

ORDINARY COUNCIL MEETING

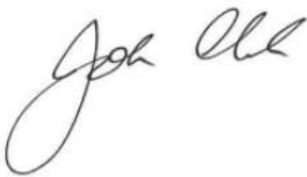
AGENDA

Notice is hereby given that an Ordinary Council Meeting will be held at the:

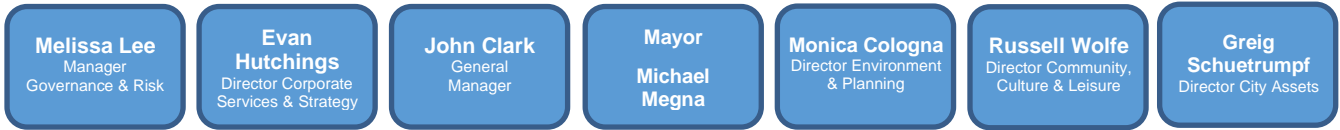
Council Chambers, City of Canada Bay Civic Centre, Drummoyne

Tuesday, 15 April 2025

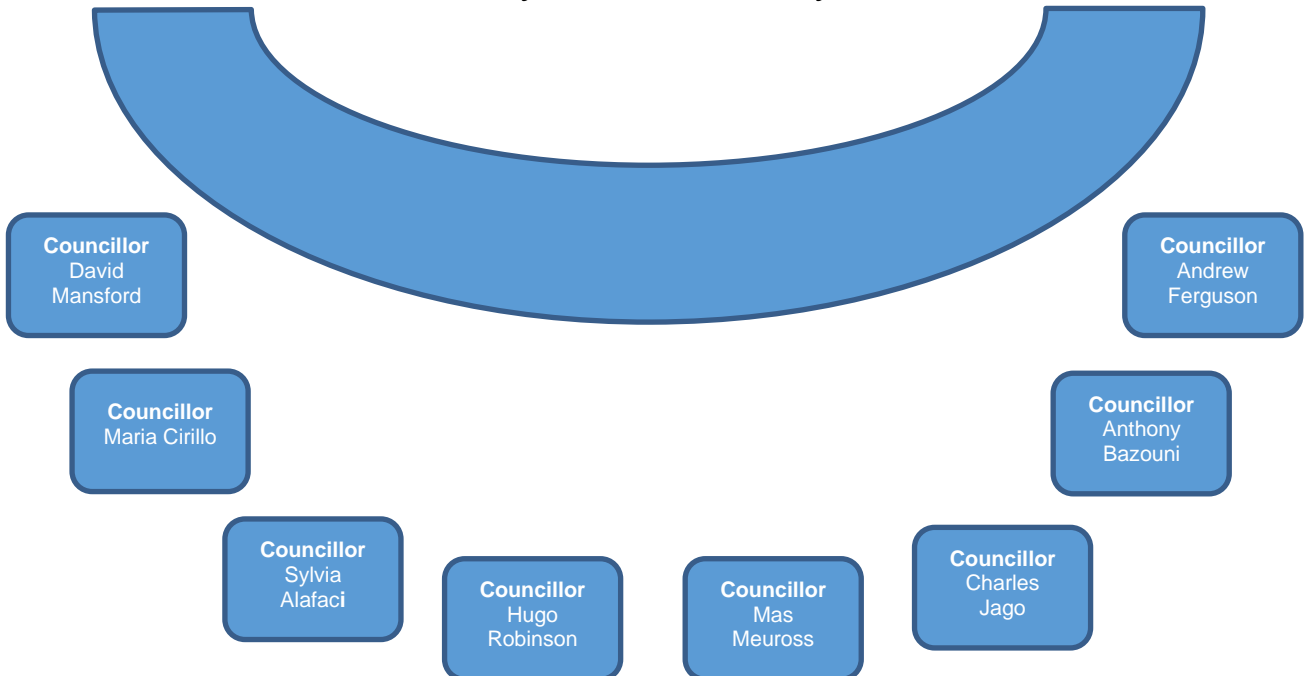
Beginning at 6:00 PM for the purpose of considering and determining matters included in this agenda.



John Clark
General Manager



**Councillors
 City of Canada Bay**



Statement of Ethical Obligations

The Mayor and Councillors are bound by the Oath/Affirmation of Office made at the start of the Council term to undertake their civic duties in the best interests of the people of the City of Canada Bay and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act or any other Act, to the best of their skill and judgement.

It is also a requirement that the Mayor and Councillors disclose conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with Council's Code of Conduct and Code of Meeting Practice.

**Agenda for an Ordinary Council Meeting
to be held on Tuesday 15 April 2025
at the Council Chambers, City of Canada Bay Civic Centre, Drummoyne
Commencing at 6:00 PM**

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1 ACKNOWLEDGEMENT OF COUNTRY

The City of Canada Bay acknowledges the Wangal clan, one of the 29 tribes of the Eora nation and the traditional custodians of this land.

The City's Council pays respect to Elders past and present and extends this respect to all Aboriginal people living in or visiting the City of Canada Bay.

2 APOLOGIES AND APPLICATIONS FOR LEAVE OF ABSENCE BY COUNCILLORS

In accordance with clauses 6.3, 6.4 and 6.5 of Council's Code of Meeting Practice, apologies must be received and accepted from absent Councillors and a leave of absence from the Council Meeting may be granted.

3 CONFIRMATION OF MINUTES

3.1 MINUTES OF ORDINARY COUNCIL MEETING HELD 18 MARCH 2025

RECOMMENDATION

That the minutes of the Ordinary Council Meeting of 18 March 2025 copies of which were previously circulated, are hereby confirmed as a true and correct record of the proceedings of that meeting.

4 DISCLOSURES OF INTERESTS

In accordance with Part 16 of Council's Code of Meeting Practice, all Councillors must disclose and manage any conflicts of interest they may have in matters being considered at the meeting.

5 MAYORAL MINUTE(S)**ITEM 5.1 MAYORAL MINUTE - PROTECTING OUR LOCAL PARKLAND**Submitted by: Councillor Michael Megna (Mayor)

MOTION

That Council Staff undertake a review of parks with an area of 2 hectares or more in the City of Canada Bay to identify those parks that are at significant risk of being overshadowed by future development and that the outcome of the review be considered at a future Council workshop.

BACKGROUND

The City of Canada Bay takes great pride in its diverse range of parks and reserves, which serve as vital green spaces for both residents and visitors. These areas, from intimate pocket parks to expansive recreational precincts, offer a variety of opportunities for active and passive recreation.

Beyond supporting sports and leisure activities, our parklands play a crucial role in enhancing the city's environmental quality and well-being.

A recent proposal has brought to light the overshadowing impact of a potential development on local open space. As the City of Canada Bay continues to grow and develop, it is essential that our parks continue to receive adequate sunlight to remain healthy and accessible for all.

I am requesting that staff conduct a review of our most significant parks to identify those at risk of being overshadowed, ensuring that our green spaces continue to thrive in the face of ongoing development.

ITEM 5.2 **MAYORAL MINUTE - FEASIBILITY ASSESSMENT FOR UPGRADING FACILITIES AT QUARANTINE RESERVE, ABBOTSFORD**Submitted by: Councillor Michael Megna (Mayor)

MOTION

That Council undertake a feasibility assessment to examine opportunities for upgrading facilities at Quarantine Reserve, Abbotsford, with findings reported back to a future Council workshop for consideration.

BACKGROUND

Quarantine Reserve in Abbotsford is a beloved local foreshore space, known by our community for its scenery and unique historical significance. Recently, I have had the pleasure of attending a number of community functions at this reserve and each time it is evident just how valued and extensively used this park is by our community.

The reserve holds significant historical value, having served as an animal quarantine station, established by the Commonwealth Government in 1916.

Given the popularity, heritage, and extensive use of Quarantine Reserve, I propose that Council undertake a feasibility assessment exploring potential upgrades to the park's facilities such as new BBQ facilities and enhanced shade structures.

Such improvements could greatly enhance the experience for our residents and visitors, ensuring that the reserve continues to be a safe, accessible, and welcoming space for community events and daily enjoyment.

6 PUBLIC FORUM

In accordance with Part 5 of the Code of Meeting Practice, residents, ratepayers, applicants or other persons may request to address Council in relation to any one matter related to the general business of Council but not the subject of a report on the agenda (Public Forum) and no more than two matters listed for consideration on the agenda (Public Address).

7 ITEMS RESOLVED BY EXCEPTION

Nil

In accordance with Part 13 of the Code of Meeting Practice, items that are dealt with by exception are items where the recommendations contained in the staff reports in the agenda are adopted without discussion.

8 EXECUTIVE SERVICES DIRECTORATE REPORTS

Nil

9 ENVIRONMENT AND PLANNING DIRECTORATE REPORTS

ITEM 9.1 DA DETERMINATIONS BY THE LOCAL PLANNING PANEL AND STAFF UNDER DELEGATION

Reporting Manager Manager Statutory Planning

Attachments: Nil

RECOMMENDATION OF DIRECTOR ENVIRONMENT AND PLANNING

That Council receive and note the information contained in the report on development application determinations by the Local Planning Panel, and Staff, under delegation for the period 1 March 2025 to 31 March 2025.

PURPOSE

This report outlines development application (DA) determinations by the Canada Bay Local Planning Panel (CBLPP) and Staff under delegation for the period from 1 March 2025 to 31 March 2025.

EXECUTIVE SUMMARY

This report provides Development Application statistical data in accordance with Council's resolution of 6 February 2018 on applications received, determined, and applications considered by the Canada Bay Local Planning Panel (CBLPP).

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 3: Vibrant Urban Living

Goal VUL 4: Ensure the built environment respect the unique neighbourhood character and responds deftly to evolving community needs

BACKGROUND/DISCUSSION

This report provides DA statistical data in accordance with Council's resolution of 6 February 2018 on applications received, determined and applications considered by the Canada Bay Local Planning Panel (CBLPP).

Items for CBLPP Meeting on 26 March 2025

The following applications were listed for consideration at the CBLPP meeting on 26 March 2025:

- DA2025/0013 - 12 Byrne Avenue, Drummoyne - Construction of a new detached open cabana and enclosed toilet – *Approved subject to conditions.*
- DA2024/0236 - 361P Victoria Place, Drummoyne - Remediation works including demolition, earthworks and capping of contaminated soil to allow the construction of landscaping improvements to public recreation areas (Landscaping improvements do not form part of this development application) – *Approved subject to conditions.*

Items for CBLPP Meeting on 30 April 2025

At the time of writing this report, the following applications are listed for consideration at the CBLPP meeting on 30 April 2025:

- DA2024/0220 - 38 Leicester Avenue, Strathfield - Demolition of existing buildings and construction of a seven-storey residential flat building with associated landscaping, communal open space, and basement parking with vehicular access from Leicester Avenue.
- DA2024/0199 - 13 Lyons Road, Drummoyne - Construction of an additional level for use as a rooftop bar with internal and external areas at 13 Lyons Road, trading hours for the rooftop bar to match the existing Hotel hours, and alterations and additions to refurbish the Hotel.
- DA2025/0008 - 36 Clermont Avenue, Concord - Demolition of existing heritage listed dwelling, construction of a double storey dwelling and related landscaping.

Development Applications - Determined

The following Development Applications have been determined by staff under delegation between 1 March 2025 to 31 March 2025:

DA NO	DATE LODGED	PROPERTY	DESCRIPTION OF DEVELOPMENT	DATE DETERMINED & DECISION
DA2025/0014	24.01.2025	53 Burnell Street, Russell Lea	Demolition of existing buildings, construction of a two- to three-storey dwelling house with basement, swimming pool and associated landscaping	Approved 3.03.2025
DA2025/0010	23.01.2025	41 Majors Bay Road, Concord	Minor alterations to existing restaurant (cooking and mechanical exhaust system) and extended hours of operation	Approved 4.03.2025
DA2025/0011	23.01.2025	18 Cabarita Road, Concord	Demolition of existing structures and construction of a new two-storey health services facility – dental practice	Approved 4.03.2025
DA2024/0222	22.11.2024	27 Burnell Street, Russell Lea	Proposed new dwelling with rear garage and swimming pool	Approved 4.03.2025
DA2025/0030	14.02.2025	114a Gipps Street, Drummoyne	New balcony and screening at rear of dwelling	Approved 6.03.2025
DA2025/0020	31.01.2025	85 Wareemba Street, Wareemba	Demolition of existing dwelling and related structures, and construction of new two storey dwelling with	Approved 6.03.2025

DA NO	DATE LODGED	PROPERTY	DESCRIPTION OF DEVELOPMENT	DATE DETERMINED & DECISION
			basement, related landscaping	
DA2025/0032	20.02.2025	30 Polding Street, Drummoyne	Removal of Camphor Laurel tree in rear yard and retention and pruning of Cook Pine tree	Approved 11.03.2025
DA2025/0024	11.02.2025	10 Corby Avenue, Concord	Demolition of existing buildings, construction of a two-storey dual occupancy, swimming pool and related landscaping	Refused 11.03.2025
DA2025/0026	21.02.2025	14 Wolseley Street, Drummoyne	Alterations and Additions to Residential Flat Building including replacement of balcony doors, balustrades, tiles and re-waterproofing to units A11, A12, B11 and B12. No works relating to the roof form part of this application	Approved 11.03.2025
DA2024/0224	28.11.2024	14 Plunkett Street, Drummoyne	New Studio and pool in rear yard and new awning roof to main house	Approved 11.03.2025
DA2025/0042	5.03.2025	17 Gears Avenue, Drummoyne	Prune a tree in a rear yard of a site within Heritage Conservation Area	Approved 12.03.2025
DA2025/0023	3.02.2025	34 Mcgrath Avenue, Five Dock	Demolition of existing carport and associated structures and construction of new carport	Approved 13.03.2025
DA2024/0161	5.09.2024	9 Collingwood Avenue, Cabarita	Demolition of existing structures, construction of a dwelling, swimming pool and associated works	Refused 13.03.2025
DA2025/0035	21.02.2025	135 Lyons Road, Drummoyne	Demolition of existing carport and associated structures and construction of new carport	Approved 14.03.2025

DA NO	DATE LODGED	PROPERTY	DESCRIPTION OF DEVELOPMENT	DATE DETERMINED & DECISION
DA2025/0009	22.01.2025	14 Mons Street, Russell Lea	Alterations and additions to an existing dwelling house, including first floor addition	Refused 19.03.2025
DA2025/0033	24.02.2025	6 Lamrock Avenue, Russell Lea	Construction of a Double Storey Dwelling	Approved 19.03.2025
DA2025/0046	5.03.2025	89 St Georges Crescent, Drummoyne	Tree pruning of 5 x Xylosma trees in rear yard of a property in a Heritage Conservation Area	Approved 19.03.2025
DA2024/0063	11.04.2024	17 Moore Street, Cabarita	Demolition of existing dwelling and construction of new dwelling with basement parking, swimming pool and associated landscaping	Approved 20.03.2025
DA2024/0251	24.12.2024	2 Wrights Road, Drummoyne	Alterations and additions to ground and lower ground levels of single dwelling, new rear elevated balcony, reduction to existing in ground pool, new raised terrace beside pool and landscaped area	Approved 20.03.2025
DA2025/0040	28.02.2025	20 Llewellyn Street, Rhodes	Removal of a tree	Approved 25.03.2025
DA2025/0034	21.02.2025	4 Myall Street, Concord West	Alterations and new garage	Approved 26.03.2025
DA2024/0236	5.12.2024	361P Victoria Place, Drummoyne	Remediation works including demolition, earthworks and capping of contaminated soil to allow the construction of landscaping improvements to public recreation areas (Landscaping improvements do not form part of this	Approved – LPP 26.03.2025

DA NO	DATE LODGED	PROPERTY	DESCRIPTION OF DEVELOPMENT	DATE DETERMINED & DECISION
			development application)	
DA2025/0013	24.01.2025	12 Byrne Avenue, Drummoyne	Construction of a new detached open cabana and enclosed toilet	Approved – LPP 26.03.2025
DA2025/0045	5.03.2025	74 Bowman Street, Drummoyne	Alterations and additions to an existing dwelling house	Refused 26.03.2025
DA2025/0001	3.01.2025	51 Myall Street, Concord West	Single storey rear addition and internal alterations to existing dwelling, new detached garage, new east boundary fence and associated retaining walls	Approved 27.03.2025
DA2025/0044	7.03.2025	16 Wareemba Street, Wareemba	Demolition of existing shed and construction of garage with studio on top	Approved 31.03.2025

Total Number of DAs Determined = 26

Development Applications - Lodged

The following Development Applications were lodged with Council during the same period, 1 March 2025 to 31 March 2025:

DA NO	DATE LODGED	PROPERTY	DESCRIPTION OF DEVELOPMENT
DA2025/0041	5.03.2025	347 Victoria Place, Drummoyne	Demolish and reconstruct the existing sea retaining wall and skid ramp as well as works to refurbish the existing swimming pool and surrounds
DA2025/0042	5.03.2025	17 Gears Avenue, Drummoyne	Prune a tree in a rear yard of a site within Heritage Conservation Area
DA2025/0043	5.03.2025	9-11 Leeds Street, Rhodes	Alterations and signage to a previously approved specialised retail premises
DA2025/0045	5.03.2025	74 Bowman Street, Drummoyne	Alterations and additions to an existing dwelling house.
DA2025/0046	5.03.2025	89 St Georges Crescent, Drummoyne	Tree pruning of 5 x Xylosma trees in rear yard of a property in a Heritage Conservation Area
DA2025/0044	7.03.2025	16 Wareemba Street, Wareemba	Demolition of existing shed and construction of garage with studio on top

DA NO	DATE LODGED	PROPERTY	DESCRIPTION OF DEVELOPMENT
DA2025/0051	11.03.2025	5 Irene Street, Wareemba	Demolition of existing buildings, construction of a two storey dwelling over basement, swimming pool, front fence and related landscaping
DA2025/0048	12.03.2025	15 Battersea Street, Abbotsford	Demolition of existing structures, construction of an attached dual occupancy, related landscaping and Torrens title subdivision
DA2025/0049	12.03.2025	20 Burns Crescent, Chiswick	Proposed alterations and additions to an existing semi-detached dwelling, new studio and new swimming pool
DA2025/0050	12.03.2025	61 Wilga Street, Concord West	Construction of a rear ground floor addition to sit below the existing ridge line and keeping pitched roof form, a new carport and an outbuilding to replace existing shed in the same location
DA2025/0047	14.03.2025	63 Consett Street, Concord West	Proposed alterations and additions to heritage item, construct of single storey detached secondary dwelling, double garage and an outdoor pool
DA2025/0052	25.03.2025	12 Cross Street, Five Dock	Alterations and additions including removal of some elements at rear of existing house and existing detached garage. New brick veneer attached extension to rear of house and new brick detached garage
DA2025/0053	25.03.2025	5 Janet Street, Russell Lea	New carport and driveway crossover for existing single storey dwelling house
DA2025/0055	27.03.2025	68 Renwick Street, Drummoyne	Alterations and additions to existing single storey dwelling house and first floor addition
DA2025/0054	28.03.2025	4 Sanders Parade, Concord	Demolition of Existing Dwelling and Erection of New Dwelling
DA2025/0056	28.03.2025	4 Eaton Place, Chiswick	Proposed Swimming Pool and associated barriers
DA2025/0058	31.03.2025	135 Cabarita Road, Cabarita	Proposed demolition of existing fibro and asbestos garage and replacement with a brick double garage

Total Number of DAs Lodged = 17

Variations to development standards

There were two variations made to a development standard (e.g. Building Height, Floor Space Ratio) under the provision of Clause 4.6 of the *Canada Bay Local Environmental Plan, 2013* for the period 1 March 2025 to 31 March 2025:

DA NO	PROPERTY	LEP DEVELOPMENT STANDARD	JUSTIFICATION	EXTENT	DATE APPROVED
DA2025/0033	6 Lamrock Avenue, Russell Lea	Floor Space Ratio, Clause 4.4	The proposal is for the reconstruction of an outbuilding that was recently demolished and the development, as conditioned, will not result in any impacts upon the neighbouring properties.	0.88sqm (1%)	19.03.2025
DA2025/0013	12 Byrne Avenue, Drummoyne	Floor Space Ratio, Clause 4.4	The floor space exceedance will not be readily apparent and there will be minimal environmental impacts arising from the variation.	24.65sqm (20.11%)	26.03.2025

Land and Environment Court Appeals

The following provides an update on Land and Environment Court appeals as at 31 March 2025:

DA/APPEAL NO	PROPERTY	DESCRIPTION OF DEVELOPMENT	CURRENT STATUS
DA2023/0189	9 Seabrook Avenue, Russell Lea	Class 1 appeal against the refusal of a development application for Swimming pool and alterations to existing garage and front fence	No agreement reached at conciliation conference. Awaiting judgement from the Commissioner
DA2024/0138	2-4 Denham Street, Rhodes	Class 1 appeal against the deemed refusal of Integrated Development under the Water Management Act for demolition of existing structures (including three (3) existing dwellings), tree removal, construction of a three (3) level basement for 34 car parking spaces, 4 visitor spaces, 68 bicycle parking spaces and eight (8) motor cycle parking spaces, on-site loading bay, construction of 34 dwellings, comprising 30 apartments (including five (5) adaptable apartments) and four (4) multi-dwelling housing	13 March 2025, appeal upheld with amended plans

DA/APPEAL NO	PROPERTY	DESCRIPTION OF DEVELOPMENT	CURRENT STATUS
		(terraces), on-site landscaping, residential amenities and building services	
DA2024/0072	123 Peninsula Drive, Breakfast Point	Class 1 appeal against the deemed refusal of Integrated development under the Water Management Act for internal alterations and additions to existing heritage building, construction of two new structures, basement, swimming pool and related landscaping	S34AA listed for 7 May 2025
DA2024/0138	49 Nield Avenue, Rodd Point	Class 1 appeal against the refusal of demolition of a dwelling and construction of a two-storey dwelling over basement carpark, swimming pool and related landscaping	S34AA listed for 19 June 2025

There are three (3) active appeals before the Land and Environment Court.

FINANCIAL CONSIDERATIONS

There are no financial considerations associated with this report.

LEGISLATIVE AND POLICY CONSIDERATIONS

This report is provided for Council's information in response to the Council resolution of 6 February 2018.

ITEM 9.2 PLANNING PROPOSAL - LOFTUS STREET, BURTON STREET AND GIPPS STREET, CONCORD**Reporting Manager** Manager Strategic Planning

- Attachments:**
1. Planning Proposal_Loftus, Burton and Gipps Streets Concord_Think Planners (*Provided in Attachment Booklet*) [⇨](#)
 2. Out of Sequence Checklist (by Council) (*Provided in Attachment Booklet*) [⇨](#)
 3. Proposed Mapping (by Council) (*Provided in Attachment Booklet*) [⇨](#)
 4. Urban Design Review (for Council) - StudioGL (*Provided in Attachment Booklet*) [⇨](#)
 5. Transport Assessment Peer Review (for Council) - Bitzios (*Provided in Attachment Booklet*) [⇨](#)
 6. Affordable Housing Analysis (for Council) - Atlas Economics (*Provided in Attachment Booklet*) [⇨](#)
 7. Urban Design Report RotheLowman (*Provided in Attachment Booklet*) [⇨](#)
 8. Preliminary Statement of Heritage Impact_Cracknell and Lonergan (*Provided in Attachment Booklet*) [⇨](#)
 9. Social Impact Statement_Think Planners (*Provided in Attachment Booklet*) [⇨](#)
 10. Transport Impact Assessment_SCT Consulting (*Provided in Attachment Booklet*) [⇨](#)
 11. Sustainability Statement_Think Planners (*Provided in Attachment Booklet*) [⇨](#)
 12. Services Infrastructure Report_Neuron (*Provided in Attachment Booklet*) [⇨](#)
 13. Offer to enter into a Planning Agreement (*Provided in Attachment Booklet*) [⇨](#)
 14. Authority to Submitt PP_LFD Developments (*Provided in Attachment Booklet*) [⇨](#)
 15. Local Planning Panel - Minutes (*Provided in Attachment Booklet*) [⇨](#)
 16. Review of Overshadowing of Concord Oval (Greenspace4D) (*Provided in Attachment Booklet*) [⇨](#)

RECOMMENDATION OF DIRECTOR ENVIRONMENT AND PLANNING

That:

1. The Planning Proposal for the Site at 3B-11 Loftus Street, 1-5 Burton Street , 10-12 Gipps Street, Concord (PP2024/0008) be included in Council's Precinct-wide Planning Proposal to implement Stage 2 of the Parramatta Road Corridor.
2. The Site be subject to the following development standards and local clauses:
 - a) Apply Part 8 of the *Canada Bay Local Environmental Plan 2013*;
 - b) Include a base maximum Height of Building of 8.5m and an Incentive Maximum Height of Building of 35m north of the proposed Moreton Street extension and 50m south of it;
 - c) Include a base Floor Space Ratio of 0.5:1 and a Maximum Incentive Floor Space Ratio of 3.0:1;

-
- d) Require delivery of the 19.3m wide Moreton Street road corridor extension and amalgamation of the subject Lots as a prerequisite of approval of any Incentive Height and Floor Space Ratio;
 - e) Include a new local clause in Part 8 of the *Canada Bay Local Environmental Plan 2013* that prohibits additional overshadowing of Concord Oval between 11am and 2pm mid-winter;
 - f) Amend the Additional Permitted Uses Map to permit commercial uses on the ground floor;
 - g) Amend the Design Excellence Map to apply to the subject site; and
 - h) Include an affordable housing contribution rate of 4%.
3. Should the Planning Proposal progress independently of Council's Planning Proposal to implement Stage 2 of the Parramatta Road Corridor, the Planning Proposal be updated as provided in 2. above, and the following information also be provided prior to public exhibition:
 - a) An updated traffic study that addresses the issues outlined in the report and raised in Council's Transport Assessment Peer Review, prepared by Bitzios Consulting;
 - b) A flood risk assessment that demonstrates that flooding will not adversely impact any other properties and how emergency evacuation would occur;
 - c) Details that demonstrate how 15% minimum deep soil and 25% tree canopy coverage will be delivered; and
 - d) An Arboricultural Impact Assessment, a Tree Canopy Assessment, and a Landscape and Street Tree Masterplan.
 4. A draft amendment to the *Canada Bay Development Control Plan* be prepared by Council to provide detailed development controls for the site.
 5. Delegation be requested from the Department of Planning, Housing and Infrastructure for Council to manage the plan making process.
 6. The General Manager be authorised to make minor variations to the Planning Proposal to correct any drafting errors or to ensure that it is consistent with the Gateway Determination.
 7. The *Canada Bay Affordable Housing Contribution Scheme* be amended prior to public exhibition to apply a 4% contribution rate to the subject site.
 8. The Planning Proposal, draft Development Control Plan and draft Affordable Housing Contribution Scheme be endorsed for public exhibition in accordance with relevant conditions imposed under the Gateway Determination.
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PURPOSE

To provide Council with the outcome of the assessment of a proponent-initiated Planning Proposal for land at 3B-11 Loftus Street, 1-5 Burton Street, 10-12 Gipps Street, Concord (PP2024/0008).

EXECUTIVE SUMMARY

Council has received a Planning Proposal (the Proposal) for land within Stage 2 of the Burwood-Concord Precinct of the *Parramatta Road Corridor Urban Transformation Strategy* (PRCUTS), comprising land bounded by Loftus Street and the eastern ends of Burton Street and Gipps Street, Concord. The Proposal has been prepared by Think Planners for the proponent, LFD Concord.

The Proposal is seeking to redevelop the site through an amendment to *Canada Bay Local Environmental Plan 2013* to rezone the land to R4 High Density Residential; remove the base and incentive height and Floor Space Ratio standards that are proposed in the PRCUTS Stage 2

Planning Proposal; increase the height and Floor Space Ratio standards to 75m and 5.0:1 respectively; and amend the Additional Permitted Uses Map.

The Proposal is seeking to increase the current developmental capacity from approximately 275 dwellings under PRCUTS and Council's PRCUTS Stage 2 Planning Proposal to approximately 390 dwellings and approximately 370 sqm of commercial GFA.

A critical issue central to the assessment of this application is the overshadowing of public open space. Concord Oval is a regionally significant precinct, offering both sporting fields for elite sports and spaces for passive recreation. The proposed building heights would result in significant and unacceptable overshadowing of Concord Oval, compromising the playing fields, increasing maintenance costs, and raising concerns about its long-term viability as an elite sports venue. This report recommends that while there is scope to increase building heights on the site, such increases should be limited to prevent additional overshadowing of the sports fields.

It is recommended that the Planning Proposal be included in Council's Planning Proposal for Stage 2 of the PRCUTS that has received a Gateway determination and is currently be reviewed to facilitate additional housing. Alternatively, the Planning Proposal may be progressed to the Department of Planning, Housing and Infrastructure (DPHI) for a Gateway determination, subject to the amendments recommended in this report being made prior to submission and/or public exhibition.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 3: Vibrant Urban Living

Goal VUL 1: Creative vibrant local village centres and community hubs

BACKGROUND/DISCUSSION

Site details

The land at 3B-11 Loftus Street, 1-5 Burton Street, 10-12 Gipps Street, Concord (subject site) comprises 14 detached dwellings and is approximately 8,360sqm in area. The Proposal includes an Authority to Submit that states that *LFD Concord Pty Ltd have a controlling interest in the land located at 3B-11 Loftus Street, 1-5 Burton Street, and 10-12 Gipps Street, Concord (subject site). LFD Concord Pty Ltd hereby gives its consent to Think Planners Pty Ltd to lodge a Planning Proposal over the subject site.*

The subject site has three road frontages: Burton Street to the south; Gipps Street to the north; and Loftus Street to the east. Adjoining the site to the west is a significant Department of Housing social housing development on Gipps Street, two detached dwellings, a strata apartment development and the heritage-listed St Luke's Anglican Church and grounds on Burton Street.

To the east of the site is Concord Oval, to the north of the site is St Luke's Park and to the south is land that comprises Stage 1 of PRCUTS, which is zoned for significant commercial and residential uplift. The Stage 1 PRCUTS precinct is also the location of the Burwood North/Concord Oval Metro Station. The subject site is approximately 200m walking distance to the station entry.



Figure 1: 3B-11 Loftus Street, 1-5 Burton Street, 10-12 Gipps Street, Concord (subject site – outlined in red)

Strategic and urban context

The local character of the area within which the subject site is located features open space to the north and east. Additionally, Concord Oval contains two large two-storey structures to support the Community and Sports precinct. To the south is the land that is planned for significant higher-density urban renewal.

The subject site is located within Stage 2 of the Burwood-Concord Precinct of PRCUTS, a State Government strategy published in 2016. Local Planning Direction 1.5 *Parramatta Road Corridor Urban Transformation Strategy* issued by the Minister for Planning under the *Environmental Planning and Assessment Act 1979* gives the Strategy and Implementation Tool Kit statutory weight.

The land south of Burton Street was rezoned in December 2022 to deliver Stage 1 of PRCUTS, with some refinements to produce better urban design outcomes. The changes were supported by comprehensive evidence-based studies that adopted a precinct-wide approach to urban design, public domain, amenity and employment. The Stage 1 area is now in transition towards realising the PRCUTS vision with the construction of the Metro West Burwood North station, which is anticipated to be operational by 2032:

Burwood Precinct will be a commercial gateway to Burwood Town Centre based around the enlivened spine of Burwood Road building upon existing amenity for new residents.

Burwood Precinct will be built around the proposed rapid transit from Burwood to Sydney CBD and an improved focus for Burwood Road as a lively main street. Both Burwood and Parramatta Roads will be marked by taller residential and mixed use buildings. Beyond these roads, residential development will be sensitive to existing heritage, lower-scaled housing, open space areas and schools.

The vision can be realised by:

- *ensuring the viability of shops and commercial uses along Parramatta Road*
- *celebrating Burwood's heritage and multiculturalism and preserving heritage buildings*
- *where possible, working with landowners to amalgamate sites in a way that supports better transformation outcomes*
- *dealing with narrow, unattractive streets.*

On 18 June 2024, Council endorsed the Stage 2 PRCUTS Planning Proposal for submission to the Department of Planning, Housing and Infrastructure (DPHI) for a Gateway determination. Development capacity of the subject site under the Stage 2 Planning Proposal is approximately 275 dwellings. The Gateway determination, received on 17 December 2024, included conditions that must be satisfied prior to exhibition. This is discussed below.

Current Planning Controls

The key planning requirements that apply to the subject site under the *Canada Bay Local Environmental Plan 2013* include:

- a) R2 Low Density Residential;
- b) maximum building height of 8.5m; and
- c) maximum Floor Space Ratio (FSR) of 0.5:1.

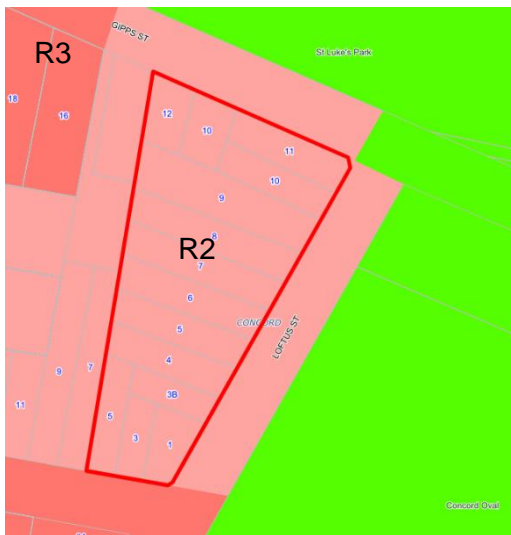


Figure 2: Current Land Zoning Map



Figure 3: Current Building Height Map

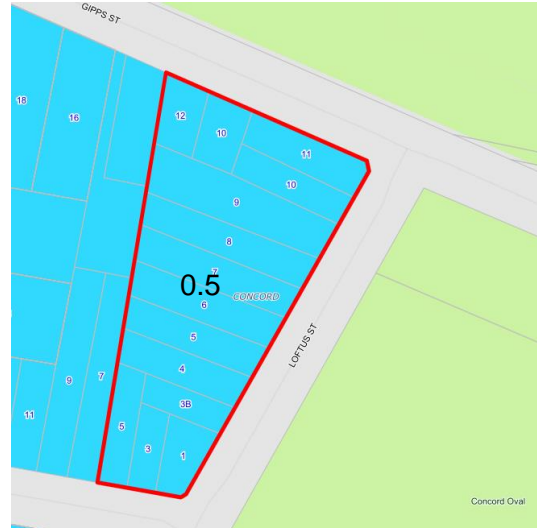


Figure 4: Current FSR Map

Proposed Planning Controls under Council's PRCUTS Stage 2 Planning Proposal

Council's PRCUTS Stage 2 Planning Proposal includes the subject site.

Whilst Burwood North/Concord Oval Metro Station is not included in the 31 transport hubs or town centres identified in the Transport Oriented Development Program (TOD), the draft PRCUTS Stage 2 Burwood-Concord Planning Proposal, Masterplan and studies were revised to ensure maximum heights were not less than the TOD precincts, given the proximity of the precinct to a new Metro station. This version was endorsed by Council for submission to DPHI for a Gateway determination and the purpose of public exhibition on 18 June 2024.

The proposed controls under Council's Stage 2 proposal are:

- a) R3 Medium Density Residential. Note that in R3 (recommended by PRCUTS) residential accommodation and multi dwelling housing are permitted and shop top housing and commercial premises are prohibited;
- b) maximum building height of 8.5m;
- c) maximum Incentive Building Height of 40m in exchange for provision of specified community infrastructure, 2.5m maximum height where the infrastructure is to be located, and amalgamation of specified Lots;
- d) maximum Floor Space Ratio (FSR) of 0.5:1
- e) maximum Incentive FSR of 2.4:1 in exchange for provision of specified community infrastructure and amalgamation of specified Lots;
- f) Affordable Housing Contribution of 5%;
- g) Design Excellence requirements;
- h) Key Sites minimum site area of 9,746sqm to activate the incentive height and FSR;
- i) delivery of a new 19.3m wide road corridor that connects Moreton St cul-de-sac to Loftus Street to activate the incentive height and FSR (the Moreton Street extension).



Figure 5: PRCUTS Planning Proposal Land Zoning Map



Figure 6: PRCUTS Planning Proposal Key Sites Map



Figure 7: PRCUTS Planning Proposal Building Height Map (no change)



Figure 8: PRCUTS Planning Proposal Incentive Building Height Map

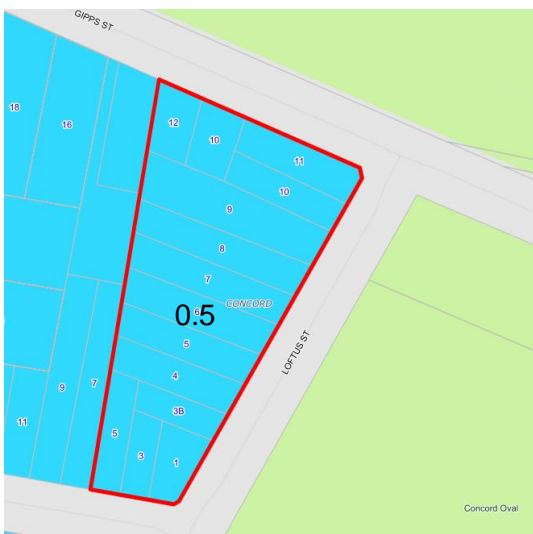


Figure 9: PRCUTS Planning Proposal
FSR Map (no change)



Figure 10: PRCUTS Planning Proposal
Incentive FSR Map



Figure 11: PRCUTS Planning Proposal
Design Excellence Map

Figure 12: PRCUTS Planning Proposal
Affordable Housing Contribution Map



Figure 13: PRCUTS Planning Proposal
Additional Permitted Uses Map

PRCUTS Stage 2 Planning Proposal Gateway determination

On 17 December 2024, DPPI provided a Gateway determination for Council's PRCUTS Stage 2 Planning Proposal. Condition 1(a) is that the planning proposal must be updated prior to exhibition to:

Review the proposed densities for the land subject to the planning proposal (in consultation with the Department) and update the planning proposal to support the delivery of more homes near the future Sydney Metro stations at Burwood North and Five Dock.

On 18 February 2025, Council considered the matter and resolved to proceed with a Review on the basis that it would provide Council the evidence-base to determine what additional uplift is appropriate and sustainable.

The Review will investigate the capacity of the transport network to accommodate additional active transport, vehicle and public transport trips; the necessary social infrastructure and open space

(recreational and passive); impacts on public amenity (overshadowing, solar access); and an appropriate affordable housing provision. The resultant revised dwelling and population forecasts will also enable an estimate to be provided on the amount of additional school places that will be needed.

The Review will establish design principles, which will be applied to establish the upper limit of additional uplift and appropriate urban form. The subject Planning Proposal will assist in establishing the design principles and can be incorporated into the PRCUTS Stage 2 Planning Proposal, subject to the changes recommended in this report.

PLANNING PROPOSAL

The Planning Proposal is seeking “*to facilitate the urban renewal of the subject site and provide high-density development, supported by a restaurant/ café that delivers vibrant and attractive places consistent with State Government planning strategies.*”

It is seeking to achieve this outcome by amending the *Canada Bay Local Environmental Plan 2013* to:

- Rezone the site from R2 Low Density Residential to R4 High Density Residential;
- Increase the maximum permissible building height in the Height of Buildings Map from 8.5m to 75m;
- Increase the maximum permissible floor space ratio in the FSR Map from 0.5:1 to 5.0:1;
- Amend the Additional Permitted Uses Map and *Schedule 1 - Additional Permitted Uses* to permit a restaurant or café. Note that, under Clause 19 of the Canada Bay LEP, additional permitted uses for the purpose of commercial premises are permitted on all or some of the ground floor of residential flat buildings in R4 zone if the land is identified on the Additional Permitted Uses Map.

The Proposal states that it is seeking to “deliver a highly connected neighbourhood, focused around centralised open space on the site, with generous through site links and tree canopy cover. Three narrow buildings are proposed stepping down from 23 to 8 storeys to open up more landscape opportunities on the site, providing more generous through site linkages and view corridors through the site to existing and planned open space areas.

The proposal is highly focused on people and place, and accordingly promotes active transport modes through the site at ground level, rather than vehicles. These through site links in east to west and north to south directions, which along with the narrower floorplates delivers councils desire for increased permeability and shorter, more direct trip distances for pedestrians and cyclists.

Along Loftus Street the proposal provides a street frontage and podium form, within a landscape setting. A fine grain at the podium level is delivered via terrace style units with associated landscape courtyards and address. The tower elements are setback further into the site and step down from 23 storeys to 22 storeys towards St Lukes Park, with a third mid-rise building of 8 storeys located on the Gipps Street frontage, providing an effective transition to both the open space and dwellings.”



Figure 14: Proposed Land Zoning Map



Figure 15: Proposed Additional Permitted Additional Uses Map



Figure 16: Proposed FSR Map



Figure 17: Proposed Building Height Map

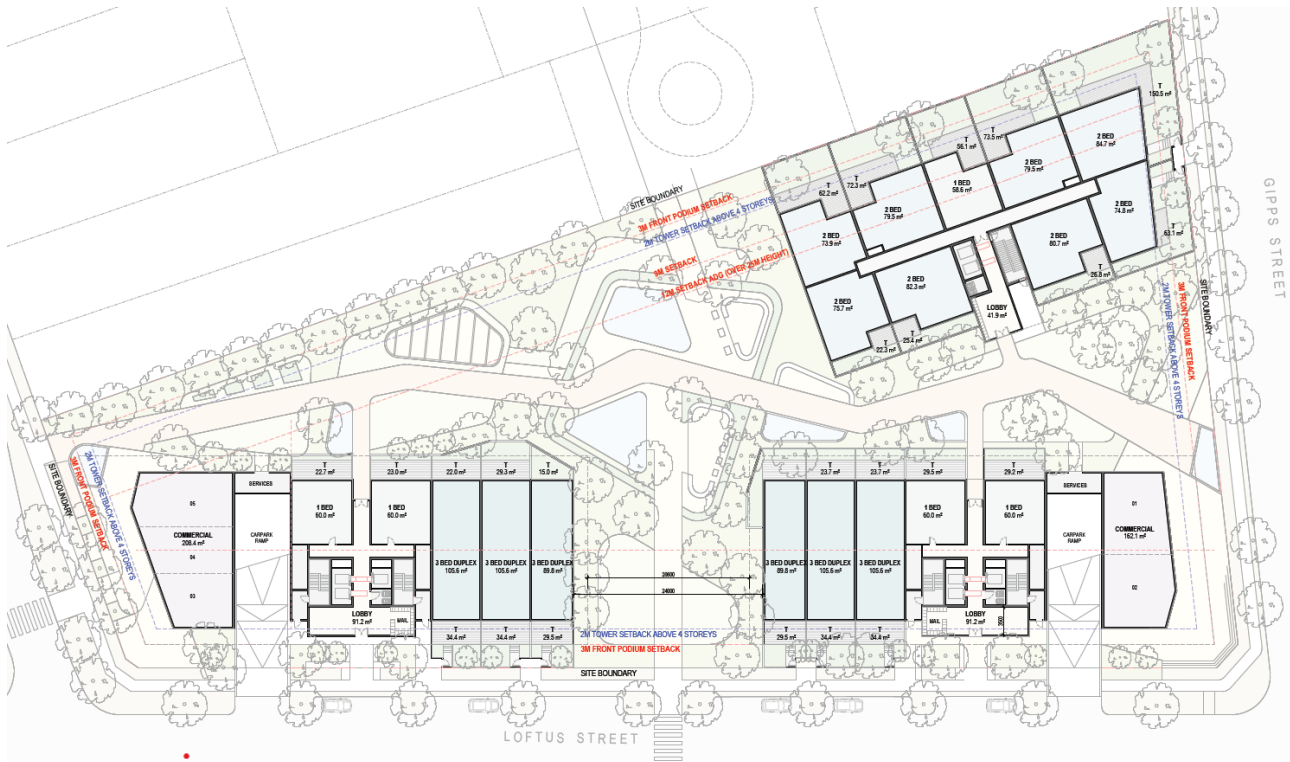


Figure 18: Proposed Ground Floor (indicative)

Planning Proposal and Council's PRCUTS Stage 2 Planning Proposal

The Planning Proposal would have the effect of amending Council's vision for the subject site as expressed in the PRCUTS Stage 2 Planning Proposal. It would:

- a) amend the zone from R3 Medium Density Residential to R4 High Density Residential;
- b) remove the base and incentive scheme (8.5m height / 0.5:1 FSR and 40m incentive height / 2.4:1 incentive FSR) and replace it with a single maximum building height and FSR;
- c) increase the maximum building height from 40m (incentive) to 75m;
- d) increase the maximum FSR from 2.4:1 (incentive) to 5.0:1;
- e) reduce the proposed 5% Affordable Housing Contribution proposed under the *Canada Bay Affordable Housing Contribution Scheme* to 4% provided under a VPA;
- f) remove the Design Excellence requirements. Note that design excellence requirements under the LEP apply where the Design Excellence Map applies and, whilst the Proposal states that design excellence requirements would apply to a future DA, no design excellence map is proposed as part of the Proposal;
- g) amend the Key Sites Map, which activates the incentive height and FSR, and the respective minimum site area to remove 7 and 9 Burton Street from Key Site 47 and allocate them to Key Site 48; and
- h) remove the required 19.3m wide Moreton Street road corridor extension through the site.

Table 1 (over page) provides a comparison of the key aspects of the current controls, PRCUTS, Council's PRCUTS Planning Proposal and this planning proposal.

Table 1: Summary and comparison of key controls for the site under different proposals

	Current	PRCUTS	PRCUTS Planning Proposal	Subject Planning Proposal
Zone	R2 Low Density Residential	R3 Medium Density Residential	R3 Medium Density Residential	R4 High density Residential
Height	8.5m	40m	40m	75m
FSR	0.5:1	2.4:1	2.4:1	5.0:1
APUs	Nil	Nil	Nil	Café / Restaurant

Independent reviews

To assist with the assessment of the Planning Proposal three independent reviews were commissioned:

- Urban Design Review by Studio GL to determine the impacts of the proposed built form on the surrounding area (**Attachment 4 - Urban Design Review (for Council) – Studio GL**).
- Traffic Assessment by Bitzios to determine the impacts on the local road network (**Attachment 5 - Transport Assessment Peer Review (for Council) – Bitzios**).
- Feasibility Assessment by Atlas Economics to determine the affordable housing contribution that would be feasible (**Attachment 6 – Affordable Housing Analysis (for Council) – Atlas Economics**)

The findings and recommendations of these reports are incorporated into the assessment on the following pages.

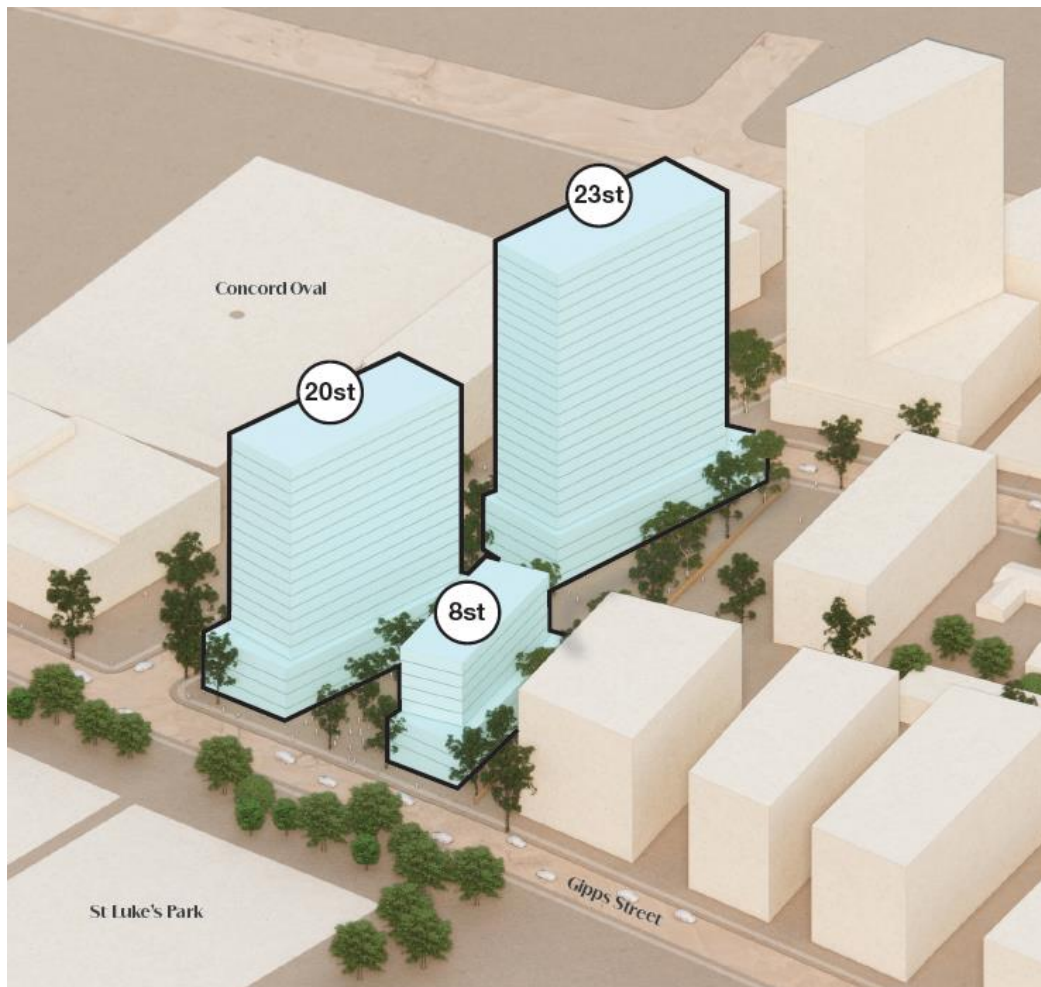


Figure 19: Indicative proposed built form looking from the northwest

STRATEGIC MERIT

Planning Proposals are required to be assessed for strategic merit against plans and strategies prepared by the NSW and local government. Relevant strategies and Local Planning Directions are addressed below.

Greater Sydney Metropolitan Plan – A Metropolis of Three Cities and the Eastern City District Plan

The *Greater Sydney Region Plan* (Region Plan) and *Eastern City District Plan* (District Plan) prepared by the former Greater Cities Commission shape strategic planning and infrastructure across metropolitan Sydney and align planning at the broad regional scale, down to the local area.

Both the subject Planning Proposal and Council's Planning Proposal for Stage 2 of PRUCTs will facilitate housing in an area that will have good accessibility to high frequency public transport.

The Proposal is inconsistent with Planning Priority E3 of the District Plan that states '*E3. Providing services and social infrastructure to meet people's changing needs*'. The quantum of affordable housing and the removal of new road connection will not provide the required social infrastructure. Further discussion on these matters is provided in the site specific assessment and recommendations to address the inconsistency under the relevant headings.

The Proposal will increase urban tree canopy and is consistent with the relevant Planning Priority of the District Plan. However, Council's Stage 2 PRCUTS planning proposal is also consistent with the Apartment Design Guide requirement for landscaped area and deep soil and provides additional infrastructure (in the form of a new road), which is of greater importance. This is discussed below.

Canada Bay Local Strategic Planning Statement

Under clause 3.33(2)(c) of the *Environmental Planning and Assessment Act 1979* (the Act), a planning proposal is required to include justification, “including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1.” The *Canada Bay Local Strategic Planning Statement* (LSPS) was endorsed by the former Greater Cities Commission and is the primary land use planning document for the City of Canada Bay. The *Canada Bay Local Housing Strategy* (LHS) was endorsed by DPHI and informs the LSPS, and is therefore also relevant.

In May 2024, the State Government announced housing targets for NSW Councils. The City of Canada Bay has a target of 5,000 completed homes by 2029. Approximately 30,000 dwellings are currently planned for the Canada Bay LGA - 8,300 in PRCUTS Stage 1 and 2; 4,200 in Rhodes East; 10,000 dwellings in the Homebush Accelerated TOD; significant increases in the vicinity of Five Dock Metro station; and additional dwellings under the draft Low-Mid-Rise Housing. With continued “Business As Usual” urban infill anticipated in out-of-centre areas, it is anticipated that the LGA will provide a capacity for 38,000 new dwellings. This approximately doubles the current 39,000 dwellings in the LGA.

The LSPS and LHS found that Council is able to meet its 5-year and 10-year housing targets through planned renewal precincts and infill development under existing planning controls. The LSPS recognises that the Metro will provide an opportunity for additional housing and in response, the Stage 2 PRCUTs planning proposal was revised to ensure maximum heights were not less than those applied to other station locations under the TOD program. This version was endorsed by Council for the purpose of public exhibition on 18 June 2024.

The Planning Proposal is not consistent with the following Actions of the Canada Bay LSPS:

- Action 5.1 requires the implementation of the *Parramatta Road Corridor Strategy generally in accordance with the 2016-2023 Implementation Plan, following finalisation of a precinct wide traffic and transport study, and an urban design study, including the preparation of:*
 - *precinct wide Planning Proposal;*
 - *draft Development Control Plan;*
 - *Affordable Housing Contributions Scheme; and*
 - *Local Contributions Plan.*
- Action 11.1 requires Council to ensure that a strategic and precinct approach be taken to the rezoning of land within the vicinity of proposed Metro stations in the City of Canada Bay and states:

“Prior to rezoning occurring, a local planning study is to be prepared and endorsed by Council for the localities in which a Sydney Metro West station is proposed, including development sites and their immediate surrounds. The local planning study is to:

- *include a desired future character statement prepared in consultation with the community;*
- *identify opportunities and preferences for new and/or improved areas of open space within, adjacent to or surrounding the new Metro locations;*
- *identify opportunities for and facilitating improvements in the public domain to maximise pedestrian amenity, movement and experience;*
- *establish preferred land uses within and around the new Metro locations;*
- *consider opportunities for a diverse range of housing that is consistent with the desired future character of the area and determine the contribution of any new housing to the regional housing target;*

- *ensure that the employment functions and services around station locations are supported and enhanced as a result of the Metro project;*
- *establish preferred built form outcomes within and around new Metro locations; and*
- *identify the need for further studies or considerations resulting from transport infrastructure.*

The Planning Proposal does not include a local planning study and has not taken a strategic or precinct-wide approach to developing planning controls for the subject site or its immediate surrounds. This is inconsistent with the approach that Council has adopted in developing the PRCUTS Stage 2 Planning Proposal, which is precinct-wide, supported by studies, delivers community infrastructure (including transport infrastructure such as the Moreton Street extension), delivers more housing than PRCUTS, and is supported by desired future character statements which were subject to two rounds of community consultation.

However, these inconsistencies would be addressed if the Planning Proposal were incorporated into Council's PRCUTS Stage 2 Planning Proposal, thus becoming part of a precinct-wide planning proposal. It is recommended that Council give consideration to this approach, subject to the Planning Proposal being amended to respond to the site-specific issues outlined in this report.

Local Planning Directions

The Planning Proposal is required to be consistent with Local Planning Directions issued under Section 9.1 of the *Environmental Planning & Assessment Act 1979*.

Local Planning Direction 1.1 Implementation of Regional Plans

The Direction requires that planning proposals must be consistent with the relevant Regional Plan. A planning proposal may be inconsistent with the Direction if the inconsistency is insignificant or achieves the overall intent of the Regional Plan's vision, land use strategy, goals, directions and actions.

The Planning Proposal, in its current form, is inconsistent with the Direction as it is not consistent with District Plan Planning Priority E3 as discussed above. This issue is able to be resolved subject to the reinstatement of the Moreton Street extension and the delivery of 4% affordable housing.

Local Planning Direction 1.5 Parramatta Road Corridor Urban Transformation Strategy

Local Planning Direction 1.5 *Parramatta Road Corridor Urban Transformation Strategy* issued by the Minister for Planning under the *Environmental Planning and Assessment Act 1979* gives the Strategy and Implementation Tool Kit statutory weight. This requires councils to ensure that planning proposals in the PRCUTS area are consistent with the Strategy and specifically to:

- give effect to the objectives of the Direction by facilitating development that is consistent with the PRCUTS, providing a diversity of jobs and housing, and occur in line with infrastructure delivery;
- be consistent with the PRCUTS:
 - Strategic Actions;
 - *Planning and Design Guidelines*;
 - *Implementation Plan and Implementation Update 2021*; and
- be adequately serviced, or have arrangements in place, satisfactory to the relevant planning authority, consistent with PRCUTS.

The Proposal is not consistent with the Direction as it is inconsistent with the *Planning and Design Guidelines*, notably Section 8 Burwood-Concord Guidelines for zoning, height and FSR and it is inconsistent with the *Implementation Plan and Implementation Update 2021*.

The Proposal is not consistent with the *PRCUTS 2016-2023 Implementation Plan*, as it is not consistent with the *PRCUTS Implementation Update 2021*. The update permits only planning proposals that are in the *2016-2023 Release Area*, or that pertain to whole precincts, to proceed to a Gateway determination.

The Direction allows a planning proposal that is inconsistent with the Direction to proceed if it is:

- consistent with the Out of Sequence Checklist in the *PRCUTS Implementation Plan*.

The Planning Proposal states that it “*is not out of sequence, noting that Canada Bay have prepared a broad Planning Proposal in the Stage 2 Area. This Planning Proposal builds on the Council lead proposal.*” It further states that “*this proposal remains in sequence as Council has prepared its Stage 2 PP.*”

These statements imply that the Proposal is seeking to leverage off Council’s PRCUTS Stage 2 Planning Proposal, given its inconsistency with the *PRCUTS Implementation Update 2021* and therefore the Direction. However, the subject Proposal is not consistent with Council’s PRCUTS Stage 2 Planning Proposal and cannot, therefore, leverage off Council’s precinct-wide evidence-based proposal.

The *PRCUTS Implementation Update 2021* states that “*From the date of the Implementation Update, the progression of planning proposals in the 2016-2023 Release Area, or planning proposals for whole precincts can progress to a Gateway determination.*” That is, only planning proposals that are in the *2016-2023 Release Area* (the subject site is not), or that pertain to whole precincts (the subject Proposal is not), may proceed to a Gateway determination. Council’s planning proposal is a precinct-wide planning proposal, but the subject Planning Proposal is in the post-2023 PRCUTS area and is for a spot-rezoning.

The Implementation Plan states that the “*Out of Sequence Checklist ensures that changes to the land use zone or development controls do not occur without meeting the underlying Principles and Strategic Actions of the Strategy, such as the necessary transport, services and social infrastructure to service a new population. It will also ensure the established benchmarks for the quality of development and public domain outcomes desired for the Corridor are achieved.*”

Note that the *PRCUTS Implementation Update 2021* was published in July 2021, after Sydney Metro West was announced (14 November 2016) and the SSI Project Concept (SSI-10038) was approved (11 March 2021). That is, the Proposal cannot rely on Metro West having been announced after publication of PRCUTS (November 2016) to justify inconsistency with the Direction, given the Update was published after Metro West was approved.

Further, on 14 September 2023, the State Government published the *Sydney Metro Independent Review Final Report*. The Report states that master planning should occur as a prerequisite for each Metro station, to “*ensure cohesive urban development, optimal integration with existing infrastructure, and alignment with long term city planning goals.*” The Proposal is inconsistent with this State Government recommendation.

The Proposal could progress if it were consistent with the Out of Sequence Checklist, or if it were included in Council’s precinct-wide PRCUTS Stage 2 Planning Proposal, although this option would still require consistency with the Out of Sequence Checklist. That is, both planning pathways require the Proposal to be consistent with the Out of Sequence Checklist, as this ensures that it has sufficient merit to proceed.

Refer to Council’s assessment of the Proposal against the Out of Sequence Checklist (**Attachment 2 – Out of Sequence Checklist (by Council)**). This assessment finds that the Proposal could have sufficient merit to proceed to a Gateway determination, subject to specific amendments recommended in this report. The amendments are supported by Council’s Urban Design Review (**Attachment 4 - Urban Design Review (for Council) – Studio GL**).

- justified by a study (prepared in support of the planning proposal) that clearly demonstrates better outcomes are delivered than identified in PRCUTS having regard to the vision and objectives;

The Proposal states that “*Detailed architectural and urban design testing by Rothelowman is included. This together with the Planning Proposal forms a ‘Better Outcomes Study’ and confirms the appropriateness of the Planning Proposal.*”

The Urban Design Report, along with the Planning Proposal, do not constitute a study and does not demonstrate better outcomes would be delivered, having regard to the PRCUTS Vision and Objectives.

- of minor significance;

The Proposal is not of minor significance.

A change in circumstances has informed Council’s intention to review the PRCUTS Stage 2 planning proposal to determine the capacity of the precinct to accommodate additional housing. Integrating the subject Planning Proposal into Council’s PRCUTS Stage 2 Planning Proposal would enable the requirements of the *PRCUTS Implementation Update 2021* to be satisfied, subject to the proposal being amended as outlined in this report.

SITE SPECIFIC MERIT

Land Use Zoning

The Proposal is seeking to amend the current R2 Low Density Residential zone to R4 High Density Residential and to permit additional permitted uses for a restaurant/café.

The change of land use zone is generally consistent with an envisaged high density development site within close proximity to a future Metro station. The additional permitted uses are consistent with the site’s location and will enable other land uses that provide facilities or services to meet the day to day needs of residents.

However, as the site is proposed to be rezoned to R4, it is not necessary to add specific additional permitted uses for restaurant or café. Clause 19 of Schedule 1 Additional Permitted Uses of the Canada Bay LEP permits commercial premises on the ground floor of residential flat buildings. It will however be necessary to amend the Additional Permitted Uses Map to apply to the subject site.

Building heights

The Proposal is seeking to amend the maximum permissible building height from 8.5m to 75m. It also seeking to depart from the maximum building heights under PRCUTs (40m) and the Incentive Maximum Building Height provision (of 40m) outlined in the Planning Proposal to implement Stage 2 of PRCUTs.

Infrastructure delivery

The proposed removal of the proposed Incentive Maximum Building Height provision would have the effect of circumventing the delivery of community infrastructure. The mechanism was applied in the PRCUTS Stage 1 areas and Council intends to extend it to the Stage 2 areas to ensure that community infrastructure, including the Moreton Street extension, is delivered concurrently and proportionately with new development. The community infrastructure that is proposed to be delivered is of less community benefit than the road. This is discussed in further detail below.

Local character

Increasing the maximum building height on the subject site to 75m (24 storeys) does not align with the desired local character of the area. The Local Planning Study for the Burwood Precinct states that “*Future built form is to be aligned with the requirements of the Parramatta Road Corridor Urban Transformation Strategy [and] Create appropriate transition building height from low density into higher density areas.*” The PRCUTS vision is to maximise building heights at the ‘heart’ of each precinct, which for the Burwood Precinct is the area within which the Burwood North Metro station is

to be located. The maximum building heights are then to be reduced towards the edges of the Precinct, at the interfaces with the lower density areas. The proposed heights are almost twice the height proposed by PRCUTS (Council's proposed Incentive Maximum Building Height) and almost 9 times the current height (Council's proposed base building height).

Overshadowing

The Planning Proposal scheme will overshadow approximately 50% of Concord Oval at 2pm in mid-winter. Concord Oval is an important public green space that should not be subject to compromised solar access. The independent Urban Design Review found that the Oval, which is part of the Concord Community and Sports Precinct and was reopened in 2022 after extensive State Government-funded renovations (as part of the Parramatta Road Urban Amenity Improvement Program), is a state-of-the-art community facility and key local asset providing recreational amenity for the LGA and future residents. It is important that proposed built form around the Oval respects the open space and does not create adverse impacts or overshadowing of the Oval.

Council's Parks and Recreation team has advised that any amount of additional overshadowing would be unacceptable for this public asset. This is evidenced by the current small amount of overshadowing currently received along the northern edge of the Oval (refer Figure 28 and 29 below), which results in the grass remaining wet throughout winter, thus impacting the overall health, amenity and useability of the Oval, and necessitating additional maintenance and Council resources. Council's Property team has advised that "*Council has obligations [to West tigers] to ensure the playing field surface at Concord Oval is maintained to a standard that reasonably meets the requirements of a National Rugby League team for training purposes. Overshadowing of the field for extended periods will likely impact turf growth and recovery and the ability to sufficiently maintain the playing field to the required standard*".

It is noted that Council has a written agreement with West Tigers that requires the playing field to be maintained to a professional standard and for Council to undertake all maintenance and repairs at Council's expense to ensure the standard is maintained.

The approach to protecting solar access to important public open space has a precedent in Rhodes, where several parks are protected under the LEP. Similarly, Willoughby City Council has adopted a site-specific sun access strategy for Chatswood Oval in Chatswood, which is located close to an area of significant height and density. The Willoughby LEP prohibits additional overshadowing of the oval between the hours of 11am and 2pm mid-winter, and restricts the overshadowing requirements to just the oval itself. Similarly, a planning proposal for 351 dwellings at 600-660 Elizabeth Street in Redfern recently received a Gateway determination. The proposed site-specific provisions will ensure any new development on the site does not overshadow Redfern Park and Oval between 9am and 3pm all year round. Redfern Oval, similar to Concord Oval, provides training facilities for an A-League Rugby League Club.

Recommendation

In response to the future Sydney Metro West North Burwood/Concord Oval station, some additional building height is deemed appropriate on the subject site where no additional overshadowing of public open space occurs. The independent Urban Design Review recommended that building heights be determined by urban design principles, primarily that public open space should receive no additional overshadowing between 11am and 2pm mid-winter.

The Urban Design Review recommends revised maximum building heights and siting of buildings comprising a maximum height of 50m (15 storeys) on the southern side of the Moreton Street extension, 35m (10 storeys) on the northern side to create no additional overshadowing of the Concord Oval at 2pm in midwinter (**Attachment 3 – Proposed Mapping (by Council)**).

It is recommended that future development on the Site be subject to the base and incentive height and Floor Space Ratio mechanism proposed in the PRCUTS Stage 2 Planning Proposal with a base height be 8.5m, Incentive Maximum Building Heights of 35m north of the Moreton Street Road extension and 50m south of it, and a new local clause prohibiting any additional overshadowing of Concord Oval between 11am and 2pm mid-winter (refer to Figures 21 and 22 and Table 2).

Note that the DCP would also need to be updated to align with the above and control the building setbacks so as to ensure no additional overshadowing of Concord Oval. The DCP should also be amended to require 4.4m minimum floor-to-floor height for the ground floor non-residential uses, noting that the Proposal proposes only 3.4m and also that Council's Urban Design Review has allowed for 4.4m in the Incentive Heights recommended.

Table 2: Recommended Building height control

	PRCUTS Planning Proposal	Subject Planning Proposal	Recommended
Height	40m	75m	Base: 8.5m Incentive: 35m (north) 50m (south)

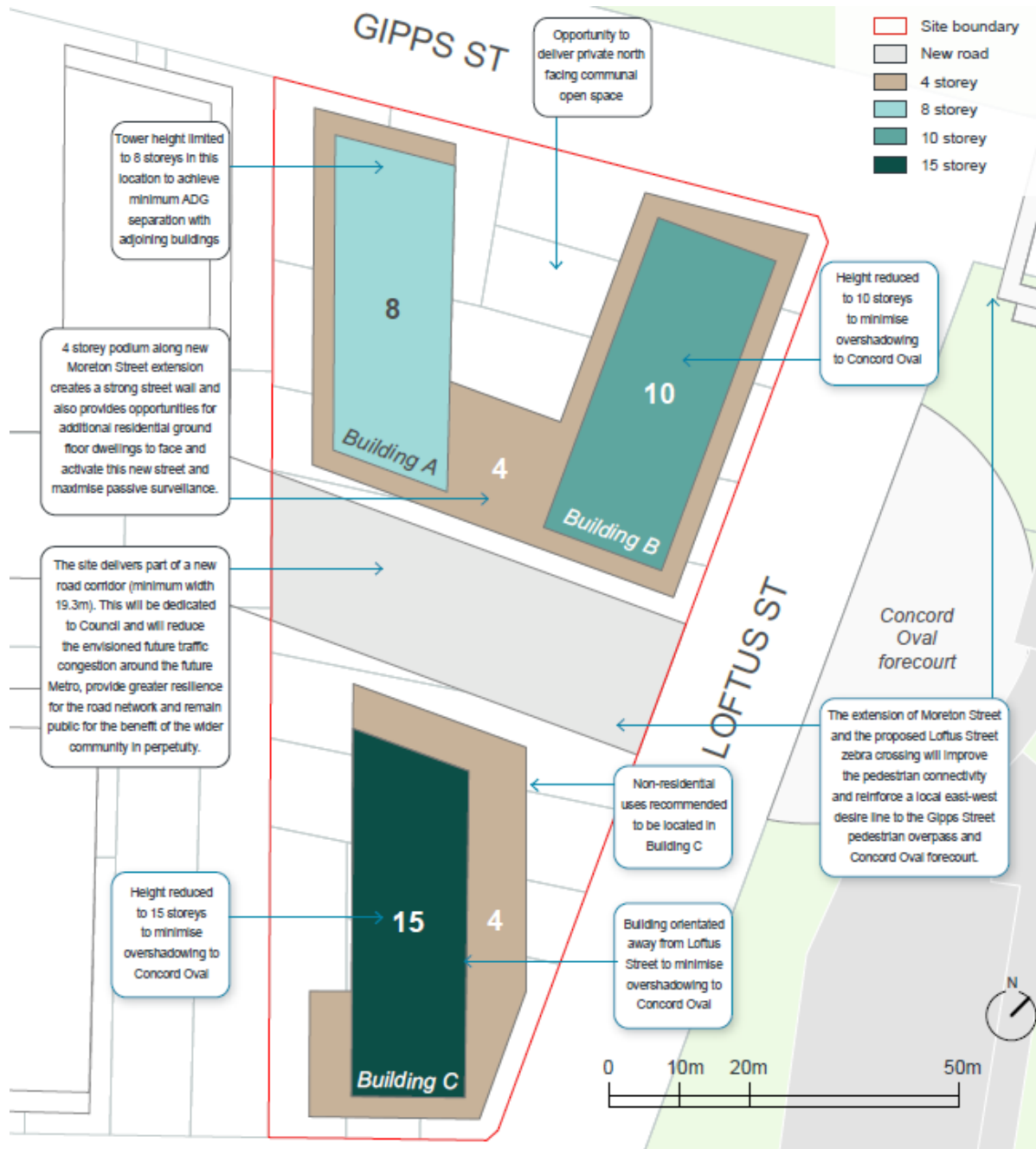


Figure 20: Recommended plan (SGL independent Urban Design Review)



Figure 21: Shadow analysis of subject Proposal at 1pm (lhs) and 2pm (rhs) mid-winter (SGL independent Urban Design Review)

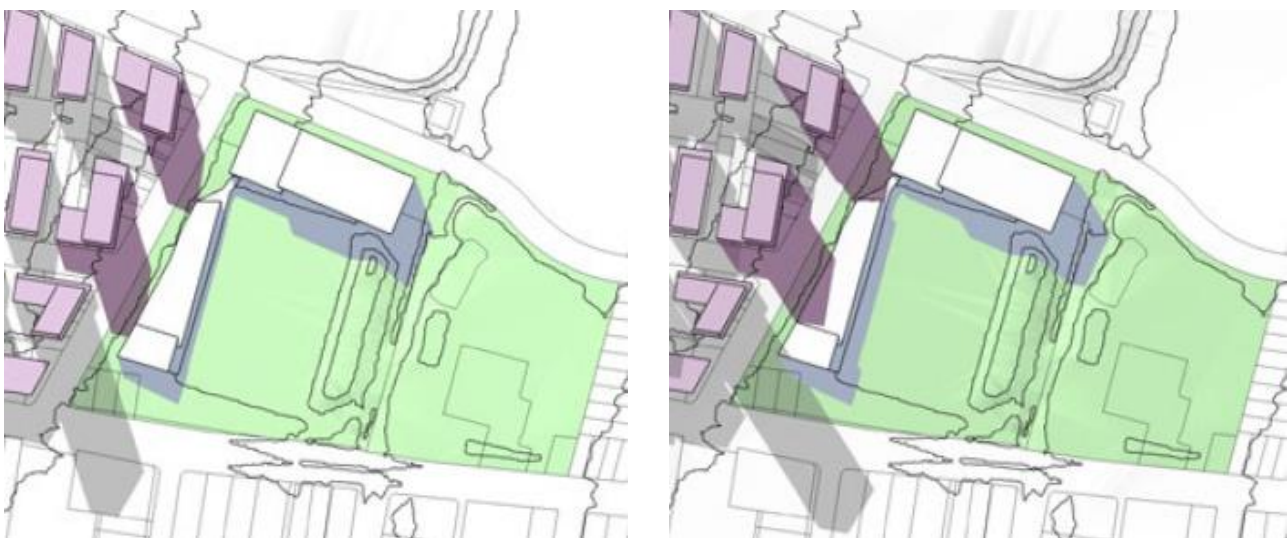


Figure 22: Shadow analysis of recommended scheme at 1pm (lhs) and 2pm (rhs) mid-winter (SGL independent Urban Design Review)

Density and Floor Space Ratio (FSR)

The Proposal is seeking to depart from the maximum Floor Space Ratio recommended by the PRUCTs Planning and Design Guidelines. The Proposal will also remove the Incentive Maximum FSR provision (of 2.4:1) and amend the maximum permissible FSR in the FSR Map from 0.5:1 to 5.0:1, without providing the public benefit of the new Moreton Street road corridor extension as proposed in Council's PRCUTS Stage 2 Planning Proposal. This circumvents Council's intended LEP base and incentive mechanism to ensure specified community infrastructure is delivered concurrently and proportionately with new development.

The Proposal is seeking to justify the increased density on the basis that it is 200m walking distance of the Burwood North Metro station, rapid bus services along Parramatta Road and local bus services along Burwood Road.

Council's independent Urban Design Review found that, whilst the Planning Proposal is seeking an FSR of 5.0:1, the Proposal's architectural plans (**Attachment 4 – Urban Design Report (for Council) – Studio GL**) achieve an FSR of only 4.2:1 across the site. It therefore appears that the

Proposal is seeking a higher FSR than is being presented. A larger development that achieves an FSR of 5.0:1 would therefore result in a greater bulk and scale and overshadowing impacts than is shown in the Proposal. Given that the Proposal includes no detailed FSR breakdown, it is recommended that this be provided.

The independent Urban Design Review recommends a maximum combined gross FSR for the site of 3.0:1, which reflects the recommended site layout as discussed above. This exceeds the 2.4:1 recommended by PRCUTS, but is recommended on the proviso that the required community infrastructure is delivered (the Moreton Street extension) and is able to be achieved without creating additional overshadowing of Concord Oval.

It is recommended that the base and incentive FSR mechanism proposed in the PRCUTS Stage 2 Planning Proposal with a base FSR of 0.5:1 and an Incentive Maximum FSR of 3.0:1 be applied to the Site.

It is also recommended that the DCP be amended to further identify Incentive Maximum FSRs for each of the two blocks created as a result of the proposed Moreton Street Road extension, of 3.3:1 for the area north of the road extension and 4.0:1 for the area south of the road extension. This will inform the distribution of Gross Floor Area on the Site and ensure future development responds to the surrounding context and the urban design principles of creating a range of building heights and slender towers and ensuring no additional overshadowing of public open space between 11am and 2pm mid-winter.

Table 3: Recommended FSR

	PRCUTS Planning Proposal	Subject Planning Proposal	Recommended
Floor Space Ratio	Base: 0.5:1 Incentive: 2.4:1	5.0:1	Base: 0.5:1 Incentive: 3.0:1

Apartment Mix

The Planning Proposal provides an indicative yield of approximately 390 units comprising:

- 0% / zero x studio apartments;
- 20% / 79 x 1-bedroom apartments;
- 63% / 246 x 2-bedroom apartments; and
- 17% / 64 x 3-bedroom apartments.

Clause 6.11 *Mix of dwelling sizes in residential flat buildings and mixed use development* of the LEP requires a mix of apartments of at least 20% of the dwellings to be studio or 1 bedroom dwellings and at least 20% of the dwellings to be 3 bedrooms. The ratio was a recommendation of the *Canada Bay Local Housing Strategy 2019* which found that 20% of apartments in the Canada Bay LGA are occupied by families with children. Given the prevailing trend towards families living in apartments due to increasing cost of housing and declining availability of low-density housing, there is a critical need to provide family friendly apartments to meet this need. Any future development application prepared for the site will be required to implement Clause 6.11 of the LEP.

Community uses/social infrastructure

The Proposal states that *"We agree that there is significant social infrastructure needed within the Stage 1 and 2 PRCUTS Burwood area of Canada Bay. In the absence of planning controls that are aligned to deliver infrastructure, this Planning Proposal provides an appropriate balance between yield and delivery of open space and publicly accessible spaces, including through site links."* This

statement is erroneous, given that the PRCUTS Stage 2 Planning Proposal proposes planning controls aligned to deliver infrastructure.

The Proposal includes an 'Offer to enter into a planning agreement' in relation to a "*Site-Specific Planning Proposal*" to provide, subject to Council approval of the Proposal:

1. 4% of the total GFA delivered as affordable housing in perpetuity to either:
 2. The Council where it has indicated that it supports the Planning Proposal and is the Relevant Planning Authority
- OR
3. A CHP where the Planning Proposal has received support from the Sydney Eastern City Planning Panel and the Dept is the RPA
 4. Publicly accessible and embellished landscaped through site links, which provide north to south and east to west connections 24/7.
 5. Publicly accessible and embellished park.

The community benefits of each item in the Offer are discussed below.

Affordable housing

The Proposal seeks to provide 4% affordable housing.

PRCUTS requires provision of at least 5% affordable housing. However, the *Canada Bay Affordable Housing Contribution scheme* (AHCS) was amended to require a contribution of 4%, as feasibility assessment within the Stage 1 precincts determined that only 4% was feasible.

Council's PRCUTS Stage 2 Planning Proposal seeks to amend the Canada Bay AHCS to require 5% affordable housing for the subject site. This rate was determined by feasibility assessment undertaken by independent land economists to support Council's PRCUTS Stage 2 Planning Proposal.

As the subject Proposal is seeking to further increase the uplift on the subject site, a separate feasibility analysis was undertaken to determine the rate that would be feasible. The analysis determined that 4% is feasible, in spite of the proposed increased residential yield and reduced numbers of properties to be amalgamated. The reduction from 5% to 4% is due to land values in Concord increasing significantly within the past few years, thus increasing the costs to deliver new housing (**Attachment 6 – Affordable Housing Analysis (for Council) – Atlas Economics**).

It is recommended that the *Canada Bay Affordable Housing Contribution Scheme* (AHCS) be amended to require an affordable housing contribution rate of 4% on the subject site.

Public Open Space

The Proposal seeks to provide a publicly accessible east-west park in place of Council's proposed Moreton Street extension.

The Proposal states that the proposed public park would provide "*a much improved open space network, with a connected space and more opportunities for a diverse range of programmed and unprogrammed passive activities. Furthermore it enhances opportunities in terms of how this space could be used, for example play equipment for children, associated with a community garden, seating etc. This will contribute to a vibrant and attractive public domain, giving an identity to the eastern edge of the Stage 2 PRCUTS area.*"

PRCUTS does not require any specific infrastructure to be delivered on the subject site. However, Council's PRCUTS Stage 2 Planning Proposal proposes a base and incentive planning mechanism, similar to that which is now in effect in the Stage 1 area to deliver community benefits in exchange for, and proportionate with, additional (incentive) height and FSR. The strategic planning process undertaken to deliver Council's planning proposal identified a need for a new road corridor through the site to connect Moreton Street to Loftus Street.

The mechanism works by reallocating the Gross Floor Area (GFA) applicable to the land that is earmarked for infrastructure to the developable part of the site (where the Incentive Building Height and FSR apply) and giving the infrastructure land an Incentive Building Height of 2.5m. For the subject site, the Moreton Street road corridor extension is proposed to have an Incentive Building Height of 2.5m. The built form testing undertaken for the PRCUTS Stage 2 Planning Proposal identified that the GFA of the road corridor could be relocated without increasing the PRCUTS recommended height and FSR (40m and 2.4:1).

The proposed road corridor is also consistent with the Burwood Local Character Statement, which states “*Create a permeable street configuration for a better pedestrian experience by introducing through site links and mid-block connections along large urban blocks [and] Promote safety by ensuring that future development has a positive interface with the street and maximises passive surveillance to improve safety.*” The proposed new road corridor would include landscaping and street trees; improve general vehicle, pedestrian and cycling connectivity in the area; increase passive surveillance of public space within the subject site; and avoid the necessity of the future tower developments along Moreton Street from having to service the buildings via a cul-de-sac.

Whilst the proposed park would comprise a community benefit, the need to deliver the new road corridor outweighs the need for a park on the site. Council’s Senior Landscape Architect has advised that the proposed open space does not represent greater community benefit than Council’s PRCUTS Stage 2 Planning Proposal.

The independent Urban Design Review determined that whilst the additional open space proposed is attractive, it is not as critical as the proposed new road and that the new road is critical to reducing the envisioned traffic congestion around the future Metro and to provide greater flexibility and long term resilience. The Review states that “*The envisioned future street will provide a flexible, legible and definitive public route for the wider community over the long term. This is opposed to a pedestrian link which has limited access and the risk of becoming visually or physically gated in the future.*”

The Urban Design Review also found that the site is currently already well serviced by large amounts of existing public open space, such as St Luke's Park and Playing Fields and the Concord Oval and Recreation Centre. These existing public spaces are supported by a network of planned future green spaces, including the Moreton Street linear open space and Burton Street Park and Burton Street Plaza. The existing and proposed open spaces are all within a 400m radius of the site and are within easy walking distance for future residents to enjoy.

The Proposal is silent on the nature of ownership and maintenance of the proposed park. If the park were dedicated to Council, the level of proposed embellishment would require substantial operational expenditure, significantly higher than typical Council assets. And, if it were delivered via an easement, Council would have limited ability to ensure that the area is maintained in a satisfactory condition for sustained community benefit over the life of the development.

It is recommended that the base and incentive height and FSR mechanism proposed in the PRCUTS Stage 2 Planning Proposal be retained, and that the achievement of the incentive height and FSR be contingent on the delivery of the 19.3m wide Moreton Street extension and amalgamation of 3B-11 Loftus Street, 1-5 Burton Street, 10-12 Gipps Street Concord into Key Site 47.

Note that this amendment will require Council’s PRCUTS Stage 2 Planning Proposal to be amended to remove 7-9 Burton Street from Key Site 47 and allocated to Key Site 48.



Figure 23: Existing and proposed open spaces in a 400m walking catchment of the site (SGL independent Urban Design Review)

Publicly accessible pedestrian links

In addition to the proposed east-west park, the Proposal seeks to provide publicly accessible north-south links for pedestrians and cyclists. The indicative landscape design demonstrates intentions for high quality public domain including community gardens, a barbeque area, WSUD features, public art, 'interpretive elements', water elements and playgrounds.

However, Council's Senior Landscape Architect has advised that, whilst the through site links are advantageous when considered in isolation, they do not provide sufficient benefit when considering the PRCUTS Stage 2 Planning Proposal pedestrian link to the west of the church and the footpath along Loftus St.

Council's independent Urban Design Review states that "*Provision of safe and attractive communal open spaces for residents of the building is considered more important than the north south through site link or public open spaces. Opportunities for additional landscaping and communal outdoor spaces on rooftops and podiums are also encouraged. It is also recommended that the small area of required "linear open space" on this site is in fact not required as it is only a very small, isolated, triangular area of land.*"

The subject Proposal supports provision of the through site links by suggesting that the width and size of the Moreton Street linear open space envisioned in the PRCUTS Stage 2 Planning Proposal, connecting Moreton Street (and therefore the subject site) to the north-south pedestrian link on the western side of the church, will not allow for proper utilisation of the area. That is, that the linear park functionality is reduced to only a pedestrian pathway and landscape link.

However, the Moreton Street Linear Park has been envisaged as a neighbourhood scale open space providing opportunity for informal play and incorporating large shade trees, playground, youth play elements, turf areas for informal activity and passive recreation. Provision of the proposed linear

park was also driven by the shape of the current lots and a desire to create a buffer to the heritage-listed church.



Section 1- Moreton Street New Road Reserve
1:200 @ A3

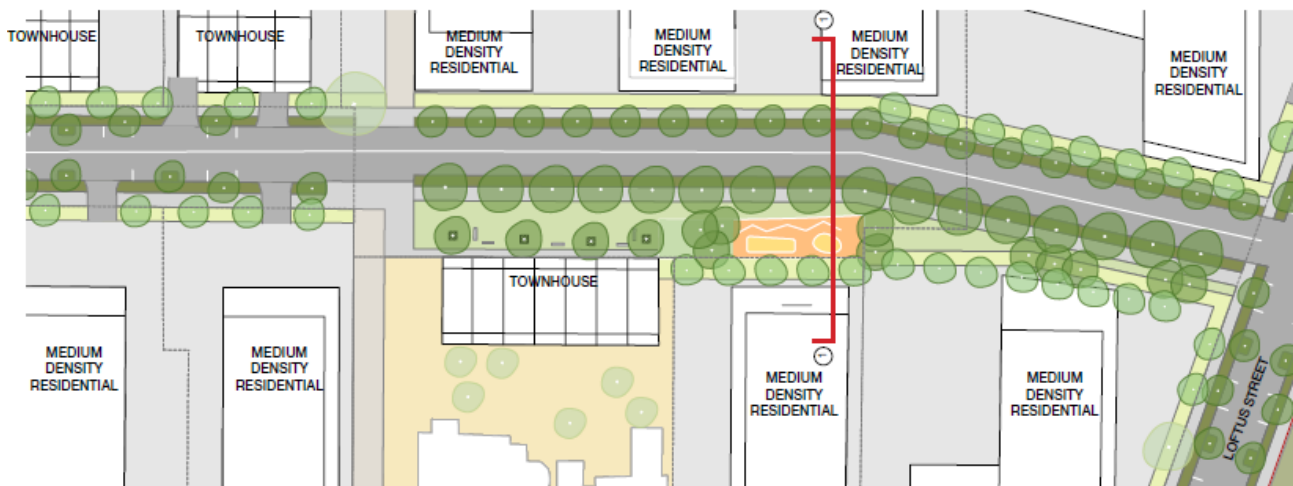


Figure 24: Moreton Street road corridor extension and linear park (PRCUTS Stage2 Public Domain Plan)

The Proposal also indicates a generous roundabout at the end of the Moreton Street cul-de-sac, within land owned by NSW Housing. The roundabout would be required to function as a service accessway for development fronting Gipps Street and Moreton Street, requiring service vehicles on Moreton Street to be able to turn around safely and exit in a forward direction.

Council's traffic engineer has advised that the presence of the cul-de-sac treatment will be at odds with the high-rise vision for the area and may result in significant increase to traffic on surrounding streets.

The Proposal also indicates that a pedestrian crossing will be provided across Burton Street, to connect the public park to Concord Oval. However, consideration would need to be given to the mechanism to deliver the crossing. The Letter of Offer does not address its delivery and the Proposal is silent on who/how it would be delivered.

It is therefore recommended that provision of the 19.3m wide Moreton Street road corridor extension, illustrated in Figure 24, be retained on the Site.



Figure 25: Central Park and Moreton Street round-about (Proposal Urban Design Report)

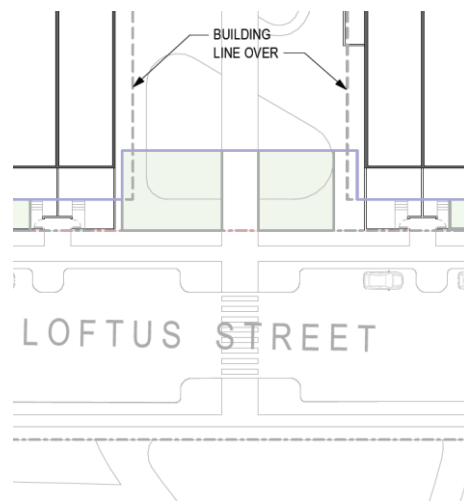


Figure 26: Proposed Loftus Street pedestrian crossing (Proposal Urban Design Report)

Traffic and parking

Traffic

The Proposal includes a Transport Impact Assessment that states that no SIDRA modelling was undertaken as *“the increase in traffic is small so there was no need for additional traffic modelling.”*

The traffic assessment relies on the PRCUTS Stage 2 Traffic and Transport Study modelling outcomes. However, the Proposal would result in approximately 110 apartments more than Council’s PRCUTS Stage 2 yield (275 to approximately 390 units) and 370 sqm of commercial GFA, which was not tested in the PRCUTS Stage 2 study.

On 28 May 2024, Council’s Traffic engineer provided a response regarding traffic and movement impacts for a Scoping Proposal for the subject site. Whilst the Scoping Proposal proposed more uplift than is currently proposed, the proponent was advised that *“a Traffic and Parking Impact Statement would be required to be completed by a suitably qualified Traffic Consultant, to assess the traffic and parking impacts of the proposed development on the surrounding area and road network. The Traffic Report would also need to include detailed results of SIDRA modelling undertaken. The detailed results of SIDRA modelling and its digital copy would need to be provided to Council for review.”* The Transport Impact Assessment has not provided SIDRA modelling.

Council also commissioned an independent Transport Assessment (**Attachment 5 – Transport Assessment Peer Review (for Council) - Bitzios**) to review the Proposal’s Traffic and Transport Assessment and impacts of the Proposal on the road network. The assessment used the outcomes and assumptions from the Bitzios AIMSUN model adopted in the PRCUTS Stage 2 Traffic Study.

The Traffic Assessment Peer Review identified two critical issues that need to be addressed:

1. *Table 5-3 Vehicle trip distribution split ratios*

The simple cardinal directions listed in Table 5-3 are insufficient in detail to understand the implications of the generated traffic.

For example, it is noted that the majority of vehicles in the trip distribution are associated with the east, being the direction of Sydney CBD. Afternoon trips returning to residences will be coming from the east. However, it is observed that neither Loftus Street nor Burwood Road allow a right turn from Parramatta Road. Routing options include using the signalised intersections at Harris Road or Broughton Street. This means that this traffic stream will be approaching the site from either Gipps Street (East) or Broughton Street (West).

Traffic access/egress routes need a more detailed assessment detail to understand the impacted intersections better.

2. *Section 5.3 Road network impact*

The traffic impacts of the generated traffic on congestion have not been thoroughly assessed.

The report states that the additional vehicle trips generated by the planning proposal will not significantly adversely impact the surrounding road network and that the initiatives proposed by Bitzios Consulting in the Stage 2 Modelling Outcomes report will adequately address the network capacity constraints.

This is inconsistent with the findings from the Stage 2 Modelling Outcomes report. For example, the Burwood Road and Burton Street post-mitigation intersection is shown to operate at capacity, with average delays on approaches of around 70 seconds. While this may be an improvement from a network perspective compared to the ‘Do Nothing’ scenario, it does not necessarily indicate a significant surplus of free capacity for additional uplift beyond what was accounted for in the modelling.

While it is acknowledged that the quantum of net traffic increase compared to the Stage 2 assumptions is not particularly large, considering the future road network is expected to already operate at capacity, intersection modelling using SIDRA or similar should be undertaken to understand the specific impacts of development traffic on key turning movements at the

affected intersections. The intersections that are expected to be impacted should be identified based on the updated traffic distribution assessment. Once the expected access/egress routes are determined, any intersections operating close to capacity in the Stage 2 Modelling Outcomes with key turning movements should be tested with SIDRA to confirm that development traffic will not exceed the capacity.

It is recommended that the Proposal be updated prior to exhibition to include a traffic study that addresses:

1. Use of SA2-level information to inform the transport context of the subject site, which, due to its size, may bias the analysis of existing traffic patterns in the area;
2. The discrepancy between the boundary of Key Site 47 in the PRCUTS Stage 2 Planning Proposal (Lot I4 in Masterplan) and the subject size (minus 7-9 Burton Street), along with the method used to calculate the baseline traffic from Council's proposed Key Site 47 / Lot I4 yields;
3. Reliance on a significant shift in future mode shares due to the upcoming Metro station without sufficient justification to support the feasibility of the target mode shares;
4. Inadequate justification for traffic distribution, particularly considering restricted turning movements to/from Parramatta Road and the recommended treatments from the Stage 2 modelling assessment; and
5. Inadequate assessment of traffic impacts, with an incorrect interpretation of Bitzios' recommendations as having addressed/alleviated all associated road network capacity constraints. In reality, the Bitzios' report found that the 'ultimate' network was operating close to capacity, resulting in long delays and queues at critical intersections such as Burwood Road / Burton Street, making it sensitive to additional growth on top of the existing Stage 2 uplift in the area. A thorough assessment and appropriate traffic modelling is required using SIDRA at minimum.

Access and parking

The proposed vehicular access to the subject site off Loftus Street is optimal, although access to the basement carparks can also be considered off the Moreton Street extension. Vehicular access off Gipps Street is not recommended as recognised in the Proposal, as this is a busy arterial road.

The Traffic Impact Assessment states that *"for car parking requirements, this TIA proposes that Residential Parking Category C under Section B3.4 of the DCP applies to the site. The rationale for this is that Category C currently applies to the Stage 1 Implementation Area of PRCUTS and, while the site is not part of Stage 1 and not allowed for high-density residential development, it is part of the Burwood-Concord Precinct and, hence, Category C would potentially apply once planning amendments for Stage 2 are delivered."*

Council's Traffic Assessment Peer Review identified one critical issue that needs to be addressed promptly to ensure the traffic assessment is undertaken robustly and supportably:

1. *Table 4-3 Indicative parking requirements applicable to the proposal*

The source of the freight and service vehicle parking rates is unclear. The reported rates do not align with Table B-K in the Council DCP.

The source of rates should be clarified and checked to ensure the most appropriate rates are applied for the proposed development.

Council's traffic team has also raised concern about the Proposal not including details regarding the proposed three levels of basement carpark. Consideration needs to be given to accommodating a 12.5m Heavy Rigid Vehicle from a waste servicing and loading dock perspective.

It is recommended that the Proposal be updated prior to exhibition to include a traffic study that addresses:

- Inconsistencies in the applied parking rates relative to the LEP and PRCUTS guidelines to ensure parking rates are consistent with Clause 8.11 of the LEP; and
- Design of areas for off-site loading and access, garbage, bicycle and motorbike parking requirements, and deep soil and tree canopy.

Landscaping, Canopy Cover and Deep Soil

Deep soil and tree canopy coverage

The Proposal estimates that 20.4% of the site would comprise deep soil and that Council's PRCUTS Stage 2 Planning Proposal would comprise 15.7% deep soil. However, the independent Urban Design Review has calculated that the Proposal will provide 19% deep soil and that the building layout recommended by the Review will achieve 17% deep soil. That is, both schemes would achieve more deep soil than is required under the ADG for sites larger than 1,500sqm.

The ADG requires a minimum of 7% site area to be dedicated to deep soil, but also acknowledges that sites greater than 1,500sqm may be able to achieve 15% and that the deep soil zones on these larger sites should have a minimum dimension of 6m. The purpose of ensuring sufficient provision and width of deep soil is to support the growth and health of mature shade trees. The State Government has an aspirational target to achieve 40% tree canopy coverage across metropolitan Sydney, and Council has a target to achieve 25% urban canopy in the City of Canada Bay. Such targets are only achievable where both private and public land support mature shade trees.

The Proposal does not include a detailed assessment of tree canopy coverage. Given the extent of the basement levels, it may transpire that Council's PRCUTS Stage 2 Planning Proposal would produce a greater tree canopy coverage than could be achieved by the subject Proposal. The independent Urban Design Review found that the Deep Soil Analysis diagram in the subject Proposal includes areas of proposed paving, walling and water features. Although minor, these areas should be excluded from the diagram, which would reduce the area of deep soil. In estimating the deep soil in Council's plan, no deep soil has been allowed for in the new Moreton Street road corridor. Yet the PRCUTS Stage 2 Public Domain Plan clearly indicates that the corridor would include verges comprising deep soil and landscaping.

It is recommended that the Proposal be updated prior to exhibition to demonstrate that 15% minimum deep soil and 25% tree canopy coverage are achieved, noting that calculations of deep soil should not include areas under 6m wide.

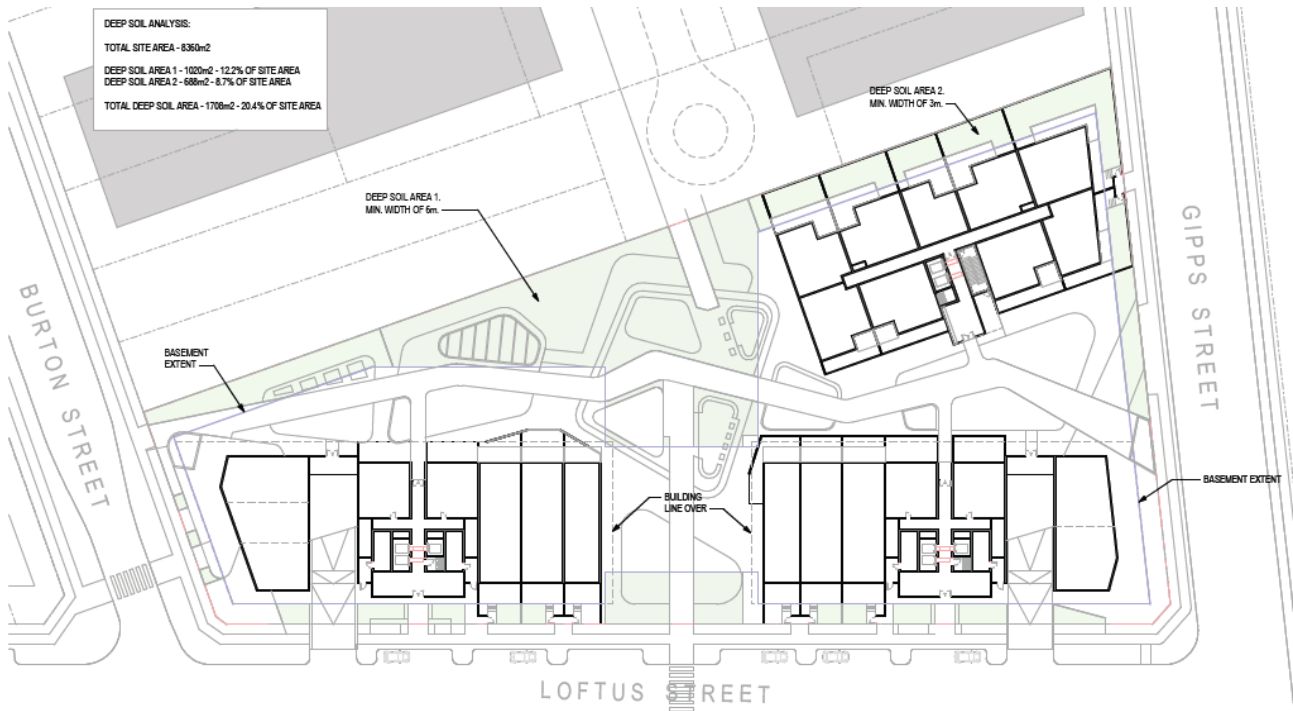


Figure 27: Proposed deep soil plan (Proposal Urban Design Report)

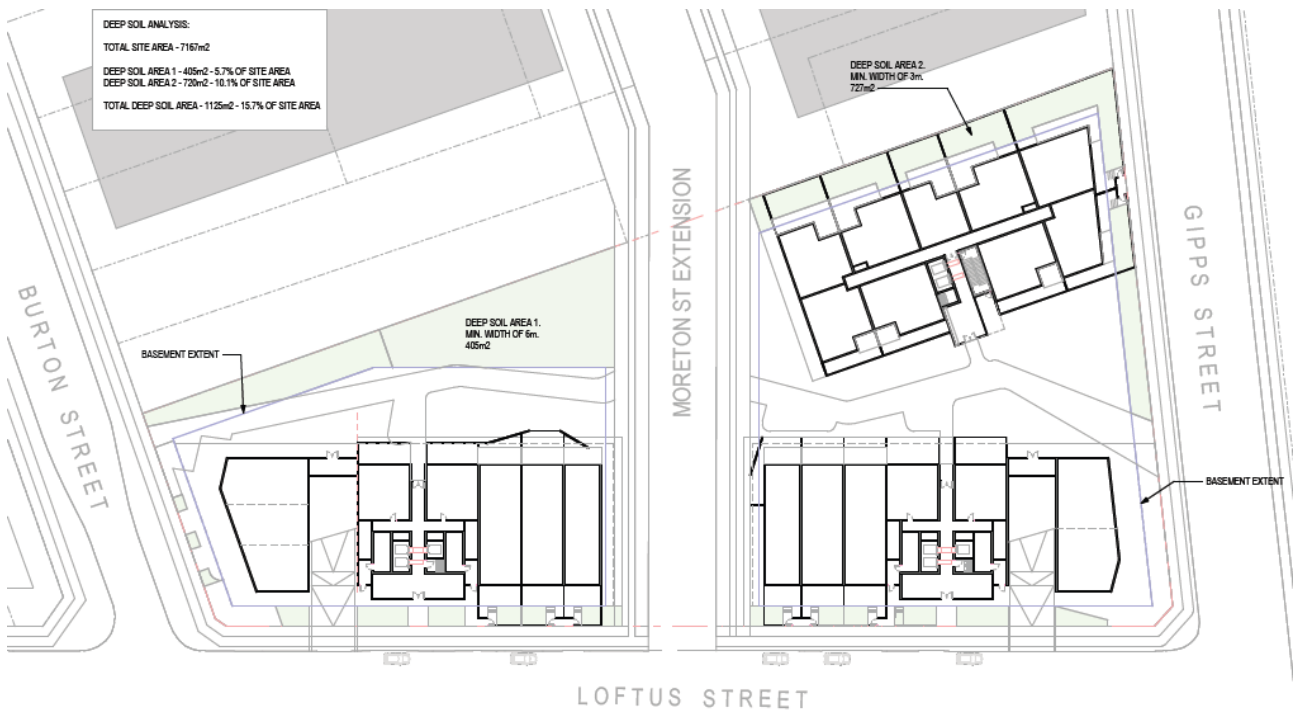


Figure 28: Estimated deep soil plan (Council PRCUTS Stage 2 Planning Proposal)



Figure 29: Deep soil calculation of the recommended building layout (SGL independent Urban Design Review)



Figure 30: Tree Canopy Assessment (Council PRCUTS Stage 2 Planning Proposal)

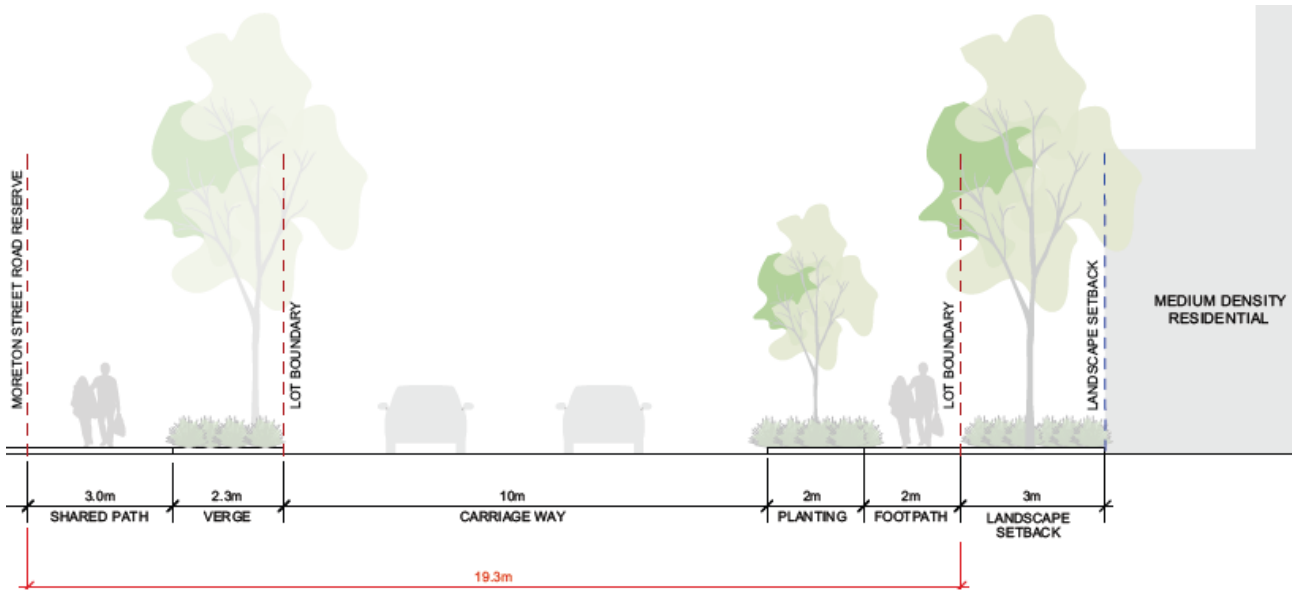


Figure 31: Moreton Street road corridor (Council PRCUTS Stage 2 Public Domain Plan)

Landscape Area

The Proposal proposes to provide landscaped through site links that aim to commemorate the original streams on the site with water themed landscape ideas and green roofs that will assist in limiting urban heat island effect. The Proposal estimates that 38.2% of the site area would comprise landscaped area and that Council’s PRCUTS Stage 2 Planning Proposal would comprise 32.9% landscaped area.

Whilst the Proposal is providing more landscaped area and deep soil than the PRCUTS Stage 2 proposal, Council’s planning proposal is providing more than the 15% deep soil required under the ADG for sites larger than 1,500sqm and the proposed road extension.

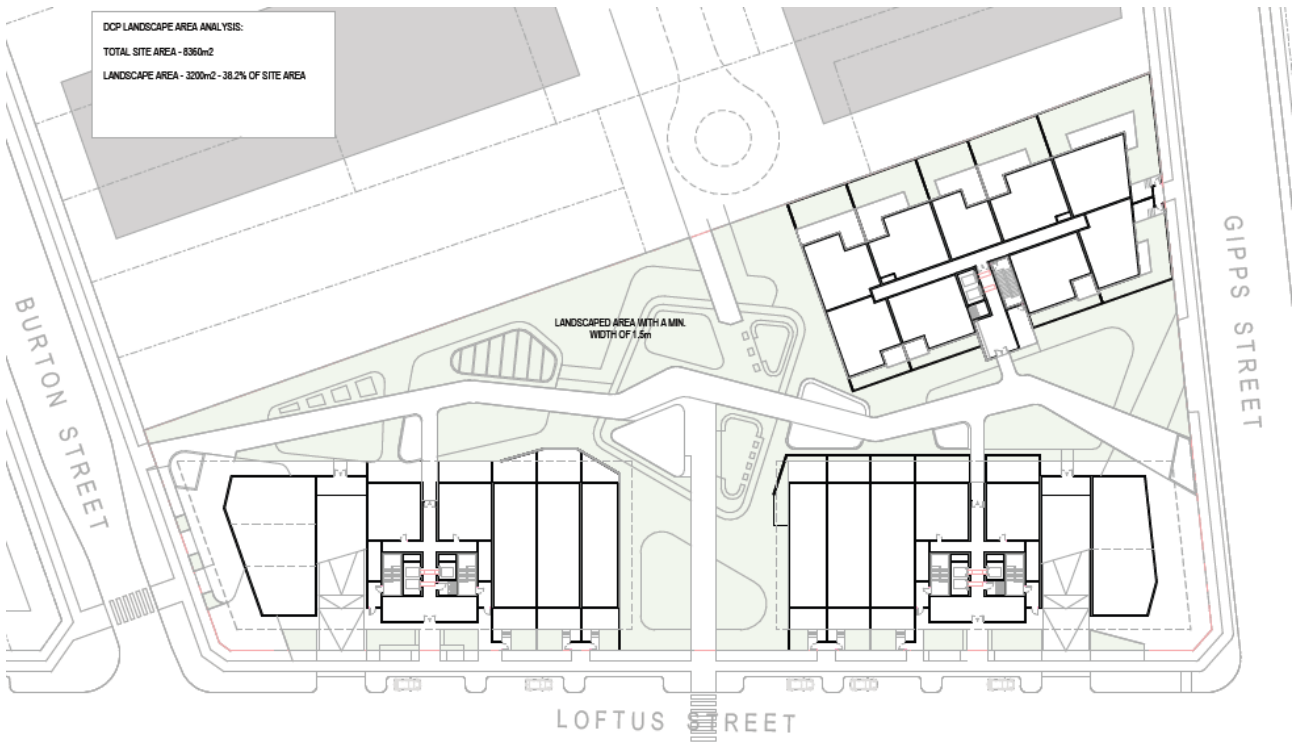


Figure 32: Proposed landscaped area (Proposal Urban Design Report)



Figure 33: Estimated landscaped area (Council PRCUTS Stage 2 Planning Proposal)

It is recommended that, should the Planning Proposal proceed to Gateway determination, the Proposal be updated prior to exhibition to include an Arboricultural Impact Assessment, a Tree Canopy Assessment, and a Landscape and Street Tree Masterplan that demonstrate the following:

- minimum of 25% tree canopy coverage at maturity;
- suitable soil depths for tree plantings to meet canopy cover requirements;
- an accurate assessment and understanding of the impacts of the Proposal on the existing public and private tree population within the site and adjoining public domain, including potential dust impacts to the adjacent mature Ficus trees;
- consistency with Council's 2:1 replacement requirement for tree removals;
- consistency with Council's *Urban Tree Canopy Strategy and Biodiversity Framework and Action Plan*;
- consistency with soil depths for landscape podiums in the Apartment Design Guide; and
- consideration of façade greening to provide additional greening and cooling.

Flooding

The subject site is within the PRCUTS Stage 2 Flood Study area, which indicates that the subject land is not affected by a 1%AEP or PMF events. The surrounding streets (Gipps, Loftus and Burton) are classified as PMF Hydraulic Hazard H1 (Generally safe for vehicles, people and buildings), PMF Hydraulic Category of Floodway (Gipps Street) or Flood Fringe (Loftus and Burton Streets) and have a Medium Flood Risk rating overall.

It is the responsibility of each development to manage stormwater within the site, such that the proposed development does not increase flooding on other properties.

It is recommended that, should the Planning Proposal proceed to Gateway determination, the Proposal be updated prior to exhibition to include a flood risk assessment that demonstrates that flooding will not adversely impact any other properties and how emergency evacuation would occur.

Contamination

Acid Sulfate Soils

The site is Class 5 ASSs, sits at a contour of 7-12m AHD and is approximately 60m Class 2 ASSs. Given three basement levels of basement are proposed, which are likely to extend below 5 AHD, the provisions of the Canada Bay LEP are triggered.

The Proposal is therefore required to undertake a preliminary assessment in accordance with the ASSMAC *Acid Sulphate Soil Manual* and, subject to the results, a detailed management plan in accordance with the ASSMAC assessment guideline with results found to be satisfactory, prior to, and as part of, any Development Application.

Air quality and noise

The Proposal proposes rooftop landscaping on buildings B and C to provide “*playgrounds, community gardens, outdoor gym, yoga/pilates terrace, barbeque and family seating.*”

The basement carpark levels will require a carpark exhaust system, which are generally located on building rooftops. Consideration needs to be given to the location of the carpark exhaust system, as locating the exhaust vents on the roof could result in issues of air quality for the children/adults accessing and using the communal rooftops.

A detailed noise assessment would need to be provided at DA stage in regard to impacts on communal spaces from mechanical plant and equipment, intrusive noise and other external noise sources.

Contaminated land

The site was the subject of a Preliminary Site Investigation (PSI) that was prepared to support the PRCUTS Stage 2 Planning Proposal. The main purpose of the PSI was to investigate potential contamination issues, and also Acid Sulfate Soils. The PSI gave the site a Preliminary Risk Level, stating that a “*low risk ranking has been applied to residential properties built on standard cut/fill with no other historical land use.*”

The PSI recommended that “*project-specific preliminary and/or detailed site investigations be undertaken upon submission of DA for redevelopment of any land within the Precinct areas with a low to moderate or higher preliminary contamination risk ranking, to assess the suitability of that land for the use(s) proposed and whether any contamination of the land requires remediation to make the land suitable.*”

It is also recommended that Hazardous Building Material Surveys (HBMS) be undertaken prior to any demolition and redevelopment works on individual land parcels where there is the potential for hazardous materials to be present, irrespective of the preliminary risk ranking herein.

Canada Bay Local Planning Panel

The Proposal was considered by the Canada Bay Local Planning Panel on 6 March 2025. The Panel’s role is to provide advice to Council for their consideration. In providing advice, the Panel considered the strategic merit and site-specific merit of the Planning Proposal.

The Panel considered the Council staff report (including attachments), heard from the proponent and their representatives, and responded to questions from the proponent. The Panel also visited the site prior to the meeting and considered observations made during the site inspection.

The Panel provided the following advice (**Attachment 15 – Local Planning Panel Minutes**)

1. *The Local Planning Panel supports the Planning Proposal (“PP”) for the Site at 3B-11 Loftus Street, 1-5 Burton Street and 10-12 Gipps Street, Concord (PP2024/0008) proceeding to a Gateway determination. This should ideally be included in Council’s precinct-wide Planning Proposal to implement Stage 2 of the Parramatta Road Corridor (“PRCUTS”), noting planning for the subject site is inter-related with surrounding planning controls, and vice-versa. Should the Planning Proposal progress independently of Council’s Planning Proposal to implement*

Stage 2 of PRCUTS, the Planning Proposal should be updated prior to public exhibition as follows:

- a) *Production of a Transport and Traffic study that uses current data and addresses the issues outlined in the Council staff assessment report of this report and in Council's Transport Assessment Peer Review, by Bitzios Consulting;*
 - b) *Production of a flood risk assessment that demonstrates that flooding will not adversely impact any other properties and how emergency evacuation would occur;*
 - c) *Demonstration of how 15% minimum deep soil and 25% tree canopy coverage will be delivered;*
 - d) *Inclusion of an Arboricultural Impact Assessment, a Tree Canopy Assessment, a Landscape and Street Tree Masterplan;*
 - e) *An ecological assessment of the site having regard to EEC;*
 - f) *A Social Impact Assessment, including any latest planning for school places in the area. This should address the cumulative precinct wide situation as well as the site; and*
 - g) *A review of recent legislative changes to ensure the PP is current.*
2. *The planning controls for the site should be informed and guided by reasonably increasing the density of the site given its proximity to the planned North-Burwood Metro Station, while also ensuring the following principles and desired outcomes are met (in order of priority):*
- a) *Avoiding any additional overshadowing of Concord Oval that would compromise the integrity and safety of the playing surface and/or ongoing maintenance of that oval;*
 - b) *Retention of the planned east-west road through the site (as an extension of Moreton Street);*
 - c) *Complementing the surrounding planned built form envisaged in both Stage 1 and Stage 2 of the surrounding area, noting planned buildings to 24 storeys to the immediate south and 8-12 storey planned buildings to the immediate west. In this regard, the built form should step down to the north, with some scope for an increase in height in the north-western corner of the site, noting 8-12 storeys planned to the west (at this stage);*
 - d) *Facilitating active uses at ground floor and achievement of design excellence;*
 - e) *Providing podium forms to the existing and planned public streets, in the order of up to 4 storeys, to help define street edges and public space, while mediating the form of towers above through appropriate setbacks; and*
 - f) *Considering future residential amenity in building envelope controls, both within the site and those adjoining.*
3. *In terms of an affordable housing contribution rate, this should be set at 5% (like existing and in perpetuity), or a higher percentage to be determined by Council (noting the increased density), that is proportionate with the uplift sought yet that is feasible. In this regard, the applicant is encouraged to provide any data they have that may help inform both costs and returns, for the independent analysis underway by Council.*
4. *In terms of other mechanical or procedural matters, the Panel is of the view the planning controls/processes associated with the PP should include the following:*
- a) *A R4 High-Density Residential zoning, with an appropriate mechanism to permit and encourage commercial uses on the ground floor;*
 - b) *Applying Part 8 of the Canada Bay Local Environmental Plan 2013;*
 - c) *Base and Incentive maximum Height of Building and FSR standards, linked to both amalgamation and delivery of infrastructure;*

- d) *Requiring delivery of the 19.3m wide Moreton Street road corridor extension and amalgamation of the lots within the Site as a prerequisite of approval of any Incentive Height and Floor Space Ratio;*
- e) *Including a new local clause that prohibits additional midwinter afternoon overshadowing of Concord Oval, informed by further analysis linked to the integrity, safety of the playing surface and ongoing maintenance of that oval;*
- f) *Amend the Design Excellence Map to apply to the subject site;*
- g) *Include an affordable housing contribution rate following further analysis (with an appropriate implementation mechanism); and*
- h) *A draft amendment to the Canada Bay Development Control Plan be prepared by Council to provide detailed development controls for the site.*

The Panel's advice and reasoning (refer **Attachment 15 – Local Planning Panel Minutes**) is generally consistent with Council officer's assessment and supports Officers' recommendations.

The Panel's reasoning regarding provision of the Moreton Street extension is that the wider traffic analysis, undertaken to support the PRCUTS Stage 2 Planning Proposal, assumed delivery of the road.

The Panel's advice regarding overshadowing of Concord Oval is that private investment should augment and complement existing and planned public infrastructure and investment. Whilst Metro warrants a review of density and controls around the station, this should also take into account the surrounding context and other planning considerations. Concord Oval "*represents a significant public investment and is an important part of a wider network of active recreational space, supporting high-level and elite sporting endeavours. Avoiding overshadowing of key open space areas is an objective of existing planning controls for the area, and a common approach in strategic town planning in many Council areas. Sometimes such open space is for passive recreational use, other times active. It is a reasonable principle that planning controls should not unduly compromise the key purpose for which key areas of open space are provided, linked to their use. In the case of Concord Oval, it is used by elite sportspeople, including in Rugby League and Rugby Union. This occurs through winter and in mid-afternoon periods. While the objective of reasonably increasing density close to a new metro station is supported by the Panel, this should not compromise the integrity, safety of the playing surface nor the ongoing maintenance of Concord Oval.*"

However, the Panel was uncertain about to "*what degree overshadowing of the Oval at 2pm (or 3pm for that matter noting its use) would compromise its use, safety or maintenance. Common sense would suggest that additional overshadowing in midwinter is likely to lead to some degradation of the playing surface, delays in drying after rain and potential compromising of the surface that would likely affect its use, potential player slips and ongoing maintenance. The degree of such effect is not apparent from the information before the Panel, therefore it is suggested that further information be required to determine the impact of additional overshadowing in terms of its ongoing use, potential player slips and ongoing maintenance, in turn to help inform appropriate planning controls to avoid such impacts, where they are found to exist.*"

In response to the Panel's advice, Council Officers commissioned an independent review of the impacts of overshadowing of the Oval for the three different built form scenarios (**Attachment 16 – Review of Overshadowing of Concord Oval**):

Scenario A: PRCUTS Stage 2 Planning Proposal built form

Scenario B: Proponent's Planning Proposal built form

Scenario C: Recommended built form by Studio GL

The purpose of the Review was to:

1. Evaluate Impacts on Turf Viability and Resilience by:
 - determining whether the overshadowing created by the proposed built forms will adversely affect the viability, resilience, playability, and carrying capacity of Concord Oval's turf surface; and
 - quantifying the impact by assessing and quantifying the extent to which each scenario affects turf quality, recovery from wear, and surface stability.
2. Quantify Difference in Turf Degradation by:
 - Assessing whether any scenario will result in the field degrading faster than the others;
 - Quantifying the difference by comparing turf degradation rates between scenarios and evaluate potential mitigation strategies to minimise negative impacts and
 - Evaluating the effectiveness of mitigation by determining whether these strategies can fully or only partially mitigate the adverse effects.
3. Make a Recommendation

The Review recommended that Scenario A (PRCUTS Stage 2 Planning Proposal) should be accepted as it presents the least impact on Concord Oval's turf quality, playability, and long-term resilience of the three scenarios.

However, given that Scenario C (Recommended built form by Studio GL) is able to be progressed with impacts to the Oval that would be within acceptable levels of tolerance, the amendments outlined above continue to be recommended. Scenarios A and C both overshadow the Oval from 3pm onwards (compared with 1pm for the Proponent's Scenario B). At 3pm, when both Scenario A and C start to add additional overshadowing, Scenario C increases the additional overshadowing generated by Scenario A by 14% (50% by Scenario B) and 3% at 4:00pm.

Table 4: Shadow cast on Concord Oval at different times and under each Scenario. The grey cells indicate when, and by how much, additional shadow is cast compared to the current situation.

Time	Existing Oval Built Form	Scenario A: PRCUTS Stage 2 Built Form	Scenario B: Planning Proposal Built Form	Scenario C: SGL Recommended Built Form
9:00 am	33%	33%	33%	33%
10:00 am	18%	18%	18%	18%
11:00 am	10%	10%	10%	10%
12:00 pm	7%	7%	7%	7%
1:00 pm	4%	4%	6%	4%
2:00 pm	3%	3%	52%	3%
3:00 pm	13%	32%	82%	46%
4:00 pm	55%	79%	84%	82%

The implications of the additional overshadowing are that Scenario A will result in negligible impacts to the overall quality of the turf and Scenario C will result in moderate impacts (whilst Scenario B will result in high impacts). The playability and wear impacts are minimal under Scenario A and moderate under Scenario C (but high under Scenario B with 40–50% increase in traffic-related surface degradation due to reduced density and slower recovery). Refer to **Attachment 16 – Review of Overshadowing of Concord Oval** for the full analysis.

TIMING, CONSULTATION AND RISK CONSIDERATIONS

Should the Proposal not be endorsed for submission to the Department of Planning, Housing and Infrastructure for a Gateway determination before 10 May 2025, the proponent would be eligible to request the Department to undertake a Rezoning Review of the Proposal.

Should the Proposal proceed to Gateway Determination, the Planning Proposal would be placed on public exhibition for a period of 28 days in accordance with the *Canada Bay Community Participation Plan*.

It is preferred that the progression of any changes to the development standards that apply to the site be implemented through the precinct-wide planning proposal for Stage 2 of PRCUTS. This will ensure a coordinated and integrated approach to planning within the precinct.

Should the proponent wish to progress the planning proposal independently of Council's precinct-wide plan, the proposal should be amended as outlined in the report and additional information provided, to ensure impacts are addressed.

FINANCIAL CONSIDERATIONS

Future development on the land would be subject to the *Canada Bay Local Infrastructure Contribution Plan* and an amendment to the *Canada Bay Affordable Housing Contribution Scheme*.
Legislative and Policy Considerations

The Planning Proposal has been reviewed against relevant legislation, including the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021*.

ITEM 9.3 PLANNING PROPOSAL - 79-81 QUEENS ROAD AND 2-12 SPENCER STREET, FIVE DOCK**Reporting Manager** Manager Strategic Planning

- Attachments:**
1. Planning Proposal - 79-81 Queens Road and 2-12 Spencer Street, Five Dock - Beam Planning (*Provided in Attachment Booklet*) [⇒](#)
 2. Urban Design Review (for Council) - Studio GL (*Provided in Attachment Booklet*) [⇒](#)
 3. Proposed alternative scheme (by Council) (*Provided in Attachment Booklet*) [⇒](#)
 4. Feasibility Assessment (for Council) - Atlas Economics (*Provided in Attachment Booklet*) [⇒](#)
 5. Appendix A - Indicative Design Concept - Projected Design Management Pty Ltd (*Provided in Attachment Booklet*) [⇒](#)
 6. Appendix B - ADG Assessment - Projected Design Management Pty Ltd (*Provided in Attachment Booklet*) [⇒](#)
 7. Appendix C - Urban Design Analysis - Audax Urban (*Provided in Attachment Booklet*) [⇒](#)
 8. Appendix D - BCA Statement - Philip Chun Building Compliance (*Provided in Attachment Booklet*) [⇒](#)
 9. Appendix E - Valuation Statement - Titan Advisory Group (*Provided in Attachment Booklet*) [⇒](#)
 10. Appendix F - Evidence of Negotiation - Bell Property Commercial (*Provided in Attachment Booklet*) [⇒](#)
 11. Appendix G - Amendments to the CBDCP - Beam Planning (*Provided in Attachment Booklet*) [⇒](#)
 12. Local Planning Panel - Minutes (*Provided in Attachment Booklet*) [⇒](#)

RECOMMENDATION OF DIRECTOR ENVIRONMENT AND PLANNING

That:

1. The Planning Proposal for land at 79-81 Queens Road and 2-12 Spencer Street, Five Dock (PP2025/0001) be progressed to Gateway determination subject to the following amendments:
 - a) identify 10-12 Spencer Street as 'Key Site 17A' to incentivise the delivery of the 3m wide embellished public domain along Spencer Street;
 - b) retain the PRCUTS recommended maximum Floor Space Ratio of 3.0:1 across both sites, resulting in a maximum Incentive Floor Space Ratios of 3.3:1 to 79-81 Queens Road/2-8 Spencer Street and 1.8:1 to 10-12 Spencer Street;
 - c) apply a maximum Incentive Height of Building of 67m to 79-81 Queens Road / 2-8 Spencer Street and 19m to 10-12 Spencer Street;
 - d) remove the amendments relating to site specific provisions, with the exception of a local clause that requires a single vehicle access via a consolidated driveway and basement.
2. The following additional information be provided prior to the Planning Proposal being submitted to the Department of Planning, Industry and Environment for a Gateway Determination:
 - a) demonstrate the capacity of the site to provide landscaped area and deep soil in accordance with the Apartment Design Guide;

-
- b) a flood risk assessment that demonstrates flooding is able to be managed within the subject site and does not adversely impact any other properties.
3. A draft amendment to the *Canada Bay Development Control Plan* be prepared by Council to provide detailed development controls for the site and include:
 - a) 3.0m upper level setback to the western boundary and to the eastern podium edge of 79-81 Queens Road / 2-8 Spencer Street;
 - b) enable a shared pedestrian link between Spencer Street and Queens Road; and
 - c) include a single shared driveway and internal access ramp on 79-81 Queens Road / 2-8 Spencer Street and require future development to provide a 'right of access' easement on the land title.
 4. Delegation be requested from the Department of Planning, Housing and Infrastructure to manage the plan making process.
 5. Authority be delegated to the General Manager to make minor variations to the Planning Proposal to correct any drafting errors or to ensure that it is consistent with the Gateway Determination.
 6. The Planning Proposal and draft Development Control Plan be endorsed for public exhibition in accordance with relevant conditions imposed under the Gateway Determination.
 7. If, as a result of public exhibition of the Planning Proposal, the landowners of 10-12 Spencer Street provide a commitment to sell the land or work with the proponent to deliver a joint Development Application (removing the necessity for a planning proposal), the Proposal not proceed to finalisation.
-

PURPOSE

To provide the outcome of the assessment of a proponent-initiated Planning Proposal for land at 79-81 Queens Road and 2-12 Spencer Street, Five Dock (PP2025/0001).

EXECUTIVE SUMMARY

Council has received a Planning Proposal (the Proposal) for land within Stage 1 of the Kings Bay Precinct of the *Parramatta Road Corridor Urban Transformation Strategy* (PRCUTS), comprising land bounded by William Street, Queens Road and the eastern end of Spencer Street, Five Dock. The Proposal has been prepared by Beam Planning for the proponent, DPG Project 37 Pty Ltd.

The Proposal is seeking an amendment to the *Canada Bay Local Environmental Plan 2013* to enable the land at 79-81 Queens Road/2-8 Spencer Street, Five Dock to be developed independently of 10-12 Spencer Street, Five Dock. At present, both sites are required to be amalgamated to realise the maximum building height and Floor Space Ratio. The Planning Proposal states that the fragmentation of the site is necessary due to the lack of success the landowners have had with either purchasing 10-12 Spencer Street or entering into a joint Development Application with the landowners of that site.

It is possible that each site could be developed independently, however the Proposal raises issues in relation to the planning standards and development controls that should be applied to each lot and the built form legacy that would be created by fragmenting a 'Key Site' into two development parcels. In particular, the Floor Space Ratio for each site must be no greater than the current combined Floor Space Ratio and the future tower must be set back a minimum of 3.0m from the eastern podium and western boundary. If these planning standards and controls are not implemented, the proposal would not be supported as it would not achieve a development with an appropriate urban form and an acceptable level of amenity.

It is recommended that the Planning Proposal be submitted to the Department of Planning, Housing and Infrastructure for a Gateway determination subject to the amendments outlined in this report.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 3: Vibrant Urban Living

Goal VUL 1: Creative vibrant local village centres and community hubs

BACKGROUND/DISCUSSION

Site details

The land at 79-81 Queens Road and 2-12 Spencer Street, Five Dock (Key Site 17) comprises 8 land parcels under two ownerships: 79-81 Queens Road / 2-8 Spencer Street comprises 6 lots owned by the Proponent (Proponent's site) and 10-12 Spencer Street comprises 2 lots that the proposal is seeking to remove from the Key Site 17 area. The Proponent's site is currently used for vehicle workshops and warehouses and 10-12 Spencer is currently used for vehicle workshops and a microbrewery. The total area of Key Site 17 is 4,113sqm, comprising 3,151sqm for the Proponent's site and 962sqm for 10-12 Spencer Street.

Key Site 17 has three road frontages, Queens Road to the north, William Street to the east and Spencer Street to the south. Adjoining the site on the west and on the opposite side of William street and Spencer Street (local roads) are light industrial sites. The site to the east is subject to a significant State Significant mixed-use development by Deicorp. To the north of the site, on the opposite side of Queens Road (a State road) is the Five Dock Leisure centre.

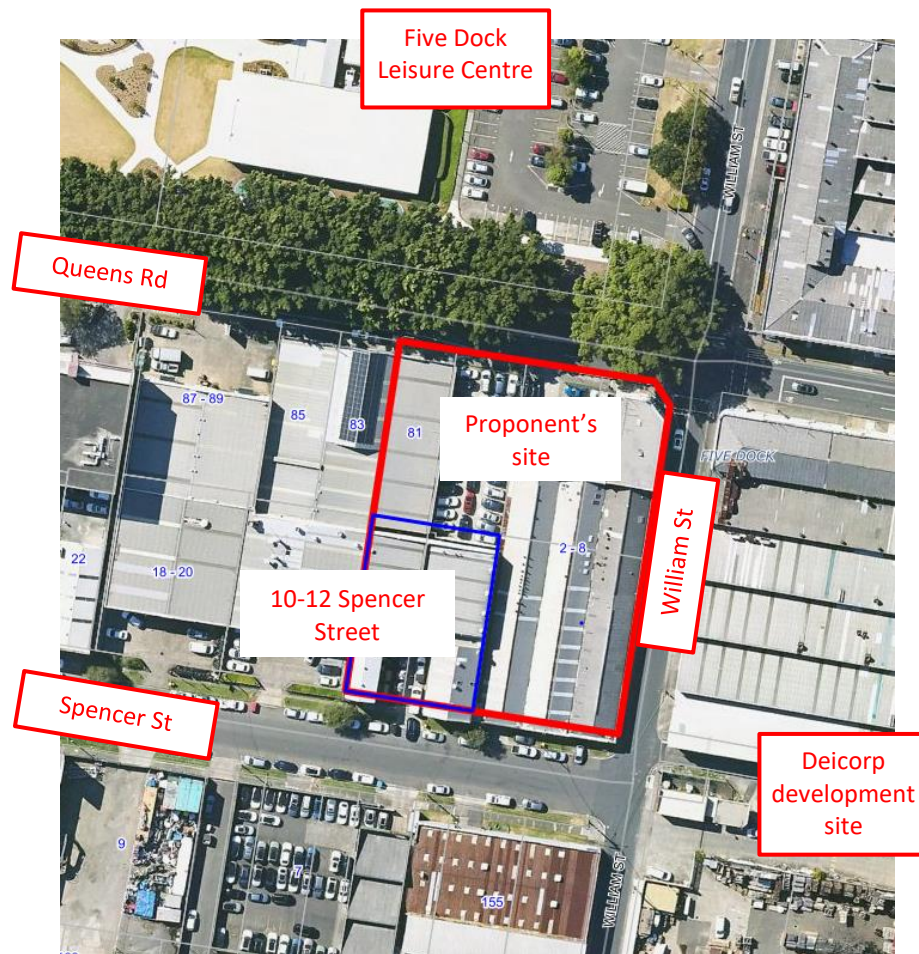


Figure 1: 79-81 Queens Road and 2-12 Spencer Street, Five Dock (Key Site 17)

Strategic and urban context

The existing local character of the area within which Key Site 17 is located features light industries, apart from land to the north which is characterised by open space and the Five Dock Leisure Centre. However, the land to the north is separated by a busy road and, visually at ground level, by significant mature fig trees along the northern side of Queens Road.

Key Site 17 is located within the Kings Bay Precinct of the *Parramatta Road Corridor Urban Transformation Strategy* (PRCUTS), a State Government strategy published in 2016. Local Planning Direction 1.5 *Parramatta Road Corridor Urban Transformation Strategy* issued by the Minister for Planning under of the *Environmental Planning and Assessment Act 1979* gives the Strategy and Implementation Tool Kit statutory weight and Councils are required to ensure that planning proposals are consistent with the Strategy. In December 2022, land within Stage 1 of PRCUTS, that includes Key Site 17, was rezoned consistent with PRCUTS, but with some refinements to produce improved urban design outcomes.

Stage 1 of the Precinct is now in transition towards realising the PRCUTS vision:

Kings Bay will be a commercial mixed use centre in the heart of the precinct, centred on Spencer Street (including new extensions to the east and west) and extending along the Parramatta Road frontage. The [Spencer Street] centre will provide fine-grained ground floor retail and urban services, with offices and commercial space in the podium levels above, to support and service the local community. The commercial centre will be surrounded by new high-rise residential tower development, stepping down towards the existing low-scale low-density residential areas.

Development capacity of Key Site 17 under Council's PRCUTS Stage 1 Masterplan was estimated to be approximately 123 dwellings.

Current Planning Controls

The key planning requirements that apply to Key Site 17 under the *Canada Bay Local Environmental Plan 2013* include:

- a) MU1 Mixed Use;
- b) Maximum Building height of 12m;
- c) Maximum Floor Space Ratio (FSR) of 1.0:1;
- d) Maximum Incentive Building Height of up to 67m;
- e) Maximum Incentive FSR of 3.0:1;
- f) Affordable Housing Contribution of 4%;
- g) Design Excellence requirements;
- h) Key Sites minimum site area requirements to activate incentive Height of Building and FSR of 4,096sqm;
- i) Specified infrastructure delivery to activate Incentive Height and FSR, comprising:
 - i. an 8m wide setback on land that fronts William Street, Five Dock, and
 - ii. a 3m wide setback on land that fronts Queens Road, Five Dock and land that fronts Spencer Street, Five Dock (note. These are reflected in the 2.5m maximum building height on the Incentive Building Height Map);
- j) Active Frontages to Queens Road, William Street and Spencer Street.

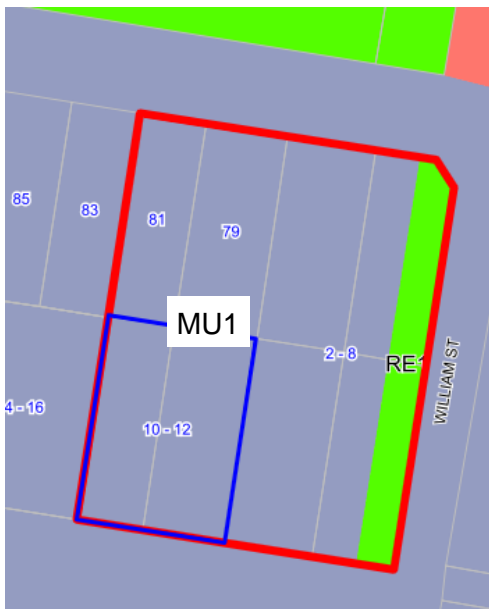


Figure 2: Current Land Zoning Map



Figure 3: Current Key Sites Map

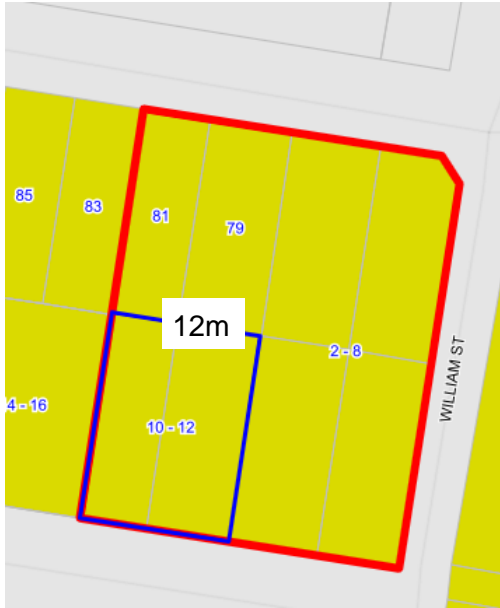


Figure 4: Current Building Height Map

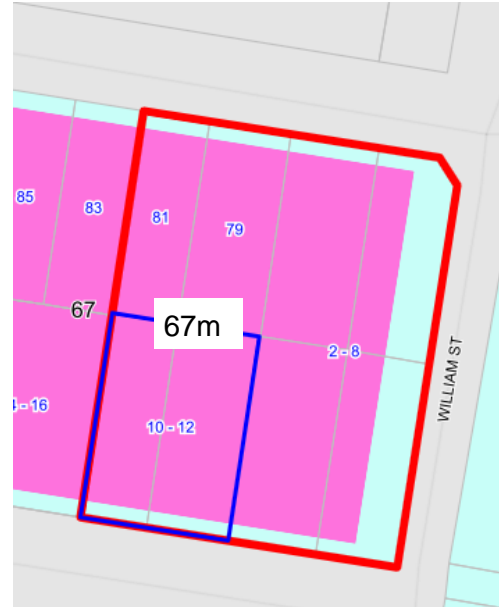


Figure 5: Current Incentive Building

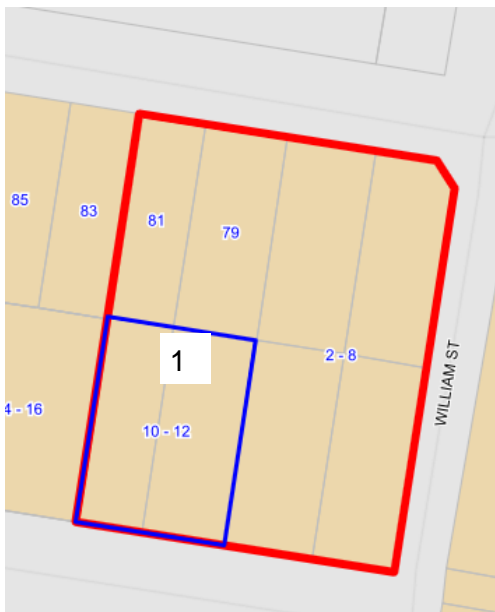


Figure 6: Current FSR Map

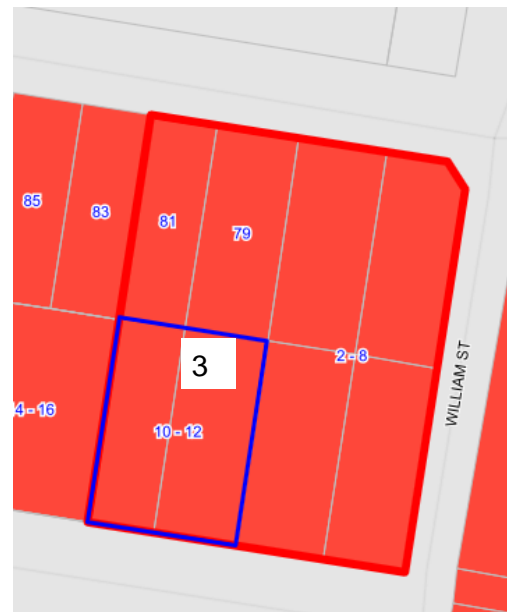


Figure 7: Current Incentive FSR Map Height Map

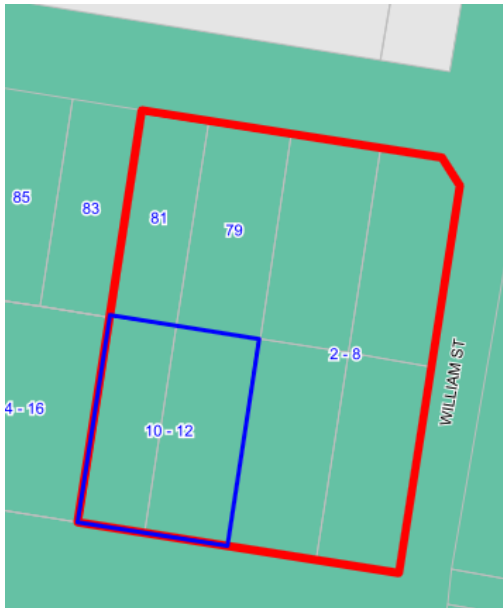


Figure 8: Current Design Excellence Map



Figure 9: Current Affordable Housing Contribution Map (site is wholly within)



Figure 10: Current Active Frontages Map

PLANNING PROPOSAL

The Planning Proposal states that “the objective of the Planning Proposal is to exclude 10-12 Spencer Street from Area 17 of the Kings Bay Precinct and prescribe new planning controls for both sites, whilst ensuring that they are aligned with and achieve the desired built form and public domain outcomes for the site as identified within Section K20 Kings Bay (PRCUTS) of the Canada Bay DCP.”

It is seeking to achieve this outcome by amending the *Canada Bay Local Environmental Plan 2013* to:

- Remove 10-12 Spencer Street from Key Site 17 on the Key Sites Map. This will have the effect of removing the Minimum Site Area Requirement and the Incentive Height and FSR for that site;
- Reduce the Minimum Site Area Requirement for Key Site 17 to 3,151sqm;

- No change is proposed to the Incentive Height (67m) and Incentive FSR (3.0:1) for the Proponent's site;
- Apply a Maximum Building Height of 19m and a Maximum FSR of 2.17:1 to 10-12 Spencer Street.
- Amend Part 6 of the LEP to add a new site-specific provision for 10-12 Spencer Street such that, despite the maximum height and FSR controls that would apply to that land:
"Development consent may be granted to development involving the erection of a building on the subject land with a height not greater than 19m and a floor space ratio not greater than 2.17:1, if the consent authority is satisfied that—
 - a. *the development is for the purposes of shop top housing.*
 - b. *a 3m wide setback to Spencer Street is provided.*
 - c. *a 6m wide setback to the western boundary is provided to facilitate a through site link that connects Spencer Street and Queens Road.*
 - d. *vehicular access is consolidated with the adjoining development at Area 17 of the Kings Bay Precinct."*
- Amend Part 8 of the LEP to require that, in applying Incentive Height and FSR within PRCUTS Key Sites:
"the consent authority must be satisfied the development:
 - i. *does not prevent the future redevelopment of 10-12 Spencer Street, Five Dock in accordance with this plan; and*
 - ii. *provides the potential for a single vehicle access to allow a consolidated driveway and basement with the future development at 10-12 Spencer Street."*

The proposal also suggests the following changes to the DCP:

- Block Configuration – Amend *Figure K20.7 Site Amalgamation Plan* to be updated to exclude adjoining land at 10-12 Spencer Street from Key Site 17.
- Public Domain Experience - New control - Area 17, despite being redeveloped in stages must have a consolidated basement with one singular access driveway along Spencer Street.
- Street Wall Heights and Setbacks - Amend *Figure K20.12 Building Envelopes Plan-western part* to be updated to amend upper-level setback distance from podium edge on William Street to 1m instead of 3m and on the western boundary to 1m instead of 21m.
- Street Wall Heights and Setbacks - Amend *Figure K20.21 Built Form Envelope – Section G (east)* to be updated to shift the tower further east to illustrate a 1m upper level setback. That is, from the podium edge on William Street.
- Massing and Articulation - New Control - *Development within Area 17 must provide high quality treatments to the common boundary between 2-8 Spencer Street and 10-12 Spencer Street, Five Dock.*
- Access and Parking - New control - *Both stages of development within Area 17 must be designed accordingly to accommodate a consolidated basement with a shared access point.*

The proposal states that it is seeking these amendments to Key Site Area 17 *"because the proposed development cannot achieve the minimum site area of 4,096m² required under Clause 8.4 [of the LEP] because of the inability to acquire the adjoining land at 10-12 Spencer Street even after multiple attempts of negotiation"*.

The proposed amendments and the justification are discussed below.



Figure 11: Proposed Key Sites Map



Figure 12: Proposed Building Height Map



Figure 13: Proposed Incentive Building Height Map (ie. does not apply to 10-12 Spencer Street)

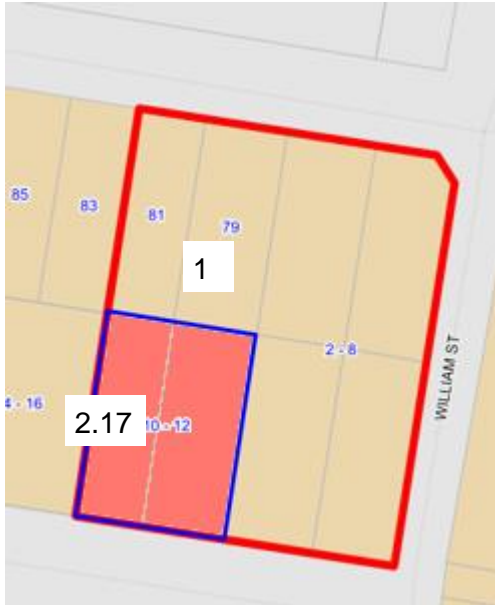


Figure 14: Proposed FSR Map



Figure 15: Proposed Incentive FSR Map (ie. does not apply to 10-12 Spencer Street)

Independent reviews

To assist with the assessment of the Planning Proposal, two independent reviews were commissioned:

- Urban Design Review by Studio GL to determine the developmental capacity of the two sites independently and the visual and amenity impacts of the proposed built form on the surrounding area (**Attachment 2 - Urban Design Review (for Council)**).
- Feasibility and Valuation Assessment by Atlas Economics to assess the methodology applied in the Valuation Statement (**Attachment 4 – Feasibility Assessment (for Council)**).

The findings and recommendations of these reports are incorporated into the assessment on the following pages.

STRATEGIC MERIT

Planning Proposals are required to be assessed for strategic merit against plans and strategies prepared by the NSW Government and Council. Relevant strategies and Local Planning Directions are addressed below.

Greater Sydney Metropolitan Plan – A Metropolis of Three Cities and the Eastern City District Plan

The *Greater Sydney Region Plan* (Region Plan) and *Eastern City District Plan* (District Plan) prepared by the former Greater Cities Commission shape strategic planning and infrastructure across metropolitan Sydney and align planning at the broad regional scale, down to the local area.

The proposal will enable the redevelopment of part of the site, thereby facilitating housing supply in a location that has been identified for an increase in density.

The proposal is generally consistent with the District Plan, subject to the continued delivery of relevant infrastructure identified in the LEP. The proposal should be required to retain the mechanism that incentivises the delivery of social infrastructure (public domain enhancements) on 10-12 Spencer Street. This is discussed below.

Canada Bay Local Strategic Planning Statement

Under clause 3.33(2)(c) of the *Environmental Planning and Assessment Act 1979* (the Act), a planning proposal is required to include justification, “including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1.” The *Canada Bay Local Strategic Planning Statement* (LSPS) was endorsed by the former Greater Cities Commission and is the primary land use planning document for the City of Canada Bay. The *Canada Bay Local Housing Strategy* (LHS) was endorsed by DPHI and informs the LSPS and is therefore also relevant.

The Planning Proposal is consistent with the LSPS.

Local Planning Directions

The Planning Proposal is required to be consistent with Local Planning Directions issued under Section 9.1 of the *Environmental Planning & Assessment Act 1979*.

Local Planning Direction 1.1 Implementation of Regional Plans

The Direction requires that planning proposals must be consistent with the relevant Regional Plan. A planning proposal may be inconsistent with the Direction if the inconsistency is insignificant or achieves the overall intent of the Regional Plan’s vision, land use strategy, goals, directions and actions.

The Planning Proposal is consistent with the Direction, subject to the current LEP mechanism that incentivises the delivery of social infrastructure (public domain enhancements) being retained on 10-12 Spencer Street. This is discussed below.

Direction 1.5 Parramatta Road corridor Urban Transformation Strategy

The Direction requires that Planning Proposals within the Parramatta Road Corridor must:

- give effect to the objectives of the direction by facilitating development that is consistent with the PRCUTS, providing a diversity of jobs and housing, and occur in line with infrastructure delivery;
- be consistent with the PRCUTS Strategic Actions; *Planning and Design Guidelines*; and *Implementation Plan and Implementation Update 2021*; and
- be adequately serviced, or have arrangements in place, satisfactory to the relevant planning authority, consistent with PRCUTS.

The Planning Proposal is consistent with the Direction, where upper level setbacks continue to be provided in accordance with the requirements of the PRCUTS Planning and Design Guidelines.

Direction 4.1 Flooding

The Direction applies where a planning proposal is seeking to create, remove, or alter a zone or provision for land that is flood prone.

Flooding on the site was assessed under the PRCUTS Stage 1 Flood Risk Assessment, which found that Key Site 17 is subject to PMF events and was therefore identified as within a Flood Planning Area.

In a PMF event, the site is classified as Hydraulic Hazard H3 (Unsafe of vehicles, children and the elderly) to H5 (Unsafe for people and vehicles. All buildings vulnerable to structural damage. Some less robust building types vulnerable to failure). In a 1% AEP event, the site is classified as Hydraulic Hazard H1 (Generally safe for people, vehicles and buildings) to H3. It is also classified as Flood Storage in a PMF event and Flood Fringe in a 1% AEP event. It has a Medium Flood Risk rating overall.

In a PMF event, the three surrounding streets (Queens, William and Spencer) are classified as Floodway and, in a 1% AEP event, William and Spencer are classified as Floodway and Queens is classified as Flood Storage. William and Spencer have a Medium to High Flood Risk rating overall and Queens has a Medium Flood Risk rating.

To reduce flood impacts, the PRCUTS Flood Impact Assessment recommended a slightly modified building layout to the layout in the PRCUTS Masterplan. Whilst this modified/recommended layout does not resolve flood impacts within the Precinct itself, it was recommended as a means to manage flood impacts on down-slop sites. The subject Proposal is somewhat consistent with the recommended layout.

It is the responsibility of all proposed development to manage stormwater within its site, such that the development does not increase flooding on other properties. Given the high risk of flooding in the immediate vicinity of the subject site, particularly along Spencer Street, it is recommended that a flood risk assessment be undertaken that demonstrates flooding is able to be managed within the site and does not adversely impact any other properties. An area of concern is the effect on flooding as a result of the desired through-site link along the western boundary. It will also be necessary to demonstrate that emergency evacuation will not be impeded.

To demonstrate consistency with the Direction, it is recommended that a flood risk assessment be undertaken that demonstrates flooding is able to be managed within Key Site 17 and will not adversely impact any other properties.

Direction 4.4 Remediation of Contaminated Land

The Direction requires a planning proposal authority to obtain and have regard to a report specifying the findings of a preliminary investigation of land subject to a planning proposal that may be contaminated.

The site has been used for industrial and hazardous uses, including vehicle repair workshops.

The site was the subject of a Preliminary Site Investigation (PSI) that was completed to support the PRCUTS Planning Proposal. The main purpose of the PSI was to investigate potential contamination issues, and also Acid Sulfate Soils. The PSI gave the site a Preliminary Potential Contamination Risk Level of Moderate to High, stating that a *“A moderate to high risk ranking has been applied to automotive industrial premises based on potential USTs and the potential storage of hazardous chemicals. Additionally, some areas in the north eastern portion of Area 2 fall within an area of disturbed terrain..”*

The PSI recommended that *“project-specific preliminary and/or detailed site investigations be undertaken upon submission of DA for redevelopment of any land within the Precinct areas with a low to moderate or higher preliminary contamination risk ranking, to assess the suitability of that land for the use(s) proposed and whether any contamination of the land requires remediation to make the land suitable.*

It is also recommended that Hazardous Building Material Surveys (HBMS) be undertaken prior to any demolition and redevelopment works on individual land parcels where there is the potential for hazardous materials to be present, irrespective of the preliminary risk ranking herein.”

The Proposal is consistent with the Direction, subject to a detailed site investigations and Hazardous Building Material Surveys (HBMS) being undertaken upon submission of a Development Application.

Direction 4.5 Acid Sulfate Soils

The Direction requires a relevant planning authority to consider an acid sulfate soils study assessing the appropriateness of a proposed change of land use given the presence of acid sulfate soils (ASSs).

The site is part Class 2 and part Class 5 ASSs and sits at 1-3m AHD. Given five basement levels of basement are proposed, which will extend below 5 AHD, the provisions of the Canada Bay LEP are triggered.

The Proposal is therefore required to undertake a preliminary assessment in accordance with the ASSMAC *Acid Sulphate Soil Manual* and, subject to the results, provide a detailed management plan in accordance with the ASSMAC assessment guideline with results found to be satisfactory prior to, and as part of, any future Development Application.

SITE SPECIFIC MERIT

NSW Caselaw Planning Principles

Planning Principles are often used to assist in making planning decisions. They are based on legal precedents and therefore have some weight in legal considerations. Planning principles are stated in general terms, but are intended to be applied to particular cases to promote consistency. The Case of *Karavellas v Sutherland Shire Council [2004] NSWLEC251* established a Planning Principle relevant to instances where isolated sites are created in the redevelopment of land. An assessment against the Principles in this case are therefore relevant to assessment of the Proposal in order to determine if 79-81 Queens Road / 2-8 Spencer Street is an 'isolated site', unable to be developed, or if 10-12 Spencer Street would become an 'isolated site' under the Proposal.

The Planning Proposal states that it "*has been designed and scaled appropriately to respond and consider the adjoining site in both its current form as well as its future development condition, demonstrating an appropriate response to the Land and Environment Court Planning Principle for site isolation under 'Karavellas v Sutherland Shire Council.'*" However, an assessment against the Principles in the case was not undertaken.

An assessment against the Principles is required as the subject site is only able to meet the minimum lot area for the Key Site, if both the Proponent's site and 10-12 Spencer Street are developed together. That is, the Proponent's site cannot achieve the minimum lot requirement alone. If the sites are not developed together, 10-12 Spencer Street might become an 'isolated site'.

The Proposal is therefore seeking to remove 10-12 Spencer Street from Key Site 17 and to reduce the minimum site area, so that development of 79-81 Queens Road / 2-8 Spencer Street may proceed and access the Incentive Height and FSR.

An assessment of the Proposal against the Principles is provided below:

Principle - *Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.*

Principle - *Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable*

Assessment – Negotiations appear to have been initiated by the landowners of 79-81 Queens Road / 2-8 Spencer Street at an early stage, to either purchase 10-12 Spencer Street or undertake a joint Development Application.

The submission made by the proponent during public exhibition of the PRCUTS Planning Proposal in March 2022 also mentioned that negotiations made at that time were unsuccessful.

The planning proposal includes a timeline of negotiations initiated by the proponent with the owners of 12-12 Spencer Street, to either purchase 10-12 Spencer Street or undertake a joint DA. These were unsuccessful.

Assessment - Two financial offers were made to purchase 10-12 Spencer Street of \$8,125,000 and \$10,500,000. Both offers were above the market value estimated by the proponent.

Council's independent feasibility assessment (by Atlas Economics) found that, if 10-12 Spencer Street were developed as per the Proposal scheme, it would have a market value of \$8,360,000. Note that the assessment

offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property. Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.

Principle - *The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.*

allowed for the cost to deliver the 3m wide public domain enhancement along Spencer Street
(Attachment 4 - Feasibility Assessment (for Council)).

The Feasibility Assessment by Atlas Economics assumed that the development proposed on 10-12 Spencer Street is able to achieve the FSR of 2.17:1 as proposed. However, Council's Urban Design Review found that the built form proposed cannot achieve an FSR of 2.17:1. Further, the Review has recommended an FSR on 10-12 Spencer Street of 1.8:1 (**Attachment 2 – Urban Design Review (for Council)**) so that the total FSR across both sites does not exceed 3.0:1 as envisaged by the current LEP. Whilst the independent feasibility assessment did not test for this lower FSR, the difference of 0.37:1 FSR is unlikely to alter the result of the feasibility assessment, noting that the second offer made to purchase exceeded the estimated market value by \$2,140,000.

Assessment – If 10-12 Spencer Street were amalgamated with the Proponent's site, they would be able to be developed together applying the LEP incentive FSR (3.0:1) and height (67m) across both sites.

The Proposal will not result in a development of appropriate urban form with acceptable level of amenity. The western façade of the tower on the Proponent's site is less than 3m from the boundary with 10-12 Spencer Street, contrary to the deemed to satisfy requirements of the National Construction Code.

Whilst alternative solutions can be provided under the National Construction Code that would enable the building to be constructed closer than 3.0m to the western boundary, this would require the implementation of internal or external wall wetting sprinklers, automatic closing or permanently fixed windows or automatic closing fire shutters. These outcomes are not considered to provide an outcome that will generate design excellence or 'achieve an appropriate urban form with acceptable level of amenity' in comparison to a building that was compliant with the standards in the current LEP.

The Proposal also relies on a development concept that provides a 1.0m upper-level setback to William Street (compared to 3m in the current DCP). This is also not acceptable, as it would result in the appearance of a continuous street wall of 20-storesys, which is not an acceptable urban form.

If Key Site 17 were fragmented into two sites, the Planning Proposal would need to be amended as described below to achieve an acceptable urban form and level of amenity.

Principle - *To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.*

Assessment - The planning proposal includes a schematic building envelope and floor plan layout that shows 10-12 Spencer Street developed as per the maximum height in the DCP, but with an entire ground floor build out and larger floor plates for levels 2-5.

The proposed deeper floor plates for levels 2-5 are not acceptable, as this would preclude cross-ventilation to apartments on both sides of the boundary. Note that the building 'indent' shown on the proposed Indicative Design Concept cannot compensate for the loss of cross-ventilation as it is will eventually be entirely enclosed on the west and by the tower immediately above.

The undesirability of a long-term multi-storey blank wall is consistent with advice that Council has provided to the proponent dating back to 2022. Submissions made during the public exhibition of the PRCUTS Planning Proposal were peer-reviewed. The peer-review of the proposed fragmentation of the two landownerships comprising Key Site 17 found that meeting NCC and ADG requirements would “*require inclusion of a blank party wall at the boundary between the two subdivided Lots, which would create undesirable visual impacts for the precinct.*”

The proposal acknowledges that the fragmentation of the site will result in the need for driveway access to be rationalised. It is recommended that the LEP require a single driveway access point for both sites and for appropriate right of access easements to be created.

Principle - *The subject application may need to be amended, such as by a further setback than the minimum in the planning controls, or the development potential of both sites reduced to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments.*

Assessment – The Urban Design Review (for Council) tested the built form on both sites. The Review advised that the separation of the Key Site into two development lots may be supported subject to revisions to the built form on the site. The recommendations are based on:

- achieving the general built form in the DCP and PRCUTS Masterplan,
- overall density across both sites not exceeding the 3.0:1 FSR recommended by PRCUTS,
- adhering to the desired future character of separate high amenity well-designed towers with lower buildings between, and
- ensuring “*development of appropriate urban form and with acceptable level of amenity.*”

The above requires the tower building to be set back 3.0m from the boundary to 10-12 Spencer Street and

for a 3.0m setback to be provided to the tower above the podium.

This outcome is also consistent with previous advice, which confirmed that *“splitting the site into two development lots would require an additional tower setback to the west, which would need to be at least 3.0m to avoid the need to provide an alternative solution under the BCA.”*

Lot amalgamation requirements - Key Site 17

The Proposal is seeking to amend the LEP provisions for Key Site 17. The current provisions permit development of Key Site 17 to access the Incentive Height and FSR standards if the development achieves a minimum site area of 4,096sqm (which comprises 98% of Key Site 17) and delivers infrastructure listed under Part 8 of the LEP:

- (i) *an 8m wide setback on land that fronts William Street, Five Dock, and*
- (ii) *a 3m wide setback on land that fronts Queens Road, Five Dock and land that fronts Spencer Street, Five Dock.*

The Proposal is seeking to remove 10-12 Spencer Street from Key Site 17 and to reduce the minimum site area for the Proponent’s site accordingly to 3,151sqm.

The removal of 10-12 Spencer Street from Key 17 will have the effect of removing the Incentive Height and FSR provisions. Instead, the proposal is seeking to increase the base height and FSR in lieu of the incentives and introduce a local clause into the LEP to require the delivery of the 3m wide setback (public domain) to Spencer Street. This would remove the incentive to deliver the 3m wide public domain to the Queens Road frontage. The implications of this are discussed below.

It is recommended that a base and incentive height and FSR mechanism be retained for 10-12 Spencer Street to incentivise delivery of the 3m wide embellished public domain along Spencer Street. To achieve this outcome, the Proposal should be updated to refer to 10-12 Spencer Street as ‘Key Site 17A’.

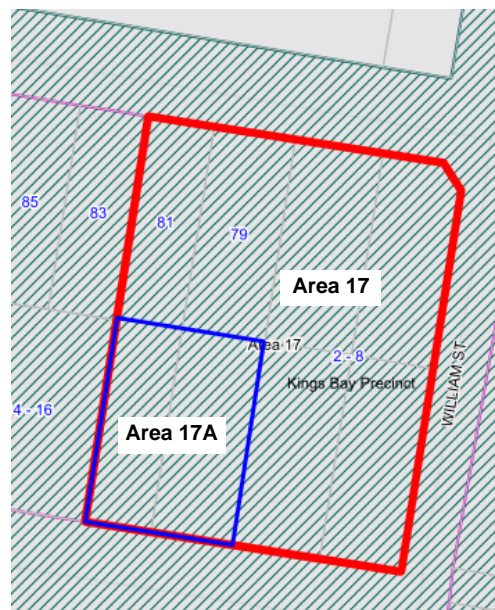


Figure 16: Recommended amended Key Site Map

Building heights and Floor Space Ratio (FSR)

One of the Urban Design Principles for King Bay includes the principle which is to “Define a building height strategy”. This is further explained by the statement “Create a dynamic skyline by spreading higher built form”. This is a deliberate and intentional strategy which, rather than assuming all buildings have the same maximum height, encourages a range of building heights with most buildings creating a lower height datum and well-spaced taller buildings encouraged in key locations including on land fronting William Street and Spencer Street.

Key Site 17 is a location where a taller built form is proposed. However, the PRCUTS Masterplan aimed to ensure the orderly development of land by requiring the consolidation of fragmented lots and creating the dynamic skyline. The Masterplan achieved this by identifying specific amalgamations and locating taller slender towers between podiums. Taller built form is only possible if sites are amalgamated. The current building heights and FSRs were developed on the basis of the subject site comprising one large amalgamated site, rather than two smaller sites.

The implications of the proposed fragmentation are that some amendments to the built form envisaged in the DCP and PRCUTS Masterplan will be necessary. For example, the 20-storey tower will need to be relocated to be wholly within the Proponent’s site and good urban design and amenity outcomes will need to be achieved across both sites.

At the same time, it is important to adhere to the 3.0:1 maximum FSR recommended by PRCUTS across both sites. This is because the development capacity recommended under the PRCUTS assumed delivery of the infrastructure in the *Infrastructure Schedule*. The Schedule was based on the estimated number of new homes and jobs delivered under the Strategy. Any additional development capacity would therefore necessitate a review of the Schedule and delivery of a proportionate increase in social infrastructure.

Further, Council has commissioned two traffic studies for the PRCUTS area. Both studies were informed by opportunities created by Sydney Metro West. They found that by 2036, the area will see a 35% to 39% increase in traffic from 2019 levels, particularly along Parramatta Road, and that 75% of the 2036 traffic will be traffic passing through the area. Whilst some traffic will be diverted to WestConnex M4, a significant proportion will still be using surface roads, including Parramatta Road. The traffic model highlighted that local roads to the north and south of Parramatta Road will be impacted due to difficulties entering Parramatta Road and that this will generate traffic re-routing through local east-west streets. Accommodating additional density along the corridor is therefore highly constrained by future traffic conditions and the capacity of the local and regional road network.

The Proposal is seeking to amend the ground floor height limits on both sites to enable one-storey of development to connect the buildings, to enable a shared accessway from Spencer Street via the Proponent’s site, and it is proposing deeper floor plans on 10-12 Spencer Street, increasing the overall FSR on both sites. The Urban Design Review found that the Indicative Design Concept achieves a greater FSR than proposed. (refer PP Reference Scheme in **Attachment 2 – Urban Design Review (for Council)**).

Proponent’s site

No change is proposed to the Incentive Building Height or FSR for 79-81 Queens Road / 2-8 Spencer Street (Note that the proponent has indicated an intention to apply for the 30% height and FSR bonus applicable for providing 15% affordable housing (for 15 years) under the Infill Affordable Housing provisions of the *Housing SEPP*).

The Proposal is seeking to move the 20-storey tower eastwards to be wholly within the site, but with flexibility to encroach within 1m of the western boundary and 1m setback to the William Street podium edge.

Given the height of 10-12 Spencer Street is proposed to be limited to maximum of 5-storeys and built to the common boundary, there is unlikely to be issues regarding building separation for the levels above that. However, under the National Construction Code (NCC), setbacks of less than 3m from a boundary are not permitted to have openings, which will limit the design flexibility of the tower

on the Proponent's site. That is, as the western wall of the proposed tower is less than 3m from the boundary with 10-12 Spencer Street, neither habitable or non-habitable uses with openings can be located along the western elevation unless sprinklers, permanently fixed windows or fire shutters are provided. A tower with blank wall without openings or balconies would provide limited outlook, natural ventilation and daylight access and amenity.

The ADG describes blank walls as appropriate temporary measures and mainly suitable to CBD urban environments. A permanent blank wall in the Kings Bay context is not an acceptable urban form and will not provide an acceptable level of amenity for the residents.

Similarly, a tower elevation of 20 storeys with sprinklers, permanently close windows, automatic closing windows or automatic closing fire shutters is a poor design response that would only be necessary due to the fragmentation of the site. Development controls that facilitate this outcome should therefore be avoided.

The Proposal is also seeking to reduce the upper level tower setback to William Street from 3m to only 1m. This is also not acceptable, as it would result in the appearance of a continuous street wall of 20-storeys in a prominent location and opposite a public park. This is not an acceptable urban form. The Urban Design review has also found that reducing the setback is not required to achieve the maximum incentive FSR.

10-12 Spencer Street

The Proposal is seeking to remove the Incentive Building Height of 67m from 10-12 Spencer Street, to amend the base Building Height from 12m to 19m and to amend the base FSR from 3.0:1 to 2.17:1.

The Proposal is seeking to amend the base height and FSR to enable significantly larger floor plates for levels 2-5. This would result in poor amenity outcomes for the apartments on the shared boundary as they would have limited cross-ventilation and solar access.

Recommendation

The proposed site fragmentation could set an undesirable precedent by permitting additional FSR in cases where site amalgamation of a Key Site is not possible. It is particularly important that any fragmentation of key sites does not compromise the delivery of public benefits or result in suboptimal design outcomes.

The Urban Design Review by Studio GL found that the impacts of the proposed de-amalgamation are able to be addressed, subject to the following amendments:

- maximum building heights of 67m (20-storeys) on 79-81 Queens Road / 2-8 Spencer and 19m on 10-12 Spencer Street be retained;
- maximum 3.0:1 FSR under PRCUTS be retained across both sites;
- maximum FSRs of 3.3:1 on 79-81 Queens Road / 2-8 Spencer and 1.8:1 on 10-12 Spencer Street;
- 20-storey tower moved eastward to at least 3m inside the (new) western boundary to enable openings and cross-ventilation to the apartments and avoid the need for alternative methods of protection;
- 3m upper level setback to the edge of the William Street podium to ensure a human scale is maintained at street level; and
- base and incentive height and FSR retained on 10-12 Spencer Street, to incentivise delivery of the 3m wide embellished public domain along Spencer Street. That is, identify 10-12 Spencer Street as 'Key Site 17A'.

These recommendations are illustrated in Figure 23 below and **Attachment 3 – Proposed Alternative Scheme (by Council)**

DCP amendments:

It is also recommended that the DCP be amended to support the LEP.

The Proponent has expressed a preference for the DCP to include ‘articulation zones’ on the eastern and western facades of the tower (refer to Figure 18 below). This is to allow for the final built form to be determined via the Design Excellence process with the view to including built elements and openings within the articulation zone for up to 60% of the façade.

This approach is not recommended as it would not provide Council any certainty regarding the resultant building envelope.

Tower extrusions into the 3m podium setbacks to William Street would reduce the horizontal articulation provided by the William Street podium, create the appearance of a continuous vertical streetwall and significantly compromise the human scale at street level that the podium provides. The PRCUTS Planning and Design Guideline includes ‘Block Configuration and Site Planning Requirements’ which require development to “Define street edges with low rise buildings or appropriately scaled podiums to create a pedestrian scale at street level.”

The issue of tower extrusions into the 3m setback to the proposed new boundary facing west only arises as a consequence of the Planning Proposal. Otherwise, there would be no boundary, no discussion of ‘articulation zones’, no need to investigate ways to articulate the western façade, and no consideration of the need to include permanently fixed windows, automatic closing windows, fire shutters etc. It is therefore recommended that the controls illustrated in Figure 23 (over page) be incorporated into the DCP.

If the planning standards and controls recommended in this report are not implemented, the proposal would not be supported as it would not achieve a development with an appropriate urban form and an acceptable level of amenity.

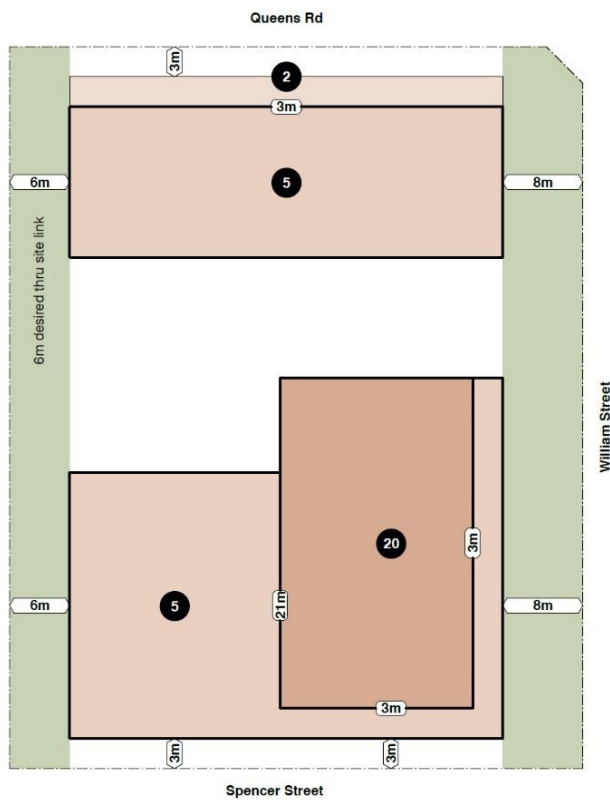


Figure 17: Current layout as per DCP

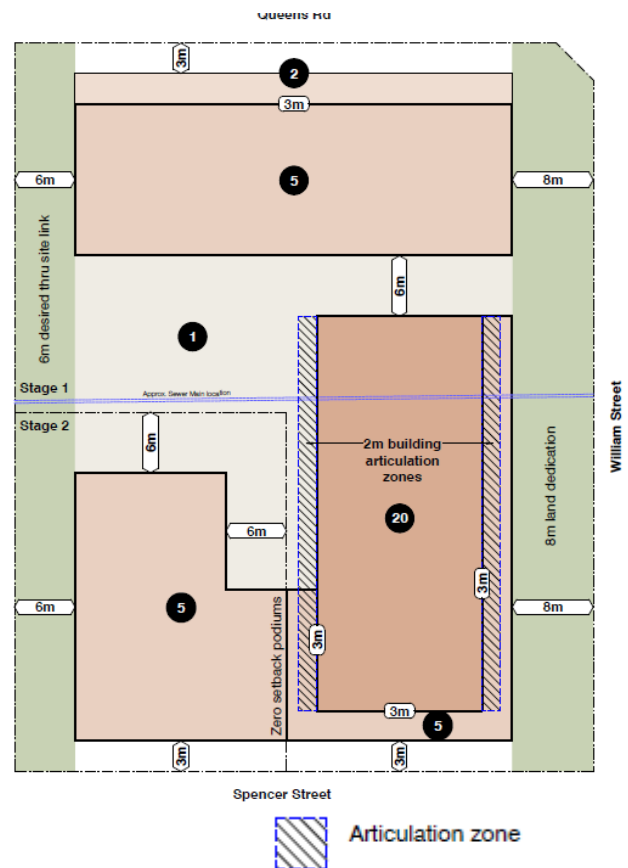


Figure 18: Layout proposed by Proponent

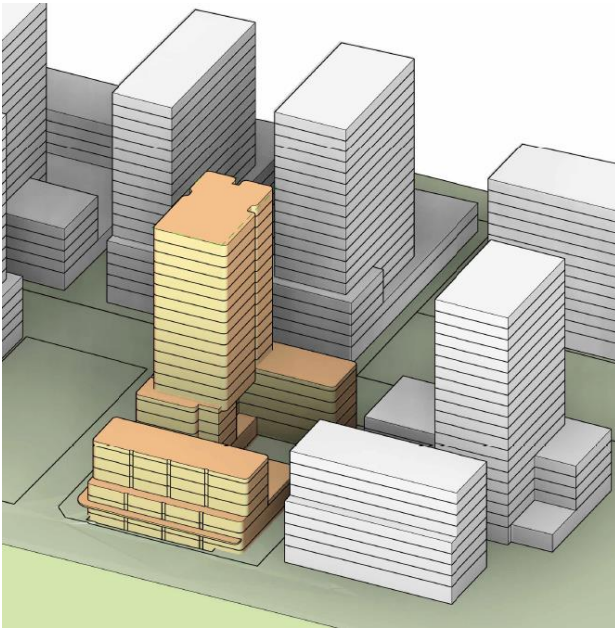


Figure 19: Current built form under PRCUTS Masterplan and DCP (Indicative Design Concept)

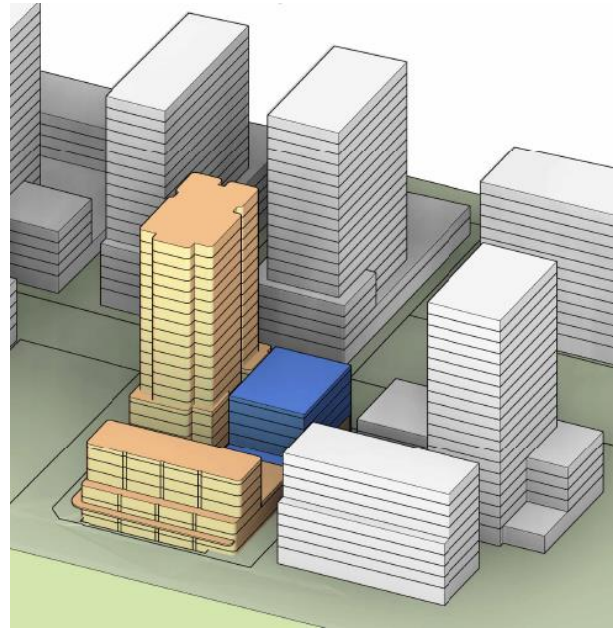


Figure 20: Proposed built form (Indicative Design Concept)

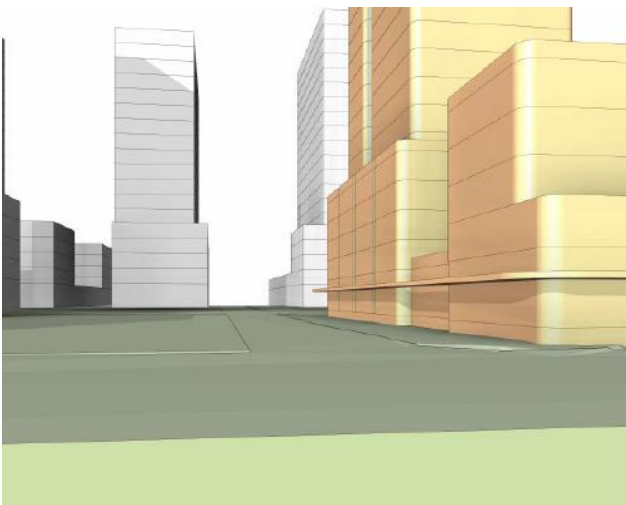


Figure 21: Current built form under PRCUTS Masterplan and DCP (Indicative Design Concept)

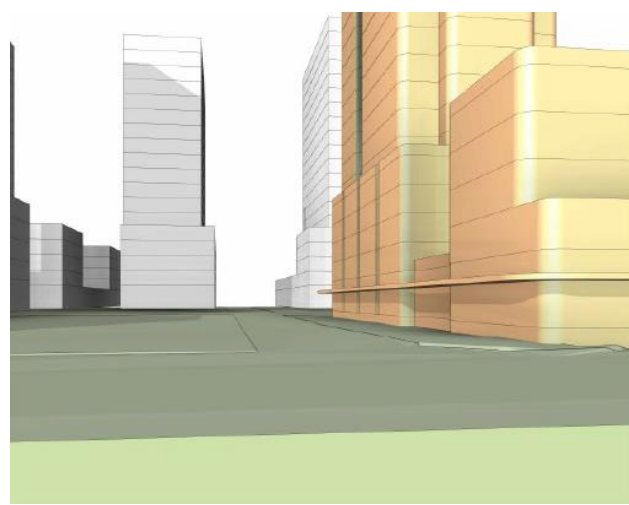


Figure 22: Proposed built form (Indicative Design Concept)



Figure 23: Proposed alternative scheme

Community infrastructure

The Proposal is not seeking to remove the current requirement to deliver the infrastructure applicable to the Proponent’s site (in exchange for Incentive Height and FSR). However, as the Proposal is seeking to remove 10-12 Spencer Street from the base and incentive scheme, it may have the effect of removing the incentive for that site to deliver the 3m wide public domain, which is currently a condition of seeking any additional height and FSR above the base height and FSR.

The Proposal has sought to address the removal of the incentive to deliver the infrastructure by amending Part 6 of the LEP to add a new site-specific provision that would *require* any development of 10-12 Spencer Street to deliver the 3m wide Spencer Street public domain, in addition to a 6m wide through site link along the western boundary that connects Spencer Street and Queens Road.

It is important that any proposal that seeks to require the delivery of specified infrastructure be voluntary. In response, planning incentives (in the form of additional height or FSR) are often used as planning mechanisms to achieve community benefits. That is, developments are permitted to seek additional development potential (up to a specified maximum) in exchange for delivering specified infrastructure. Council has applied this approach most recently in the making of the PRCUTS Planning Proposal (Stage 1) and the DPHI has applied a similar approach in various Transport Oriented Development Precincts.

It is recommended that 10-12 Spencer Street be identified as 'Key Site 17A' and that the delivery of a 3m setback to Spencer Street continue to be required for the purpose of public domain improvements.

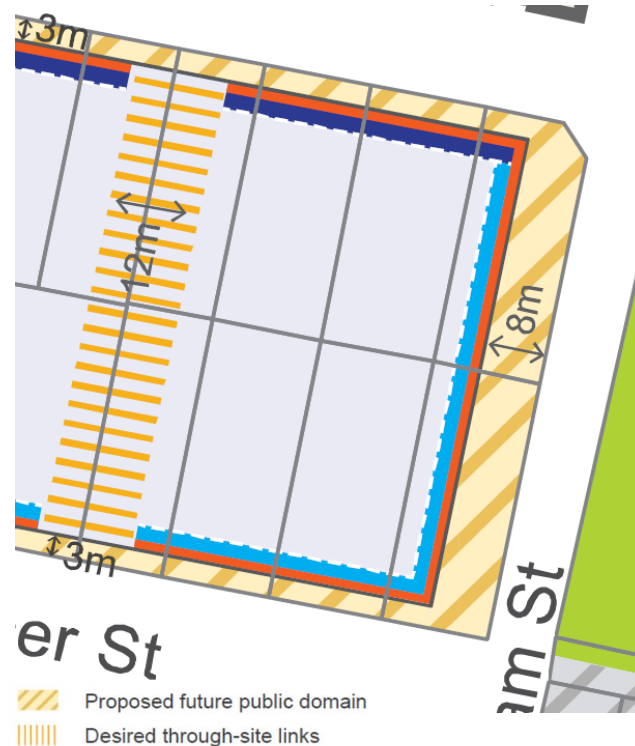


Figure 24: Infrastructure required in exchange for bonus height/FSR and Desired infrastructure (Canada Bay DCP)

Landscaping, canopy cover and deep soil

The proposal is seeking to deliver the William Street widening (as required under the LEP in exchange for bonus height and FSR) and also to deliver the desired through-site link along the western boundary. However, the Proposal is seeking to amend the DCP building heights and landscaped area provisions in order to locate communal open space on level 1, rather than at ground level as envisaged by the PRCUTS Masterplan and the PRCUTS Tree Canopy Assessment. This is to enable a shared accessway from Spencer Street via the Proponent's site. Additional communal open space is also indicated on level 5, but this is possibly an error as it is shown as part of internal space.

The Proposal does not include a detailed assessment of landscaped area or tree canopy coverage and, given the extent of the basement levels, this may result in Key Site 17 being unable to meet the requirements for landscaped area, deep soil and tree coverage.

It is recommended that the Proposal be updated prior to exhibition to demonstrate what site area can be provided as landscaped area and as deep soil, and what tree canopy coverage can be achieved, which may include trees planted at upper levels. It is also recommended that the Proposal illustrate the amount of solar access that the communal open space will receive in mid-winter to ensure the communal spaces have sufficient amenity and the vegetation / trees receive sufficient solar access to ensure long term health.

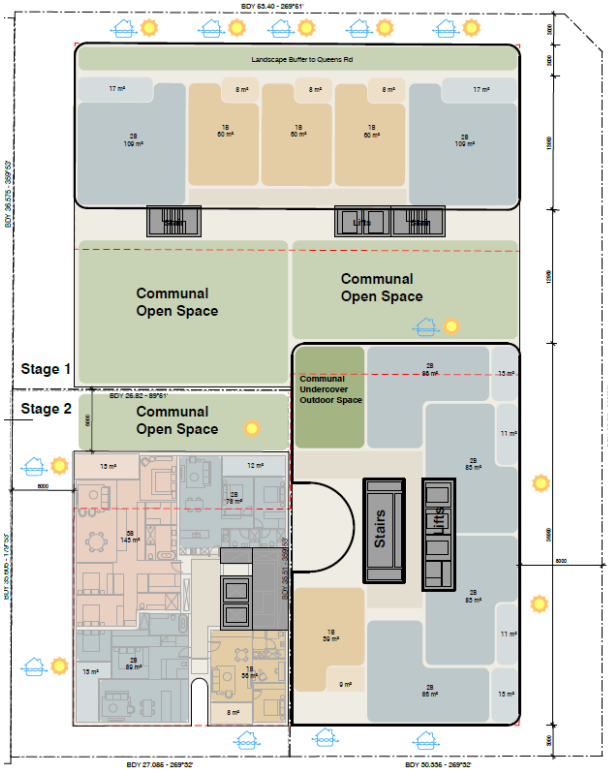


Figure 25: Proposed level 1 floor plan (Indicative Design Concept)

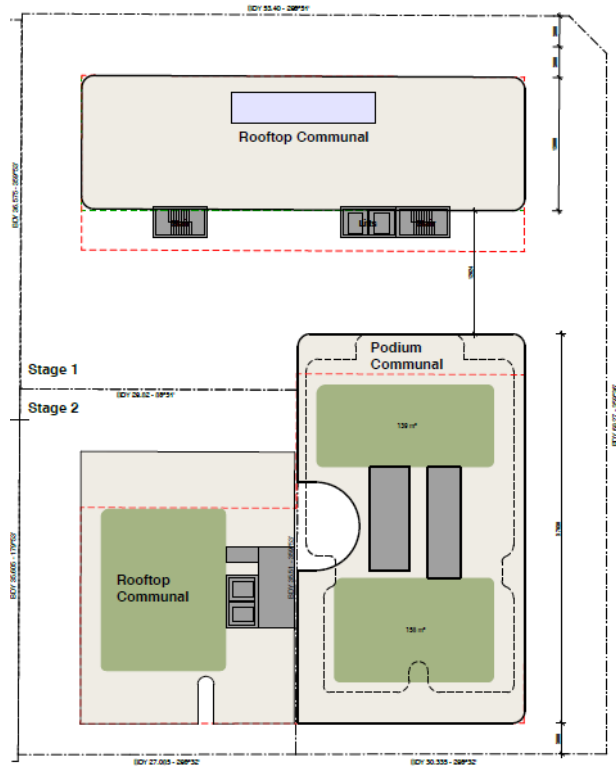


Figure 26: Proposed level 5 floor plan (Indicative Design Concept)

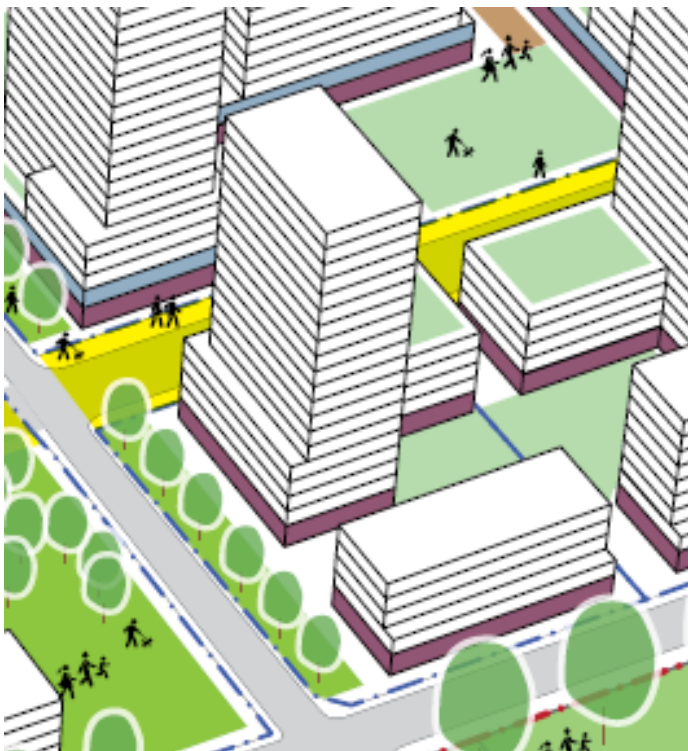


Figure 27: Ground floor open space shown green (PRCUTS Masterplan)

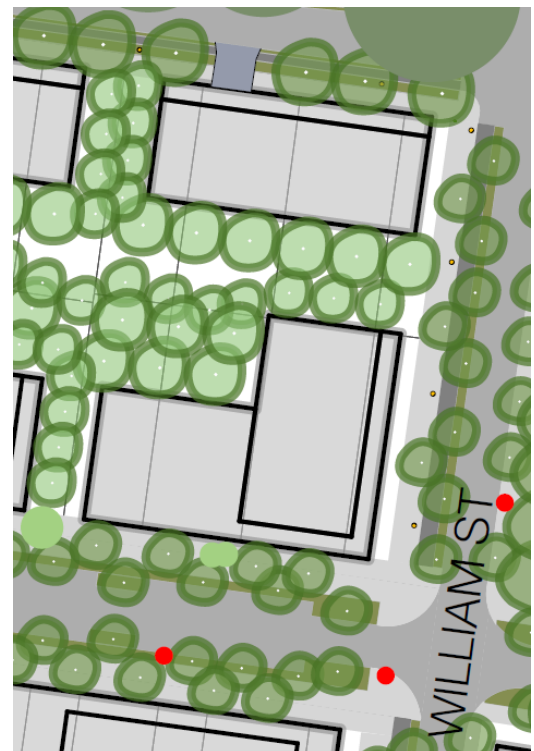


Figure 28: Ground floor open space and tree canopy (PRCUTS Tree Canopy Assessment)

Access and parking

The Proposal is seeking to amend Part 6 of the LEP to add a new site-specific provision that requires vehicular access to 10-12 Spencer Street to be consolidated with the basement parking on the Proponent’s site.

This amendment is consistent with the DCP, of encouraging provision of below-ground car parking that is interconnected to and shared with, or is able to be interconnected in the future to, the below-ground car parking on adjoining sites and developments in order to minimise vehicle entry points.

Council’s traffic team has advised that the consolidated vehicular access point for both the Proponent’s site and 10-12 Spencer Street from Spencer Street is acceptable, as minimising the number of vehicle crossovers will result in a well designed and safer public domain.

However, the basement parking under 10-12 Spencer Street would be somewhat constrained and inefficient as a result of having only two access points through to the Proponent’s site, one at ground level and one at the first basement level.

Further, 10-12 Spencer Street appears to be constrained by a large 750rc Sydney Water stormwater pipe running just below ground level through the site, which would need to be re-routed (see Figures below). If the pipe were unable to be re-routed, the first basement level would be unable to accommodate any parking and the proposed location of the ramp would need to be redesigned, further constraining the first and second basement levels to accommodate parking spaces. Whilst 79-81 Queens Road / 2-8 Spencer Street also appears to be impacted by the pipe, it could be more easily accommodated within that site without the need to re-route it.

It is recommended that the DCP be amended to include relevant controls to ensure there is a shared access driveway and service area. A ‘right of access’ easement would need to be placed on the land title to ensure a single shared driveway from Spencer Street and a single shared internal ramp located on 79-81 Queens Road / 2-8 Spencer Street to safeguard, facilitate and guarantee vehicular access for 10-12 Spencer Street from Spencer Street to all basement levels.

The proposed basement floor plan indicates that the layout of the basement has been designed to have ‘Integrated servicing and access’ in conjunction with the proposed shared accessway. However, the traffic team has advised that assessment of safety and efficiency would be subject to a more detailed traffic impact assessment report as part of any future DA.

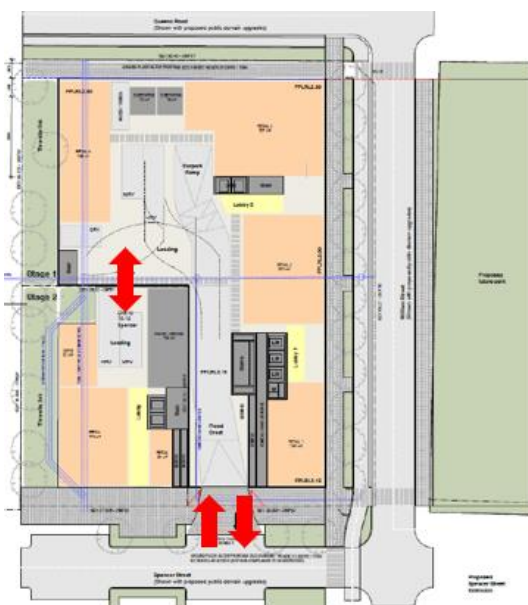


Figure 29: Proposed ground floor layout

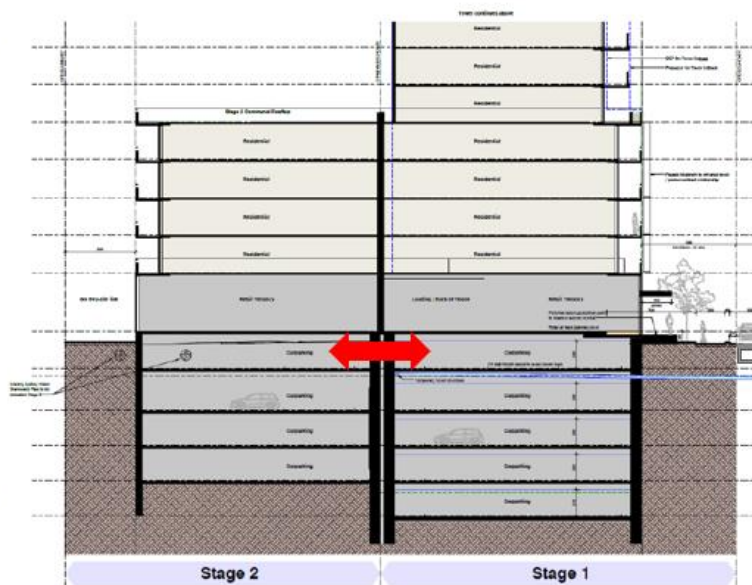


Figure 30: Proposed basement cross-section

Canada Bay Local Planning Panel

The Proposal was considered by the Canada Bay Local Planning Panel on 20 March 2025. The Panel's role is to provide advice to Council for their consideration. In providing advice, the Panel considered the strategic merit and site-specific merit of the Planning Proposal.

The Panel considered the Council staff report (including attachments), heard from the proponent and their representatives, and responded to questions from the proponent. The Panel also visited the site prior to the meeting and considered observations made during the site inspection.

The Panel provided the following advice (**Attachment 12 – Local Planning Panel Minutes**)

1. *The Planning Proposal for land at 79-81 Queens Road and 2-12 Spencer Street, Five Dock (PP2025/0001) be progressed to Gateway determination subject to the following amendments:*
 - a) *identify 10-12 Spencer Street as 'Key Site 17A' to incentivise the delivery of the 3m wide embellished public domain along Spencer Street;*
 - b) *retain the PRCUTS recommended maximum Floor Space Ratio of 3.0:1 across both sites, resulting in a maximum Incentive Floor Space Ratios of 3.3:1 to 79-81 Queens Road/2-8 Spencer Street and 1.8:1 to 10-12 Spencer Street;*
 - c) *apply a maximum Incentive Height of Building of 67m to 79-81 Queens Road / 2-8 Spencer Street and 19m to 10-12 Spencer Street;*
 - d) *inclusion of a competitive design process; and*
 - e) *provide the potential for a single vehicle access to allow a consolidated driveway and basement with the future development at 10-12 Spencer Street.*
2. *The following additional information be provided prior to the Planning Proposal being submitted to the Department of Planning, Housing and Infrastructure for a Gateway Determination:*
 - a) *demonstrate the capacity of the site to provide landscaped area and deep soil in accordance with the Apartment Design Guide;*
 - b) *a flood risk assessment that demonstrates flooding is able to be managed within the subject site and does not adversely impact any other properties.*
3. *In preparing Development Control Plan controls for the site, the following should be considered:*
 - a) *encouraging all vehicular access off Spencer Street. While this may be inconsistent with urban design advice to Council, the Panel is of the view that such access is preferable to Queens Road, which is a classified road, and William Street, due to both planned urban design enhancements and traffic volumes in that street.*
 - b) *discouraging above ground parking.*

The Panel's recommendations are consistent with the Council Officer recommendations.

The Panel further advised that *"if at any point along the process of the Planning Proposal, the owners of No. 10-12 Spencer Street changes their position to sell to the proponent, then the Planning Proposal should not proceed, as the current controls are preferable and the Planning Proposal only really arises from unsuccessful negotiations."*

The Panel's reasoning for this advice was that *"the key issue is whether it is appropriate to change the amalgamation requirement of "Site 17" into 2 sites. This is not ideal, as the wider strategic vision may be compromised in planning for separate development, while the delivery of key infrastructure (particularly a 3m widening of Spencer Street) may be fragmented, delayed or not achieved. So, retaining the current controls is preferable. At the same time, in principle, if an owner has pursued reasonable endeavors to secure an amalgamated site, including with a commercial offer to purchase a site as part of a wider amalgamated site, reasonably above valuation assuming an uplift, and a reasonable urban design and infrastructure delivery outcome is possible while splitting an amalgamated site in two, then that may be an acceptable outcome, even if not ideal. This is the case*

here, as the proponent has made reasonable efforts and offers to secure 10-12 Spencer Street, unsuccessfully, and the Panel is satisfied that the two sites may be able to be developed separately.”
(Attachment 12 – Local Planning Panel Minutes).

It is therefore recommended that if, as a result of public exhibition of the Planning Proposal, the landowners of 10-12 Spencer Street give a commitment to sell the land or working with the proponent to deliver a joint Development Application (removing the necessity for a planning proposal), the Proposal not proceed to finalisation.

TIMING, CONSULTATION AND RISK CONSIDERATIONS

Should the Proposal not be endorsed for submission to the Department of Planning, Housing and Infrastructure for a Gateway determination before 9 May 2025, the proponent would be eligible to request the Department to undertake a Rezoning Review of the Proposal.

Should the Proposal proceed to Gateway Determination, the Planning Proposal would be placed on public exhibition for a period of 28 days in accordance with the *Canada Bay Community Participation Plan*.

FINANCIAL CONSIDERATIONS

Future development on the land would be subject to the *Canada Bay Local Infrastructure Contribution Plan*. Legislative and Policy Considerations

The Planning Proposal has been reviewed against relevant legislation, including the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2021*.

- ITEM 9.4** **PLANNING PROPOSAL - 131P HENLEY MARINE DRIVE DRUMMOYNE**
- Reporting Manager** **Manager Strategic Planning**
- Attachments:**
1. **Planning Proposal (*Provided in Attachment Booklet*)** ⇨
 2. **Survey (*Provided in Attachment Booklet*)** ⇨
 3. **Consent to Lodge Planning Proposal (*Provided in Attachment Booklet*)** ⇨
 4. **Traffic and Parking Assessment (*Provided in Attachment Booklet*)** ⇨
 5. **LPP - Planning Proposal Minutes - 17 March 2025 (*Provided in Attachment Booklet*)** ⇨
-

RECOMMENDATION OF DIRECTOR ENVIRONMENT AND PLANNING

That:

1. Council endorse the Planning Proposal – 131P Henley Marine Drive, Drummoyne, to include an Additional Permitted Use to be added to Schedule 1 of the *Canada Bay Local Environmental Plan 2013* to permit a Function centre with consent, for submission to the Department of Planning, Housing and Infrastructure, with a request for a Gateway Determination, subject to the proposal being updated to:
 - (a) clarify all parcels of land to which the proposed additional permitted use will apply and address how a function centre will be made permissible pursuant to *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.
 - (b) justify the inconsistency with Local Planning Direction 1.4 – Site Specific Provisions.
 2. Authority be delegated to the General Manager to make any minor modifications to the planning proposal prior to public exhibition to correct any drafting errors or to ensure consistency with the Gateway Determination.
 3. The Planning Proposal be endorsed for public exhibition in accordance with relevant conditions imposed under the Gateway Determination.
-

PURPOSE

To provide Council with the outcome of the assessment of Proponent-initiated Planning Proposal relating to 131P Henley Marine Drive, Drummoyne (PP2024/0007).

EXECUTIVE SUMMARY

Council has received a Planning Proposal for land at 131P Henley Marine Drive, Drummoyne.

The Proponent, BMA Urban, on behalf of Aqua Luna, is seeking an amendment to the *Canada Bay Local Environmental Plan 2013* to permit a 'function centre' on the site with consent.

An assessment of the Planning Proposal has been undertaken, including consideration of parking and amenity considerations.

Subject to the provision of additional information, it is recommended that the Planning Proposal be endorsed for submission to the Department of Planning, Housing and Infrastructure for a Gateway determination.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 3: Vibrant Urban Living

Goal VUL 4: Ensure the built environment respect the unique neighbourhood character and responds deftly to evolving community needs

BACKGROUND/DISCUSSION

On 4 December 2024, Council received a Planning Proposal (Attachment 1) for a site known as 131P Henley Marine Drive (also known as 461 Henley Marine Drive). The site is legally referred to as Lot 461 in DP 752023 and Lot 1 in DP 1032986.

The Planning Proposal is seeking to add an Additional Permitted Use into Schedule 1 of the *Canada Bay Local Environmental Plan 2013* (LEP) to allow a 'function centre' with consent on the site.

Site Details

The site is located on the southern side of Henley Marine Drive between the intersections of South Street and Formosa Street (refer to Figure 1 and 2).

On site exists a building that presents as a single storey structure to Henley Marine Drive (to the north) and three storeys to the rear (south) facing Half Moon Bay. The top (street) level contains a restaurant (Aqua Luna) (refer to Figure 3), the middle level is a gymnasium (Total Conditioning), and the lower level is occupied by the Drummoyne Rowing Club.

The building is situated over two lots as shown in Figure 2 (refer also to Attachment 2). The majority of the building is located with Lot 461 in DP 752023 and is situated above the mean high water mark and within the Canada Bay LGA. There is a small part of the southern portion of the building that is located within Lot 1 in DP 1032986 which is located outside of the Canada Bay LGA.

To the west of the site is public open space/foreshore, to the east is public open space and a carpark associated with the Drummoyne Swimming Pool located further to the east. To the north of the site is Brett Park and to the south is Half Moon Bay (refer to Figure 4).

Directly adjoining the site to the north is a footpath which forms part of the Bay Run which is a 7km walking/cycling path around Iron Cove.

Although the site is relatively isolated, particularly in terms of residential development, there are dwellings to the north-east on Formosa Street, and to the north and west of Brett Park on Sisters Crescent, Day Street, Tranmere Street, South Street and Henley Marine Drive.



Figure 1: Subject site outlined in red.

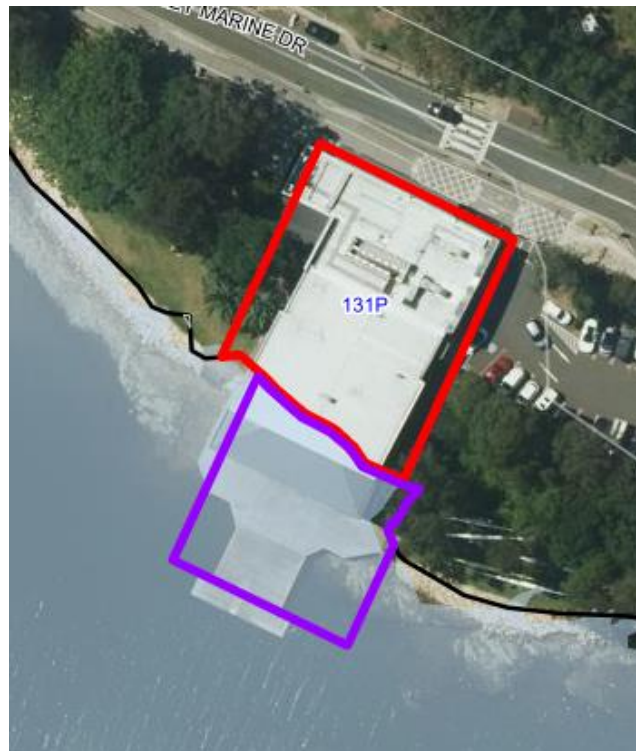


Figure 2: Subject lots inside (red) and outside (purple) the Canada Bay LGA.



Figure 3: Street view of Aqua Luna restaurant (Source: Google)



Figure 4: Site and surrounds

The site is owned and leased by Crown Lands and Public Spaces (refer to Attachment 3 for consent to lodge). The surrounding land is under the care and control of Council. There is a waste storage facility to the west of the site that is used by the restaurant under lease to Council.

Restaurant and café approval history

There are a number of approvals relevant to the use of the ground level of this building as a restaurant and café as summarised below:

- DA10.2011.117 – Change of use from registered club to café, restaurant and bar.
- DA2015/0279 – Fitout and internal use of the upper (street) level of the premises as a restaurant/bar.
- DA2016/0126 – Alterations and additions to existing approved restaurant (no change to approved hours of operation or number of seats) and construction of a café proposed to be open from Monday to Sunday, 7.00am to 4.00pm.

- DA2017/0128 – Construction of a waste storage facility adjacent to and associated with existing restaurant.
- MOD2018/0051 (to DA2016/0126) – Relocation of loading bay, use of existing loading bay as a storage room, minor amendment to cladding/parapet on northern façade.

The notice of determination for DA2015/0279 and DA2016/0126 included conditions that state that the premises could not be used as a function centre as it was prohibited.

It is understood that the premises is currently operating as a function centre and has been operating in this manner, without approval, since approximately 2016/2017.

Proposed amendment

The Planning Proposal seeks to add the following clause to Schedule 1 Additional permitted uses, of the LEP:

30 Use of certain land at 131P Henley Marine Drive, Drummoyne

(1) This clause applies to the following land in Drummoyne:

(a) 131P Henley Marine Drive, being Lot 461 in DP 752023

(2) Development for the purposes of function centres is permitted with development consent.

The above amendment will address permissibility for that part of the building that is located within the Canada Bay LGA (Lot 461), however the use will still be prohibited for the part of the building that is outside of the LGA (Lot 1 DP 1032986).

As the building also occupies part of Lot 1 DP 1032986, the Proposal must be amended to propose the additional use over both lots. This will need to be resolved through an amendment to *SEPP (Biodiversity and Conservation) 2021*. The planning proposal must be amended to include a proposal to amend the SEPP.

Definitions

The Canada Bay LEP 2013 includes the following definitions:

Restaurant or café means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks, or entertainment are also provided, but does not include the preparation and serving of food and drink to people that occurs as part of

a) an artisan food and drink industry, or

b) farm gate premises.

Function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centre, exhibition centres and reception centres, but does not include an entertainment facility.

STRATEGIC ALIGNMENT

Planning proposals are required to be assessed for *strategic merit* against plans and strategies prepared by State and local government. Relevant strategies and Local Planning Directions are addressed below:

The Planning Proposal is generally consistent with the broad objectives and priorities of the *Greater Sydney Metropolitan Plan*, *Eastern City District Plan* and the *Canada Bay Local Strategic Planning Statement*.

Local Planning Direction 1.4 – Site Specific Provisions

The site is situated across two land use zones. Lot 461 within the Canada Bay LGA is zoned RE1 Public Recreation in the Canada Bay LEP 2013. Lot 1 located outside of the Canada Bay LGA is

zoned Zone 2 Environment Protection in *SEPP (Biodiversity and Conservation) 2021*. Refer to Figure 5.

The Objectives of the RE1 Public Recreation zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To facilitate public access to and along the foreshore.
- To conserve public open space that enhances the scenic and environmental quality of Canada Bay.

The Objectives of Zone 2 Environmental Protection zone are:

- To protect the natural and cultural values of waters in the zone.
- To prevent damage to, or the possibility of long term adverse impact on, the natural and cultural values of waters in the zone and adjoining foreshores.
- To enhance and rehabilitate the natural and cultural values of waters in the zone and adjoining foreshores.
- To provide for the long term management of the natural and cultural values of waters in the zone and adjoining foreshores.



Figure 5: Current RE1 zoning of Lot 461 (light green) and EP zoning of Lot 1 (dark green).

Local Planning Direction 1.4 requires planning proposals that seek to allow a particular development to permit that land use generally within the entirety of the zone that the land is situated.

Permitting function centres generally within the RE1 Public Recreation Zone or Zone 2 Environmental Protection would not be appropriate as such a land use would often be inconsistent with the above objectives which relate to the recreation and environmental use of parkland and the protection and management of foreshores and waterways.

However, the subject premises is sited in a location and within an existing building where the operation of a function centre may have acceptable planning and environmental impacts in this specific location. Permitting a function centre on this particular site would not undermine the intended use of parkland, foreshores and waterways elsewhere within either of the two zones. For this reason, the most appropriate approach to facilitate a function centre on the site is as an additional permitted use that applies only to this site. The inconsistency of the Planning Proposal with the local planning direction is deemed to be of minor significance.

It is recommended that the Planning Proposal be updated to address the inconsistency with Local Planning Direction 1.4.

The inclusion of an additional permitted use in *SEPP (Biodiversity and Conservation) 2021* would be at the discretion of NSW Department of Planning, Housing and Infrastructure (DPHI).

SITE SPECIFIC MERIT

Zoning

As outlined under the heading 'Site Details', part of the site is not located within the Canada Bay LGA and as such the permissibility of the use within this lot cannot be resolved via an amendment to the *Canada Bay Local Environmental Plan 2013*.

An amendment to *State Environmental Planning Policy (Biodiversity and Conservation) 2021 (SEPP)* is required and it recommended that the Proposal be updated to propose an amendment to the SEPP. The Department of Planning, Housing and Infrastructure will determine whether an amendment to the SEPP is supported prior to issuing a Gateway Determination for the Planning Proposal.

Traffic and Parking

The Planning Proposal was supported by a Traffic and Parking Assessment Report (refer to Attachment 4). The traffic report noted:

- The site is located within 400m walking distance to bus services along Victoria Road which also provide access to railway stations.
- The Planning Proposal will not result in any change in traffic generation potential to Aqua Luna, such that the Planning Proposal will clearly not result in any unacceptable traffic or environmental capacity implications to the surrounding road network.
- The Planning Proposal will not result in any increase in parking demand, given the floor area and maximum seating capacity of Aqua Luna will remain unchanged.
- Car parking accumulation surveys undertaken on a typical Friday, Saturday and Sunday as part of this study during large Aqua Luna restaurant bookings, which indicates that there is spare capacity within easy walking distance of the site.
- Existing operational hours, loading and waste collection, all remain unchanged as part of the Planning Proposal.
- No works are proposed to the existing building, including the gymnasium or boat shed on the lower levels of the building.

The Traffic report concluded that the proposed development is supportable on vehicular access, traffic, parking and servicing grounds and will not result in any unacceptable implications.

A function centre would accommodate up to 240 patrons (based on existing conditions in relation to the maximum seating capacity for the restaurant/café) on site at any given time and the existing building does not provide any off-street parking spaces resulting in patrons parking on-street or in nearby available public parking spaces.

The traffic report does not provide sufficient information in relation to parking capacity during certain hours of the day. Additional information was requested to demonstrate parking availability on Saturdays between 11:30am and 5:00pm and Sundays between 5:30pm and 10:00pm. An updated

parking assessment has been provided and will be reviewed prior to finalisation of the planning proposal.

Acoustic

Council's records indicate that there was one complaint received in relation to noise and anti-social behaviour from the operation of the premises in 2017. No other incidents or complaints have been received.

Although there have not been any recent complaints, Council's Environmental Health team indicated that additional patronage of the venue could risk further noise and anti-social behaviour impacts to the community.

It is noted that the premises has been used for a function centre without consent for some time and the proposal does not seek to intensify the use of the site through an increase to Gross Floor Area. The limited number of complaints received suggest that the premises has been operating in a manner that has not caused undue disturbance to residents in the immediate locality.

Should Council resolve to progress the Planning Proposal, it would be publicly exhibited following the issue of a Gateway determination, and submissions invited from residents and landowners within the vicinity of the site. Any issues raised in relation to acoustic or social impacts will be considered and addressed as part of the post-exhibition report to Council.

If the Planning Proposal proceeds, a development application would also need to be submitted for a function centre. As part of the assessment of the Development Application, an acoustic report will be required to manage noise impacts on the amenity of the area and residential receivers. Where necessary, appropriate conditions of consent could be applied to manage acoustic and social impacts.

Heritage

The site is located immediately adjacent to a known aboriginal site, identified as AHIMS site 45-6-2843 and described as 'shelter with midden'. The Planning Proposal relates to the use of land and will not result in ground disturbance activities. Should ground disturbance works be proposed as part of a future development application, an archaeological assessment would be required.

The site is also adjacent to two heritage items listed in the Canada Bay LEP 2013. The Items are:

- *Heritage Item I242* - The foreshore between Ullathorne Street and Drummoyne swimming pool is a highly significant section of original foreshore that is easily accessible and illustrates the nature of the water's edge prior to settlement.
- *Heritage Item I244* - Iron Cove Foreshore Drive is one of the most important waterfront drives in Sydney to survive in its planned form, heritage listed for its environmental and engineering significance.

The proposal to include an additional permitted use within an existing building is not expected to have an impact upon the significance of these heritage items.

Environmentally Sensitive Land

The subject and surrounding land is identified as environmentally sensitive land in the Canada Bay LEP 2013. The proposal to include an additional permitted use within the existing building is not expected to have an impact on the environmental sensitivity of the site.

Similarly, the Planning Proposal is not expected to negatively impact the adjacent Open Space (Brett Park) or the use of this space by the public.

Local Planning Panel

On 31 January 2024, the Planning Proposal was referred to the Local Planning Panel (the Panel) for advice. The Panel considered the assessment report, the information presented by the applicant in their address to the Panel, and the matters observed during a site inspection.

The Panel provided the following advice (refer to Attachment 5):

1. Notes that the site is currently being used as a function centre and the purpose of the planning proposal is to make the use permissible.
2. Notes that part of the site is located below mean high water mark and is subject to the Biodiversity and Conservation SEPP 2021.
3. Supports the planning proposal in principle subject to:
 - a. The matters raised by Council in their report to the Panel being satisfactorily addressed
 - b. The proponent clarifying the implication of the Environmental Protection zoning applying to part of the land under the Biodiversity and Conservation SEPP.
 - c. The proposal being updated to include all parcels of land to which the proposed additional permitted use will apply
4. Notes the key matters relating to traffic, noise and parking potentially affecting local amenity will need to be appropriately addressed in any future development application.

In response to the Panel's advice, it is recommended that the Planning Proposal be updated to address the implications of the Biodiversity and Conservation SEPP applying to part of the site. The recommendation of this Report reflects this requirement which will need to be provided by the Proponent prior to submission of the Proposal for a Gateway determination.

CONSULTATION AND RISK CONSIDERATIONS

The Planning Proposal was submitted on 4 December 2024.

Should Council resolve to endorse the Planning Proposal for submission to the Department of Planning, Housing and Infrastructure and a Gateway Determination is issued, the proposal will be placed on public exhibition for a minimum period of 28 days. Following the exhibition period, a further report will be prepared to advise the Council of the outcome of the public consultation.

Should Council resolve not to endorse the Planning Proposal for submission to the Department of Planning, Housing and Infrastructure for a Gateway Determination, the applicant may seek a review of Council's decision from the Eastern City Planning Panel.

FINANCIAL CONSIDERATIONS

There are no financial considerations associated with this report.

LEGISLATIVE AND POLICY CONSIDERATIONS

The planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and follows the NSW Department of Planning and Environment's 'Local Environmental Plan Making Guideline'.

Should the Planning Proposal proceed, the *Canada Bay Local Environmental Plan 2013* will be amended to permit function centres, with consent, at 131P Henley Marine Drive, Drummoyne.

The Proposal will also need to include an amendment to *State Environmental Planning Policy (Biodiversity and Conservation) 2021* to permit function centres, with consent, at 131P Henley Marine Drive, Drummoyne.

ITEM 9.5 AFFORDABLE HOUSING POLICY, MANAGEMENT GUIDELINES AND CONTRIBUTIONS SCHEME HOUSEKEEPING UPDATES**Reporting Manager** Manager Property Strategy and Leasing

- Attachments:**
1. Attachment 1 - Draft Affordable Housing Policy (*Provided in Attachment Booklet*) [⇒](#)
 2. Attachment 2 - AHCS Planning Proposal (*Provided in Attachment Booklet*) [⇒](#)
 3. Attachment 3 - Draft Affordable Housing Contribution Scheme (*Provided in Attachment Booklet*) [⇒](#)
 4. Attachment 4 - Local Planning Panel Minutes (*Provided in Attachment Booklet*) [⇒](#)

RECOMMENDATION OF DIRECTOR CORPORATE SERVICES AND STRATEGY*Affordable Housing Policy*

That:

1. *Draft Affordable Housing Policy*
 - a) The draft *Affordable Housing Policy*, provided at Attachment 1, be placed on public exhibition
 - b) Should no submissions be received, the amendment to the *Affordable Housing Policy* be adopted.
 - c) Should submissions be received, a further report be provided to Council on the outcome of the public exhibition.
2. *Affordable Housing Management Guidelines*

The *Affordable Housing Management Guidelines* be updated, giving priority access to families and individuals escaping adverse domestic situations as outlined in the body of the report.
3. *Affordable Housing Contribution Scheme*
 - a) The *Affordable Housing Contribution Scheme* Planning Proposal be endorsed for submission to the Department of Planning, Housing and Infrastructure for a Gateway determination.
 - b) Delegation be requested from the Department of Planning, Housing and Infrastructure for Council to manage the plan making process.
 - c) The General Manager be authorised to make minor variations to the Planning Proposal to correct any drafting errors or to ensure that it is consistent with the Gateway Determination.
 - d) The Planning Proposal and draft *Affordable Housing Contribution Scheme* be endorsed for public exhibition in accordance with relevant conditions imposed under the Gateway Determination.

PURPOSE

To seek:

- i) endorsement of an update to the *Affordable Housing Policy* that incorporates a principle to meet the affordable housing needs of people living with disability and families and individuals escaping adverse domestic situations, and obtain approval to proceed to public exhibition.
- ii) approval of changes to the *Affordable Housing Management Guidelines* for Council owned affordable housing dwellings giving priority access through a first right of refusal process to families and individuals adverse domestic situations.
- ii) endorsement of a Council initiated Planning Proposal to amend clause 6.12 of the *Canada Bay Local Environmental Plan 2013* to bring into effect an update to the *City of Canada Bay Affordable Housing Contribution Scheme*, and to proceed to public exhibition

EXECUTIVE SUMMARY

Council requires affordable housing in the City of Canada Bay to maintain a diverse, vibrant and healthy community and to alleviate housing stress experienced by some individuals and families in the private rental housing market.

Council's *Disability Inclusion Action Plan* (DIAP) includes an action to increase affordable housing to meet the needs of people living with disability, and a recent resolution in response to a Notice of Motion to the February 2025 Council meeting aims to enable affordable housing for families and individuals escaping adverse domestic situations. A draft amendment to Council's *Affordable Housing Policy* has been prepared to include a principle that aims to provide a diverse range of housing types and sizes for varying stages of life, including housing for people with a disability, families and individual's adverse domestic situations. Changes to the *Management Guidelines for Affordable Housing* have also been prepared.

The *Canada Bay Local Environmental Plan (LEP) 2013* and the associated *Affordable Housing Contribution Scheme* provide the statutory framework to require affordable housing contributions. A Council initiated planning proposal has been prepared to amend the LEP to:

1. reference an updated *Affordable Housing Contributions Scheme*. The updated scheme includes housekeeping amendments to simplify monetary contribution calculations and updates to reflect Council's *Affordable Housing Policy*; and
2. include a general provision authorising the imposition of a condition requiring a contribution toward affordable housing calculated in accordance with section 48 of the *State Environmental Planning Policy (Housing) 2021*.

It is recommended that this draft amendment to Council's *Affordable Housing Policy* and draft *Management Guidelines* be placed on public exhibition. It is also recommended that the Planning Proposal (see Attachment 1) be endorsed for submission to the Department of Planning, Housing and Infrastructure for a Gateway determination.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 1: Connected Community

Goal CC 1: Foster an inclusive community where diversity is welcomed and celebrated

BACKGROUND/DISCUSSION

Affordable Housing Policy

Council adopted an *Affordable Housing Policy* on 7 August 2007, which was last revised and adopted by Council on 15 June 2021. The Policy outlines Council's approach and rationale for involvement in affordable housing.

In 2021, Council adopted the *Disability Inclusion Action Plan* (DIAP) which identifies actions that Council will undertake to be more inclusive and accessible for all. Action 2.20 of the DIAP states 'Increase Affordable Housing to meet the needs of people living with disability'.

On 18 February 2025, Council resolved to undertake an investigation, including a review of Council's *Affordable Housing Policy* and *Affordable Housing Management Guidelines*, on the potential and feasibility to enable families or individuals escaping adverse domestic situations access to several Council-owned affordable housing dwellings.

To assist in meeting the DAIP action and Council's resolution, Council's current *Affordable Housing Policy* has been reviewed (Attachment 1) and an amendment is proposed to include further criteria when seeking or receiving affordable housing stock. The *Affordable Housing Policy* 'Principles' section has been updated from:

'Promote – Council aims to provide increase flexibility for a diverse range of housing types and sizes for varying stages of live. Council may achieve this by updating the LEP and DCP following detailed community engagement and analysis in order to understand needs'

to:

'Promote – Council aims to provide a diverse range of housing types and sizes for varying stages and circumstances of life, including affordable housing for key workers, adaptable housing for people with a disability and housing for families and individuals escaping domestic violence.'

By specifically identifying 'adaptable housing for people with a disability' this will form a key consideration and accountability in Council's decision-making process when selecting or acquiring affordable housing stock.

Reference to Council's *Local Environmental Plan* (LEP) and *Development Control Plan* (DCP) has been removed as adaptable housing and dwelling mix requirements are already included within these planning instruments and documents.

Other minor changes

An outdated reference in the Policy is required to be corrected and changed from 'Appendix 1' to 'Affordable Housing Management Guidelines'. Appendix 1 refers to a superseded version of the Policy.

The format of the Policy has also been updated to be consistent with Council's latest templates for Council policies.

Affordable Housing Management Guidelines

Council Officers have discussed with Evolve Housing (Council's Affordable Housing Provider) the options available to assist families and individuals escaping adverse domestic situations. Three options were considered, these include:

1. Ring fencing a portion of the portfolio dedicated to families escaping domestic violence: This would involve specific dwellings being allocated for this purpose. In this scenario, rents would need to be based on a percentage of income, with most cases aligning with social housing rent levels. This scenario would require further amendments to the *Affordable Housing Policy*, as it is unlikely that the typical affordable housing criteria would be met, and concessions would need to be considered.

2. Head Lease to a registered shelter, charity or associated organisation: Council would offer properties to the registered shelter, charity or associated organisation at peppercorn rents with permission to sublet. The registered shelter, charity or associated organisation would likely use these properties as transitional accommodation, with no direct relationship between Council or Council's Affordable Housing Provider and the tenant.
3. First Right of Refusal arrangement with shelters, charities or associated organisations: This option would involve prioritising families and individuals escaping adverse domestic situations for access to Council's affordable housing, provided they meet the established criteria. This is typically suitable for families or individuals exiting support services and transitioning to the private rental market. The benefit to these families or individuals is that they would have access to affordable housing rather than competing in the private market.

Option three (3) is the recommended approach based on the current size and functionality of Council's Affordable Housing Portfolio. First Right of Refusal arrangement is recommended for the following reasons:

- Allocation is based on need rather than a fixed allocation that may be under-utilised
- Does not require further subsidy by Council
- Opportunity for greater access to properties as portfolio grows
- Provides a pathway between shelters, charities or associated organisations and the private rental market

In this scenario, the Management Guidelines would be revised in agreement with Council's Affordable Housing partner, prioritising families or individuals escaping adverse domestic situations for access to council's affordable housing dwellings as they become available, provided they meet the established affordable housing income criteria.

Affordable Housing Contribution Scheme

The *City of Canada Bay Affordable Housing Contributions Scheme* (the AHCS) sets out how, where, and at what rate development contributions are collected for affordable housing. The contribution for affordable housing can be met either as an on-site contribution (i.e. provision of a dwelling) or an equivalent monetary contribution.

The AHCS is a result of the *Greater Sydney Region Plan*, the *Eastern District Plan* and Action 5.5 of Council's *Local Strategic Planning Statement* which states:

Require a minimum of 5% of the Gross Floor Area of new development to be dedicated as affordable housing for:

- *Planned Precincts;*
- *Parramatta Road Corridor precincts; and*
- *where there is a significant increase in density arising from a Planning Proposal.*
- *An affordable housing contribution plan is required before the rezoning of above precincts / sites*

Council adopted the AHCS on 18 August 2020 and it has been subject to two revisions to include two additional contribution areas. The AHCS currently applies to identified sites in the following areas:

1. Rhodes West and Rhodes East
2. The Parramatta Road Corridor Urban Transformation Strategy Precinct Areas of Homebush, Burwood, and Kings Bay; and
3. 160 Burwood Rd, Concord (Bushell's site); and
4. 1-7 Ramsay Road, Five Dock at Figure 1.4 below,

5. Other areas within the City of Canada Bay where a Planning Proposal is approved for residential or mixed-use development and an uplift of land value is created, and where Council resolves to include the area in this AHCS scheme and the Canada Bay LEP

The current AHCS applies a range of contribution rate percentages from 1.5% - 10% based on the uplift and feasibility of rezonings of the relevant land. The current AHCS only provides worked examples based on a 5% monetary contribution. This has caused confusion in the calculation of affordable housing contributions for rates higher and lower than 5%, and was the impetus for revising the calculation approach.

The Planning Proposal seeks to apply an amended AHCS under clause 6.12 of the Canada Bay LEP. The amended AHCS is primarily a housekeeping amendment which streamlines the calculation formula and applicable dollar rate where an affordable housing contribution is made rather than dedication of completed dwellings, along with minor administrative and policy updates.

Dollar rate (per sqm) methodology

The current AHCS applies a dollar rate based on the medium strata dwelling price within the different suburbs of the LGA.

The revised AHCS will apply a dollar rate based on the medium strata dwelling price for the entire LGA. The dollar rate is calculated by dividing the medium strata dwelling price for the current quarter by 90sqm, being the average two-bedroom apartment size. The median strata dwelling price for the current quarter (September 2024) is \$1,028,000. This equates to a dollar rate for this quarter of \$11,422 per sqm.

A summary of the current and proposed (June 2024) monetary contribution rates for each affordable housing contribution area are shown below:

Affordable housing contribution area	Current Contribution per Sqm	Proposed Contribution per Sqm
Rhodes East	\$11,165.22	\$11,422.00
Rhodes West	\$11,165.22	\$11,422.00
4 Mary Street and 1-9 Marquet Street in Rhodes	\$11,165.22	\$11,422.00
Homebush North, Burwood, Kings Bay Precincts	\$9,839.10	\$11,422.00
3 King Street and 176-184 George Street, Concord West	\$12,298.31	\$11,422.00
160 Burwood Road, Concord	\$13,204.09	\$11,422.00
1 – 7 Ramsay Road and 5-7 Harrabrook Avenue, Five Dock	\$12,521.97	\$11,422.00

Current Contribution calculation formula

The current calculation formula and worked example for a residential development for one of the area, i.e. Rhodes East is shown below.

Calculation: Gross Floor Area x Contribution rate = required affordable housing square metre provision (CR).

= Contribution rate multiplied by gross floor area

= CR x GFA

Example: A development application for a new residential development comprising 8,000 square metres of GFA.

$$\begin{aligned} &= \text{CR} \times \text{GFA} \\ &= \$558.26 \times 8,000\text{sqm} \end{aligned}$$

Total payable contribution = \$4,466,080

Proposed new contribution calculation formula and worked example

The proposed new contribution calculation formula for a residential development in Rhodes East is shown below.

Calculation: Equivalent monetary contribution rate x Contribution rate (%) x GFA

$$= \$11,422/\text{sqm} \times 5\% \times \text{residential GFA}$$

Example: A development application for a new residential development comprising 8,000sqm of additional GFA.

$$\begin{aligned} &= \$11,422/\text{sqm} \times 5\% \times 8,000\text{sqm} \\ &= \mathbf{\$4,568,800} \end{aligned}$$

Other housekeeping amendments

There are also minor updates to definitions and objectives to reflect an update to Council's *Affordable Housing Policy* because of the *Disability Inclusion Action Plan* and the Notice of Motion in relation to provision for families and individuals facing adverse domestic situations. The updated objectives confirm that Council's *Affordable Housing Policy* will promote a diverse range for various housing types, size and circumstance. It also provides clarification on the interaction between Council's AHCS and affordable housing provision and contributions under the *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)*.

The Housing SEPP enables Council to apply a condition requiring payment of a contribution where existing affordable rental housing will be lost because of the development (for example, where a low-cost apartment building is strata subdivided or renovated, therefore removing access to low rental housing). A recent amendment to the Housing SEPP has created a situation whereby Council would have to authorise the imposition of such a condition in its LEP. A draft amendment Bill to the *Environmental Planning and Assessment Act 1979* has been presented to NSW Parliament which seeks to rectify this issue. However, for abundant caution, the Planning Proposal seeks to reinforce Council's ability to apply such a condition were deemed appropriate. Should the Bill be passed prior to finalisation of this Planning Proposal, then this proposed amendment will not be progressed.

The Planning Proposal does not seek to make any new sites subject to the AHCS. Where an applicant elects to dedicate dwellings, there is no change to the formula to calculate the provision of completed dwellings.

Local Planning Panel

The Proposal was considered by the Canada Bay Local Planning Panel on 20 March 2025. The Panel's role is to provide advice to Council.

The Panel provided the following advice:

1. Endorses the Planning Proposal for submission to the Department of Planning, Housing and Infrastructure for a Gateway determination.
2. Notes and supports an intended wider future review of the *Affordable Housing Contribution Scheme*. The Panel encourages the Council to ensure the latest data is used regarding land cost and construction costs, given escalating prices over time. The Panel notes, as an example, that the Valuer General's data for Canada Bay shows residential land values have increased approximately 50% since 2020/21.

The Panel's advice is supportive of the Planning Proposal, and aligns with the intention of a holistic review of the AHCS as part of an ongoing program after the proposed housekeeping amendment. The attributable contribution rates are updated in line with data provided in the quarterly *Rent and Sales Report* prepared by the Australian Statistical Geography Standard of the Australian Bureau of Statistics (ABS).

Assessment

The Planning Proposal involves minor administrative changes to the AHCS and are not anticipated to have an adverse environmental, social or economic impact.

The primary reason for applying a consistent dollar rate per sqm across the LGA and simplifying the monetary contribution calculation is to ensure the plan is easily understood and implemented, thereby avoiding user error when applying multiple dollar rates and contribution percentages. The proposed amendments will also simplify the administration of the plan over time.

The revised AHCS will result generally in an increased dollar rate in Rhodes and the Homebush North, Burwood and Kings Bay precincts; and a decreased dollar rate in Concord, Concord West and Five Dock.

The draft AHCS is provided at Attachment 2. It will be sent to the Department of Planning, Housing and Infrastructure for information and to support the Planning Proposal. It will also be exhibited with the Planning Proposal, alongside Council's revised *Affordable Housing Policy*.

TIMING, CONSULTATION AND RISK CONSIDERATIONS

Affordable Housing Policy

If endorsed, the draft *Affordable Housing Policy* will be placed on public exhibition for a period of 28 days in accordance with the *Canada Bay Community Participation Plan*. It will be exhibited on Council's Collaborate page.

Any submissions made will be detailed and addressed in a subsequent report to Council prior to final adoption.

Affordable Housing Contribution Scheme

The current application of a different dollar rate across suburbs within the LGA has led to user error and confusion over relevant rates. The updated AHCS has been prepared to simplify the calculation and applicable dollar rate to provide a standardised approach across the LGA.

In accordance with the LEP Making Guidelines, the Proposal falls within the 'Standard' category with a maximum benchmark timeframe of 25 working days for the Department of Planning, Housing and Infrastructure to issue a Gateway determination.

Should the Proposal proceed to Gateway determination, the Planning Proposal would be placed on public exhibition for a period of 28 days in accordance with the *Canada Bay Community Participation Plan*.

FINANCIAL CONSIDERATIONS

Affordable Housing Contribution Scheme

The AHCS enables the collection of contributions. Funds collected through the AHCS are reserved for the purpose of affordable housing provision within the City of Canada Bay Local Government Area.

The current AHCS applies a dollar rate based on the medium strata dwelling price within the different suburbs of the LGA. The revised AHCS will apply a dollar rate based on the medium strata dwelling price for the entire LGA.

When calculating the equivalent monetary contribution rate, where a development does not propose to dedicate completed affordable dwelling/s, the applicable percentage of the dollar rate is multiplied by the applicable gross floor area of the development. The revised AHCS will result generally in an

increased dollar rate in Rhodes and the Homebush North, Burwood and Kings Bay precincts; and a decreased dollar rate in Concord, Concord West and Five Dock. On balance, it is considered that the affordable housing contributions collected will not be significantly impacted from applying a LGA wide dollar rate.

At the time of writing this report the quarter release for the medium strata dwelling price was June 2024. If data for the next quarter is released prior to the finalisation of the Planning Proposal, the AHCS and dollar rates will be updated accordingly.

The current AHCS will continue to apply to development applications lodged prior to the finalisation of this Planning Proposal.

Management Guidelines

The proposed amendment to Council's *Affordable Housing Management Guidelines* to provide first right of refusal access to families or individuals facing adverse domestic situations does not contain any financial considerations associated with the recommendation.

LEGISLATIVE AND POLICY CONSIDERATIONS

The draft update to the *Affordable Housing Policy* has been reviewed against relevant legislation including the *Local Government Act 1993*, and Council's *Disability Inclusion Action Plan*.

The Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and follows the NSW Department of Planning and Environment's 'Local Environmental Plan Making Guideline'

10 CITY ASSETS DIRECTORATE REPORTS

ITEM 10.1 CITY OF CANADA BAY LOCAL TRAFFIC COMMITTEE MINUTES - 13 MARCH 2025

Reporting Manager Manager Roads and Traffic

Attachments:

1. **Traffic Committee Agenda - March 2025** (*Provided in Attachment Booklet*) [⇒](#)
2. **Traffic Committee Minutes - March 2025** (*Provided in Attachment Booklet*) [⇒](#)

RECOMMENDATION OF DIRECTOR CITY ASSETS

That the minutes and recommendations of the City of Canada Bay Traffic Committee Meeting held 13 March 2025, attached to the report, be adopted.

PURPOSE

To report the City of Canada Bay Local Traffic Committee minutes of 13 March 2025 to Council.

REPORT

The report contains the minutes for the City of Canada Bay Local Traffic Committee held on 13 March 2025 for Council's adoption.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 4: Infrastructure and Transport

Goal IT 2: Manage traffic and parking to minimise congestion and increase road safety

FINANCIAL CONSIDERATIONS

There are no financial considerations associated with the report.

LEGISLATIVE AND POLICY CONSIDERATIONS

The City of Canada Bay Local Traffic Committee meetings are held in line with Transport for NSW guidelines.

ITEM 10.2 MASSEY PARK GOLF COURSE - PLAYER LEVY FUND**Reporting Manager** Manager Open Space**Attachments:** Nil

RECOMMENDATION OF DIRECTOR CITY ASSETS

That Council increase the Player Levy Fund for Massey Park Golf Course from \$1.50 to \$3.00 per round for all public 18 hole rounds of golf, effective from 1 July 2025.

PURPOSE

To ensure Massey Park Golf Course (MPGC) continues to be maintained at an appropriate level, this report recommends increasing the Player Levy Fund (PLF) from \$1.50 to \$3 per round for all public 18 hole rounds of golf effective from 1 July 2025.

EXECUTIVE SUMMARY

In 1993 a PLF was established to fund maintenance and improvements to MPGC funded through a contribution from each round played at the course. The contribution was not indexed to inflation and therefor the purchasing power of the contribution has declined over time. The review of the levy was conducted in consultation with Massey Park Golf Club (the Club) through quarterly stakeholder meetings. It is recommended to increase the contribution from \$1.50 to \$3 per round for all public 18 hole rounds of golf, effective from 1 July 2025.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 4: Infrastructure and Transport

Goal IT 1: Manage local assets to ensure they continue to meet community needs and address climate adaptation

BACKGROUND/DISCUSSION

MPGC is a Council owned golf course, with the Club operating the course on Council's behalf under a leased arrangement. The course is located on both Community Land and Crown Land.

In 1993, the former Concord Council resolved to create a PLF to fund maintenance and improvements to MPGC building facilities, with a \$1 contribution from each round played put aside to support. In 2003, Council resolved to increase the contribution to \$1.50 per round. This contribution was not indexed and therefor the purchasing power of the fund has diminished over time.

During 2024/25, the Club approached Council enquiring whether the PLF could be increased to ensure MPGC building facilities are suitably maintained. Following a review of the PLF and discussions with the Club, it is proposed to increase the levy to \$3 per round for each public 18 hole rounds of golf, effective from 1 July 2025.

From 2026/27, the PLF contribution from public rounds will be increased by the annual CPI.

The increase to the PLF will fund improvements and maintenance of the building facilities/. These works will be limited to Council's obligations under the lease. Recent works funded by the PLF include HVAC improvements, lighting, and exterior painting.

TIMING / CONSULTATION AND / OR RISK CONSIDERATIONS

The review and increasing of the PLF to \$3 was in consultation with the Club and they are supportive of this outcome.

FINANCIAL CONSIDERATIONS

The following table provides an overview of the financial implications of implementing this report's recommendation:

2023/24	PLF @ \$1.50	PLF @ \$3
Number of public 18 holes rounds 21,720	\$32,580	\$65,160

As these funds directly contribute to the maintenance and improvement of a Council asset, the net financial position to Council is \$0.

Contributions to the PLF are paid at the end of financial year into a restricted reserve.

LEGISLATIVE AND POLICY CONSIDERATIONS

There are no legislative or policy considerations associated with this report.

11 COMMUNITY CULTURE AND LEISURE DIRECTORATE REPORTS

ITEM 11.1 ARTS AND CULTURE COMMITTEE UPDATE

Reporting Manager Manager Place and Events

Attachments: 1. Arts and Culture Committee Charter [↓](#)

RECOMMENDATION OF DIRECTOR COMMUNITY CULTURE AND LEISURE

That:

1. Council approves the nominees recommended for membership of the Arts and Culture Committee, circulated under separate cover.
 2. All nominees be advised of the outcome of the nomination process.
-

PURPOSE

This report provides recommendations for the appointment of a community member to the Arts and Culture Committee to fill the current vacancy.

EXECUTIVE SUMMARY

This report provides a summary of the nomination and selection process for the appointment of a community member to the Arts and Culture Committee to fill the current vacancy. The recommendation is for appointment from April 2025 for the remainder of the current Council term.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 3: Vibrant Urban Living

Goal VUL 2: Improve access to local art, culture and creative activities

Direction 5: Civic Leadership

Goal CL 4: The City of Canada Bay community is well informed and eager to engage in issues and decisions that impact them

BACKGROUND/DISCUSSION

On 18 February 2025, Council resolved to call for expressions of interest for the Arts and Culture Committee to fill the vacant position on the committee created by the resignation of a committee member holding one of the *Community Organisation Representatives or community members* (unpaid) positions.

This report outlines the outcome of the expressions of interest process, including the recommend nominee for membership of the Committee.

The Arts and Culture Committee has been established:

1. To provide dynamic arts advocacy for the sector and around strategic matters affecting the program.
2. To encourage arts quality and innovation in the implementation of Council's strategies.
3. To engage local communities and visitors in arts and cultural activities.

The membership of the Arts and Culture Committee includes the following:

Representation	Committee members	Position
Councillors	2	Unpaid
First Nations Cultural Representatives or Art Professionals	2	Paid
Artists	2	Paid
Community Organisation Representatives or Community Members	4	Unpaid
Arts and Culture Citizen of the Year	1	Unpaid

Expressions of interest for this committee were open from 6 March to 6 April 2025 and Council received a total of 14 nominations.

The Arts and Culture Committee Charter (attached) sets out the following roles and skills for members of the Committee which have been referenced in the assessment process.

- All representatives must live in or operate a business or organisation in the City of Canada Bay.
- All community representatives must have a demonstrated connection to the sector and/or community.
- Paid members must have relevant experience, expertise or cultural knowledge.
- All members must contribute the time needed to understand the papers provided and apply good analytical skills, objectivity and judgment to the business of the Committee.
- Exceptional communications and advocacy skills are essential.
- Members must demonstrate leadership and advocacy skills.

Following an assessment process aligned to the Charter, a nominee has been recommended. Please refer to the list of applicants which has been circulated under separate cover for details.

A reserve list of nominees has been included with the nominee listing and is to be utilised where a member of the Committee vacates their position.

FINANCIAL CONSIDERATIONS

There are no financial considerations associated with this report.

LEGISLATIVE AND POLICY CONSIDERATIONS

There are no legislative considerations with this report.

Arts and Culture Committee Charter

1. Introduction

This charter has been prepared for adoption by Council.

The Arts and Culture Committee (A&CC) is a committee of Council which has been established to strengthen communication and engagement between the arts community and Council for the strategic development and improved delivery of arts and culture activities across the City of Canada Bay. The A&CC is not a decision-making body of Council, however it provides an instrumental role in representing and raising issues direct with Council to inform strategic planning and development. It is also an advocate for the sector on behalf of the City.

2. Background

This Committee has emerged in response to a Council resolution at its meeting on 1 November 2021, relating to the delivery of culture including:

1. THAT Council support the formation of a City of Canada Bay Arts and Culture Committee, with representations from local arts community groups such as the Drummoyne Arts Society and local artists.
2. THAT Council request staff prepare a report for the next term of Council in respect of ideas and initiatives that can strengthen Council's arts and culture program and assist local artists.
3. THAT Council report on the establishment of an appropriate council creative arts centre, and sources of potential state and or federal government funding.

The role and function of the Committee was subject to extensive community and sector consultation as part of the development of the Cultural Plan 2033. The Arts and Culture Committee was established in 2023.

3. Core Objectives

The A&CC has been established:

1. To provide dynamic arts advocacy for the sector and around strategic matters affecting the program.
2. To encourage arts quality and innovation in the implementation of Council's strategies.
3. To engage local communities and visitors in arts and cultural activities.

4. Membership

- Two Councillors, one of which shall be the Mayor or nominee.
- The Mayor or nominee will chair the meetings.
- Two professional artists, art managers or equivalent will be appointed to provide sector expertise and meet skill sets identified by Council.
- Two First Nations artists, arts managers, cultural representatives.

Arts and Culture Committee Charter

- Four community arts members will be appointed.
- Council's Arts and Culture Citizen of the Year (for the term of their appointment).
- Upon Council's adoption of Committees at the start of a new term of Council, membership for the A&CC will be for the duration of the Council term.
- Each term of membership (excluding the Arts and Culture Citizen of the Year position) shall be a maximum of four-year period aligned with the elected term of Councillors.
- Nominations for membership of the Committee (excluding the Arts and Culture Citizen of the Year position) will be publicly called from the community and business representatives, and representation will be determined by Council.
- The Chair can invite observers to the meeting when an item they have requested be discussed is listed on the agenda (observers are not members of the Committee).

The following table outlines the membership and representative positions available on the Arts and Culture Committee.

Presentation	Committee Members	Position
Councillors	2	Unpaid
First Nations Cultural representatives or art professionals	2	Paid
Artists	2	Paid
Community Organisation Representatives or community members	4	Unpaid
Arts and Culture Citizen of the Year	1	Unpaid

5. Member's Roles and Skills

- All representatives must live in or operate a business or organisation in the City of Canada Bay
- All community representatives must have a demonstrated connection to the sector and/or community.
- Paid members must have relevant experience, expertise or cultural knowledge.
- All members must contribute the time needed to understand the papers provided and apply good analytical skills, objectivity and judgment to the business of the Committee.
- Exceptional communications and advocacy skills are essential.
- Members must demonstrate leadership and advocacy skills.
- All community representatives must agree to their contact details being made publicly available to the areas they represent to assist members and stakeholders within the community to contact them and provide matters they would like their representative to bring to meeting agendas.

Arts and Culture Committee Charter

6. Participation of Council Staff

Other Council Executive and/or staff may attend meetings as required.

7. Council support for the Committee

Council is responsible for providing administrative support for the meetings. This includes preparation and distribution of agendas, minutes, and other relevant information.

Council's main contact for the Committee will be the Manager, Place Management. They will initiate communication on behalf of Council, maintain a record of matters requiring documentation, prepare an update for each meeting and be responsible for the minutes of the meeting.

8. Media Protocol

Members of the Committee are not to speak to the media in their capacity as Committee members. The Mayor or the Chairperson of the Committee is the only person permitted to speak to the media on behalf of the Committee.

9. Declarations of Pecuniary Interest

A Committee member who has a pecuniary or significant non-pecuniary interest in any matter with which the Committee is concerned and who is present at a meeting of the Committee at which the matter is being considered must disclose the interest to the meeting as soon as practicable.

10. Declarations of less than significant non-pecuniary conflict of interests and participation in meetings

A member of the Committee who has a less than significant non-pecuniary conflict of interest in any matter with which the Committee is concerned and who is present at a meeting of the Committee at which the matter is being considered will disclose the interest to the meeting as soon as practicable.

11. Code of Meeting Practice and Code of Conduct

All Committee members shall be required to act in accordance with the requirements of Council's Code of Meeting Practice and Code of Conduct.

The Chairperson may require a Committee member to retract and apologise without reservation for such an act of disorderly conduct.

A member of the Committee may, as provided by Council's Code of Conduct, Code of Meeting Practice and this Charter, be expelled from a meeting of the Committee for engaging in or having engaged in disorderly conduct at the meeting.

Arts and Culture Committee Charter

If disorder occurs at a meeting of the Committee, the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the Chair. The Committee, on reassembling must, on a question put from the Chairperson, decide without debate whether the business is to be proceeded with or not.

Members must read and abide by Council's Code of Conduct, Code of Meeting Practice and this Charter. A copy can be found at www.canadabay.nsw.gov.au/council/about-council/council-meetings.

12. Ceasing to be a member

A person will cease to be a member of the Committee if:

- The member resigns in writing to the Committee and Council;
- The member becomes bankrupt;
- The member is absent for more than 6 months without leave from meetings of the Committee;
- Council passes a resolution to remove the member from the Committee;
- The member fails to disclose any pecuniary interest in any matter with which the Committee is concerned and takes part in the consideration, discussion or votes on any question relating to the matter and for the purposes of this provision "pecuniary interest" has the same meaning given to that term in Section 442 of the Local Government Act 1993;
- A member fails to abide by Council's Code of Conduct, Code of Meeting Practice and this Charter.
- The member while holding that office is convicted of an offence referred to part 4 of the Crimes Act 1900 (offences relating to property);
- The member becomes a mentally incapacitated person;
- The four-year period of membership has expired; or
- The term of the incumbent Arts and Culture Citizen of the Year is concluded.

13. Meeting Timelines

- The Committee will meet quarterly.
- There may be occasions where additional meetings are called to discuss special or urgent issues or projects.

14. Decision Making

- The Committee is not a decision-making body of Council. The main purpose is to provide advice and represent community matters to Council which relate to arts and cultural development.
- A quorum of the Committee will be half of total membership plus one in attendance, one of whom must be a current City of Canada Bay Councillor.

Arts and Culture Committee Charter

- Voting at Committee meetings is to be by show of hands or on the voices, and the recommendation will be based on a majority of votes.
- Recommendations supported by a majority of Committee members at which a quorum is present is a recommendation of the Committee and will be reported to Council.
- Should the Committee, with endorsement by the Chair elect to recommend new projects, programs or policies that are outside the current operational and delivery plans of Council, then the Chair will have the option to submit a written notice of motion for Council consideration at the next available meeting of Council. Resourcing and funding will need to be identified for Council to be able to consider any new initiatives.

15. Agenda/Minutes

- Members must submit requests for agenda items at least one week prior to the next meeting.
- The meeting agenda will clearly identify matters for discussion in the four areas of Information, Consultation, Collaboration and Proposed Initiatives.
- The agenda will be circulated to all Committee members, Council staff and Councillors at least one week prior to the next meeting.
- Council staff shall arrange for the minutes of each meeting to be taken and a draft circulated following the meeting.
- Once confirmed by the Committee members, minutes will be reported to the next available Council meeting.
- The outcome of the Council meeting will be distributed to all Committee members.
- The minutes as adopted by Council will be placed on Council's website.

Stage	Date	Comment	ECM ID
Original	18/04/2023	Approved by Council	8222671
Reviewed	21/05/2024	Approved by Council	8222671
Next Review	May 2026		

16. Ownership

Responsibility	Role
Owner	Manager Place Management

12 CORPORATE SERVICES AND STRATEGY DIRECTORATE REPORTS

ITEM 12.1 DRAFT COMMUNITY STRATEGIC PLAN 2022-2036, DRAFT DELIVERY PROGRAM 2025-2029, DRAFT OPERATIONAL PLAN 2025-2026, INCLUDING THE DRAFT BUDGET AND DRAFT FEES AND CHARGES, AND DRAFT RESOURCING STRATEGY

Reporting Manager Chief Financial Officer

- Attachments:
1. Draft Community Strategic Plan Our Future 2036 (*Provided in Attachment Booklet*) [⇨](#)
 2. Draft Delivery Program 2025-2029 and Operational Plan 2025-2026 (*Provided in Attachment Booklet*) [⇨](#)
 3. Draft Fees and Charges 2025-2026 (*Provided in Attachment Booklet*) [⇨](#)
 4. Draft Resourcing Strategy Summary 2025-2036 (*Provided in Attachment Booklet*) [⇨](#)
 5. Draft Long-Term Financial Plan 2025-2036 (*Provided in Attachment Booklet*) [⇨](#)
 6. Draft Asset Management Strategy and Plans 2025-2036 (*Provided in Attachment Booklet*) [⇨](#)
 7. Draft Workforce Management Strategy 2025-2029 (*Provided in Attachment Booklet*) [⇨](#)
-

RECOMMENDATION OF DIRECTOR CORPORATE SERVICES AND STRATEGY

That:

1. The following documents be placed on public exhibition for a minimum of 28 days in accordance with the requirements of the Local Government Act 1993:
 - a) Draft Community Strategic Plan Our Future 2036
 - b) Draft Delivery Program 2025-2029 and Operational Plan 2025-2026 (including the Budget and Statement of Revenue Policy)
 - c) Draft Fees and Charges booklet for 2025-2026
 - d) Draft Resourcing Strategy Summary 2025-2036
 - e) Draft Long-Term Financial Plan 2025-2036
 - f) Draft Asset Management Strategy and Plans 2025-2036
 - g) Draft Workforce Management Strategy 2025-2029.
 2. The period of exhibition be from 17 April to 18 May 2025.
 3. A further report be prepared and submitted to Council following the public exhibition period referred to in 2 above.
-

PURPOSE

To seek Council approval to place the following documents on public exhibition for a minimum of 28 days:

- Draft Community Strategic Plan Our Future 2036
- Draft Delivery Program 2025-2029 and Operational Plan 2025-2026 (including the Budget and Statement of Revenue Policy)

- Draft Fees and Charges booklet for 2025-2026
- Draft Resourcing Strategy Summary 2025-2036
- Draft Long-Term Financial Plan 2025-2036
- Draft Asset Management Strategy and Plans 2025-2036
- Draft Workforce Management Strategy 2025-2029

EXECUTIVE SUMMARY

Following each ordinary Council election, councils in NSW are required to revise and adopt/endorse a series of Integrated Planning and Reporting (IP&R) documents. Public exhibition for a minimum of 28 days is a requirement of the revision and adoption/endorsement process.

This report outlines how the documents in the IP&R framework have been prepared and the steps taken to make them ready for public exhibition in April and May 2025.

It is a requirement that the IP&R documents are adopted or endorsed by the end of June 2025 following Council consideration of submissions made during the exhibition period.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 5: Civic Leadership

Goal CL 1: Council is accountable, efficient, and ready to meet future challenges

BACKGROUND/DISCUSSION

The NSW Government introduced the Integrated Planning and Reporting framework in 2009 to assist councils in delivering their community vision and long-term objectives through long, medium- and short-term plans and reporting. The purpose of the framework is to formalise best practice strategic planning across NSW councils to ensure a more sustainable local government sector. The framework is shown in Figure 1.

The Office of Local Government Guidelines require each component of the framework to be reviewed at different stages in the Integrated Planning and Reporting cycle and different stages of the election cycle.

The red boxes on Figure 1 show the components of the framework that are the subject of this review and public exhibition period.

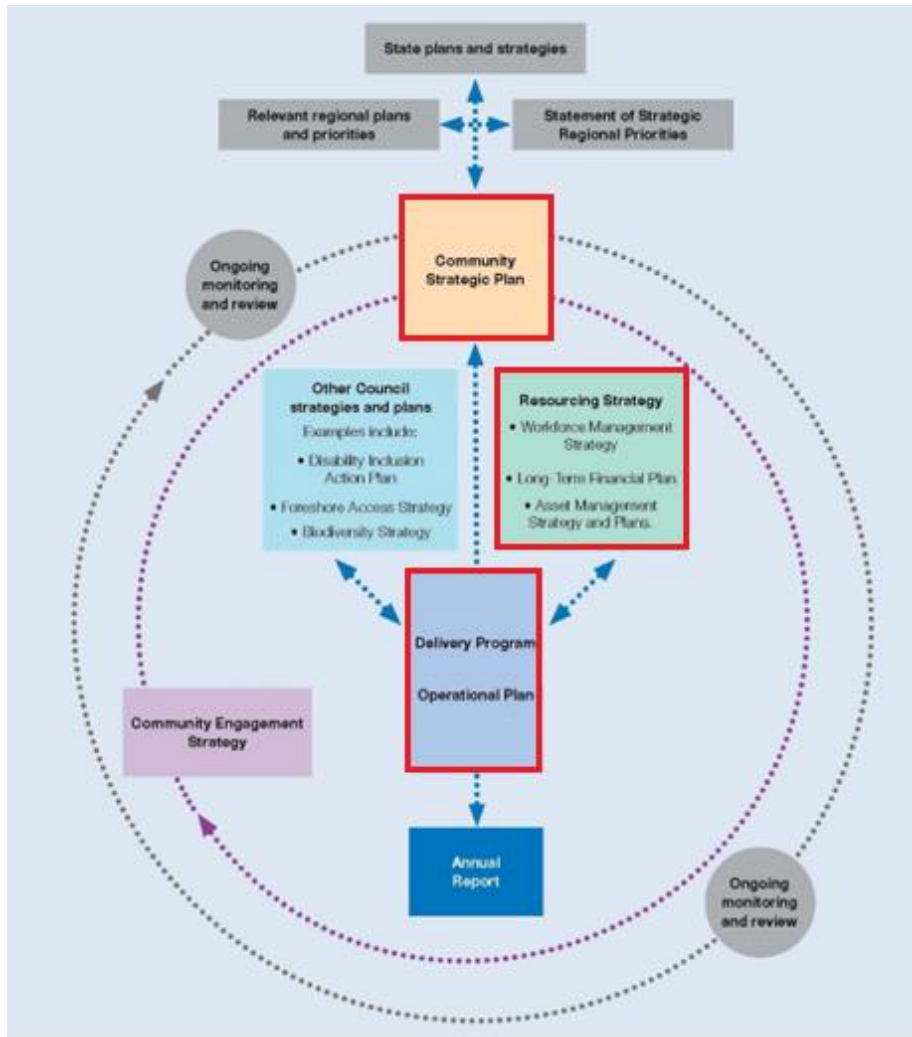


Figure 1: The components of the Integrated Planning and Reporting Framework that at the subject of this report.

Draft Community Strategic Plan (CSP) Our Future 2036

The Community Strategic Plan (CSP) is the highest level of integrated planning undertaken by a council. All other plans developed by Council as part of the Integrated Planning and Reporting framework reflect and support the implementation of the Community Strategic Plan.

Our Future 2036 is the Community Strategic Plan for the City of Canada Bay. The plan reflects the aspirations and priorities of the community that were identified following extensive engagement in 2021 and 2022.

The CSP identifies community goals to be fulfilled through implementation of Council's four-year Delivery Program.

Based on what the community said throughout the engagement process, the CSP goals are grouped within five strategic directions:

- Connected community
- Sustainable and thriving environment
- Vibrant urban living
- Infrastructure and transport
- Civic leadership.

In early 2024, an online community engagement process was undertaken to gauge whether the strategic directions and goals that had been endorsed by Council in 2022 would remain current for the incoming Council term. An engagement activity was also completed with the incoming Councillors as part of their induction training in late 2024. These activities confirmed that the strategic directions and goals are suitable for re-endorsement in 2025.

The CSP *Our Future 2036* document has been refreshed to include up-to-date demographic information as well as biographical information about the current Council. Its exhibition alongside the Integrated Planning and Reporting framework documents will assist the community to see the linkages between it and the other components of the framework. The CSP and a consideration of any submissions received will be reported to Council for endorsement in June 2025.

Draft Delivery Program 2025-2029, Operational Plan 2025-2026 (including the Budget and Statement of Revenue Policy)

Council's Delivery Program and Operational Plan (DPOP) is prepared as one document which contains Council's principal activities for the four-year period, along with the actions to be undertaken in 2025-26. It holds information about each of the Council Business Units and the services they deliver to work towards meeting the goals of the CSP.

The DPOP also contains Council's operating budget and Statement of Revenue Policy for 2025-2026 and a list of capital works projects that are planned for the four-year period 2025-2029. Council's draft Fees and Charges for 2025-26 form part of the budget and are presented in a separate booklet.

Submissions on the DPOP will be reported to Council for consideration in June 2025.

Operational Plan project highlights include:

- Preparing a Street Design Guide for the Homebush Transport Oriented Development Area
- Implementing a multicultural Library program of events that celebrates, showcases and shares cultural diversity for all ages
- Commencing a review of the Local Strategic Planning Statement
- Implementing the Canada Bay Youth Connect Project
- Delivering and supporting an annual program of Council and community events and activations across the City of Canada Bay, including the 28th annual Ferragosto celebration in Five Dock.

The Statement of Revenue Policy for the 2025-2026 draft budget is as follows:

Statement of Revenue Policy – draft Budget 2025-2026	2025-2026 Forecast \$
OPERATIONAL BUDGET	
Operating income	
Rates and Annual Charges	75,684,510
User Fees and Charges	24,135,558
Other Revenue	7,563,909
Other Income	4,986,035
Grants and Contributions – Operational	9,239,464
Interest	7,433,000
Total Operating Income	129,042,476
Operating Expenses	
Employee Costs	56,257,897
Borrowings	552,424
Materials and Services	44,441,503
Depreciation	20,463,000

Statement of Revenue Policy – draft Budget 2025-2026	2025-2026 Forecast \$
Other Expenses	7,239,697
Total Operating Expenses	128,954,521
OPERATIONAL RESULT – SURPLUS/(DEFICIT)	87,955
CAPITAL BUDGET	\$
Capital Income	
Grants and Contributions – Capital	18,057,277
New Loan	0
Proceeds from the Disposal of Assets	501,000
Total Capital Income	18,558,277
Capital Expenses	
Capital Works	43,305,915
Capital expenditure – Principal loan	826,456
Capital expenditure – Other	1,180,000
Total Capital Expenses	45,312,372
CAPITAL RESULT – SURPLUS/(DEFICIT)	(26,754,094)
FUNDING MOVEMENTS	
Add Back Depreciation and Amortisation – Non Cash Item	20,463,000
+ Transfer from Reserve	21,650,265
- Transfer to Reserve	15,447,125
TOTAL FUNDING MOVEMENTS	26,666,140
NET WORKING CAPITAL RESULT – SURPLUS/(DEFICIT)	0
Operating Ratio	0.07%

Capital Expenditure

The draft Capital Works program for 2025-2026 invests over \$43M of projects across the following asset classes:

Asset Category	Total \$
Bridges, Roads, Footpaths	15,400,000
Buildings	9,659,000
Open Space	9,092,000
Plant and Equipment	2,066,000
Drainage	1,238,000
Seawalls and Marine Structures	905,000
Library	556,000

A detailed schedule of the proposed expenditure is included in the full Statement of Revenue Policy contained within the Delivery Program and Operational Plan document attached to this report.

Capital Expenditure Program highlights include:

Project	Budget Allocation \$
Upgrade - Timbrell Park Sports field	\$4,460,000
Buildings Renewal Program	\$3,545,788
Public Domain Construction Works - Rhodes Station	\$3,000,000
Regional Cycleway Upgrade - RMS Grant	\$2,228,582
Road Resurfacing Program	\$2,050,000
Upgrade - Howley Park East	\$1,800,000
Community Sports Facility Upgrade - St Lukes Oval	\$1,720,000
Road Pavement Renewal Program	\$1,717,892
Community Sports Facility - Five Dock Park	\$1,000,000

Revisions to the program to reflect projects being carried forward from the current financial year will be included post-exhibition.

Submissions received pertaining to the Operational Program, Statement of Revenue and/or Fees and Charges will be reported to the June 2025 Council meeting.

Draft Fees and Charges booklet for 2025-2026

The draft Fees and Charges for 2025-2026 form part of the budget and are drafted for exhibition and easy use as a separate booklet, which forms an attachment to this report.

The proposed Fees and Charges have been reviewed and increased by the CPI or by an amount which has regard to market conditions and the appropriate cost recovery level. For 2025-2026, most fees and charges have been increased by the rate peg, which was determined at 3.8%. In relation to the Residential Waste Standard Service, an increase of \$18 was applied, to cover the additional costs of providing the service.

Draft Resourcing Strategy 2025-2036

Within the IP&R framework, a Resourcing Strategy is in place to show how a council will resource its Delivery Program and Operational Plan. It is comprised of three interrelated elements: long-term financial planning, workforce management planning and asset management planning.

Section 403 of the Local Government Act (1993) states that a council must have a long-term Resourcing Strategy for the provision of the resources required to perform its functions (including implementing the strategies set out in the Community Strategic Plan that it has responsibility for).

The three elements of Council's draft Resourcing Strategy for 2025-2036 have been prepared and will be exhibited with this suite of IP&R framework documents. They include:

- Draft Long-Term Financial Plan 2025-2036
- Draft Asset Management Strategy and Plans 2025-2036
- Draft Workforce Management Strategy 2025-2029

In addition, a summary of the components has been prepared for exhibition alongside the three Resourcing Strategy elements to improve accessibility to the wider community.

A report on submissions in relation to the elements of the Resourcing Strategy or its summary will be reported to Council in June 2025.

TIMING / CONSULTATION AND / OR RISK CONSIDERATIONS

This report, and its attachments, is submitted in accordance with the requirements of section 406 of the Local Government Act 1993 and Local Government (General) Regulation 2021. The Act and the Regulation require that Council prepares a suite of Integrated Planning and Reporting documents for a minimum 28 days of public exhibition and that Council consider all submissions prior to the end of June following an ordinary election. Adoption of this report at the April meeting provides necessary time for public exhibition and Council consideration of submissions in accordance with the Act.

FINANCIAL CONSIDERATIONS

The draft Budget for 2025-2026 was prepared in consideration of the income and expenditure forecasts allowed for in Council's Long-Term Financial Plan, as well as consideration of the other components of the Resourcing Strategy. It reflects an operating surplus of \$87,955. This equates to an Operating Ratio of 0.07%.

The proposed total Capital Expenditure program of \$45.3m is funded from grants, developer contributions and cash reserves.

LEGISLATIVE AND POLICY CONSIDERATIONS

Exhibition of these documents complies with the requirements of the Local Government Act 1993, specifically section 406.

ITEM 12.2 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT - CONFERENCE 2025**Reporting Manager** Manager Governance and Risk**Attachments:** Nil

RECOMMENDATION OF DIRECTOR CORPORATE SERVICES AND STRATEGY

That Councillor Megna (Mayor) and one other Councillor be nominated as Council's delegate and alternate delegate respectively, to attend the National General Assembly of Local Government with the General Manager, in Canberra from 24-27 June 2025.

PURPOSE

The purpose of this report is for Council to determine the delegates to attend the National General Assembly of Local Government in Canberra on 24-27 June 2025 with the General Manager.

REPORT

Council has received an invitation to the Australian Local Government Association National General Assembly (NGA), to be held in the National Convention Centre in Canberra from 24-27 June 2025.

The NGA of Local Government is the peak annual event for Local Government, from a national perspective, with in excess of 800 Mayors and Councillors attending each year. The theme of the 2025 conference is "National Priorities Need Local Solutions", with the aim of conveying the critical importance of trust in governments, between governments, its institutions, and its citizens.

Registrations are now open for both onsite and virtual attendees. Costings per person are as follows:

Registration (early bird – pay before 23 May 2025): \$ 979 per person

Accommodation approx. per night: \$ 360 per person/ per night

It has been the practice in previous years for the Council to nominate the Mayor as delegate and one alternate delegate to attend the Assembly with the General Manager.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 5: Civic Leadership

Goal CL 1: Council is accountable, efficient, and ready to meet future challenges

FINANCIAL CONSIDERATIONS

Registration, accommodation, and transport costs for Councillor attendance at the National General Assembly can be funded from the Councillor - Conferences budget.

LEGISLATIVE AND POLICY CONSIDERATIONS

There are no legislative or policy considerations associated with this report.

ITEM 12.3 CASH AND INVESTMENTS REPORT - MARCH 2025
Reporting Manager Chief Financial Officer
Attachments: 1. **March 2025 Investment Report (*Provided in Attachment Booklet*)**
[⇒](#)
RECOMMENDATION OF DIRECTOR CORPORATE SERVICES AND STRATEGY

That the Cash and Investments Report for March 2025, attached to the report, be received and noted.

PURPOSE

To present Council's Investment portfolio performance for March 2025.

EXECUTIVE SUMMARY

Council's investments are reported monthly to Council in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2021 and Council's Investment Policy.

STRATEGIC DIRECTION

This report supports Our Future 2036 outcome area:

Direction 5: Civic Leadership

Goal CL 1: Council is accountable, efficient, and ready to meet future challenges

BACKGROUND/DISCUSSION

This report incorporates the March 2025 Cash and Investments Reports, for Council's consideration.

Certification - Responsible Accounting Officer

Evan Hutchings as the Responsible Accounting Officer have certified that the investments listed in the attached report have been made in accordance with Section 625 of the Local Government Act 1993, clause 212 of the Local Government General Regulation 2021 and Council's Investment Policy.

TIMING / CONSULTATION AND / OR RISK CONSIDERATIONS
Summary position as of 31 March 2025

The Cash at Bank and Cash Investments are summarised below:

Month	Cash At Bank	Cash Investments	Total Cash
31 March 2025	\$3,668,305.88	\$187,677,581.25	\$191,345,887.13

The detailed Schedule of Investments held, for 31 March 2025 are also provided over the next page.

STATEMENT OF CASH INVESTMENTS							
Maturity Date	Bank/Issuer	Long Term Rating	Fair Value	Term	Interest	Issue Date	Investment Type
03/04/25	National Australia Bank (NAB)	AA-	\$2,000,000.00	252	5.32%	25/07/24	Term Deposits
10/04/25	National Australia Bank (NAB)	AA-	\$3,000,000.00	279	5.40%	05/07/24	Term Deposits
17/04/25	National Australia Bank (NAB)	AA-	\$2,500,000.00	261	5.30%	30/07/24	Term Deposits
23/04/25	ING	A	\$4,000,000.00	365	5.21%	23/04/24	Term Deposits
01/05/25	National Australia Bank (NAB)	AA-	\$2,000,000.00	266	5.00%	08/08/24	Term Deposits
08/05/25	National Australia Bank (NAB)	AA-	\$2,500,000.00	246	5.00%	04/09/24	Term Deposits
15/05/25	National Australia Bank (NAB)	AA-	\$2,000,000.00	246	4.95%	11/09/24	Term Deposits
19/05/25	ING	A	\$3,000,000.00	367	5.23%	17/05/24	Term Deposits
29/05/25	National Australia Bank (NAB)	AA-	\$2,000,000.00	253	5.00%	18/09/24	Term Deposits
05/06/25	National Australia Bank (NAB)	AA-	\$2,500,000.00	91	4.70%	06/03/25	Term Deposits
05/06/25	National Australia Bank (NAB)	AA-	\$2,000,000.00	258	4.98%	20/09/24	Term Deposits
12/06/25	National Australia Bank (NAB)	AA-	\$3,000,000.00	91	4.65%	13/03/25	Term Deposits
12/06/25	National Australia Bank (NAB)	AA-	\$3,000,000.00	217	5.05%	07/11/24	Term Deposits
17/06/25	State Bank of India, Sydney Branch	BBB-	\$2,000,000.00	91	5.00%	18/03/25	Term Deposits
19/06/25	Suncorp Bank	AA-	\$3,000,000.00	366	5.24%	18/06/24	Term Deposits
26/06/25	Suncorp Bank	AA-	\$2,000,000.00	240	5.06%	29/10/24	Term Deposits
26/06/25	Bank of Queensland	A-	\$2,000,000.00	223	5.15%	15/11/24	Term Deposits
26/06/25	Bank of Queensland	A-	\$2,500,000.00	154	4.90%	23/01/25	Term Deposits
03/07/25	Bank of Queensland	A-	\$2,000,000.00	216	5.17%	29/11/24	Term Deposits
03/07/25	National Australia Bank (NAB)	AA-	\$3,000,000.00	365	5.45%	03/07/24	Term Deposits
03/07/25	Bank of Queensland	A-	\$2,500,000.00	161	4.93%	23/01/25	Term Deposits
10/07/25	National Australia Bank (NAB)	AA-	\$3,000,000.00	371	5.45%	04/07/24	Term Deposits
17/07/25	National Australia Bank (NAB)	AA-	\$3,000,000.00	377	5.45%	05/07/24	Term Deposits
18/07/25	ING	A	\$2,500,000.00	365	5.33%	18/07/24	Term Deposits
24/07/25	Suncorp Bank	AA-	\$2,000,000.00	253	5.11%	13/11/24	Term Deposits
31/07/25	National Australia Bank (NAB)	AA-	\$2,500,000.00	366	5.30%	30/07/24	Term Deposits
08/08/25	ING	A	\$2,000,000.00	365	5.04%	08/08/24	Term Deposits
14/08/25	Suncorp Bank	AA-	\$3,000,000.00	210	5.00%	16/01/25	Term Deposits
26/08/25	ING	A	\$2,000,000.00	368	4.90%	23/08/24	Term Deposits
04/09/25	National Australia Bank (NAB)	AA-	\$2,000,000.00	371	4.90%	29/08/24	Term Deposits
11/09/25	ING	A	\$2,500,000.00	372	4.93%	04/09/24	Term Deposits
25/09/25	Suncorp Bank	AA-	\$2,000,000.00	287	5.06%	12/12/24	Term Deposits
16/10/25	ING	A	\$2,000,000.00	364	5.03%	17/10/24	Term Deposits
30/10/25	ING	A	\$2,000,000.00	366	5.10%	29/10/24	Term Deposits
06/11/25	National Australia Bank (NAB)	AA-	\$2,000,000.00	275	4.80%	04/02/25	Term Deposits
04/12/25	Suncorp Bank	AA-	\$2,000,000.00	301	4.78%	06/02/25	Term Deposits
22/01/26	Suncorp Bank	AA-	\$3,000,000.00	378	4.88%	09/01/25	Term Deposits
05/02/26	National Australia Bank (NAB)	AA-	\$2,000,000.00	366	4.72%	04/02/25	Term Deposits
16/02/26	National Australia Bank (NAB)	AA-	\$2,000,000.00	364	1.04%	16/02/21	Term Deposits
31/08/26	ING	A	\$2,000,000.00	732	4.58%	29/08/24	Term Deposits
10/09/26	ING	A	\$2,000,000.00	741	4.63%	30/08/24	Term Deposits
28/10/26	ING	A	\$2,000,000.00	737	4.74%	21/10/24	Term Deposits
05/11/26	ING	A	\$16,500,000.00	737	4.94%	29/10/24	Term Deposits
20/11/25	Westpac	AA-	\$1,500,000.00	274	1.87%	19/11/21	Tailored Deposit
17/02/26	Westpac	AA-	\$2,500,000.00	364	2.24%	18/02/22	Tailored Deposit
24/02/26	Westpac	AA-	\$2,000,000.00	364	2.31%	25/02/22	Tailored Deposit
03/03/26	Westpac	AA-	\$2,000,000.00	365	2.22%	04/03/22	Tailored Deposit
06/05/25	Royal Bank of Canada	AAA	\$1,000,000.00	89	4.91%	06/05/22	Floating Rate Notes
17/10/25	Suncorp Covered	AAA	\$1,000,000.00	273	5.21%	17/10/22	Floating Rate Notes
09/12/25	Macquarie Bank	A+	\$2,000,000.00	274	4.59%	02/06/21	Floating Rate Notes
13/01/26	Commonwealth Bank	AA-	\$1,500,000.00	365	5.25%	13/01/23	Floating Rate Notes
24/02/26	RACQ Bank	BBB+	\$2,300,000.00	365	5.63%	24/02/23	Floating Rate Notes
15/05/26	Bendigo Adelaide Bank	A-	\$1,000,000.00	452	5.42%	15/05/23	Floating Rate Notes
15/06/26	Teachers Mutual Bank	BBB+	\$850,000.00	455	4.79%	16/06/21	Floating Rate Notes
19/08/26	ING Bank Covered	AAA	\$500,000.00	546	4.55%	19/08/21	Floating Rate Notes
14/09/26	Macquarie Bank	A+	\$1,600,000.00	549	4.97%	14/09/23	Floating Rate Notes
23/12/26	Commonwealth Bank	AA-	\$2,000,000.00	639	4.53%	23/09/21	Floating Rate Notes
22/03/27	ING	A	\$1,000,000.00	728	5.07%	22/03/24	Floating Rate Notes
14/05/27	Bendigo Adelaide Bank	A-	\$800,000.00	819	5.18%	14/05/24	Floating Rate Notes
18/08/27	Commonwealth Bank	AA-	\$1,100,000.00	911	5.19%	18/08/22	Floating Rate Notes
13/09/27	AMP	BBB+	\$1,300,000.00	914	5.39%	13/09/24	Floating Rate Notes
01/11/27	Great Southern Bank	BBB+	\$1,150,000.00	1001	5.26%	01/11/24	Floating Rate Notes
13/01/28	Commonwealth Bank	AA-	\$1,500,000.00	1095	5.50%	13/01/23	Floating Rate Notes
19/01/28	Rabobank	A+	\$1,000,000.00	1094	5.51%	19/01/23	Floating Rate Notes
16/02/28	Westpac	AA-	\$1,000,000.00	1093	5.15%	16/02/23	Floating Rate Notes
09/05/28	Bank of Queensland Covered	AAA	\$1,250,000.00	1184	5.40%	09/05/23	Floating Rate Notes
17/08/28	Commonwealth Bank	AA-	\$1,250,000.00	1277	5.12%	17/08/23	Floating Rate Notes
20/08/29	ING	A	\$1,800,000.00	1642	5.17%	20/08/24	Floating Rate Notes
27/09/29	Suncorp Bank	AA-	\$2,100,000.00	1645	5.02%	27/09/24	Floating Rate Notes
18/03/30	National Australia Bank (NAB)	AA-	\$1,600,000.00	1826	4.94%	18/03/25	Floating Rate Notes
15/06/25	NTTC	AA-	\$2,000,000.00	363	1.10%	11/05/21	Fixed Rate Bond
18/08/25	Commonwealth Bank	AA-	\$1,500,000.00	181	4.20%	18/08/22	Fixed Rate Bond
24/08/26	Suncorp Covered	AAA	\$2,000,000.00	546	3.25%	20/04/22	Fixed Rate Bond
21/01/30	Westpac	AA-	\$1,800,000.00	1826	4.95%	21/01/25	Fixed Rate Bond
18/08/25	AMP	BBB+	\$15,258,396.45		4.75%		AMP
24/08/26	AMP	BBB+	\$1,000,500.00		2.50%		AMP
	Macquarie Bank	A+	\$2,007,473.97		4.40%		Macquarie CMA
	Macquarie Bank	A+	\$11,210.83		3.90%		Macquarie CMA
	Commonwealth Bank	AA-	\$7,000,000.00		4.05%		CBA BOS
	31/03/25		\$187,677,581.25				
	TOTAL INVESTMENTS at 28/02/2025		\$194,103,658.74				
	Net Increase/(Decrease) in Investments		(\$6,426,077.49)				

FINANCIAL CONSIDERATIONS

The adopted budget for 2024/25 forecast interest earnings of \$6,850,000. Investment income earned for March 2025 amounted to \$764,811.83 which is in line with the revised monthly phased budget. As a result of holding more funds than anticipated and market rates remaining strong, the budget for investment interest, has been revised through the first two quarterly reviews up to \$8,350,000 an increase of \$1,500,000.

RBA Monetary Policy board met on 01 April 2025 and decided to leave the cash rate target unchanged at 4.10%.

LEGISLATIVE AND POLICY CONSIDERATIONS

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (General) Regulation 2021 and Council's Investment Policy. Section 212 of the Local Government (General) Regulation 2021 states:

- (1) The responsible accounting officer of a council:
 - (a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:
 - (i) if only one ordinary meeting of the council is held in a month, at that meeting, or
 - (ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and
 - (b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.
- (2) The report must be made up to the last day of the month immediately preceding the meeting.

13 NOTICES OF MOTION**ITEM 13.1 NOTICE OF MOTION - CR FERGUSON - TENNYSON ROAD MORTLAKE**Submitted by: Councillor Andrew Ferguson

MOTION

That Council:

1. Notes that a Notice of Motion to develop an action plan to upgrade Tennyson Road Mortlake was unanimously adopted by Council in April 2022.
 2. Officers provide a presentation to a Councillor Workshop on the status of action taken in response to the Council resolution of April 2022 referred to in 1 above to:
 - a) Increase the tree canopy on Tennyson Road
 - b) Improve Tennyson Road landscaping
 - c) Provide a second pedestrian crossing on Tennyson Road subject to the results of the Mortlake Traffic Study.
 - d) Instal an appropriate mural in Mortlake celebrating its rich history.
 - e) Opportunities to install an EV charging facility in Mortlake.
 3. Officers investigate options to improve Shadrack Shaw Reserve in Mortlake and report the outcomes of the investigation as a component of the Councillor Workshop referred to in 2 above.
-

BACKGROUND FROM COUNCILLOR ANDREW FERGUSON

Tennyson Road is the backbone of the suburbs of Mortlake and Breakfast Point and I believe is in need of an upgrade. It is also the commercial hub of Mortlake, Breakfast Point and Cabarita.

In Council's Mortlake Place Plan 2019-2025 the following Community Priorities were identified:

1. Valuing the natural environment with a desire to see it extended appropriately through Streetscape.
2. Demands to Improve facilities and amenities in local parks and streets and
3. The Desire to Support and enhance local Business.

At its meeting on 19 April 2022, Council unanimously adopted my Notice of Motion which included the following:

1. That a specific action plan to upgrade Tennyson Road, Mortlake be developed and submitted to Council for consideration, with the action plan to include options to:
 - a) Increase the tree canopy
 - b) Improve landscaping
 - c) Provide a second pedestrian crossing (subject to the endorsement of the current Mortlake traffic study).
 - d) Install an appropriate mural in Mortlake celebrating its rich history.

2. That a report on opportunities to install an EV charging facility in Mortlake be prepared and submitted to Council for consideration.

Council had previously proposed to create a community mural in Tom Murphy Reserve, however, I do not believe that this has satisfactorily occurred. Further consideration of mural or other options to celebrate the rich history and heritage of these twin suburbs would be of benefit, as would the installation of EV charging facilities.

So as to gain an understanding of the status of the actions resulting from Council's resolution of 19 April 2022, and Council's previous resolution relating to the proposal for a community mural in Tom Murphy Reserve, I propose that Council officers provide a presentation on these items to a future Councillor Workshop.

I am also seeking that Council officers investigate options to improve Shadrack Shaw Reserve in Mortlake which I consider to be neglected and in need of an upgrade/improvements.

ITEM 13.2 NOTICE OF MOTION - CR FERGUSON - ICAC LEGAL COSTSSubmitted by: Councillor Andrew Ferguson

MOTION

That:

1. A report be prepared and submitted to a future Council meeting as a matter of priority on what legal and associated costs have been incurred by Council to date in relation to Operation Tolosa and any subsequent and related matters.
 2. The Report:
 - i. advise on the impact of these matters on any excesses for Council insurance policies and any associated increases in insurance premiums.
 - ii. detail what expenses paid were incurred for Council and other parties respectively.
-

BACKGROUND FROM COUNCILLOR ANDREW FERGUSON

It is my view that Council has suffered reputational damage arising from the ICAC's Tolosa investigation, proceedings and findings. We need to ensure residents have total confidence in Council by providing total transparency in respect of costs incurred by Council. I understand that considerable costs have been incurred by Council in relation to these matters. I understand some but not all expenses were paid by Council insurances. In the interests of transparency and accountability I am seeking that a report be prepared and submitted to a meeting of Council on what legal and associated costs have been incurred by Council to date in relation to Operation Tolosa. I am requesting that such report detail what expenses paid were incurred for Council and other parties respectively.

ITEM 13.3 NOTICE OF MOTION - CR FERGUSON - RESTORATION OF AMENITY FOR BAYVIEW PARK LOCAL RESIDENTSSubmitted by: Councillor Andrew Ferguson

MOTION

That:

1. Council officers prepare and present to a Councillor workshop the plans to install CCTV at Bayview Park, and the feasibility and costs of installing and operating an appropriately engineered replacement gate at the entrance/exit to the Park, as a priority.
 2. The presentation referred to in 1. above include the outcomes of continued community consultation on the installation of CCTV infrastructure and reinstatement of a park entrance/exit gate.
-

BACKGROUND FROM COUNCILLOR ANDREW FERGUSON

Many years ago in response to an ongoing outcry from residents living near Bayview Park in Concord, Council agreed to install lockable gates to close at sunset each evening. Unfortunately, these gates were often vandalised. There was also repeated vandalism to park amenity caused by individuals whose vehicles had been locked in the park as they sought alternative exit points.

Last year, the heavy duty motorised gate was significantly vandalised. It was irreparable and consequently removed. This occurred during a period whilst consultation was occurring with the nearby residents on the proposed new amenities facilities at Bayview Park. In response to resident feedback received through ongoing consultation, it was determined that the site would benefit from CCTV infrastructure and associated signage, which was included as part of the Bayview Park new amenities facilities project.

Unfortunately, recently there has been reported escalation in anti-social and hoon behaviour in the park at night-time.

Many residents have reported to me that they are scared to enter the park at night. Equally importantly, the noise of the anti-social element at night-time has destroyed the sleep and amenity of residents. I find this unacceptable.

Although Council has indicated that it intends sometime in the future to install CCTV, I am of the view that this will not adequately address hoon behaviour and in particular the noise.

I don't believe that suggesting that residents contact Burwood police about noise late at night is appropriate in view of the more pressing crime issues that confronts NSW Police. There is value in CCTV to identify culprits vandalising Council property and in particular a park entrance/exit gate.

14 NOTICES OF MOTION OF RESCISSION

Nil

15 MATTERS OF URGENCY

Nil

16 QUESTIONS WITH NOTICE

Nil

17 CONFIDENTIAL MATTERS

RECOMMENDATION

That

1. Council moves into closed session to deal with the matters listed below, which are classified as confidential under section 10A(2) of the *Local Government Act, 1993* for the reasons specified:

ITEM 17.1 RHODES RECREATION CENTRE - EARLY CHILDHOOD EDUCATION AND CARE CENTRE - LEASE

This matter is considered to be confidential under Section 10A(2) - (d) (i) of the Local Government Act, as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

Further it is considered that discussions of this matter in open Council would, on balance, be contrary to the public interest as it would prejudice Council's ability to secure the optimum outcome for the community.

ITEM 17.2 CONTRACT FOR THE MANAGEMENT AND OPERATIONS OF DRUMMOYNE AND CABARITA SWIMMING CENTRES

This matter is considered to be confidential under Section 10A(2) - (d) (i) of the Local Government Act, as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

Further it is considered that discussions of this matter in open Council would, on balance, be contrary to the public interest as it would prejudice Council's ability to secure the optimum outcome for the community.

ITEM 17.3 WASTE DISPOSAL AND PROCESSING CONTRACT NEGOTIATIONS

This matter is considered to be confidential under Section 10A(2) - (d) (i) of the Local Government Act, as it deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

Further it is considered that discussions of this matter in open Council would, on balance, be contrary to the public interest as it would prejudice Council's ability to secure the optimum outcome for the community.

2. Pursuant to section 10A(1), 10(2) and 10A(3) of the Local Government Act, the media and public be excluded from the meeting on the basis that the business to be considered is classified as confidential under section 10A(2) of the Local Government Act.
3. The correspondence and reports relevant to the subject business be withheld from the media and public as provided by section 11(2) of the Local Government Act.
4. The resolutions made by the Council in Closed Session be made public after the conclusion of the closed session and such resolutions be recorded in the minutes of the Council meeting.

BACKGROUND/DISCUSSION

In accordance with section 10A(2) of the Act, Council may close part of its meeting to deal with business of the following kind:

- (a) Personnel matters concerning particular individuals (other than councillors).
- (b) Personal hardship of any resident or ratepayer.
- (c) Information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
- (d) Commercial information of a confidential nature that would, if disclosed:
 - (i) Prejudice the commercial position of a person who supplied it: or
 - (ii) Confer a commercial advantage on a competitor of Council;
 - (iii) Reveal a trade secret.
- (e) Information that would, if disclosed, prejudice the maintenance of law.
- (f) Matters affecting the security of Council, Councillors, Council staff and Council property.
- (g) Advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.
- (h) Information concerning the nature and location of a place or an item of Aboriginal significance on community land.
 - (i) Alleged contraventions of any Code of Conduct requirements applicable under section 440.

It is considered that the business listed in the recommendation is of a kind referred to in section 10A(2) of the Local Government Act 1993 and, under the provisions of the Act and the Local Government (General) Regulation 2021, should be dealt with in a part of the meeting that is closed to members of the public and the media.

Pursuant to section 10A(4) of the Act and clauses 14.9–14.10 of the City of Canada Bay Code of Meeting Practice, members of the public may make representations to the meeting immediately after the motion to close part of the meeting is moved and seconded, as to whether that part of the meeting should be closed.

18 CONFIDENTIAL RESOLUTIONS

In accordance with Part 14 of the Code of Meeting Practice, resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson as soon as practicable. The resolution must be recorded in the publicly available minutes of the meeting.
