



IRF23/2475

Gateway determination report – PP-2022-1337

Westfield Eastgardens – 152 Bunnerong Road,
Eastgardens

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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
Revised Planning Proposal prepared by Urbis Pty Ltd (April 2022)
Addendum to Strategic Justification prepared by Urbis Pty Ltd (2023)
Urban Context Report prepared by Urbis Pty Ltd (2019)
Retail Economic Impact Assessment prepared by Urbis Pty Ltd (2018)
Commercial office economic impact assessment prepared by Colliers International (2019)
Traffic Assessment and Addendum to Review of Transport Matters prepared by SLR Consulting (2019)
Transport for NSW Response (November 2022)
Quantified risk assessment prepared by Systra Scottlister (2019)
Draft site-specific development control plan prepared by Architectus (November 2019)
Aeronautical impact assessment prepared by Strategic Airspace Pty Ltd (2019)
Updated Eastgardens development societal risk results technical note prepared by Sherpa Consulting Pty Ltd (December 2021)
Department of Planning and Environment review of Technical Note (2022) & Department of Planning and environment Industry Assessments (Hazards) response – 31 March 2022
Site Map
Proposed LEP Mapping
Response to Sydney Eastern Planning Panel following rezoning review (2022). Prepared by Urbis Pty Ltd.
Council Meeting Agenda – 8 April 2020
Council Meeting Minutes 22 June 2022 (Council accepting PPA role)
Rezoning Review Record of Decision 23 June 2023

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Bayside
PPA	Bayside Council
NAME	Westfield Eastgardens - 1,139 Jobs – no dwellings
NUMBER	PP-2022-1337
PROPOSAL CATEGORY	Standard
LEP TO BE AMENDED	Bayside LEP 2021
PROPOSAL SITE	152 Bunnerong Road, Eastgardens NSW 2036
DESCRIPTION	Lot 1 DP 1058663
RECEIVED	20/07/2023
FILE NO.	IRF23/2475
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

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to amend the planning controls for Westfield Eastgardens to facilitate its expansion, in order to deliver an upgraded, high quality retail centre, along with new commercial buildings to assist in the creation of jobs and strengthening the economic role of the centre to meet the 'Strategic Centre' status.

The intended outcome is to:

- Amend Bayside LEP to amend FSR and height of building controls for the proposal site
- Increase the FSR from 1:1 to 1.8:1
- Insert a new clause to implement the consideration of the framework and risk assessment as part of relevant future development applications
- Increase maximum height of building from 25m to part 25m, 34m, part 40m and part 59m.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to facilitate the expansion of the Westfield shopping centre on the proposal site by developing two mixed commercial and office towers at the southeast of the site, providing additional carparking to replace the lost spaces consumed by tower space and expanding the cinema area within the centre (the southwest part of the site).

To achieve the stated objectives, the planning proposal seeks to amend the Bayside LEP 2021 per the changes identified in **Table 4**. The amendments are estimated to create an additional 1,139 jobs.

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	B3 Commercial Core	No change
Maximum height of building	25m	Part 25m Part 34m Part 40m Part 59m (See figure 8)
Floor space ratio	1:1	1.8:1
Additional local provision	N/A	New provision to implement consideration of the framework and risk assessment as part of a future development application.
Design excellence	N/A	The site will be added to the Design Excellence Map (Sheet DEX_012) to apply Clause 6.10 Design excellence.

The proposed design excellence provisions are included in the rezoning review addendum to the proposal. A Gateway condition is recommended to update the planning proposal prior to consultation to include this amendment.

A concept development scheme has been provided to demonstrate a built form that could be achieved under the proposed amendments. Extracts are provided in **Figures 2 and 3** below. To avoid confusion, the planning proposal should be updated prior to consultation to ensure all figures clearly identify the proposed LEP amendments are separate from the future scheme which is not subject to assessment under this planning proposal.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.3.1 Site Specific development control plan (DCP)

The proposal includes a draft site specific DCP prepared by Architectus in consultation with Council staff. It seeks to establish development principles and controls for the site, provide for public domain upgrades and encourage the evolution of the centre as a high-quality mixed-use centre.

The draft DCP divides the site into four precincts, which are at different stages of planning and development (see **Table 4** and **Figure 10**).

The draft DCP does not form part of the Gateway assessment for the planning proposal and does not impede it progressing to Gateway.

Table 4: Outline of draft DCP precincts and directions

Precinct	DCP Directions
Precinct 1 – Bunnerong Road Main Street Renewal Precinct	<ul style="list-style-type: none"> Provisions for access and public domain Detailed provisions for the design of buildings A, B and C The “future development” footprints D and E show potential locations for student housing or commercial premises, subject to feasibility, design and planning considerations. The draft DCP provides principles for future master planning to test these building locations.
Precinct 2 – Wentworth Avenue minor retail and parking additions	<ul style="list-style-type: none"> Controls for additional retail and parking Principles and controls for location and design of additional development
Precinct 3 – Cinema, Entertainment and Food Gateway Precinct	<ul style="list-style-type: none"> Additional development for entertainment, retail and food and beverages, including opening Westfield to the street with outdoor dining Principles and controls for location and design of any additional levels and the extended cinema Principles for future master planning.
Precinct 4 – Westfield Drive short-term public domain and access improvements	<ul style="list-style-type: none"> General guidelines for future master planning and interim design outcomes for short term improvements to the presentation and function of Westfield Drive.

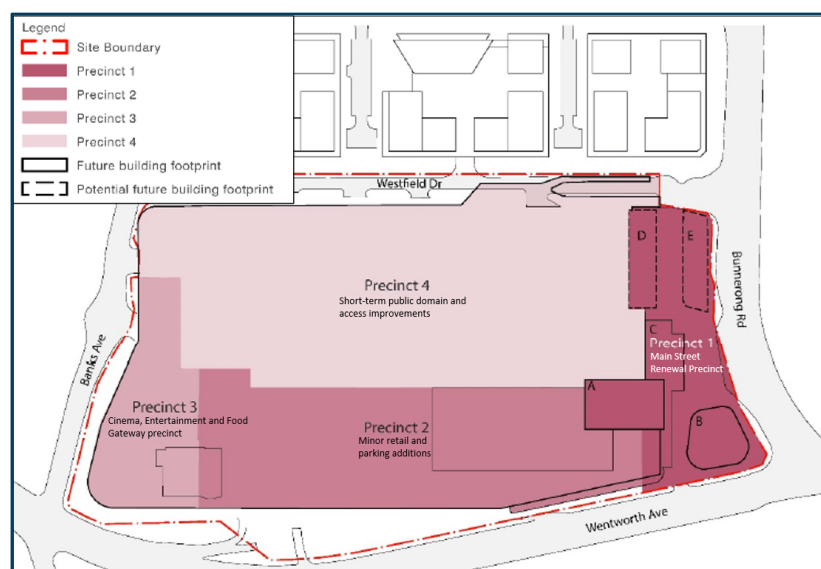


Figure 1: Draft DCP Precinct Layout (Architectus 2019)

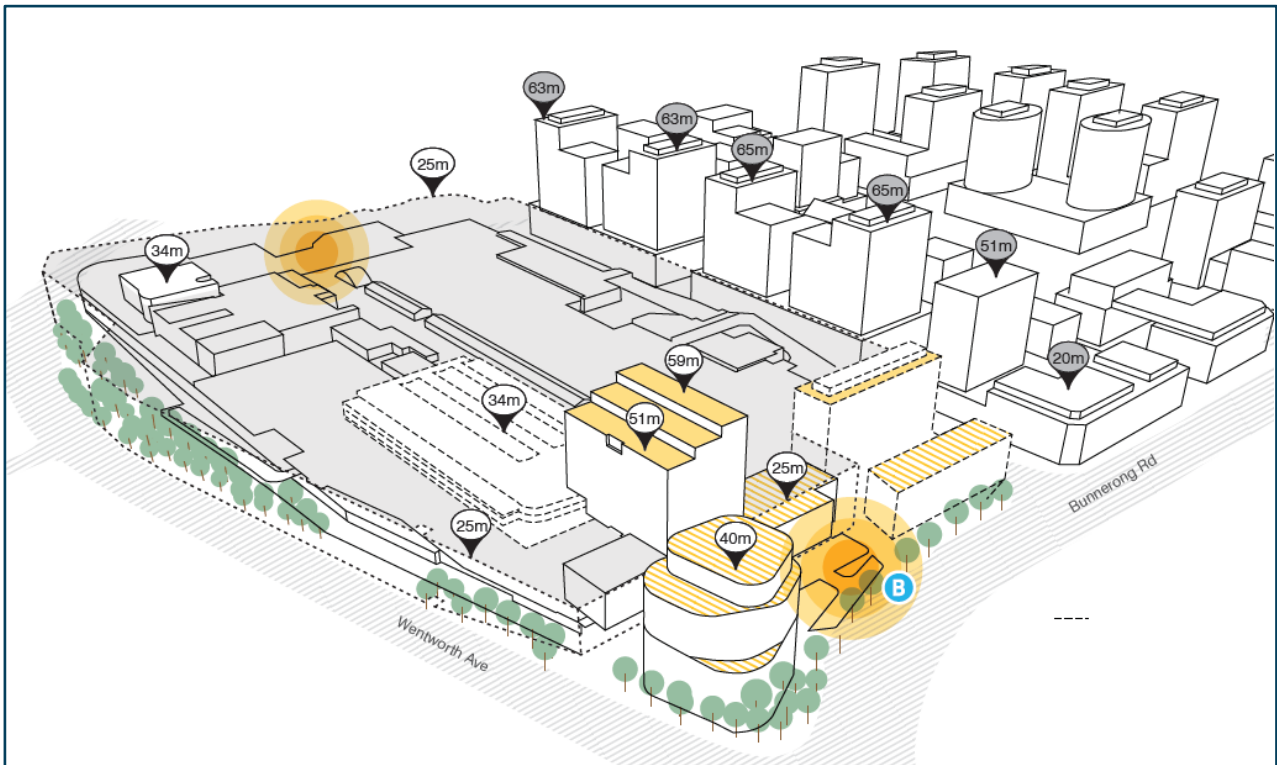


Figure 2: Development Concept Scheme (Planning Proposal, 2023)

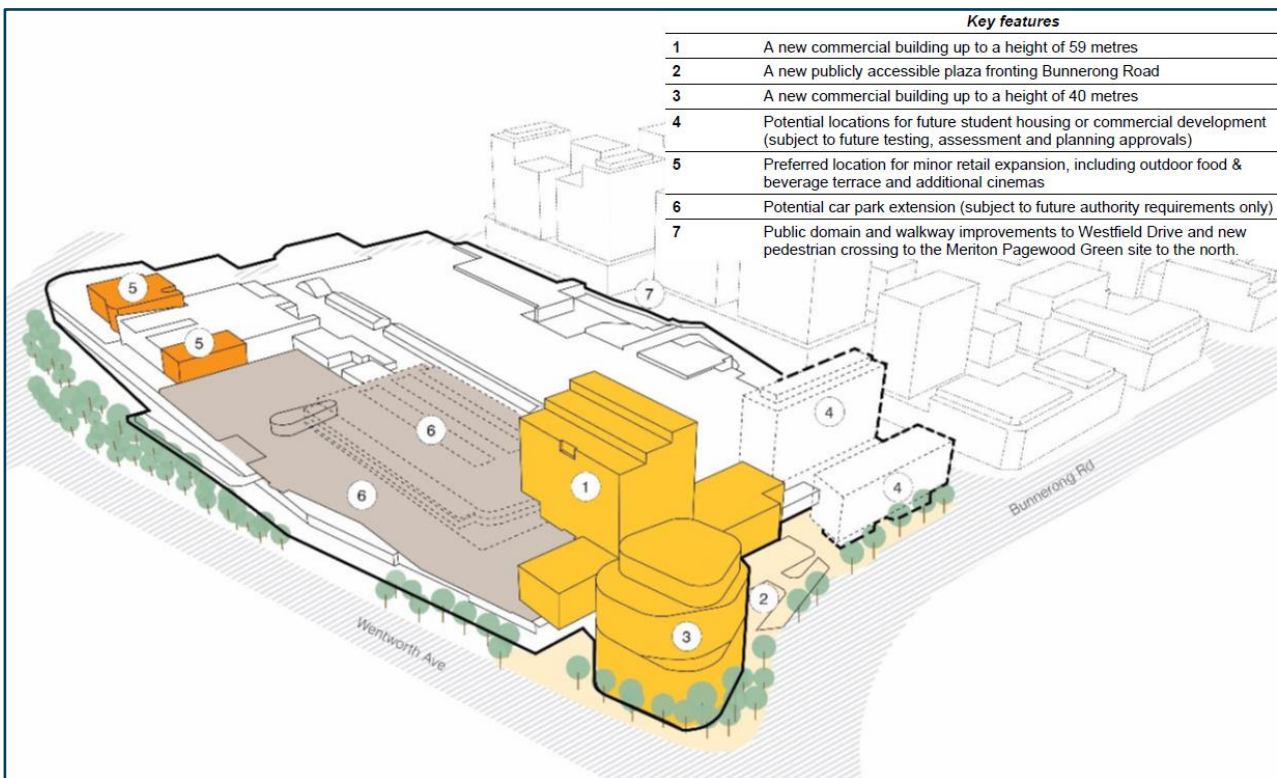


Figure 3: Master Plan Key Features, including potential Future Stage tower forms (Draft DCP 2023)

1.4 Site description and surrounding area

The planning proposal applies to 152 Bunnerong Road, Eastgardens which is legally described as Lot 1 in DP 1058663 (**Figure 1 and Figure 2**). The site is in the Bayside Council LGA approximately 8km south of the Sydney CBD.

The site has a total area of approximately 9.3ha and is occupied by the 'Westfield Eastgardens' shopping centre which was established in October 1987 and extended in 2001. Westfield Eastgardens is fully enclosed with multiple levels, including large format retail and over 250 smaller stores.



Figure 4: Subject site (Urbis, 2022)

The surrounding area comprises a variety of land uses including industrial, residential, and open space. To the southwest of the site are the heavy industrial areas of the Botany Industrial Precinct (BIP) and Port Botany and further south is the Sydney Airport.

Immediately to the north of the site is the former British American Tobacco (BATA) site which is ongoing redevelopment for mixed use residential by Meriton.

The south of the site beyond Wentworth Avenue is the Hensley Athletic Field and a low-density residential area.

Other significant uses in the wider area include the University of New South Wales and the Randwick Health and Innovation Precinct which includes the Sydney Children's Hospital, the Prince of Wales Hospital and the Royal Hospital for Women.



Figure 5: Site context map (Urbis, 2022)

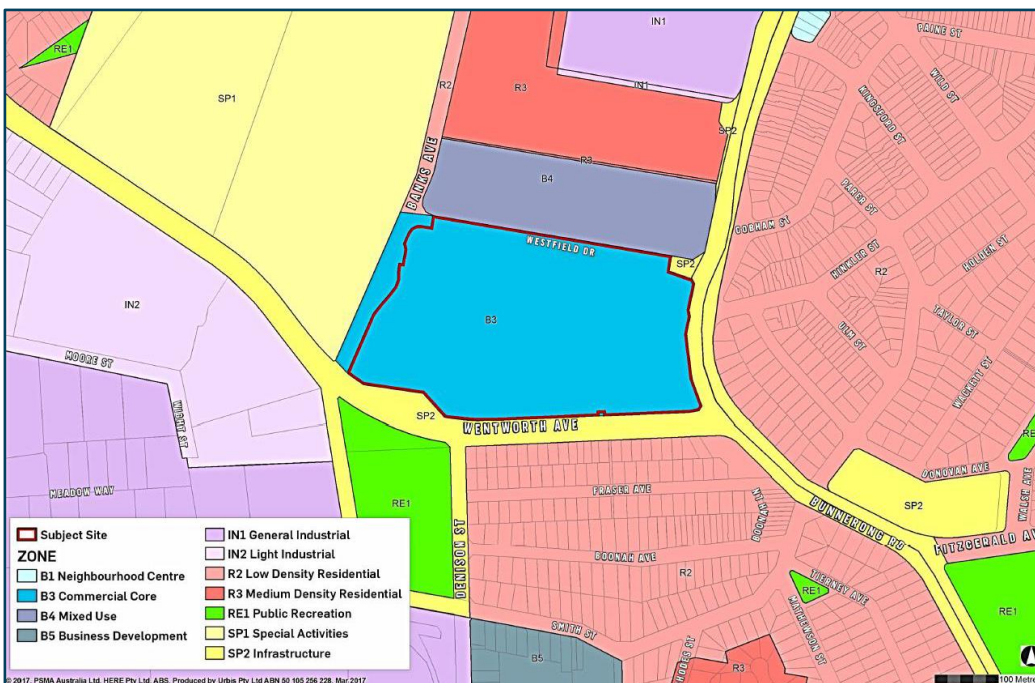


Figure 6: Current zoning map (Spatial viewer, 2023)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Floor Space Ratio, Height of Buildings and Design Excellence maps, which are suitable for community consultation. However, a Gateway condition is recommended to require the preparation of draft LEP maps.

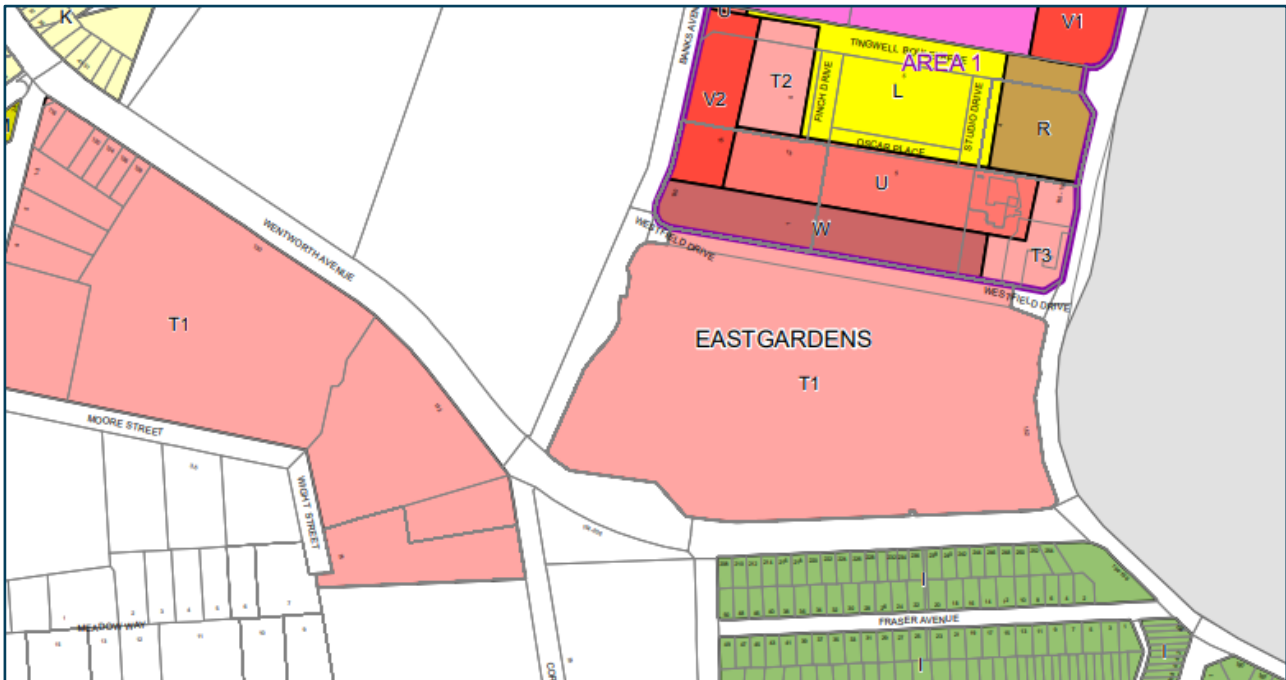


Figure 7: Current height of building map (Spatial Viewer, 2023)

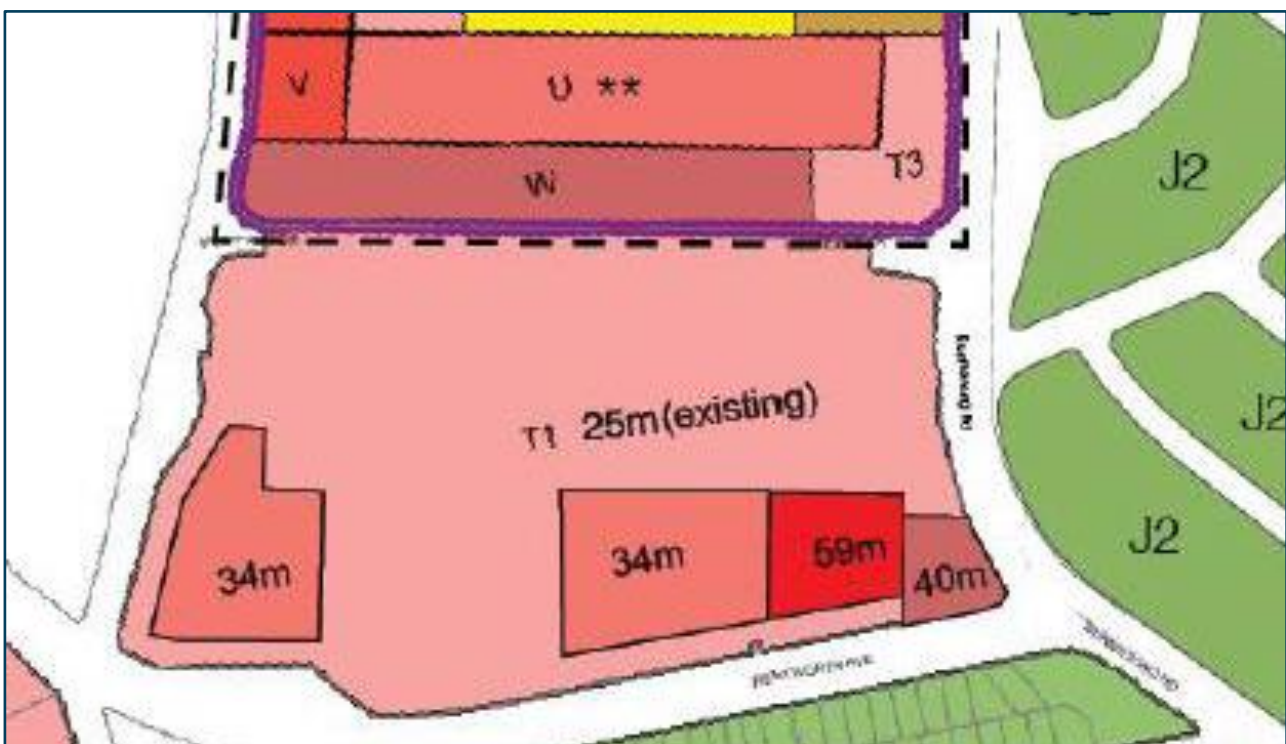


Figure 8: Proposed height of building map (Planning Proposal, 2022)

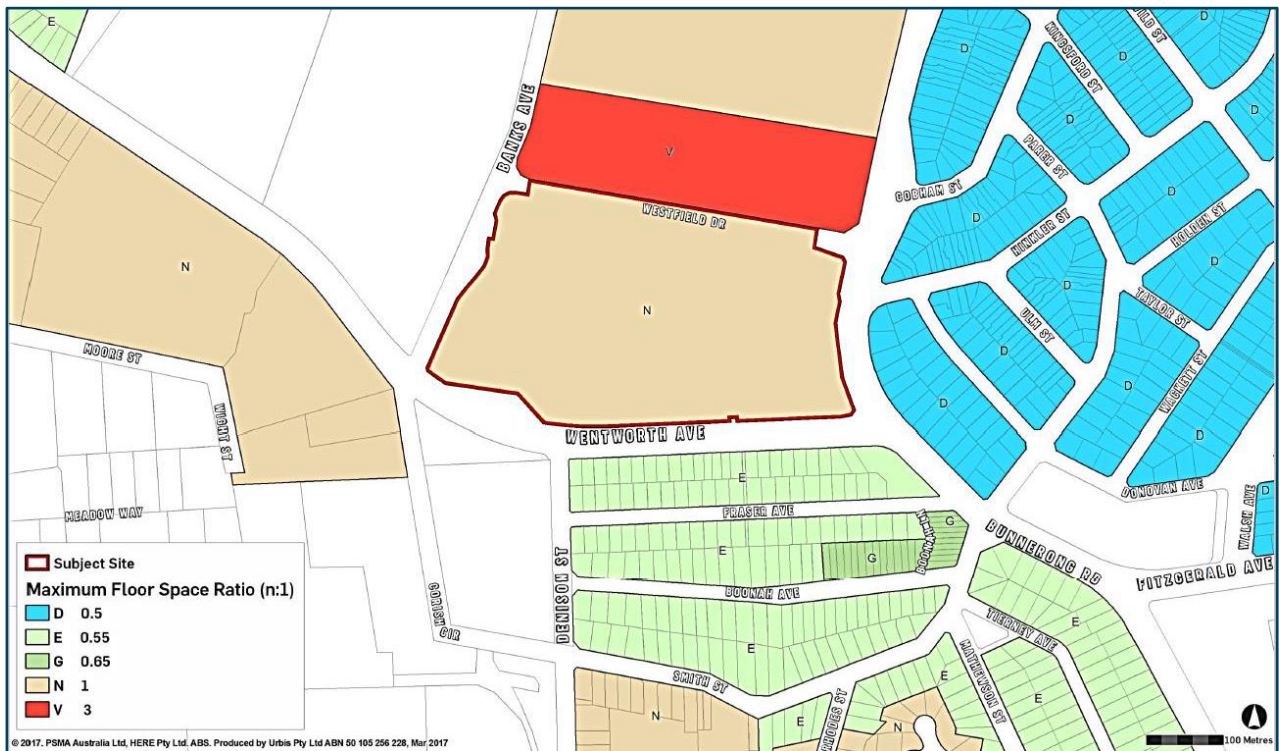


Figure 9: Current floor space ratio map (Spatial viewer 2023)

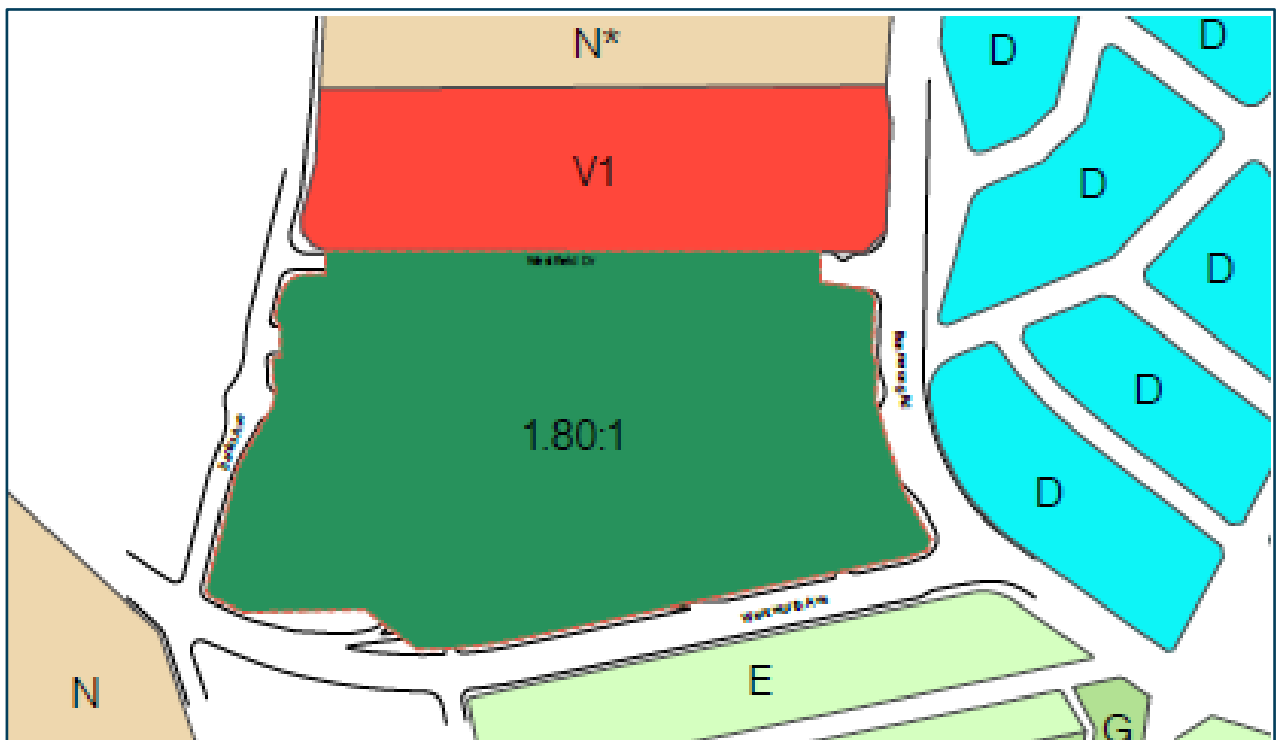


Figure 10: Proposed floor space ratio map (Planning proposal 2023)

1.6 Background

A summary of the proposal to date is provided in the table below.

Table 5: Background timeline

Date	Event
29 May 2017	First proposal lodged with Bayside Council
21 March 2028	Proponent submitted additional information to Council
5 March 2019	Revised planning proposal submitted to Council
23 December 2019	Revised version of proposal lodged to Council in response to additional comments from Council and its advisors relating to overshadowing, presentation, pedestrian safety and the draft DCP.
18 February 2020	Proposal considered by Bayside Local Planning Panel
8 April 2020	Council resolved that consideration of the proposal be deferred for an independent peer review of the work to be done and be referred back to Council.
12 May 2020	The proponents lodged a request for Rezoning Review due to council failing to indicate support after 90 days of lodgement of the proposal.
16 July 2020	The Proponent withdrew the Rezoning Review to allow the proponent to address the Botany Industrial Park Quantitative Risk Assessment 2018.
14 April 2022	Proponent lodged request for Rezoning Review
27 June 2022	Sydney Eastern City Planning Panel resolved to defer consideration pending additional information (see section 1.7 of this report)
3 April 2023	Proponent submitted additional information
16 May 2023	Council advises the proponent that the current public benefit officer is not supported
15 June 2023	Sydney Eastern City Planning Panel determined that the proposal has strategic and site merit and should be submitted for a Gateway (see section 1.7 of this report).
31 July 2023	Planning proposal lodged for Gateway.

1.7 Rezoning Review RR-2023-15

On 27 June 2023 the Sydney Eastern City Planning Panel (the Panel) considered a rezoning review for the planning proposal. The Panel resolved to defer consideration pending additional information regarding:

- Further justification of strategic merit
- Details of a public benefit offer made to Council
- Requirements of TfNSW for an upgraded bus interchange
- Advice from Council's Design Excellence Panel.

On the 15 June 2023 the Sydney Eastern City Planning Panel (the Panel) determined that the proposal has strategic and site merit and should be submitted for Gateway.

The panel's decision included recommendation on matters to consider as part of the Gateway assessment:

- *built form impacts, including transitioning of the heights to surrounding residential development and the identification of setback distances on the proposed Height of Building Map. This could include the need to further refine the proposed locations for building height increases on the site;*
- *the overshadowing implications of the maximum building height envelopes and possible revisions to the proponent's solar maps; and*
- *the implications of the Build-to-rent housing provisions in the Housing SEPP and their application to the site.*

The Panel also recommended that principles and methodology for suitable public benefit offer arrangements have been agreed to by the proponent and Council prior to public exhibition.

The matters identified in the Panel's recommendations have been considered in the Department's assessment of the proposal. See **Sections 3.5, 3.6 and 4.1** of this report.

2 Need for the planning proposal

The planning proposal is not the direct result of the LSPS, LHS, or Department approved strategy or study. It is a proponent-initiated site-specific proposal. However, the site is within the Eastgardens-Maroubra Junction strategic centre which the District Plan and Bayside LSPS identifies as an area for future growth, particularly for the creation of jobs.

In October 2022, the Sydney Eastern City Planning Panel's Strategic Planning Panel considered a rezoning review for the site and determined that the proposal has sufficient site specific and strategic merit to proceed to Gateway.

The planning proposal seeks to facilitate the expansion of the Westfield Eastgardens shopping centre by amending the LEP to increase the FSR and HOB standards that apply to the site. This will provide capacity for an enhanced shopping centre and new commercial buildings within an identified strategic centre.

A planning proposal to amend the LEP is the best means to enable orderly development for the proposed expansion of the Westfield Eastgardens centre. It provides certainty for Council, the proponent and the community about the development potential of the site.

3 Strategic assessment

3.1 Regional Plan

The Greater Sydney Region Plan – *A Metropolis of Three Cities* (the Region Plan), released by the NSW Government in 2018, integrates land use, transport and infrastructure planning and sets a 40-year vision for Greater Sydney. The Plan contains objectives, strategies and actions which provide the strategic direction to manage growth and change across Greater Sydney over the next 20 years.

Eastgardens-Maroubra Junction is recognised within the Eastern Harbour City as a strategic centre. The planning proposal provides strategic alignment with the Region Plan by facilitating commercial growth in an area identified as a strategic centre. More detailed assessment of this alignment is discussed under the assessment of the Eastern City District Plan.

3.2 District Plan

The site is within the Eastern City District. The Greater Sydney Commission released the Eastern City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal addresses the priorities of the District Plan and is supported by an addendum containing additional strategic justification dated 3 April 2023. The addendum was prepared by the proponent in response to the Panel's request for more information on 28 June 2023 during the Rezoning Review:

- *The Proponent is to provide further justification for strategic merit, in particular consistency with the Eastern City District Plan and the Local Strategic Planning Statement. Notably, the Applicant is to clearly demonstrate how this planning proposal will aid in the achievement of the Planning Priority E11 of the Eastern City District Plan as it applies to the Eastgardens-Maroubra Junction strategic centre as a whole. The Applicant is to have regard to any more recent, relevant and available local planning studies and strategies.*

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. **Table 5** below provides an assessment of the planning proposal against the relevant priorities and actions of the Eastern City District Plan.

Table 6 District Plan assessment

District Plan Priorities	Justification
E3. Providing services and social infrastructure to meet peoples changing needs.	<p>The planning proposal will facilitate an extension of the Eastgardens Westfield shopping centre. This will create new employment floor space within a strategic centre serviced by public transport infrastructure.</p> <p>The proposal is consistent with this priority.</p>
E5. Providing housing supply, choice, and affordability with access to jobs, services and public transport	<p>Delivery of increased housing supply is not intended outcome for this proposal, however the proposal will support access to jobs and public transport for the surrounding residential area-recent high-density developments to the north and low-density dwellings to the east and south.</p> <p>The proposal broadly supports this priority.</p>
E.10 Delivering integrated land use and transport planning and a 30-minute city.	<p>The planning proposal will facilitate an extension of the Eastgardens Westfield shopping centre which co-locates jobs growth, commercial uses and retail with existing infrastructure.</p> <p>A Gateway condition is recommended for further consultation with TfNSW in relation to traffic modelling and the existing bus interchange. See section 3.5 of this report.</p>

District Plan Priorities	Justification
E11. Growing investment, business opportunities and jobs in strategic centres.	<p>Eastgardens-Maroubra Junction is identified as a strategic centre in the District Plan. Action 48 seeks to strengthen the strategic centre through approaches that project and expand jobs and economic activities, promote place making and affordable housing, and improve transport connections.</p> <p>The Plan sets a jobs target of 8000 to 9000 jobs by 2036. The amendments could contribute up to 1,139 additional jobs towards achieving this target.</p> <p>As well as contributing to jobs targets, the planning proposal will provide additional commercial and retail floor space in the strategic centre. The proposed expansion of the Eastgardens Westfield will also provide opportunities for future placemaking and transport improvements.</p> <p>The proposal is consistent with this priority</p>

3.3 Local Plans

3.3.1 Local Strategic Planning Statement

The Bayside Local Strategic Planning Statement (LSPS) sets out a 20-year land use vision to guide land use planning for the Bayside LGA. **Table 6** provides an assessment of the proposal against the relevant priorities of the LSPS.

Table 7 Local strategic planning statement assessment

LSPS Priorities	Justification
B1: Align land use planning and transport infrastructure planning to support the growth of Bayside	<p>The planning proposal will facilitate an extension of the Eastgardens Westfield shopping centre. This will create new employment floor space within a strategic centre serviced by public transport infrastructure and is broadly consistent with the existing land use planning and infrastructure for the area.</p> <p>The proposal is consistent with priority.</p>
B5: Foster healthy, creative, culturally rich, and socially connect communities.	<p>The planning proposal facilitates new employment floorspace within a strategic centre which is serviced by existing public transport infrastructure. The proposal supports ongoing use of the site to provide jobs, retail and other services for the surrounding residential area as well as the wider area.</p> <p>The proposal is consistent with priority.</p>
B12: Deliver an integrated land use and a 30-minute city.	<p>The planning proposal facilitates new jobs and commercial and retail as part of an expansion to the Eastgardens Westfield which is serviced by existing public transport infrastructure. This supports opportunities for increased job containment with the Bayside LGA and the aspiration for a 30-minute city.</p> <p>The proposal is consistent with priority.</p>

LSPS Priorities	Justification
B15: Growing investment business opportunities and jobs in Bayside Council's strategic centres and centres.	<p>The strategic centre of Eastgardens – Maroubra Junction is centred on two retail centres being Westfield Eastgardens in Bayside and Pacific Square at Maroubra Junction in the Randwick LGA. The centre is forecast to grow from 6,900 jobs (ABS 2016) to between 8,000-9,000 jobs by 2036.</p> <p>The proposals supports the retention and expansion of the existing Westfield Eastgardens shopping centre and contributes to jobs targets for the Eastgardens – Maroubra Junction strategic centre. The amendments could facilitate up to 1,139 additional jobs.</p> <p>The proposal is consistent with priority.</p>

3.4 Local planning panel (LPP) recommendation

On the 18 February 2020 the Bayside Local Planning Panel recommended the following:

1. *The Bayside Local Planning Panel recommend to Council that pursuant to section 3.34 of the EPAA, the draft Planning Proposal for 152 Bunnerong Road, Eastgardens be submitted to the DPIE for a Gateway Determination subject to:*
 - a. *The draft DCP being updated to include further details and controls in relation to:*
 - *landscape strategy with the provision of canopy trees;*
 - *public domain interfaces and active street frontages;*
 - *car park screening;*
 - *maximum building length, maximum footprint area, building depths and articulation;*
 - *pedestrian connections;*
 - *building separation;*
 - *building height strategy; and*
 - *primary and secondary building setbacks.*
 - b. *Further refinement of the built form to ensure reasonable solar access is provided to dwellings located on the southern side of Wentworth Avenue.*
2. *If the DPIE issue a Gateway Determination that permits exhibition of the proposal, a post-exhibition report be prepared for consideration by the Bayside Local Planning Panel before making any further recommendations to Council.*

In its reasons for its decision the LPP stated that it considers the site has both strategic and site-specific merits and intensification of uses on the site and commercial office space for employment is consistent with the Metropolitan, District and Local strategies and plans for the area. Furthermore, the increase in FSR and height on the subject site provides the opportunity to incorporate sustainability measures in the DCP /concept plan

3.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 8 Section 9.1 Ministerial Direction assessment

Directions	Consistent/ Inconsistent/ Unresolved	Reasons for consistency or inconsistency
1.1 Implementation of Regional Plans	Consistent	<p>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>The planning proposal is broadly consistent with the Region Plan, Eastern City District Plan and LSPS. Refer to section 3.2 for further assessment.</p>
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>The planning proposal seeks to include an LEP provision to allow consideration of the NSW Land Use Safety Planning Framework and ensure notification to the Department's Hazard and Risk team at development application stage.</p> <p>The proposed provision 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 Department.</p>
1.4 Site Specific Provisions	Inconsistent	<p>This direction seeks to discourage unnecessarily restrictive site-specific planning controls.</p> <p>The proposal is inconsistent with this direction as it includes a site-specific provision for land use safety requirements. However, the planning proposal primarily seeks to enable the expansion of the Westfield shopping centre by amending the principal development standards that apply to the site.</p> <p>The inconsistency with the direction is of minor significance as it will ensure orderly development assessment in accordance the existing land use safety planning framework.</p>
4.1 Flooding	Unresolved	<p>This Direction seeks to ensure development of flood prone land is consistent with the Flood Risk Management Manual and ensure LEP provisions are commensurate with the flood behaviour and consider the potential impacts on and off the land.</p> <p>The site and surrounding area are identified as being flood prone in 1% AEP and PMF flood events. This direction applies as the proposal seeks to alter development standards that apply to a site identified as flood prone.</p> <p>The Birds Gully and Bunnerong Road Flood Study identifies the site under the hydraulic hazard as largely H1 (no restrictions) during the 20% and 5% AEP events and a small area of H2 (unsafe for small vehicles) under the 1% AEP event.</p> <p>Extracts from the Birds Gully and Bunnerong Road Flood Study (Figures 8 and 9) below show the site as being affected in the PMF</p>

Directions	Consistent/ Inconsistent/ Unresolved	Reasons for consistency or inconsistency
		<p>flood event by flood fringe, flood storage and floodway with hazard levels primarily in the H1 to H3 range.</p> <p>The requirements of this Direction need to be addressed in the planning proposal prior to community consultation. The Flood Risk Management Manual (2023) and 2022 Flood Inquiry should also be addressed. A condition is recommended to this effect and to require preparation of a flood impact assessment</p> <p>The Gateway also includes conditions to consult with the Environmental and Heritage Group (EHG) of the NSW Department of Planning and Environment and the NSW State Emergency Services (SES).</p> <p>Consistency with this Direction remains unresolved until the planning proposal is updated, and consultation is completed.</p>

Directions	Consistent/ Inconsistent/ Unresolved	Reasons for consistency or inconsistency
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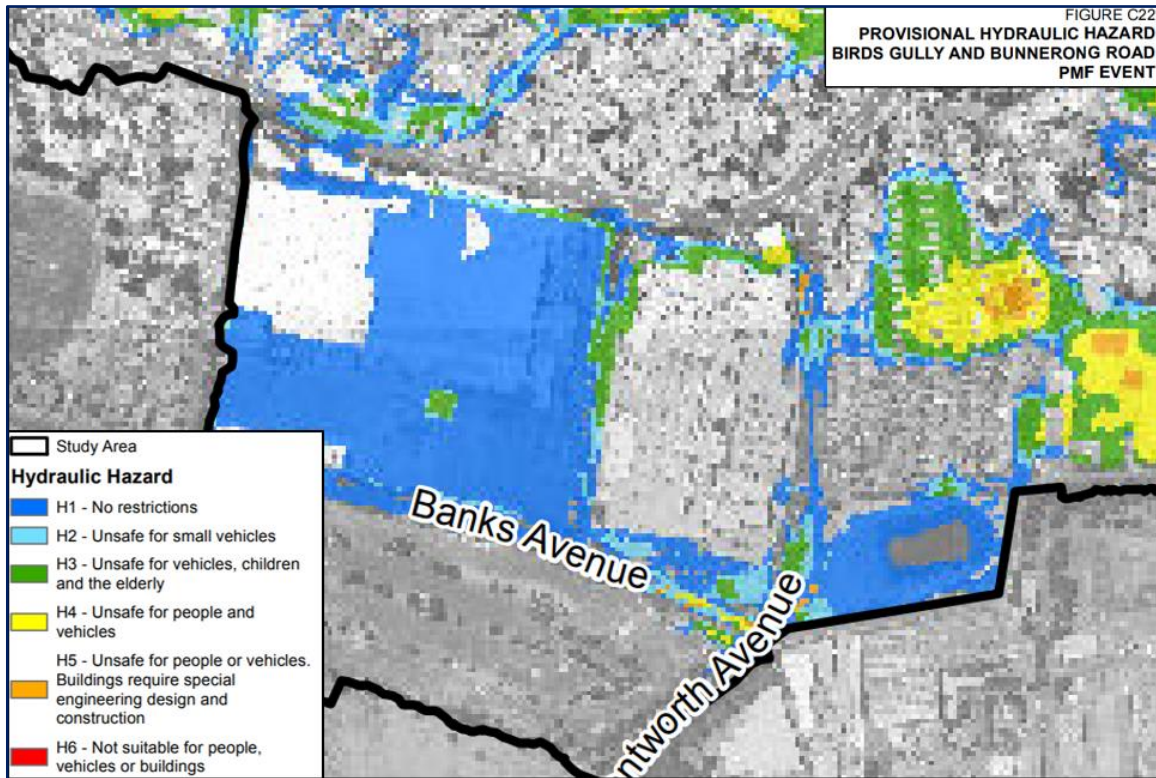


Figure 11: Provisional Hydraulic Hazard (Source: Birds Gully and Bunnerong Road Flood Study - Volume 2, 2018)

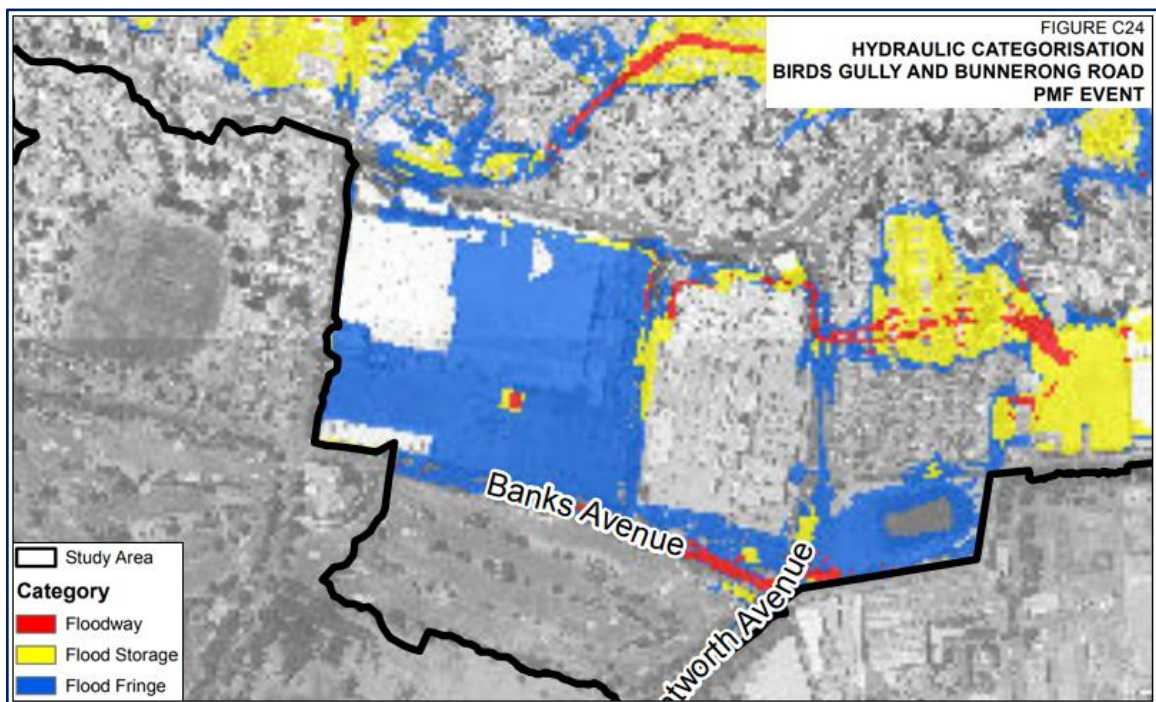


Figure 12: Hydraulic Categorisation (Source: Birds Gully and Bunnerong Road Flood Study - Volume 2, 2018)

Directions	Consistent/ Inconsistent/ Unresolved	Reasons for consistency or inconsistency
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 by planning proposal authorities.</p> <p>The planning proposal does not seek to rezone the land to permit any land uses that are not already permissible under the existing zoning.</p> <p>Chapter 4 of SEPP (Resilience and Hazards) 2021 contains suitable provisions to ensure consideration of whether land is contaminated to be adequately assessed as part of a future development application.</p>
4.5 Acid Sulfate Soils	Inconsistent	<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>The site is mapped as potentially containing Class 5 acid sulfate soils. An acid sulfate soils study has not been provided.</p> <p>This inconsistency is of minor significance as Class 5 acid sulfate soils are a low risk class and the Bayside LEP 2023 contains suitable provisions to ensure that this matter can be appropriately considered and addressed as part of any future development application involving any excavation of the site.</p> <p>The proposal is therefore justifiably inconsistent with this direction.</p>
5.1 Integrating Land use and Transport	Unresolved	<p>Direction 3.4 aims to encourage sustainable transport, reduced dependency of private vehicles, reduced travel demand, and the use of public transport.</p> <p>The planning proposal seeks to expand and intensify the use of the existing shopping centre and car parking. It also identifies an opportunity to upgrade the existing bus interchange at Bunnerong Road to improve the customer experience and increase service capacity.</p> <p>Council consulted with TfNSW at scoping stage and TfNSW has provided comment on issues requiring further consideration and modelling. .</p> <ul style="list-style-type: none"> <u>Bus interchange</u> <p>The existing bus interchange services 12 bus routes, providing public transport to the Eastern suburbs, Sydney CBD, South and the Inner West. There have been significant changes to the bus services since 2018. The Department recommends that the report is updated to reflect this and consider the potential implications for the proposal and the bus interchange design.</p> <p>TfNSW has advised it does not support the proposed concept design but is open to collaboratively working with the proponent to ensure a modified design can satisfy operational requirements for this location. It is recommended that the</p>

Directions	Consistent/ Inconsistent/ Unresolved	Reasons for consistency or inconsistency
		<p>proponent consult with TfNSW and Council to agree on a Reference Design prior to the LEP being made.</p> <ul style="list-style-type: none"> • <u>Traffic and transport assessment</u> <p>A traffic demand study and addendum prepared by SLR Consulting (2019) supports the planning proposal. The the transport assessment found that the proposal will generate additional traffic, but the increase is not expected to negatively impact the performance of the surrounding road network. It also found that the proposal would not significantly affect pedestrian performance outcomes.</p> <p>As this study was undertaken in 2019, the Department recommends that the proponent review the data to identify how traffic conditions may have changed in post-COVID conditions and consider the potential implications for the proposal. Consideration should also be given to ensuring the active transport and walking can be facilitated. Further consultation is to be undertaken in relation to the matters raised by TfNSW.</p> <p>Consistency with this Direction remains unresolved under further consultation with TfNSW has been completed and relevant matters are addressed.</p>
5.3 Development Near Regulated Airports and Defence Airfields	Unresolved	<p>The objectives of this direction are to ensure the effective and safe operation of regulated airports and defence airfields. It also aims to ensure surrounding development incorporates appropriate measures to mitigate aircraft noise.</p> <p>The planning proposal is supported by a Preliminary Aeronautical Assessment report (Strategic Airspace, 2019) which shows the intended building height is a maximum of 94.4m AHD and is below the PANS OPS by 32m. Both proposed tower buildings will penetrate the Obstacle Limitation Surface (OSL).</p> <p>Clause 2 of the direction requires consultation with the relevant Commonwealth Department and the lessee/operator of the airport. As the proposal constitutes a controlled activity under s.182 of the <i>Airports Act 1996</i>, consultation and approval from the Civil Aviation Authority is required. This is included as a condition in the Gateway determination.</p> <p>The site location is below the ANEF contour 20. Accordingly, the planning proposal is not required to include a provision for noise levels under the terms of this direction.</p> <p>Consistency with this direction remains unresolved until the required consultation is completed.</p>

Directions	Consistent/ Inconsistent/ Unresolved	Reasons for consistency or inconsistency
7.1 Employment Zones	Consistent	<p>This Direction seeks to protect and encourage employment growth, as well as supporting the land and zones which support that work.</p> <p>The proposal is consistent with this direction as it will enable an increase in potential floorspace for employment uses and related public services in an Employment Zone.</p>

3.6 State environmental planning policies (SEPPs)

The planning proposal is broadly consistent with all relevant SEPPs as discussed in the table below.

Table 9: Assessment of planning proposal against relevant SEPPs

SEPPs	Consistent/ Not Applicable/ Unresolved	Reasons for Consistency or Inconsistency
SEPP Industry and Employment 2021	Not Applicable	<p>The SEPP seeks to grow a competitive and resilient economy that is adaptive, innovative and delivers jobs.</p> <p>Chapter 3 Advertising and signage is not relevant to the planning proposal but may be relevant during the assessment of a future development application.</p> <p>The planning proposal does not include provisions that will impede the operation of the SEPP.</p>
SEPP Transport and Infrastructure 2021	Not Applicable	<p>The SEPP aims to facilitate the effective delivery of infrastructure across the state and establishes requirements for development that is likely to increase demand for infrastructure, services and facilities.</p> <p>Section 2.118 of the SEPP seeks to ensure that new development does not compromise the operation and function of classified roads.</p> <p>Referral to TfNSW will be required for a future development application. The planning proposal does not include provisions that will impede the operation of the SEPP.</p> <p>Council has undertaken consultation with TfNSW at scoping stage and a Gateway condition is recommending further consultation to address the comments provided.</p> <p>Traffic and matters raised by TfNSW are discussed against the provisions of Section 9.1 Directions in Section 3.5 of this report.</p>
SEPP Housing 2021	Consistent	<p>The SEPP seeks to deliver a sufficient supply of diverse and affordable housing.</p> <p>BTR provisions have recently become permissible in the B3 Commercial Core zone, after this planning proposal was lodged for a rezoning review.</p> <p>Any future development would need to have regard to the requirements of the SEPP and development assessment considerations under the Act.</p>

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 10 Environmental impact assessment

Environmental Impact	Assessment
Building height and density	<p>The proposed increase to building heights and densities across the site intends to respond to its context within a strategic centre. It seeks to provide opportunities for additional commercial and retail providing jobs, services and other amenities for the community and future residents.</p> <p>The proposal locates most of the proposed density in the southeast of the site to ensure minimal disturbance to the central spine of the existing shopping centre and to encourage activation of street frontages. It is also intended to integrate an upgraded bus interchange on the Bunnerong Road frontage (see Section 3.5 of this report).</p> <p>The existing maximum building height is 25m across the site and the existing Westfield development is perceived as approximately five storeys from Bunnerong Road and Wentworth Avenue is primarily occupied by multi-level parking. Existing trees and landscaping partially screen the structure from the street.</p> <p>The site and the Meriton Pagewood Green development to the North have are denser and taller than the surrounding area where the dominant built form is two storey residential (Figure 15). The Pagewood Green development steps down to 19m height at the east to provide a transition to the residential area opposite.</p> <p>The development concept proposes development of up to 10 storeys across three tower forms (see Figure 2, 3 and 13).</p> <p>Tower B presents a 'strong corner' built form to the intersection of Bunnerong Road and Wentworth Avenue. It does not appear to continue the established street wall height along Bunnerong or create a transition to the R2 Low Density Residential area to the east and south. It will also result in solar impacts on low density dwellings opposite the site to the south as discussed under 'overshadowing' below.</p> <p>Whilst the proposed height is not inappropriate for a strategic centre, the planning proposal should be amended to explain in plain English how the proposed achieves a reasonable balance between activating the corner and streetscape whilst providing an appropriate transition to the residential area. A condition is recommended to this effect.</p>

Environmental
Impact

Assessment

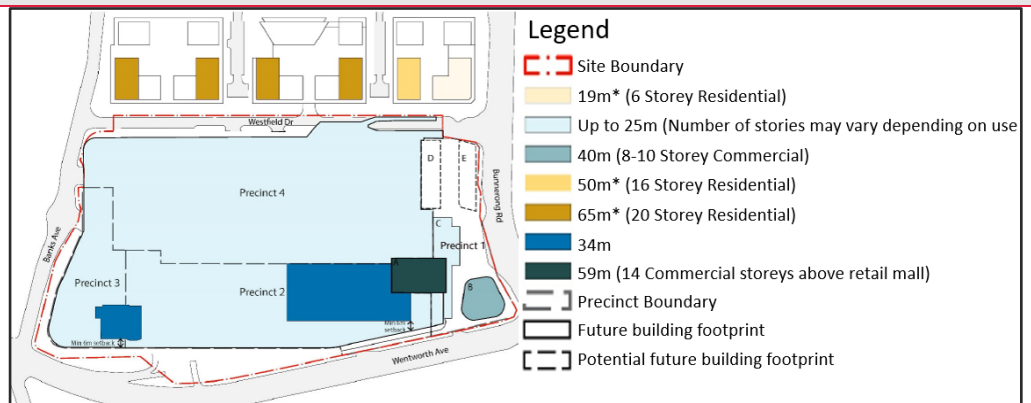


Figure 13: Preferred building height strategy (Draft DCP 2022)

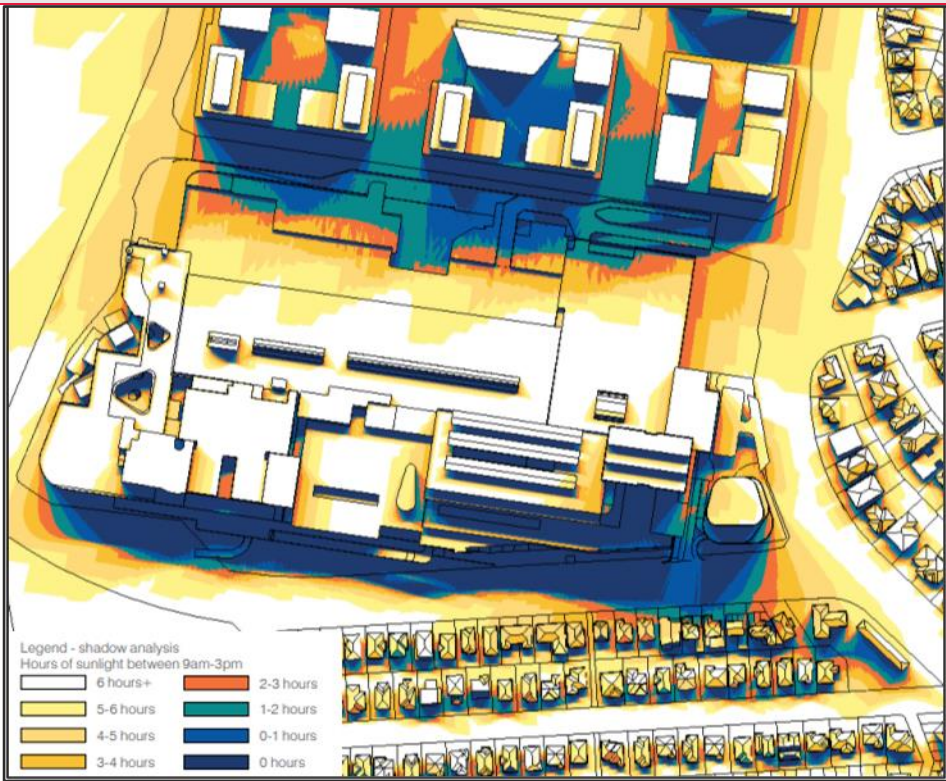


Figure 14: Concept view of Tower B (Urban Context Report, Architectus 2019)

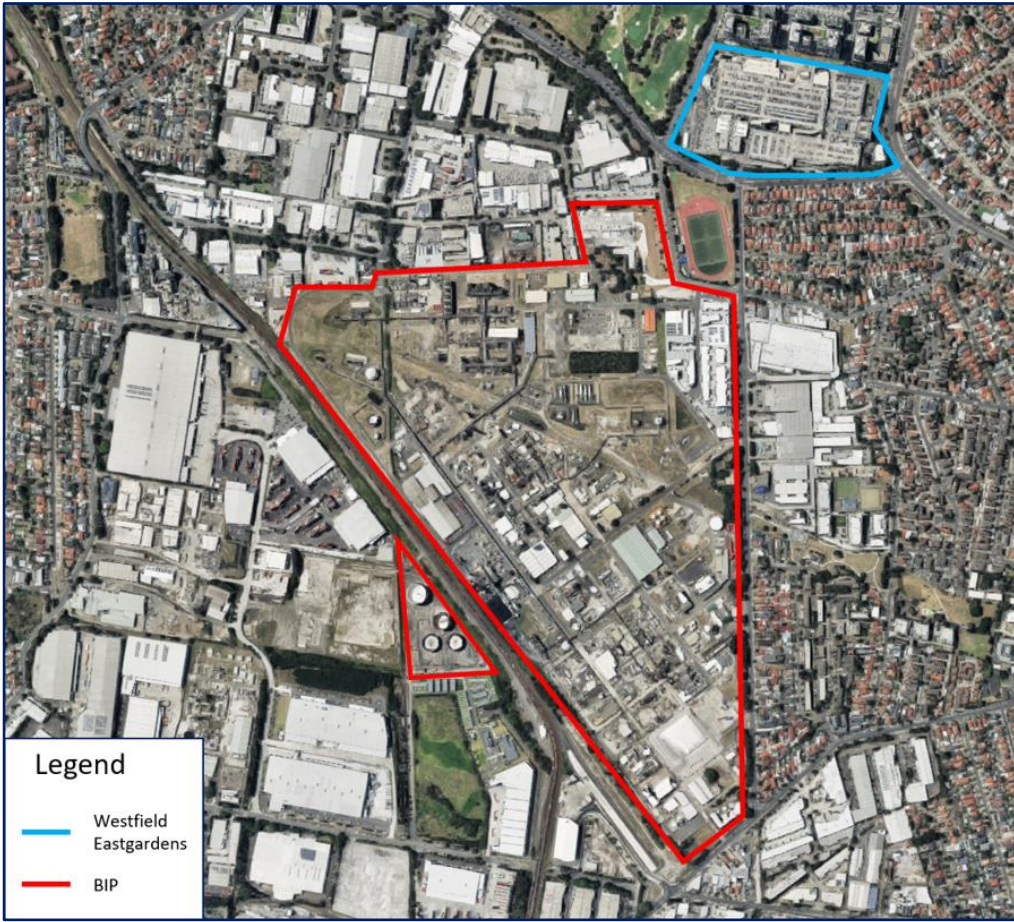


Figure 15: Aerial view of site facing North (Source Google Earth 2023)

Environmental Impact	Assessment
Solar access and overshadowing	<p>The planning proposal is supported by has been submitted with an Urban Context Report prepared undertaken by Architectus (2019) which considers solar access and overshadowing impacts on the adjoining residential area.</p> <p>This indicates that during the winter solstice the proposed towers cast long shadows that are relatively fast moving. The greatest impact on residential dwellings is seen in the area immediately to the south of Wentworth Avenue.</p> <p>Detailed assessment is provided of the impacts on the five properties between 244 and 252 Wentworth Avenue most affected by overshadowing from the proposal. It finds that 1 hour of solar access to the front building facades is achievable in the winter solstice and 2 hours minimum between the spring and autumn equinox and that there is no additional overshadowing to backyard private open space due to existing 'self-shadowing'. The Department's assessment has also identified that the dwellings at 224 and 226 Wentworth Avenue appear to be impacted by the proposal and experience a reduction of solar access in the Winter solstice.</p> <p>The amenity of the adjoining residential area is an important consideration given that the southern part of the site provides a transition from a business zone to a low-density residential zone. a Gateway condition is recommended to require further study of overshadowing impacts on 224 and 226 Wentworth Avenue prior to consultation to ensure the impact of the proposal is clearly illustrated to the community.</p> <p>The proposal is supported by detailed analysis and has been designed to mitigate impacts on the surrounding residential area. The Department is satisfied that proposal does not prevent further consideration of overshadowing impacts when a detailed design is assessed by the consent authority at the development application stage.</p>  <p>Figure 15: Existing buildings shadow analysis from 9am to 3pm on the Winter solstice (Urban Context Report, Architectus 2019)</p>

Environmental Impact	Assessment
	 <p>Figure 16: Proposed scheme shadow analysis from 9am to 3pm on the Winter solstice (Urban Context Report, Architectus 2019)</p>
Visual impact	<p>View impact analysis forms part of the Urban Context report prepared by Architectus (dated 19 December 2019) supporting the planning proposal.</p> <p>Whilst there are moderate visual impacts on the residential area to the south, overall the proposal will not result in significant impacts on views due to most views from the north, east and west having a high visual absorption capacity for the development in context with surrounding developments.</p> <p>The proposed scale is generally consistent with the expected scale of a strategic centre and ongoing use of the site for a shopping centre. The DCP also contains principles for tree retention and landscaping which will provide some mitigation.</p> <p>The visual impacts are acceptable.</p>
Hazards relating to Botany Industrial Park (BIP)	<p>The site is located near the BIP which has been occupied by major industrial uses since the 1940s (Figure 18). The BIP is a 73-hectare integrated petrochemical and chemical manufacturing complex located in Banksmeadow.</p> <p>The BIP is a major hazard facility. Whilst SEPP (Resilience and Hazards) 2021 sets out requirements for hazardous and offensive development, consideration of land in the vicinity of these uses is primarily addressed through strategic planning, the NSW Land Use Safety Planning Framework, policies, and the development assessment in relation to impacts, site suitability, consistency with DCPs, and the public interest.</p> <p>Planning proposals near hazardous facilities must ensure that future development will not introduce or unacceptably increase existing land use safety conflicts. The planning proposal must not elevate the overall risk surrounding BIP.</p>

Environmental Impact	Assessment
	<p>The Department is responsible for preparing and administering the NSW Land Use Safety Planning Framework (the Framework). Relevant to this proposal, the Framework includes:</p> <ul style="list-style-type: none"> • NSW Hazardous Industry Planning Advisory Paper No.4 – Risk Criteria for Land Use Safety Planning (HIPAP No.4) • NSW Hazardous Industry Planning Advisory Paper No.6 – Hazard Analysis (HIPAP No.6) • the December 2018 Botany Industrial Park Quantitative Risk Assessment (BIP QRA 2018) which this report provides the cumulative risk profile for the area surrounding BIP. <p>The proposal is to demonstrate compatibility with the Framework.</p> <p>The planning proposal is supported by a land use safety study (LUSS) prepared by Sherpa Consulting Pty Ltd (23 December 2021).</p> <p>On 31 March 2022, the Department confirmed that the LUSS demonstrated the proposal was compatible with the Framework subject to inclusion of a site-specific provision which:</p> <ul style="list-style-type: none"> • gives effect to the conclusions of the risk assessment to ensure no change in the cumulative societal risk as indicated in the BIP QRA 2018 Approved Case • requires that, prior to issuing any development consent, the consent authority notifies the Department's Hazard and Risk technical experts and considers any comment it provides. <p>The planning proposal includes an adequate plain English explanation of this proposed provision.</p> <p>Since this time, Build-to-rent (BtR) housing is permitted on land in employment centre zones by 2021 amendments to the Housing SEPP. Under the SEPP, BtR is permitted on the site and could potentially be assessed through the State Significant Development Application pathway by the Department. It could also benefit from FSR bonuses for affordable housing.</p> <p>The Department considers a BtR development on the site utilising the increased additional height and FSR sought by this planning proposal:</p> <ul style="list-style-type: none"> • can be compatible with the Framework • does not require a revised LUSS to demonstrate compatibility.

Environmental Impact	Assessment
	 <p>Figure 18: Site location in relation to the Botany Industrial Park (Source: Nearmap 2023)</p>
Natural hazards	<p>The site has been identified as flood prone and is affected by class 5 acid sulfate soils. An assessment against the provisions of Section 9.1 Directions 4.1 Flooding and 4.5 Acid Sulfate Soils is in Section 3.5 of this report.</p>
Biodiversity and tree preservation	<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>The proposal is supported by a draft DCP which includes design principles and setbacks for tree retention and landscaping.</p>
Aircraft noise	<p>The site is below the ANEF 20 contour and the planning proposal does not seek to permit sensitive uses that would require further assessment.</p> <p>Additionally, Clause 6.8 <i>Development in areas subject to aircraft noise</i> in Bayside LEP 2021 and the relevant Australian Standards will continue to apply to development the development the consent authority considers is likely to be adversely affected by aircraft noise.</p>

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 11 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<p>The planning proposal will enable the creation of additional commercial and retail floor space in an existing shopping centre which is close to transport infrastructure. It will contribute to meeting job targets in the District Plan, with jobs created in both the construction and operational phase of the development</p> <p>The Department is satisfied that the proposal will have a positive social impact by contributing to enhanced employment opportunities, capacity for additional businesses and services, and urban renewal.</p>
Economic	<p>Eastgardens-Maroubra Junction is identified as a strategic centre in the Region and District Plans. The planning proposal will create capacity for additional jobs in the centre and additional commercial and retail floor space in Westfield Eastgardens.</p> <p>The proposal is supported by a Retail expansion Economic Impact Assessment (Urbis, 2018) and a Commercial Economic Impact Assessment (Colliers International, 2019).</p> <p>The Department is satisfied that the proposal has adequately addressed economic impacts associated with the proposal.</p>

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 12 Infrastructure assessment

Infrastructure	Assessment
Public transport and traffic	<p>The planning proposal seeks to expand and intensify the use of the existing shopping centre and car parking. It also identifies an opportunity to upgrade the existing bus interchange at Bunnerang Road.</p> <p>Public transport and traffic, including matters raised by TfNSW, are discussed against the provisions of Section 9.1 Directions in Section 3.5 of this report.</p>
On-site parking	<p>The existing centre provides over 3,100 car parking spaces in multi-deck and rooftop parking. The proposal states additional car parking will be provided to support the expansion, including spaces to compensate for where the proposed expansion will remove existing car spaces. An indicative envelope has been included for four additional parking levels to demonstrate that compliance with the RTA Guide to Traffic Generating Developments (2022) is achievable if required.</p> <p>The proposal states that the final provision of car parking will be resolved at DA stage based on a detailed design and occupancy modelling.</p>

Infrastructure	Assessment
Utilities	<p>The site is located within an established urban area which is serviced by water, sewer services, electricity, gas and telecommunications. Consideration of servicing requirements for any proposed expansion of the Eastgardens Westfield will be subject to detailed design assessment at DA stage.</p> <p>However, as the planning proposal will result in an intensification of development on the subject site, the Department recommends that the relevant utility providers, including Sydney Water and Ausgrid be consulted. This forms a condition of the Gateway.</p>

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The planning proposal is categorised as a standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

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

- Civil Aviation Safety Authority
- Environmental Health Group – Biodiversity and Conservation Division
- Greater Cities Commission
- Randwick Council
- Department of Infrastructure, Transport, Regional Development, Communications and the Arts
- Relevant service providers, including Sydney Water and Ausgrid
- NSW State Emergency Service
- Sydney Airport Corporation
- Transport for NSW.

6 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

The Department recommends the LEP be completed on or before 24 July 2024 to ensure it is completed in line with its commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Given the strategic importance of the site and unresolved matters, the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- it is consistent with, and gives effect to the South District Plan and Bayside Council's LSPS
- it will facilitate job creation within an existing strategic centre and support the ongoing operation of the Eastgardens Westfield
- is generally consistent with the section 9.1 Directions, noting Direction 4.1 Flooding, Direction 5.1 Integrating Land Use and Transport, and Direction 5.3 Development near Regulated Airports and Defence Airfields remain unresolved.
- it is generally consistent with relevant SEPPs
- the proposal has given consideration to the likely environmental, social and economic, and infrastructure.

Further justification and consultation are required to address the unresolved Section 9.1 Directions, transport and traffic, and urban design. Gateway conditions are recommended in this regard.

9 Recommendation

It is recommended the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Directions 4.5 Acid Sulfate Soils and 1.4 Site Specific Provisions is justified in accordance with the terms of the Directions
2. note that the inconsistency with section 9.1 Directions 4.1 Flooding, 5.1 Integrated Land Use and Transport and 5.3 Development Near Regulated Airports and Defence Airfields remains unresolved until further justification has been provided and consultation undertaken.

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) Include the proposal to add the site to the Design Excellence Map in the explanation of provisions and proposed LEP maps
 - b) Include additional strategic justification currently provided in the addendum provided to the Rezoning Review dated 3 April 2023
 - c) Address Ministerial Direction 4.1 Flooding and provide a flood impact assessment. Consideration should be given to the recommendations of the 2022 NSW Flood Inquiry and the NSW Flood Risk Management Manual 2023;
 - d) Update all figures showing the development scheme to include labels which clearly separate the current proposed LEP amendments from the future parts of the scheme.
 - e) Include a revised traffic assessment which has been updated to:
 - i) Reflect changes to bus services since 2018 and consider potential implications for the proposal and proposed bus interchange upgrades
 - ii) review the data to identify how traffic conditions may have changed in post-COVID conditions and consider the potential implications for the proposal
 - iii) update report to reflect significant changes to the bus services to the site since 2018 and the potential implications it has on the proposal
 - iv) consider how active transport and walking can be facilitated.
 - f) Include an updated urban design assessment that:
 - i) Provides further solar access and overshadowing analysis for residential dwellings at 224 and 226 Wentworth Avenue .

- ii) Provide a plain English explanation of how the proposed built form achieves a reasonable balance between activating the corner and streetscape whilst providing an appropriate transition to the residential area. This should include a comparison with the height transition to the residential area adopted by the Pagewood Green development to the north.
- 2) The planning proposal should be updated prior to the LEP being made to:
 - a) address consistency with Ministerial Direction 5.1 Integrating Land Use and Transport and include the outcome of consultation with TfNSW and any refinements to the proposal that may have resulted. This should include, but not be limited to:
 - i) information on any agreement with TfNSW and Council on a Reference Design for the bus interchange
 - ii) proposed mitigation measures surrounding intersection upgrades be developed into a concept stage to demonstrate feasibility
 - b) address consistency with Ministerial Direction 5.3 Development near Regulated Airports and Defence Airfields and the outcome of consultation, including requirements for approvals from the relevant Commonwealth department.
 - c) Include a complete set of draft LEP maps.
- 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 Act:
 - Transport for NSW
 - Department of Infrastructure, Transport, Regional Development, Communications and the Arts
 - Environmental Heritage Group of the NSW Department of Planning and Environment
 - NSW State Emergency Service
 - Greater Cities Commission
 - Civil Aviation Authority
 - Sydney Airport Corporation
 - Relevant service providers, including Sydney Water and Ausgrid
 - Randwick Council.

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

Given the nature of the planning proposal, it is recommended that the Council is not authorised to be the local plan-making authority and that an LEP completion date of 24 July 2024 be included on the Gateway.



28 September 2023

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4 October 2023

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