



IRF23/592

Gateway determination report - PP-2022-2456

187 Slade Road, Bexley North

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal (3 April 2023)
Flood Investigation Report – 187 Slade Road, Bexley North – GRC Hydro (11 June 2021)
Flood Investigation Report – 187 Slade Road, Bexley North – GRC Hydro (26 August 2020)
Flood Investigation Report – 187 Slade Road, Bexley North – GRC Hydro (8 October 2019)
Bexley North Hotel, Ethane Pipeline Risk Assessment – Arriscar (February 2021)
Urban Design Report – 187 Slade Road, Bexley North – GMU Urban Design & Architecture (December 2019)
Urban Design Response – 187 Slade Road, Bexley North, GMU (June 2021)
Revised Basement Concept Plans – 187 Slade Road, Bexley North - GMU Urban Design & Architecture (July 2020)
Revised Concept Plans – 187 Slade Road, Bexley North - GMU Urban Design & Architecture (July 2020)
Geotechnical Advice – Proposed Hotel Redevelopment – 187 Slade Road, Bexley North – JK Geotechnics (December 2019)
Revised Indicative Sections - GMU Urban Design & Architecture (2020)
Traffic Impact Assessment – Planning Proposal-Mixed Use Development – 187 Slade Road, Bexley North, Traffix (August 2020)
Stage 2 Environmental Site Assessment – 187 Slade Road, Bexley North - Environmental Investigation Services (March 2018)
Letter of Offer – Voluntary Planning Agreement (December 2019)
Bayside Council – Local Planning Panel Meeting Minutes – 16 December 2021
Bayside Council – CP&EC Meeting Minutes – 13 April 2022
Bayside Council – Ordinary Meeting Minutes – 27 April 2022
Sydney Eastern City Planning Panel's rezoning review decision

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Bayside
PPA	Bayside Council
NAME	187 Slade Road, Bexley North
NUMBER	PP-2022-2456
LEP TO BE AMENDED	Bayside Local Environmental Plan (LEP) 2021
ADDRESS	187 Slade Road, Bexley North
DESCRIPTION	Lot 30 DP 1222252
RECEIVED	22/02/2023
FILE NO.	IRF23/592
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

The planning proposal seeks to amend the Bayside Local Environmental Plan (LEP) 2021 at 187 Slade Road, Bexley North (the site), by:

- increasing the maximum height of buildings from 16m (plus an incentive provision of an additional 6 metres) to part 20 metres and part 35 metres; and
- increasing the maximum floor space ratio from 2:1 (plus an incentive provision of an additional 0.5:1) to part 3.6:1 and part 3.2:1.

The planning proposal seeks to facilitate a mixed-use development on the site (see **Section 1.4 – Explanation of provisions** for concept scheme details).

1.2 Site description and surrounding area

1.2.1 The site

The site is located at 187 Slade Road, Bexley North, towards the south-western boundary of the Eastern City District. The site comprises a total area of approximately 4,236m² and is legally described as Lot 30 in DP 1222252 (**Figure 1**).

The site is bound by:

- Slade Road (a regional road) to the north;
- a four-storey mixed use commercial/residential development to the south;
- Sarsfield Circuit to the east, and
- an at-grade Council owned car parking area to the west, which is currently zoned MU1 Mixed Use under the Bayside LEP 2021.

The site has a 74.6m wide frontage to Slade Road (to the north) and 86.9m wide secondary boundary frontage to Sarsfield Circuit (to the east).

Vehicular access to the site is currently provided via Slade Road to the north, Sarsfield Circuit to the east, as well as via the Council owned car parking area to the west.

Like the neighbouring commercial and retail uses to the south/south-west, the subject site has direct pedestrian access to the Council car parking area along the western site boundary.

The site is zoned MU1 Mixed Use (see **Section 3.6** of this report for employment zone reforms discussion) under the Bayside LEP 2021 and is currently occupied by the 'Bexley North Hotel', a single storey brick structure incorporating a drive through bottle shop and beer garden, as well as a two-storey hotel development. There is no existing residential development on the site. A search of Heritage NSW's Aboriginal Heritage Information Management System did not identify any sites or places of aboriginal significance within the subject site or nearby surrounds.

The site does not contain any environmental heritage items, nor is it located within a heritage conservation area. The nearest heritage item is Stotts Reserve located at 167 Slade Road, Bexley North, which is approximately 215 metres east.

It is noted that the site is identified as being flood affected, predominantly along the eastern and western site boundaries— see **Section 3.4 – Section 9.1 Ministerial Directions** of this report for further discussion.



Figure 1: Subject site (Source: Nearmap, March 2023)

1.2.2 The surrounding area

Surrounding development is largely characterised by a mix of medium and low-density residential development, as well as retail/commercial uses in the Bexley North Town Centre – an identified local centre in the Eastern City District Plan (**Figure 2**).

The site is located approximately (**Figure 3**):

- 230m walking distance south-east of the Bexley North Station;
- 1.3km south-west of Bardwell Park Station;
- 4.6 km north-east of Hurstville Town Centre;
- 5.4km north-west of St George Hospital and Kogarah Town Centre;
- 11km south-west of Sydney CBD;
- 7.5km east of Sydney Airport;
- 15.5km east of Port Botany;
- 850m north of Illoura Reserve;
- 2.6km north-east of Wolli Creek Regional Park;
- 450m and 1.3km north of Whitbread Park and Bardwell Valley Parklands;
- 2.3km west of Bardwell Valley Golf Club;
- 650m east of Gilchrist Park; and
- 2km north-west of Bexley North Public School.

It is also noted that the site has access to local bus services at Bexley Road, Shaw Street, Slade Road and New Illawarra Road providing connections to Hurstville, Five Dock, Roselands, Rockdale and Macquarie Park.

The site is near the Moomba Sydney Ethane Pipeline operated by APA Group found within the East Hills line rail corridor – see **Section 3.2** of this report for further discussion.

Land immediately surrounding the site is zoned MU1 Mixed Use (to the north, south and west) and R2 Low Density Residential (to the east) (**Figure 6**).



Figure 2: Site within the Bexley North Town Centre (Source: Extract from Urban Design Report, Dec 2019)



Figure 3: Area surrounding the site (Source: Nearmap, March 2023)

1.3 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal as follows:

- *Facilitate through changes to the current planning controls, a 'landmark' development at the heart of the Bexley North Town Centre to form a visual marker and reinforce the importance and identity of the Bexley North Town Centre;*
- *Contribute towards the revitalisation of the town centre by establishing uses and activation at the heart of the Bexley North Town Centre;*
- *Establish a 'destination' through the provision of ground level retail and food and drink premises including retention of the existing Bexley North Hotel with additional restaurants/cafes with direct access to the public domain or the publicly accessible open space (in private ownership) within the site;*
- *Ensure development is of a scale, location and design to have a positive impact on the visual amenity of the locality whilst being compatible with the surrounding built and natural environment;*
- *Create new vehicular and pedestrian connections and strengthen existing links to public transport;*
- *Enhance pedestrian permeability through the site to link surrounding sites and public spaces;*
- *Address housing affordability by providing a mix of housing choices;*
- *Create liveable communities by providing high quality amenities and open space to meet the needs of existing and future residents of Bexley North; and*
- *Deliver the highest standards of urban planning and excellence in architectural design.*

1.4 Explanation of provisions

The proposal seeks to amend the Bayside LEP 2021 as described in **Table 3** below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	MU1 Mixed Use (Figure 6)	No change
Building height (max)	<p>16m</p> <p>A bonus provision (clause 4.3(2A)(c)) applies to the site. This allows for an additional 6m of building height if the site area is at least 1,200 m².</p> <p>This is identified as 'Area 3' on the building height map (Figure 10).</p> <p>The proposal would attain this additional 6m in building height as the site is at least 1,200 m².</p>	<p>Part 20m and part 35m.</p> <p>Omit the site from additional height provisions under clause 4.3(2A)(c) (Figure 10).</p>
Floor space ratio (FSR) (max)	<p>2:1</p> <p>A bonus provision (clause 4.4(2C)(c)) applies to the site. This allows for an additional 0.5:1 FSR if the site area is at least 1,200 m². This is identified as 'Area 7' on the FSR map (Figure 9).</p> <p>Based on this provision development on the site can attain this additional 0.5:1 FSR as the site is at least 1,200 m².</p>	<p>Part 3.6:1 (western part) and part 3.2:1 (eastern part).</p> <p>Omit the site from additional FSR provisions under clause 4.4(2C)(c) (Figure 9).</p>
Active Street Frontage	<p>Applies to part of the site fronting Slade Road and the western boundary fronting the Council car park (Figure 8)</p> <p>An active street frontage is if all premises on the ground floor of the building facing the street are used for the purposes of one or more of the following—</p> <ul style="list-style-type: none"> • business premises, • retail premises, • medical centre. 	<p>The planning proposal retains the existing active street frontage application.</p> <p>The development concept scheme addresses this requirement through the proposed location of the pub and a café. Both are types of retail premises.</p>
Number of dwellings	There are no existing dwellings on the site.	Approximately 83 apartments
Number of jobs	Not indicated	Indicative concept provides approximately 5,812 m ² of commercial space

The explanation of provisions in the proposal adequately explains how its objectives will be achieved.

Site specific DCP

The proposal states that a site-specific Development Control Plan (DCP) will be prepared to accompany the proposal – see **Section 3.6.2 – State Environmental Planning Policy No. 65** of this report for further discussion.

Development Concept Scheme

The proposal is supported by an Urban Design Report (UDR) dated December 2019 and an Urban Design Response (UD Response) dated June 2021. These were prepared by GMU Urban Design & Architecture.

The UDR includes a complete urban design package and concept scheme which is supplemented by the UD Response.

The proposal intends to facilitate the redevelopment of the site for mixed use purposes (**Figure 4**). This comprises of:

- three built forms:
 - Built Form A – 4-5 storey building:
 - located on the eastern side of the site fronting Sarsfield Circuit;
 - 494m² of commercial gross floor area (GFA) (includes a café); and
 - 5,361m² of residential GFA (includes approx. 54 apartments).
 - Built Form B and C – 2-10 storey building:
 - occupy the western part of the site and face Slade Road to the north and council's carpark to the west;
 - 5,318m² of commercial GFA (includes a pub, 56 hotel rooms, gym and retail tenancies); and
 - 3,012m² of residential GFA (includes approx. 31 apartments).
- publicly accessible open space between the two buildings and two publicly accessible through site links; and
- three levels of basement parking for up to 214 car parking spaces.

It is noted that the planning proposal anticipates approximately 83 dwellings, but the latest supporting concept scheme identifies 85 apartments – see **Section 3.6.2 – State Environmental Planning Policy No. 65** of this report for further discussion.

As the supporting urban design information is currently provided in two separate documents, a Gateway condition has been included to require a single urban design package prior to community consultation. This will provide clarity for when the proposal is public exhibited.

The planning proposal makes references to a 'pub'¹ and/or a hotel being facilitated on the site. The Gateway includes a condition requiring the proposal be updated to accurately reference the intended permitted uses on the site, which is understood to include a 'pub' and 'hotel and motel accommodation'².

¹ **pub** means licensed premises under the [Liquor Act 2007](#) the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

² **hotel or motel accommodation** means a building or place (whether or not licensed premises under the [Liquor Act 2007](#)) that provides temporary or short-term accommodation on a commercial basis and that—

(a) comprises rooms or self-contained suites, and
 (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

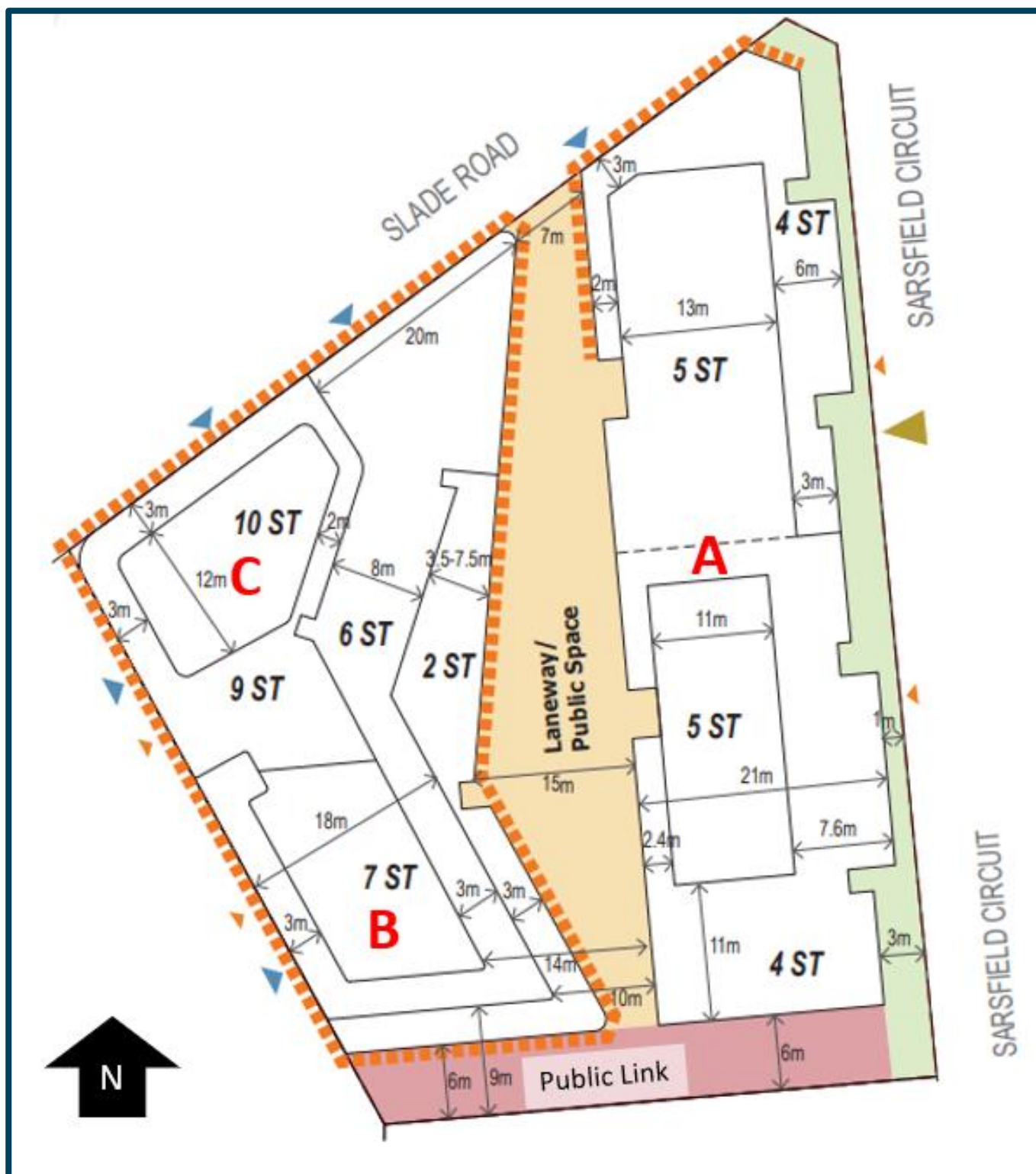


Figure 4: Site plan of concept scheme – please note the minor amendment to built forms B and C – see Section 3.3 of this report for further discussion (Source: The planning proposal’s Urban Design Report)

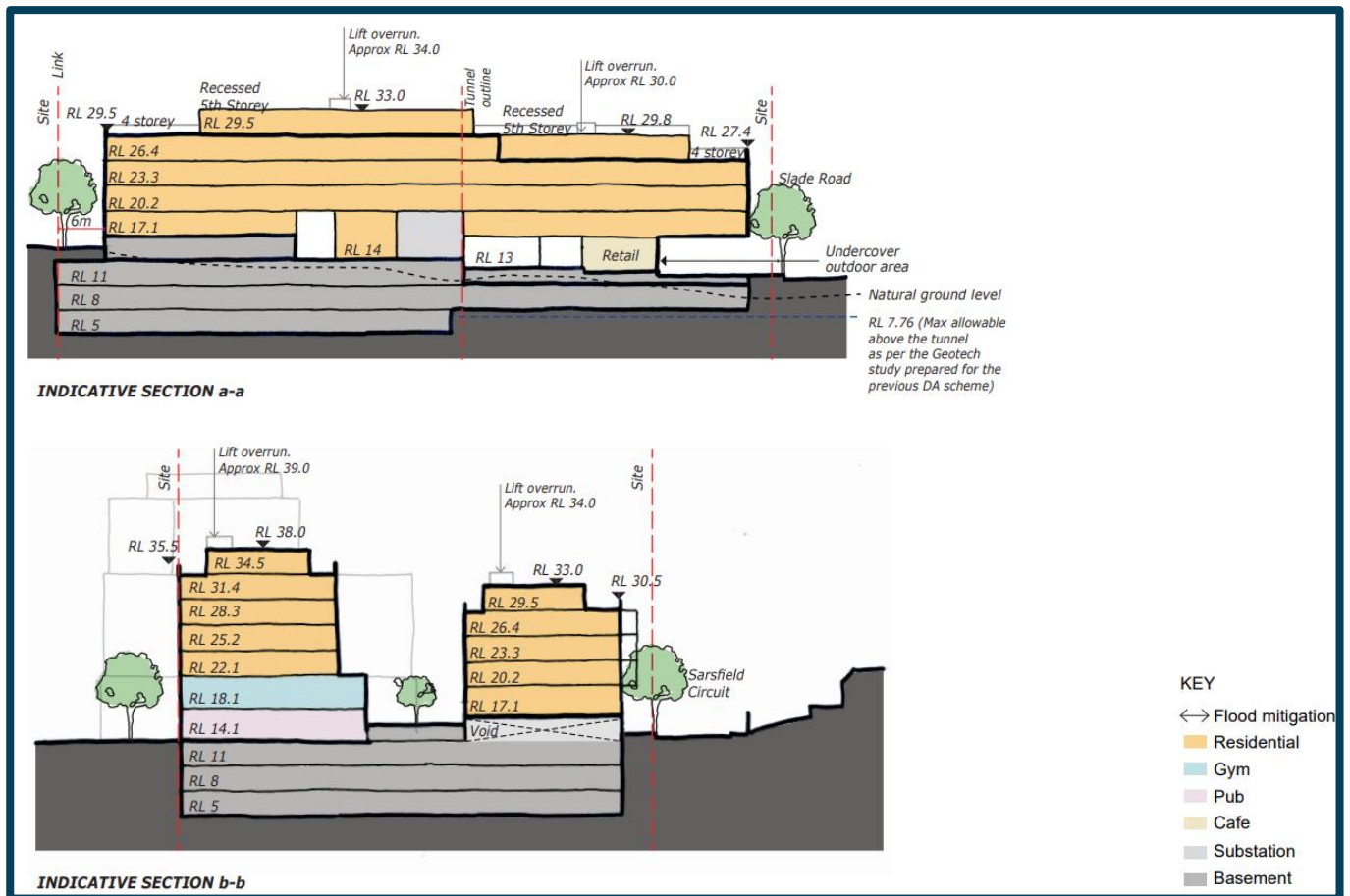


Figure 5: Cross sections of the concept scheme (Source: The planning proposal's Urban Design Report)



Figure 6: Proposed uses floor plans (Source: The planning proposal's Urban Design Report)

1.5 Mapping

The development controls that currently apply to the site and surrounding land are outlined in **Table 3** and shown in **Figures 7** to **11**.

As outlined in **Figure 8**, the subject site contains a small portion of land at the southern boundary identified as a 'Local Road (B4)' on the Bayside LEP 2021 Land Reservation Acquisition map.

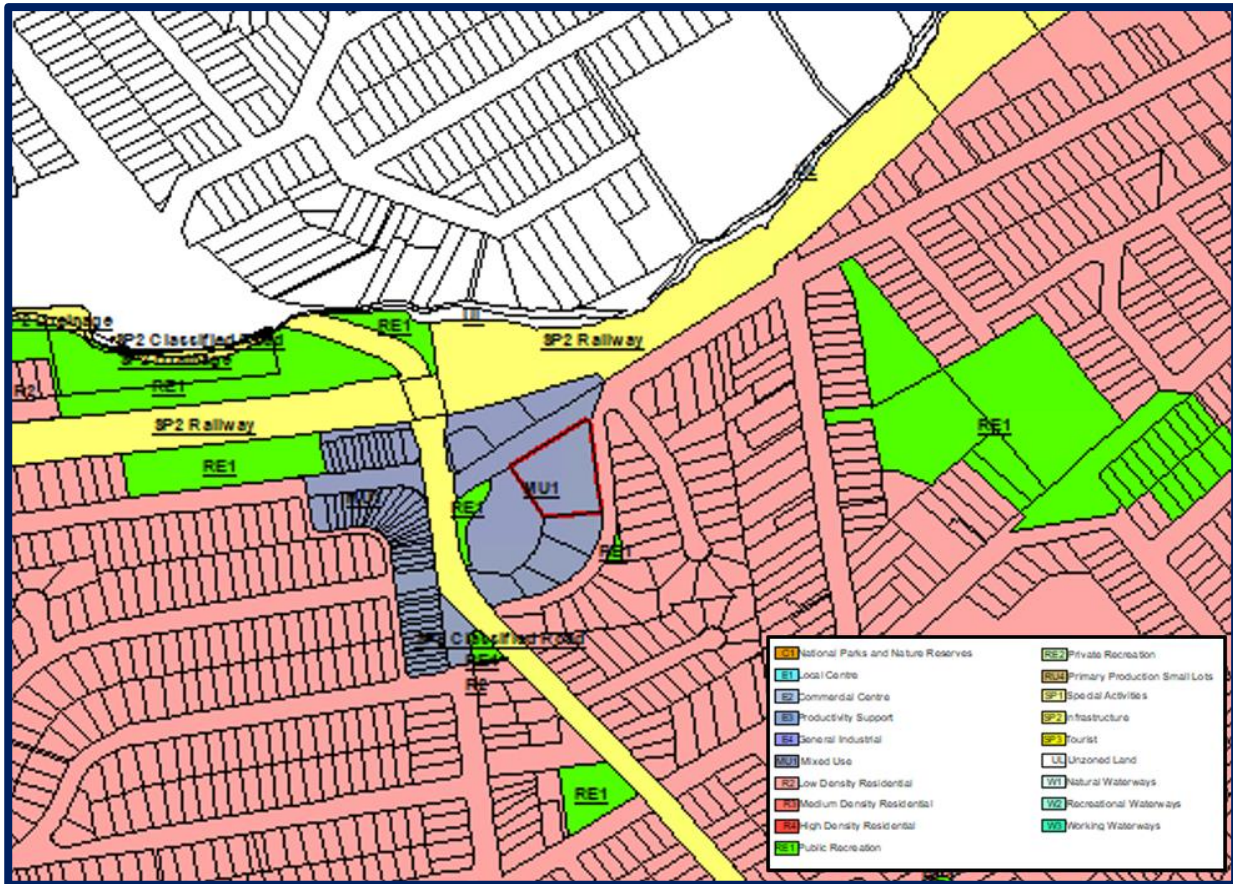


Figure 7: Current land use zoning with the site highlighted red (Source: Bayside LEP 2021)

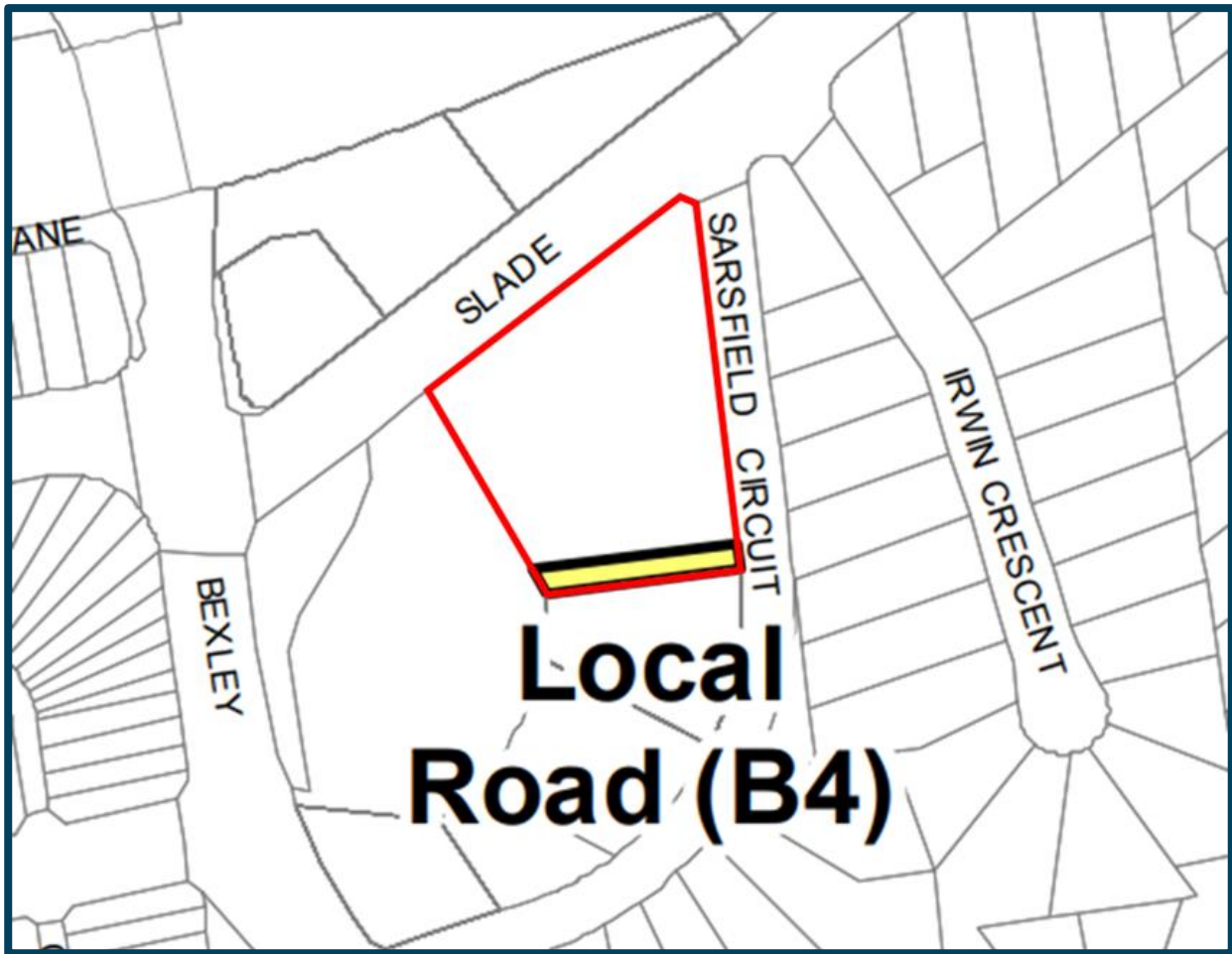


Figure 8: Land Reservation Acquisition Map with the site highlighted red (Source: Bayside LEP 2021)

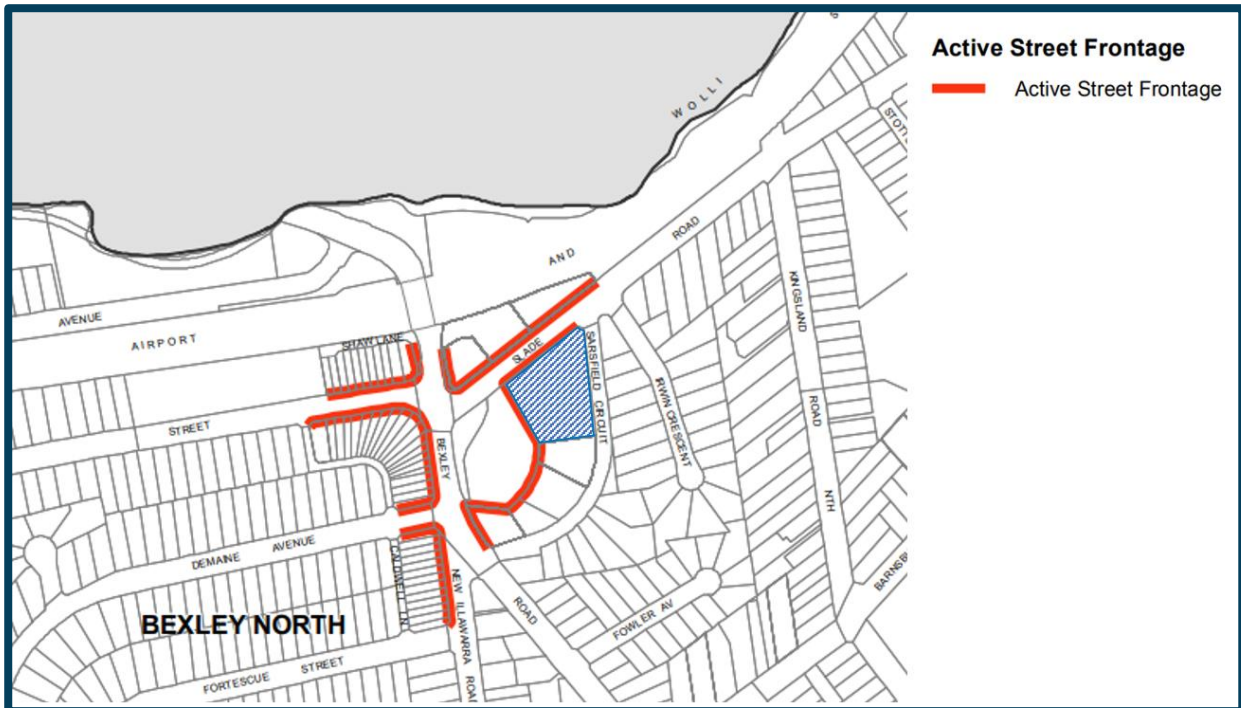


Figure 9: Active street frontages with the site highlighted blue (Source: Bayside LEP 2021)

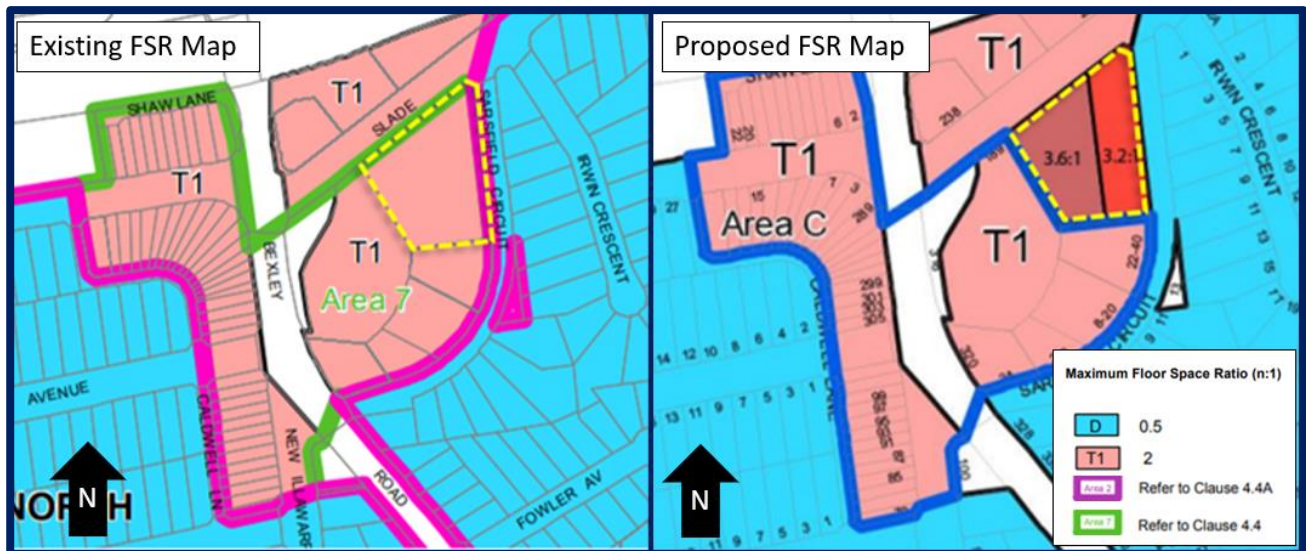


Figure 10: Current and proposed FSR maps – the site is highlighted yellow (Source: The planning proposal)

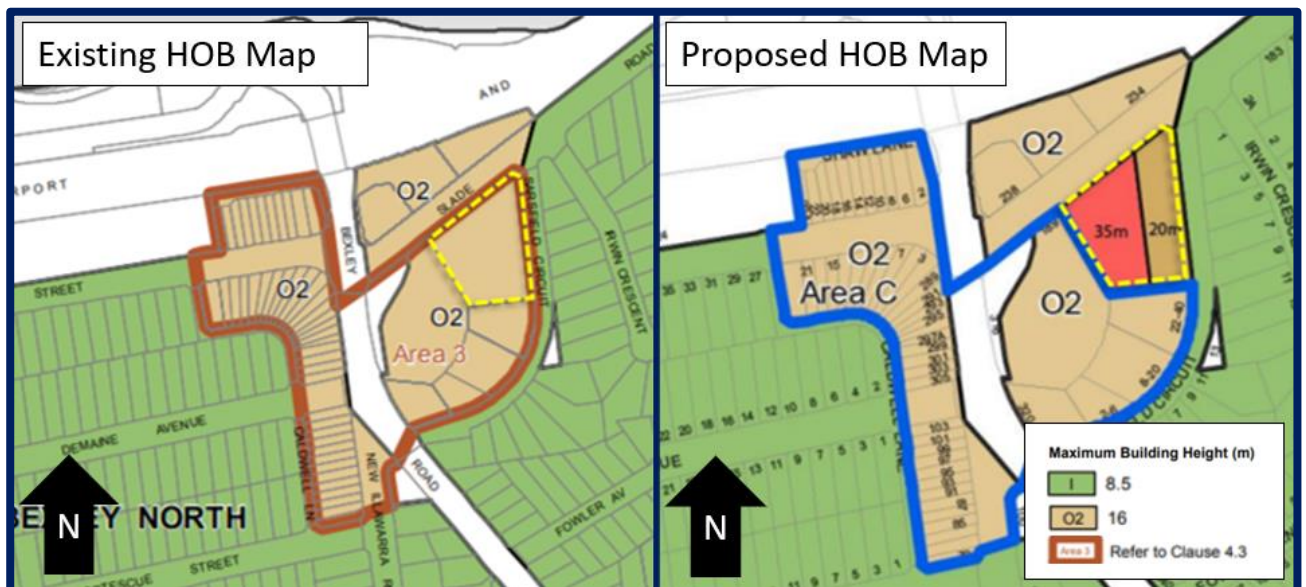


Figure 11: Current and proposed HOB maps – the site is highlighted yellow (Source: The planning proposal)

1.6 Background

The following table contains a chronology of key events relating to this planning proposal.

Table 4 Overview of planning proposal history

Date	Background
19 December 2019	Original planning proposal lodged with Bayside Council (Council).
April 2020 to June 2021	Revisions to the proposal and additional information were provided by the proponent to address Council's comments. This included a revised planning proposal submitted to Council on 26 August 2020.
16 December 2021	<p>The planning proposal was considered by the Bayside Local Planning Panel (LPP) on 16 December 2021. The LPP recommended to Council that the proposal be referred to the Department for Gateway determination subject to the following conditions being applied to the Gateway determination:</p> <ol style="list-style-type: none"> 1. Prior to commencing public exhibition of the planning proposal, the applicant shall consult with Council to ascertain the appropriate building height limit and floor space ratio (FSR) for the site based on urban design principles and compliance with the Apartment Design Guide. 2. A site-specific Development Control Plan (DCP) shall be prepared by the applicant in consultation with the Council to demonstrate that the building envelopes resulting from the FSR and height of buildings sought in the planning proposal are achievable on the site without being detrimental to local character, residential amenity and the potential future uses of Council's adjoining car park. 3. Without limiting the contents of the DCP, it should include elements of the urban design study submitted in support of the planning proposal as agreed by Council and requirements that: <ul style="list-style-type: none"> o a. the western building footprint be used for commercial floor space only; and o b. an appropriate interface and setback be provided to the existing public car parking area. 4. Consideration should be given to converting the proposed new central laneway (not the site through link) as an area of communal open space to be used by the residential component of any future development and for that space to be safe, secure, well designed and to be of high quality and amenity. 5. The DCP should include pedestrian circulation in and around the site and sensitive and careful siting of the driveway access, potential 'back of house' operations, loading and unloading areas and general Hotel and pub operations that often impact on the amenity of adjoining properties. These activities should be considered in the DCP to provide greater certainty for any future design and minimise impacts. 6. The DCP should also provide for the eastern boundary to include deep soil areas (minimum of 2m wide), well landscaped areas with some larger canopy trees to soften the development and enhance the transition of the built form down to the lower scaled residential development to the east. 7. Consideration should be given to providing some commercial floor space and/or design apartments to include studies and home offices. Spaces should be flexible and adaptable.

Date	Background
	<p>8. A variety and mix of residential apartments is also encouraged.</p> <p>9. To ensure and secure the proposed non-residential component of the development which comprises of some 1.41:1 of FSR, Council could consider amending Clause 6.17 of the Bayside LEP 2021 by highlighting certain controls and provisions which could be incorporated (as a minimum) for the future redevelopment of the site. This is at Council's discretion.</p> <p>10. At the time of preparing the DCP, consideration may be needed to the provisions of the Draft Place and Design State Environmental Planning Policy.</p> <p>11. The planning proposal should include a provision that amends Bayside Local Environment Plan 2021 (BLEP 2021) to provide that both the active street frontage and design excellence clauses of LEP 2021 apply to the site.</p> <p>12. The planning proposal should also include a provision that amends Clause 6.16 of BLEP 2021 to add the subject site and the requirement that a DCP be prepared for the site prior to any redevelopment.</p> <p>13. The planning proposal and draft DCP should be exhibited concurrently.</p> <p>14. Council should also consider negotiating the dedication of some affordable rental housing as part of the scheme.</p> <p>The LPP's reasons for their recommendations included:</p> <ul style="list-style-type: none"> • The Panel considers the proposal is consistent with a number of objectives and planning priorities of the Greater Sydney Region Plan and elements of the Eastern City District Plan. In particular, the proposal will advance the growth and revitalisation of an existing local centre identified in the Eastern City District Plan. • The site is located in close proximity to mass transit and would therefore concentrate high density urban growth within a local centre adjacent to public transport corridors. • After considering the likely environmental impacts of the proposal, the Panel is satisfied that it is suitable for being referred to the Department of Planning, Industry and Environment for a Gateway determination under s.3.34 of the <i>Environmental Planning and Assessment Act 1979</i>, subject to the imposition of conditions detailed above. • Although the LPP was of the view that a DCP should be prepared and exhibited in conjunction with the proposal, it was also strongly recommended that Clause 6.16 of the Bayside LEP 2021 be amended to include the site so that the LEP to include a requirement that a DCP be prepared prior to the redevelopment of the site. Applying Clause 6.16 to the site would ensure that an overall strategic design approach will still be implemented if a draft DCP is not prepared prior to exhibition of the planning proposal. • The Panel acknowledges the officer's concerns about progressing the proposal further in the absence of an overall strategic plan for the centre. However, the Panel considered that the need to revitalise this local centre and the consistency of the proposal with regional and district strategies justifies progression to Gateway determination. • In the absence of a masterplan or strategic planning and urban design work for the Local Centre as a whole, the DCP was thought to play an important role in advancing the potential for this spot rezoning to result in a high-quality development that sets a benchmark that may stimulate the renewal of the Centre as a whole.

Date	Background
	<ul style="list-style-type: none"> Without a DCP and in the absence of strategic planning work for the locality, there is a significant risk that the planning proposal may result in a scale and/or form of development that inhibits the medium-term goal of a renewed local centre with a high degree of amenity.
13 April 2022	<p>Council's City Planning and Environment Committee recommended that Council:</p> <ul style="list-style-type: none"> consider the proposal to be an overdevelopment of the site based on a range of factors including but not limited to excessive increased height limits and floor space ratios; and not endorse the proposal for a Gateway determination.
27 April 2022	<p>Council resolved to endorse the minutes of the City Planning and Environment Committee meeting on 13 April 2022, which included the above recommendation.</p>
18 May 2022	<p>Council notified the proponent in writing that it did not endorse the planning proposal for a Gateway determination.</p>
2 August 2022	<p>On 2 August 2022, the Department received a rezoning review request from Planning Ingenuity on behalf of the landowner (Tunborn Pty Ltd), for the site.</p>
13 October 2022	<p>The rezoning review was considered by the Sydney Eastern City Planning Panel (the Panel).</p>
18 October 2022	<p>On 18 October 2022, the Panel determined that the planning proposal should proceed to Gateway, as it considered the proposal to have strategic and site-specific merit.</p> <p>The Panel considered “...the site is well located near a rail station being 150m from the station. It will provide a catalyst for the town centre itself and provides more commercial uses for employment than a shop top housing development including a hotel and accommodation” (p.1).</p> <p>Regarding site-specific merit, the Panel stated - “the final built form must be considered in its context and for this reason a DCP (Development Control Plan) or further design guidance should be required to further inform the provision of the planning proposal, additionally the proposal mapping should be updated to delete the requirement for acquisition of the laneway.”</p> <p>The Panel noted the importance of preparing a DCP for this large key site which should be exhibited concurrently with the planning proposal to ensure an appropriate interface with the site, adjoining commercial zoned land and the low density residential to the east.</p> <p>The Panel also specified the various matters that should be included in the draft DCP, including showing:</p> <ul style="list-style-type: none"> consistency with the Apartment Design Guide to ensure appropriate bulk, scale and setbacks; the proposed 20m height on the eastern side being a maximum height inclusive of any lift overruns, other structural exceedances and any rooftop terrace (for the height transition to the eastern residential properties); through site links and pedestrian circulation; that the building envelopes resulting from the FSR and heights are achievable in the context;

Date	Background
	<ul style="list-style-type: none"> consideration of the co-location of hotel access and loading needs, having regard to the sensitive residential land use on site and adjoining; and provision of deep soil landscaping and space for canopy trees along the eastern site boundary.
November 2022	<p>On 23 November 2022, Bayside Council resolved:</p> <ol style="list-style-type: none"> <i>That Council resolves to accept the role of Planning Proposal Authority (PPA) for the draft Planning Proposal at 187 Slade Road, Bexley North.</i> <i>That Council writes to the NSW Planning Panels Secretariat to formally confirm acceptance of the role as PPA for this Planning Proposal.</i> <p>On 30 November 2022, Council wrote to the Planning Panels Secretariat confirming that it accepts the role of PPA in relation to the planning proposal.</p>
7 December 2022	<p>The Department received a request for a Gateway determination from Council, noting:</p> <ul style="list-style-type: none"> A Land Reservation Acquisition zone (Local Road) currently applies to part of the site, and the Planning Proposal does not propose to amend this zoned area. No further mapping amendment is required in this regard. Council does not object to the requirement for a DCP, the concern is the timeframe required to prepare the DCP prior to exhibition. Council considers a timeframe of at least 8 months be provided to enable a DCP of this complexity to be prepared for exhibition purposes. The site should be included under Clause 6.16 of the Bayside LEP 2021, requires the preparation of a DCP. Council requests a condition in the Gateway to reflect the timeframe for the preparation of a DCP, and the inclusion of the site to Clause 6.16 of the Bayside LEP 2021. requested an 18-month timeframe is considered appropriate for this LEP amendment.
11 January 2023	<p>The Department undertook a preliminary review of the planning proposal and considered it inadequate to progress to Gateway determination. This included a lack of clarity around Council's intentions for the laneway and whether this land will need to be acquired in the future.</p> <p>The Department sent a letter to Council requesting additional information, including:</p> <ul style="list-style-type: none"> whilst Council has stated that the acquisition is to remain, the concept plans accompanying the planning proposal do not align with the current LEP mapping in that the concept shows a three-level subterranean carpark below the existing reservation, with a pedestrian throughfare at ground level. The supporting landscape plan also illustrates a landscape buffer along the southern boundary, where this local road reservation is currently identified; and the planning proposal and supporting documentation must be updated to indicate a concept scheme that can be achieved on the site considering the road acquisition. Alternatively, if a laneway or through-link is to be provided by an alternative mechanism to allow flexibility (e.g. through a DCP or planning agreement) the planning proposal must be updated to exclude this site from the Land Reservation Acquisition mapping.

Date	Background
February – March 2023	<p>On 20 February 2023 Council responded, advising that:</p> <ul style="list-style-type: none"> • the adjoining property comprising a public car park has been identified as a strategic site for future development in Council's property portfolio; • it supports the retention of the existing acquisition layer for a local road through the subject site, to not compromise future access to the Council owned sites. • The Department in its Gateway assessment consider this advice from Council, noting support for the retention of the Land Reservation Acquisition layer within the LEP until such time as the land is dedicated to Council. A condition to this effect could be included in the Gateway determination; and • Council would support formalising this accessway in conjunction with the planning proposal determination by way of the transfer of a suitable area of land for access to the Council site through either a Voluntary Planning Agreement (VPA), dedication of land or at very least registration of a legally binding instrument facilitating a right of way or carriageway to provision access to the Council sites.
April 2023	<p>On 3 April 2023, in response to a request from the Department, Council provided an updated Planning Proposal that included administrative updates to correct references to repealed legislation, section 9.1 Directions and relevant State Environmental Planning Policies, and address consistency with current local council strategies.</p>

Public Benefit Offer

A public benefit offer dated 19 December 2019 originally accompanied the planning proposal and included the following proposed public benefits:

- provide a monetary contribution for the purpose of public infrastructure, amenities and services within the Bexley North Town Centre;
- registration of an easement in favour of Council allowing public access to the publicly accessible open spaces integrated with the ground level and commercial uses; and
- the provision and maintenance of landscaping and public furniture within the publicly accessible open space or surrounding Council owned land.

It is also noted that the planning proposal discusses the provision of through site link (subject to acquisition by Council) to connect to a potential "Urban Piazza" on Council land currently occupied by the existing car park to the immediate west of the site.

It is understood preliminary discussions between Council and the proponent have occurred. No public benefit offer or VPA has not been publicly exhibited or principally accepted by council.

2 Need for the planning proposal

The planning proposal is not the result of any specific strategy, study or report. Rather, it is a proponent led, site-specific planning proposal.

The proposal states that it has *“been initiated by Turnborn Pty Ltd to address a recognised need for housing and employment within an underdeveloped town centre with excellent access to public transport”* (p.24).

The proposal states that:

“The current development standards do not recognise a transition in form from the B4 mixed use zoning of the site to the R2 – low density residential zoning on the opposite side of Sarsfield Circuit.

The Planning Proposal will be accompanied by a Site Specific DCP that will ensure a transition in scale and the redistribution of bulk way from the sensitive eastern boundary to the northern and western boundaries fronting Slade Road or the Council owned carpark. The Planning Proposal, in fact, proposes a reduction in height along the Sarsfield Circuit frontage compared with the current controls” (refer to p.24).”

The progression of the proposal for Gateway assessment is the outcome of a rezoning review (RR-2022-20) by the Sydney Eastern City Planning Panel’s Strategic Planning Panel in October 2022, who formed the view that the proposal has site specific and strategic merit and should proceed to Gateway determination.

3 Strategic assessment

3.1 Regional Plan

The Greater Sydney Region Plan – *A Metropolis of Three Cities* (the Region Plan) was released by the NSW Government in 2018. The Plan contains objectives, strategies and actions which seek to manage growth and change across Greater Sydney over the next 20 years.

Table 5 provides an assessment of the planning proposal against relevant aspects of the Region Plan.

Table 5 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 4: Infrastructure use is optimised	<p>This objective seeks to maximise the use of existing infrastructure.</p> <p>The proposal is consistent with this objective as it seeks to enable the redevelopment of the site for mixed use purposes, which is well located in proximity to existing transport and social infrastructure assets including the Bexley North train station and Bexley North Public School.</p> <p>The Department acknowledges the supporting indicative concept plan demonstrates the potential for the delivery of residential development (with an estimated yield of around 83 apartments) and approximately 5,812m² of commercial space (including a pub, hotel, café, gym and two retail tenancies), on a site which is accessible to existing bus and rail services.</p>

Regional Plan Objectives	Justification
<p>Objective 7: Communities are healthy, resilient and socially connected</p>	<p>This objective seeks to ensure communities are healthy, resilient and socially connected.</p> <p>Strategy 7.1 of the Plan seeks to <i>‘Deliver healthy, safe and inclusive places for people of all ages and abilities that support active, resilient and socially connected communities’</i> through a variety of means, including <i>‘prioritising opportunities for people to walk, cycle and use public transport’</i>.</p> <p>The proposal is consistent with this objective as the supporting indicative concept plan indicates the potential to deliver high density residential development and employment generating uses on a site that is located within the Bexley North Town Centre and is accessible to transport; educational facilities; retail, commercial and health care services; as well as open space and recreational areas.</p>
<p>Objective 10: Greater housing supply & Objective: 11 Housing is more diverse and affordable</p>	<p>Objectives 10 and 11 seek to ensure the supply and diversity of housing in the right locations to accommodate the needs of Sydney’s growing population.</p> <p>Having regard to the site’s accessibility to existing public transport, social infrastructure, services and quality open space, the proposal is considered consistent with these objectives as it has the potential to increase the supply and diversity of housing.</p>
<p>Objective 14: A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities & Objective 22: Investment and business activity in centres</p>	<p>Objective 14 seeks to provide for the integration of land use and transport to support the delivery of walkable, 30-minute cities. This objective outlines the importance of co-locating <i>“activities in metropolitan, strategic and local centres and attract housing in and around centres to create walkable, cycle-friendly neighbourhoods”</i> (p.84).</p> <p>Objective 22 seeks to ensure a well-connected and diverse centres, including maximising opportunities to attract higher density and higher amenity residential developments to enhance the vibrancy and support walkable neighbourhoods. This objective also recognises the importance of <i>“residential development within walking distance of centres with a supermarket is a desirable liveability outcome”</i> (p.120).</p> <p>While estimated job creation figures have not been included in the proposal, the supporting indicative concept plan provides for approximately 5,812m² commercial space (including a pub, hotel, café, gym and two retail tenancies).</p> <p>As such, the proposal is considered consistent with the aforementioned objectives as it seeks to facilitate the delivery of employment floorspace (as well as the potential for housing growth and diversity) on a site which is located within the existing Bexley North Town Centre (an identified local centre) and in proximity to existing public transport, retail (including a supermarket), services, open space and recreational areas.</p> <p>As outlined in the proposal:</p> <ul style="list-style-type: none"> • <i>“the mix of uses on site will encourage interaction and provide for greater employment and services in close proximity to residential accommodation”;</i> • <i>“the proposal will increase investment, business opportunities and jobs in the Bexley North Town Centre”</i> (refer to pp.29 & 40).

Regional Plan Objectives	Justification
Objective 37: Exposure to natural hazards is reduced	<p>This objective seeks to provide for new urban development in appropriate areas considering natural and urban hazards.</p> <p>The Department considers that the planning proposal's consistency with Objective 37 is unresolved due to:</p> <ul style="list-style-type: none"> • flooding – see Section 3.4 – Ministerial Directions of this report for further discussion. • the site's proximity to the Moomba Sydney Dangerous Goods Ethane Pipeline – see Section 3.2 District Plan of this report for further discussion.

3.2 District Plan

The site is located within the Eastern City District. The Eastern City District Plan (the District Plan), released by the then Greater Sydney Commission in March 2018, sets out the planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

Table 6 provides an assessment of the planning proposal against the relevant priorities and actions of the Eastern City District Plan.

Table 6 District Plan assessment

Regional Plan Objectives	Justification
Planning Priority E4 : Fostering healthy, creative, culturally rich and socially connected communities	<p>This planning priority seeks to facilitate the development of healthy, resilient and socially connected communities.</p> <p>Action 10 seeks to:</p> <p><i>“Deliver healthy, safe and inclusive places for people of all ages and abilities that support active, resilient and socially connected communities by:</i></p> <p><i>a. providing walkable places at a human scale with active street life</i></p> <p><i>b. prioritising opportunities for people to walk, cycle and use public transport</i></p> <p><i>c. co-locating schools, health, aged care, sporting, and cultural facilities</i></p> <p><i>d. promoting local access to healthy fresh food and supporting local fresh food production”.</i></p> <p>The proposal is consistent with this Priority as it seeks to enable the redevelopment of the site for mixed use residential/commercial purposes (including hotel accommodation, as well as approximately 83 apartments). The subject site is accessible to existing transport infrastructure including bus services which operate along Bexley Road, Shaw Street, Slade Road and New Illawarra Road, as well as train services at Bexley North station, which provide connections to Campbelltown (to the south-west) as well as Sydney Airport and the Sydney CBD (to the east and north-east).</p>

Regional Plan Objectives	Justification
<p>Planning Priority E5: Providing housing supply, choice and affordability with access to jobs, services and public transport</p>	<p>This planning priority seeks to deliver housing supply, diversity and affordability.</p> <p>The indicative concept design for a mixed use development on the site, prepared by GM Urban Design & Architecture Pty Ltd in support of the proposal, illustrates the ability of the site to accommodate approximately 83 apartments of varying sizes under the proposed controls.</p> <p>The Department also notes the site's location within the Eastern City District, which is experiencing significant population and household growth that is projected to <i>"translate to a need for an additional 157,500 homes between 2016 and 2036"</i> (refer to p.36 of the District Plan).</p> <p>In light of the above, the proposal will provide an opportunity to support the needs of the districts growing population by facilitating the delivery of a diverse mix of housing in a location that is accessible to jobs and services (including in the Bexley North town centre), existing public transport, social infrastructure, open space and recreational areas.</p>
<p>Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage</p>	<p>This planning priority and its supporting actions seeks to create great places, by providing a fine grain urban form, diverse land use mix, high amenity and walkability, in and within a 10-minute walk of centres. This priority also seeks to support local centres providing local employment.</p> <p>The planning proposal is consistent with this priority as it seeks to facilitate the delivery of a new mixed-use development, providing housing and employment opportunities on a site located within the Bexley North town centre, an identified 'local centre' in the Eastern City District Plan.</p> <p>The proposal also states that the <i>"indicative concept proposal will provide north-south and east-west publicly accessible open space (in private ownership)"</i> (refer to p.34).</p> <p>The Department also notes the intention for a site-specific DCP to be prepared to guide the quality of future development on the site, and will assist to support the delivery of a well-designed built environment and creation of 'great places'. It is also consistent with the recommendations of the Strategic Planning Panel of the Sydney Eastern City Planning Panel in October 2022 in respect to the proposal (RR-2022-20) that <i>"a DCP (Development Control Plan) or further design guidance should be required"</i>.</p>
<p>Planning Priority E10 : Delivering integrated land use and transport planning and a 30-minute city</p>	<p>This planning priority seeks to provide for the integration of land use and transport planning to deliver on the long-term vision for a 30-minute city.</p> <p>The proposal is consistent with this planning priority as it supports the vision for a 30-minute city and will improve access to local jobs and services, as it seeks to facilitate the delivery of commercial floor space and residential opportunities on a site within the Bexley North Town Centre, that is accessible via car, bus, walking and rail.</p>

Regional Plan Objectives	Justification
Planning Priority E13: Supporting growing of targeted industry sectors	<p>This planning priority and the supporting action (Action 57) seeks to enhance the tourist and visitor economy in the District, including a coordinated approach to tourism activities, events and accommodation.</p> <p>The proposal is consistent with this planning priority, because it seeks to facilitate 56 hotel rooms with connections to Sydney Airport and CBD by the T8 Line.</p>
Planning Priority E20: Adapting to the impacts of urban and natural hazards and climate change	<p>This objective seeks to provide for new urban development in appropriate areas considering natural and urban hazards.</p> <p><u>Moomba Sydney High Pressure Ethane Pipeline – Dangerous Goods Pipeline</u></p> <p>The Moomba Sydney High Pressure Ethane Pipeline, a licensed pipeline under the <i>Pipelines Act 1967</i>, is located near the site. In response a land use safety study risk assessment (LUSS), prepared by Arriscar (dated 8 Feb 2021, Rev A), has been prepared to support the planning proposal.</p> <p>The Department is responsible for preparing and administering the NSW Land Use Safety Planning Framework (the Framework) and the associated guidelines. This includes NSW Hazardous Industry Planning Advisory Paper (HIPAP) No.4 and HIPAP No.6.</p> <p>On 4 August 2021, the Department's Hazards Team wrote to Council whilst undertaking its pre-Gateway assessment, confirming the LUSS has been prepared in accordance with HIPAP No.4 and HIPAP No.6, including:</p> <ul style="list-style-type: none"> • both the existing background population and the proposed population when assessing the societal risks. This is considered as appropriate as such approach would allow for cumulative societal risk evaluation. The technical assumptions adopted in the study are developed based on appropriate references and considered as appropriate; • individual risk and societal risks were evaluated and compared against the HIPAP 4 risk criteria. It was concluded that both criteria were satisfied; • sensitive uses³ such as childcare centres should not be permitted within the area affected by individual fatality risks for sensitive uses (0.5E-06 per year); and • during the review, the Department queried the shape of the individual risk contour being shifted northwest and whether there's potential of risk of under-estimation. <p>It was clarified that the individual risk results were consistent with other LUSS's of the same pipeline. The reason of the shift is largely due to the predominant wind directions from south and southwest.</p> <p>The Department is satisfied with the response and considered the individual fatality risk contours are valid.</p> <p>Despite the proposal being in accordance with the Framework, it is necessary to ensure future development is compatible with future hazard risks.</p>

³ The NSW Land Use Safety Planning Framework defines sensitive uses as seniors housing, hospitals, educational establishments and early education and care facilities.

Regional Plan Objectives	Justification
	<p>As such, a Gateway condition has been included to provide a plain English explanation which allows for the consideration of the Framework and the LUSS at the development application (DA) stage. Specifically, this provision will need to:</p> <ul style="list-style-type: none"> • ensure any proposed sensitive land uses are restricted; and • ensure notification to and consideration of any comment from the Department prior to the issuing of any development consent for the specified developments by the consent authority. <p>A Gateway condition has also been included to require consultation with the pipeline operator, APA Group. This will ensure the pipeline operator can comply with its statutory requirements.</p> <p>The planning proposal can then be updated as appropriate to account for the consultation outcomes with the pipeline operator.</p> <p><u>Flooding</u></p> <p>The Department considers that the planning proposal's consistency with Planning Priority E20 with regard to natural hazards such as flooding, to be unresolved subject to further consultation with the Environment and Heritage Group – see Section 3.4 of this report for further discussion of the consistency of the proposal with Section 9.1 Direction 4.1 Flooding.</p>

3.3 Local

An assessment of the consistency of the proposal with the local plans and endorsed strategies is included in **Table 7**.

Table 7 Local strategic planning assessment

Local strategies	Justification
Bayside Local Strategic Planning Statement (LSPS)	<p>The proposal is consistent with the vision and priorities of the LSPS, including:</p> <ul style="list-style-type: none"> • <i>Planning Priority 5 - Foster healthy, creative, culturally rich and socially connected communities.</i> • <i>Planning Priority 6 - Support sustainable housing growth by concentrating high density urban growth close to centres and public transport corridors.</i> • <i>Planning Priority 7 - Provide choice in housing to meet the needs of the community.</i> • <i>Planning Priority 12 - Delivering an integrated land use and a 30-minute city.</i> • <i>Planning Priority 15 - Growing investment, business opportunities and jobs in Bayside's strategic centres and centres.</i> <p>The Bayside LSPS identifies Bexley North as a local centre and an area for investigation of urban growth opportunities in the medium term (6-10 years – being 2021-2026). Council has not commenced master planning work for Bexley North and is subject to further resolutions of Council – see Section 3.3 Bayside Local Housing Strategy of this report for further discussion.</p>

Local strategies	Justification
	<p>The proposal will facilitate increased supply and diversity of housing choices and employment generating floor space within the Bexley North town centre, near existing public transport, retail, essential services, open space and recreational areas.</p> <p><u>Non-residential floor space</u></p> <p>The LSPS proposes the preparation and adoption of an employment land strategy. This has not occurred.</p> <p>The planning proposal responds to the existing active street frontage requirement on the site – see Section 1.4 – Explanation of provisions of this report for further discussion. This is the only existing provision or plan addressing non-residential floor space requirements on the site.</p> <p>The LSPS does not propose a minimum floor space requirement for the LGAs centres and it is unclear whether the proposed employment land strategy will investigate such a requirement.</p> <p>An adopted employment land strategy can be considered during the finalisation process with the proposal updated accordingly.</p>
Community Strategic Plan (CSP)	<p>The Department notes that the proposal includes commentary on its consistency with <i>Bayside 2030 – Community Strategic Plan 2018-2030</i>. However, this plan has been superseded by the new Community Strategic Plan, <i>Bayside 2032-Community Strategic Plan (2018-2032)</i>, (the Bayside CSP), which was adopted by Council on 11 May 2022.</p> <p>Notwithstanding this, the Department considers the proposal to be broadly consistent with the key themes, outcomes and strategies of the Bayside CSP, as it seeks to contribute towards the revitalisation of the Bexley North town centre. In particular, the proposal aligns with:</p> <ul style="list-style-type: none"> • <u>Theme One: In 2032 Bayside will be a vibrant place:</u> Community Outcome 1.3: Bayside's places are people focussed. <ul style="list-style-type: none"> ○ Strategy 1.3.1 Activate local areas and town centres with facilities valued by the community • <u>Theme Four: In 2032 Bayside will be a prosperous community:</u> Community Outcomes 4.1 Bayside generates diverse local employment and business opportunities <p>A Gateway determination is recommended to require the proposal to be updated prior to exhibition to include an assessment against the new CSP (<i>Bayside 2032-Community Strategic Plan (2018-2032)</i>).</p>

Local strategies	Justification
<p>Bayside Local Housing Strategy (LHS) 2020-2036 (July 2021)</p>	<p>The Bayside <i>Local Housing Strategy 2020-2036</i> was endorsed by Council in March 2021 and by the Department in June 2021. The LHS sets the strategic framework and vision for housing the Bayside LGA to identify local opportunities and constraints to residential growth.</p> <p>The planning proposal is consistent with the LHS, in particular:</p> <p>Long term target – key principles</p> <ol style="list-style-type: none"> <i>Growth should occur in centres with good access to public transport and proximity to facilities and services (p.6)</i> <p>Objectives</p> <ol style="list-style-type: none"> <i>New housing will be located in and around existing centres with accessibility and walkability to public transport and align with the provision of transport and other infrastructure</i> <i>New housing will deliver greater diversity of housing choice to meet the changing needs of the local community, including housing suitable for families and older people and adaptable housing (p.6).</i> <p>It noted that the Bayside LHS identifies Bexley North as an investigation area for additional housing intensification, specifically stating that:</p> <ul style="list-style-type: none"> <i>“Redevelopment of this centre would be subject to confirmation with gas pipeline operators that it would not pose excessive risk.”</i> <i>“High densities could be achieved in the centre, subject to further investigation and master planning.”</i> <p>The LHS’ implementation plan was to investigate and plan for these areas and prepare an implementation plan by 2022, however as below demonstrates this work is now delayed.</p> <p>The proposal will facilitate an increase in the supply and diversity of housing available on the site, which is accessible to jobs, transport infrastructure, retail and services. The proposal will support housing growth in the Bayside LGA (approximately 83 apartments), which under the Bayside LHS is targeting an additional 26,021 dwellings by 2036.</p> <p>On 12 October 2022, Council’s City Planning and Environment Committee (CP&E) considered an update on the implementation of the Bayside LHS recommendations.</p> <p>The CP&E’s recommendation to the Council was:</p> <ol style="list-style-type: none"> <i>That Council endorses commencement of project planning and master planning for three investigation areas in the following order: West Kogarah, Botany Road south of Gardeners Road, and Bexley North.</i> <i>That Council requests a subsequent report that provides more detailed information about project scope, timeframes, and milestones for each of the Investigation Areas.</i> <p>On 26 October 2022, Council resolved to adopt the above recommendations.</p> <p>On 22 March 2023, Council resolved to endorse the draft Bayside Local Housing Strategy Implementation and Delivery Plan for submission to DPE, which identified that a project plan to ‘Investigate and Plan for Bexley North’ be commenced in Q1 2023.</p> <p>It is understood that a masterplan for the Bexley North Area has not yet been prepared. Any future master plan for the centre could consider how this site would integrate into the broader master plan and if council progresses a plan before this planning proposal is finalised that could be further considered as part of the finalisation process.</p>

Local strategies	Justification
	<p><i>Affordable Housing</i></p> <p>While the Department fully supports the provision of affordable housing in new development projects such as this, Bayside Council is yet to prepare and endorse an affordable housing contribution scheme.</p> <p>Section 7.32(3)(b) of the <i>Environmental Planning & Assessment Act 1979</i> (the Act) requires any condition imposed relating to contributions for affordable housing on a development consent must be authorised by a LEP and must be in accordance with a Council scheme for dedications or contributions set out in or adopted by the LEP.</p> <p>The next step in the process will be for Council to prepare an affordable housing contribution scheme and amend their local environmental plan to reference the scheme.</p> <p>Until this occurs, other mechanisms are available to deliver affordable housing, including a VPA. It is understood discussions remain ongoing between Council and the proponent to enter into a VPA. These discussions can include the potential for providing affordable housing on site.</p> <p>It is understood Bayside Council is continuing to investigate the introduction of an affordable housing contribution scheme. The supporting guidance has been issued by the Department as part of its approval for council's LHS.</p>

3.4 Section 9.1 Ministerial Directions

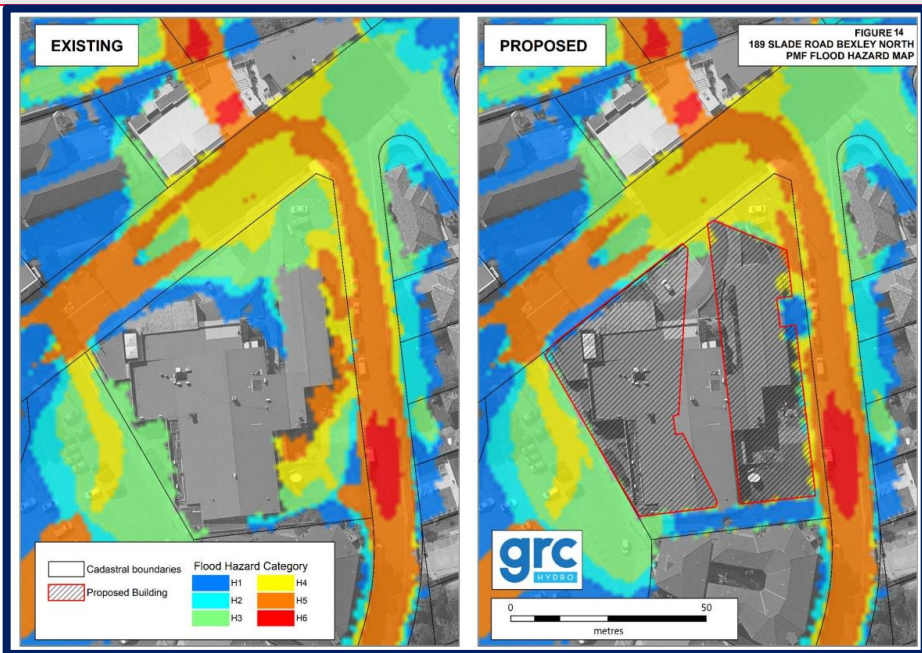
The planning proposal's consistency with the relevant section 9.1 Directions is discussed in **Table 8** below:

Table 8 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Assessment
Direction 1.1 Implementation of Regional Plans	Consistent	The proposal is consistent with this Direction as it gives effect to the Region Plan (refer to Section 3.1 of this report).
Direction 1.3 Approval and Referral Requirements	Consistent	<p>The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p> <p>This Direction applies because of the proposed Gateway condition addressing the LUSS.</p> <p>The requirements of this Direction include:</p> <ul style="list-style-type: none"> • minimising the inclusion of provisions that require the concurrence, consultation or referral of DAs to a Minister or public authority, and • not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: <ul style="list-style-type: none"> i. the appropriate Minister or public authority, and ii. the Planning Secretary (or an officer of the Department nominated by the Secretary). <p>This requirement is consistent with the Direction because it ensures future development of the site responds to the NSW Land Use Safety Planning Framework administered by the NSW Department of Planning and Environment.</p>
Direction 1.4 Site Specific Provisions	Inconsistent, minor significance	<p>The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls. The proposal seeks to facilitate a mixed use development on the site which is currently zoned B4 Mixed Use.</p> <p>The proposal's inconsistency with this Direction is of minor significance, because:</p> <ul style="list-style-type: none"> • a site-specific DCP has been proposed by the proponent as part of the planning proposal. It is noted this was not proposed this be a LEP requirement; • the Panel and Council both support the provision of a site specific DCP to further guide the development; and • a site specific DCP will allow for the detail consideration of various built form, car parking and other environmental planning matters. Providing this provision in the LEP will ensure a site specific DCP is prepared and appropriately addresses relevant environmental impacts – see Section 4.6.2 – State Environmental Planning Policy No.65 of this report for further discussion.

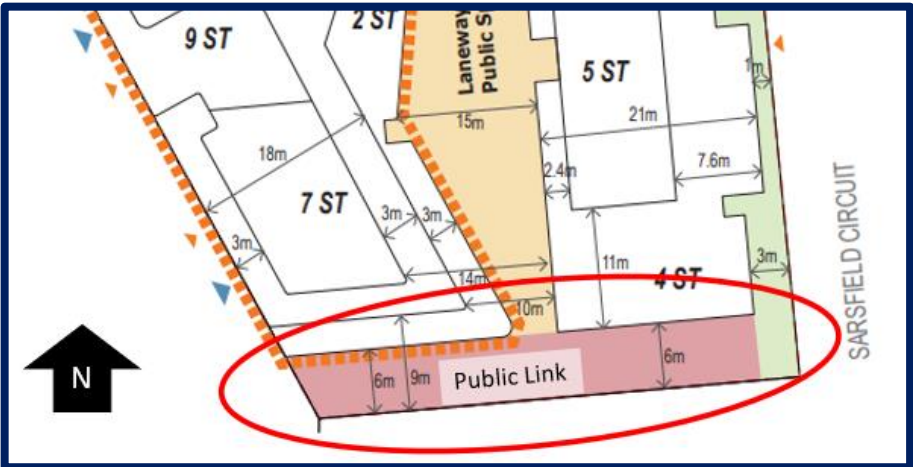
Directions	Consistent/ Not Applicable	Assessment
Direction 4.1 Flooding	Unresolved	<p>This Direction seeks to ensure development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and principles of the Floodplain Development Manual 2005. It also seeks to ensure LEP provisions that apply to flood prone land are commensurate with the flood behaviour and consider the potential impacts on and off the land.</p> <p>This Direction applies, because:</p> <ul style="list-style-type: none"> the site and surrounding land are identified as flood affected at the probable maximum flood (PMF): <ul style="list-style-type: none"> having a flooding hazard ranging from H1 to H6; and being in a floodway. seeks to increase development density on flood prone land. <p>Flood Investigation Reports (FIAs) of the site has been prepared by GRC Hydro (dated 8 October 2019, 26 August 2020 and 11 June 2021).</p> <p>These reports have been prepared and updated in response to requests for additional information from Council. The FIA identify the land as being affected by overland flow (Figures 12 and 13).</p> <div data-bbox="579 960 1520 1608"> </div>

Figure 12: 1% AEP flood hazard (Existing & Proposed Case)

Directions	Consistent/ Not Applicable	Assessment
		 <p>Figure 13: PMF (Existing & Proposed Case)</p> <p>The FIA notes that:</p> <ul style="list-style-type: none"> the site is flood liable albeit to overland flows; Council stormwater assets on the site currently lie under buildings – the re-development is an opportunity to put such assets in locations where they can be accessed should maintenance be required; flood liability of the site means that compliance with DCP controls is required to be achieved by any development; compliance with risk management requirements (appropriate floor levels, building materials etc.) is straightforward; compliance with impact consent conditions required the following mitigation measures: <ul style="list-style-type: none"> Swale on the Eastern side of the development; and Pipe diversion on Slade Road; and Pipe upgrade across Slade Road. flood risk can be effectively managed by an evacuation in place response which is the more "natural" or default response in any case; the greatest risk is estimated to be to those leaving the Site end entering areas of high flood hazard; the site is not subject to high level of flood risk and whilst in are events flow does occur, flood free areas in the PMF event are easily accessible on foot. Hazard is relatively low for all but the rarest events; and flooding will be occurring simultaneously with the rainfall due to the small catchment, but flooding duration will be limited in time. <p>Due to the limited available warning time and the associated risk of people driving or walking through flood waters, it is not</p>

Directions	Consistent/ Not Applicable	Assessment
		<p>recommended that people evacuate the site during times of flood and that shelter-in-place policy be adopted. This requires little management to achieve.</p> <p>A detailed consolidated assessment with supporting justification addressing each of the consistency requirements in this Direction is necessary, despite:</p> <ul style="list-style-type: none"> the FIAs consider that the proposal can provide for an adequate development outcome which is compatible with the flooding risk; and existing development (including sensitive uses such as hotel and motel accommodation) being present on the site. <p>In response, consistency with this Direction remains unresolved subject to the following recommended Gateway conditions:</p> <ul style="list-style-type: none"> pre-community consultation – update the planning proposal and supporting flood impact assessment to justify the proposal's consistency against the Direction's consistency criteria. This will need to ensure the various FIAs are consolidated into a single package with the relevant information that also addresses the requirements of the Direction; and during community consultation – consult the NSW State Emergency Service and the Department's Environment and Heritage Group.
Direction 4.4 Remediation of Contaminated Land	Consistent	<p>The objective of this Direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered at the planning proposal stage.</p> <p>The Planning Proposal notes that a Stage 2 Environmental Site Assessment has been undertaken by EIS. This report concludes that the site can be made suitable for the proposed uses subject to the following recommendations being enacted:</p> <ul style="list-style-type: none"> a Remedial Action Plan (RAP) should be prepared outlining procedures to be undertaken during each stage of development/excavation, with respect to the asbestos contamination; a validation assessment should be undertaken on completion of remediation at each development stage; and an unexpected finds protocol should be implemented during excavation works at the site. <p>The proposal is consistent with this Direction, because the site can be made suitable for the identified purposes with any potential contamination addressed through the development application process.</p>
Direction 4.5 Acid Sulfate Soils	Inconsistent, minor significance.	<p>This Direction aims to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>The proposal seeks to intensify land uses on land identified as having a probability of containing Class 5 acid sulfate soils. Future development will need to consider Clause 6.1 Acid sulfate soils in the Bayside LEP, including</p>

Directions	Consistent/ Not Applicable	Assessment
		<p>the requirement for an acid sulfate soils management plan to be prepared prior to development consent being granted.</p> <p>The existing provisions in the LEPs are considered adequate to manage and prevent environmental damage arising from exposure of acid sulfate soils. The inconsistency is considered minor.</p>
Direction 5.1 Integrating Land Use and Transport	Consistent	<p>This Direction seeks to ensure development is appropriately located to improve access and transport choice with access to jobs and services by walking, cycling and public transport. This Direction applies to all planning proposals which seek to alter zoning or provisions relating to urban land, including residential and business uses.</p> <p>The proposal supports the delivery of integrated land use and transport outcomes as it seeks to facilitate the delivery of a mixed-use commercial/residential development (with an estimated yield of around 83 apartments and approximately 5,812m² commercial space) on the site, which is well located in proximity to existing public transport infrastructure.</p>
Direction 5.2 Reserving land for public purposes	Unresolved	<p>This Direction seeks to:</p> <ul style="list-style-type: none"> • facilitate the provision of public services and facilities by reserving land for public purposes, and • facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition. <p>A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).</p> <p>This Direction applies because a portion of land at the southern boundary of the site identified as a 'local road' on the Bayside LEP 2021 Land Reservation Acquisition Map (Figure 7). As per Clause 5.1 Relevant acquisition authority of the Bayside LEP Council is identified as the authority of the State that will be the relevant authority to acquire the land.</p> <p>The Panel in its decision on the proposal recommended that the proposed mapping should be updated to delete the requirement for acquisition of the laneway.</p> <p>The planning proposal submitted for Gateway does not propose to remove this acquisition.</p> <p>As stated in Section 1.6 - Background, in January 2023 the Department wrote to Council outlining the need to provide further clarification on this matter.</p> <p>In response, Council advised that:</p> <ul style="list-style-type: none"> • the Land Reservation Acquisition layer in the LEP should be retained for the site until such time as this land is dedicated to

Directions	Consistent/ Not Applicable	Assessment
		<p>Council as to not compromise future access to the adjoining Council owned sites; or</p> <ul style="list-style-type: none"> it would support formalising this accessway in conjunction with the planning proposal determination by way of the transfer of a suitable area of land for access to the Council site through either a voluntary planning agreement, dedication of land or at very least registration of a legally binding instrument facilitating a right of way or carriageway to provision access to the Council sites. <p>In accordance with the Direction, the proposal does not seek to remove this land reservation without the support of Council as the relevant public authority.</p> <p>However, the proposal's consistency with this Direction remains unresolved as the proposal needs to clarify how it adequately addresses this existing acquisition, noting:</p> <ul style="list-style-type: none"> the acquisition is for a 'local road' whilst the proposal seeks to facilitate a 'public link' (Figure 14). <p>This may require alteration of the proposed acquisition from a 'local road' purpose to a more suitable form of infrastructure.</p> <p>It is noted that clause 5.1A Development on land intended to be acquired for public purposes of the Bayside LEP 2021 prevents development consent being granted to any development on land subject to the reservation other than development for the purpose of the reservation, being roads⁴ in this instance;</p> <ul style="list-style-type: none"> the required width of the identified 'local road' – noting the UD Response includes discussion of a width between 6m (proponent) to 6.3-6.8m (Council); and the supporting concept seeks to facilitate basement car parking under this identified 'local road'. <p>A Gateway condition has been included to this effect and is capable of being resolved noting Council is both the relevant public authority and the planning proposal authority for this proposal.</p>  <p>Figure 14: Public link at location of existing local road acquisition highlighted red (Source: UDR)</p>

Directions	Consistent/ Not Applicable	Assessment
Direction 6.1 Residential Zones	Consistent	The proposal adequately responds to the requirements of the Direction as it has the potential to provide for an increase in supply and diversity of housing (approximately 83 apartments) to accommodate the needs of the Eastern City Districts growing population.
Direction 7.1 Business and Industrial Zones	Consistent	<p>This Direction aims to encourage employment growth in suitable locations, protect employment land in business zones and support the viability of identified centres.</p> <p>The Direction applies as the proposal relates to land located in an existing business zone (MU1 Mixed Use). The proposal is consistent with this Direction as it seeks to amend the height and FSR controls, while retaining the sites existing B4 (now MU1) land use zoning to facilitate mixed use development on the subject site.</p>

3.5 Employment zone reforms

In December 2021, the reform of the employment zones was finalised with the introduction of 5 new employment zones and 3 supporting zones into the Standard Instrument (Local Environmental Plans) Order 2006.

The employment zones were introduced into 134 individual LEPs through 6 self-repealing SEPPs on 16 December 2022 and came into effect on 26 April 2023. The subject site has transitioned from the B4 Mixed Use zone to the MU1 Mixed Use zone.

A Gateway condition is recommended to update the proposal prior to public exhibition to ensure the proposal correctly identifies the new MU1 Mixed Use zoning of the site.

3.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs, as outlined as follows:

3.6.1 State Environmental Planning Policy (Resilience and Hazards) 2021

An assessment against the provisions of the Section 9.1 Direction 4.4 Remediation of Contaminated Land is provided in **section 3.4** of this report.

3.6.2 State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development (SEPP 65)

SEPP 65 aims to improve the design quality of residential apartment development in New South Wales. This is achieved through nine design quality principles and application of the accompanying Apartment Design Guide (ADG).

Consideration of SEPP No.65 is required as the planning proposal:

- seeks to facilitate the development of residential flat buildings of three or more storeys; and
- impacts upon existing residential flat building development adjoining the site.

⁴ Road is defined in the Standard Instrument LEP Dictionary as meaning ‘a public road or a private road within the meaning of the [Roads Act 1993](#), and includes a classified road.’

Detailed design of buildings that comply with the proposed envelopes sought by this proposal will be undertaken at the DA stage, where compliance with SEPP 65 and the ADG will need to be demonstrated.

Nonetheless, a general assessment undertaken by the Department of the planning proposal shows the supporting concept design is capable of appropriately responding to ADG requirements subject to further detailed design refinement. This includes:

Residential Built Form and Solar Access

The ADG seeks to provide for adequate built form and solar access outcomes with requirements which include:

- consideration of local character and context – see **Section 4.1.1 – Built Form** of this report for further discussion;
- minimum separation distances between:
 - 6m to 12m for buildings up to four storeys (approx. 12 metres);
 - 9m to 18m for buildings of five to eight storeys (approx. 25 metres); and
 - 12m to 24m for buildings of 9 storeys and above (over 25m);
- at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter. This includes on site and surrounding development;
- a maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. This includes on site and surrounding development;
- building depths that can support a range of apartment layouts;
- maximum apartment depths of 12-18m; and
- at least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.

The solar access images provided with the planning proposal are poor and hard to discern what impacts the proposal has (**Figure 15**) - therefore this element of the planning proposal needs to be updated to better reflect solar access impacts to adjoining development before it is exhibited.

Despite this, the proposal demonstrates:

- building depths ranging from 12m to 21m can support a range of apartment layouts (**Figure 16**), including maximum apartment depths;
- the proposed built form can achieve appropriate building separation and setback requirements with potential non-compliances being minor and capable of resolution through refinement as part of the detailed design process (**Figure 16**).

This can include refinement of the building envelopes, distribution of uses (LG to L5 of Built Form C proposes non-residential uses) and floor plate layouts to achieve compliance;

- the reduced the floor plates of Levels 2-5 in the revised scheme has appropriately increased the setbacks shown in **Figure 16**; and
- A total of 60% (50 of 83) of apartments are naturally cross ventilated in the first nine storeys of the building.

The supplemental UD Response includes:

- refined internal apartment layouts on Levels 2, 4 and 5 of Built Form A which facilitate an additional 2 units (2.4% increase or 83 to 85 apartments). This has not altered the building envelope provided in the UDR; and
- reduced floor plates (approximately 44m² on each level) on Levels 2 to 5 of Built Forms B and C (**Figure 17**).

It is noted that the Urban Design Review and Urban Design Response consider:

- surrounding residential developments retain solar access, being:
 - balconies and living areas (11 out of 15) of the development at 22-40 Sarsfield Circuit would receive two hours of direct sunlight in mid-winter - a 7% (1 apartment) reduction from a compliant scheme;
 - low density residential development to the immediate east is not overshadowed at mid-winter; and
 - Council's existing car park to the east retains a minimum 3hrs of solar access to 50% of its area at mid-winter.
- adequate solar access can be achieved to the proposed publicly accessible laneway/open space in the centre of the site – see **Section 4.1.1 Built Form** of this report for further discussion.

Despite this, the solar access diagrams do not include adequate details which clearly demonstrate these conclusions. The Gateway has been conditioned to require detailed solar access diagrams which:

- clearly demonstrate overshadowing to existing residential development to the immediate south. This could include diagrams of the building floor plates with 3D sun-eye diagrams;
- demonstrate compliant solar access of the land to the immediate west (Council owned car park); and
- demonstrate compliant solar access can be achieved to a compliant development scheme to the immediate west of the site (Council owned car park).

Site Specific DCP – clause 6.16 of the Bayside LEP 2021

In response to the LPP recommendation and the Panel's decisions, Council has requested that a Gateway condition be included to require clause 6.16 - Development requiring the preparation of a Development Control Plan (DCP) of the Bayside LEP 2021 to apply. The planning proposal submitted by the proponent also identifies the intention for a site specific DCP.

The LPP and Panel justification for requiring a site specific DCP to be prepared included:

- pedestrian movement through and around the site;
- vehicular access, including location of loading docks;
- detailed consideration of active street frontages, including to the internal publicly accessible laneway/public space;
- amenity impacts of the proposed pub to existing and proposed residential development, including CPTED principles; and
- built form solutions which give effect to SEPP 65 and the ADG.

The requirement for a DCP in the LEP can provide more detailed and site specific guidance for a future development application, including:

- those matters identified directly above; and
- securing public access to the internally located laneway/open space.

A Gateway condition is imposed to require clause 6.16 of the Bayside LEP 2021 to apply to the site.

This means that a DCP needs to be in place before a development application can be approved. The exhibition and finalisation of this planning proposal should not be delayed by the preparation of a site specific DCP.

Communal Open Space

The ADG explains that communal open space is an important environmental resource that provides outdoor recreation opportunities for residents, connection to the natural environment and valuable 'breathing space' between apartment buildings.

The ADG requires:

- 25% of a site's area (1,059m²) to provide for adequate communal open spaces;
- where rooftop communal open space is desired, ensure adequate maximum height is provided and consider secondary height controls for lift/stair access and shade structures
- developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter);
- communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions; and
- where provided on roof tops, amenity should be retained. This includes from aircraft noise.

The proposal demonstrates (**Figure 16**):

- the proposed building height can support secondary communal open space structure;
- communal open space should have a minimum dimension of 3m; and
- the rooftop open spaces can achieve adequate amenity noting the site is not adversely affected by aircraft noise.

Despite this the communal open space area fails to receive a minimum of 2 hours of direct sunlight access between 9am and 3pm.

The supplemental Urban Design response clarifies that the quantum of communal open space to be provided is equivalent to approximately 17% of the site's area (732m² or 68% of the minimum).

It is recommended the Gateway include a condition requiring a single urban design package and con

Deep Soil Zones

The ADG explains deep soil zones as areas of soil not covered by buildings or structures within a development, which;

- have important environmental benefits, such as allowing infiltration of rainwater to the water table; and
- promote healthy growth of large trees with large canopies and protecting existing mature trees which assist with temperature reduction in urban environments.

The ADG includes a requirement to provide deep soil zones equivalent to 7% of the site area, with a minimum 6m dimension for sites >1,500m² (296m²).

The ADG further explains that deep soil zones may be constrained by the size of the lot or the location of a proposed development. In such circumstances, acceptable stormwater management should be achieved and alternative forms of planting provided such as on the structure.

The proposal identifies locations for proposed deep soil areas (**Figure 16**), however does not (UDR and UD Response) include:

- discussion of minimum dimensions;
- potential site constraints and appropriate alternatives provided for in the ADG; and
- the quantum of deep soil areas to be provided.

In response, the Gateway determination has been conditioned to clarify the provision of deep soil areas noting the requirements of the ADG. The Gateway determination has been conditioned accordingly.

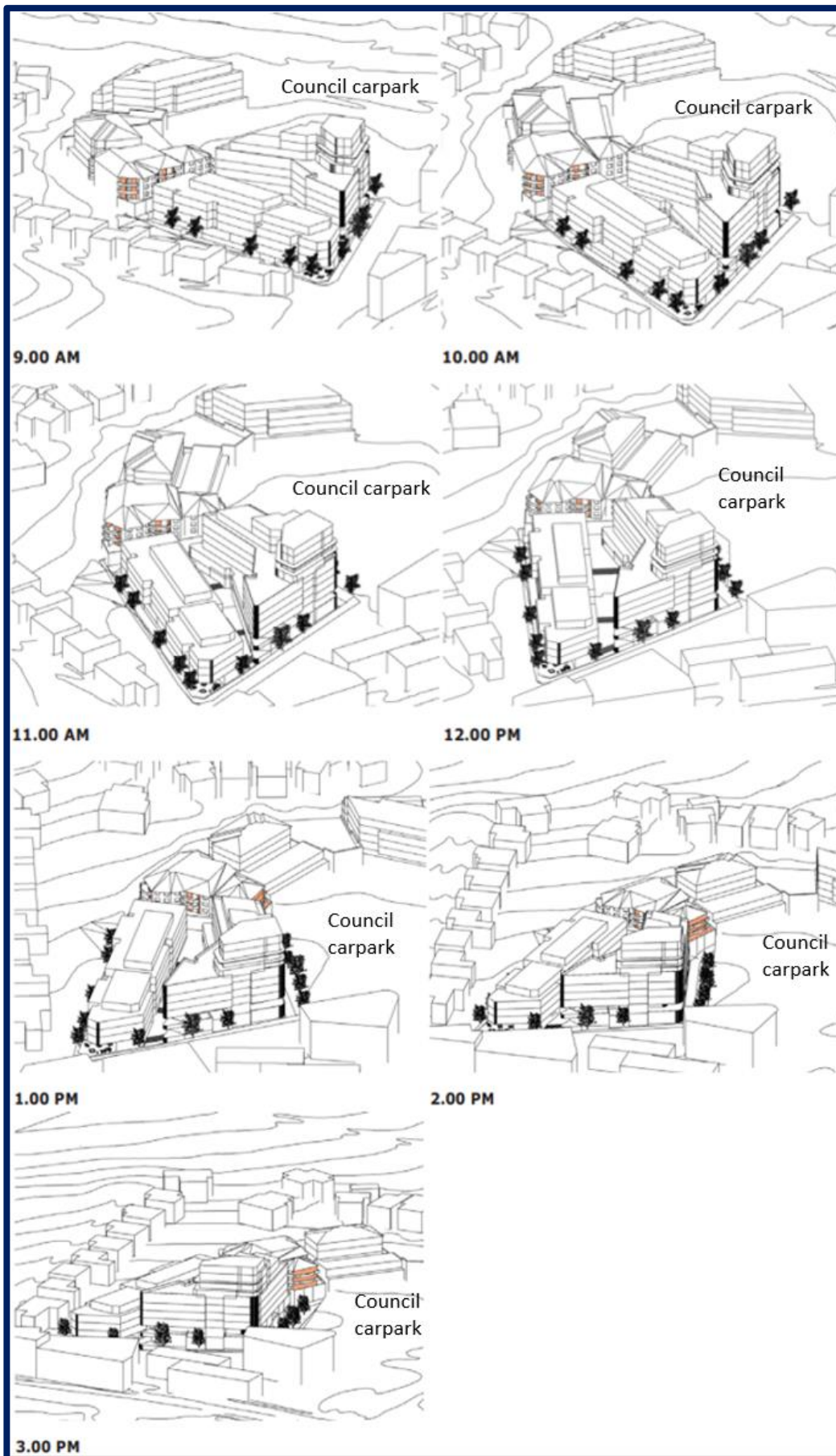


Figure 15: Sunview solar access diagrams (Source: UDR)

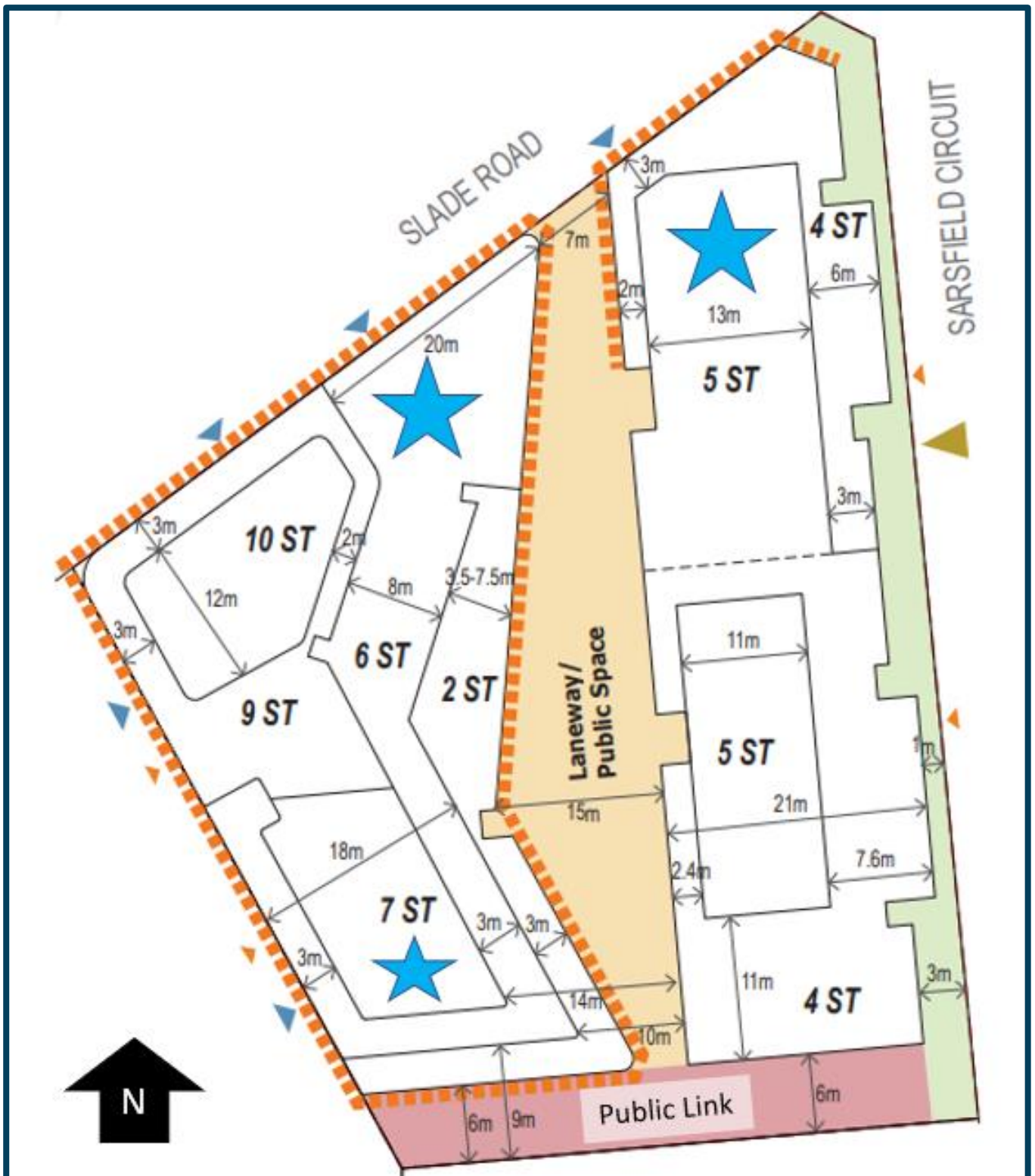


Figure 16: Massing Diagram – communal open space locations identified by blue stars, proposed deep soils identified by light green areas and active frontages by orange dashed line (Source: UDR)

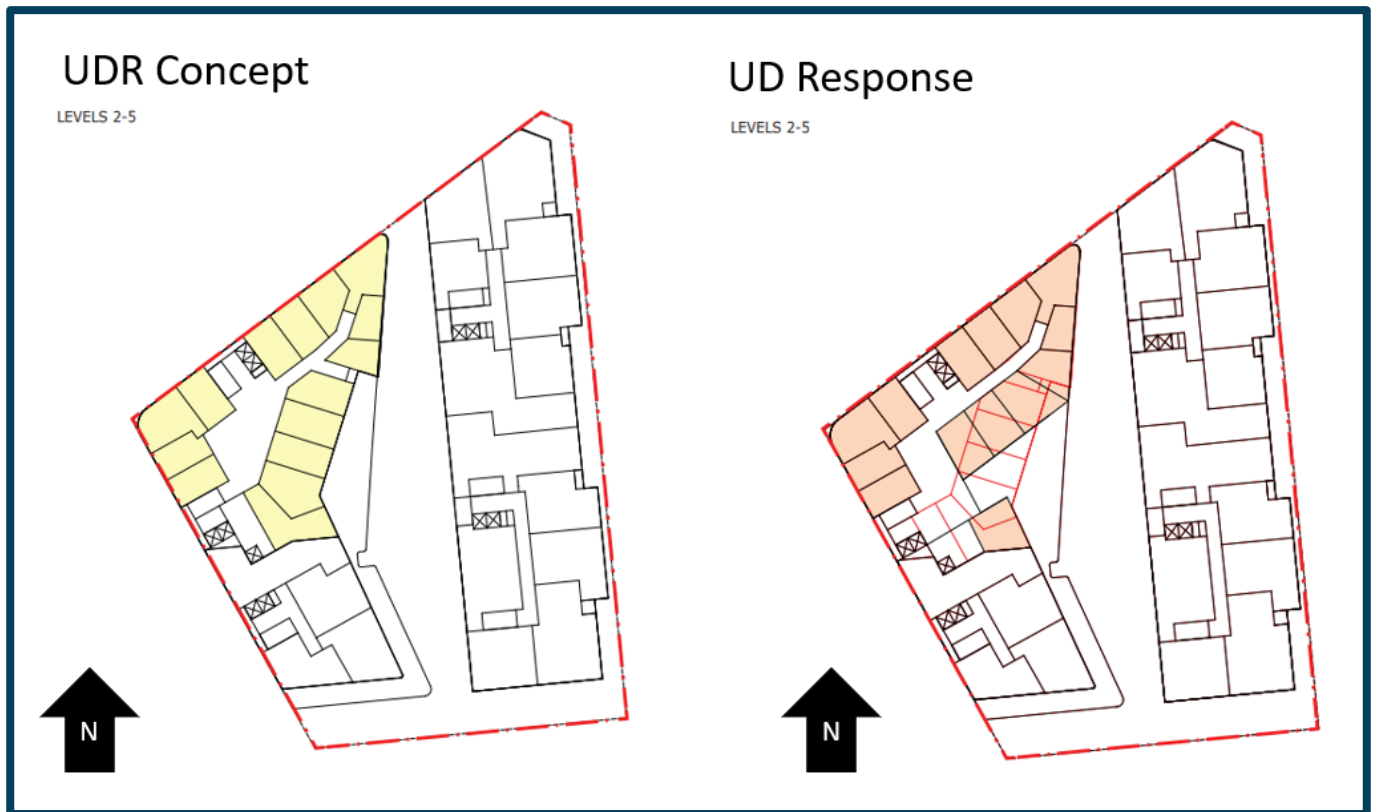


Figure 17: Comparison of UDR and UD Response L2-5 floor plate revisions (Source: UDR and UD Response)

4 Site-specific assessment

4.1 Environmental

Building Height

Artist impressions below (**Figures 18 and 19**) from the Urban Design report for the proposal show that intended built form outcomes for the site as sought by the proposal. The first image shows building forms for adjoining sites that have not yet been built and doesn't include any building outcomes for council's car parking site.



Figure 18: View of proposal as viewed from the intersection of Bexley Road and Slade Road



Figure 19: View of proposal as viewed from the intersection of Slade Road and Sarsfield Circuit

The effect of the proposal is to introduce and set a new building height control maximum not just for the site but also the town centre of 10 storeys from 7 storeys. Increasing building height at this western portion of the site has the effect also of contributing to additional overshadowing the central intended communal open space from 1pm onwards. This means that this open space is only granted 1 hour of direct sunlight access during the winter solstice – where a minimum of 2 hours for at least 50% of this space is required by the Apartment Design Guideline.

It is therefore recommended that further testing of these heights be undertaken and reduced if necessary to ensure that the communal open space area sought for the scheme can achieve adequate solar access during the winter solstice. The effect of this will also moderate the height the proposal to be more in keeping with the town centre and adjoining development.

Despite this the remaining proposed built forms area is generally appropriate, because:

- the part 4 and part 5 storey transition to the low density residential immediately to the east is:
 - in keeping with the existing 4 and 5 storey development fronting Sarsfield Circuit; and
 - is facilitated by a reduced 20m maximum building height (existing allows up to 22m); and
- Built Form B proposes a 7 storey built form which is consistent with the existing 7 storey built form permitted on immediately adjoining land to the south and west.

Floor Space Ratio

The proposal includes a split floor space ratio across the site that:

- Limits the mass of the development to the neighbouring low density residential development to the east of the site; and
- Supports the split height of building map.

Despite the intent of the split FSR map seeking to support an appropriate built form outcome, this proposed provision is unnecessarily restrictive, with appropriate modulation of the built form capable of being achieved through the proposed height of building map.

It is recommended that the Gateway determination be condition to require a single maximum floor space ratio, which gives effect the same floor space ratios submitted and considered as part of this Gateway assessment. This should result in the application of a maximum 3.35:1 FSR to the site.

This will provide for adequate flexibility to distribute floor space across the site to ensure appropriate built form outcomes during the development application process.

Proposed Laneway/Public Space

It is noted that the proposal seeks to facilitate a publicly accessible laneway/space through the centre of the site (**Figure 20**), to:

- establish the site as a destination; and
- assist in creating a liveable community.

This is in addition to the public link on the southern portion of the site and discussed further in **Section 3.4 – Section 9.1 Ministerial Directions** of this report.

The planning proposal does not discuss:

- the mechanism for how public access will be secured to the internal laneway/open space; and
- solar access requirements to the proposed publicly accessible laneway.

It is noted that the Panel suggested this publicly accessible laneway/open space be secured through the proposed site specific DCP. However, Clause 6.16 in the Bayside LEP 2021 provides for additional DCP requirements. This could include the need to address publicly accessible open spaces and through site links.

A Gateway condition is recommended requiring the proposal be updated to discuss:

- the mechanism for how public access will be secured to the internal laneway/open space; and
- solar access requirements to the proposed publicly accessible laneway.

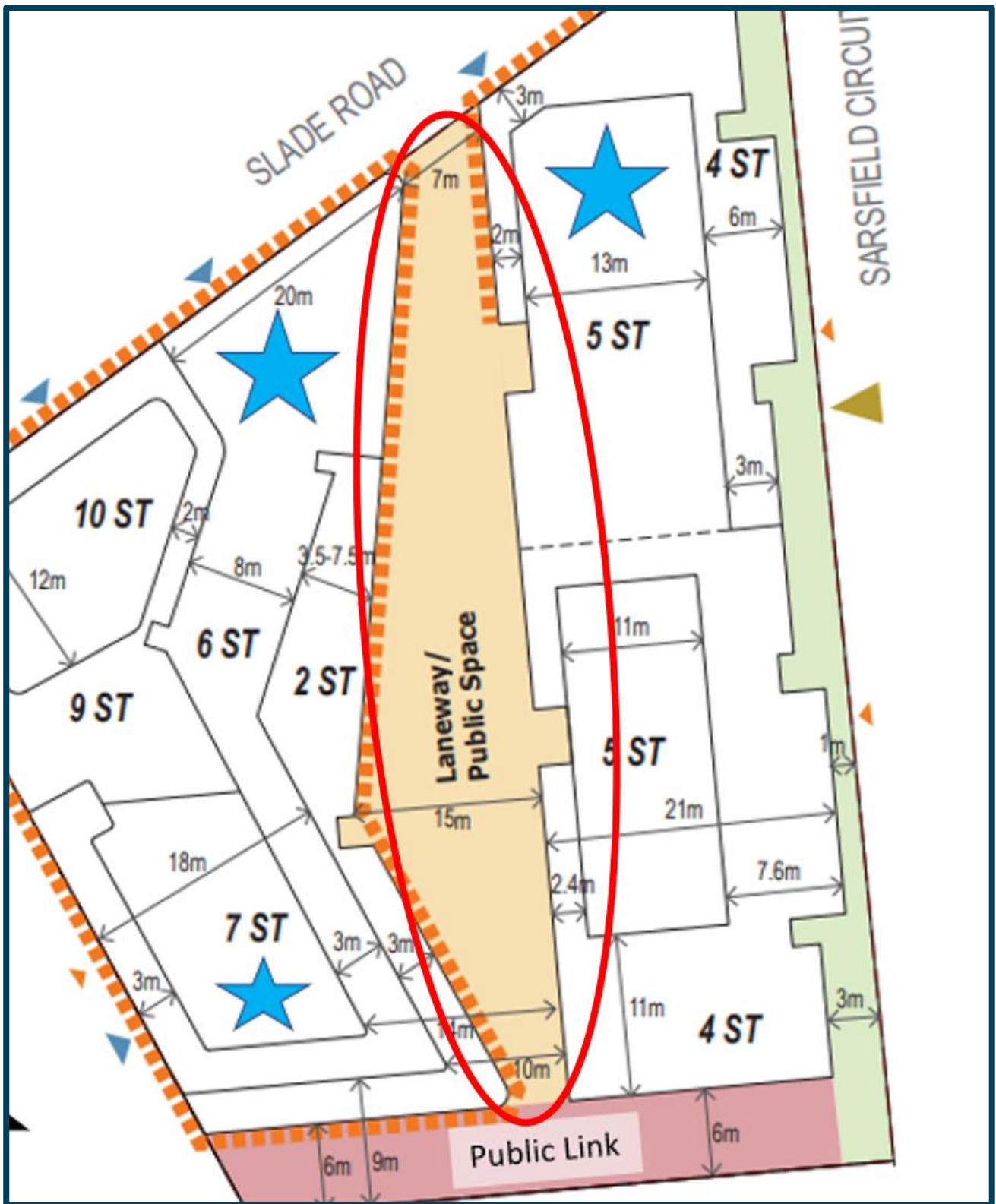


Figure 20: Proposed publicly accessible laneway/open space in the centre of the site (Source: UDR)

Other Environmental Impacts

Table 9 provides an assessment of the potential environmental impacts associated with the proposal.

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Biodiversity	<p>The site is located within an established urban area and is not known to contain any critical habitat or threatened species, populations or ecological communities.</p> <p>As such, the proposal is not considered to pose any risk to the existing biodiversity or result in any adverse environmental impacts.</p>
Natural Hazards	<p>The subject site has been identified to be flood liable. An assessment against the provisions of Section 9.1 Direction 4.1 Flooding has been included in Section 3.4 of this report.</p>
Traffic and Parking	<p>The planning proposal is supported a Traffic Impact Assessment (TIA) prepared by Traffix dated August 2020.</p> <p>The TIA considers that:</p> <ul style="list-style-type: none"> • approximately 214 car spaces are required for the development proposal to comply with SEPP 65, Council's DCP and the RMS Guide to Traffic Generating Development; • the subject site is well connected to the public transport network with reliable access to regular bus and rail services; and • the surrounding road network will experience small increases to average delays during peak periods, but these impacts are moderated with no external improvements required in support the assessed concept scheme. <p>As discussed in Section 1.4 – Explanation of provisions of this report, the planning proposal makes various references to either a 'pub' or 'registered club'. The Gateway has been conditioned to clarify this matter. In this regard, a Gateway condition has also been included to ensure the traffic assessment reflects the development concept scheme. This includes the modelled car parking rates and associated traffic generation.</p> <p>It is also proposed to consult with Transport for NSW.</p>

4.2 Social and economic

The proposal has the potential to generate a variety of positive social and economic benefits for the local area and District. These include increased employment and a diversity of housing opportunities on a site located within the Bexley North town centre, which is accessible to existing transport and social infrastructure, services, open space and recreational areas.

The Department also considers that any potential impacts to surrounding development, specifically neighbouring dwellings in the R2 Low Density Residential zoned land to the east of the site, could be mitigated through the preparation of a site specific DCP, to guide the quality of the future built form and its relationship and transition to surrounding properties.

4.3 Infrastructure

Table 9 provides an assessment of the adequacy of the infrastructure available to service the subject site.

Table 9 Infrastructure assessment

Infrastructure	Assessment
Open space	The site is well located in proximity to existing open space and recreation areas, as previously outlined in Section 1.2.2 – Surrounding area of this report.
Traffic and transport	<p>The site is well located in terms of public transport, within proximity to bus and rail services and good access to other physical and social infrastructure.</p> <p>The potential traffic implications of the proposal have been previously addressed in Section 4.1.2 - Other Environmental Impacts of this report.</p>
Utilities	<p>The site is located within an established urban area, and as such, could be suitably serviced in terms of water, wastewater, electricity, gas and telecommunications subject to any potential upgrade works. These matters will be subject to detailed design consideration at any future DA stage.</p> <p>Notwithstanding the above, as the proposal will result in an intensification of development on the subject site, the Department recommends that Sydney Water and Ausgrid be consulted on the proposal during the public exhibition period.</p>

5 Consultation

5.1 Community

The Department considers the proposal as ‘standard’ under the new Planning Proposal categories identified in the *Local Environmental Plan Making Guideline* released by the Department in September 2022.

A Gateway condition is recommended for a 20-day community consultation period in accordance with the Department’s LEP Plan Making Guideline (September 2022) should the proposal be recommended to proceed.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- Transport for NSW;
- APA Group – operator of the Moomba Sydney High Pressure Ethane Pipeline;
- Ausgrid;
- Sydney Water;
- NSW State Emergency Service; and
- the Department’s Environment and Heritage Group.

6 Timeframe

It is noted that Council has requested an 18-month timeframe to prepare a site specific DCP in accordance with its request to apply clause 6.16 - Development requiring the preparation of a development control plan of the Bayside LEP 2021 to the site.

The application of this provision to the site does not require the concurrent preparation of a site specific DCP.

The Department recommends a time frame of 9 months to ensure it is completed in line with its commitment to reduce processing times. A condition to the above effect is recommended for any subsequent Gateway determination issued.

7 Local plan-making authority

Council has requested delegation to exercise the functions of local plan making authority.

It is recommended that Council not be delegated plan making authority because the planning proposal has been subject to a rezoning review.

8 Assessment summary

The planning proposal is supported to proceed with conditions because:

- it is generally consistent with the relevant provisions of the Greater Sydney Region Plan and the Eastern City District Plan;
- it is consistent with State Environmental Planning Policies and Section 9.1 Ministerial Directions (or is justifiably inconsistent or capable of being consistent subject to further consultation or justification);
- it will facilitate the delivery of employment floor space in the Bexley North Town Centre and Bayside LGA facilitating services for the community; and
- it will provide for potential housing diversity and supply near existing transport, infrastructure, services, open space and recreational areas.

9 Recommendation

It is recommended the delegate of the Secretary:

- **agree** that any inconsistencies with the Section 9.1 Ministerial Directions 1.4 Site Specific Provisions and 4.5 Acid Sulfate Soils are considered justified and are of minor significance
- **note** that the consistency with Section 9.1 Directions 4.1 Flooding and 5.2 Reservation of Land for a Public Purpose are unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be updated to:
 - (a) provide a plain English explanation of a future LEP provision that seeks to allow consideration of the NSW Land Use Safety Planning Framework and the land use safety study risk assessment (LUSS), prepared by Arriscar, at the development application stage. Specifically, this provision will need to:
 - (i) ensure any proposed sensitive land uses are restricted, including seniors housing, hospitals, educational establishments and early education and care facilities; and

- (ii) ensure notification to and consideration of any comment from the Department prior to the issuing of any development consent for these specified developments by the consent authority.
 - (b) clarify how the planning proposal addresses the existing land reservation for a 'local road' on the southern portion of the site;
 - (c) ensure that the intended uses are consistently referenced in all documentation. It is understood these include a 'pub' and 'hotel and motel accommodation';
 - (d) include a single consolidated urban design package and associated concept scheme that:
 - (i) reflects the intended uses of the site, including car parking. This should be clearly demonstrated in built form cross section diagrams;
 - (ii) identifies the number of dwellings the proposal seeks to facilitate;
 - (iii) applies a single floor space ratio to the entire site which is consistent with the density of the proposed split maximum floor space ratios;
 - (iv) better illustrates solar access provided to the proposed internally located publicly accessible laneway/open space;
 - (v) cross-section and massing diagrams showing the development concept in the context of potential future development on surrounding land which complies with existing LEP provisions;
 - (vi) detailed solar access diagrams which:
 - clearly demonstrates overshadowing to existing residential development to the immediate south;
 - demonstrate compliant solar access of the land to the immediate west (Council owned car park); and
 - demonstrate compliant solar access can be achieved to a compliant development scheme to the immediate west of the site (Council owned car park).
 - (vii) clarify the provision of deep soil areas in accordance with State Environmental Planning Policy No.65 —Design Quality of Residential Apartment Development and the Apartment Design Guide; and
 - (viii) further tests the suitability of the 9 to 10 storey parts of the proposal to minimise overshadowing to communal open space.
 - (e) include and address supporting flood impact assessment to justify the proposal's consistency against Section 9.1 Ministerial Direction 4.1 Flooding's requirements. This flooding assessment will need to be provided in a single consolidated package;
 - (f) ensure the traffic impact assessment accurately reflects the proposed uses of the site and the development concept scheme;
 - (g) discuss the mechanism for how public access will be secured to the internal laneway/open space;
 - (h) apply Clause 6.16 - Development requiring the preparation of a Development Control Plan of the Bayside LEP 2021 to the site; and
 - (i) ensure the recently introduced employment zones are accurately referenced and identified.
2. Public exhibition is required under section 3.34(2)(c) and Clause 4 of Schedule 1 to the Act as follows:

- (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2022) and must be made publicly available for a minimum of 20 working days; and
- (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2022).

Exhibition should commence within 3 months following the date of the Gateway determination.

3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable Directions of the Minister under section 9 of the EP&A Act:
 - i. Transport for NSW;
 - ii. APA Group – operator of the Moomba Sydney High Pressure Ethane Pipeline;
 - iii. Ausgrid;
 - iv. Sydney Water;
 - v. NSW State Emergency Service; and
 - vi. NSW Department of Planning and Environment's Environment and Heritage Group.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge the planning proposal authority from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. Given the nature of the proposal, Bayside Council is not authorised to be the Local Plan-making Authority.
6. The timeframe for completing the LEP is 9 months from the date of Gateway determination.



25 May 2023

Alexander Galea
Manager, Place & Infrastructure



29 May 2023

Laura Locke
Director, Eastern and South Districts

Assessment officer

Claire Mirow

Senior Planning Officer, Eastern and South Districts

(02) 9274 6472