

## **CCL133-16      PLANNING PROPOSAL - PP2015-0001 - SITE BOUNDED BY FOREST ROAD, DURHAM STREET AND ROBERTS LANE, HURSTVILLE**

Report Author/s	Manager Strategic Planning, Ms C Gregory Strategic Planner, Mr K Sanderson
File	15/793
Previous Reports Referenced	CCL057-15 - Draft Employment Lands Study - Draft Industrial Lands Planning Control Recommendations - Council - 09 Dec 2015 7:00pm
Community Strategic Plan Pillar	Economic Prosperity
Existing Policy?	Yes                      New Policy Required?    Yes
Financial Implications	Within Budget
Reason for Report	For Approval
Interested Parties	Dickson Rothschild (Applicant: Mr Nigel Dickson); The One Capital Group Pty Ltd (Wensheng Liu); Mr Michael Gheorghiu; Mr Brett Daintry; Mills Oakley (Mr Matt Sonter)
Company Extract included	Yes

### **EXECUTIVE SUMMARY**

This report provides an assessment of a Planning Proposal request for a change in zoning and increase in maximum building height and floor space ratio (FSR) in the Hurstville Local Environmental Plan 2012 for a 1.4 hectare triangular site bounded by Forest Road, Durham Street and Roberts Lane, Hurstville.

The Applicant's Planning Proposal requests:

- Change of zoning from IN2 Light Industrial and part R2 Low Density Residential to B4 Mixed Use;
- Increase in maximum building height to 65 metres (Site A) and 25 metres (Site B);
- Increase in FSR to 3.5:1 (Site A) and 1.5:1 (Site B) and a bonus FSR incentive (1.5:1) for development including "hotel and motel accommodation" and a range of community and infrastructure uses.

The development concept includes 308 residential apartments (approx.), 150 room hotel over eight (8) levels, 4,738m<sup>2</sup> GFA (approx.) of commercial uses (including restaurants, speciality retail and potential supermarket), child care centre (approx. 90 children), community uses (unspecified) and associated car parking.

The Planning Proposal request has been referred to the St George Design Review Panel (DRP) on three (3) occasions during 2015 and early 2016. Council has also engaged an independent Urban Design Consultant to prepare an Urban Design Analysis for the site.

The assessment of the Planning Proposal recommends:

- Support for the rezoning of the site from IN2 Light Industrial (and R2 Low Density Residential) to B4 Mixed Use;
- Increasing the maximum Floor Space Ratio to 2.5:1 across the entire site;
- Introducing a bonus FSR incentive of 1.5:1 for "hotel or motel accommodation" only;
- Introducing a minimum non-residential FSR of 0.5:1;
- Increasing the maximum building height to part 40m and part 18m (to address the potential impacts on the adjoining R2 Low Density Residential neighbours); and
- Introducing a bonus maximum building height incentive of 25m for "hotel or motel accommodation" only.

In addition, the recommended Detailed Site Investigation (contamination assessment) must be undertaken by the Applicant to inform the proposed rezoning of the whole of the Subject Site (both Site A

and Site B), as required by *State Environmental Planning Policy No. 55 – Remediation of Land*, and cannot be undertaken as part of any future development application. It is not acceptable, and is inconsistent with the provisions of SEPP 55, to have the extent of any contamination on the site left unknown until after the site is rezoned and dealt with at the DA Stage.

This report provides an assessment of the Planning Proposal request without a Planning Agreement as the draft offer to enter into a Planning Agreement has been withdrawn. Consideration of the road and traffic infrastructure demands of the proposal is provided in this report; and a recommendation has been included to conditionally support the amendment subject to an appropriate mechanism being available to address these demands.

## **AUTHOR RECOMMENDATION**

THAT Council support an amendment to the Hurstville Local Environmental Plan 2012 for the site, subject to an appropriate mechanism being available to assist in addressing the road and traffic infrastructure demands and improvements within the City Centre generated by the future development of the site, including mechanisms such as:

1. Council entering into a Planning Agreement with the Applicant;

or alternately, if this mechanism is not available

2. Preparation of an amendment to the Hurstville Section 94 Development Contributions Plan 2012 to address road and traffic infrastructure within the City Centre.

THAT Council resolve, subject to an appropriate mechanism to address the road and traffic infrastructure demands and improvements within the City Centre generated by the future development of the site, to forward a Planning Proposal to the Department of Planning and Environment requesting a Gateway Determination for the following amendments to the Hurstville Local Environmental Plan 2012 in relation to the site bounded by Forest Road, Durham Street and Roberts Lane, Hurstville:

1. Rezone the site from part IN2 Light Industrial and part R2 Low Density Residential to B4 Mixed Use.
2. Increase the maximum building height from 9m and 10m to a maximum of part 18m to part 40m.
3. Introduce a bonus maximum building height incentive of 25m for development for “hotel or motel accommodation” only.
4. Increase the maximum floor space ratio for the site from 0.6:1 and 1:1 to a maximum of 2.5:1.
5. Introduce a bonus floor space ratio incentive of 1.5:1 for development for “hotel or motel accommodation” only.
6. Introduce a minimum non-residential FSR of 0.5:1 for the site.

THAT prior to any post Gateway Public Exhibition, the Applicant prepare a contamination assessment report for the Subject Site in accordance with the requirements of State Environmental Planning Policy No. 55 – Remediation of Land.

THAT Council resolve to commence preparation of an amendment to the Hurstville Section 94 Development Contributions Plan 2012 to acknowledge the new B4 Mixed Use Zoning for the site, and that the Subject Site be included within the Hurstville City Centre as shown in Appendix B of the Section 94 Plan.

THAT Council resolve to commence preparation of an amendment to the Hurstville Development Control Plan No.2 – Hurstville City Centre to include the Subject Site within the boundary of the Hurstville City Centre and to include site specific provisions for the site including (but not limited to) vehicle access

points, building locations and form, landscaped areas, through site connections, active street frontages and building setbacks.

THAT Council resolve that all land owners within the Subject Site are notified of Council's decision.

## REPORT DETAIL

### 1. INTRODUCTION

This report provides an assessment of a Planning Proposal request for a change in zoning from part IN2 Light Industrial and part R2 Low Density Residential to B4 Mixed Use and a significant increase in the maximum building height (up to 65m) and maximum floor space ratio (up to 5:1 with the FSR bonus) for a 1.4 hectare site at the eastern boundary of the Hurstville City Centre. The site will be referred to as “Hurstville East” in this report.

The Subject Site is a triangular area of land bounded by Forest Road, Durham Street and Roberts Lane, Hurstville. The Subject Site includes 19 individual lots with fragmented ownership and includes Nos. 53-75 Forest Road, Nos. 108-126 Durham Street and No. 9 Roberts Lane, Hurstville (as shown in Figure 1).



**Figure 1: Site Location and Locality Plan (subject site shown bounded in red)**

The Applicant for the Planning Proposal request is Dickson Rothschild; the Subject Site has been divided into “Site A” (approx. 10,276m<sup>2</sup>) and the smaller “Site B” (approx. 3,794m<sup>2</sup>) (refer Figure 2) by the Applicant (and generally based on land ownership). The requested changes to the maximum building height and maximum floor space ratio by the Applicant reflect this division of the Subject Site. It is noted that the views on the Planning Proposal of all land owners within the Subject Site are not known.





**Figure 2: Applicant's proposed division of site** (Source: Planning Proposal, Dickson Rothschild)

In summary, the Planning Proposal request submitted by Dickson Rothschild (the Applicant) requests that the Hurstville Local Environmental Plan 2012 ("LEP 2012") is amended as follows:

- Rezone the Subject Site from part IN2 Light Industrial and part R2 Low Density Residential to B4 Mixed Use;
- Increase the maximum building height from 9 metres and 10 metres to 65 metres (Site A) and 25 metres (Site B) (see Figure 11);
- Increase the maximum floor space ratio (FSR) from 0.6:1 and 1:1 to 3.5:1 (Site A) and from 1:1 to 1.5:1 (Site B) (see Figure 12);
- Introduce a floor space ratio bonus incentive of 1.5:1 for Site A (taking the total allowable FSR on Site A to 5:1) if the development includes the following land uses: "hotel and motel accommodation", "community facilities", "child care centres", "recreation facilities (indoor)", "public roads", "drainage or flood mitigation works" and has a lot area of at least 8,000m<sup>2</sup>; and
- Retain the heritage item at No.116 Durham St, Hurstville (Hurstville Scout Hall) on Site B.

A copy of the Applicant's Planning Proposal request and supporting material is included in Appendix 1.

A discrepancy in the requested maximum FSR of 5:1 (including the FSR bonus of 1.5:1 for the hotel) and the FSR shown on the Applicant's indicative Development Concept Plans has been identified. The Gross Floor Area ("GFA") shown for the site in the Development Concept Plans is significantly less than the 5:1 being requested with:

- FSR 3.82:1 (including hotel) (Site A);
- FSR 1.40:1 (Site B); and
- FSR 3.17:1 (including hotel) (total combined) for whole site.

The Applicant's Development Concept Plans include three (3) x 18-19 storey towers above a three (3) storey podium on Site A. The hotel component of the proposal comprises eight (8) storeys within one of the tower buildings and two (2) storeys within the podium of another. The total GFA of the proposed hotel is approx. 9,674m<sup>2</sup> (or 22%) of the total GFA in the Development Concept Plans.

The proposed rezoning of the site from IN2 Light Industrial (and R2 Low Density Residential) to B4 Mixed Use is supported. The introduction of a bonus height and FSR incentive to encourage the provision of “hotel or motel accommodation” is also supported.

However, the requested increases in the maximum building height (up to 65m) and maximum FSR (up to 5:1) are not supported due to the scale of development on the edge of the Hurstville City Centre, the lack of a built form transition across site to the adjacent lower scale residential development, and the significant difference in the distribution of the proposed height and FSR across the whole site (between Site A and Site B). The identification of Site A and Site B is based on land ownership rather planning considerations and site characteristics.

An assessment of the Planning Proposal, based on the advice of the St George Design Review Panel, independent Urban Design Advice, recommendations of the draft Hurstville Employment Lands Study and consideration of State and local policies and directions, recommends:

- Support for the rezoning of the site from IN2 Light Industrial (and R2 Low Density Residential) to B4 Mixed Use;
- Increasing the maximum Floor Space Ratio to 2.5:1 across the entire site;
- Introducing a bonus FSR incentive of 1.5:1 for “hotel or motel accommodation” only;
- Introducing a minimum non-residential FSR of 0.5:1;
- Increasing the maximum building height to part 40m and part 18m (to address the potential impacts on the adjoining R2 Low Density Residential neighbours); and
- Introducing a bonus maximum building height incentive of 25m for “hotel or motel accommodation” only.

## 1.1 Report Structure

The assessment of the Applicant's Planning Proposal request and Council's recommendations are set out in this report as follows:

- Section 1: Introduction of the Planning Proposal request made by the Applicant and an overview of the assessment and recommendations.
- Section 2: Description of the site and surrounds and an overview of the planning controls which currently apply.
- Section 3: Background on the Planning Proposal request including key dates and considerations of the St George Design Review Panel and public authority comments (Sydney Airport).
- Section 4: Consideration of the Strategic Planning Context including the Draft Hurstville Employment Lands Study (ELS), Transport Management and Accessibility Plan (TMAP), Hurstville DCP No.1 – LGA Wide, Hurstville DCP No.2 – City Centre and the Hurstville Section 94 Development Contributions Plan 2012.
- Section 5: Assessment of the Applicant's Planning Proposal request including the components which are supported and areas where alternative recommendations are made. These alternative recommendations are detailed in Section 6. Consideration is also given to the submission and subsequent withdrawal of an offer to enter into a Voluntary Planning Agreement (VPA).
- Section 6: This section sets out the recommended Planning Proposal which would be forwarded to the Department of Planning and Environment. Section 6 identifies the proposed changes to the land use zone, maximum building height, maximum FSR and bonus height and FSR incentives for the land use “hotel or motel accommodation”. Section 6 details the changes to the Hurstville LEP 2012 which are recommended for conditional support to be forwarded to the Department of Planning and Environment for a Gateway Determination.

## 1.2 Overview of Assessment

An assessment by Council staff of the Applicant's Planning Proposal request in accordance with the requirements of section 55 of the Environmental Planning and Assessment Act 1979, including the objectives and outcomes of the Planning Proposal and its justification in relation to *A Plan for Growing Sydney* (Metropolitan Strategy), State Environmental Planning Policies and Section 117 Ministerial Directions concludes that:

- The proposed rezoning of the site to B4 Mixed Use can be supported, and is consistent with the recommendations of the draft Hurstville Employment Lands Study which was considered in a separate Council Report (9 December 2015);
- An increase in the maximum building height is supported but not to the maximum of 65m and 25m as requested by the Applicant. The extent of the requested height and FSR increase is not supported due to the unjustified scale of development the planning controls would allow for, the lack of a built form transition across the whole site to the adjacent lower scale residential development and the significant difference in planning controls proposed for Site A and Site B which are considered to be based on land ownership rather planning considerations and site characteristics. A maximum building height of 40m and 18m is therefore recommended;
- An increase in the maximum floor space ratio is supported but not to the maximum FSR of 3.5:1 and 1.5:1 requested by the Applicant, and the separation of the site, as considered above. A maximum of 2.5:1 across the site is therefore recommended;
- The proposed maximum building heights and maximum FSR were also not supported by the St George Design Review Panel (in its three (3) considerations of the Planning Proposal request). Council has commissioned supplementary detailed urban design analysis (in association with the draft Employment Lands Study) which informed the appropriate floor space ratio and building heights for the site (see Appendix 4.2);
- The use of a bonus floor space ratio incentive to encourage the provision of “hotel or motel accommodation” on the Site is also supported. The use of a bonus floor space ratio incentive is not however supported for the other land uses identified in the Applicant’s Planning Proposal request, including “community facilities”, “child care centres”, “recreation facilities (indoor)”, “public roads”, “drainage or flood mitigation works”. It is recommended that a clause be inserted into Hurstville LEP 2012 which allows for a bonus FSR of up to 1.5:1 on the site which can only be used for the purpose of “hotel or motel accommodation” (see Section 6.2 of this report).

The assessment also concludes that:

- The rationale for the separation of the Subject Site into two distinct parts; Site A (measuring approximately 10,276m<sup>2</sup>) and Site B (measuring approximately 3,794m<sup>2</sup>), and the disparity between the maximum building heights and maximum floor space ratios requested for Site A and Site B, has not been justified by the Applicant and is not based on site planning considerations. Therefore, the Subject Site will be assessed and considered as a whole site;
- The Preliminary Site Investigation (contamination assessment) prepared for the site must address the entire Subject Site, not only Site A. It is noted that the report states “*that potential contamination exists at the site*” and that “*a number of existing and former land uses may have impacted the site soils and underlying groundwater*”. The recommended Detailed Site Investigation must be undertaken to inform the rezoning of the Subject Site and cannot be undertaken as part of any future development application.
- The withdrawal of a draft Planning Agreement is considered in Section 5.6 below, to ensure the provision of adequate traffic and transport improvements. A recommendation regarding the entering into of a Planning Agreement has been included.

Section 6 of this report identifies the recommended changes to the Hurstville LEP 2012 and provides an assessment of these changes in relation to the State Government’s “Guide to Preparing Planning Proposals” (October 2012), State Government Strategies and Guidelines, State Environmental Planning Policies and s117 Ministerial Directions.

## 2. SITE DESCRIPTION

### 2.1 The Subject Site

The Applicant’s Planning Proposal request applies to a triangular shaped site bounded by Forest Road, Durham Street and Roberts Lane, Hurstville. The site has dimensions of 175m along Forest Road, 140m along Durham Street and 207m along Roberts Lane. The site adjoins the area defined as the Hurstville City Centre and is within 400m walking distance from Allawah Station and 800m from Hurstville Station. The Site will be referred to as “Hurstville East”.

The subject site has multiple land owners. The Planning Proposal request divided the site into “Site A” and “Site B” (see below and Figure 2). It is understood the split of the site is based primarily on land ownership. There are unresolved urban design issues around the significant difference in the planning controls (maximum building height and FSR) proposed between Site A and Site B, as discussed in the Section 5.

The site contains a total of 19 separate lots with a combined area of 14,070m<sup>2</sup> (approximately 1.4 hectares). The legal descriptions of the lots to which the Planning Proposal applies, separated into Site A and Site B are:

Site A:

- Lot A DP 372835 (53 Forest Road, Hurstville);
- Lot 1 DP 225302 (61 Forest Road, Hurstville);
- Lot 100 & 101 DP 776275 (67-71A Forest Road, Hurstville);
- Lot 10 DP 621395 (73 Forest Road, Hurstville);
- Lot 3 & 4, DP 12517 (75 Forest Road, Hurstville);
- Lot 1 & 2 DP 12517 (126 Durham Street, Hurstville);
- Lot 15 DP 601341 (122A Durham Street, Hurstville);
- Lot 1 DP 337499 (120 Durham Street, Hurstville);

**Total Area Site A:** 10,276m<sup>2</sup>

Site B:

- Lot 1 & 2 DP 213685 (118 Durham Street, Hurstville);
- Lot 5 DP 171179 (116 Durham Street, Hurstville);
- Lot A, B, C & D DP 391801 (110-114 Durham Street, Hurstville);
- Lot 1 DP 172819 (9 Roberts Lane, Hurstville).

**Total Area Site B:** 3,794m<sup>2</sup>

The existing buildings on the site are described below:

- Self-storage facility (Storage King);
- A number of automotive services and sales businesses;
- Community uses (Hurstville Scout Hall);
- Funeral home;
- A two storey Residential Flat Building at 53 Forest Road, corner of Roberts Lane (land zoned R2 Low Density Residential); and
- Dwellings used for residential purposes on Durham Street on land zoned IN2 Light Industrial.

## 2.2 Surrounding Uses

The site adjoins the eastern boundary of the Hurstville City Centre. The surrounds of the site are described as follows:

- **South:** To the south, on the opposite side of Durham Street is a large mixed use development known as East Quarter which includes a number of mixed use buildings up to 19 storeys in height. The large open space area of Kempt Field (approx. 3 hectares) is also located opposite the site;
- **West:** On the other side of Forest Road is an area of land zoned B2 Local Centre featuring a range of commercial uses including a car dealership at the corner of Forest Road and Wright Street. Residential land on Wright Street and Hudson Street is a mix of R2 Low Density and R3 Medium Density Residential and is characterised by 1-2 storey dwelling houses and other low density residential development and 3 storey residential flat buildings respectively;
- **North:** A number of educational facilities are located to the north along Forest Road on land zoned SP2 Infrastructure. These include Hurstville Public School, Georges River College – Hurstville Boys Campus, Bethany College and Sydney Technical High School. There are also

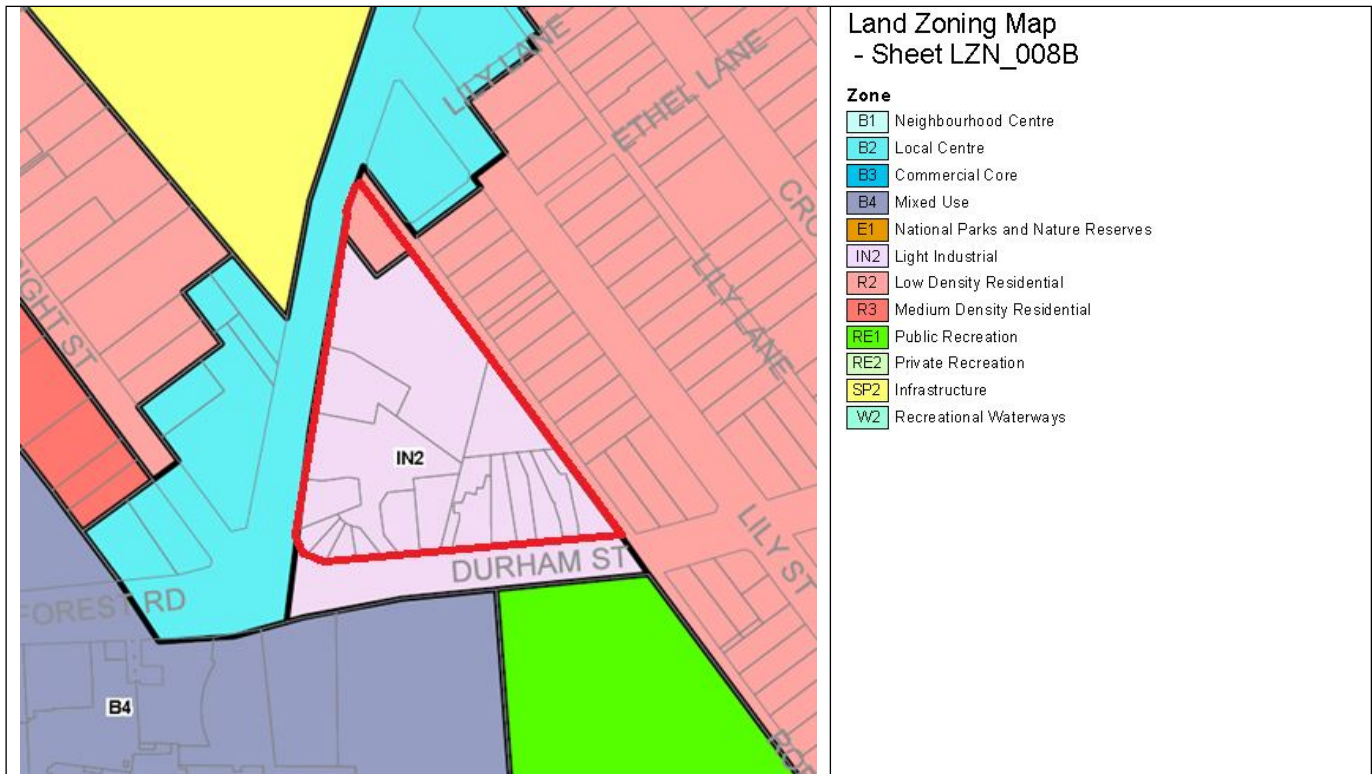
sites along Forest Road zoned B2 Local Centre which have recently been redeveloped with shops on the ground floor and generally 2 levels of residential apartments above;

- **North/East:** Land to the north and east along Lily Street, Cronulla Street and Botany Street is zoned R2 Low Density Residential. This area is predominantly characterised by 1-2 storey dwelling houses, with the rear yards of properties along Lily Street backing onto Roberts Lane.

### 2.3 Existing Planning Controls

The Hurstville LEP 2012 applies to the Subject Site and the following provisions are relevant to the Planning Proposal:

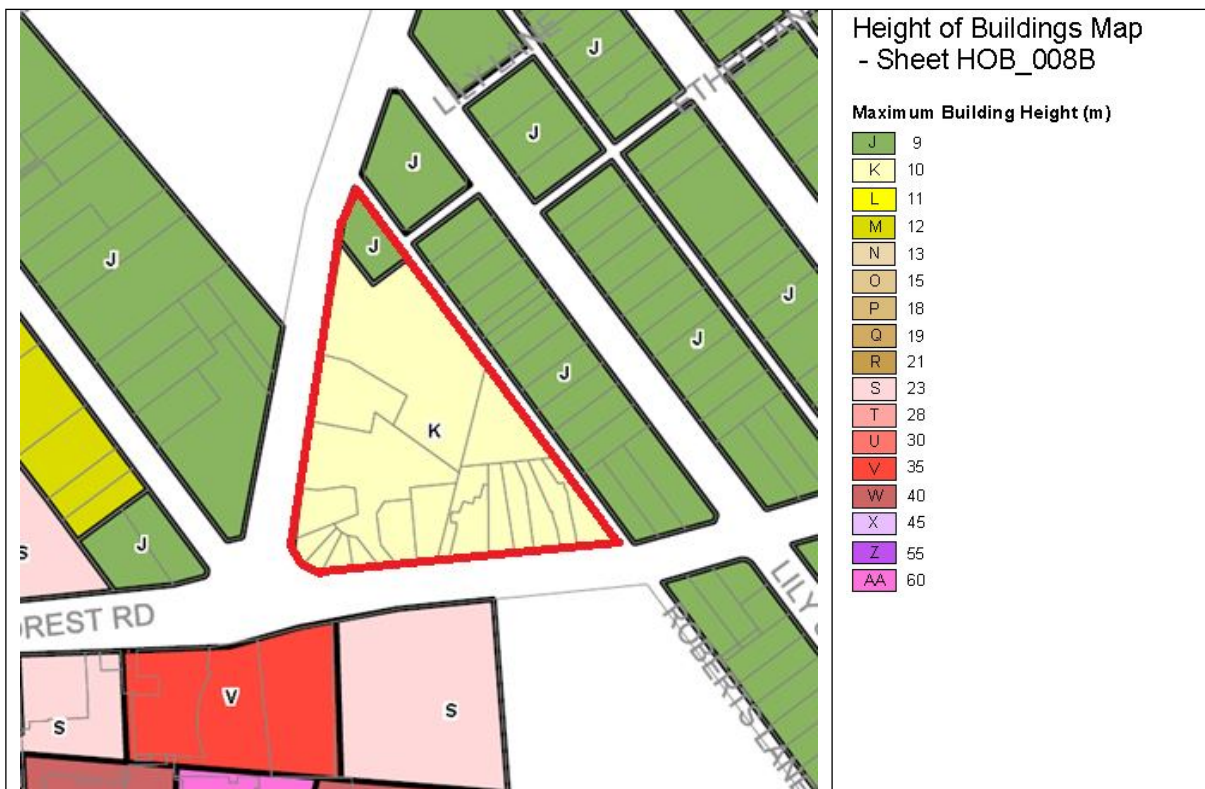
Land Zoning: the Subject Site is zoned IN2 Light Industrial and part R2 Low Density Residential (one lot on the northern side of the Subject Site) as shown below.



**Figure 3: Land Zoning Map Extract (Source: Hurstville LEP 2012)**

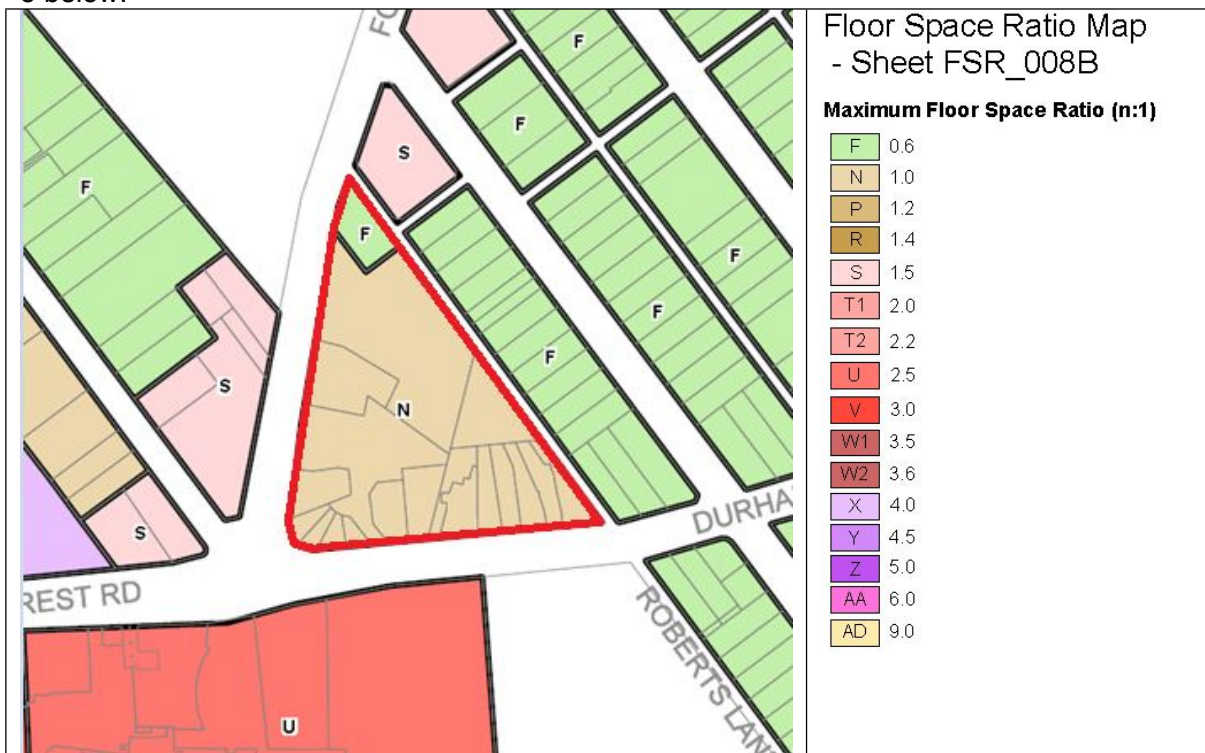
Height of Buildings: the Subject Site has a maximum building height of 9m and 10m as shown in Figure 4 below.





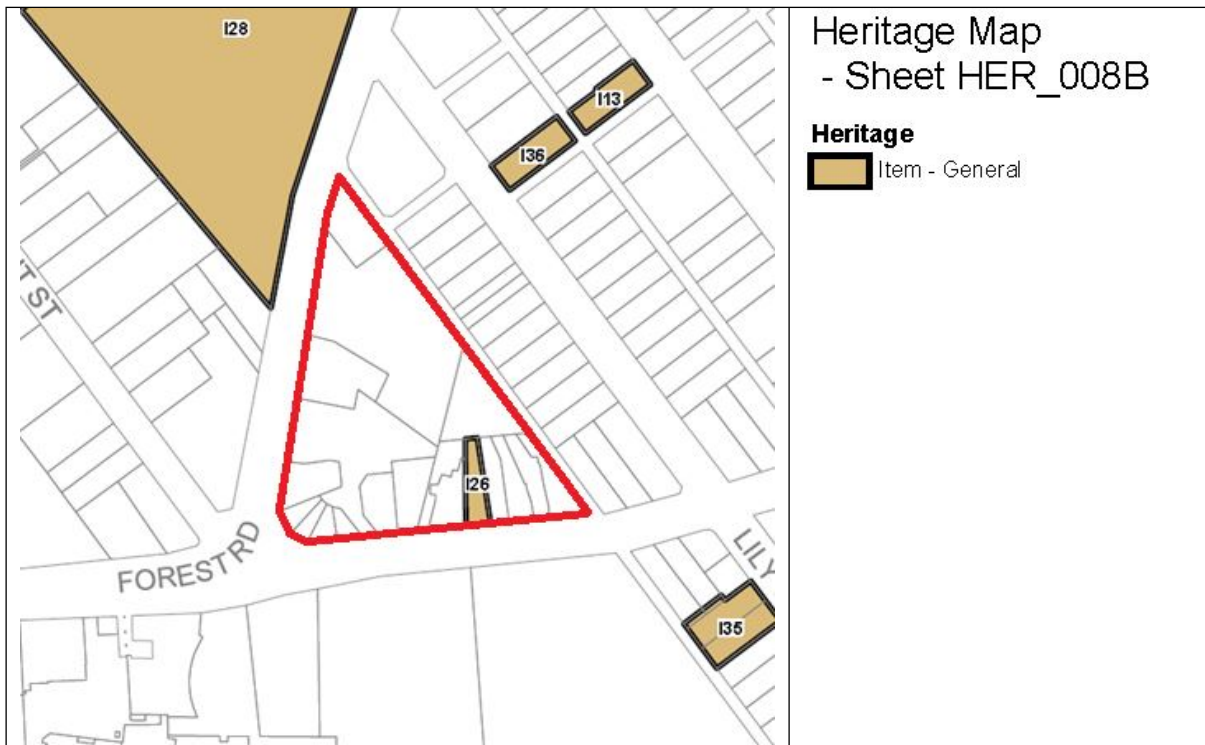
**Figure 4: Height of Buildings Map Extract (Source: Hurstville LEP 2012)**

Floor Space Ratio: the Subject Site has a maximum floor space ratio of 0.6:1 and 1:1 as shown in Figure 5 below.



**Figure 5: Floor Space Ratio Map Extract (Source: Hurstville LEP 2012)**

Heritage: the Subject Site contains a local heritage item at 116 Durham St, Hurstville (Hurstville Scout Hall) as shown in Figure 6 below.



**Figure 6: Heritage Map Extract (Source: Hurstville LEP 2012)**

Active Street Frontages: The site is not identified on the Active Street Frontage Map (Sheet ASF\_008B). Active Street Frontage provisions for the site will be investigated.



**Figure 7: Active Street Frontages (Source: Hurstville LEP 2012)**

### 3. BACKGROUND

The Applicant's Planning Proposal request (PP2015/0001) was lodged with Council on 12 June 2015. An offer to enter into a Voluntary Planning Agreement (VPA) was submitted on 27 November 2015 and subsequently withdrawn on 24 March 2016. A number of revised Planning Proposal documents have been provided since the initial lodgement. The latest revised Planning Proposal was received by Council on 1 March 2016.

The Planning Proposal was considered by the St George Design Review Panel on three (3) occasions; details of the advice provided by the Panel is included in Section 5.3 below.

The Planning Proposal as set out in the most recently lodged documents (1 March 2016) is the subject of this assessment report. The key dates for the Planning Proposal are:

Date	Details
15 May 2015	Meeting between Applicant and Council staff to discuss potential Planning Proposal.
9 June 2015	Letter sent to Applicant setting out areas to be further addressed prior to the lodgement of any Planning Proposal.
<b>12 June 2015</b>	<b>Planning Proposal lodged (PP2015/001)</b>
1 July 2015	Letter of acknowledgment sent to Applicant including details of further information required.
7 July 2015	Referral to Sydney Airport Authority.
16 July 2015	St George Design Review Panel (1st Meeting)
13 August 2015	Comments received from internal traffic referral
31 August 2015	Further information submitted by Applicant
22 September 2015	Independent consultants engaged to undertake traffic modelling for the subject Planning Proposal and other proposals in the Eastern Bookend precinct of the Hurstville City Centre
16 November 2015	Response provided from Sydney Airport Authority
19 November 2015	St George Design Review Panel (2nd Meeting) to consider further material provided in response to the 16 July 2015 meeting
<b>26 November 2015</b>	<b>Offer to enter into Voluntary Planning Agreement submitted</b>
8 December 2015	Independent Traffic Modelling work provided to the Applicant
8 January 2016	Meeting between Applicant and Council staff to discuss intention to provide revised plans
12 January 2016	Revised Urban Design Report submitted
19 January 2016	St George Design Review Panel (3 <sup>rd</sup> Meeting)
<b>1 March 2016</b>	<b>Meeting between Applicant and Council staff - Revised Planning Proposal material submitted</b>
<b>3 March 2016</b>	<b>VPA Offer of 26 November 2015 re-submitted to Council</b>
<b>24 March 2016</b>	<b>VPA Offer withdrawn</b>
20 April 2016	Report to Council on Planning Proposal (this meeting)

**Table 1: Planning Proposal Key Dates**

#### **4. STRATEGIC PLANNING CONTEXT**

##### **4.1 A Plan for Growing Sydney (Metropolitan Strategy)**

The Planning Proposal request is broadly consistent with the aims of A Plan for Growing Sydney. A Plan for Growing Sydney sets out 664,000 new homes will be required in the Sydney Metropolitan Region by 2031. The proposal will contribute toward this in an area close to existing transport infrastructure and services. The proposal will also contribute to reinforcing the status of Hurstville as a Strategic Centre.

##### **4.2 Draft South Subregional Strategy (2007)**

The draft South Subregional Strategy (2007) includes key directions and strategies for economy and employment, centres and corridors, housing and transport which are relevant to this Planning Proposal. In relation to economy and employment, the key directions include:

- Retain strategic employment lands including those required for utilities and local services.
- Strengthen the commercial centre of Hurstville.

The Subject Site is identified in the draft South Subregional Strategy (Employment Lands Schedule) as a Category 1 Employment Land which is “and to be retained for industrial purposes”. The draft Strategy notes that:

*“(39) Hurstville (Local Industry and Urban Services)*

*Small triangular precinct approximately 1.3ha in size is located between Durham Street, Roberts Lane and Forest Road. The area is located in close proximity to the city centre and provides an area of Local Industry and Urban Services such as car repairs. The zoning for this precinct should be retained to ensure service for the local community close to the Major Centre is maintained”.*

The draft Strategy also notes that “while the draft Employment Lands Schedules may provide some context, any proposal to rezone existing industrial zoned land will be subject to detailed investigation. Existing Section 117 Directions in relation to Industrial Zones apply to any proposed rezoning, which will require the agreement of the Director General of the Department of Planning and Environment, need to be justified via an environmental study and be in accordance with the relevant Regional Strategy or Subregional Strategy”. Consideration of the Planning Proposal’s inconsistency with the s117 Ministerial Direction is provided below.

The suitability of the existing IN2 Light Industrial zone on the Subject Site has been considered in the draft Hurstville Employment Lands Study as detailed below.

#### **4.3 Draft Hurstville Employment Lands Study**

Council commissioned independent consultants Jones Lang LaSalle and SJB Planning to prepare a draft Employment Lands Study (“draft strategy”) to review all industrial areas (i.e. lands zoned IN2 Light Industrial) and commercial centres (i.e. lands zoned B1 Neighbourhood Centre and B2 Local Centre) under Hurstville LEP 2012. The draft Employment Lands Study provides:

- A detailed land use survey and analysis of the strengths, weaknesses and opportunities of the employment lands;
- A market assessment;
- A review of the NSW State Government’s employment targets; and
- A review of the effectiveness of the existing planning controls.

The draft Study includes a draft Industrial Lands Strategy and a Commercial Lands Strategy which recommends planning controls for the employment lands. The draft Study is being presented to Council in two (2) stages (Stage 1: Industrial Lands and Stage 2: Commercial Lands) to encourage effective community consultation of the strategies and as further urban design work is currently being undertaken on the commercial lands.

The preliminary recommendations for land zoned IN2 Light Industrial (including the Subject Site) were reported to the Council meeting on 9 December 2015 (Report No.CCL1057-15). Council “*Resolved that the matter be deferred for further consideration*”.

The draft Study presented to Council on 9 December 2015 considered the Subject Site (currently zoned IN2 Light Industrial) which it referred to as “Hurstville East – Durham Street” and recommended that the Subject Site (including the portion of R2 Low Density Residential land) be rezoned to B4 Mixed Use. The rezoning of the site to B4 Mixed Use is supported because industrial uses are no longer best suited for the location and the business zone (B4 Mixed Use) will allow for a continuation of employment on the site.

The draft Study also recommended for the Subject Site a maximum FSR of 2.5:1 (with a minimum 0.5:1 non-residential floor space requirement) and a maximum building height ranging from 30 metres and 23 metres (along the R2 Low Density Residential zone interface of Roberts Lane).

#### **4.4 Transport Management and Accessibility Plan (TMAP)**

During the development of planning controls for the Hurstville City Centre, Council was required by Transport for NSW and the Roads and Maritime Services (RMS) to undertake a Transport Management and Accessibility Plan (TMAP) exercise. While the subject land is outside the boundaries of the Hurstville City Centre, it was included in the area considered by the TMAP. The purpose of the TMAP was to recommend the amount of additional GFA which can be developed in the Hurstville City Centre while giving consideration to potential accessibility and infrastructure implications. The TMAP was adopted by Council in June 2013 and informed the finalisation of planning controls for the Hurstville City Centre which were incorporated into Hurstville LEP 2012 on 10 July 2015.



As discussed in further detail in Section 6.3 of this report (in relation to relevant Section 117 Directions) the amount of Gross Floor Area (GFA) currently allowed for in the Hurstville City Centre is greater than that recommended by the TMAP.

#### **4.5 Hurstville Local Environmental Plan 2012**

The Hurstville Local Environmental Plan (LEP) 2012 commenced on 7 December 2012 and applies to all land in the Hurstville Council Area. The LEP zoned the subject site IN2 Light Industrial and part R2 Low Density Residential. This Planning Proposal requests an amendment to Hurstville LEP 2012 by rezoning the site to B4 Mixed Use and increasing the maximum Height of Buildings and maximum Floor Space Ratio.

#### **4.6 Hurstville Development Control Plan No.1 – LGA Wide**

Hurstville Development Control Plan No.1 – LGA Wide (DCP No.1) applies to all land in the Hurstville Council Area outside the Hurstville City Centre, including the subject site. If the site is to be rezoned to B4 Mixed Use, it is recommended that the site be included in the Hurstville City Centre boundary, in which case the provisions of Hurstville DCP No.2 – Hurstville City Centre should apply (see below).

#### **4.7 Hurstville Development Control Plan No.2 – Hurstville City Centre**

As noted above, the subject site is situated outside the boundaries of the Hurstville City Centre which means the provisions of Hurstville DCP No.2 – Hurstville City Centre do not currently apply to the Site. If the site is to be rezoned to B4 Mixed Use, it will be necessary to amend Hurstville DCP No.2 by inserting a new Hurstville City Centre Land Application Map in Appendix 1 of the DCP which includes the Subject Site within the boundaries of the Hurstville City Centre.

#### **4.8 Hurstville Section 94 Development Contributions Plan 2012**

The Hurstville Section 94 Development Contributions Plan 2012 (Section 94 Plan) applies to all land in the Hurstville LGA. As discussed above, if the Subject Site is rezoned to B4 Mixed Use it is recommended that it also be included within the Hurstville City Centre, this is also the case for the purposes of the Section 94 contributions.

The Section 94 Plan includes specific provisions which levy development in the Hurstville City Centre for non-residential floor space and deficient car parking spaces. For this reason it will be necessary to amend the Section 94 Plan by inserting a new Hurstville City Centre map which incorporates the Subject Site within the boundaries of the Hurstville City Centre, and subject the site to the provisions of the plan to levy for non-residential floor space and any deficient car parking spaces.

### **5. APPLICANT'S PLANNING PROPOSAL REQUEST**

#### **5.1 Description of Applicant's Planning Proposal Request**

The Planning Proposal request submitted by Dickson Rothschild requests that Hurstville Local Environmental Plan 2012 (LEP 2012) be amended as follows:

- Rezone the Subject Site from part IN2 Light Industrial and part R2 Low Density Residential to B4 Mixed Use (see Figure 10);
- Increase the maximum building height from 9 metres and 10 metres to 65 metres (Site A) and 25 metres (Site B) (see Figure 11);
- Increase the maximum floor space ratio (FSR) from 0.6:1 and 1:1 to 3.5:1 (Site A) and from 1:1 to 1.5:1 (Site B) (see Figure 12);
- Introduce a floor space ratio bonus incentive of 1.5:1 for Site A (taking the total allowable FSR on Site A to 5:1) if the development includes the following land uses: "hotel and motel accommodation", "community facilities", "child care centres", "recreation facilities (indoor)", "public roads", "drainage or flood mitigation works"; and has a lot area of at least 8,000 square metres.
- Retain the heritage item at No.116 Durham Street, Hurstville (Hurstville Scout Hall).

Specialist reports submitted with the Planning Proposal request, based on the development concept plans developed by Dickson Rothschild (refer Appendix 1), describe the following development which could be provided on the Subject Site under a B4 Mixed Use zoning:

Site A

Site A has an area of approximately 10,276m<sup>2</sup>. Development Concept Plans Traffic Impact Assessment provided for Site A show a three (3) storey podium part 2/part 3 storey podium and three 18-19 storey towers with the following mix of uses:

- 273 residential apartments (approx.)
- 150 room hotel (8 levels)
- 3,150m<sup>2</sup> GFA retail
- 641m<sup>2</sup> GFA child care centre facility (approx. 90 children and 18 staff)

Total Gross Floor Area for Site A (based on the Concept Plans provided by the Applicant): 39,218m<sup>2</sup> (FSR of 3.82:1 including a hotel).

Hotel GFA only: 9,674m<sup>2</sup> (FSR – 0.94:1)

Site B

Site B has an area of approximately 3,794m<sup>2</sup>. Development Concept Plans and the supporting Traffic Impact Assessment provided by the applicant for Site B show the following mix of uses:

- 35 residential apartments
- 1,588m<sup>2</sup> GFA retail and commercial office
- 815m<sup>2</sup> GFA community facility

Total Gross Floor Area for Site B (based on the Concept Plans provided by the Applicant): 5,300m<sup>2</sup> (FSR of 1.40:1)

A summary of the Applicant's Planning Proposal request and increase in height and FSR development standards and comparison to the Development Concept Plans (also prepared by the Applicant) is provided in the Table below.

	Site A	Site B	Combined Total Site - FSR and GFA
<b>Site Area</b>	10,276m <sup>2</sup>	3,794m <sup>2</sup>	14,070m <sup>2</sup>
<b>Applicant's Planning Proposal Request</b>			
<b>FSR (Base)</b>	3.5:1 – 35,966m <sup>2</sup>	1.5:1 – 5,691m <sup>2</sup>	2.96:1 – 41,657m <sup>2</sup>
<b>FSR Bonus for Hotel (Site A)</b>	1.5:1 – 15,414m <sup>2</sup>	n/a	1.10:1 - 15,414m <sup>2</sup>
<b>Total FSR</b>	5:1 – 51,380m <sup>2</sup> (incl. hotel)	1.5:1 – 5,691m <sup>2</sup>	4.06:1 - 57,071m <sup>2</sup>
<b>Height</b>	65m	25m	
<b>Applicant's Concept Plans</b>			
<b>FSR (Base)</b>	2.88:1 – 29,544m <sup>2</sup>	1.40:1 – 5,300m <sup>2</sup>	2.48:1 – 34,844m <sup>2</sup>
<b>Hotel FSR (Site A)</b>	0.94:1 – 9,674m <sup>2</sup>	n/a	0.69:1 - 9,674m <sup>2</sup>
<b>Total FSR (</b>	3.82:1 – 39,218m <sup>2</sup> (incl. hotel)	1.40:1 – 5,300m <sup>2</sup>	3.17:1 - 44,518m <sup>2</sup>
<b>Height</b>	Three (3) towers – 18-19 Storeys	Unspecified	-

**Table 2:** Comparison of Gross Floor Area, Building Height and Floor Space Ratio – Applicant's Planning Proposal request and Applicant's Development Concept Plans

Comment:

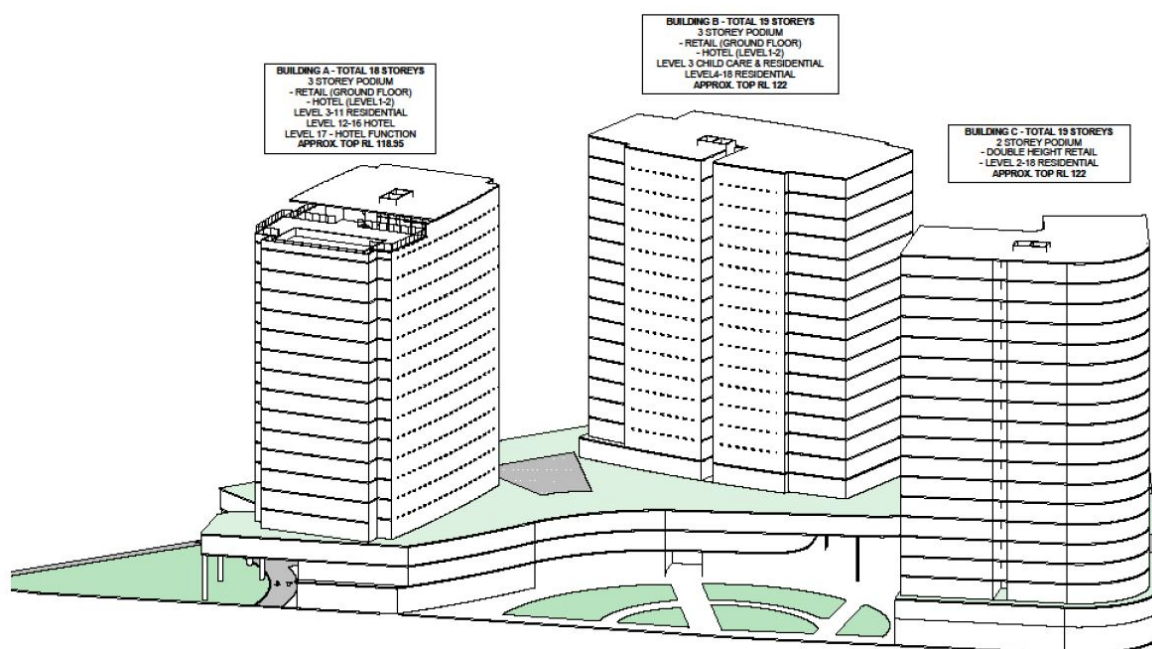
It is noted that the total FSR of 5:1 (including the bonus 1.5:1) being requested for Site A is greater than the GFA provided in the Applicant's Development Concept Plans, which as shown in the table above result in an FSR of 3.82:1 on Site A (including approx. 9,674m<sup>2</sup> hotel). The GFA for the Hotel (as shown

in the Development Concept Plans) is also lower at an FSR of 0.94:1 while a 1.5:1 bonus FSR incentive has been requested.

The application of the total FSR requested of 5:1 would lead to a significantly larger development for Site A than that featured in the Development Concept Plans prepared by the Applicant (refer Appendix 1.1). Table 3 below provides the break-up of land uses within each of the three (3) towers proposed for Site A and as detailed in the Development Concept Plans and shown in extracts in Figure 8 and 9. It is noted that no details have been provided by the Applicant in relation to the future built form and mix of land uses proposed on Site B.

SITE A		
Building A	Building B	Building C
18 Storeys	19 Storeys	19 Storeys
3 Storey Podium	3 Storey Podium	2 Storey Podium
Retail (Ground Floor)	Retail (Ground Floor)	Retail Double Height (Ground and Level 1)
Hotel (Levels 1-2)	Hotel (Levels 1-2)	Residential (Levels 2-18)
Residential (Levels 3-11)	Child Care and Residential (Level 3)	
Hotel (Levels 12-16)	Residential (Level 4-18)	
Hotel Function Area (Level 17)		
<b>Total residential levels: 9</b>	<b>Total residential levels: 16</b>	<b>Total residential levels: 17</b>
<b>Total hotel levels: 8</b>	<b>Total hotel levels: 2</b>	<b>-</b>
<b>Total retail/commercial levels: 1</b>	<b>Total retail/commercial levels: 1</b>	<b>Total retail/commercial levels: 1</b>

**Table 3:** Break up of land uses within proposed towers on Site A (**Source:** Urban Design Report, Dickson Rothschild extracted from Figure (unnamed) p.58))

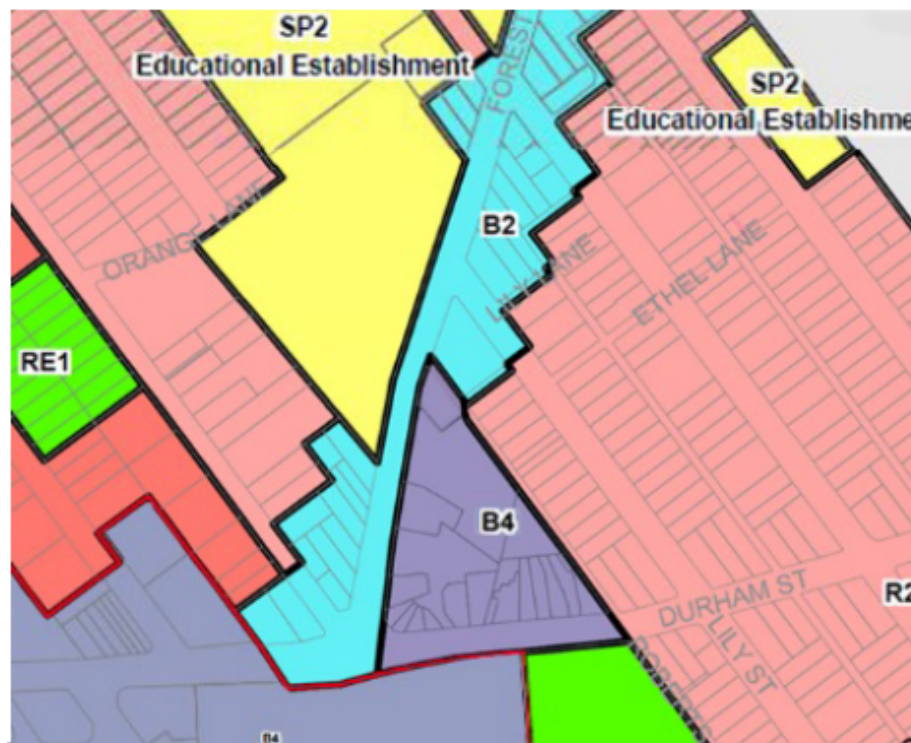


**Figure 8: Preferred Concept Plan (Source: Urban Design Report, Dickson Rothschild)**



**Figure 9: Development Site Plan (Source: Urban Design Report, Dickson Rothschild)**

The Applicant's proposed changes to the Hurstville LEP 2012 zoning, maximum height of buildings and maximum FSR maps are shown in Figures 10 to 12.



**Figure 10: Proposed Land Zoning Map (Source: Planning Proposal, Dickson Rothschild)**





Figure 11: Proposed Maximum Building Height (Source: Planning Proposal, Dickson Rothschild)



Figure 12: Proposed Maximum Floor Space Ratio (Source: Planning Proposal, Dickson Rothschild)

The FSR incentive clause proposed by the Applicant for “hotel and motel accommodation” “community facilities”, “child care centres”, “recreation facilities (indoor)”, “public roads”, “drainage or flood mitigation works” and if the development site has a lot area of at least 8,000m<sup>2</sup> would apply to land identified as “Area A” in Figure 12 above.

## 5.2 Applicant’s Planning Proposal request documents

The Applicant's Planning Proposal request is supported by the documents listed below (it is noted that revised documents were submitted on 1 March 2016, further revised versions addressing clarifications from Council staff provided on 9 March 2016 and a peer review of the Planning Proposal commissioned by the Applicant provided on 7 April 2016). Copies of the documents are included in Appendix 1 of this report:

- Planning Proposal document, Dickson Rothschild, (29 February 2016)
  - Appendix 1.1 - Urban Design Report, Dickson Rothschild, (29 February 2016)
  - Appendix 1.2 - Economic Impact Assessment, Hill PDA, (February 2016)
  - Appendix 1.3 – Hotel Demand Assessment, Hill PDA, (8 March 2016)
  - Appendix 1.4 - Social Impact Assessment, Hill PDA, (February 2016)
  - Appendix 1.5 - Traffic and Transport Impact Assessment, Mott McDonald, (March 2016)
  - Appendix 1.6 - Assessment of Heritage Significance, Rappoport, (31 August 2015)
  - Appendix 1.7 - Preliminary Site Investigation (Contamination Report), Environmental Investigations Australia, (27 August 2015)
  - Appendix 1.8 – Survey Plan
  - Appendix 1.9 – Existing Staff Numbers, Rappoport, (4 December 2014)
  - Appendix 1.10 – Peer Review of Planning Proposal, Neustein Urban (31 March, 2016)

### Planning Proposal Document History

Information provided with the Planning Proposal when lodged on 12 June 2015 included:

- Planning Proposal document (10 June 2015)
- Masterplan Concept (5 May 2015)
- Economic Assessment Report (March 2015)
- Traffic Impact Assessment (February 2015)
- Preliminary Heritage Research (January 2015)
- Existing Staff Number Letter (4 December 2014)

Additional information was submitted to Council on 31 August 2015. This information was to address issues raised by Council staff as well as feedback provided from the first St George Design Review Panel (DRP) meeting on 16 July 2015. The following revised documentation was provided:

- Planning Proposal (updated) (28 August 2015)
- Stage 1 Contamination Report (27 August 2015)
- Urban Design Report (including options testing) (28 August 2015)
- Analysis of Land Ownership Constraints (31 August 2015)
- Hotel Assessment Report: Economic Analysis (31 August 2015)
- Social Impact Assessment (August 2015)
- Heritage Impact Assessment Report (August 2015)
- Public Benefit Summary (31 August 2015)

The overall concept was not changed following the advice received from the DRP meeting (16 July 2015). While the Applicant's Urban Design Report did include design options testing, these did not compare a range of different densities and possible building heights for the site as requested by the DRP.

A revised Urban Design Report was submitted to Council on 12 January 2016 which reduced the maximum building height on the site from 90m to 65m. The full set of revised Planning Proposal documents and supporting material was submitted to Council on 1 March 2016.

Further to this, a peer review of the Planning Proposal request commissioned by the Applicant was prepared by Neustein Urban and provided to Council on 7 April 2016.

### **5.3 St George Design Review Panel**

In accordance with the provisions of State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development ("SEPP 65"), the St George Design Review Panel ("DRP") has

provided independent advice on the design content of the Planning Proposal having regard to the Design Quality Principles of SEPP 65.

The Planning Proposal request was considered by the St George DRP on three (3) occasions (16 July 2015, 19 November 2015 and 19 January 2016) as detailed below:

#### Meeting 1 (16 July 2015)

At the meeting of the DRP on 16 July 2015, the following feedback was provided:

- An Urban Design Study should be prepared which includes a built form analysis of current and potential development and which considers a range of design options that compare a range of densities, building typologies and uses, and heights.
- The bulk, mass and extent of the 2 storey podium is not appropriate for the immediate context and the height of the towers has not been justified.
- The DRP recommended that the design cannot be supported in its present form and should be amended for reconsideration by the Panel.

The Planning Proposal request as set out in the information received from the Applicant on 31 August 2015 sought to amend the Hurstville LEP 2012 as follows:

- Rezone the site from part IN2 Light Industrial and part R2 Low Density Residential to B4 Mixed Use;
- Increase the maximum height of buildings from 9m to 10m to 90m (Site A) and 23m (Site B);
- Increase the maximum Floor Space Ratio from 0.6:1 and 1:1 to 4.5:1 (Site A) and 2:1 (Site B);
- Include an FSR bonus of 0.5:1 Site A as an incentive for the provision of community infrastructure to take the total FSR allowable for Site A to 5:1; and
- Retain the heritage item at 116 Durham St, Hurstville (Hurstville Scout Hall).

#### Meeting 2 (19 November 2015)

The Planning Proposal was considered by the DRP for a second time on 19 November 2015. In summary, the following key feedback was provided by the DRP:

- The urban design study prepared for the site recommends a similar form to that previously proposed without any significant justification;
- The Panel should be presented with options which include “a range of densities, building typologies and uses and heights” as previously recommended, rather than simply alternative designs for the 2 storey podium, with various locations for high rise towers above.

A revised Urban Design Report was submitted to Council on 12 January 2016 which proposed the following for the site:

- Rezone the site from IN2 Light Industrial and R2 Low Density Residential to B4 Mixed Use,
- Increase the maximum building height to 65m (Site A) and 25m (Site B),
- Increase the Floor Space Ratio (FSR) controls to 5:1 (Site A) and 1.5:1 (Site B), and
- Retain the heritage item at 116 Durham St, Hurstville (Hurstville Scout Hall).

#### Meeting 3 (19 January 2016)

Following the submission of the revised Urban Design Report, the Planning Proposal was referred to the DRP for a third time on 19 January 2016. The key issues the DRP identified at this meeting were:

- The Urban Design Study does not consider the range of possible built form options for the site. In particular design options that compare a range of densities, building typologies and uses, and heights;
- The DRP generally considers that taller building heights may be appropriate along Durham Street which respond to the East Quarter development across the road. However, the northernmost building should be no taller than 6-7 storeys to enable transitioning to the north;

- Building heights on the site should support the Gateway function of East Quarter rather than compete with it;
- The site planning and proposed rezoning of the site into two parts (Site A and Site B) appears to respond to planning constraints and existing site ownerships and be driven by planning risk mitigation rather than arising from any considered design analysis.

A complete set of revised Planning Proposal documents was submitted to Council on 1 March 2016. These documents have been updated to reflect changes made to the Planning Proposal request since lodgement. The planning controls proposed for the site however remain unchanged from those considered by the DRP at the 19 January 2016 meeting.

The issues raised by the DRP have not been sufficiently addressed by the Applicant and amendments made to the proposal do not incorporate any suggestions provided by the DRP to improve the built form outcomes for the site and surrounds. It is noted that the main consideration in reducing the proposed maximum building height on Site A from 90m to 65m was advice from Sydney Airport stating that the proposed building heights enter Protected Airspace and would need to be referred to the Federal Department of Infrastructure and Regional Development for a determination.

A copy of the Minutes of 19 January 2016 St George DRP is provided in Appendix 4.1 and include the comments made at previous meetings.

#### **5.4 Independent Urban Design Advice (GMU)**

Council engaged independent Urban Designers (GMU) to prepare an Urban Design Analysis for land around the Eastern Bookend Precinct of the Hurstville City Centre, including for the land subject to this Planning Proposal (see Appendix 4.2) as a part of the draft Hurstville Employment Lands Study. The recommendations for the Subject Site include an FSR between 2.3:1 and 2.5:1 and building heights ranging from 3 storeys (along Roberts Lane at the interface with low density residential buildings) to 13 storeys (at the corner of Forest Road and Durham Street) across the site.

GMU's recommendations for the subject site are discussed further in Section 6 of this report.

#### **5.5 Traffic and Infrastructure**

The Planning Proposal includes a Traffic Impact Assessment prepared by Mott McDonald (see Appendix 1.5). Through an assessment of the surrounding local road network and key intersections, the report made the following findings:

- SIDRA Modelling found that all intersections perform satisfactorily only when the Forest Road/ Durham Street/ Wright Street intersection is signalised and modifications are made to on-street parking arrangements by extending peak period parking restrictions at the Lily Street/ Durham Street intersection.
- It is anticipated that all future developments should contribute to road network upgrades surrounding the Hurstville CBD.

The Traffic Impact Assessment prepared by the Applicant finds that there is a need to upgrade the local road network to accommodate future growth and that new development in the area should contribute towards this.

#### **The Hurstville Transport Management and Accessibility Plan (TMAP) 2013**

The Hurstville City Centre TMAP (2013) is used to inform future planning controls and ensure that a coordinated and efficient approach is taken in the planning of land use and investing in transport infrastructure.

Council was required to undertake a Transport Management and Accessibility Plan (TMAP) exercise in response to the amount of floor space (1,141,000m<sup>2</sup>) contained in the draft City Centre LEP, the potential accessibility and infrastructure implications and inconsistency with S.117 Direction 3.4 Integrating Land Use and Transport. The TMAP adopted by Council in June 2013 recommended that there is potential to develop 363,000m<sup>2</sup> additional GFA resulting in a total of approximately 861,354m<sup>2</sup> in the City Centre by 2036. A level of inconsistency with Direction 3.4 currently exists because the total GFA allowed for by the planning controls adopted in the City Centre is 1,091,000m<sup>2</sup> which is 229,646m<sup>2</sup> more than recommended in the TMAP.



The TMAP provides a number of key recommendations for road and traffic infrastructure in the City Centre (a copy of the TMAP is available on Council's website). In particular it recommends policies with *“road infrastructure improvements which are targeted at increasing road capacity on rail crossing and network reliability on both regional roads and city centre access routes”* (RN1).

*Table 52 – Hurstville City Centre Action Plan* in the TMAP report provides a list of road network and intersection improvements along with other transport and land use works and actions required in the short, medium and long term to support the future planning of the City Centre and to provide an efficient road network. Some of the key road works identified include the widening of The Avenue rail underpass; widening of the Lily Street rail overpass, Treacy Street overpass and King Georges Road and Hill Crest Avenue intersection.

The TMAP states that the road and traffic works will need to be funded by a mix of sources including State Government funding, Section 94 and VPAs. It states that *“private sector funding for land use development will play a critical role in delivering the bulk of the Action Plan in partnership with”.. local Council's. “Developers will contribute to the cost of transport infrastructure provision through value or cost-sharing mechanisms..”*.

Council commissioned traffic modelling work using the model developed for the TMAP. This work was to assess the cumulative impact on the local road network of this Planning Proposal along with a number of other major approvals and Planning Proposals in the vicinity of the subject site (Planning Proposal for 108–112 and 124 Forest Road and 1–3 Wright Street, Hurstville; Planning Proposal for East Quarter Stage 3 at 93 Forest Road, Hurstville; 23-35 Treacy Street, Hurstville and 1-5 Treacy Street, Hurstville). The modelling found that the intersection of Forest Road/ Wright Street/ Durham Street would operate over capacity, in particular for right turns from Forest Road into Durham Street. The recommendation of this work is that the intersection should be signalised.

As discussed in Section 5.6 below, Voluntary Planning Agreements are the key mechanism available to Council to ensure developments assist in contributing towards road and traffic infrastructure upgrades in the City Centre.

## **5.6 Letter of Offer to enter into a Voluntary Planning Agreement (VPA) and withdrawal of the Offer**

A letter of offer to enter into a VPA was initially received on 26 November 2015 with 'proposed' amendments to the Planning Proposal.

On 3 March 2016 the Applicant provided the same letter of offer to enter into a VPA in connection with the revised Planning Proposal.

In summary the offer was a monetary contribution of up to the value of one million dollars (\$1,000,000) towards the cost of providing infrastructure improvements in accordance with Council's identified forward planning policies” and was *“to be applied for road and traffic management infrastructure required to assist in meeting the demands placed upon roads within the City of Hurstville”*. The works included widening the Treacy Street railway underpass, widening The Avenue road underpass and widening the Lily Street bridge.

On 11 March 2016 Council's solicitors sent a letter to the Applicant's solicitors to advise that some of the terms and conditions of the letter of offer were not acceptable and as previously advised that Council was considering levying value capture contributions connected with the land value increase for the subject land resulting from the approval of the Planning Proposal and the making of the LEP amendment.

By letter dated 24 March 2016, the Applicant withdrew the offer and requested that any further consideration of the offer cease and that the Council proceed with its assessment of the Planning Proposal.

## **Voluntary Planning Agreements**

The EP&A Act sets out the system of planning agreements. Section 93F(1) provides that:

*“a planning agreement is a voluntary agreement or other arrangement between a planning authority and a developer who has sought a change to an environmental planning*

*instrument” or who has made a development application “under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit.... to be used for a public purpose”.*

A “public purpose” is defined to include *“the provision of public amenities or public services, affordable housing, transport or other infrastructure, the funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport, the monitoring of planning impacts of development and the conservation or enhancement of the natural environment”.*

Relevant strategic objectives with respect to the use of planning agreements, as contained in Council’s *Policy on Planning Agreements (2006)*, include:

- (a) *To provide an enhanced and more flexible development contributions system for the Council;*
- (b) *To supplement or replace, as appropriate, the application of section 94 and section 94A of the Act to development;*
- (c) – (d)...
- (e) *To lever planning benefits from development wherever appropriate;*
- (f) *To adopt innovative and flexible approaches to the provision of infrastructure in a manner that is consistent with relevant controls, policies and circumstances legally recognised as relevant under Section 79C of the Environmental Planning and Assessment Act;*
- (g) *To provide or upgrade infrastructure to appropriate levels that reflect and balance environmental standards, community expectations and funding priorities;*
- (h) ...

Without an offer of a VPA there is no mechanism to assist in addressing the additional demands and improvements on the road and traffic infrastructure in the City Centre generated by the proposed development.

As outlined above in Section 5.5, the *Hurstville City Centre TMAP Report* and *Traffic Impact Assessment Report* both identify the road and traffic improvements required to support the proposed development and future planning of the City Centre. The TMAP notes that these road works will need to be funded by a mix of sources including State Government funding, Section 94 and VPAs.

Council’s Section 94 Development Contributions Plan does not require contributions for roads and traffic infrastructure (see section below). In this regard Council has sought VPAs with major Planning Proposals and Development Applications which seek significant changes to the Hurstville LEP 2012, to assist in addressing and contributing to road and infrastructure improvements in the City Centre.

The report to Council on 9 December 2015 on the *draft Hurstville Employment Lands Study* supports a rezoning of the land to B4 Mixed Use however recommended that further work and studies be carried out in relation to urban design, traffic and infrastructure as well as *“a detailed economic assessment of the legitimate value capture potential resulting from the uplift in land values from proposed changes to zones and planning controls”*. A land value capture assessment would assist in determining an appropriate value for any potential VPA and the VPA would provide a mechanism for Council to address the traffic demands of any future development of the site.

## **Section 94**

Council’s *Section 94 Development Contributions Plan 2012* only requires contributions for ‘open space’ and ‘community facilities’ to be made in respect of the residential development. Contributions are also levied for ‘deficient car parking’ and ‘open space/public domain works’ on non-residential development in the commercial centres.

The section 94 Plan does not levy contributions for road and traffic management facilities because at the time of preparing the Section 94 Plan there were no traffic studies or the *Hurstville City Centre TMAP Report (2013)* to justify requiring contributions for such infrastructure. Since the adoption of the Section 94 Plan, the Council adopted the Hurstville City Centre TMAP which has identified key traffic and road works required in the City Centre. Additionally the proposed development and other proposed developments in the City Centre were not anticipated at the time of preparing Council’s Section 94 Plan.

The current Section 94 Plan is therefore limited to the works identified in the Plan. The Section 94 Plan would need to be reviewed using the recent traffic modelling and the TMAP Report to justify contributions for roads and traffic infrastructure in the City Centre.

Therefore to ensure that Council has a mechanism to address the road and traffic infrastructure demands and improvements required in the City Centre, it is recommended that Council either request a VPA be entered into or that Council review the Section 94 Development Contributions Plan 2012.

A recommendation has been included which addresses the appropriate mechanisms available:

*“THAT Council support an amendment to the Hurstville Local Environmental Plan 2012 for the site, subject to an appropriate mechanism being available to assist in addressing the road and traffic infrastructure improvements within the City Centre generated by the future development of the site, including mechanisms such as:*

*1. Council entering into a Planning Agreement with the Applicant;*

*or alternately, if this mechanism is not available*

*2. Preparation of an amendment to the Hurstville Section 94 Development Contributions Plan 2012 to address road and traffic infrastructure within the City Centre.”*

## **5.7 Assessment of Applicant’s Planning Proposal Request**

An assessment of the Planning Proposal request, including the advice provided by the St George DRP and the Independent Urban Design Analysis prepared by GMU has been undertaken.

The components of the Planning Proposal request which are supported and have been included in the recommended Planning Proposal (Section 6 below) are:

- Zone Change: the proposed rezoning of the site to B4 Mixed Use is supported, and is consistent with the recommendations of the draft Employment Lands Study considered in a separate Council Report (9 December 2015), and discussed in Section 4.1 of this report;
- FSR Increase: An increase in the Floor Space Ratio from 0.6:1 and 1:1 to 2.5:1 across the site is recommended. The recommended FSR is discussed further below.

The maximum floor space ratio requested by the Applicant of 3.5:1 (Site A) and 1.5:1 (Site B) is not supported. These controls are not considered to have been properly justified and have not been supported by the St George DRP (in its three (3) considerations of the Planning Proposal request). An alternative base FSR of 2.5:1 is recommended to apply across the site (see Section 6.2.1 of this report for detail).

- Building Height Increase: An increase in the Height of Buildings on the site from 9m and 10m to a mix of 40m on land towards the Forest Road and Durham Street intersection and 18m along Roberts Lane is recommended.

The maximum building height requested by the Applicant of 65m (Site A) and 25m (Site B) has not been supported by the St George DRP (in its three (3) considerations of the Planning Proposal request). These controls are not considered to have been properly justified. The issues raised by the St George DRP to improve the proposal and built form outcomes for the site and surrounds have not been sufficiently addressed and incorporated into the amended Planning Proposal request. In particular, the increase in the maximum building height to 65 metres across the majority of the subject site does not respond positively to the scale of the low density residential development to the north and east. Based on advice from both the St George DRP (see Appendix 4.1) and independent Urban Design Analysis (Appendix 4.2) the maximum building heights requested are not supported.

- Bonus FSR Incentive for Hotel Development: the use of a bonus floor space ratio incentive to encourage the provision of “hotel or motel accommodation” on the Subject Site is also supported to encourage both tourism and business accommodation in the Hurstville City Centre and provide employment on the site. The use of a bonus floor space ratio incentive is supported only for

“hotel or motel accommodation” on the site as this will support additional employment and new tourist and visitor accommodation within Hurstville City Centre. The bonus floor space requested in the Applicant’s Planning Proposal for the other land uses (including “community facilities”, “child care centres”, “recreation facilities (indoor)”, “public roads”, “drainage or flood mitigation works”) is not supported. These land uses are permissible with consent in the B4 Mixed Use Zone and an incentive clause is not required. The amount of bonus floor space ratio available for “hotel or motel accommodation” will be 1.5:1.

- **Introduction of a Building Height Incentive for Hotel Development:** In association with to the FSR bonus incentive, it is also recommended that a building height incentive be included for the provision of “hotel or motel accommodation” on the Subject Site. This will allow for an additional 25 metres of building height to be used for the purpose of “hotel or motel accommodation” allowing for a tower on the site up to a maximum of 65 metres. While this is inconsistent with the maximum building height recommended by the St George DRP (Appendix 4.1) and independent Urban Design advice from GMU (Appendix 4.2), as the development of a hotel in the Hurstville City Centre is anticipated to provide significant economic and employment benefits (as demonstrated by the reports prepared by Hill PDA at Appendix 1.2 and 1.3), this outcome is considered acceptable.

These proposed changes to the Hurstville LEP 2012 are considered in detail in the Planning Proposal recommendation in Section 6 below.

The following components of the Planning Proposal request are not supported:

- **Site A and Site B:** The rationale for the separation of the Subject Site into two distinct parts; Site A (measuring approximately 10,276m<sup>2</sup>) and Site B (measuring approximately 3,794m<sup>2</sup>), and the disparity between the maximum building heights and maximum floor space ratios requested for Site A and Site B, has not been justified on planning grounds. The significant difference in planning controls requested between Site A and Site B is not supported. The built form outcome this arrangement would result in is undesirable as the land on Site B would be dominated by the development on Site A. Further, the principle development standards should allow for a transition in built form scale across the site, from the higher density development in the Hurstville City Centre and nearer to the railway line to the south and west, to the lower scale residential development to the north and east as demonstrated in the two (2) maximum building heights recommended for the site: 40m for the majority of the site and 18m along Roberts Lane adjacent to the R2 Low Density Residential zoned land. Dividing the building heights on the site is consistent with comments provided by the St George DRP (Appendix 4.1) and independent Urban Design work undertaken by GMU (Appendix 4.2). Further explanation on the recommended building heights and division of the site is contained in Section 6.2.1 of this report.
- **Contamination:** The Preliminary Site Investigation (contamination assessment) prepared for the site must address the entire Subject Site, not only Site A. It is noted that the report states “*that potential contamination exists at the site*” and that “*a number of existing and former land uses may have impacted the site soils and underlying groundwater*”. The recommended Detailed Site Investigation must be undertaken to inform the rezoning of the Subject Site. It is not acceptable, and is inconsistent with the provisions of SEPP 55, to have the extent of any contamination on the site left unknown until after the site is rezoned and dealt with at the DA Stage.

## 6. THE PLANNING PROPOSAL

The Planning Proposal has been assessed under relevant sections of the *Environmental Planning and Assessment Act, 1979* and *Regulation, 2000* and the following advisory documents prepared by the Department of Planning and Environment:

- “*A guide to preparing planning proposals*” (October 2012); and
- “*A guide to preparing local environmental plans*” (April 2013).

This Section sets out the proposed amendments to Hurstville LEP 2012 that are supported and the appropriate maximum buildings heights and maximum floor space ratios for the site.

The assessment includes a review of the strategic planning framework and site-specific impacts of the proposed zoning change and increases in the maximum building height and maximum FSR as listed below:

- A Plan for Growing Sydney (Metropolitan Strategy);
- Draft South Subregional Strategy;
- Hurstville Local Environmental Plan 2012;
- State Environmental Planning Policies;
- Ministerial Section 117 Directions;
- Environmental, Social and Economic Impacts; and
- Services and Infrastructure.

Section 55 of the *Environmental Planning and Assessment Act 1979* outlines that a planning proposal must explain the intended effect and justification for making the proposed instrument and must include the following components:

- A statement of the objectives and intended outcomes of the proposed instrument (Part 1);
- An explanation of the provisions that are to be included in the proposed instrument (Part 2);
- The justification for those objectives, outcomes and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117) (Part 3);
- Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies (Part 4); and
- Details of community consultation that is to be undertaken before consideration is given to the making of the proposed instrument (Part 5).

Parts 1 – 5 below address the information requirements identified in Section 55 of the Act for the assessment of the Planning Proposal.

## **6.1 Part 1 – Objectives and Intended Outcomes**

The objective of the Planning Proposal is to:

- Ensure that the light industrial and low density residential zoned site is rezoned to allow for a range of commercial, residential, community and tourism land uses within a mixed use zone that will provide employment, housing and tourism opportunities for Hurstville and will benefit from the proximity of the site to the Hurstville City Centre and public transport services.

The intended outcomes of the Planning Proposal are to:

- To rezone the site from IN2 Light Industrial and part R2 Low Density Residential zoning to a B4 Mixed Use zoning which is compatible with the adjoining land and takes advantage of the proximity of the site to the Hurstville City Centre and a range of public transport options;
- To increase the Floor Space Ratio on the site from 0.6:1 and 1:1 to 2.5:1;
- To increase the Height of Buildings on the site from 9m and 10m to 40m and 18m;
- To encourage the provision of “*hotel and motel accommodation*” within close proximity to the Hurstville City Centre through the inclusion of a bonus Height of Buildings incentive subclause (Clause 4.3) and bonus FSR incentive subclause (Clause 4.4);
- To ensure that employment land uses continue to be developed on the site by requiring a minimum non-residential land use FSR of 0.5:1, consistent with the recommendations of the draft Hurstville Employment Lands Study; and
- To retain the heritage protection for the existing heritage item at No.116 Durham Street, Hurstville (Hurstville Scout Hall).

## **6.2 Part 2 – Explanation of Provisions**



### 6.2.1 Proposed amendments to Hurstville LEP 2012

The proposed intended outcomes described in Part 1 above, will be achieved by amending the Hurstville LEP 2012 as follows:

#### Land Zoning

- Amending the Land Zoning Map (Sheet LZN\_008B) in relation to the Subject Site to change the zoning of the site from IN2 Light Industrial and R2 Low Density Residential to B4 Mixed Use (refer Proposed Land Zoning Map in Appendix 2).

#### Building Height

- Amending the Height of Buildings Map (Sheet HOB\_008B) to amend the maximum building height on the Subject Site to 40m and 18m;
- Insert subclause 4.3(2A) Exceptions to Building Heights to introduce a Building Height incentive of 25m additional building height for the purpose of “hotel or motel accommodation” and identify the site in the Height of Buildings Map (Sheet HOB\_008B). The proposed clause wording as follows:

#### “4.3 Height of Buildings

(2A) *Despite subclause (2), development consent may be granted to a building on land having a height exceeding the height shown for the land on Area 1 as shown on the Height of Buildings Map by not more than 25 metres if the consent authority is satisfied that the additional building height is associated with the following land use:*

*(a) hotel or motel accommodation.”*

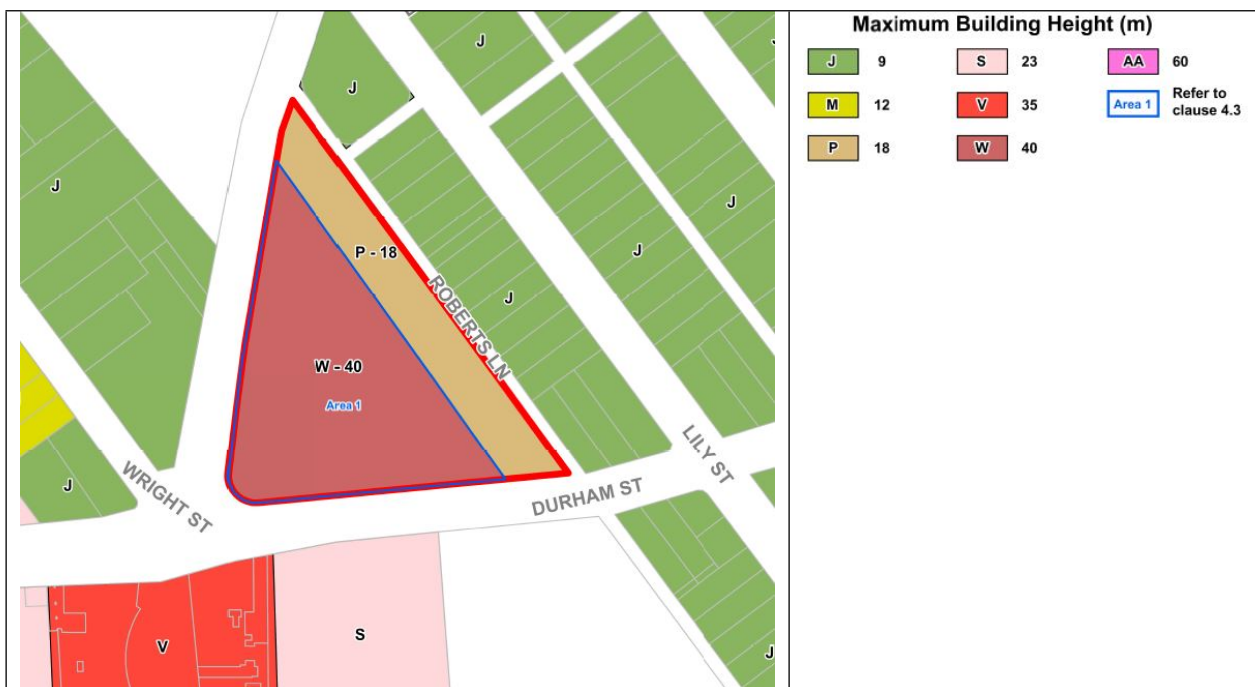


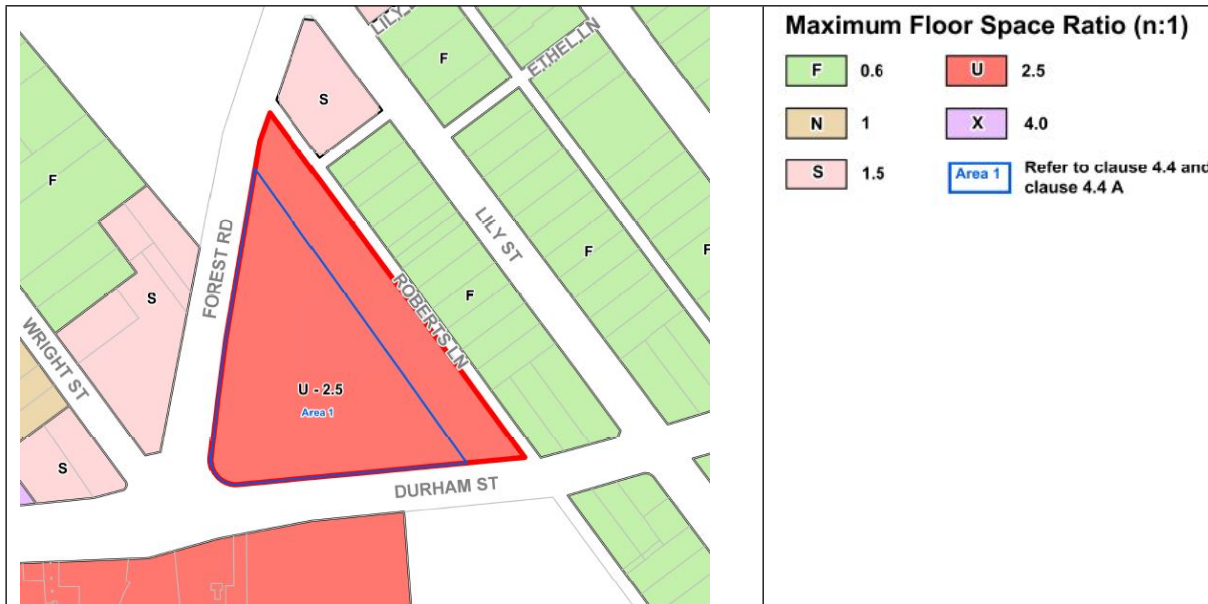
Figure 13: Recommended Maximum Height of Buildings

#### Floor Space Ratio

- Amending the Floor Space Ratio Map (Sheet FSR\_008B) to amend the maximum floor space ratio on the Subject Site to 2.5:1;
- Amend Clause 4.4 Floor Space Ratio (see detail below) to introduce a FSR incentive of 1.5:1 for the Subject Site for “hotel or motel accommodation” and identify the site of the FSR incentive on the Floor Space Ratio Map (Sheet FSR\_008B). The proposed clause wording as follows:

*“(2A) Despite subclause (2), the floor space ratio for development on land identified as “Area 1” on the Floor Space Ration Map may exceed the floor space ratio shown on the land on the Floor Space Ratio Map by 1.5:1 if the development is for the purposes of “hotel or motel accommodation.”*

Amend Clause 4.4A (Exceptions to floor space ratio) to require a minimum non-residential floor space ratio of at least 0.5:1 on the subject site, consistent with the recommendation of the draft Hurstville Employment Lands Study.



**Figure 14: Recommended Maximum Floor Space Ratio**

### 6.3 Part 3 – Justification

#### 6.3.1 Section A – Need for the planning proposal

*Is the planning proposal a result of any strategic study or report?*

No. The Planning Proposal has been initiated by a request by Dickson Rothschild. A summary of the Planning Proposal request, and an assessment of the proposed changes to the land use zone and principal development standards (maximum building height and maximum floor space ratio) requested by the Applicant has been considered in Section 5 above.

However, prior to receiving the Planning Proposal request Council had commissioned (September 2014) the preparation of an Employment Lands Study to consider all industrial areas (i.e. lands zoned IN2 Light Industrial) and commercial centres (i.e. lands zoned B1 Neighbourhood Centre and B2 Local Centre) in the Hurstville LEP 2012. The draft Employment Lands Study has been prepared by consultants Jones Lang LaSalle and SJB Planning and provides:

- A detailed land use survey and analysis of the strengths, weaknesses and opportunities of the employment lands;
- A market assessment;
- A review of the NSW State Government’s employment targets; and
- A review of the effectiveness of the existing planning controls.

The draft Study provides a draft Industrial Lands Strategy and Commercial Lands Strategy which recommends planning controls for the employment lands. The draft Study is to be presented to Council in two (2) stages (Stage 1: Industrial Lands and Stage 2: Commercial Lands) to encourage effective community consultation of the strategies and as further urban design work is currently being undertaken on the commercial lands.

Stage 1: Industrial Lands preliminary planning control recommendations were presented the Council Meeting of 9 December 2015 (Report No.CCL1057-15). Council “*Resolved that the matter be deferred for further consideration*”.

The draft Employment Lands Study presented to the Council Meeting of 9 December 2015 considered the Subject Site (currently zoned IN2 Light Industrial) which it referred to as “Hurstville East – Durham Street” and recommended that the Subject Site (including the portion of R2 Low Density Residential land) be rezoned to B4 Mixed Use. The draft Study also recommended a maximum FSR of 2.5:1 (with a minimum 0.5:1 non-residential floor space requirement) and a maximum building height ranging from 30 metres and 23 metres (along the R2 Low Density Residential zone interface with Roberts Lane).

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

The Planning Proposal is the best means of achieving the objectives and intended outcomes as a change in the land zoning to B4 Mixed Use zoning will allow for the redevelopment of the Subject Site for a range of land uses (including commercial, residential and hotel or motel accommodation) on a site with good access to the facilities and services and public transport options available in the Hurstville City Centre. In addition, as discussed above the change of zone requested through the Planning Proposal is consistent with the recommendations of the draft Hurstville Employment Lands Strategy.

The changes to the maximum building height and maximum floor space ratio development standards for the Subject Site have been informed by the advice provided by the St George DRP and the independent Urban Design Report being commissioned by Council in association with the draft Employment Lands Study. The recommended height range within the site addresses the sites proximity to the Hurstville City Centre while providing a transition in height to the lower scale adjoining residential area.

The amendment to Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio through the inclusion of a bonus building height and FSR subclause for development for “hotel or motel accommodation” will also provide an incentive to provide development for tourist accommodation on the Subject Site in the form of “hotel or motel accommodation” (as detailed in the Planning Proposal request submitted by Dickson Rothschild).

### **6.3.2 Section B – Relationship to Strategic Framework**

*Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including A Plan for Growing Sydney and exhibited draft South Subregional Strategy)?*

#### *A Plan for Growing Sydney (Metropolitan Strategy)*

The Planning Proposal request is broadly consistent with the aims of A Plan for Growing Sydney. A Plan for Growing Sydney sets out 664,000 new homes will be required in the Sydney Metropolitan region by 2031. The proposal will contribute toward this in an area close to existing transport infrastructure and services. The proposal will also contribute to reinforcing the status of Hurstville as a Strategic Centre.

#### *Draft South Subregional Strategy*

The draft South Subregional Strategy (2007) includes key directions and strategies for economy and employment, centres and corridors, housing and transport which are relevant to this Planning Proposal. In relation to economy and employment, the key directions include:

- Retain strategic employment lands including those required for utilities and local services.
- Strengthen the commercial centre of Hurstville.

The Subject Site is identified in the draft South Subregional Strategy (Employment Lands Schedule) as a Category 1 Employment Land which is “to be retained for industrial purposes”. The draft Strategy notes that:

*“(39) Hurstville (Local Industry and Urban Services)*

*Small triangular precinct approximately 1.3ha in size is located between Durham Street, Roberts Lane and Forest Road. The area is located in close proximity to the city centre and provides an area of Local Industry and Urban Services such as car repairs. The zoning for this precinct should be retained to ensure service for the local community close to the Major Centre is maintained”.*

The draft Strategy also notes that “while the draft Employment Lands Schedules may provide some context, any proposal to rezone existing industrial zoned land will be subject to detailed investigation. Existing Section 117 Directions in relation to Industrial Zones apply to any proposed rezoning, which will require the agreement of the Director General of the Department of Planning and Environment, need to be justified via an environmental study and be in accordance with the relevant Regional Strategy or Subregional Strategy”. Consideration of the Planning Proposal’s inconsistency with the s117 Ministerial Direction is provided below.

The suitability of the existing IN2 Light Industrial zone on the Subject Site has been considered in the draft Hurstville Employment Lands Study which is currently under consideration by Council.

### *South District Studies*

The Department of Planning and Environment recently released studies on the South District (includes the Council Areas of Hurstville, Canterbury, Kogarah, Rockdale and Sutherland) which inform the District Plan currently under preparation.

### *South District – Demographic and Economic Characteristics*

This study provides a general summary of the demographic and economic characteristics of the South District including projected populations, household types and employment information. It is projected that the total number of households in the South District will reach 284,900 by 2031, an increase of around 62,800 from 2011.

### *South District – Local Planning Summaries*

This study provides a summary of the local planning issues in each Council Area, including that the Hurstville Employment Land Study is currently under preparation.

In relation to centres and corridors, the key directions include:

- Strengthen Hurstville’s Commercial Centre

The Subject Site is located just within the Hurstville Major Centre as identified in the draft Strategy. It is recommended that as part of the recommended zoning change to B4 Mixed Use, that the site is included in the Hurstville City Centre boundary, including amendments to the Hurstville DCP No.2 – Hurstville City Centre and Hurstville Section 94 Development Contributions Plan 2012.

### *Is the planning proposal consistent with a council’s local strategy or other local strategic plan?*

As discussed previously, the local strategy relevant to the proposal is the draft Hurstville Employment Lands Study which is currently under consideration by Council. The rezoning of the site to B4 Mixed Use is consistent with the preliminary recommendations for industrial land which was reported to the 9 December 2015 Council Meeting.

### *Hurstville City Centre Concept Masterplan (2004)*

The Hurstville City Centre Concept Masterplan prepared in 2004 identifies the subject site as having potential for redevelopment as homemaker showrooms.

### *Is the planning proposal consistent with applicable State Environmental Planning Policies?*

A checklist of all State Environmental Planning Policies (“SEPPs”) is provided in Appendix 3. The following SEPPs are relevant for this Planning Proposal and are considered below.

- SEPP 32 – Urban Consolidation
- SEPP 65 – Design Quality of Residential Apartment Development
- SEPP (Infrastructure) 2007
- SEPP 55 – Remediation of Land
- SEPP (State and Regional Development)

### **SEPP 32 – Urban Consolidation**

The Planning Proposal is consistent with SEPP 32 – Urban Consolidation in that the rezoning would allow for the orderly and economic development of the Subject Site. The site is well positioned, close to public transport, the Hurstville City Centre and existing social infrastructure including schools and public open space.

As noted above, the preliminary recommendation of the draft Hurstville Employment Lands Study is that a rezoning should be considered for the subject site from IN2 Light Industrial to B4 Mixed Use.

### **SEPP 65 – Design Quality of Residential Apartment Development**

As noted above in Section 5.2, the St George DRP has considered the Planning Proposal request, and provided an assessment against the Design Quality Principles in SEPP 65 – Design Quality of Residential Apartment Development on three (3) occasions. The St George DRP did not support the urban design outcomes of the Planning Proposal for the following reasons:

- The Urban Design Study does not consider the range of possible built form options for the site. In particular design options that compare a range of densities, building typologies and uses, and heights;
- The DRP generally considers that taller building heights may be appropriate along Durham Street which responds to the East Quarter development across the road. However, the northernmost building should be no taller than 6-7 storeys to enable transitioning to the north;
- Building heights on the site should support the Gateway function of East Quarter rather than compete with it;
- The site planning and proposed rezoning of the site into two parts (Site A and Site B) appears to respond to planning constraints and existing site ownerships and be driven by planning risk mitigation rather than arising from any considered design analysis.

The minutes of the St George DRP meeting on 19 January 2016 are attached at Appendix 4.1.

### **State Environmental Planning Policy No.55 – Remediation of Land**

State Environmental Planning Policy No.55 – Remediation of Land (“SEPP 55”) requires that contamination and remediation is considered in a proposal to rezone land. Clause 6 requires that Council consider:

- Whether the land is contaminated;
- If the land is contaminated, Council is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for all the land uses permitted in the proposed zone;
- If the land requires remediation to be made suitable for all the land uses permitted in the proposed zone, the Council is satisfied that the land will be so remediated before the land is used for that purpose.

The “*Managing Land Contamination – Planning Guidelines SEPP 55 – Remediation of Land*” states that for rezoning to residential use, it would not be appropriate to proceed with the rezoning unless the land was proven suitable for that development or it could be demonstrated that the land can, and will be, remediated to make the land suitable.



A Preliminary Site Investigation (27 August 2015) prepared by Environmental Investigations was submitted on 31 August 2015. A copy of the report is provided in Appendix 1.

The key findings of the Preliminary Site Investigation include:

- Site history review indicated that the historical use of the site was predominantly commercial and industrial from the 1930s and records suggest some commercial/industrial operations of high contaminating potential had occurred on the site including bus depots, glaziers, mechanical workshops, service station, dry cleaning, electrical repair and maintenance.
- Search of WorkCover NSW records found the presence of two (2) underground storage tanks (UST) at 71 Forest Road and one (1) UST at 61-65 Forest Road. All three (3) USTs were registered for petrol storage.
- Search through the record of notices for contaminated land indicated that the site and lands in the vicinity were free of statutory notices issued by the NSW EPA/OEH. The site or lands in its vicinity was not identified on the List of NSW contaminated sites notified to the EPA, or the POEO public register, except a POEO licence was issued to 95 Forest Road (premises now redeveloped into a mixed commercial and residential).

A conceptual site model (CSM), and subsequently a qualitative risk assessment was derived for the site in the Preliminary Site Investigation. The CSM identified potential contaminating sources that may occur at the site and evaluated the likelihood for relevant exposure pathways to be completed during and after the proposed development. The risk assessment was then conducted with respect to the proposed development, which involves a more sensitive land use (i.e. residential with minimal opportunities for soil access) than the existing commercial and industrial uses on the majority of the site. The risk assessment identified a medium to high contamination risk for the site.

The Preliminary Site Investigation concluded that:

*“Based on the findings from this PSI, and with considerations given to the Statement of Limitations (Section 8), Environmental Investigations concludes that potential contamination exists at the site. A number of existing and former land uses may have impacted the site soils and underlying groundwater. While the actual type and extent of any potential contamination has not been determined, the current condition of site soil and groundwater would not prevent the rezoning of the site to B4 Mixed Use.*

*The suitability of the site for the proposed mixed commercial and residential development, however, should be assessed to determine the extent of any contamination of the soil and groundwater and to quantify any potential risks to human health and the environment. Any contamination identified can be managed by the SEPP 55 – Remediation of Land process.*

*Environmental Investigations recommends that a Detailed Site Investigation (DSI), incorporating a soil and groundwater sampling program, a hazardous materials survey and a preliminary landfill gas monitoring program, to quantitatively assess soil and groundwater at the site. Due considerations should be given to potential on-site and off-site contaminating sources, as well as identified data gaps and property access, when designing and carrying out of the detailed site investigation.”*

The Preliminary Site Investigation identified the following investigation constraints “as owners consents for accessing records held by government authorities (i.e. Hurstville City Council and WorkCover NSW) could not be obtained by the Client at the time of investigation, the search through historical council records and WorkCover database on following properties was not conducted: 53 Forest Road, 108-122A Durham Street and 9 Roberts Lane, Hurstville”. No site inspections were conducted within these properties. The Preliminary Site Investigation also noted a number of data gaps (Section 5.5) which would warrant closure by further investigations.

The Preliminary Site Investigation recommended that:

*“Environmental Investigations concludes that there is potential for contamination to be present on site from the possible sources described in Section 4.1 (Potential Contamination Sources) and recommends that a Detailed Site Investigation (DSI), incorporating a soil and groundwater sampling program, a hazardous materials survey and a preliminary landfill gas monitoring program, to quantitatively assess soil and groundwater at the site. Due considerations should be given to potential on-site and off-site contaminating sources, as well as identified data gaps and property access, when designing and carrying out of the detailed site investigation”.*

The Planning Proposal documentation (Dickson Rothschild, February 2016) notes that the findings of the Preliminary Site Investigation should not prevent the rezoning of the site from IN2 Light Industrial to B4 Mixed Used and that the recommendations of the report can be dealt with at the DA Stage.

However, given the Preliminary Site Investigation findings that there is a medium to high contamination risk for the site, and the recommendation that a Detailed Site Investigation be undertaken, it is essential that these investigations be undertaken (including for all properties within the Subject Site) prior to any change in land zoning. It is recommended that if the Planning Proposal proceeds to Gateway that the Department of Planning and Environment be requested to require as a condition that detailed investigations of the site are undertaken in accordance with SEPP 55 and *“Managing Land Contamination – Planning Guidelines SEPP 55 – Remediation of Land”*. This is to ensure that the land is suitable for all of the land uses permissible in the proposed B4 Mixed Use zone. If the site is contaminated and requires remediation, a Stage 3 Site Remedial Action Plan and Site Audit will be required. The cost of these investigations and studies should be fully borne by the Applicant and not by Hurstville City Council.

It is not acceptable, and is inconsistent with the provisions of SEPP 55, to have the extent of any contamination on the site left unknown until after the site is rezoned and dealt with at the DA Stage.

*Is the planning proposal consistent with applicable Ministerial Directions (s.117 Directions)?*

#### **Ministerial Direction (Section 117 Directions)**

A checklist of the Planning Proposal’s consistency with the full set of Section 117 Ministerial Directions is included in Appendix 3. The Directions that are relevant to the Planning Proposal are:

- Direction 1.1 – Business and Industrial Zones
- Direction 2.3 – Heritage Conservation
- Direction 3.1 – Residential Zones
- Direction 3.4 – Integrating Land Use and Transport
- Direction 6.3 – Site Specific Provisions
- Direction 7.1 – Implementation of A Plan for Growing Sydney

#### Direction 1.1 – Business and Industrial Zones

The objectives of Direction 1.1 – Business and Industrial Zones are:

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

The Planning Proposal request includes an Economic Analysis Prepared by Hill PDA (see Appendix 1.2). This report provides detailed discussion of the proposal in relation to S.117 Direction 1.1 Business and Industrial Zones. Through this analysis, it finds that the proposal is broadly consistent with the objectives of the Direction for the following reasons:

- The proposed mix of land uses will see an increase in the floor area of employment generating uses, the number of jobs on the site and the Gross Domestic Product (GDP) generated by the site; and
- The site is isolated from other industrial uses while surrounding residential development and road networks means the site is not well suited to industrial development.

As noted in Section 4 of this report, the Preliminary recommendations for industrial land of the Hurstville Employment Lands Study (ELS) (as reported to Council on 9 December 2015), include that the subject site is suitable to be considered for a rezoning IN2 Light Industrial to B4 Mixed Use. In summary, the ELS found *“the area (Hurstville East, Durham Street/Forest Road industrial area) should be rezoned to a B4 Mixed use zoning. This rezoning will assist in better leveraging off the railway infrastructure and proximity to the Hurstville City Centre. The use of the B4 Mixed use zone is considered appropriate as the area effectively acts as an extension of the Hurstville City Centre and if necessary the City Centre boundary could be redefined to include this portion of B4 Mixed Use zoned land.”*

The draft Study also recommends that a minimum non-residential floor space requirement of 0.5:1 be applied to ensure a continuation of employment generating uses on the site.

### Direction 2.3 – Heritage Conservation

The Direction 2.3 – Heritage Conservation sets out the following objective:

- 1) The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

The Planning Proposal request includes an Assessment of Heritage Significance prepared by Rappoport Conservation Architects and Heritage Consultants (refer Appendix 1.6). In summary, the report finds the Heritage Item should be retained for its *“historical, associational, aesthetic, social, rarity and representative significance. The building is associated with the prominent Scouts organisation and the civic development of the Hurstville community. It is a distinct example of buildings of this period and type.”*

No change to the listing of the heritage item at 116 Durham St, Hurstville (Hurstville Scout Hall) is proposed.

### Direction 3.1 – Residential Zones

The objectives of Direction 3.1 – Residential Zones are:

- a) To encourage a variety and choice of housing types to provide for existing and future housing needs,
- b) To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- c) To minimise the impact of residential development on the environment and resource lands.

While not proposing the rezoning of the site to a residential zone, the B4 Mixed Use Zone will allow a greater provision of housing in an existing urban area, improve housing choice, and increase the efficiency of existing infrastructure, services and amenities. The relationship between the Planning Proposal and existing infrastructure, in particular traffic infrastructure, is discussed further below in relation to Direction 3.4.

### Direction 3.4 – Integrating Land Use and Transport

The objectives of Direction 3.4 – Integrating Land Use and Transport is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

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

The Planning Proposal is consistent with Direction 3.4 as it would allow for additional housing in a location with good access to the facilities within the Hurstville City Centre, in particular public transport. Additional housing in this location will ease traffic demand on the Sydney road network generally when compared with additional housing in a less accessible location.

The Applicant was advised of issues raised by Council's Manager Infrastructure Planning in a letter from Council dated 9 August 2015. All issues raised were addressed in the revised Traffic Impact Assessment submitted in 1 March 2016 with the exception of consideration of access points to the site. In particular, a number of access points are proposed to the site (see Figure 15) and consideration needs to be given to the potential for any conflict between traffic accessing the site on Durham Street and traffic accessing the East Quarter site opposite. It is recommended that access points must be clearly indicated in future site specific DCP provisions.



**Figure 15: Potential Site Access** (Source: Traffic Impact Assessment, Mott McDonald)

#### Direction 6.3 – Site Specific Provisions

Direction 6.3 aims to discourage unnecessarily restrictive site specific planning controls. The Planning Proposal includes a maximum building height and floor space incentive for “hotel and motel accommodation” (Clause 4.3 and Clause 4.4). This is not unnecessarily restrictive as it is only to encourage the provision of “hotel and motel accommodation” on the site. The full range of other land uses allowed in the B4 Mixed Use zone will also be permitted on the site. It is also recommended that Clause 4.4A be amended to require a minimum non-residential floor space of 0.5:1 on the site. This is necessary to ensure employment uses continue on the site as it transitions from an industrial (IN2 Light Industrial) to a business zone (B4 Mixed Use).

#### Direction 7.1 – Implementation of A Plan for Growing Sydney

The proposal is consistent with Direction 7.1. The rezoning of the site to B4 Mixed Use will allow for a mix of uses on a site with good access to services and transport. It will also support the role of the Hurstville Strategic Centre.

### 6.3.3 Section C – Environmental, Social and Economic Impact

*Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No. There is no likelihood that critical habitat or threatened species, population or ecological communities, or their habitat will be adversely affected.

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

As discussed above in relation to SEPP No.55 – Remediation of Land, the preliminary site investigation report commissioned by the applicant has identified that there may be land contamination on the site. Further work is required to determine the extent of any contamination and the steps needed to remediate the site in accordance with SEPP No.55.

*Has the planning proposal adequately addressed any social and economic effects?*

The Planning Proposal request includes an Economic Assessment prepared by Hill PDA. This report makes the case that the IN2 Light Industrial zone is no longer suitable for the site for the following reasons:

- Lack of developable area for industrial uses due to the precincts small size of 1.4ha.
- Lack of accessibility to highways while adjoining residential uses limit heavy vehicle movements.
- The small scale of the precinct (around 1.4ha) means there is limited opportunity to enjoy the benefits of agglomeration of industrial land uses on the site (the clustering of similar businesses as a means to enjoy some of the economies of scale usually reserved for large firms).
- The surrounding residential and educational land uses place stringent requirements on the types of industrial uses which could locate in the precinct.

It is agreed that there are sound reasons to conclude that the IN2 Light Industrial zone is no longer suitable for the site in this location. A change of zone to B4 Mixed Use to allow for a range of other employment generating uses along with some residential is supported.

Based on the mix of uses set out in the Development Concept Plan for the site, an increase in employment from 83 to 303 jobs is identified. A component of the proposed development is a 150 room hotel with a GFA of 9,674m<sup>2</sup> and an estimated 128 jobs. An assessment of the viability of the hotel component has been prepared by Hill PDA (see Appendix 1) and concludes that the site is suitable to accommodate a hotel of the scale proposed for the following reasons:

- *Modest growth in domestic tourism;*
- *Strong growth in international tourism, particularly from China;*
- *Declining Australian dollar which makes Australia more price competitive for international tourists;*
- *Strong growth in the number of tourists staying in hotels and hotel night stays across Sydney;*
- *From the above increasing hotel performance as measured by occupancy rates that reaching an all-time high;*
- *A rise in room rates and an overall improvement in the feasibility of hotels; and*
- *Recognition of Hurstville as a viable and more price competitive option to Sydney CBD but with strong locational attributes including express train services, a major regional Westfield shopping centre and Chinatown.*

A Social Impact Assessment prepared by Hill PDA (see Appendix 1) has also been submitted with the Planning Proposal. In considering the impact on housing choice and affordability, the proposal is identified as contributing to housing choice by providing smaller dwelling types suited to the needs of the current and future population of the area. Housing affordability is addressed by the proposal adding to the supply of new dwellings.

Consultation with public authorities, including the Department of Education, will be undertaken as a part of any future public exhibition.



### 6.3.4 Section D – State and Commonwealth Interests

*Is there adequate public infrastructure for the planning proposal?*

As noted above, public authorities will be consulted as part of any future public exhibition, including public transport and road authorities, education and service suppliers. As previously noted, the traffic impacts and pedestrian and streetscape impacts of the proposal should be considered through a Voluntary Planning Agreement (refer to Section 5.6).

*What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?*

State and Commonwealth public authorities will be consulted following the outcomes, and in line with any recommendations, of the Gateway Determination.

### 6.4 Part 4 – Mapping

The following maps have been prepared, consistent with the “Standard Technical Requirements for LEP Maps” and identify the Subject Site and the proposed land use zone and recommended development standards, including:

- Land subject to the Planning Proposal;
- Proposed land use zone;
- Recommended Floor Space Ratio; and
- Recommended Height of Buildings.

The full set of maps showing the proposed changes is included in Appendix 2.

The current land use zone and principal development standards (maximum building height and maximum floor space ratio) maps are provided Section 2.3 of the report.

### 6.5 Part 5 – Community Consultation

If the Planning Proposal is supported by Council it will be sent to the Department of Planning and Environment for a Gateway Determination. If a Gateway Determination is issued, and subject to its conditions, it is anticipated that the Planning Proposal will be exhibited for a period of twenty eight (28) days in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 and Regulation, 2000 and any requirements of the Gateway Determination.

Exhibition material, including explanatory information, land to which the Planning Proposal applies, description of the objectives and intended outcomes, copy of the Planning Proposal and relevant maps will be available for viewing during the exhibition period on Council’s website and hard copies available at Council offices and libraries.

Notification of the public exhibition will be through:

- Newspaper advertisement in The St George and Sutherland Shire Leader;
- Exhibition notice on Council’s website;
- Notices in Council offices and libraries;
- Letters to State and Commonwealth Government agencies identified in the Gateway Determination;
- Letters to all landowners in the subject site; and
- Letters to adjoining landowners (in accordance with Council’s Notification Procedures).

### 6.6 Part 6 – Project Timeline

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

Task	Anticipated Timeframe
Lodgement of Planning Proposal request Dickson Rothschild.	12 June 2015
Submission of revised Planning Proposal (subject of this assessment)	1 March 2016
Reporting to Council on Planning Proposal	20 April 2016 (this Report)

Letter advising all landowners of Council's decision	Week of 26 April 2016
Anticipated commencement date (date of Gateway determination)	Early July 2016
Anticipated timeframe for the completion of required technical information	Late July – Early August 2016
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	Early July 2016
Commencement and completion dates for public exhibition period (twenty eight (28) days)	August 2016
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	September 2016
Timeframe for the consideration by Council of a proposal post exhibition	October 2016
Date of submission to the Department to finalise the LEP	October/November 2016

## NEXT STEPS

### Support Planning Proposal

*If Council resolves to support the Planning Proposal and send the Planning Proposal to the Department of Planning and Environment for consideration.*

Once the Planning Proposal is submitted to the Department, the Proposal will be assessed and a recommendation made to the Minister (or delegate) as to whether there is merit in the proposal proceeding and if so, whether any conditions should be attached to the Proposal to ensure progresses. If it is determined that a proposal should proceed, the Minister (or delegate) will issue a Gateway Determination and the matter will be returned to Council to finalise in accordance with any conditions imposed by the Gateway Determination.

### Pre-Gateway Review

*If Council does not support the Planning Proposal, the Applicant has the opportunity to request a pre-Gateway Review by the Department of Planning and Environment. An applicant has forty (40) days from the date of the notification of Council's decision to request the review.*

The Department will notify Council of an applicant's request for a review if it is confirmed to be eligible and complete. The Council will have twenty one (21) days to provide a response in relation to why the original request to Council was not supported. The Department will review the Proposal and the Secretary will make the final decision whether the Planning Proposal proceeds to Gateway.

## Video

For video of Durham Street frontage click [here](#)

For video of Forest Road frontage click [here](#)

## Appendices

For appendices to this report click [here](#)

## APPENDICES

- |            |   |
|------------|---|
| Appendix 1 | Company Extract - Dickson Rothschild - Planning Proposal - 53 - 75 Forest Rd and 108 - 126 Durham St and 9 Roberts Lane Hurstville (Confidential) |
| Appendix 2 | Company Extract - One Capital - Planning Proposal - 53 - 75 Forest Road 108 - 126 Durham Street and 9 Roberts Lane Hurstville (Confidential)      |

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