and Offensive Development	Applies –proposed development is unlikely to be considered hazardous or offensive, therefore not relevant
SEPP No 36—Manufactured Home Estates	Not Applicable
SEPP No 44—Koala Habitat Protection	Not Applicable
SEPP No 47—Moore Park Showground SEPP No 50—Canal Estate Development	Applies however not relevant in this instance as Canal development is not proposed
SEPP No 52—Farm Dams and Other Works in Land and Water	Not Applicable
Management Plan Areas SEPP No 55—Remediation of Land	Applica A Dhana 4 consequent conset in
SEPP NO 33—Remediation of Land	Applies. A Phase 1 assessment report is included in <b>Annexure G</b> produced in accordance with the Land Contamination Guidelines. There has not been contamination found that would affect the progress of the Planning Proposal.
SEPP No 62—Sustainable Aquaculture	Not Applicable
SEPP No 64—Advertising and Signage	Applies - Matter for consideration at the time of any Signage DA
SEPP No 65—Design Quality of Residential Flat Development	Applies. A design concept has been submitted with the resultant design demonstrating the capability to comply with SEPP 65 Principles. Refer to Design Concept at <b>Annexure H</b> .
SEPP No 70—Affordable Housing (Revised Schemes)	Applies as at 2018, however not relevant as the required scheme has not been provided by Council.
SEPP (Affordable Rental Housing) 2009	Applies – would be addressed at DA Stage
SEPP (Building Sustainability Index: BASIX) 2004	Applies – would be addressed at DA Stage
SEPP (Educational Establishments and Child Care Facilities) 2017	Applies – matter for consideration at DA stage.
SEPP (Exempt and Complying Development Codes) 2008	Applies, however not relevant for Planning Proposal stage.
SEPP (Housing for Seniors or People with a Disability) 2004	Applies, however not relevant for Planning Proposal stage, seniors housing is not proposed.
SEPP (Infrastructure) 2007	Applies – Cl. 85 and Cl. 86 would be considered at a DA Stage due to the proximity



	to the railway corridor.
	Cl. 101 and Cl. 102 would also need to be
	considered as the subject site fronts a
	classified road.
SEPP (Kosciuszko National Park—Alpine Resorts) 2007	Not Applicable
SEPP (Kurnell Peninsula) 1989	Not Applicable
SEPP (Mining, Petroleum Production and	Applies, however not relevant as mining,
Extractive Industries) 2007	petroleum production or extractive industries
	are not proposed uses of the site
SEDD (Misselleneaus Consent Provisions)	
SEPP (Miscellaneous Consent Provisions)	Applies, may be relevant for temporary
2007	structures
SEPP (Penrith Lakes Scheme) 1989	Not Applicable
SEPP (Three Ports) 2013	Not Applicable
SEPP (Rural Lands) 2008	Not Applicable
SEPP (State and Regional Development) 2011	Not Applicable
SEPP (Sydney Drinking Water Catchment) 2011	Not Applicable
SEPP (Sydney Region Growth Centres) 2006	Not Applicable
SEPP (Urban Renewal) 2010	Applies, however not relevant as subject is not within an identified precinct
SEPP (Western Sydney Employment Area) 2009	Not Applicable
SEPP (Western Sydney Parklands) 2009	Not Applicable
SEPP(Vegetation in Non –Rural Areas) 2017	Applies but there is no significant vegetation
SEFF (Vegetation in Non - Rural Aleas) 2017	that would be affected.
	triat would be directed.
Regional Environmenta	I Plans – Deemed SEPPS
SREP (Sydney Harbour Catchment) 2005	Applies to the subject site, will be dealt with
	further at DA Stage.
ODEED No. 0 or to 10 or to 10	Not Applicable
SREP No 8 - Central Coast Plateau Areas	Not Applicable
SREP No 9 - Extractive Industry (No 2 – 1995)	Not Applicable
SREP No 16 - Walsh Bay	Not Applicable
SREP No 18 - Public Transport Corridors	Not Applicable
SREP No 19 - Rouse Hill Development Area	Not Applicable
SREP No 24 - Homebush Bay Area SREP No 26 - City West	Not Applicable Not Applicable
SREP No 30 - St Marys	Not Applicable  Not Applicable
SREP No 33 - Cooks Cove	Not Applicable  Not Applicable
OUF! 140 00 - COOKS CONE	140t Uhhilicanie



# ANNEXURE B: CONSIDERATION OF SECTION 9.1 DIRECTIONS OF EPA ACT 1979

These are Directions issued by the Minister of Planning to Planning Proposal Authorities under Section 9.1 of the EPA Act 1979.

SECTION 9.1 DIRECTIONS	APPLICABLE/NOT APPLICABLE			
1. Employment Resources				
1.1 Business and Industrial Zones	Applicable			
	(see A1.0)			
	Refer to <b>Part B 1.0</b> below for an			
	explanation of how the Proposal is			
	affected.			
Rural Zones     Mining, Petroleum Production and Extractive Industries	Not Applicable			
1.4 Oyster Aquaculture	Not Applicable Not Applicable			
1.5 Rural Lands	Not Applicable			
2. Environment and Heritage				
2.1 Environment Protection Zones	Not Applicable			
2.2 Coastal Protection	Not Applicable			
2.3 Heritage Conservation	Not Applicable			
2.4 Recreation Vehicle Areas 2.5 Application of E2 and E3 Zones and Environmental	Not Applicable  Not Applicable			
Overlays in Far North Coast LEPs	Not Applicable			
3. Housing, Infrastructure and Urban Dev	elopment			
3.1 Residential Zones	Applicable			
	The land affected by this proposal is			
	adequately serviced, and will increase			
	permissible residential density.			
3.2 Caravan Parks and Manufactured homes Estates				
3.3 Home Occupations	Not Applicable Not Applicable			
3.4 Integrating Land Use and transport	Applicable			
0.4 integrating Earla 000 and transport	(see A2.0)			
3.5 Development Near Licensed Aerodromes	Not Applicable			
3.6 Shooting Ranges	Not Applicable			
4. Hazard and Risk				
4.1 Acid Sulfate Soils	Not Applicable			
4.2 Mine Subsidence and Unstable Land	Not Applicable			
4.3 Flood Prone Land	Applicable			
	Refer to Part B.4 below and Annexure F			
	containing a Flood Risk Assessment			
	Report which explains that the proposal is			
	not consistent with this Direction but this is			
	of minor significance.			
4.4 Planning for Bushfire Protection	Not Applicable			
5. Regional Planning				
5.1 Implementation of Regional Strategies	Not Applicable			
5.2 Sydney Drinking Water Catchments 5.3 Farmland of State and Regional Significance of the	Not Applicable			
5.3 Farmland of State and Regional Significance of the NSW Far North Coast	Not Applicable			
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable			
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	Not Applicable			
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008.	Not Applicable			
See amended Direction 5.1)	pproduce			



5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Not Applicable  Not Applicable  Not Applicable  Not Applicable  Not Applicable				
5.8 Second Sydney Airport: Badgerys Creek					
5.9 North West Rail Link Corridor Strategy					
5.10 Implementation of Regional Plans					
6. Local Plan Making					
6.1 Approval and Referral	Applicable - Proposal is consistent with				
Requirements	Direction.				
6.2 Reserving Land for Public Purposes	Not Applicable				
6.3 Site Specific Provisions	Not Applicable				
7 14 ( )'' DI '					
7. Metropolitan Planning					
7.1 Implementation of A Plan for	Not Applicable				
Growing Sydney	The Environmental Planning and				
	Assessment Act as amended March 2018				
	makes no reference to this Plan. If the				
	Plan were in effect the Proposal is in				
	compliance with the objectives of the Plan.				
7.2 Implementation of Greater Macarthur Land Release Investigation	Not Applicable				
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not Applicable				
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not Applicable				
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan.	Not Applicable  Not Applicable				
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan.					
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not Applicable				

# CONSIDERATION OF SPECIFIC MINISTERIAL DIRECTIONS

# B 1.0 - Direction 1.1 - Business and Industrial Zones

This direction applies to all planning proposals that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial protection zone boundary). The objectives of this direction are stated, inter alia:

- (a) Encourage employment growth in suitable locations,
- (b) Protect employment land in business and industrial zones, and
- (c) Support the viability of identified strategic centres.

The proposal is consistent with the objectives of Direction 1.1 – Business and Industrial Zones as it will provide the potential for additional employment opportunities will not reduce or remove business lands and will support the viability of strategic centres identified in the Metropolitan Plan for Sydney 2031 through the provision of business lands.

In this particular instance, the relevant planning authority must be consistent with the direction, and therefore, a planning proposal must:

- (a) Retain the areas and locations of existing business and industrial zones,
- (b) Not reduce the total potential floor space area for employment uses and related public services in business zones,
- (c) Not reduce the total potential floor space area for industrial uses in industrial zones, and

The proposed change in land use for the subject site to B4 Mixed Use will allow for the provision of more business land, whilst retaining the existing B4 zone on the eastern part of the site. The proposal demonstrates there will be no reductions in business land; instead the potential floor space for employment uses will be increased. The planning



proposal will not impact the provision of industrial land throughout the LGA. The planning proposal has considered the amended planning controls against relevant state and local planning strategies and has determined it to be consistent with the relevant aims and objectives. In summary, the proposal is consistent with this Direction.

#### B2.0 - Direction 3.4 - Integrating Land Use and Transport

The direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. The objectives of this direction are stated, inter alia:

- (a) Improving access to housing, jobs and services by walking, cycling and public transport, and
- (b) Increasing the choice of available transport and reducing dependence on cars, and
- (c) Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- (d) Supporting the efficient and viable operation of public transport services, and
- (e) Providing for the efficient movement of freight.

The proposal is consistent with the objectives of Direction 3.4 due to the site's close proximity to public transport. Lewisham West Light Rail Station, opened in 2014, is adjacent to the subject site. Lewisham Rail Station is located within walking distance of the site whilst bus services are easily accessible along Old Canterbury Road. The site's accessibility to a variety of public transport options satisfies the objectives of the direction as it reduces the dependence on cars. In addition, the provision of business lands will improve access to jobs and services through the maximisation of public transport use. The proposal is consistent with this direction.

#### B3.0 - Direction 4.3 - Flood Prone Land

The direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

The objectives of this direction are stated, inter alia:

Clause (1)

- (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
- (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

The proposal is inconsistent with the Direction as it seeks to rezone special uses land which is flood prone to a mixed-use zone.

A Planning Proposal may be inconsistent with the direction if it addresses the following:

Clause (9) A Planning proposal may be inconsistent with this direction only f the relevant planning authority can satisfy the Director – General (or an officer of the Department nominated by the Director General) that:

- (h) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or
- (i) The provisions of the planning proposal that are inconsistent are of minor significance.



A "Flood Risk Assessment" report (23 August 2018 - V3, by "Cardno") has been provided in **Annexure F**. It considers that the Planning Proposal is of "minor significance" pursuant to the Direction.

Council Engineers has reviewed the Flood Risk Assessment report and consider that pursuant to Clause 9 (i) of Direction 4.3 –Flood Prone Land, the inconsistency is of minor significance including for the following reasons:

- A suitable Draft Flood Emergency Response Plan for the development has been outlined in Section 6.2
- The standard flood protection provided to residential properties is the 1 in 100 year flood level plus 500mm freeboard. All residential floors have been set at 6.45 m above the 100 year ARI flood of RL 11.8 and 4.25 m above the PMF flood of RL 14.0.
- . The basement parking is protected up to the 700 year ARI flood
- . If needed emergency access up to the PMF flood level is available from Old Canterbury Road; and
- The new TUFLOW modelling undertaken shows that directly adjacent to the site (at end of the western solid wall) there is a local reduction in flood levels during a 100 year ARI flood. Further there are no adverse impacts on any adjoining properties during a 100 year ARI flood and no significant adverse impacts during a PMF.
- With regard to the PMF level. The Cardno study notes that the driveway from McGill Street will become unsafe for vehicles during a 1 in 700 year flood and that the lower ground carpark will start to be inundated during a 1 in 2000 year flood. The risks are adequately addressed by Section 4 of the Cardno Report. In addition the risks associated with extreme flood events above the 1 in 100 year flood are generally managed by a Flood Emergency Response Plan. Cardno have provided a Draft in Section 6 of their report which is adequate for this stage of the planning process.

DPE's letter to Council of 25 October 2017, required that Council "need to obtain the agreement of the Department's secretary to demonstrate that the planning proposal is justifiably inconsistent with Section 117 Directions Direction 4.3 Flood Prone Land. Council should ensure this occurs prior to Community Consultation".

The "Flood Risk Assessment" report and Council advice was referred to the Department of Planning and Environment. The delegate of the Secretary responded to Council on the 5 October 2018 that it "agreed that the inconsistency is justified in accordance with the terms of the Direction", and that the Community Consultation stage could be carried out.

## B4.0 - Direction 7.1 - Implementation of a Plan for Growing Sydney

The amendments to the Environmental Planning and Assessment Act March 2018 no longer require reference to the "Implementation of a Plan for Growing Sydney". The Planning Proposal Guidelines require the current Regional and District Plans to be addressed.

If the plan were in place, the direction applies to the Inner West Local Government Area and aims to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney. The proposal to change the zoning of the site to B4 Mixed Use and the relevant provision of business lands bring is consistent with the Plan for Growing Sydney as outlined within the planning proposal.

INNER WEST COUNCIL

ANNEXURE C: DEED OF RELEASE FROM RAIL CORPORATION NEW SOUTH WALES



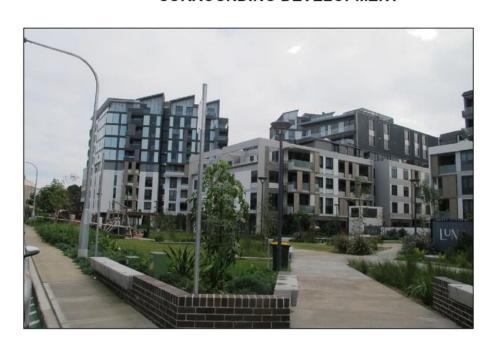
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E)		and, as regard	acknowledges receip ds the dominant tenen prietor of the servient	ment, transfers and re			nt to the transferee as	
F)	TRANSFEREE							
3)	DATE  I certify that I am officer of the trans [See note* belows  Signature of	sferor signed t	tness and that an auth			the purposes of the sed officer named be		
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I certify I am an eligible witness and that the transfer signed this dealing in my presence. [See note* below]			Certified correct for the purposes of the Real F 1900 by the transferee.			e Real Property Act		
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# ANNEXURE D: SUPPLEMENTARY PHOTOS OF SURROUNDING DEVELOPMENT





INNER WEST COUNCIL









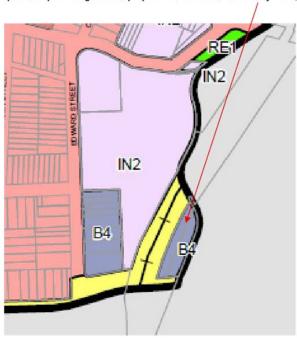




## ANNEXURE E: MAPPING

## **Proposed Land Zoning Map**

Extract of proposed Map showing affected properties at 120 C Old Canterbury Road, Summer Hill.

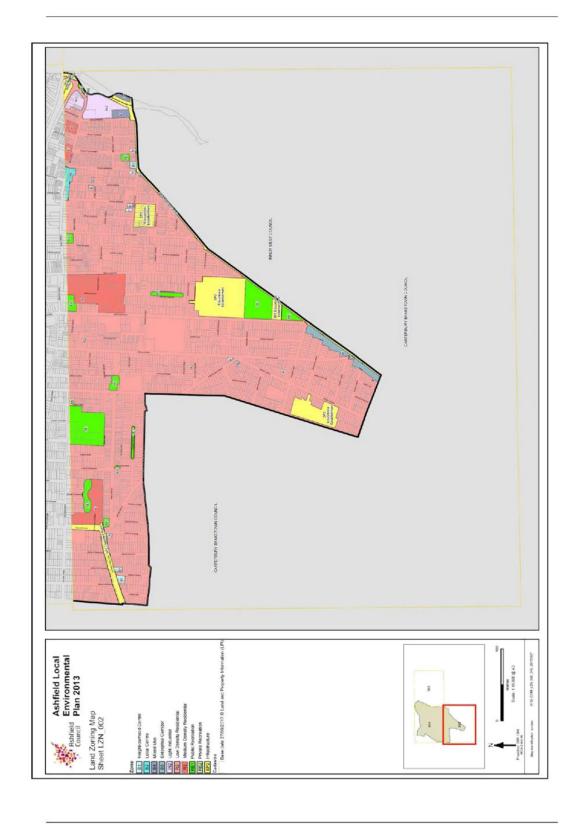


## Zone

- B1 Neighbourhood Centre
- B2 Local Centre
- B4 Mixed Use
- B6 Enterprise Corridor
- IN2 Light Industrial
- R2 Low Density Residential
- R3 Medium Density Residential
- RE1 Public Recreation
- RE2 Private Recreation
- SP2 Infrastructure

Entire proposed Map follows on next page







# **Proposed Floor Space Ratio Map**

Extract of proposed Map showing affected properties at 120 C Old Canterbury Road, Summer Hill.

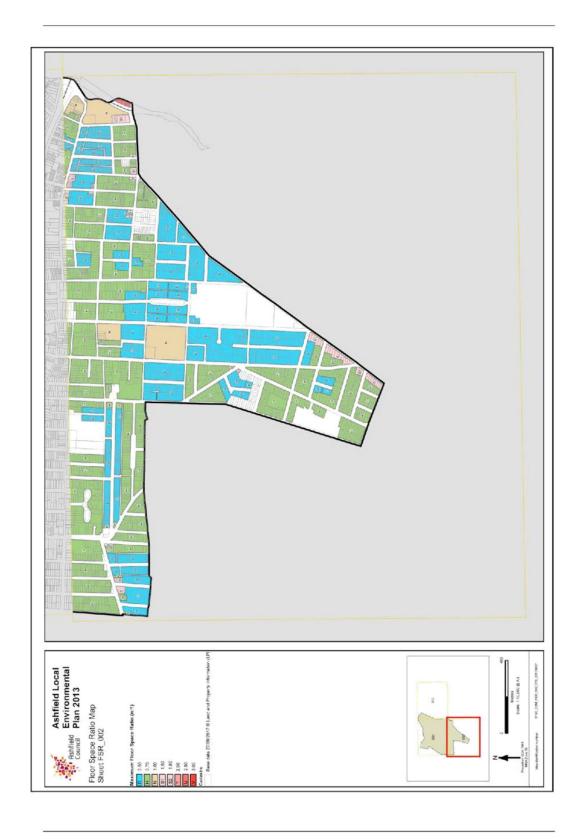


1300			
Maximu	m Floor	Chaca	Datia
waxiiiiu	ш гюог	Space	Rallo

D 0.50
H 0.70
N 1.00
S1 1.50
S2 1.80
T 2.00
U 2.50
V 3.00

Entire proposed Map follows on next page

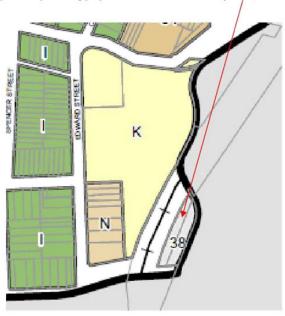






# **Proposed Height of Buildings Map**

Extract of proposed Map showing properties at 120 C Old Canterbury Road, Summer Hill



## Maximum Building Height (m)

I 8.5 J 9

J 9 K 10. M 12.5

N 13 N 14 O 15 O 15.5 P 17

Q 20 R 22 S 23

T 29

Refer to Clause 4.3A (2) and Clause 4.3A (3)

Maximum Building Height (RL m)

0 - 20

21 - 40

Entire proposed Map follows on next page







## ANNEXURE F: FLOOD RISK ASSESSMENT REPORT

Refer to separate document: Flood Risk Assessment - 23 August 2018, by Cardno P/L.



## **ANNEXURE G: SEPP 55 REPORT**

Refer to separate document: Stage 1 Preliminary Site Investigation- February 2018, by Network Geotechnical which responds to State Environmental Planning Policy no 55.



# ANNEXURE H: DESIGN CONCEPT

Refer to separate document by Fox Johnston – 23 August 18



## Proposed amendment to

Comprehensive Inner West Development Control Plan (DCP) 2016, for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill), which will add to Section 2 Chapter D:

Part 12 - 120C Old Canterbury Road

## **Explanatory Note:**

The following document contains amendments to the DCP 2016 which propose:

 To add a Section 12 to the DCP to provide site specific guidelines to support the proposed Planning Proposal for amendments to the Ashfield Local Environmental Plan 2013 for the site at 120C Old Canterbury Road

This follows from the Council resolution of 25 July 2017 which stated to:

- 1/6 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.
- 2/6 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.
- 3/6 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.
- 4/6 Council develop a site specific Draft Development Control Plan as outlined in this report and exhibit it concurrently with the Planning Proposal.
- 5/6 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).

Refer to the Council report of 25 July 2017 also on exhibition for more detail.

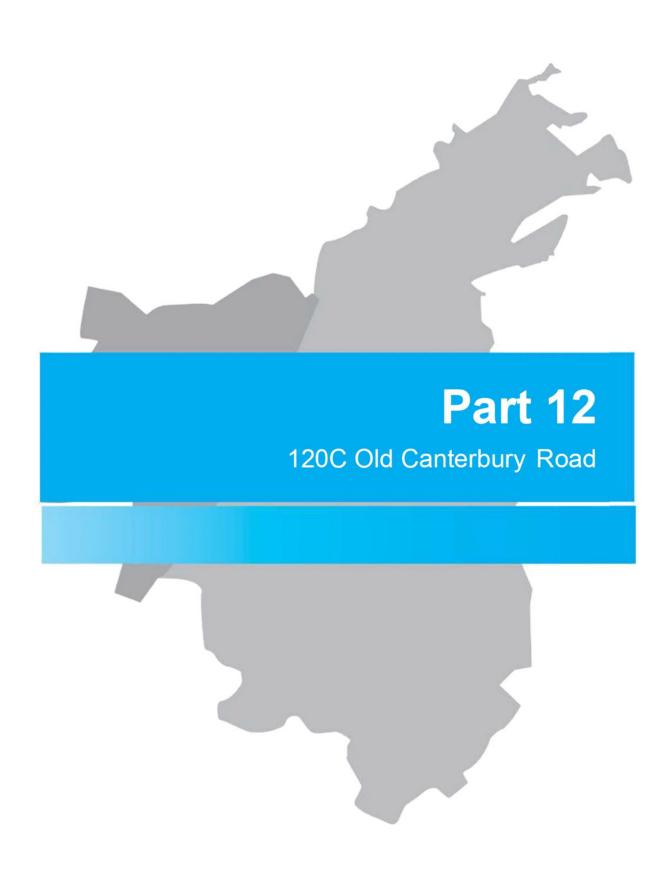


INNER WEST COUNCIL

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## **Application**

This Guideline applies to development on land at 120C Old Canterbury Road, Summer Hill identified in **Map 1** in red outline.

## Using this Guideline

In using this Guideline reference should also be made to **Section 1—Preliminary** at the front of this DCP.

The Guideline is performance based. In this role, it is intended to provide both a level of certainty for applicants, Council and the community while also enabling consideration of high quality, innovative design. This is appropriate as given the complexity of the LGA urban environment, it is not possible or desirable in all instances for council to specify quantitative, pre-determined criteria that development must achieve. Rather, in such setting an appropriate design emerges from a well-considered site analysis that explores and responds to the characteristic of the site, adjoining properties, the streetscape and neighbourhood, as well as putting in place adequate measures to mitigate any potential negative impacts.

The Guideline comprises the Purpose, Performance Criteria and Design Solutions. Alternative Solutions to the Design Solution may also be proposed by an applicant.

The Purpose and Performance Criteria identify the performance outcomes that must be

achieved for council to consider granting development consent to a development application. Council will not approve a development application that cannot meet all parts of the Purpose or all Performance Criteria, where relevant.

Design Solutions provide a guide for achieving the Performance Criteria, and by association, the Purpose.

Through the development application process, an applicant may propose an Alternative Solution to the Design Solution. Council will consider the Alternative Solution against the Performance Criteria and Purpose. If sufficient justification exists, largely informed by a site analysis and argued against sound urban planning and design grounds, council may consider accepting an Alternative Solution to the Design Solution.

## **Purpose**

- To ensure new development is of a character which is of compatible scale with adjacent or nearby buildings and high architectural standard.
- To ensure that new development provides adequate amenity for adjacent occupants of residential flat buildings
- That adequate vehicular access is provided to the site.
- There is a sympathetic interface with the Greenway Corridor and surrounding area.



Chapter D - Precinct Guidelines Part 1 - Ashfield Town Centre



## **Performance Criteria and Design Solutions**

Performance Criteria Design Solution

Explanatory notes will only appear in the draft DCP exhibition.

Amendments to DCP are shown in grey shading.

	(Greenway)		(Greenway)
PC01	Ensure there is a sympathetic spatial relationship with the Inner West Council Greenway project. This shall include consideration of the following building elements and site layout:  - Treatment of walls from lower basement to ground level	DS 1.1	Basement walls containing carparking areas shall be well composed and include defined wall fenestration or relief with appropriate proportions, and use of complimentary wall cladding materials, to achieve a high standard of design. The structure shall not be solely based on an exposed frame reflecting structural engineering and carpark ventilation requirements. Consideration shall be given to use of "green walls".
	- South west corner of building and transition from Old Canterbury Road, to the railway bridge to the Greenway corridor.  - Ground level open space has capacity to form part of a pedestrian linkage from McGill Street to the Greenway  - Surveillance from apartments of the adjacent GreenWay.  Explanatory note.  The "GreenWay" is an Inner West Council project for establishing a regional "north south" public corridor which include pathways and landscaping, from Cooks River to Iron Cove. This will include land along the open space part of the railway corridor land along the east side of the site.  Green Walls means: A green wall is a wall partially or completely covered with greenery which is maintained by a growing medium such as a soil.	DS 1.2	A 2 metre wide deep soil area shall be provided along the northwest boundary as shown in <b>Area 1</b> on <b>Map 1</b> for provision of tree planting and the ability to establish "Green walls". To enable this, a minimum 2m building setback from the north west boundary shall apply to all storeys below the ground level storey off Old Canterbury Road.  Building setbacks to the north west boundary for ground level storeys off Old Canterbury Road and above, shall comply with Sydney Train requirements taking into account the operation of the adjacent light rail train, and take into account
		DS 1.3	ground level planting areas.  The south west corner part of the building in Area 2 on Map 2 shall be architecturally modelled as a landmark which takes regard of the transition from the GreenWay setting to Old Canterbury Road setting. This shall include ground level treatments adjacent to Old Canterbury Road, and the modelling of the main body of the building. Consideration shall also be given to stairway connection from Old Canterbury Road to the Greenway shown in Area 3 on Map 1.
		DS 1.4	Ground level open space, which shall have deep soil and be landscaped, shall be provided in Area 4 on Map 1 within the site, and provision made for a pedestrian pathway between the bridge location identified on Map 1 and the Greenway Corridor.  Public access and use of the pathway shall be provided for on the land title of the property, which is to come into effect in the event that:  (i) there is a pedestrian link established between McGill Street and the Greenway Corridor, using the private laneway and bridge as part of the route for this, or  (ii) Council notifies the site owner, including in the situation where there is a Voluntary Planning Agreement in place for public use of the land.  Open space at Area 4 and Map 1 shall not contain any overhead building storeys.
PC02	(Public safety)		(Public safety)
		DS 2.1	Apartment layouts shall be arranged in a way that locates windows and balconies which provide surveillance of the Greenway.



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	(Health)		(Health)
PC03	Any eutrophication resulting from water ponding within the channel, or on the site resulting from flooding, is to be managed so as to minimise any health hazard from odours and impacts on residents on the site and on adjacent residential properties.	DS 3.1	Any ground level undercroft area shall be designed and use materials to enable quick water absorption or dispersal so as to minimise any ponding and putrification and resulting odours. Consideration shall be given to perimeter plantings along the Canal, and to ensuring there is adequate cross ventilation to the underside of any structure. Relevant documents demonstrating the above has been address shall be provided from a suitable qualified environmental scientist at Development Application stage.
	(Traffic impact).		(Traffic impact).
PC04	Orderly vehicular access into and out of the site is to provided for. Where access to the site is to be provided via the private Right of Way laneway from McGill Street located within 120 C Old Canterbury Road, the design of the internal site and carparking layout shall ensure that:  - Minimal disruption is caused to the operation of laneway and ensures ease of the laneway, which is also used by	DS 4.1	Where use of the private laneway shown in Area 1 Map 2 is proposed for vehicular access to the site, at development application stage a detailed on site carparking plan layout shall be provided which complies with the relevant Australian standards, and also provides for Area 2 Map 2 :  Vehicular car turning circle area for entry in and out of the site.  A driveway route provided at the entry
	residents and visitors at 120 B Old Canterbury Road and 14 McGill Street.		area within the site that allows for a forward movement for vehicles entering and wanting to exit the site or laneway.
	An orderly use of the intersection of the laneway and McGill Street		- A driveway turning circle area, or

Explanatory Note:

C Old Canterbury Road.

The private laneway is part of the property at 120 B Old Canterbury Road. It is used for vehicular access to carparking at 14 McGill Street and 120 B Old Canterbury Road which contain apartment buildings. It is essentially a "dead end" which also provides a connection to 120 C Old Canterbury Road at lower ground level. Normally in these situations there is a cul de sac provided to accommodate evident needs for end of lane car turning movements, and this needs to be addressed.

Allowance for emergency vehicle access use from the laneway onto the site at 120

- mechanical turning bay subject to Council approval, able to accommodate emergency vehicles and large vehicles and garbage trucks.
- An internal car queuing bay length long enough to accommodate cars waiting to access the carparking area, so as to not cause any queueing of vehicles on the laneway at 120 B Old Canterbury Road,
- Consideration shall be given an electronic system which advises users of the carpark of the state of the use of the laneway by the other sites, in order to optimise vehicular movements out of the site.

DS 4.2

Details confirming the ability to use the vehicular laneway at 120 B Canterbury Road shown on Area 1 on Map 2 as a right of way shall be provided at Development Application stage including the following:
- legal easements

- approval of the site owner of 120 B Old Canterbury Road if required
- confirmation from a structural engineer that the laneway is able to take the weight of heavy vehicles such as garbage trucks and emergency vehicles



Chapter D - Precinct Guidelines Part 1- Ashfield Town Centre



	(Flooding)		(Flooding)
PC 05	An external evacuation pathway route shall be provided from areas affected by flooding from a 1 in 100 year event to higher levels external to the site at Old Canterbury Road.	DS 5.1	Provide a pedestrian pathway from areas affected by flooding, including from lower ground level open space, bridge over canal area at the entry to the carpark, any basement carparking areas, which takes people to the footpath at Old Canterbury Road.
	Due to the site being flood prone, ensure that relevant building components are above the freeboard flood level, and there is safe use of the buildings including for residential levels and for lower level carparks storeys, so as to not be affected by flooding.	DS 5.2	A flood study shall be provided for Council approval and address the following:  - Floor levels of buildings shall be as follows:  Flood protection provided to residential properties is to be the 1 in 100 year flood level plus 500mm freeboard, and  All residential floors set 6.45 m above the 100 year ARI flood level of RL 11.8 and 4.25 m above the PMF flood level of RL 14.0, and  Lowest basement carparking floor level is at a minimum RL 12.5.  - The area below the underside of the lowest basement carpark floor slab shall be a predominantly open area to permit flood water to flow, except for the parts required for structural support of the building structure.
	(Waste)		(Waste)
PC06		DS 6.1	Waste storage areas are not to be visible from the street, not compromise any "activation" at ground level at Old Canterbury Road, and not be located where there are likely to be visible from adjacent apartments at 120 B Old Canterbury Road or have odours affecting those places.  Consideration shall be given to the provision of a waste storage area at basement levels.
		DS 6.2	Details shall be provided at Development Application stage for the transfer of bins from waste storage areas to collection points, and consideration given to the use of dedicated lifts fo the transport of bins between levels if required.
		DS 6.3	Waste collection is to occur by vehicles using the private laneway off McGill Street with the requirements of DS 4.2 being met.
		DS 6.4	Where it can be demonstrated that waste collection is not feasible off the private laneway identified in DS 6.3, and is necessary off Old Canterbury Road, the following shall be provided for Area 3 on Map 2:  (i) A vehicular standing area for waste collection is provided within the site, unless approval is obtained from the Roads and Maritime Services for vehicles to stand on Old Canterbury Road, and
			the vehicular standing area within the site is located within an open space area that ensures safe use of public footpath areas along the road by the public, and



INNER WEST COUNCIL



			the surrounding open space area designed and using materials and landscaping in way that is visually attractive ,complements the surrounding area, and is adequately screened from any nearby apartments.  (iii) The requirements of DS 6.1 are met  (iii) Bins are temporarily placed for collection, and promptly returned to storage areas by a caretaker with details for this provided at Development Application stage  (iv) Adequate separation provided to nearby shopfront, lift lobbies or apartments.
-	(Amenity of neighbouring residents)	-	(Amenity of neighbouring residents)
PC07	Amenity of residents at 120 B Old Canterbury Road and 14 McGill Street shall be maximised and new development shall ensure there is adequate winter solar access building separation distances and also privacy devices provided.	DS 7.1	The northerly part of the site in <b>Area 6</b> on <b>Map 1</b> shall have lower building height identified within a building envelope determined by providing a minimum of 2 hours winter solar access to apartments at 120 C Old Canterbury Road and 14 McGill Street with:  they're being a maximum of 4 storeys in <b>Area 6</b> on <b>Map 1</b> relative to the Old Canterbury Road level, and
			<ul> <li>the top of the maximum envelope including any parapet which affects shadowing.</li> </ul>
		DS 7.2	Minimum separation distances shall be achieved between buildings as required by the "Apartment Design Guide" as indicated in <b>Map 1</b> , and in addition:  (i) apartments directly facing 120 B Old Canterbury Road shall have ar apartment layout with windows located in positions, or use of window screening devices ,which prevent any direct viewing of the adjacent apartments.
			(ii) continuous planter boxes or structure provided along the eastern boundary with the canal adequate enough in width and depth to contain soil and tall screening trees.
			(iii) sideways views to the north and the GreenWay corridor maintained for apartments at 120 B Old Canterbury Road.
	(Amenity of residents within the development)		(Amenity of residents within the development)
PC 08	Communal Open Space shall be provided for residents of the development to the amount specified in the Apartment Design Guide.	DS 8.1	Communal Open Space shall be provided as specified in the Apartment Design Guide equating to a minimum of 25 percent of the site as follows  - use shall be made of the northern roof top part of the building containing lower storeys indicated in Area 6 on Map 1 for communal open space.
			<ul> <li>use shall be made of ground level parts of the site identified in Area 4 on Map 1 for communal open space.</li> </ul>



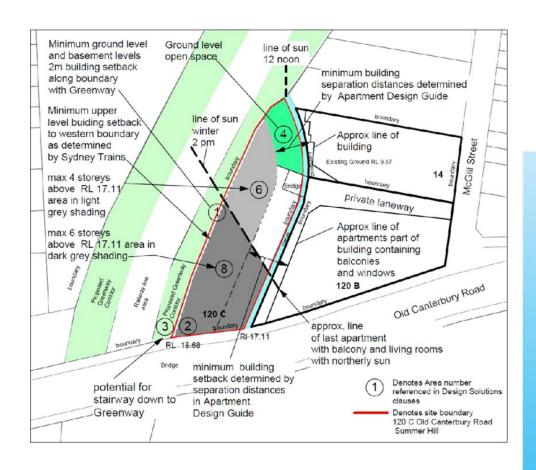
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	(Childcare Centre Impacts)		(Childcare)
PC 09	The amenity of the users of the Childcare Centre at 120 B Old Canterbury Road shall be protected.	DS 9.1	Privacy screening devices shall be provided along the eastern boundary of the site as indicated in DS $7.2-(ii)$ .
		DS 9.2	Part of the open space of the north western corner of the Childcare Centre, being a minimum area of 40 sqm, shall be identified for receiving a minimum of 2 hours winter solar access during June, July and August. The proposed building envelopes shall demonstrate that this is able to be achieved.
	(Building composition and scale)		(Building composition and scale)
PC10	Building composition shall be of a high design standard and respond to		Architectural composition shall enhance the proposal's setting and relationship to the Greenway corridor, and provide readily identifiable prohitectural cure for that
	<ul> <li>being in a prominent corner gateway location</li> <li>being adjacent the GreenWay corridor and the desired future "green setting" in that corridor</li> <li>have a similar scale and number of storey as the building at 14 McGill Street.</li> </ul>		architectural cues for that.  Upper levels of the buildings adjacent Old Canterbury Road are to be setback to reduce the scale and impact of the building, having a similar setback to that provided for at 120 B Old Canterbury Road.
	Explanatory Note: The maximum number of storeys is determined by the height of the building at RL 38.0 as found in the proposed Ashfield LEP Height maps, and this has been determined so as to be a similar scale to the 6 storey building scale established at 120 C Old Canterbury Road, relative to the roadway at RL 17.11 to RL 18.68.	DS 10.2	Maximum number of habitable storeys as measured relative to Old Canterbury Road which varies between RL 17.11 to RL 18.68, is 6 storeys for Area 8 on Map 1, within a maximum Building Height RL of 38.0 as identified in the Ashfield LEP 2013. Additional storeys may be contained below the ground floor storey to cater for carparking and non- residential uses and take account of the following:
			- freeboard levels affected by flooding for the lower basement storeys.
			- the impact of the underside of any bottom floor slab on flooding volumes.
			Any rooftop structure extrusions above the maximum building height in the Ashfield LEP such as lift motor rooms or plant rooms, will be required to seek a Clause 4.6 variation under the Ashfield LEP 2013 and meet its criterion. In assessing this Council will take the following into consideration:
			<ul> <li>Architectural roof top features are used to enhance the composition of the building.</li> </ul>
			<ul> <li>Modelling occurs to the top storey of the building and includes treatments to differentiate and enhance the top of the building from the main part of the building and also other architectural modelling aesthetic benefits are provided.</li> </ul>
			The building composition enhances the setting as indicated in DS 10.1.



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Map 1 - Building Heights, site layout and setbacks.

Chapter D - Precinct Guidelines Part 1 - Ashfield Town Centre





Map 2 - Vehicular Access and Site Servicing

Chapter D - Precinct Guidelin

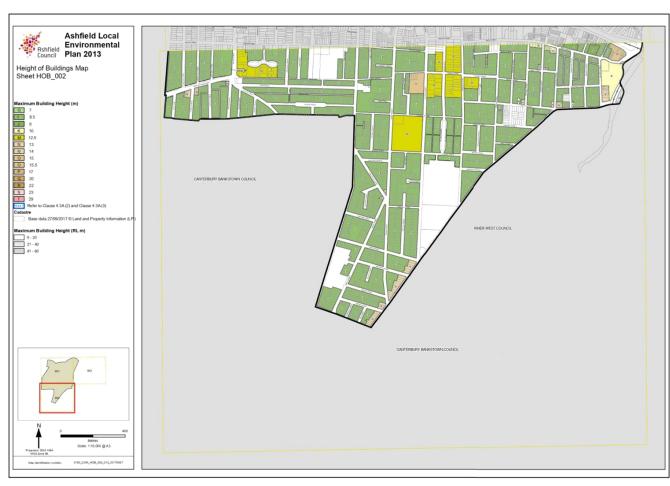


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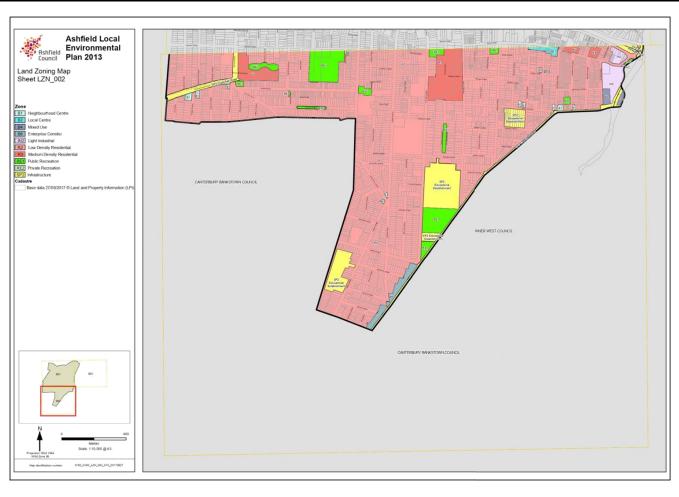




chment 3









Attachment 4 –Council Report and Minutes of 25 July 2017 Contained on Council website

https://innerwest.infocouncil.biz/



Attachment 5 - Gateway Determination and Letter

ination.pdf.aspx

Contained on Council website

https://www.innerwest.nsw.gov.au/ArticleDocuments/1982/120C%20Old%20Canterbury%20Road%20Summer%20Hill%20-%205.0%20Gateway%20letter%20and%20determ





Council Ref: SC 1483

Con Colot Senior Planner Inner West Council PO Box 14 Petersham NSW 2049

Dear Mr. Colot,

# PLANNING PROPOSAL TO AMEND THE ASHFIELD LOCAL ENVIRONMENTAL PLAN 2013 AND COMPREHENSIVE INNER WEST DEVELOPMENT CONTROL PLAN (DCP) 2016

Thank you for your correspondence dated 17 October 2018 requesting Transport for NSW (TfNSW) to provide advice in regards to the subject Planning Proposal.

No significant issues are identified at this stage in relation to the proposed development controls associated with the Planning Proposal.

## Future Development Related Issues

Required setback for maintenance purposes and issue of anti-throw should be addressed as part of any future development application. The applicant will need to ensure that the proposal can be maintained in the future without requiring access to the rail corridor including the airspace. These requirements are outlined further in the following documents:

- 1. Australian Standard THR CI 12080 ST, and
- 2. The Department of Planning and Environments' Development Near Rail Corridors and Busy Roads Interim Guideline.

Consultation with TfNSW and Transdev (IWLR operator) is encouraged during the preparation of development plans.

For further information please contact Robert Rutledge on 0478 486 393.

Please note for future reference; Transport for NSW requests any further correspondence concerning this project be sent to <a href="mailto:development@transport.nsw.gov.au">development@transport.nsw.gov.au</a> referencing CD18/09544 in the subject line.

Yours sincerely

12/11/2018

Mark Ozinga

Principal Manager, Land Use Planning & Development Freight, Strategy & Planning

CD18/09544

Transport for NSW (TfNSW)

241 O'Riordan Street, Mascot NSW 2020

T 02 8202 2200 | W transport.nsw.gov.au | ABN 18 804 239 602



## **Con Colot**

From: UrbanGrowth < UrbanGrowth@sydneywater.com.au>

Sent: Friday, 26 October 2018 9:51 AM

To: Con Colot

Subject: RE: Planning Proposal: 120C Old Canterbury Road, Summer Hill

Dear Mr Colot,

Apologies for the inconvenience, and thank you for referring the Planning Proposal (PP) listed above to Sydney Water. We have reviewed the application and provide the following comments:

- Sydney Water has no objection to the Planning Proposal.
- The PP is adjacent to Sydney Water's stormwater channel, the Hawthorne Canal. There will be requirements that
  will need to be met in regards to flooding for developments over and adjacent to Sydney Water assets as per policy
  on our website.
- Water and wastewater facilities are available within the area.
- Amplifications or extensions to these mains may be required depending on the size and scale of development.
- Detailed requirements will be provided once the development is referred to Sydney Water for a Section 73
  Compliance Certificate.

If you require any further information, please contact the Growth Planning and Development Team at <a href="mailto:urbangrowth@sydneywater.com.au">urbangrowth@sydneywater.com.au</a>.

Thank you again for the communication.

Kind Regards,

Growth Planning & Development Team



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DOC18/813158 SC1483

Con Colot Senior Planner Inner West Council PO Box 14 PETERSHAM NSW 2049

Exhibition of Planning Proposal for land at Lot 1 in DP 817359 & Lot 100 in DP 875660, No.120C Old Canterbury Road, Summer Hill

Dear Mr Colot,

I refer to your letter dated 17 October 2018, requesting input from the Office of Environment and Heritage (OEH) on the planning proposal for 120C Old Canterbury Road, Summer Hill.

The planning proposal seeks to amend both Ashfield Local Environmental Plan 2013 and Comprehensive Inner West Development Control Plan 2016 by:

- Amend the Land Zoning Map to apply a B4 Mixed Use Zoning to Lot 1 DP 817359:
- Amend the Height of Buildings Map to apply a maximum height of buildings of RL 38.00 across the entire site:
- Amend the Floor Space Ratio Map to apply an FSR of 2.5:1 to both lots comprising No.120C Old Canterbury Road Lot 1 DP 817359 and Lot 100 of DP 875660); and
- Inclusion of a site-specific section within the DCP for the site.

Please find in Attachment 1 OEH comments regarding Aboriginal cultural heritage, built form and urban design, biodiversity, flooding and landscaping.

Should you have any queries regarding this matter, please contact Bronwyn Smith, Senior Project Officer on 9873 8604 or at Bronwyn.smith@environment.nsw.gov.au

Yours sincerely

AMY DUMBRELL A/Senior Team Leader Planning

Jones

**Greater Sydney** 

Communities & Greater Sydney

5/11/2018

PO Box 644 Parramatta NSW 2124 Level 6, 10 Valentine Ave Parramatta NSW 2150 Tel: (02) 9995 5000 Fax: (02) 9995 6900 ABN 30 841 387 271 www.environment.nsw.gov.au



Attachment 1 – Office of Environment and Heritage (OEH) comments on planning proposal - Exhibition of Planning Proposal for land Lot 1 in DP 817359 & Lot 100 in DP 875660, No.120C Old Canterbury Road, Summer Hill

#### Aboriginal Cultural Heritage

The site is in a potential area of Aboriginal archaeological sensitivity and that there is likely to be future excavation to facilitate a commercial/residential tower which may impact on Aboriginal archaeology.

Given the above, OEH strongly recommends that an Aboriginal cultural heritage assessment be undertaken to inform the planning proposal and include:

- an archaeological assessment involving the identification and assessment of Aboriginal objects (often referred to as 'sites') and their management based on archaeological criteria; and
- a cultural heritage assessment involving consultation with Aboriginal stakeholders (groups and individuals) and can include historical and oral history assessment and broader values assessment (e.g. landscape and spiritual values).

OEH also notes that the planning proposal refers to the Section 9.1 Ministerial Direction 2.3 Heritage Conservation. The planning proposal states that this Direction is not applicable. However, the planning proposal does not refer to any Indigenous Heritage Study that has been completed for this site to be able to confirm that Aboriginal Heritage has been adequately considered, protected or the impacts mitigated.

#### **Built Form and Urban Design**

OEH recommends that should a development application be submitted to Council the proposal incorporates green walls, green roof and/or cool roof into the design. The benefits are outlined in the OEH (2015) Urban Green Cover in NSW Technical Guidelines which can be found at the following link: http://climatechange.environment.nsw.gov.au//Adapting-to-climate-change/Green-Cover. Green roofs can increase habitat and biodiversity at the site, particularly if local native plant species are used from the relevant native vegetation community.

#### Biodiversity

It is noted that the development potentially involves the removal of a number of trees and OEH notes that no Ecological Study has been undertaken for the site. OEH recommends that an Ecological Study be undertaken prior to the removal of any trees from the site. Council is to be satisfied that the removal of trees will not impact on any threatened flora or fauna.

#### Flooding

OEH have reviewed the relevant Flood Risk Assessment report for the Planning Proposal to develop 120C Old Canterbury Road, Summer Hill prepared by Cardno, August 2018. The Report adequately addresses the issues raised and conclusions drawn from the site's flood certificate report prepared by WMAwater, on 21 June 2016.

The Report concludes that the proposed development has been assessed against each of the considerations set out in DCP and Section 9.1 Flood Prone Land Direction and concludes that the proposed form of development is informed by the principles and guidelines of the Floodplain Development Manual 2005 and complies with the intent of the Direction, and any provisions of the planning proposal that are inconsistent are of minor significance.

It is therefore concluded by OEH that the site is suitable for the proposed development in terms of flooding.

#### Landscaping

OEH recommends that a Landscaping Plan be included within the development application that may be submitted to Council that uses a diversity of local native provenance plant species.

(END OF SUBMISSION)





DOC19/13251 SC1483

Con Colot Senior Planner Inner West Council PO Box 14 PETERSHAM NSW 2049

Exhibition of Planning Proposal for land at Lot 1 in DP 817359 & Lot 100 in DP 875660, No.120C Old Canterbury Road, Summer Hill

Dear Mr Colot,

I refer to your letter to OEH dated 20 December 2018 in relation to the planning proposal for 120C Old Canterbury Road, Summer Hill. Thank you for the explanation of Council's position in relation to Aboriginal cultural heritage (ACH).

The planning proposal seeks to amend both Ashfield Local Environmental Plan 2013 and Comprehensive Inner West Development Control Plan 2016 through:

- applying a B4 Mixed Use Zoning to Lot 1 DP 817359
- increasing the building height to RL 38.00 across the entire site
- increasing the Floor Space Ratio to 2.5:1 to both lots
- inclusion of a site-specific section within the DCP for the site.

Please find attached OEH response in Attachment 1.

Should you have any queries regarding this matter, please contact Svetlana Kotevska, Senior Conservation Planning Officer on 8837 6040 or at svetlana.kotevska@environment.nsw.gov.au

Yours sincerely

S. Harruson 09/01/19

SUSAN HARRISON Senior Team Leader - Planning Greater Sydney Communities and Greater Sydney Division

> PO Box 644 Parramatta NSW 2124 Level 6, 10 Valentine Ave Parramatta NSW 2150 Tel: (02) 9995 5000 Fax: (02) 9995 6900 ABN 30 841 387 271 www.environment.nsw.gov.au



Attachment 1 – Office of Environment and Heritage (OEH) comments on planning proposal - 120C Old Canterbury Road, Summer Hill

OEH notes the specific advice from IWC as follows:

- the site is not shown on the AHIMS to be in a potential area of Aboriginal archaeological sensitivity
- the site is not heritage listed in the Ashfield Local Environmental Plan (ALEP) 2013
- the site has had significant disturbance as indicated in the attachment
- ALEP 2013 has provisions that provide for Aboriginal Archaeological remains or heritage significance that are applicable at future a Development Application Stage.

In accordance with OEH's letter dated 5 November 2018 and subsequent email dated 12 December 2018, the site is in a potential area of Aboriginal archaeological sensitivity and there is likely to be future excavation to facilitate a commercial/residential tower which may impact on Aboriginal archaeology. OEH therefore strongly recommends that the Council require the proponent to prepare an Aboriginal cultural heritage assessment to inform the planning proposal that includes:

- an archaeological assessment involving the identification and assessment of Aboriginal objects (often referred to as 'sites') and their management based on archaeological criteria and
- a cultural heritage assessment involving consultation with Aboriginal stakeholders (groups and individuals) and can include historical and oral history assessment and broader values assessment (e.g. landscape and spiritual values).

Further, OEH is unclear how consistency with section 9.1 ministerial directions, in particular Direction 2.3 Heritage Conservation, will be achieved when the planning proposal does not include any archaeological investigation of the subject site and proposes new development standards for height and density that will result in a built form that may impact on the conservation of potential Aboriginal objects.

OEH recommends that an archaeological assessment and consultation with the Aboriginal community commences at the earliest possible stage of this planning proposal, as previously advised by OEH in its letter dated 5 November 2018 and email dated 12 December, 2018. Please also note that it is likely an AHIP will be required for test excavation on the site and a separate AHIP for the actual proposed works which will need to be supported by an Aboriginal Cultural Heritage Assessment Report (ACHAR). As such the work done during the planning proposal stage can be used to inform the AHIP and used in the ACHAR and inform the future design of the development.

(END OF SUBMISSION)





9 November 2018

Our Reference: SYD18/01654/01

Council Ref: SC 1438

The General Manager Inner West Council PO Box 14 Petersham NSW 2049

Attention: Con Colot

Dear Sir/Madam

PLANNING PROPOSAL – AMENDMENTS TO ASHFIELD LOCAL ENVIRONMENTAL PLAN (LEP) 2013 AND INNER WEST DEVLOPMENT CONTROL PLAN (DCP) 2016 120C OLD CANTERBURY ROAD, SUMMER HILL

Reference is made to Council's letter dated 17 October 2018, regarding the abovementioned proposal which was referred to Roads and Maritime Services (Roads and Maritime) for comment in accordance with the consultation requirements set out under Section 3.34 of the *Environmental Planning and Assessment Act, 1979* and Gateway determination. Roads and Maritime appreciates the opportunity to provide comment on the proposal.

It is noted that the planning proposal seeks to:

- Rezone the western portion of land from SP2 Infrastructure to B4 Mixed Use
- Increase the maximum height of building to RL38.0 (6 storeys above Old Canterbury Road)
- Increase maximum floor space ratio for the land from 1:1 to 2.5:1.
- Proposed changes to Comprehensive Inner West DCP 2016: adds to Section 2 -Chapter D, Part 12 -120C Old Canterbury Road Summer Hill.

Roads and Maritime appreciates the opportunity to provide comment and raises no objection in principle to the planning proposal, subject to the comments provided below being addressed in the access controls in the draft Development Control Plan applying to the site and as part of any future development application(s) on the subject site:

- In the interest of traffic efficiency and road safety, Roads and Maritime would not support
  vehicular access points from Old Canterbury Road. Roads and Maritime supports a
  requirement for access to be provided from the right of way from McGill Street to limit the
  number of access points (and therefore conflict points) on the State road network.
- Parking for all vehicles associated with the proposed development should be fully contained within the development site and must not encroach onto any state road.

Roads and Maritime Services

27-31 Argyle Street, Parramatta NSW 2150 | PO Box 973 Parramatta NSW 2150 |

www.rms.nsw.gov.au | 13 22 13



- All service vehicles (including garbage collection, building maintenance vehicles and removalists), must service this property from within the development or from the local road network and not from Old Canterbury Road. Roads and Maritime requests that controls in the DCP are amended to reflect this.
- Council may wish to consider incorporating maximum car parking controls into the relevant clauses of the LEP and/or DCP to encourage the use of public and active transport and reduce reliance on private vehicle use.
- 5. No Stopping should be implemented on Old Canterbury Road from the corner of Old Canterbury Road and Edward Street to a point approximately 30m west of the corner of Old Canterbury Road and McGill Street. Roads and Maritime requests that this is shown in the relevant sections of the DCP to inform future development applications.
- A Traffic Impact Assessment should be submitted as part of any future development application(s) on the subject site.

Thank you for the opportunity to provide comment on the subject planning proposal. Should you have any enquiries in relation to this matter, please contact Rafael Morrissey, Graduate Planner on 02 8849 2465 or e: <a href="mailto:development.sydney@rms.nsw.gov.au">development.sydney@rms.nsw.gov.au</a>

Yours sincerely,

Rachel Davis

Senior Strategic Land Use Coordinator Sydney Planning, Sydney Division



## **Con Colot**

From: UrbanGrowth < UrbanGrowth@sydneywater.com.au>

Sent: Friday, 26 October 2018 9:51 AM

To: Con Colot

Subject: RE: Planning Proposal: 120C Old Canterbury Road, Summer Hill

Dear Mr Colot,

Apologies for the inconvenience, and thank you for referring the Planning Proposal (PP) listed above to Sydney Water. We have reviewed the application and provide the following comments:

- Sydney Water has no objection to the Planning Proposal.
- The PP is adjacent to Sydney Water's stormwater channel, the Hawthorne Canal. There will be requirements that
  will need to be met in regards to flooding for developments over and adjacent to Sydney Water assets as per policy
  on our website.
- Water and wastewater facilities are available within the area.
- Amplifications or extensions to these mains may be required depending on the size and scale of development.
- Detailed requirements will be provided once the development is referred to Sydney Water for a Section 73
  Compliance Certificate.

If you require any further information, please contact the Growth Planning and Development Team at <a href="mailto:urbangrowth@sydneywater.com.au">urbangrowth@sydneywater.com.au</a>.

Thank you again for the communication.

Kind Regards,

Growth Planning & Development Team



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# ATTACHMENT 7 - RESPONSE TO PROPONENT'S SUBMISSION ON DRAFT SITE SPECIFIC DCP

The proponents have submitted a letter with comments on the Draft DCP. The issues raised are summarised and responded to in the table below.

Table 1

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Issues raised	Officer comments
The Draft DCP does not have clear objectives, the guidelines are not reasonable, will penalise future development and certain guidelines are not in accordance with the Apartment Design Guidelines. These will not allow for alternate building design solutions.	The entire Inner West DCP 2016 which applies to the former Ashfield LGA is structured to have Objectives and corresponding Design Solutions. These provide certainty for what is being sought and can be relied on to explain and justify Council's position at Development Assessment stage. Council also has responsibility for the DCP content and is responsible for stating the "desired character" in accordance with the Context Principle of SEPP 65.
	The Draft DCP has clear objectives and relevant Design solution guidelines such as building envelopes, minimum building setbacks and requirements for solar access which use the standards in the Apartment Design Guidelines.
	It is also clear in the DCP that an applicant may propose an alternate solution which has merit. This does not mean however that Council should remove sound, exemplar design solutions from the DCP.
	Indeed, as explored later in this table, the submission requests amendments which are not in accordance with standard provisions that protect resident amenity. This element of the proponent's submission contradicts their own Design Concept designs submitted to support the Proposal.
Objects to minimum building separation being stipulated.  Objects to having a building separation which is measured from the adjacent building line of apartments and their balconies at	It is critical to ensure there will be satisfactory amenity for residents in adjacent apartments. Building separation distances are determined via SEPP 65 and the Apartment Design Guide (ADG). This is what the draft DCP states and shows in its map. This does not require amendment.
120 B Old Canterbury Road, and from 14 McGill Street on the basis that these buildings have been poorly located.	These setbacks vary between 12m and 18m depending on building height and have been the standards applied to similar developments in the Ashfield LEP area.
Suggests that separation distances between buildings may be reduced to 6m as is occurring either side of the laneway off	The ADG already explains that the separation distance is also dependant on whether there will be any windows or balconies in the new walls that would affect neighbour'sprivacy.



McGill Street and supplies photo shown below, or that there should be "setback sharing" where the required separation distance is halved.



If there are no windows or balconies, there can be less separation, providing other spatial and urban design considerations are acceptable. The adjacent building at 120 C Old Canterbury Road has its balconies approximately 7.5 metres from the edge of the boundary of 120 C Old Canterbury road which includes the canal area. Upper apartment levels have a greater setback. The newly constructed apartments at 14 McGill Street are much closer to the boundary than shown on the Design Concept drawings.

In accordance with the "Context Principle" of SEPP 65 it is appropriate to have buildings soundly located with ADG building separation requirements measured to the affected adjacent apartments and without "setback sharing". It is unacceptable to have buildings with a 6-7m separation as is happening between 120 B Old Canterbury Road and 14 McGill Street (noting that former Marrickville Council refused the DA however the Land and Environment Court approved it). It is evident having buildings in such close proximity and boxed in is extremely poor urban and architectural design, and contrary to the Design and Amenity objectives of the EPA Act. There have been considerable objections on this point from affected residents.

Objects to winter solar access to the childcare centre.

Delete the reference in clause DS 9.2 to requiring that the Childcare Centre receives 40 sqm of winter solar access.

The current childcare centre has an outside terrace that wraps around part of the building and mostly receives solar access after 12 pm.

Clause DS 9.2 of the draft DCP will ensure there is a minimum two hours winter solar access of 40 sqm to the existing Childcare external terrace play areas. This clause addresses overshadowing concerns as raised by the owner of the adjacent childcare centre. Other periods of the year will receive more solar access.

Clarification on exceeding Maximum Building Height.

The draft DCP diagrams should add a reference to the top of the building including an area for lift motor rooms and plant rooms which exceed the maximum Building Height in the LEP.

The Draft DCP already has DS 10.2 which identifies this. An additional note can be added to the DCP Map as requested.

Objects to showing a 2 pm winter sun solar access angle for adjacent apartments since this requires part of the upper building level to reduced in bulk and this should not be the case.

This request requires that clause

The draft DCP has DS 7.1 which states there must be 2 hours of winter solar access to apartments at 120 B Old Canterbury Road and to McGill Street, and so the DCP map shows the positions of the sun between 12 pm and 2pm when this will be available. The proponents have been aware of this requirement for a considerable length of time including at meetings with Council officers where they had to make design

DS 7.1 be amended so that less
than 2 hours winter solar access
is provided to affected
apartments at adjacent buildings,
to enable a larger building.

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amendments to address this, and this requirement was highlighted in the report to Council in 25 July 2017. The 2 hours winter solar access standard is an Apartment Design Guide requirement in Part 4A - and winter solar access is the subject of complaint in current submissions from adjacent residents

The Draft DCP map shows where the proposed buildings should be lower to enable a minimum 2 hours of winter solar access between 12 noon and 2pm.

Objects to stating the minimum freeboard levels to account for flooding.

The DCP unfairly applies a significant higher and more onerous floor level threshold and this is unjustifiable.

The Draft DCP applies the applicant's Cardno flood study 1:100 year flood level of RL 11.8 and PMF flood level of RL 14.0. It also states that the bottom storey floor level for carparking must be no lower than RL 12. 5 in order to be above flood levels and also not have its structure (such as supporting beams) interfere with water flow at RL 11.8. The flood study was required for the DPE approval in order to carry out Community Consultation and for the Planning Proposal to be supported.

Council engineers have reviewed the DCP and advise the minimum floor levels stated are critical and must remain.

Objects to having a greater than 1m setback from western boundary with Railways land. Claims site owner has obtained permission to have a 1 m setback from the boundary from TNSW.

TNSW have advised Council that a 1.5m minimum setback is required (refer to response in report) in order to allow for an adequate access width for maintenance to future building walls. No further written or otherwise information has been given to Council. These walls will be up to 8 storeys above natural ground level.

Planter Box requirement along eastern edge stated in clause DS 7.2 (ii) below of the DCP should

Minimum separation distances shall be achieved between buildings as required by the "Apartment Design Guide" as indicated in Map 1, and in

be deleted.

addition:

ii) continuous planter boxes or structure provided along the eastern boundary with the canal adequate enough in width and depth to contain soil and tall screening trees.

western boundary with the railways land. There is a privacy issue for apartment residents at 120 B Old Canterbury road. Screening using tree/bush planting naturally requires the building components and location described in Clause DS 7.2 (ii). This will also provide vegetation and habitat which are Greenway themes and reduce "building canyon".

The DCP clauses and map should be amended to require a minimum building setback of 1.5 m from the

The above is acknowledged in the applicant's own Design Concept which clearly displays capacity for trees in this position.

Clause DS 7.2 should remain as is.



The above changes should be implemented in the DCP in order to have a future building design achieve the proposed maximum Height and Maximum FSR stated in the LEP.

The above matters in themselves are likely to prevent the proposed development having some elements that could reach the Maximum Building Height of RL 38.0 indicated in the LEP amendment.

The proposed FSR is expressed as a maximum. Its purpose is to show what must not be exceeded. This does not however guarantee or prescribe that the maximum FSR will be achieved. The final outcome will be affected by more detailed DCP guidelines and how a building design will address these. The ADG guidelines are entirely credible and building envelopes must provide minimum building separation and solar access to adjacent apartments.

This claim has not utilised any detailed architectural examination to demonstrate where a more detailed design might locate a building form in positions that would not cause any amenity impacts on adjacent apartments. Nevertheless if this was the case it is evident the DCP allows for alternate solutions.

Proponent's submission follows.





17th December 2018

**INNER WEST COUNCIL** 

The General Manager

Inner West Council 260 Liverpool Rd ASHFIELD NSW 2131

Attention: Mr Roger Rankin & Mr Daniel East

# RE: SUBMISSION IN RELATION TO THE DRAFT DCP TO ACCOMPANY THE PLANNING PROPOSAL AT 120C CANTERBURY RD, DULWICH HILL

Dear Roger and Daniel,

Reference is made to the meeting held at Council offices on 23 November 2019 whereby the contents of the Draft DCP for the subject site were discussed.

Following discussions at the meeting, the following information is provided in order to modify the Draft DCP to avoid ambiguity upon lodgement of the development application.

The applicant (and its consultants) would prefer to provide for clear directives in the DCP which are reasonable and in accordance with the relevant provisions of the Apartment Design Guide and which do not unreasonably penalise any future development.

The maps are considered to be too prescriptive as they include numeric provisions which are overly onerous and are considered to be in conflict with the section of the DCP, titled Using this Guideline (excerpt shown below):

The Guideline is performance based. In this role, it is intended to provide both a level of certainty for applicants, Council and the community while also enabling consideration of high quality, innovative design. This is appropriate as given the complexity of the LGA urban environment, it is not possible or desirable in all instances for council to specify quantitative, pre-determined criteria that development must achieve. Rather, in such setting an appropriate design emerges from a well-considered site analysis that explores and responds to the characteristic of the site, adjoining properties, the streetscape and neighbourhood, as well as putting in place adequate measures to mitigate any potential negative impacts.

Through the development application process, an applicant may propose an Alternative Solution to the Design Solution. Council will consider the Alternative Solution against the Performance Criteria and Purpose. If sufficient justification exists, largely informed by a site analysis and argued against sound urban planning and design grounds, council may consider accepting an Alternative Solution to the Design Solution". This Guideline is performance based.

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e anthony@abcplan.com.au • f ABC Planning Pty Ltd
Shop 4, 500 Elizabeth Street, SURRY HILLS NSW 2010 • ABN 99 090 382 488

Attachment 7

etter to Council

120c Old Canterbury Road, Dulwich Hill

In this regard, we raise concerns that the criteria within the DCP may compromise the ability to achieve the allocated FSR of 2.5:1.

The following changes are considered to be appropriate and required in order to avoid complications at the DA stage:

#### 1. Minimum Building Separation

In this regard, it is requested that the reference to a 9-metre setback from the northern neighbour be amended to "a minimum 6-metre setback be provided in order to achieve mutual privacy with the northern neighbour and to allow for adequate solar access to the subject site and neighbouring properties". The provision of a 6-metre setback represents the 50% sharing of the separation distance required by the ADG, as shown in the following diagram:

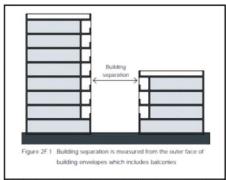


Figure 1: Diagram from section 2F: Building Separation of the ADG

Given the northern neighbouring building was approved with a setback of 3-metres from the subject site, it is considered unreasonable and inequitable to require a 9-metre setback for the subject site. It has also been demonstrated in the concept plans that accompany the planning proposal that a 6-metre separation would be sufficient in meeting the aims of the Building Separation requirements of the ADG under Part 2F.

The following photos show that the northern neighbour has no windows which would be affected by north-facing openings.

Such separation distance and use of offset windows, angled openings and screening devices have been used in the precinct, as shown in the following photos:

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120c Old Canterbury Road, Dulwich Hill



Figure 2: Photo of northern neighbour in the distance which shows there will be no mutual privacy impacts generated by the 6-metre setback



Figure 3: Photo showing 6-metre separation distance between southern and northern building and the design measures to avoid mutual privacy

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Oc Old Canterbury Road, Dulwich Hill

etter to Council

## 2. Solar Access To Child Care Centre

It is considered unreasonable and inappropriate to specify a nominated numeric area of child play outdoor space in the adjoining child care centre. To require that a minimum of 40sqm of space be retained in sunlight on June 21 is considered to be unreasonable given that the approval of the building to the immediate north of the child care centre would have had greater shadow impacts. It is considered unreasonable that the subject building would then have to be compromised to compensate for the impacts generated by the main building generating the impact.

Nevertheless, the following analysis demonstrates that an appropriate degree of solar access can be maintained in association with a 6-metre northern setback on the subject site.

It is also noted from the child care centre guidelines that the provision of direct solar access should be avoided due to shade requirements. The proposal thereby does not unreasonably compromise the amenity of the child care centre.

## 3. Height

It was established that the provision of a 6-storey building above the nominated RL of 18.68 may generate a non-compliance with the 38m height limit. The provision of 3.1m floor to floor for 6-storeys plus lift overrun may generate a minor non-compliance and thereby require a Clause 4.6 variation.

Given any future DA is associated with the planning proposal which has been at least 2 years in the making, it would be preferable to avoid the need for a Clause 4.6 variation. However, in the interests of avoiding an amendment to the planning proposal, it is requested that a diagram be added to the DCP which would demonstrate that a slight variation to the height limit would be contemplated due to the lift overrun. Such diagram would make reference to the RL of 18.68 plus 6 storeys x 3.1m plus lift overrun of 1-1.5m.

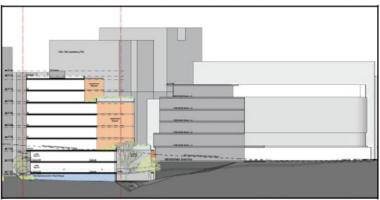


Figure 4: Section BB

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## 4. 2pm sun angle which requires part of the upper level to be removed

Given that the applicant's architect has provided accurate solar analysis based upon survey data and reliable computer programs, the 2pm winter sun line which necessitates the reduction in built form is considered to be unreasonable and unnecessary. The architect's solar analysis is reproduced with this submission to confirm that the annotation is redundant.

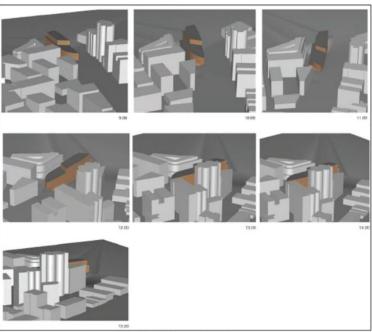


Figure 5: Sun Eye Diagrams

## 5. Flood freeboard level

We have confirmed with our hydraulic engineers (CARDNO) that the required flood freeboard level should be consistent with that typically required, that being 500mm above the 1 in 100 year flood level.

The DCP unfairly and inappropriately applies a significantly higher and more onerous threshold which is considered to be unjustifiable.

It is thereby requested that the DCP be amended accordingly. Our hydraulic engineer will be in contact with Council's Development Engineers to confirm that the above recommendation. As with the above

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120c Old Canterbury Road, Dulwich Hill

comments, it is considered that rectification of this issue at the Draft DCP stage will avoid any confusion at the DA stage.

#### 6. Setback from western boundary

We have confirmed with Sydney Trains that they may accept a 1-metre setback along the western side of the site subject to satisfaction of design criteria.

## 7. Planter box requirement

It is requested that the DCP be amended to promote above ground landscaping in preference to a specific requirement to provide for continuous planter boxes along the eastern side of the site.

It is requested that the above changes to the Draft DCP be adopted to ensure that the achievement of the height and FSR (as proposed in the Planning Proposal) can be achieved whilst also avoiding any misinterpretation at the DA stage.

Given that the aims of the DCP will be satisfied by the proposed changes, it is considered that the intent of the Draft DCP will not be undermined, but rather, the DCP would be more in accordance with the performance based nature of the Guideline, as noted in the Draft DCP.

We appreciate the opportunity to meet and discuss the above amendments and consider the outcome of the meeting to be mutually beneficial as it will avoid any potential misinterpretation at the DA stage.

If you require any additional information, or clarification of any of the above points, please do not hesitate to contact the undersigned on (02) 9310 4979 or via email at <a href="mailto:anthony@abcplan.com.au">anthony@abcplan.com.au</a>.

Yours sincerely,

Anthony Betros

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Director- ABC Planning Pty Ltd Bachelor of Town Planning, UNSW

Graduate Diploma in Urban Estate Management, UTS



## Attachment 8 - Amendments to Draft DCP

# **Performance Criteria and Design Solutions**

Performance Criteria

**Design Solution** 

Explanatory notes will only appear in the draft DCP exhibition.

Officer Comments January 2019: Proposed minor amendments to the DCP are shown in red or with strikethrough with an explanation shown in italics where required.

41	(Greenway)		(Greenway)
PC01	Ensure there is a sympathetic spatial relationship with the Inner West Council Greenway project. This shall include consideration of the following building elements and site layout:  Treatment of walls from lower basement to ground level	DS 1.1	Basement walls containing carparking areas shall be well composed and include defined wall fenestration or relief with appropriate proportions, and use of complimentary wall cladding materials, to achieve a high standard of design. The structure shall not be solely based on an exposed frame reflecting structural engineering and carpark ventilation requirements. Consideration shall be given to use of "green walls".
	- South west corner of building and transition from Old Canterbury Road, to the railway bridge to the Greenway corridor.  - Ground level open space has capacity to form part of a pedestrian linkage from McGill Street to the Greenway  - Surveillance from apartments of the adjacent GreenWay.	DS 1.2	A 2 metre wide deep soil area shall be provided along the northwest boundary as shown in <b>Area 1</b> on <b>Map 1</b> for provision of tree planting and the ability to establish "Green walls". To enable this, a minimum 2m building setback from the north west boundary shall apply to all storeys below the ground level storey off Old Canterbury Road.  Building setbacks to the north west boundary for ground level storeys off Old Canterbury Road and above, shall comply with Sydney Train requirements taking into account the operation of the adjacent light rail train, and take into account
	Explanatory note.  The "GreenWay" is an Inner West Council project for establishing a regional "north south" public corridor which include pathways and landscaping, from Cooks River to Iron Cove. This will include land along the open space part of the railway corridor land along the east side of the site.  Green Walls means: A green wall is a wall	DS 1.3	ground level planting areas.  The south west corner part of the building in Area 2 on Map 2 shall be architecturally modelled as a landmark which takes regard of the transition from the GreenWay setting to Old Canterbury Road setting. This shall include ground level treatments adjacent to Old Canterbury Road, and the modelling of the main body of the building. Consideration shall also be given to stairway connection from Old Canterbury Road to the Greenway shown in Area 3 on Map 1.
	partially or completely covered with greenery which is maintained by a growing medium such as a soil.	DS 1.4	Ground level open space, which shall have deep soil and be landscaped, shall be provided in Area 4 on Map 1 within the site, and provision made for a pedestrian pathway between the bridge location identified on Map 1 and the Greenway Corridor.  Public access and use of the pathway shall be provided for on the land title of the property, which is to come into effect in the event that:  (i) there is a pedestrian link established between McGill Street and the Greenway Corridor, using the private laneway and bridge as part of the route for this, or  (ii) Council notifies the site owner, including in the situation where there is a Voluntary Planning Agreement in place for public use of the land.
PC02	(Public safety)		Open space at <b>Area 4</b> and <b>Map 1</b> shall not contain any overhead building storeys.  (Public safety)
		DS 2.1	Apartment layouts shall be arranged in a way that locates windows and balconies which provide surveillance of the Greenway.



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Chapter D - Precinct Guidelines Part 1- Ashfield Town Centre



(Health)

#### PC03

Any eutrophication resulting from water ponding within the channel, or on the site resulting from flooding, is to be managed so as to minimise any health hazard from odours and impacts on residents on the site and on adjacent residential properties.

#### (Health)

DS 3.1 Any ground level undercroft area shall be designed and use flood compatible materials to enable quick water absorption or dispersal so as to minimise any ponding and putrification and resulting odours.

Consideration shall be given to perimeter plantings along the Canal, and to ensuring there is adequate cross ventilation to the underside of any structure.

Relevant documents demonstrating the above has been address shall be provided from a suitable qualified environmental scientist at Development Application stage.

#### (Traffic impact).

Orderly vehicular access into and out of the site is to provided for. Where access to the site is to be provided via the private Right of Way laneway from McGill Street located within 120 C Old Canterbury Road, the design of the internal site and carparking layout shall ensure that:

- Minimal disruption is caused to the operation of laneway and ensures ease of the laneway, which is also used by residents and visitors at 120 B Old Canterbury Road and 14 McGill Street.
- An orderly use of the intersection of the laneway and McGill Street
- Allowance for emergency vehicle access use from the laneway onto the site at 120 C Old Canterbury Road.

## Explanatory Note:

The private laneway is part of the property at 120 B Old Canterbury Road. It is used for vehicular access to carparking at 14 McGill Street and 120 B Old Canterbury Road which contain apartment buildings. It is essentially a "dead end" which also provides a connection to 120 C Old Canterbury Road at lower ground level. Normally in these situations there is a cul de sac provided to accommodate evident needs for end of lane car turning movements, and this needs to be addressed.

#### (Traffic impact).

DS 4.1

Where use of the private laneway shown in Area 1 Map 2 is proposed for vehicular access to the site, at development application stage a detailed on site carparking plan layout shall be provided which complies with the relevant Australian standards, and also provides for Area 2 Map 2

- Vehicular car turning circle area for entry in and out of the site.
- A driveway route provided at the entry area within the site that allows for a forward movement for vehicles entering and wanting to exit the site or laneway.
- A driveway turning circle area, or mechanical turning bay subject to Council approval, able to accommodate emergency vehicles and large vehicles and garbage trucks.
- An internal car queuing bay length long enough to accommodate cars waiting to access the carparking area, so as to not cause any queueing of vehicles on the laneway at 120 B Old Canterbury Road,
- Consideration shall be given an electronic system which advises users of the carpark of the state of the use of the laneway by the other sites, in order to optimise vehicular movements out of the site.

Officer comment 30 Jan 2019. Replace above clause in strikethrough with clause below in red.

A real time close circuit display system such as camera and screen should be provided in an appropriate location to inform drivers of vehicles leaving the 120 C site of any traffic congestion on the narrow laneway from the site to McGill Street. This will enable drivers to choose whether to delay their journey prior to entering the laneway and to use the onsite vehicle turning area to return to the building car park.



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		DS 4.2	Details confirming the ability to use the vehicular laneway at 120 B Canterbury Road shown on Area 1 on Map 2 as a right of way shall be provided at Development Application stage including the following:  - legal easements - approval of the site owner of 120 B Old Canterbury Road if required - confirmation from a structural engineer that the laneway is able to take the weight of heavy vehicles such as Council garbage truck fleet and all emergency vehicles.
PC 05	(Flooding)  An external evacuation pathway route shall be provided from areas affected by flooding from a	DS 5.1	(Flooding )  Provide a pedestrian pathway from areas affected by flooding, including from lower ground level
	1 in 100 year event to higher levels external to the site at Old Canterbury Road.		open space, bridge over canal area at the entry to the carpark, any basement carparking areas, which takes people to the footpath at Old Canterbury Road.
	Due to the site being flood prone, ensure that relevant building components are above the	DS 5.2	A flood study shall be provided for Council approval and address the following :
	freeboard flood level, and there is safe use of the buildings including for residential levels and for lower level carparks storeys, so as to not be		<ul> <li>Floor levels of buildings shall be as follows:</li> </ul>
	affected by flooding.		Flood protection provided to residential properties is to be the 1 in 100 year flood level plus 500mm freeboard, and
			All residential floors set 6.45 m above the 100 year ARI flood level of RL 11.8 and 4.25 m above the PMF flood level of RL 14.0, and
			Lowest basement carparking floor level is at a minimum RL 12.5.
			<ul> <li>The area below the underside of the lowest basement carpark floor slab shall be a predominantly open area to permit flood water to flow, except for the parts required for structural support of the building structure.</li> </ul>
	(Waste)		(Waste)
PC06	Provision made for storage and collection of waste as required in Part C3 –Waste Recycling Design and Management Standards of the Inner West DCP 2016, taking into consideration the following:	DS 6.1	Waste storage areas are not to be visible from the street, not compromise any "activation" at ground level at Old Canterbury Road, and not be located where there are likely to be visible from adjacent apartments at 120 B Old Canterbury Road or have odours affecting those places.
	The site relies for vehicular access from a constricted right of way laneway, with Council policy being that trucks will not use		Consideration shall be given to the provision of a waste storage area at basement levels.
	access through privately owned sites unless there is in indemnity provided to Council's satisfaction, and provision is made for a garage truck turning circle and headroom, and so a consequent need for up to a 18.5 metre turning circle within		Officer comment Jan 2019: Make clear where the waste collection area is to be and for it to be easily accessible and add the following clause in red:
	the site.		The waste storage area should be directly accessible to the driveway turning circle area



Old Canterbury Road along the front of the

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Chapter D - Precinct Guidelines Part 1 - Ashfield Town Centre



	site is not permitted to have garbage trucks parked on the road for pick up of bins.  Waste storage areas and collection areas are	DS 6.2	Details shall be provided at Development Application stage for the transfer of bins from waste storage areas to collection points, and consideration given to the use of dedicated lifts for the transport of bins between levels if required.
	not to adversely affect the amenity of residents on the sites and on adjacent sites, and the quality of the public domain/public open	DS 6.3	Waste collection is to occur by vehicles using the private laneway off McGill Street with the requirements of DS 4.2 being met.
			Officer comment Jan 2019: Delete DS 6.4 as the Roads and Maritime Services will not allow waste collection off Old Canterbury Road.
		DS-6.4	Where it can be demonstrated that waste collection is not feasible off the private laneway identified in DS 6.3, and is necessary off Old Canterbury Road, the following shall be provided for Area 3 on Map 2:
			(i) A vehicular standing area for waste collection is provided within the site, unless approval is obtained from the Roads and Maritime Services for vehicles to stand on Old Canterbury Road, and
			the vehicular standing area within the site is located within an open space area that ensures safe use of public footpath areas along the road by the public, and
			the surrounding open space area designed and using materials and landscaping in way that is visually attractive complements the surrounding area, and is adequately screened from any nearby apartments.
			The requirements of DS 6.1 are met      Bins are temporarily placed for collection, and promptly returned to storage areas by a caretaker with details for this provided at Development Application stage.
			(iv) — Adequate separation provided to nearby shopfront, lift lobbies or apartments.
<u>\</u>	(Amenity of neighbouring residents)		(Amenity of neighbouring residents)
PC07	Amenity of residents at 120 B Old Canterbury Road and 14 McGill Street shall be maximised and new development shall ensure there is adequate winter solar access building separation distances and also privacy devices provided.	DS 7.1	The northerly part of the site in Area 6 on Map 1 shall have lower building height identified within a building envelope determined by providing a minimum of 2 hours winter solar access to apartments at 120 C Old Canterbury Road and 14 McGill Street with:  - they're being a maximum of 4 storeys in Area 6 on Map 1 relative to the Old Canterbury Road level, and
			<ul> <li>the top of the maximum envelope including any parapet which affects shadowing.</li> </ul>
		DS 7.2	Minimum separation distances shall be achieved between buildings as required by the "Apartment Design Guide" as indicated in <b>Map 1</b> , and in addition:  (i) apartments directly facing 120 B Old Canterbury Road shall have an apartment layout with windows located in positions, or use of



prevent any direct viewing of the

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			adjacent apartments.
			(ii) continuous planter boxes or structure provided along the eastern boundary with the canal adequate enough in width and depth to contain soil and tall screening trees to provide an adequate visual buffer to adjacent development. Suitable trees species are to be as specified by a qualified person.
			(iii) sideways views to the north and the GreenWay corridor maintained for apartments at 120 B Old Canterbury Road.
	(Amenity of residents within the development)		(Amenity of residents within the development)
PC 08	Communal Open Space shall be provided for residents of the development to the amount specified in the Apartment Design Guide.	DS 8.1	Communal Open Space shall be provided as specified in the Apartment Design Guide equating to a minimum of 25 percent of the site as follows:  - use shall be made of the northern roof top part of the building containing lower storeys indicated in <b>Area 6</b> on <b>Map 1</b> for communal open space.
			<ul> <li>use shall be made of ground level parts of the site identified in Area 4 on Map 1 for communal open space.</li> </ul>
	(Childcare Centre Impacts)		(Childcare)
PC 09	The amenity of the users of the Childcare Centre at 120 B Old Canterbury Road shall be protected.	DS 9.1	Privacy Screening devices shall be provided along the eastern boundary of the site as indicated in DS 7.2 – (i) and (ii).
		DS 9.2	Part of the open space of the north western corner of the Childcare Centre, being a minimum area of 40 sqm, shall be identified for receiving a minimum of 2 hours winter solar access during June, July and August. The proposed building envelopes shall demonstrate that this is able to be achieved.
	(Building composition and scale)		(Building composition and scale)
PC10	Building composition shall be of a high design standard and respond to  - being in a prominent corner gateway location	DS 10.1	Architectural composition shall enhance the proposal's setting and relationship to the Greenway corridor, and provide readily identifiable architectural cues for that.
	- being adjacent the GreenWay corridor and the desired future "green setting" in that corridor  - have a similar scale and number of storey as the building at 14 -18 McGill Street.		Upper levels of the buildings adjacent Old Canterbury Road are to be setback to reduce the scale and impact of the building. having a similar setback to that provided for at 120 B Old Canterbury Road.
	Explanatory Note: The maximum number of storeys is determined by the height of the building at RL 38.0 as found in the proposed Ashfield LEP Height maps, and this has been determined so as to be a similar scale to the 6 storey building scale established at 120 C Old Canterbury Road, relative to the roadway at RL 17.11 to RL 18.68.	DS 10.2	Maximum number of habitable storeys as measured relative to Old Canterbury Road which varies between RL 17.11 to RL 18.68, is 6 storeys for Area 8 on Map 1, within a maximum Building Height RL of 38.0 as identified in the Ashfield LEP 2013. Additional storeys may be contained below the Old Canterbury Road street level ground-floor storey to cater for carparking and non-residential uses and take account of the following:
			- freeboard levels affected by flooding for the lower basement storeys.
			- the impact of the underside of any bottom floor



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slab on flooding volumes.

Any rooftop structure extrusions above the maximum building height in the Ashfield LEP such as lift motor rooms or plant rooms, will be required to seek a Clause 4.6 variation under the Ashfield LEP 2013 and meet its criterion. In assessing this Council will take the following into consideration:

- Architectural roof top features are used to enhance the composition of the building.
- Modelling occurs to the top storey of the building and includes treatments to differentiate and enhance the top of the building from the main part of the building and also other architectural modelling aesthetic benefits are provided.
- The building composition enhances the setting as indicated in DS 10.1.

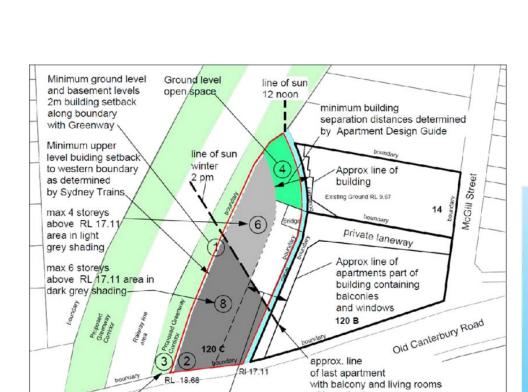
Officer comment Jan 2019: Maps follows on next pages and are text is to be amended as follows:

- Reference to upper level building setbacks to western boundary with light rail to be amended to state a minimum 1.5 m setback is required by TNSW.
- To state that lift motor rooms and plant rooms may be located above the maximum Building Height of RL 38.0.
- Basement levels to be instead referred to as lower ground levels.
- 120 Old Canterbury Road to be referred to as 120 A/B Old Canterbury Road.
- 14 McGill Street to be referred to as 14-18 McGill Street.

**END** 

Chapter D - Precinct Guidelines Part 1 - Ashfield Town Centre





minimum building setback determined by

in Apartment

Design Guide

separation distances

with northerly sun

Denotes Area number referenced in Design Solutions clauses

Denotes site boundary 120 C Old Canterbury Road Summer Hill

Map 1 - Building Heights, site layout and setbacks.

potential for

Greenway

stairway down to

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Map 2 - Vehicular Access and Site Servicing

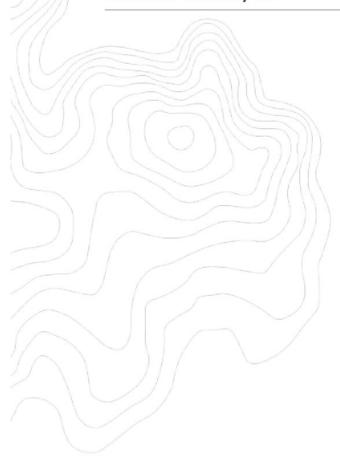
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120C Old Canterbury Road, Summer Hill - Aboriginal Heritage Due Diligence Assessment

The Yard 120C Pty Ltd









#### DOCUMENT TRACKING

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## 1. Introduction

## 1.1 Project background

The Yard 120C Pty Ltd is seeking a planning proposal for the rezoning and development of 120C Old Canterbury Road, Summer Hill (**Figure 1**). The site (hereby referred to as 'the study area') consists of Lot 1 DP 817359 and Lot 100 DP 875660. The planning proposal seeks to amend both the Ashfield Local Environmental Plan (LEP) 2013 and Comprehensive Inner West Development Control Plan (DCP) 2016 through:

- Applying a B4 Mixed Use Zoning to Lot 1 DP 817359;
- Increasing the building height to RL 38.00 across the entire site;
- · Increasing the Floor Space Ratio to 2.5:1 across the entire site;
- Inclusion of a site-specific section within the DCP for the site.

The intended outcome of this planning proposal is to provide for medium to high density residential development in an appropriate location.

The Yard 120C Pty Ltd engaged Eco Logical Australia Pty Ltd (ELA) to undertake an Aboriginal archaeological due diligence assessment of the study area to identify if Aboriginal objects were likely to be located within the area of the proposed works and if so whether the proposed works had the potential to harm those objects.

A map of the proposed works has been provided by The Yard 120C Pty Ltd (Figure 2 and 3).

The study area is located within the suburb of Summer Hill, in the Ashfield Local Government Area (LGA), Parish of Petersham, County of Cumberland.

This assessment outlines the findings of the Aboriginal archaeological due diligence assessment of the study area, in accordance with the Office of Environment and Heritage (OEH) *Due Diligence Code of Practice for the protection of Aboriginal Objects in New South Wales* (OEH 2010).

## 1.2 Assessment process

The aims of this archaeological due diligence assessment are to:

- Undertake a search of the Aboriginal Heritage Information Management System (AHIMS) register maintained by the OEH to establish if there are any previously recorded Aboriginal objects or places within the study area.
- Undertake a search of the NSW State Heritage Inventory, the Australian Heritage Database, and the Ashfield LEP 2013 Schedule 5 (Environmental Heritage) in order to determine if there are any sites of archaeological significance or sensitivity located within the study area.
- Undertake a desktop review of relevant previous archaeological assessments to understand the local archaeological context and assist in predicting the likely occurrence of unrecorded archaeological sites or objects.
- Undertake a site inspection to identify any Aboriginal sites and areas of sensitive landforms.

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 Prepare a letter style archaeological due diligence assessment determining if known objects or additional unrecorded objects are present within the study area, as well indicate whether further assessment and/or an Aboriginal Heritage Impact Permit (AHIP) is required.

The OEH process involves "taking reasonable and practical measures to determine whether your actions will harm an Aboriginal object and, if so, what measures can be taken to avoid that harm" (OEH 2010:4).

If an AHIP application is required, the OEH necessitate that it is supported by an Aboriginal Cultural Heritage Assessment (ACHA) prepared in line with the 'Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW' (OEH 2010), and a copy an approval for the development or infrastructure under Part 4 or Part 5 of the Environmental Planning and Assessment Act 1979 (NSW).

An archaeologically sensitive landscape is an area that has the potential for archaeological material to be present within. According to the Due Diligence Code of Practice, archaeologically sensitive landscapes can include areas:

- · Within 200m of waters, or
- Located within a sand dune system
- · Located on a ridge top, ridge line, headland, or
- · Located within 200m below or above a cliff face, or
- Within 20m of or in a cave, rock shelter, or a cave mouth;
- · And is on land that is not disturbed land

According to the *Due Diligence Code of Practice*, disturbed land is defined as any area that has been the subject of a human activity that has changed the land's surface, being changes that remain clear and observable (OEH 2010:18).

"Land is disturbed if it has been the subject of a human activity that has changed the land's surface, being changes that remain clear and observable.

Examples include ploughing, construction of rural infrastructure (such as dams and fences), construction of roads, trails and tracks (including fire trails and tracks and walking tracks), clearing vegetation, construction of buildings and the erection of other structures, construction or installation of utilities and other similar services (such as above or below ground electrical infrastructure, water or sewerage pipelines, stormwater drainage and other similar infrastructure) and construction of earthworks."(DECCW 2010)

## 1.3 Due diligence assessment summary

Background research and database searches identified three Aboriginal sites within 5 km of the study area, and zero sites within the study area. Background research identified that the area has been heavily developed and modified from the 19<sup>th</sup> century onwards, with clearance of mature growth vegetation and evidence of ground disturbance having occurred across the property. The construction of the light rail track adjacent the study area, the modifications of Iron Cove Creek as a concreted stormwater channel and the use of the area as a carpark and storage yard has further contributed to disturbance of the surface and subsurface.



A site inspection undertaken by ELA Graduate Archaeologist Daniel Claggett on 18 January 2019 confirmed the findings of the background research and identified large scale disturbance across the study area. A majority of the site is comprised of levelled land made up of gravelly fill material and regrowth vegetation. Based on the initial desktop assessment of the area and visual inspection, the study area has been assessed as having low to nil potential for archaeological sites to occur. No further archaeological assessment is necessary.



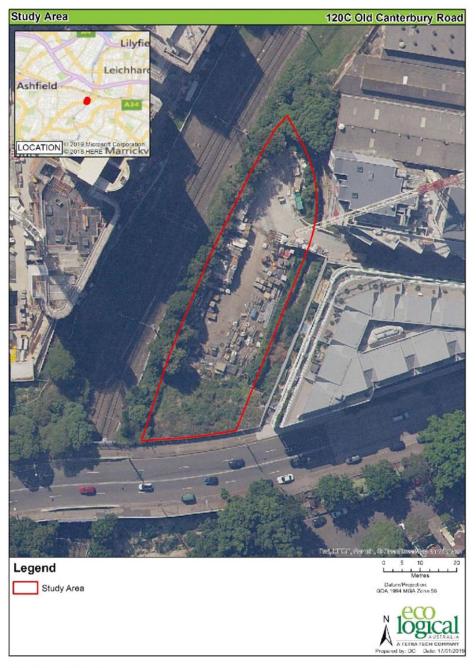


Figure 1: The Study Area

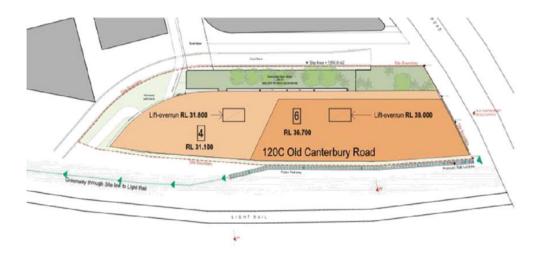


Figure 2: Indicative building footprint (Source: The Yard 120C)

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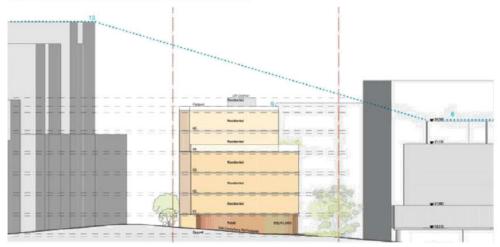


Figure 3: Indicative building elevation viewed from Old Canterbury Road (Source: The Yard 120C)



## 2. Assessment Process

## 2.1 Identify if the proposed activity will disturb the ground surface

The objectives of the planning proposal allow for future development of the study area for medium to high density residential buildings, which will require bulk earthworks, landscape modifications and construction, including penetration of the subsurface. As a result, the due diligence process progressed to the next step.

## 2.2 Database searches and known information sources

#### 2.2.1 AHIMS search

The Aboriginal Heritage Information Management System (AHIMS) is a database maintained by OEH and regulated under Section 90Q of the *National Parks and Wildlife Act 1974*. AHIMS holds information and records regarding the registered Aboriginal archaeological sites (Aboriginal objects, as defined under the Act) and declared Aboriginal places that exist in NSW.

A search of the AHIMS database was conducted on 16 January 2019 to identify if any registered Aboriginal sites were present within, or adjacent to, the study area (**Appendix A**).

The AHIMS database search was conducted within the following coordinates:

GDA: Zone 56

Easting: 326174 - 330174

Northing: 6245944 - 6249944

Buffer: 1 km

The AHIMS search result showed that there are three registered AHIMS sites within 5 km of the study area. No Aboriginal sites have been previously recorded within the boundaries of the study area.

The distribution of recorded Aboriginal sites surrounding the site is shown in Figure 4. The frequencies of site types and contexts recorded within the AHIMS database search area are listed in **Table 1**:

Table 1: Frequencies of site types and contexts

Site Context	Site Features	Number	%
Open Site	Shelter with midden	1	33.33
	Potential Archaeological Deposit (PAD)	1	33.33
	Midden	1	33.33
	Total	3	100



## 2.2.2 Local, state and national heritage registers

Searches of the Australian Heritage Database, the State Heritage Register (SHR) and the Ashfield LEP 2013 utilising the terms 'Summer Hill, NSW' were conducted on 11 January 2019 in order to determine if any places of archaeological significance are located within the study area.

No Aboriginal archaeological sites or heritage items were recorded on these databases within the study

One historic heritage item listed on the Ashfield LEP 2013 is located adjacent to the study area. The item is listed as Former Flour Mill Complex (item number: 619) and is separated from the study area by a light



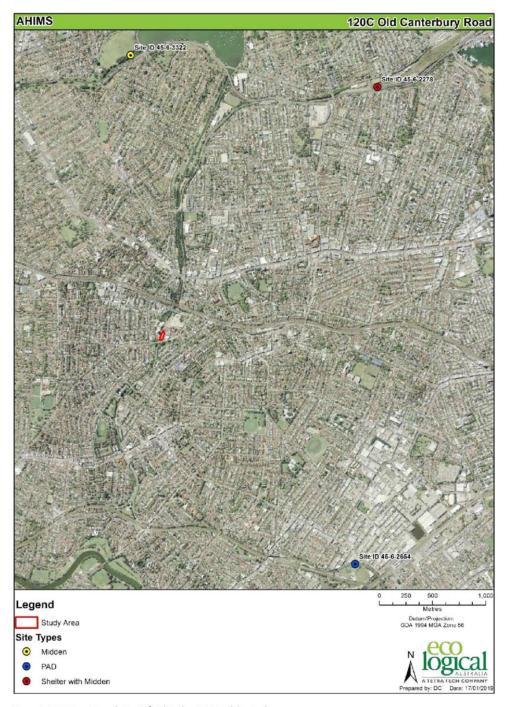


Figure 4: AHIMS registered sites in/within the vicinity of the study area



#### 2.2.3 Brief Historical Background

The area that makes up the Ashfield LGA is the traditional country of the Wangal (Wongol or Wanegal) people and the Gadigal (Kadigal) people, both Dharug speaking Aboriginal groups.

The earliest records of European involvement in the Ashfield municipality are from February 1788, when an expedition led into Long Cove (Iron Cove) by Captain John Hunter and Lieutenant William Bradley passed through the area. The development of the Ashfield area was closely tied with the construction of a track connecting the settlement of Sydney to Rosehill (now Parramatta) in 1789. This track would eventually become Parramatta Road and the Ashfield area was initially developed as part of expansion outwards from this road. This development increased further when a second major road, the Great South Road (now Liverpool Road) was built in 1813.

The first land grant within the Ashfield municipality was a 100-acre grant made to Reverent Richard Johnson in 1793. This land grant was known as 'Canterbury Farm' or 'Canterbury Vale' and was made alongside a series of other land grants in the area, ranging in size for 15 acres to 100 acres. These initial land grants in the area were eventually consolidated in the early 19<sup>th</sup> century and by the late 1820s a substantial portion of the Ashfield municipal area had been consolidated by four landowners - Robert Campbell, Simeon Lord, Henry Kable and Joseph Underwood. The estates run by these individuals would determine land-use patterns into the second half of the 19<sup>th</sup> century. It is from Joseph Underwood's estate, named 'Ashfield Park' that the municipal area would acquire its name.

The first major development in the Ashfield municipal region during this period occurred when a small section of Joseph Underwood's 'Ashfield Park', located close by the intersection of Parramatta and Liverpool Road, was subdivided and offered for sale as the 'Village of Ashfield' in 1838. Similarly, Robert Campbell also began subdivision of his estate in an area between Liverpool Road and Norton Street around the same time. The present-day Ashfield Town Centre evolved from these two villages. Further subdivision of the Underwood Estate would continue throughout the 19<sup>th</sup> century and by the 1870s the Underwood Estate consisted of land in an area which began to become known as 'Summer Hill', thought to be a corruption of 'Sunning Hill', the name of another land grant on the opposite side of Parramatta Road. The name 'Summer Hill' had gradually come to be associated with the area covered by the Underwood Estate during the mid-nineteenth century and it was eventually adopted for the present-day Summer Hill Station when it opened in September 1879 (Weir Phillips Heritage 2016).

An 1898 Parish of Petersham map shows the area as having already been densely developed by the late 19<sup>th</sup> century (**Figure 5**). Archival photography detailing the conversion of Iron Cove Creek into what is now known as Hawthorne Canal shows heavy disturbance and bulk earthworks associated with the construction of the canal (**Figure 6**). Aerial imagery dated to 1943 confirms the high-density nature of the area and also shows the construction of the light rail track and heavy modifications to Iron Cove Creek since the 1898 parish map was created (**Figure 7**). Additionally, a geotechnical report of the study area in 2018 which analysed historic aerial imagery of the site identified that levelling and laying of asphalt had taken place across the study area in the 1970s for the construction of a carpark (Network Geotechnics 2018).



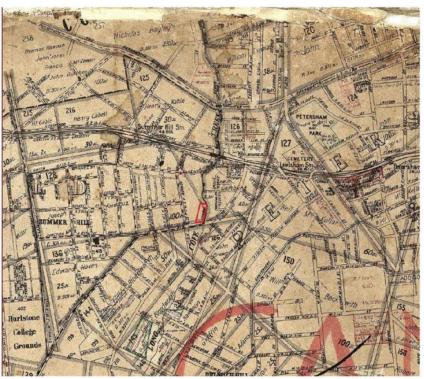


Figure 5: 1898 parish map with the approximate location of the study area outlined in red



Figure 6: Construction of Hawthorne Canal, 1890-91. The section of the canal shown is located north of the study area (SR: NRS 17420 item 621/14)

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Figure 7: 1943 aerial imagery of Summer Hill with the approximate location of the study area outlined in red

## 2.2.4 Previous archaeological investigations

There have been several archaeological studies conducted in the Inner Western region of Sydney in recent years. A majority of these studies have focussed on historical archaeology, as the heavily disturbed nature of the region and its geological character make Aboriginal heritage rare. A summary of these studies and their findings is presented below.

<u>Archaeological and Heritage Management Solutions Pty Ltd, 2008. Allied Flour Mills Site – Aboriginal Heritage Impact Assessment.</u> Prepared for EG Funds Management.

AHMS was engaged by EG Funds Management to undertake an Aboriginal heritage assessment of the Allied Flour Mills sites in Summer Hill, located directly adjacent to the western border of the current study area. Aboriginal community consultation formed a part of this study, which included site survey with a representative of the Metropolitan Local Aboriginal Land Council (LALC).

A majority of the site, including the entire area bordering the current study area, was assessed as having low archaeological potential due to significant levels of cutting and filling, as well as the long history of usage, exploitation and modification of Iron Cove Creek (Hawthorne Canal). A small portion in the western half of the site was determined to have moderate archaeological potential, based on historical use of the land in this area being low impact in nature (residential housing). Recommendations provided by the AHMS study stated that any development in the moderately sensitive section of the site would require subsurface investigation, but that no further archaeological assessment would be required for the rest of the study area.



## Weir Phillips Heritage, 2016. Heritage Assessment: 39 Smith Street, Summer Hill.

Weir Phillips Heritage was engaged in 2016 to provide a heritage assessment for the property owner of 39 Smith Street, Summer Hill. No archaeological assessment was undertaken as a part of this study and the assessment consisted of desktop research and site survey.

The study area was identified as a listed heritage item on the Ashfield LEP 2013 Schedule 5. The site was listed based on its aesthetic significance as an example of Rustic Gothic architecture. However, the study noted that the house had undergone significant modification and alterations to its appearance and structure. The study concluded that based on these alterations and the unremarkable history of the item that it should be removed from Schedule 5 of the Ashfield LEP 2013.

Quoyle & Associates, 2017. Landscape Heritage Report: 16 Margaret Street, Strathfield. Prepared for Meriden School for Girls.

Quoyle & Associates (Q&A) were previously engaged by Meriden School for Girls to prepare a landscape assessment for the Lingwood Campus of Meriden School (Lot 1 DP 1244199), 16 Margaret Street, Strathfield, NSW.

The landscape assessment aimed to identify the landscape characteristics, areas and items of cultural landscape significance and to inform the preparation of an architectural design proposal which is integrated with the landscape setting of Lingwood. The site itself is a locally listed heritage item (item no: 1176) in Schedule 5 Part 1 of the Strathfield LEP 2012, where it is identified as "Lingwood— Victorian house and garden (formerly Branxton)".

<u>CSJ Consulting, 2017. Construction Heritage Management Plan: M4 East – Design and Construction.</u>

Prepared for WestConnex.

CSJ Consulting were previously engaged to develop a heritage management plan to support the construction of M4 East between the suburbs Homebush and Haberfield, which forms part of the larger WestConnex project.

The study goes into detail regarding historic heritage within the area, but only gives brief mention to Aboriginal heritage. One AHIMS site was identified within the study area, but outside of the development footprint of the project. The study also identified two areas of potential archaeological sensitivity within the study area; but again, identified these areas as being outside the project footprint and will therefore not to be impacted. The study concluded that based on the terrain within the project footprint being highly disturbed and unlikely to contain unidentified Aboriginal archaeological objects and that further archaeological assessment was not necessary. This study was supported through its initial stages by consultation with the Aboriginal community but did not proceed beyond the second stage of consultation due to the lack of Aboriginal heritage values in the study area and the project gaining approval from the Metropolitan Local Aboriginal Land Council.



## 2.3 Landscape assessment

## 2.3.1 Soil landscapes and geology

The study area is within the Cumberland Plain physiographic region. The Cumberland Plain is characterised by gently undulating low hills and plains. Topography within study area is characterised by a largely flat landform with a gentle slope to the west and north-west.

The local geology comprises Wianamatta Group Ashfield Shale of laminate and dark grey siltstone, Bringelly Shale and Minchinbury Sandstone consisting of fine to medium-grained quartz lithic sandstone. The geomorphology is gently undulating rises on Wianamatta Group shales with local relief to 30 m and slopes usually less than 5% (Bannerman & Hazelton 1990:29).

The soil landscape that makes up the study area is the Birrong soil landscape (Figure 8). The Birrong soil landscape is occasionally associated with lower slopes of the Blacktown soil landscape, which sometimes adjoins and overlaps the Birrong soil landscape. Birrong soils consist of dark brown pedal silty clay loams (A1) and bleached, hard setting clay loam (A2) as its top soils. B horizon soils range between an orange mottled silty clay and a brown mottled clay, with the latter occurring typically as a deep subsoil. The soil that overlays the bedrock (C or D horizon) is a light grey, mottled saline clay with a strong pedal structure.

A geotechnical report of the study area was prepared in 2013 which included a contamination test of the subsurface soils. Five boreholes were drilled at depths of between 3.6 m and 4.8 m below the current surface level to test levels of soil contamination. The boreholes revealed a subsurface profile comprised of fill over residual clays overlying sandstone bedrock. A 20mm thick asphaltic concrete pavement was penetrated at four of the five borehole locations (presumably from the 1970s carpark), with BH1 encountering a gravelly sand fill at the surface. Fill was encountered to depths of 0.3m (BH4) and 2.1m (BH2) and typically comprised of gravelly sand and sandy gravelly clay, with sandstone, igneous, brick and ash fragments. The fill was assessed to be poorly compacted (JK Geotechnics 2013).

## 2.3.2 Hydrology

Iron Cove Creek (now Hawthorne Canal) is southern tributary of the Parramatta River that empties into Iron Cove and is located adjacent the eastern border of the study area. Hawthorne Canal was built in the late 19<sup>th</sup> century to serve as a stormwater channel and catchment area for the inner-western suburbs of Sydney.

## 2.4 Predictive model

Based on the material evidence and range of archaeological sites across the Cumberland Plain, it is clear that Aboriginal people have been utilising the land and resources within the Cumberland Plain for thousands of years. The predictive model outlined in **Table 2** below has been developed for the study area based on the AHIMS search results, landscape assessment and regional and local Aboriginal archaeological context outlined above.



Table 2: Predictive Model

Description
Open camp sites represent past Aboriginal subsistence and stone knapping activities, and include archaeological remains such as stone artefacts and hearths. This site type usually appears as surface scatters of stone artefacts in areas where vegetation is limited and ground surface visibility increases. Isolated finds may represent a single item discard event, or be the result of limited stone knapping activity. The presence of such isolated artefacts may indicate the presence of a more extensive, in situ buried archaeological deposit, or a larger deposit obscured by low ground visibility.  Due to the heavily disturbed / modified nature of the study area, its subsurface and its surroundings, it is unlikely that this site type will occur.
Potential Archaeological Deposits (or PADs) are areas where there is no surface expression of stone artefacts, but due to a landscape feature there is a strong likelihood that the area will contain buried deposits of stone artefacts.  Due to the heavily disturbed / modified nature of the study area, its subsurface and its surroundings, it is unlikely that this site type will occur.
Tree bark was utilised by Aboriginal people for various purposes, including the construction of shelters (huts), canoes, paddles, shields, baskets and bowls, fishing lines, cloaks, torches and bedding, as well as being beaten into fibre for string bags or ornaments (sources cited in Attenbrow 2002: 113). Trees may also have been scarred in order to gain access to food resources (e.g. cutting toe-holds so as to climb the tree and catch possums or birds), or to mark locations such as tribal territories. Such scars, when they occur, are typically described as scarred trees.  The area has been cleared of mature growth vegetation, making it unlikely that this site type will occur.

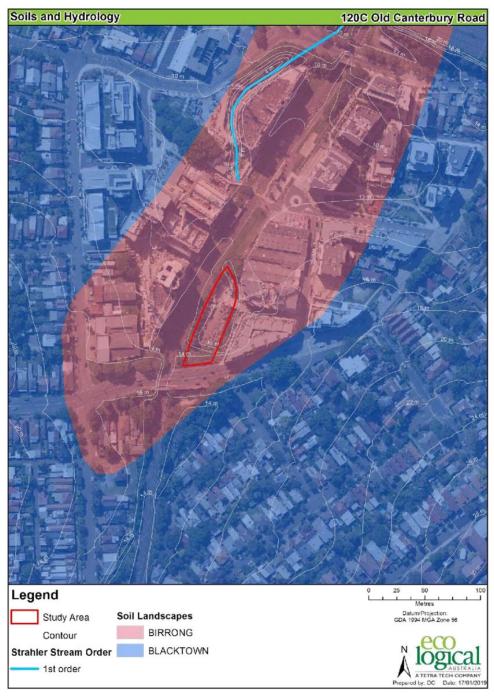


Figure 8: Soil landscapes and hydrology (the first-order stream represents a section of Hawthorne Canal)

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## 2.5 Impact avoidance assessment

No previously recorded Aboriginal archaeological sites, Aboriginal objects or items of Aboriginal heritage significance exist within the study area. As the proposed works will involve disturbance of the subsurface, it is required that the next step of the due diligence process be carried out. Site survey was required to determine the likelihood of the Aboriginal sites occurring within the study area.

## 2.6 Visual inspection

A visual inspection of the study area was undertaken by ELA Graduate Archaeologist Daniel Claggett on 18 January 2019. Visual inspection aimed to identify Aboriginal objects if present and assess the archaeological potential of the subsurface.

The site survey identified large scale disturbance had taken place across the entire study area. Ground visibility was high, between 80 - 90%, due to a majority of the study area lacking vegetation (**Figure 9**). The only vegetation that exists within the study area consisted of mostly dead regrowth located on a steeply elevated area in the south (**Figure 10**). The study area appears to have been levelled (**Figure 11**, 12), confirming the conclusions of the 2018 geotechnical report which, through analysis of historical aerial imagery, identified the study area as having been levelled and converted into a carpark in the 1970s.



Figure 9: Example of the surface of the study area, facing northwest



Figure 10: View of steeply elevated southern boundary. The green vegetation serves as the border between the study area and an adjacent greenway



Figure 11: General view of the study area, facing north



Figure 12: General view of the study area, facing south

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The study area is bordered by Hawthorne Canal to the east and a greenway that runs along the light rail track to the west. Hawthorne Canal and its surrounding area is heavily disturbed, with the entirety of the canal concreted over and its banks made up of regrowth vegetation and weeds (Figure 13). Additionally, an access bridge has been constructed over the canal into the study area (Figure 14). The greenway to the west appears to consist of vegetation grown in the 20<sup>th</sup> century (Figure 15, 16). This is confirmed by 1943 aerial imagery, which shows the greenway area as being clear of vegetation.



Figure 13: Hawthorne Canal, facing south



Figure 14: Section of Hawthorne Canal running underneath the access bridge, facing northeast



Figure 15: The greenway that borders the study area, facing



Figure 16: The greenway that borders the study area, facing

Overall, the study area consists of a heavily disturbed landscape, with evidence of large scale earthworks, clearance of mature growth vegetation and disturbance of the subsurface by the construction of Hawthorne Canal in the late 19<sup>th</sup> century and a carpark in the 1970s.



# 3. Statutory Requirements

Aboriginal objects and places in NSW are afforded protection under the *National Parks and Wildlife Act* 1974 (NSW) regardless if they are registered on the Aboriginal Heritage Information Management System (AHIMS) register or not. Strict penalties apply for harm to an Aboriginal object or place without a defence under the Act. Under Section 87 of the Act there are five defences to causing harm to an Aboriginal object:

- The harm was authorised under an AHIP.
- By exercising due diligence and be able to demonstrate this.
- The actions complied with a code of practice as described in the National Parks and Wildlife
  Regulation 2009, for example, undertaking test excavation in accordance with the 'Code of
  Practice for Archaeological Investigation of Aboriginal Objects in NSW'.
- It was a low-impact activity or omission under the regulation and where you don't know that an Aboriginal object is already present.
- Was an exemption under Section 87A, for example emergency fire-fighting act or bush fire hazard reduction work within the meaning of the Rural Fires Act 1997.

If an AHIP application is required, the OEH necessitate that it is supported by an Aboriginal Cultural Heritage Assessment (ACHA) prepared in line with the 'Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (OEH 2010)', and a copy an approval for the development or infrastructure under Part 4 or Part 5 of the *Environmental Planning and Assessment Act 1979* (NSW).



### 4. Conclusions and Recommendations

The purpose of this Aboriginal heritage due diligence is to identify if there are registered Aboriginal sites and/or sensitive landforms which may indicate the presence of Aboriginal sites and may therefore require further assessment and approval under Part 6 of the National Parks and Wildlife Act 1974.

ELA has undertaken an extensive search of the AHIMS database maintained by the OEH and a review of available background reports. Three registered AHIMS sites are located within 5 km of study area. Analysis of available aerial imagery and historic maps of the study area suggests that the area has been heavily developed and modified from the 19<sup>th</sup> century onwards, with clearance of mature growth vegetation and evidence of ground disturbance having occurred across the property. The construction of the light rail track adjacent the study area, the conversion of Iron Cove Creek into the concreted Hawthorne Canal and the use of the area as a carpark and storage yard has further contributed to disturbance of the surface and subsurface. Review of previous studies within and adjacent to the study area strongly suggest that heavy disturbance has taken place both on the surface and within the subsurface.

A site inspection undertaken by ELA Graduate Archaeologist Daniel Claggett on 18 January 2019 confirmed this heavy disturbance, with a majority of the study area comprised of levelled land made up of gravelly fill material and regrowth vegetation.

Following an analysis of the desktop assessment and observations made during the archaeological field survey the entire study area has been identified as having nil to low archaeological potential. There is no requirement for further archaeological assessment within the study area. An AHIP application is therefore not required.

#### 4.1 Recommendations

Based on the findings of this due diligence and the requirement of the NP&W Act the following is recommended.

#### **Recommendations - General measures**

- Due to the level of past soil disturbance and low sensitivity for Aboriginal objects to exist, no further assessment for Aboriginal heritage is recommended. Aboriginal objects are protected under the NPW Act regardless if they are registered on AHIMS or not. If suspected Aboriginal objects, such as stone artefacts are located during future works, works must cease in the affected area and an archaeologist called in to assess the finds. If the finds are found to be Aboriginal objects, the OEH must be notified under section 89A of the NPW Act. Appropriate management and avoidance or approval under a section 90 AHIP should then be sought if Aboriginal objects are to be moved or harmed.
- In the extremely unlikely event that human remains are found, works should immediately cease
  and the NSW Police should be contacted. If the remains are suspected to be Aboriginal, the OEH
  may also be contacted at this time to assist in determining appropriate management.



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# Appendix A AHIMS Search Results



### AHIMS Web Services (AWS) Search Result

Purchase Order/Reference : 12306

Client Service ID : 392935 Date: 16 January 2019

Eco Logical Australia Pty Ltd - Sydney

PO Box 12 668 Old Princes Hwy Sutherland New South Wales 1499

Attention: Daniel Claggett

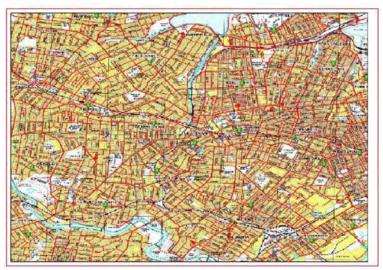
Email: daniel.claggett@ecoaus.com.au

Dear Sir or Madam

AHIMS Web Service search for the following area at Datum: GDA. Zone: 56. Eastings: 326714 - 330174.

Northings: 6245944 - 6249944 with a Buffer of 1000 meters, conducted by Daniel Claggett on 16 January 2019.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

- 3 Aboriginal sites are recorded in or near the above location.
- 0 Aboriginal places have been declared in or near the above location.

chment 9



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NSW	Office of Environment & Heritage	AHIMS Web Services (AWS) Extensive search - Site list report	1							r Ref/PO Number : 12306 ent Service ID : 392935
SiteID	SiteName	Datum	Zone	Easting	Northing	Context	Site Status	SiteFeatures	SiteTypes	Reports
45-6-2278	Lilyfield Cave	AGD	56	330310	6250290	Closed site	Valid	Shell: Artefact:	Shelter with Midden	102201
	Contact	Recorder	E Mic	hael Guider				<u>Permits</u>		
45-6-2654	Fraser Park PAD	AGD	56	330100	6245800	Open site	Valid	Potential Archaeological Deposit (PAD): -		98669
	Contact	Recorder	a Na	rin Officer He	ritage Consulta	ints Pty Ltd		Permits	1639	
45-6-3322	Timbrell Park Midden	GDA	56	327989	6250589	Open site	Valid	Shell:-		
	Contact	Recorder	E OE	H.Sam Higgs				<b>Permits</b>		

Report generated by AHIMS Web Service on 16/01/2019 for Dualed (laggett for the following area at Datum GDA, Zone : 56. Eartings: 326714 - 330174. Northings: 6245944 - 6249944 with Buffer of 1000 meters: Additional Info: Aboriginal Heritage Due Diligence Assessment. Number of Aboriginal attes and Aboriginal objects found is 3 This information to sort parameted to be the from error consistence. Office of Enricements and Fertage (1974) and tit employees disclaim labelity for any actions or doubter or doubt or doubt on the information and consequences of such

Page 1 of 1











Attachment 9 – SEPP 55 Report Contained on Council website

> https://www.innerwest.nsw.gov.au/ArticleDocuments/1982/120C %20Old%20Canterbury%20Road%20Summer%20Hill%20-%207.0%20Stage%201%20Preliminary%20site%20investigation %20-%20SEPP%2055.pdf.aspx



Attachment 10 - Design Concept Plan

Contained on Council website

https://www.innerwest.nsw.gov.au/ArticleDocuments/1982/120 C%20Old%20Canterbury%20Road%20Summer%20Hill%20-%208.0%20Design%20concept%2023%20August%202018.pd f.aspx



#### Attachment 11

### **Planning Proposal Assessment**

Assessment against "A guide to preparing planning proposals" 2016.

## 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	The statement given in the Planning Proposal is satisfactory.
	outcomes.	

## 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.	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.
		The proposed amendments to the Maximum Height of Buildings is expressed as Maximum RL 38.

#### Part 3 - Justification

	Guideline Requirements	Officer Comments
2.3	Guideline Requirements  Requires adequate justification documentation to be provided for the specific land use and development standards proposed to the LEP.	Officer Comments  Design concept drawings and relevant documentation has been provided to support the proposed development standards taking into consideration the unique constraints on the site.  The designs demonstrate that a future building can be above the 1:100 floodplain level, have a 6 storey building relative to Old Canterbury Road with the northern component of a building at 4 storeys to ensure adequate winter solar access to apartments at 120 B Old Canterbury Road.
		A Flood Risk Assessment Report has been provided to address the inconsistency with Section 9.1 Direction 4.3 Flood Prone Land, as required by the Gateway conditions. The Department has reviewed the report and advised on 4 October 2018 that the inconsistency is of minor significance.

# 2.3.1 Questions to consider when demonstrating the justification

	Guideline Requirements	Officer Comments			
Section	Section A – Need for Planning Proposal				
Q1	Is the planning proposal part of any	The proposal is not part of any strategic study			
	strategic study or report?	but was part referenced in the reporting to the			
		former Ashfield Council in 2013 on the draft			
		Ashfield Comprehensive LEP 2012 with			
		Council resolving to receive a Planning			

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		Proposal to consider land use zoning and FSR and Height amendments after gazettal of the LEP which occurred in December 2013,
		The western allotment adjacent to the railway land (future Greenway) was formerly owned by the State Government (Sydney Trains), and later acquired by the present owners. The land was zoned SP2 Infrastructure in the Ashfield LEP 2013, reflecting the then Railways Corridor use. This zoning no longer reflects the use of the land and needs to be corrected.
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.
Section Q3a	on B – relationship to strategic planning Does the proposal have strategic	g framework
QJa	merit? Is it:	
	Consistent with the relevant District Plan within the Greater Sydney region.	The Proposal has now been updated to address the Greater Sydney Region Plan 2018 and Eastern City District Plan 2018.
	Consistent with a relevant local council strategy that has been endorsed by the Department	The Ashfield Urban Planning Strategy 2010 was approved by the Department of Planning and Environment and the B4 land use proposed for the western allotment is consistent with that Strategy since it mirrors the zoning of the adjacent eastern portion, also adjacent sites in the McGill Street precinct.
	Does the proposal have strategic merit with regard to the following :	
	The natural environment	The applicant has provided a flood risk assessment report by Cardno in response to a Gateway Determination condition.
		The report has been reviewed by Council's Engineers who concluded the Section 9.1, Direction 4.3 – Flood Prone Land inconsistency is of minor significance.
		The Department of Planning and Environment letter of 4 October 2018 "agreed that the inconsistency is justified in accordance with the terms of the Direction", and that the Community Consultation stage could be carried out.
		The site does not contain any substantial trees.
		There are trees in close vicinity adjacent to the western boundary in the Railways land and with canopies that extend into the site. These trees are also within the future proposed Greenway corridor. Under the Infrastructure SEPP Transport NSW are free to remove these trees. They include Campher Laurel and Privet which are considered "weeds" and so it is likely that this will influence the TNSW



		position. Also the Greenway Masterplan and the current related Development Application aim to add large numbers of new and better species trees in the railway corridor. This initiative could be extended to replace these "weed" trees.
	The existing uses, approved uses, and likely future uses of land in vicinity of the proposal.	The site has no buildings and is mostly unused at the present.  The proposed development will affect apartments at 120B Old Canterbury Road, and at 12 McGill Street, in terms of solar access and building separation.  The Design Concept demonstrates that it is possible to have building envelopes which will provide a minimum 2 hours of winter solar access and adequate building separation in accordance with the Apartment Design Guidelines.
	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	There are existing water and sewerage services, and vehicular access from McGill Street via a private laneway for which the owner has a right of way. There are nearby primary and high schools, and bus, light and heavy rail services.
Q4	Is the proposal consistent with a council's local strategy or other local strategic plan?	The Planning Proposal is consistent with the Ashfield Urban Planning Strategy 2010. Rezoning of the western allotment of the site to B4 is consistent with the existing zoning of the easterly portion of the site.
Q5	Is the planning proposal consistent with applicable State Environmental Planning Policy	The Planning Proposal is consistent with the applicable SEPPs. Also in response to SEPP 55 a Phase 1 Site Assessment has not found any contamination which would adversely affect the proposed use of the site.
Q6	Is the Planning Proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?	The Planning Proposal has been updated to address the relevant Section 9.1 Directions at August 2018.  The Gateway Determination requires the applicant to demonstrate that the proposal is justifiably inconsistent with Direction 4.3 – Flood Prone Land. The applicant has provided a detailed flood study which has been reviewed by Council's Engineers and the Department of Planning. They have agreed that the inconsistency is of minor significance and can be justified
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. The site is barren as indicated in site photos in the planning report. It has been levelled and used for storage for many decades.
Q8	Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?	There are no other substantial environmental effects that are known of within the site.  Existing trees along the western boundary with railways land are species classified as "weeds" and

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	T	an be uniformly with better exercise
00	Harrison the Blancian Branca	can be replaced with better species.
Q9	How has the Planning Proposal	Yes, the site contains no buildings and appears
	adequately addressed any social and economic effects?	mostly unused.
Q10	Is there adequate public infrastructure	The site has restricted vehicular access, with the
QIO	for the Planning Proposal?	main part of the site being approx. 7.5 - 8 metres below Old Canterbury Road. Vehicular access to the site is reliant on the laneway on the property of 120B Old Canterbury Road.
		The site owner has advised Council that they have a Right of Way along the laneway that includes construction of a bridge between the laneway and the site. The proposed draft DCP requires that evidence for this right of way and for other associated requirements be submitted with a future Development Application.
Q11	What are the views of State and Commonwealth authorities consulted in accordance with the gateway determination?	Public Authorities have been formally consulted as required by the Gateway Determination. Refer to the Report to Council for their responses.
2.4 M	apping	
		The Planning Proposal has provided the required Maps for Land Use Zoning, Maximum Floor Space Ratio and Maximum Height of Buildings.
2.5 C	ommunity Consultation	
		The Planning Proposal has been formally exhibited for a minimum of 28 days, between 16 October 2018 and 13 November 2018, in accordance with the Gateway Determination.
2.6 Pr	roject Timeline	
		The Department has provided an alteration to the Gateway Determination, dated 25 October 2018, to provide a revised timeframe for the LEP to be completed by 25 April 2019.



Attachment 12 - Flood Report

Contained on Council website

%2023%20August%202018.pdf.aspx

https://www.innerwest.nsw.gov.au/ArticleDocuments/1982/120C%20Old %20Canterbury%20Road%20Summer%20Hill%20-%206.0%20Flood%20risk%20assessment%20report%20-