



PLANNING PROPOSAL *REVISED*

Draft Local Environmental Plan:
Bronte RSL Sub Branch,
Nos. 109 - 113 Macpherson Street, Bronte

Lots 19, 20 and 21 in DP 192094; and Lot 22 in DP 72912

PREPARED FOR WINSTON LANGLEY BURLINGTON

23 APRIL 2014



INTRODUCTION.....	3
I BACKGROUND TO PROPOSAL	3
II THIS <i>REVISED</i> PLANNING PROPOSAL	4
III THE SUB BRANCH.....	5
IV THE SITE.....	6
V TRAFFIC	10
VI CONTEXT URBAN DESIGN ANALYSIS.....	10
VII LAND USES AND CENTRE ROLE AND ECONOMY.....	16
PART 1 - OBJECTIVES OR INTENDED OUTCOMES	18
1.1 OBJECTIVES OF THE PLANNING PROPOSAL	18
1.2 INTENDED OUTCOME: THE RSL AND WLB'S DEVELOPMENT CONCEPT FOR THE SITE	18
1.3 RESPONSE TO PAC REQUIREMENTS	21
PART 2 - EXPLANATION OF PROVISIONS	25
2.1 CURRENT CONTROLS.....	25
2.2 PLANNING PROPOSAL	27
PART 3 – JUSTIFICATION	30
SECTION A – NEED FOR THE PLANNING PROPOSAL	30
SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK	33
SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT	38
SECTION D – STATE AND COMMONWEALTH INTERESTS	45
PART 4 – MAPPING.....	46
PART 5 – COMMUNITY CONSULTATION.....	46
PART 6 – PROJECT TIMELINE.....	46

Attachments

1. Revised Traffic Impact Report, Varga Transport Planning.
2. Revised Economic Impact Assessment, Location IQ.
3. New Architectural Concept Plans, Aleksandar Design Group.
4. Compliance with Goals of NSW State Plan 2021.
5. Preliminary Assessment Against Requirements of SEPP 65

Introduction

i Background to Proposal

This Planning Proposal is made on behalf of Winston Langley Burlington and the Bronte RSL Sub Branch (WLB & the RSL). It requests an amendment to the maps of Waverley Local Environmental Plan (LEP) 2012 as they apply to the site of the Bronte RSL Sub Branch at 109 – 113 Macpherson Street, Bronte.

The proposal is submitted to Waverley Council. It is a *revised* Planning Proposal for the site and follows a request with planning proposal originally submitted to Council on 13 June 2013. Council in correspondence dated 22nd July 2013 advised WLB and the RSL of its decision not to support the original request.

The original request and planning proposal raised a number of concerns and issues within the community of Bronte regarding the character, form and potential uses within the site that could result from the amendment to LEP 2012.

Sadly, it was evident that those concerns and issues were based upon mistakes in the interpretation of the facts of the proposal and in the reading of the expert reports on potential traffic and economic impact. The latter point is significant. As the expert reports had been commissioned by both Council and WLB, they presented a genuine assessment and peer review of the impacts of any future development of the site and clearly demonstrated that any negative impacts would be minimal. Significantly, they could demonstrate that there would be a number of positive social and economic impacts for Bronte and its residents.

Therefore, there was no evidence to substantiate the issues and concerns raised. The fears and anxiety expressed by some within the Bronte community regarding potential impacts of the proposed development were simply unfounded and unnecessary. Unfortunately these emotions overwhelmed any recognition of the positive benefits, and merits, of the proposal.

WLB considered that, in this ambience, the merits of the proposal had not been given due consideration and therefore Council's decision not to proceed with the proposal was not an accurate reflection of those merits.

In response, in August 2013 WLB requested the Director General of the Department of Planning and Infrastructure to undertake a Pre-Gateway Review of the proposal in accordance with the process presented in the *"Guide to Preparing Local Environmental Plans,"* DP&I, April 2013.

On 6 December 2013, The Director General requested the Planning Assessment Commission's (PAC) advice on the Pre-Gateway Review. On 30th January 2014 the PAC determined that some flexibility with the current planning controls could be justified. It considered that the planning proposal has strategic planning merit and recommended that it proceed to the Gateway for determination. It added *"the proposal should be progressed concurrently with a design scheme which demonstrates design excellence, complies with SEPP 65, provides benefits/improvements to the public domains in the local area and addresses the issues raised by the Design Review Panel."*

ii This Revised Planning Proposal

This Planning Proposal report has been prepared in accordance with the Department of Planning and Infrastructure's Guidelines '*A Guide to Preparing Planning Proposals*' (April 2013) and responds to the direction of the PAC above.

It is supported by a revised Economic Impact Analysis prepared by Location IQ Pty Ltd, a revised Traffic Impact Analysis prepared by Varga Traffic Planning and a new architectural concept prepared by Aleksandar Design Group, Architects.

It is appropriate to note that this revised planning proposal:

- Is not a development application. The planning proposal seeks to amend LEP 2012 to put in place the planning controls to enable the development of the architectural concept to be undertaken. Should the planning proposal be successful, a development application will follow, where the concept will be developed and assessed in more detail;
- Assumes that Council's own Planning Proposal, supported at its meeting on 16 July 2013 that seeks to introduce amendments to LEP 2013 for the subject site, does not proceed where it applies to the subject site and this revised planning proposal supersedes that proposal as it applies to the subject site. Council's proposed planning proposal as it applies to the site seeks to:
 - > Introduce a cap of 400 sqm on the size of retail premises in Macpherson Street. This cap is proposed to apply only to this centre and no other B1 zoned centre in the Waverley LGA;
 - > Limits how the Bronte RSL Sub Branch may operate within the site (by a strictly defined citation in Schedule 1 of the LEP); and
- As part of the above, seeks to re-affirm the permissibility of the Sub Branch use within the site (which enjoys existing use rights).

Together, the documentation in this Planning Proposal report and supporting investigations demonstrate that the requested amendments to LEP 2012 will enable the development of the site to take place in a manner that achieves both Waverley Council's and The NSW State Government's planning strategies, as well as deliver a number of community benefits. The requested LEP amendments are well founded on social, economic and environmental grounds and support for the proposal is correspondingly requested.

The proposal requests amendments to the height and floor space ratio maps of the LEP. The proposal essentially remains unchanged to that presented in the original request.

As such, the amendments are not unknown to Council or the community and originate from comprehensive discussions with officers that commenced in mid-2011 regarding the future development of the site. In particular:

1. In October 2011 a submission was made to Council requesting that the height and floor space ratio controls in the draft LEP be increased to enable the viable redevelopment of the club premises. Council, at its 6 March 2012 Committee meeting, did not dismiss the request. Rather, it noted that "some requested amendments may be considered to have merit. However, due to their complexity, size, or effect should not be undertaken as part of this LEP. Such amendments would require a greater level of assessment and consideration and the community given the opportunity to comment before a determination is made." The RSL request was considered as one having merit to warrant investigation of potential amendments.

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2. On 1st November 2012 WLB hosted a public presentation by open invitation to the community to provide an update of its preferred development concept as part of the community engagement process established by Council. Council officers attended the session as observers. Architectural plans and traffic, urban design and economic impact studies prepared for WLB accompanied the presentation of the proposal.
 3. At the end of November WLB advised Council it intended to lodge a rezoning proposal to facilitate the outcome. Council on 26 November 2012 advised WLB not to lodge a proposal until its own review was complete. In good faith WLB agreed not to pursue its second request at that time.
 4. In March 2013 WLB lodged a development application based on the concept presented in November. The accompanying studies were updated after the presentation in November to address concerns that had been raised by the community, as well as those raised by Council's own consultants. The updated studies addressed all concerns convincingly. The documents confirmed that the impacts of the proposal would be negligible. On the contrary, implementation of the proposal could support broader social and economic planning objectives.

Of particular relevance, the development application had directly responded to specific submissions made by key stakeholders in relation to the Bronte RSL site as part of the exhibition of the draft Waverley LEP. These submissions were well-considered and were tested throughout the design development process in order to arrive at a redevelopment concept for the site. The proposal was also supported by detailed environmental impact analysis to assist stakeholders to derive a better understanding of the development opportunities and constraints of the site.

5. On 8 April 2013 Council's SEPP 65 Design Review Panel recognised that the characteristics of the site and its context warrants a potential increase in the FSR that may be accommodated within the site subject to appropriate public benefits and minimal environmental impact; and
6. The Joint Regional Planning Panel, when it considered the development application for the site at its meeting on 25th July 2013, found no environmental grounds to refuse the proposal. Rather, it refused the application on the grounds of the scale of the numerical variation to the LEP height and FSR controls.

iii The Sub Branch

The Bronte RSL Sub-Branch is at a turning point. The Sub-Branch and Club have served the Bronte community since 1946. However, the current premises, constructed in the 1970s, have become increasingly dilapidated. The Sub-Branch and Club are struggling to meet the needs of the evolving types of households and residents in the Bronte area and the financial resources of the Sub-Branch have declined.

The Sub Branch needs a new home. Furthermore, retail and economic studies prepared by both Council and WLB confirm that there is a significant undersupply of retail floor space in Bronte and the Waverley LGA to conveniently serve residents' needs.

Importantly the site is comparatively large. It represents one of the few opportunities (and perhaps the only opportunity) to achieve a contemporary mixed use development in Bronte that can maintain the presence of the Club in the area and its role to the community. It can deliver additional retail services and housing that the community demonstrably needs.

The uniqueness of the site suggests that its redevelopment cannot set any precedent for indiscriminate change to Bronte's character. Correspondingly, the opportunities of the site to deliver contemporary community facilities for Club members, new retail services to Bronte residents and much needed homes in Sydney cannot be squandered

To create a long term, sustainable and financially viable solution for the Club, the Sub-Branch has entered into an agreement with developer Winston Langley Burlington (WLB) to develop the land and provide new club facilities as part of a mixed-use project comprising a range of retail, residential and Club uses.

To achieve this financially viable solution, WLB and the RSL have embarked on a Gateway Rezoning Proposal to amend the height and floor space ratio (FSR) controls that apply to the site in the Waverley LEP 2012. The ability of the viable redevelopment of the site to achieve State Government objectives and deliver significant public benefits with minimal environmental and economic impacts is the genesis of the request to amend LEP 2012 contained in this Planning Proposal.

iv The Site

The site subject of this planning proposal is located between Chesterfield Lane and Macpherson Street in Bronte. It forms part of the Bronte Village local Commercial Centre aligned along Macpherson Street. A location plan is presented in Figure 1 below.

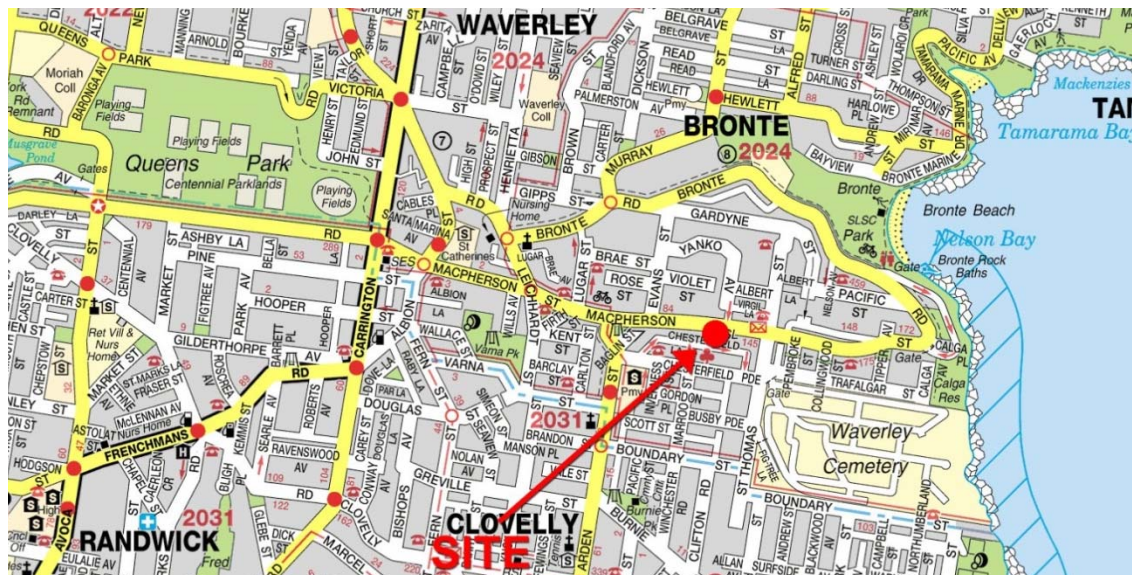


Figure 1: Location of Subject Site within Bronte (Source: Sydney UBD, Universal Publishers Pty Ltd)

The subject site comprises four lots and is known as Nos. 109 - 113 Macpherson Street. It is located in the suburb of Bronte in the Waverley Local Government Area. The subject site is illustrated in Figure 2 below and legally described as: Lots 19, 20 and 21 in DP 192094; and Lot 22 in DP 72912

There are no known easements or other encumbrances on the title that may affect the development potential of the land.

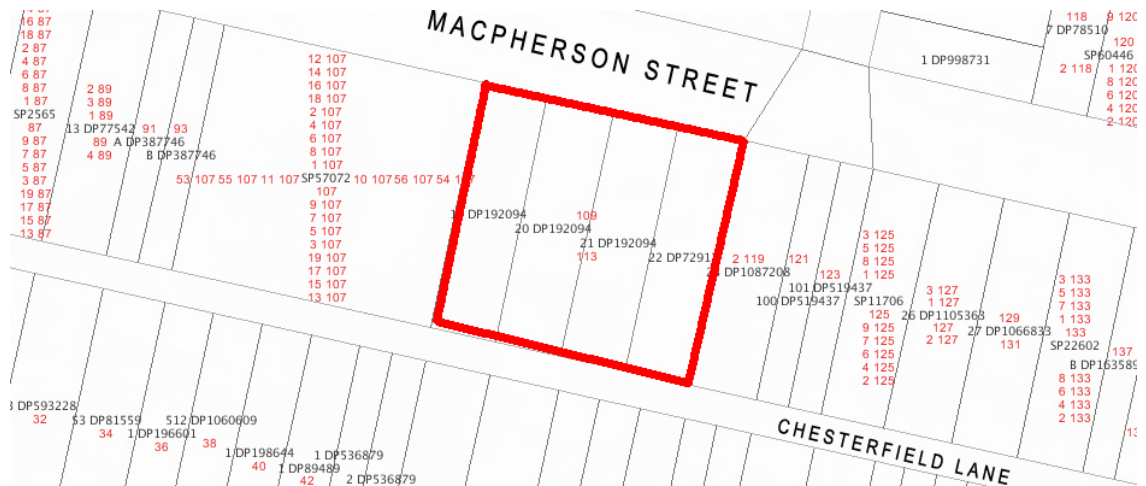


Figure 2: Lots / Deposited Plans (Source: NSW Department of Lands, 2013)

The consolidated site is rectangular in shape oriented in an east west direction. It has dual frontage to both Macpherson Street (the primary frontage) of approximately 48.7m and a similar secondary frontage (i.e. the rear boundary) to Chesterfield Lane of 48.8m. It has a depth of 45.7 metres. The site has an area of 2,231 sqm.

The site falls approximately 6 metres from its northern boundary at Macpherson Street (67.3 metres AHD at the kerb) to its southern property boundary at Chesterfield Lane (61.07m AHD). Behind Macpherson Street the site has been excavated to establish a generally level parcel of land with a height that matches Chesterfield Lane. Correspondingly, there is a retaining wall with a height of approximately 6 metres immediately behind the property boundary at Macpherson Street.

The site currently contains the premises of the Bronte RSL Sub-Branch Club. An aerial view of the site is presented in Figure 3 below.



Figure 3: Aerial View of Site (Source: NSW Department of Lands, 2013)

The current building was built in the 1970s and exhibits a modest and somewhat unremarkable commercial modernist architectural character that was common during this era. At Macpherson Street the building comprises a two storey façade of rendered and exposed brick, with flat tin roof and full height curtain wall glazing.

The architectural style and built form character neither contributes to, nor detracts from the prevailing streetscape style of Macpherson Street at this point. This is discussed further in Part iv below.

At Chesterfield Lane the building presents as an elevated three storey structure with a height of 13 metres built to the rear boundary (maximum RL of 74.68 metres). The ground level has an extended floor to ceiling height to accommodate back of house storage and loading.

At the rear ground level (Chesterfield Lane), there is a car park accommodating 22 car parking spaces. Prior to the activities and patronage of the club declining, 4 to 5 food and beverage deliveries were being received weekly (including 2 – 3 beer deliveries in 11.3 metre long rigid trucks) for the bar and kitchens of the premises. Delivery trucks used the rear loading dock via Chesterfield Lane.

Views of the site are presented in Figure 4 below.



Figure 4: Photographs of Site

Currently the building accommodates a mix of activities including a gymnasium, physio and club member activities.

Windows on the first and second levels provide outlook for meeting rooms and halls that have accommodated a range of social, hospitality and entertainment functions and activities. They also overlook the rear of the properties on Chesterfield Parade to the south generating potential privacy impacts.

However direct overlooking of the ground level private open space of dwellings in Chesterfield Lane is minimised as home owners have responded by the presence of tall vegetation, garage and two storey (rooms above garage) buildings located at the rear of dwellings (refer to Figure 5 below).

Notwithstanding the overlooking and activities undertaken within the Club and the numerous truck and visitor car movements, it is understood that the relationship between the existing RSL building and neighbouring residences has been generally harmonious, with no significant or adverse privacy, traffic or other impacts noted.

There is no landscaping or other vegetation within the site. The site is not located in a heritage conservation area. Furthermore, no items of heritage significance adjoin the site. There are a number of properties that have isolated heritage significance within the locality. These comprise:

- Three federation bungalows on the corner of Yanko Avenue and Macpherson Street opposite the site. The dwellings address Yanko Avenue and contribute to the Avenue's streetscape character;
- Three inter-war style and one Victorian mixed use and commercial buildings that form part the Bronte local centre on Macpherson Street to the east of the site. They contribute to the character of the eastern part of the centre;
- The Chesterfield Parade Landscape Conservation Area, established by the distinctive tree lined character of the street.

The site has been heavily modified and excavated and no items of archaeological significance are expected to be present.



Figure 5: Photographs of views in a southerly direction from:

Top: windows in the southern part of the existing building at Chesterfield Lane; and

Bottom: windows in that part of the existing building setback from the Lane, overlooking neighbouring dwellings.

v Traffic

A revised Traffic Impact Assessment Report prepared by Varga Traffic Planning describes the character of surrounding roads, access and parking. This accompanies this Planning Proposal in Attachment 1.

The only vehicle access to the site is obtained via an existing driveway to Chesterfield Lane. Pedestrian access is achieved via the pedestrian path on Macpherson Street and the visitor car park in Chesterfield Lane. The existing driveway and pathway serve the existing building and uses within the site.

Macpherson Street is a regional road. It is the key east west road serving Bronte. However, the peak traffic flow (Friday afternoon) is a low 400 vehicles per hour (Arden Street in comparison accommodates 900 vehicles per hour at the same time).

Chesterfield Lane is an unclassified Laneway that accommodates 28 vehicles per hour at peak, of which 21 vehicles per hour (75 percent) are generated by the existing Club car park.

The closest major intersection (Macpherson Street and Arden Street) operates efficiently with minimum delays and a Roads and Maritime Service (RMS) "Level of Service A." All other intersections operate at the same level of good service.

The site is well served by public transport. Bus Route 378 (Bronte Beach to Railway Square via Bondi Junction) passes the site on Macpherson Street with an average frequency on weekdays of one bus every 10 minutes. This is an exceptional level of service.

A Phase 1 Contamination Assessment undertaken of the site by Urban Environmental Services Pty Ltd supported the planning proposal report that accompanied the original request. It found that, based on the history of activity, the site does not demonstrate any past potentially contaminating activities. No further investigations are warranted and the site is suitable from a contamination perspective for residential use.

vi Context Urban Design Analysis

Considerable investigation and analysis has been undertaken to identify the opportunities, constraints and capacity of the host area within which the site is located to accommodate change. Subjects addressed have included:

- Subdivision pattern, access and land ownership;
- Landform character and access to views and sun;
- Streetscape built form and visual character; and
- Townscape character.

Each topic is addressed below and observations summarised at the end.

Subdivision Pattern, Access and Land Ownership

Subdivision and urban development in Bronte essentially took place from the late 1800s to the 1940s and was driven by the establishment of the tram line along Macpherson Street in 1911 linking the beach with Bondi Junction.

The legacy of this history is a pattern of subdivision that reflects a tram based neighbourhood centre focussed on Macpherson Street. The street has evolved with a “high street” role and comprises concentrated long narrow terrace shop type lots with rear laneways. There are multiple titles in fragmented ownership. Nowhere is this more evident than in the shopping strip neighbouring the RSL Club.

In only a small number of areas are there large sites, one being the property adjoining the Club (Ocean View Apartments). Generally, land amalgamation would be prohibitively difficult and costly. It is unlikely that there will be further significant redevelopment sites of a size offered by the RSL Club in Bronte.

Landform Character and Access to Views and Sun

This part of Bronte is distinguished by enjoying a location on top of a distinctive ridgeline that generally extends in an east – west direction to the coastline. Macpherson Street meanders along the ridge. This is illustrated in Figure 6 below.

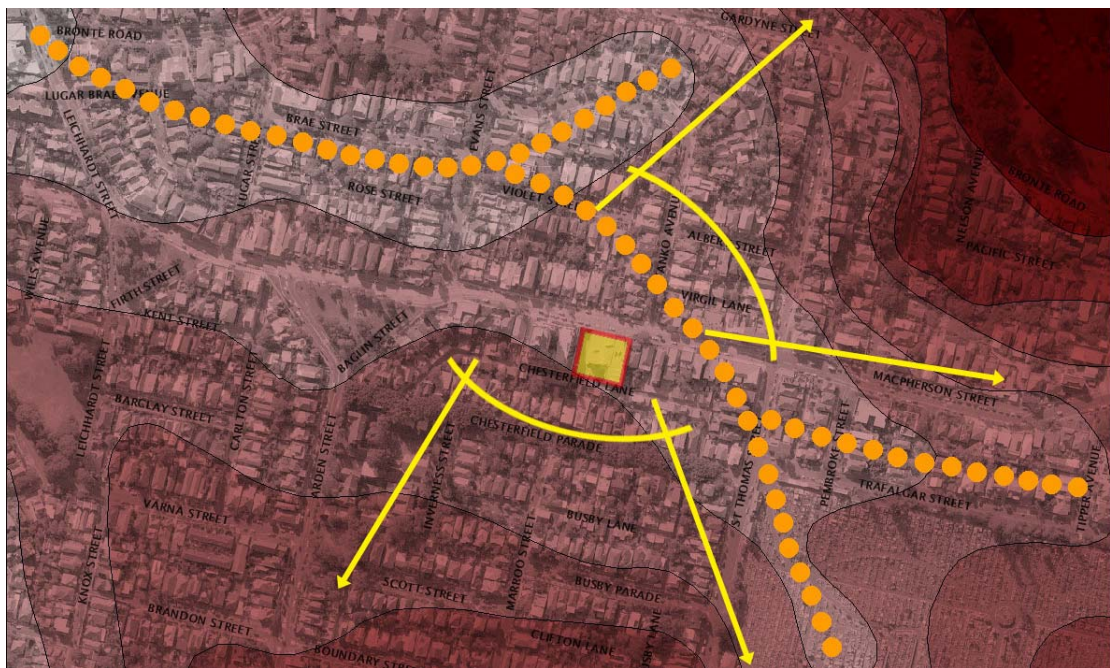


Figure 6: Landform Character, Presence of Ridge and Vistas to north east and south

Of relevance:

- In the vicinity of the site the prevailing expansive views from vantage points are to the north east and south to the ocean and the valleys of Bronte Beach and Clovelly;
- To the east, due to the presence of the ridgeline extending to the east and buildings and vegetation on that ridgeline, expansive views to the coastline from the top of the ridge across the RSL site are limited. The exception is views from the upper levels of the Ocean View building, which offer distant views to the ocean;
- Similarly, aspect to the west is limited to local views due to the presence of the elevated land, and in terms of the RSL site, the presence of the Ocean View building;

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- Both the existing RSL and Ocean View buildings on the south side of Macpherson Street overlook the properties to the south on Chesterfield Parade across Chesterfield Lane. Windows and balconies to both buildings are elevated above the garages in the Lane;
 - As a result of the above, existing dwellings in Chesterfield Parade experience some morning and afternoon overshadowing, visual and privacy impact from existing buildings on the northern side of Chesterfield Lane;
 - The Ocean View building also overlooks the front of the dwellings on the opposite (northern) side of Macpherson Street;
 - Existing dwellings and apartment buildings to the east of the RSL site on Macpherson Street already experience minor visual and afternoon shadow impacts created by the presence of the RSL building; and
 - East facing apartments in the Ocean View Building, and particularly those in the middle of the podium rely on some separation from the existing RSL building offered by the existing car park and loading area for aspect, morning sun and local views.

Streetscape Built Form and Visual Character

Views of streetscapes, built form and the townscape in the vicinity of the site are presented the photographs above and Figure 7 below. It can be observed that:

- Immediately to the east of the site are several one and two storey residential dwellings at 119-123 Macpherson Street and beyond those is a 4 level residential building at 125 Macpherson Street; (refer to photo # 2 below);
- Immediately to the west of the site is a 12 storey residential flat building, The Ocean View apartment building. It presents as 10 storeys to Macpherson Street and 12 storeys to Chesterfield Lane and is the tallest building in the area. The tower part of the development is located above a two and three storey podium. The tower is setback from the side boundary adjoining the site by approximately 24 metres to the edge of the balconies. The podium is setback from the boundary approximately 5 metres. Courtyards and balconies to apartments in both the tower and podium address the site. (refer to photo # 1 below);
- Immediately to the south of the site is Chesterfield Lane. On the southern side of the Lane are detached residential dwellings, predominantly single or two storey in height. The dwellings address Chesterfield Parade, to the south. Chesterfield Parade exhibits an attractive tree lined streetscape that has recognised heritage significance (refer to Figure 8 below). The laneway is characterised by a row of garages, some with second storey studios or rooms above. Private open space for each dwelling is located between the garage and the dwelling at the rear of the property;
- Opposite the site on the north side of Macpherson Street are single storey detached 'Californian bungalow' style dwellings. All dwellings incorporate car ports, garages or driveways in the front setback area between the dwelling building line and their front property boundary, which impact on their visual presentation to the street. Some have local heritage significance;
- The Bronte Village local centre on Macpherson Street is a low scale retail strip containing a range of single to three storey mixed use (shop top housing) buildings. Buildings incorporate awnings above ground level to provide pedestrian protection. The footpath public domain has limited improvements comprising a mix of bushes and small trees in a range of planter boxes;



Figure 7: Views of Streetscape, Townscape and Built Form Character Adjoining Site

- In response to the area's mixed use character and history of development there is no prevailing built form or streetscape character. Buildings exhibit a mix of styles, heights and architectural styles and eras. Significant redevelopment and infill development have taken place over the preceding years that have established an eclectic character for the area;
- Setbacks are varied and many detached dwellings incorporate garages in front setback areas; while former retail buildings, now converted to residential use, have no setbacks to the street; and
- Landscaping, both within private properties and the footpath public domain areas, is generally limited (with the evident exception of Chesterfield Parade and local parks).

Townscape Character

Views of the townscape in the vicinity of the site are presented the photographs above and Figure 8 below.

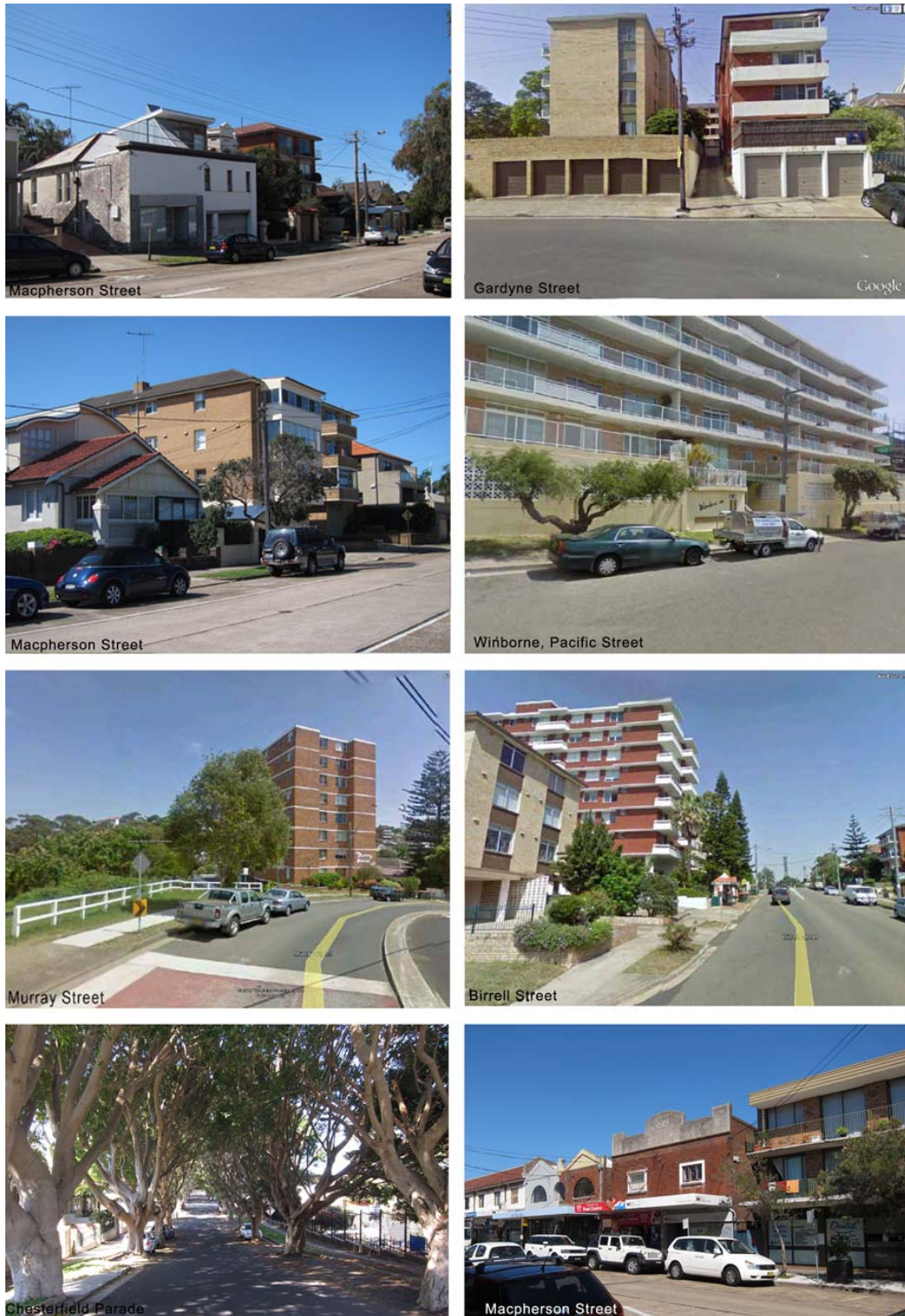


Figure 8: Additional Views of Streetscape, Townscape and Built Form Character

It can be observed that beyond the immediate vicinity of the site there are a number of high density residential towers in the order of 5 to 8+ storeys. These apartment buildings are infill developments that have taken place over time when opportunities have prevailed. There is no pattern to their location, built form character or style.

While individually it cannot be argued that they set any precedent for future development, they illustrate that taller buildings are not unusual within Bronte, and that these taller buildings form part of Bronte's townscape character.

Conclusions

The analysis above identifies an opportunity for the area to accommodate a site with a development form that provides for increased development density with an associated increased building height that exceeds the current, predominant building height in the area.

The ability of the site to accommodate a greater building form is generated by the collective recognition of the following opportunities:

- The opportunity for a new contemporary building to accompany the presence of the adjoining Ocean View building, reducing the visual impact of the Ocean View building as an isolated stand alone tower, and improving the image and streetscape character of Macpherson Street;
- The opportunity for any potential townscape and streetscape visual impact of the additional bulk and scale of built form within the site to be visually absorbed by the presence (scale and mass and visual impact) of the existing Ocean View building adjoining it;
- The potential stepping of development within the site away from the building line at Chesterfield Lane to the rear (south), Ocean View apartments to the west and apartments to the east, due to the character of the site's landform and configuration. This will enable maintenance of, and improvements to, existing amenity for residents of Ocean View and surrounding apartments and dwellings, while enabling new development to take place;
- The potential to minimise existing local microclimatic and amenity impacts (view loss, overshadowing, privacy etc.) as well as potential future impacts due to the size of the site, potential setbacks to neighbouring uses and the careful siting and configuration of taller building forms;
- The opportunity to provide dwellings in close proximity to public transport promoting a reduction in car use and contributing to the achievement of sustainability goals;
- The presence of existing public places and retail / commercial activities that, through convenient access offer a high level of resident amenity (new places and activities);
- Similarly, the presence of an increased residential population and supporting commercial uses in the Centre can reinforce the commercial viability of the existing businesses within the Centre;
- The opportunity to accommodation of a mix of retail and Club uses within the podium of development in a location that is buffered and separated from neighbouring residential uses. It provides for the establishment of non-residential floor space to serve the Centre's residents and visitors both in terms of facilities, and also employment; and
- The lack of any distinctive architectural style within the Centre provides opportunities for the exploration of innovative, contemporary architectural styles and not mimicry and the adoption of mock historic styles.

vii Land Uses and Centre Role and Economy

The activities in the locality are distinguished by a mix and concentration of retail, commercial and residential buildings.

Photographs of uses surrounding the site are presented in Figure 9 below.



Figure 9: Land Uses and Activities

In particular:

- The site is located at the western end of the Bronte Village local centre on Macpherson Street. It is a small centre containing mixed use (shop top housing) developments (refer to photos # 3 and 6). Buildings exhibit traditional shop fronts addressing the street, enabling activities to spill out into the footpath space;
- Bronte residents, in Precinct meetings, have expressed concerns to Council with the proliferation of restaurants and cafes with a responding decline in shops that serviced the local community;

-
- The revised Economic Impact Assessment Report prepared by Location IQ describes the activities in the Centre. This is contained in Attachment 2. The report notes:
 - > The Bronte RSL site is effectively integrated with the existing retailing along Macpherson Street;
 - > The Centre comprises some 51 shops, of which 30 shops are retail traders;
 - > The centre's main trade area generally extends less than 1km (5 – 10 min walk);
 - > The socio-economic profile of the main trade area population generally reflects that of an established, densely populated inner suburban area with a very affluent population, comprising a large number of couples and singles in the 30 – 39 years of age category, but also including a family population. Some 16.2% of households within the defined main trade area do not own a car;
 - > The total retail expenditure level of the main trade area population is currently estimated at \$343.4 million. The largest spending market is food and liquor at \$126.9 million, representing 36.9% of the total. A large proportion of this spending is currently be directed to supermarkets and fresh food facilities in Bondi Junction;
 - > 27 shops are located at the eastern end. They comprise 16 retail traders with food and liquor (18.5%) and food catering (11.1%) being the largest categories. 24 shops are located at the western end comprise 14 retail tenants with food catering (20.8%) being the largest category. There is only a small provision of fresh food retailing;
 - > Consequently, the centre only serves the convenience and top-up shopping needs of local residents. Local residents need to travel to the surrounding larger retail precincts such as Bondi Junction and Randwick for larger (weekly) shopping trips; and
 - > The provision of supermarket floor space within the Waverley LGA is approximately 20% below the Sydney metropolitan average and around 40% below the Australian average.
 - Within walking distance of the centre are a number of facilities and activities including parks with playgrounds and the Clovelly Public School;
 - Located along Macpherson Street and neighbouring streets are a mix of low density (detached dwelling) and higher density residential flat buildings;
 - The higher density residential flat buildings are infill developments that have taken place over time when opportunities have prevailed. There is no organisation to their location or density.

Part 1 - Objectives or Intended Outcomes

1.1 Objectives of the Planning Proposal

It is the appreciation of the opportunity for the redevelopment of the Site to achieve State Government objectives and deliver significant public benefits with minimal environmental and economic impacts that is the genesis of the request to amend LEP 2012 contained in this revised planning proposal.

The objectives of the redevelopment of the site are:

- To satisfy State Government objectives in the Metropolitan Plan for Sydney 2036 to focus and encourage employment and services in a conveniently accessible network of evolving centres connected to homes via good public transport service;
- To satisfy State Government priorities in the NSW State Plan to support jobs, integrate transport and land use; and enhance quality of life;
- To capitalise on opportunities within the site to provide an economic use for the land as a mixed use residential, retail and community building;
- To provide new RSL Sub-Branch Club and retail facilities that meet the contemporary needs of the Bronte community; and
- To provide an appropriate built form response to the strategic context of the site as part of the Bronte local centre on Macpherson Street and the presence of neighbouring high, medium and low density dwellings.

1.2 Intended Outcome: the RSL and WLB's Development Concept for the Site

The redevelopment concept for the site that would respond to the amendments to the LEP aims to achieve the following:

- A mix and scale of retail, residential and club uses that respond to the convenience and accessibility offered by the site's local centre context and the presence of good public transport;
- A configuration of built form that responds to the neighbouring Ocean View residential flat building to the west, the dwellings on Chesterfield Parade to the south and the apartments to the east to preserve and improve neighbouring residential amenity (privacy, aspect, solar access etc.) as well as offering a high level of amenity for residents within the proposed development;
- As part of the above, identification of opportunities for improvements to the presentation of the built form within the site to reduce existing amenity impacts;
- A high standard of design and provision of private open space that contribute to the amenity of apartment inhabitants and streetscape character;
- A commitment to achieve redevelopment along Macpherson Street that contributes to the maintenance of a 'high street' streetscape to enhance amenity and character and that reinforces the centre's inviting mixed use character;
- A building height that, while it may exceed the heights of some neighbouring buildings, is not unique in the locality and presents opportunities for a complimentary development to the landmark Ocean View building that adjoins the site;

- A community benefit by inclusion of the club and new convenience based retail facilities with car parking, contributing to an increased range of amenities available to the community within the centre; and
- A response to the comments that have been raised during both Council and WLB's consultation, and the outcomes of the development application and Pre-Gateway Review submissions over the last 18 months.

The development concept that responds to the amended LEP would present a mixed-use (residential, club and retail) infill redevelopment. In detail, it would comprise construction of a 2 to 6 storey building comprising ground level retail, first floor RSL club, residential and four levels of residential use above with a three level basement car park and a total of 26 apartments.

It is appropriate to remind at this point, that this revised planning proposal is not a development application. The planning proposal seeks to amend LEP 2012 to put in place the planning controls to enable the development of the concept to be undertaken. Should the planning proposal be successful, a development application will follow, where the concept will be developed and assessed in more detail.

The development concept merely illustrates the potential response to the amended planning controls.

Plans of the new development response prepared by the Aleksandar Design Group are reproduced in **Attachment 3**. Particular features of the new architectural concept, and how they differ from the original proposal, include:

Level	Original Concept	New Concept
Basement 03	32 residential car spaces 28 bicycle lockers 15 motorcycle spaces Internal Ramp up to basement 02	Minor change to car parking and motorcycle parking numbers.
Basement 02	2 visitor car spaces 5 retail car spaces, 26 RSL car spaces 6 bicycle spaces 4 loading docks with turntable directly accessed off Chesterfield Lane Internal Ramp from basement 03 Driveway off Chesterfield Lane accessing the residential car park Waste rooms and other 'back of house facilities	Most car parking for retail use. Removal of residential driveway access to Chesterfield Lane. Removal of 4 loading docks with turntable directly accessed off Chesterfield Lane. No vehicle or pedestrian access to Chesterfield Lane.
Basement 01	36 retail car spaces 6 motorcycle spaces Service and plant room Internal ramp down to Basement 02	Relocation of loading docks and turntable from Basement 02 with accessed off Macpherson Street via ramp from ground level. Minor change to car parking and motorcycle parking numbers.
Ground Level	1246 sqm of retail floor space comprising a 924 sqm fresh food market accessed via and internal mall and 5 speciality shops. RSL lobby 2 x residential lobbies Driveway off Macpherson Street, accessing the RSL and retail car parks	1179 sqm of retail floor space comprising a 980 sqm fresh food market and 3 speciality shops directly addressing Macpherson Street. Removal of internal mall. RSL lobby 2 x residential lobbies. Driveway off Macpherson Street, accessing all car

Level	Original Concept	New Concept
		parking (RSL, retail and residential) and loading / servicing.
Level 1	New RSL Club facility of 740 sqm with Back of House and Kitchens setback from side boundaries. 4 x 2 bed apartments setback from Chesterfield Lane.	New RSL Club facility of 726 sqm with Back of House and Kitchens setback from side boundaries. 2 x 2 bed apartments setback from Chesterfield Lane. Communal open space including pool relocated from Level 02 above.
Level 2	6 x 1 bed apartments and 4 x 2 bed apartments in a central courtyard configuration setback from Chesterfield Lane and side boundaries. Communal open space including pool.	5 x 1 bed apartments and 5 x 2 bed apartments in a central courtyard configuration setback from Chesterfield Lane and side boundaries.
Level 3	4 x 1 bed apartments and 4 x 2 bed apartments. Landscaped non trafficable terraces setback from Chesterfield Lane.	4 x 2 bed apartments and 2 x 3 bed apartments. Landscaped non trafficable terraces setback from Chesterfield Lane.
Level 4	2 x 3 bed apartments and 2 x 2 apartments setback from Chesterfield Lane.	As above.
Level 5	2 x 3 bed apartments with matching setback from Chesterfield Lane as Level 4.	No change.
Height	6 stories to Macpherson Street and 3 stories to Chesterfield Lane.	6 stories to Macpherson Street and 2 stories to Chesterfield Lane.
Style		Significant Revision.

Images of the development are presented in Figure 10 below.



Figure 10: Artist's Impressions of the Intended Development Vision

1.3 Response to PAC Requirements

The new development concept responds to the requirements of the Planning Assessment Commission that *"the proposal should be progressed concurrently with a design scheme which demonstrates design excellence, complies with SEPP 65, provides benefits/improvements to the public domains in the local area and addresses the issues raised by the Design Review Panel"* as follows:

New Design Scheme

A thorough review of the previous scheme has been undertaken and a new concept prepared that responds to the comments that were raised. The new concept is presented in **Attachment 3**.

Design Excellence

An architectural statement prepared by the Aleksandar Design Group is included in the SEPP 65 Statement in **Attachment 5**.

Benefits / Improvements to the Public Domain

Any development consent will ordinarily include a condition that requires a financial contribution to be made to Council towards the cost of public facilities and services to meet the increased demand created by the development in accordance with the adopted Waverley S.94A Development Contributions Plan 2006 (Amendment No.5). However, as no specific items are identified in the Plan within close proximity to the site, opportunities to improve the public domain within Bronte are limited.

That said, Council has prepared a draft policy, The *'Waverley Council Draft Planning Agreement Policy 2013'* that sets out the procedures relating to planning agreements pursuant to S.93F of the Environmental Planning and Assessment Act 1979.

A planning agreement provides an alternative pathway for a development to contribute to the cost of public facilities and services to meet the increased demand created by the development, in lieu of the payment of the contribution in accordance with a Council's Contribution plan. Of particular significance, it provides the opportunity for a proponent to undertake 'works-in-kind' in lieu of the payment of the contribution, whereby the proponent funds and constructs the works on behalf of Council. This approach provides greater certainty that the works will be delivered, and will be delivered as and when the demand is generated by the new development.

The draft Policy is intended to apply to development applications and requests to amend LEP 2012 and is intended to particularly apply to the Bondi Junction Precinct and Bondi Beach Precinct Areas. However, Council will consider entering planning agreements in other parts of the LGA.

WLB is willing to commence discussions with Waverley Council, pursuant to its draft Policy, with the aim of making an offer to Council to enter into a Voluntary Planning Agreement that delivers 'works-in-kind' in lieu of payment of the contribution, that may benefit or improve the public domain within the Bronte Precinct area.

Issues Raised by Design Review Panel

A response to the issues raised by the Design Review Panel in April 2013 is included in the table below.

Panel Comment	Response
Opportunities to improve the public domain, to maximise benefits not just to the site or immediate neighbours, but also to the wider Bronte area	WLB is willing to commence discussion with Council to identify public domain improvement in lieu of payment of the Contribution pursuant to Council's S,94A Contributions Plan
Transform the proposed driveway along the western boundary into a dedicated public lane (with no private structures under). Chesterfield Lane should be widened by a 1 metre dedication along the site's entire frontage, and a splay could be added between the new lane and it to facilitate truck turning if needed	Council officers do not support this proposal and the level difference clearly precludes creating a new vehicle laneway between Macpherson Street and Chesterfield Parade. That said, there are opportunities to provide a through site public pedestrian link along the western boundary of the site (at the location of the driveway). While this is not shown in the new development concept, the plans could easily be amended to incorporate this proposal should Council and the community support it. The new development concept removes all truck movements from Chesterfield Lane.
Further justification is required for the appropriateness of any height above 4 storeys. This would need to be based on very thorough analyses of its context, this unique site and the relationship of the proposed building to it.	Additional analysis is provided in this Planning proposal that supports the original GMU Urban Design Study. In summary it is considered that the site can accommodate a part 2 and part 6 storey building on account of: • The opportunity for a new contemporary building to accompany the presence of the adjoining Ocean View building, reducing the visual impact of the Ocean View building as an isolated stand alone tower, and improving the image and streetscape character of Macpherson Street; • The opportunity for any potential townscape and streetscape visual impact of the additional bulk and scale of built form within the site to be visually absorbed by the presence (scale and mass and visual impact) of the existing Ocean View building adjoining it; • The potential stepping of development within the site away from the building line at Chesterfield Lane to the rear (south), Ocean View apartments to the west and apartments to the east, due to the character of the site's landform and configuration. This will enable maintenance of, and improvements to, existing amenity for residents of Ocean View and surrounding apartments and dwellings, while enabling new development to take place; • The evidence that existing local microclimatic and amenity impacts (view loss, overshadowing, privacy etc.) can be improved as well as potential future impacts due to redevelopment can be mitigated by the size of the site, potential setbacks to neighbouring uses and the careful siting and configuration of built form, landscaping, screening and balconies/windows; and • The recognition that taller buildings are not unusual within Bronte, and that these taller buildings form part of Bronte's townscape character.
The proposal should better address its relationship with the surrounding context. The sections and elevations need to be extended to include the	Provided. Refer to photomontages and architectural plans in Attachment 3.

Panel Comment	Response
neighbouring public domain, lot boundaries and buildings.	
The shadow diagrams did not seem to clearly distinguish existing and new shadows, and would be best supplied in both plan and 3-d view, with the camera in the position of the sun, as well as showing where critical windows are affected.	New shadow diagrams are provided.
The Panel is unsure why a local centre with such abundant amenity as MacPherson / St Thomas Street would have a floor space at the low end of this spectrum.	This proposal responds to this observation.
The rear of the car parking and ground floor retail areas present as a foreboding block in a ziggurat form – they seem undeveloped in their design, too defensive and lacking amenity. There is no reason why they need to be so solid, nor why they cannot accommodate more habitable areas.	The new development concept addresses this issue. The communal area has been lowered to Level 1. Additional habitable space below this would result in poor amenity for occupants, as well as introduce significant privacy issues for existing dwellings to the south in Chesterfield Parade.
Development should activate Chesterfield Lane with building entries and a footpath	Chesterfield Lane currently serves little, if no, pedestrian function. As noted above, a through-site pedestrian link can be included if requested by Council and supported by local residents.
A loading bay should not be included on the site as it is a poor use of available space. The extensive site frontage provides an opportunity for on street/on laneway loading.	WLB is reluctant pursue this recommendation. On street loading areas would introduce unnecessary impacts on residents by way of noise, truck movement, pedestrian safety and waste management (vermin/odour), which are currently proposed to be enclosed and managed within the building envelope, and thus not impact on surrounding residents.
Insufficient information is provided on the ground floor retail, openings to the street, activation, etc. Cafe or restaurant uses would require kitchen exhausts and the retail areas may require more plant than is indicated. External exhaust and intake grilles should be indicated on the drawings	The relationship of the smaller shops and the street / public domain has been improved. They now address the street in a terrace type format, sympathetic to the prevailing retail character of the area. Opening hours cannot be determined until time of lodgement of tenancy development applications, when the specific use is known. Internal plant and service rooms are proposed to satisfactorily accommodate tenancy air conditioning and exhaust requirements.
The two central units on level 1 have exclusively south facing, with a deep set living room and 'snorkel' bedroom. These units have very poor amenity and should be completely removed. On levels 2 and 3, the central projection intrudes too far into the U – this part should be deleted, which would allow a larger communal courtyard, with direct view between the cores. This part is also in excess of the 18m maximum depth in the RFDC. the cores could be more efficiently planned for residential amenity. Neither the stairs nor the lift need to be located on the external wall – it would be better to have the single sided units having more frontage to east and west. The 3m setback to the eastern boundary is too little for the projecting arm of the U – it should be increased to meet the RFDC setbacks relative to the height. The current resolution of the façade is inadequately resolved in terms of its solar performance, window operation, balustrades and handrails, material quality and construction There is inadequate shelter over all the south facing openings the landscape proposals indicated are inadequate	The development concept has been amended to address these comments. Refer to the plans in Attachment 3 and SEPP 65 Statement in Attachment 5.

Panel Comment	Response
The proposed monolithic façade is incompatible in scale with Macpherson Street's existing built form (even with the building to its west which, in itself, is not a good precedent), but with different treatment need not be.	
All windows and doors must be detailed so as to allow them to remain secure when partially open (this is important if relying on sliding doors and high level bedroom windows for cross ventilation). Window operation should be noted on the elevations. A large scale section/ elevation showing how bedrooms can retain privacy, BCA compliance and still achieve some cross ventilation. Environmental modelling that tests the effectiveness of cross ventilation in the proposed configuration (this should not just be abstract numbers and arrows, but take account of the actual conditions and probable use). Ceiling fans should be provided in all habitable rooms and indicated on drawings. More use could be made of shaded and ventilated skylights on roofs. A roof section that utilises ventilating clerestory windows, placed to capture winter sun would be more effective. Roofs should be fully insulated and ventilated. Sun shading appropriate to orientation should be provided. Many windows are shaded in the proposal however there are some areas of glazing that appear to be exposed to heat gain	The majority of the matters raised in this part are questions of detail that can be addressed at the development application stage and are noted.
The landscaped proposals included are insufficient for a major site redevelopment	The development concept has been amended to address these comments. Refer to the plans in Attachment 3 and SEPP 65 Statement in Attachment 5.
Units Type H have an odd arrangement of the second bedroom seemingly opening off the kitchen, which is too embedded and away from windows. Units Types F and A (the central units) also have their kitchens too embedded and away from windows – these do not comply with the RFDC. The 'snorkel' bedrooms on Level 1 have inadequate daylight – 2 of these units should be removed, which would allow more amenity throughout. BCA advice needs to be sought regarding limitations on windows to the common walkways.	The development concept has been amended to address these comments. Refer to the plans in Attachment 3 and SEPP 65 Statement in Attachment 5.
The proposal could add to the passive surveillance of the public domain in the area generally.	The development concept has been amended to address these comments. Refer to the plans in Attachment 3 and SEPP 65 Statement in Attachment 5.
The design of facades appears too schematic and unresolved. Clearer design intent is required to size the façade elements. The lower level facades to the lanes and eastern boundary are poor – overbearing and unrelieved. The material character, construction and finish lack sufficient explanation and the desired aesthetic appears to be somewhat forced. Trees to the lane and additional activation at the building facade would assist in improving this elevation	The development concept has been amended to address these comments. Refer to the plans in Attachment 3 and SEPP 65 Statement in Attachment 5.

Part 2 - Explanation of Provisions

2.1 Current Controls

i. Zoning

The site is zoned B1 'Neighbourhood Centre'.

The objectives of the B1 zone are:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood;*
- *To ensure that non-residential uses do not result in adverse impacts on the amenity of existing and future residential premises;*
- *To strengthen the viability of Waverley's existing business centres as places of vitality for investment, employment and cultural activity.*

The proposed retail and residential uses (being defined as 'shop top housing,' and 'retail premises') are permissible in the zone.

The RSL use (being defined as 'registered club' in LEP 2012) is prohibited in the zone and relies on 'Existing Uses Rights' pursuant to Clause 106 of the Environmental Planning and Assessment Act for its permissibility.

Council's Planning Proposal of 16 July 2013 (refer to discussion in 'Background' at the introduction to this Proposal) seeks to allow "Registered Club (Bronte Returned Services Club only)" as an additional permissible use on the site of 113 Macpherson Street.

We understand that the intent of this proposal is based on a concern that the RSL Sub Branch may exit the premises to be replaced by a similar, but less community oriented licensed use such as a pub or hotel. This concern is unfounded. The RSL Sub Branch wishes to remain within the site and operate a commercially viable business; hence the reason why this Planning Proposal is required to be made.

That said, the wording of the Council proposal presents a number of issues:

- The definition in the Waverley LEP 2012 of a *registered club* is "a club that holds a club licence under the Liquor Act 2007." The Sub Branch has advised that the liquor licence for the premises is held by Bronte RSL Club Limited and is still current. At this time the Sub-Branch has not applied for a separate liquor licence and should it, the adoption of this provision in the LEP would prohibit this action, essentially obstructing and restricting the ongoing functioning of the business;
- The proposal creates uncertainty as to the actual tenant that it is intended to apply to. There is no certainty the current licenced club, which is actually called "Bronte RSL Club Limited", will continue to remain in existence while the new premises are being completed. It is not clear if Council's proposal specifically means this club, or if a new club could be set up and registered in this name;
- It would seem to be inconsistent with the provisions of existing use rights which do not have the general intent of restricting the use to the specific name of a tenant or owner;

- The proposed specific naming of a registered business (rather than a use) in Schedule 1 of an LEP prepared in accordance with the Standard Instrument (Local Environmental Plans) Order 2006 is contrary to the Department's Practice Note PN 11-001 that provides the following instructions to Councils: *"Councils may insert a list of additional permitted uses for particular land ... Principles for drafting Schedule 1: Use terms in Land Use Table Direction 5 in the Standard Instrument.* The underlined text is our emphasis; and
- We understand that the inclusion of a clause of this nature may be contrary to the Commonwealth Trade Practices Act 1974, as it may be judged that the restriction on use of a property to a particular named business in an environmental planning instrument is an anticompetitive practice and in contravention of Part IV of the Act.

At the end of the day, the Sub-Branch wishes to remain in the site and, while it could rely on 'Existing Use Rights', it is appropriate to introduce a site specific notation in Schedule 1 to reaffirm the permissibility of the use.

li. Clause 4.3 Height of Buildings

The 'Height of Building' Map applies a height limit of 13 metres to the site (Area N). The objectives of the clause are as follows:

- to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties,*
- to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,*
- to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,*
- to ensure that buildings are compatible with the height, bulk and scale of the existing character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

The definition of 'building height' in the LEP Dictionary is *"**building height (or height of building)** means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like."*

Since the lodgement of the original proposal the unique excavated (modified) nature of the site has introduced ambiguity as to the definition of what constitutes *"ground level (existing)."* There is some conjecture as to what constitutes ground level "existing" due to the excavated nature of the site.

This ambiguity is not unique to the Waverley LGA and is present in many other LGAs confronted with modified sloping land. It is an outcome of a poorly worded standard definition in the LEP.

Council has consistently measured ground level (existing) based on the natural unmodified ground level (refer to Figure 69, Page 351 in the Waverley Development Control Plan 2012).

To do otherwise would suggest that the height limit of the building at Macpherson Street would be no more than 2 storeys, which is clearly an incorrect interpretation in the context of the current supported 4 storey height limit.

To avoid any ambiguity and provide certainty for all stakeholders (WLB, Council and the community), the proposed height needs to be given certainty in this Planning Proposal.

iii. Clause 4.4 Floor Space Ratio

The 'Floor Space' Map applies an FSR control of 1:1 to the site (Area N).

The objectives of this clause are as follows:

- (a) *to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,*
- (b) *to provide an appropriate correlation between maximum building heights and density controls,*
- (c) *to ensure that buildings are compatible with the bulk, scale, streetscape and existing character of the locality,*
- (d) *to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality.*

iv. Development Control Plan 2012

In November 2012 amendments to the role of DCPs in the assessment process were introduced by the Environmental Planning and Assessment Amendment Act 2012. They clarify that DCPs are not statutory provisions and are intended to provide guidance to applicants and Councils.

At this point, while not relevant to this Planning Proposal, it is appropriate to note that parts of Waverley DCP 2012 apply to the land and the proposed development within the land. In particular Part E3 of the DCP identifies site specific controls for the site and the MacPherson Street Neighbourhood Centre.

Council, at its meeting on 19 February 2013, resolved to amend the DCP by introducing amendments to various controls on development within the Macpherson Street Centre that apply to the site. Many of the changes to building envelope controls (setbacks, height, sun plane) were not supported by WLB or the Bronte RSL Sub branch. WLB's architectural concept presented in **Attachment 3** can demonstrate quite clearly that the DCP's built form objectives can be achieved and compliance with the building envelope guidelines is unnecessary and unreasonable. This will be addressed in any future development application.

2.2 Planning Proposal

None of the existing planning controls in LEP 2012 that apply to the site facilitate the achievement of the objectives and outcomes (the site vision) presented in Part 1 of this proposal.

The Planning Proposal seeks, therefore, to amend the Waverley LEP 2012 by amending both the maximum floor space ratio and height and permissible uses as they apply to the site via Schedule 1 and a provision in Part 6 as follows:

1. It is requested that the Height be amended to enable the part 2 and part 6 storey building. The application of a height of 20.5 metres is proposed as indicated in Figure 11 below.



Figure 11: Requested Amendment to Height

2. It is requested that the Floor Space Ratio be amended to apply an FSR of 2.1:1 as indicated in Figure 12.



Figure 12: Requested Amendment to FSR

3. It is requested that an additional accompanying site specific citation and notation be added to Schedule 1 of the LEP and the Additional Permitted Uses Map respectively as follows:

2. Use of certain land at Nos. 109 - 113 Macpherson Street Bronte

- (1) This clause applies to land at Nos. 109 - 113 Macpherson Street Bronte; being Lots 19, 20 and 21 in DP 192094 and Lot 22 in DP 72912, shown as "Item 2" on the Additional Permitted Uses Map.
- (2) Development for the purpose of a registered club is permitted with consent.

-
4. It is requested that an additional accompanying Clause be added to Part 6 of the LEP as follows:

6.7 Bronte RSL Site

- (1) *This clause applies to land at Nos. 109 - 113 Macpherson Street Bronte; being Lots 19, 20 and 21 in DP 192094 and Lot 22 in DP 72912.*
- (2) *The objectives of this clause are to:*
 - i) *provide for additional building height and floor space on certain land; and*
 - ii) *clarify the definition of building height as it applies to development in the Bronte RSL site.*
- (3) *Despite clauses 4.3 (2) and 4.4 (2), development consent may be granted to the erection or use of a building with a maximum height of 20.5 metres and a floor space ratio of 2.1:1 on land to which this clause applies.*
- (4) *Despite any other provision of this Plan, **building height (or height of building)** means the vertical distance between the extrapolated original natural ground level (prior to any excavation), measured from the existing ground levels at each north and south boundaries of the site, and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

It is important to note that Point (4) above is merely a solution to the ambiguity of height definition. There is no change to the proposed part 2 to 6 storey height in the new development concept.

Part 3 – Justification

Section A – Need for the planning proposal

1. Is The Planning Proposal a Result of any Strategic Study or Report?

Centres' Hierarchy

Council's established centres' hierarchy as it applies to the site is addressed in the discussion in the report to Council dated 16th July on the Planning Proposal. On pp 201-202 it states:

'Council also planned for certain other centres to grow including Old South Head Road Neighbourhood Centre, Rose Bay Small Village, Hall Street Town Centre and the Macpherson and St Thomas Streets Neighbourhood Centre where heights and in some cases FSR's were increased. This was done in the context of Council's hierarchy of centres and supported by a comprehensive study that looked at numerous aspects of development as specified earlier. Suggesting that planning controls should be altered to facilitate one development because it is consistent with strategies that have already been planned for and have been achieved is not sufficient justification. The applicant's proposal will alter the established hierarchy of centres and this should not be done without broader consideration of all centres in the local government area.'

The potential growth of the Macpherson Street centre is recognised. However, the remainder of the report is misleading and does not accurately describe the role and significance of the site in the neighbourhood centre recognised by Council during the considerations undertaken at the time of the review. It also places too much emphasis on an apparent gross distortion of the hierarchy of centres, which is incorrect (refer to discussion below).

Council, at its 6 March 2012 Committee meeting recognised the significance of the Site in its consideration of amendments requested by Winston Langley Burlington at the time. It noted that *"some requested amendments may be considered to have merit. However, due to their complexity, size, or effect should not be undertaken as part of this LEP. Such amendments would require a greater level of assessment and consideration and the community given the opportunity to comment before a determination is made."*

The RSL request was thus considered as one having merit to warrant investigation of potential amendments.

Consistency with Zone Objectives

In this context, it is useful to refer to the application of the B1 Neighbourhood Centre zone to the site in the new Waverley LEP 2012 as it can be considered as representative of Council's Local Strategy.

The objectives of the B1 zone support 'small scale' shops. Further, 'retail premises' are a permissible use in the zone (which enables 'shops' of any size to be a permissible use).

The term “small scale” is vague and undefined. For example, shops with an area of 80 sqm are not uncommon within older retail areas, but clearly do not meet contemporary retail design criteria and do not offer the area for the comprehensive range of food and grocery goods demanded by communities today.

It is also not uncommon (and it is, in fact, unexceptional) for contemporary shops in established areas to have a floor space area up to 1,000 sqm. Of relevance, the size of ‘large’ shops and supermarkets range from 1500 sqm (for Aldi/IGA) through to 3,500 and 4,200 sqm (Woolworths /Coles). A 930 sqm shop as identified in the development vision for the site is clearly not a large shop or supermarket.

It is relevant to note that the Waverley LEP 2012 currently applies no limit to the size of shops in the B1 zone. The 930 sqm shop sought by this proposal can be considered as small scale as it clearly meets contemporary demands of its resident main trade area catchment (and for which a need has been demonstrated in Bronte).

It is appropriate to note that Council's own proposal to introduce a cap of 400 sqm on the size of retail premises in Macpherson Street is inconsistent with its position in all other B1 zoned neighbourhood centres in the LGA. It is specifically targeted at the RSL site. It would not apply to any other B1 zoned centre in the Waverley LGA. Thus the proposed limitation in shop size has no strategic support or basis in the Waverley LGA.

The permissibility of ‘shops’ and ‘retail premises’ in B1 zoned centres with no restrictions on size is not unique to Waverley Council. A number of other LGAs across metropolitan Sydney have included ‘shops’ or “retail premises” as permissible development (with consent) within the B1 zone in their Standard Instrument LEPs. These include neighbouring LGAs or LGAs with a similar character and era to their built form such as Randwick, Sydney, Marrickville, North Sydney and Manly.

The Olsson Report

The assessment of the original proposal relied on the findings of a report prepared by Olsen and Associates as the basis for the strategic direction to apply to the site.

However the Olsson Report is an incomplete strategic study. The report was commissioned as an immediate response to the proposed development. However, the scope of the analysis does not consider a comprehensive vision for the future of the centre or any potential improvements within the centre.

The report accepts and does not test the LEP Height and DCP 2012 controls. It provides no detailed review of the current 13m, four-storey, height limit other than to accept that this is the height provided under the existing LEP and DCP. It does not investigate taller built forms, given the demonstrable lack of environmental impacts, and other design cues from the character of the built form within the locality of the site.

The report also proposes a number of further controls for the Bronte RSL site which are justified based on reducing overshadowing impacts to neighbouring sites. However, detailed overshadowing testing of a proposed alternative envelope is absent.

Clearly, reconsidering the existing controls for the Centre could achieve a number of positive outcomes for the community and could address:

- reinforcing the structure of the Centre through drawing together its existing disparate parts; developing a cohesive frontage to Macpherson Street for the length of the Centre and improve its streetscape character;

- providing a sense of arrival into and out of the Centre;
- achieving a positive transition in scale across the Centre;
- mitigating the visual impact of the 'Ocean View' building and reducing its visual dominance;
- responding to distant views;
- reinforcing the role of the Centre by encouraging a greater mix of uses and provide additional housing which is accessible to public transport and the neighbourhood centre.

The Bronte RSL site can and should play a key role within any consideration of the future of the Centre as it is the largest single site within the area and is recognised as a "key" site within the existing controls.

However, on the contrary, far from addressing these questions, the report concludes that the development potential of the site should actually be diminished. It is clear that the Olsson and Associates report was not a strategic investigation. It has not adequately investigated or recognised the site's role in the centre and its genuine development potential, opportunities which were recognised by both Council's own Council's own SEPP 65 Design Panel, which independently recognised that the characteristics of the site and its context warrant a potential increase in the FSR that may be accommodated within the site subject to appropriate public benefits and minimal environmental impact.

The Panel noted:

- *The Panel had previously noted that a new DCP has recently been prepared for such local centres. Based on the analysis presented in the Olsson report, in the Panel's opinion the DCP should have taken existing heights and floor space ratios into account. Such a review would have endorsed a higher floor space. The Panel notes that many local centres across the Eastern Suburbs and elsewhere in metropolitan Sydney have floor space ratios of 1.0:1, 1.5:1 or 2.0:1;*
- *The Panel is unsure why a local centre with such abundant amenity as MacPherson / St Thomas Street would have a floor space at the low end of this spectrum;*
- *.....*
- *It is the Panel's view that an FSR in excess of the DCP could be suitable in this context. Such an increase in density could be reasonable if there were to be public domain improvements, a positive urban proposition, few impacts on neighbouring properties, and no compromise of the internal amenity of the proposal. However public benefits would need to be increased and the proposal would need to be reduced due to problems identified in this report in terms of scale, relationships, built form and amenity.*

2. Is The Planning Proposal The Best Means of Achieving The Objectives or Intended Outcomes, or is There a Better Way?

Yes. The planning proposal is the most appropriate method to enable development applications to be submitted for development within the site. Other methods investigated will not achieve the intended result that is sought. Other options identified comprise:

(i) A development application accompanied by use of Clause 4.6 (a request for an exception to the height and floor space cap standards) of Waverley LEP 2012.

This option was pursued and a development application was lodged with Council. However, it was refused by the Sydney East Joint Regional Planning Panel at its meeting on 25th July 2013. While the Panel found no environmental grounds to refuse the proposal, it refused the application on the grounds of the scale of the variation to the LEP height and FSR controls.

(ii) Await a further review of the Waverley LEP 2012 in the future.

This option was considered. However, the process whereby the proponent awaits a review at an unknown time introduces too much uncertainty in terms of timeframe and outcome. The uncertainty jeopardise the opportunity for the achievement of the objectives identified in Part 1 above in the short term.

Rather, it is considered that the progress of this Planning Proposal is the most suitable mechanism to achieve the objectives in Part 1.

(iii) Resolve the Building Height Definition Ambiguity by Increasing the Height Limit.

An alternative scenario to address the ambiguity of the definition of 'building height' was considered.

In the alternative scenario the request would seek a height limit that would be based on an extended height limit measured from the existing reduced (excavated) level (and thus would be necessarily higher in the order of 26 metres extending at a uniform height across the depth and width of the site; thus particularly from the rear). However a 26 metre height limit would have introduced a level of uncertainty for all stakeholders (WLB / RSL and the Council / Community) and was not pursued.

Section B – Relationship to Strategic Planning Framework

3. Is The Planning Proposal Consistent with the Objectives and Actions Contained Within the Applicable Regional or Sub-Regional Strategy (including The Sydney Metropolitan Strategy and Exhibited Draft Strategies)?

Yes. There are a number of State Government Strategies and Policies that provide the strategic context for the development of the Precinct. They are discussed below.

The NSW State Plan 2021

The NSW State Plan replaces the previous Plan of 2010 as “the NSW Government’s strategic business plan, setting priorities for action and guiding resource allocation” (p.2). The development of the site is consistent with many of the 32 goals in the five strategies of the Plan; particularly with regard to building liveable centres and growing business investment. This is detailed in the table in Attachment 4.

Opportunities to Achieve Current and Draft Metropolitan, and Draft East Subregional, Strategies Centres' Policies

The current Metropolitan Strategy 2036, upon which the Draft East Subregional Strategy is based, identifies a hierarchy of centres. Macpherson Street is designated as a 'neighbourhood centre' in the Draft Subregional Strategy for the East Subregion.

It is appropriate to note that:

- There is no consistent form or character to neighbourhood centres. There are many examples of neighbourhood centres throughout the East Subregion where it can be demonstrated that they range in character from only a few traditional shops to those containing large stores or supermarkets. For example the designated neighbouring neighbourhood centre at Frenchman's Road Clovelly contains a large hardware (Bunnings) store;
- The designations in Metropolitan Plan are intended as a guide as there will always be exceptions. The exception in this instance is that the site is located in one of the most densely populated and wealthiest parts of Sydney, yet it has one of the lowest provisions of retail floor space; and
- The hierarchies in the strategies are not presented with the intention to limit or halt the evolution and growth of Centres, for this would be an incorrect interpretation and inconsistent with the Strategy (i.e. the Strategy recognises that centres are not static entities but continue to evolve).

The latter point is significant. For example Action B1.1 of the Metropolitan Strategy 2036 comprises *"Plan for centres to grow and change over time."*

Furthermore, at a subregional level, the Draft Subregional Strategy for the East Subregion states that *"it is proposed that the majority of future dwelling growth be located in centres, ranging from Neighbourhoods to Major Centres, with good public transport."*

The strategy suggests *"Councils to provide in their LEPs, zoned capacity for a significant majority of new dwellings to be located in strategic and local centres"*.

Importantly, these principles are carried over into the new draft Strategy 2031 (intended to replace the 2036 Strategy). Objective 2 of the draft Strategy 2031 states:

"Strengthen and growing Sydney's centres

Sydney's large and small centres feature diverse land uses. ... The Metropolitan Strategy for Sydney can take advantage of our current pattern of centres by strengthening and growing Sydney's centres in line with the NSW 2021 Goal 207 to build liveable centres.

Feedback to the Discussion Paper in 2012 made it clear that centres should be a focus for future development in both existing and new areas, with many submissions detailing the benefits of urban renewal, including improvements to the appearance of places through new, well-designed development and improvements to their operation and function. These kinds of improvements stimulate investment in local businesses, helping to create interest and confidence in an area."

Based on these strategies it is appropriate for residential and retail density to be promoted and concentrated within the Bronte Centre and this will also assist in the viability of the existing centre's businesses.

Achievement of the Draft Centres Policy 2009.

The Draft Centres Policy responds to the direction in the NSW State Plan for the need to continue to deliver economic growth in a manner that meets community needs, is environmentally sustainable and makes efficient use of the State's investment in infrastructure.

To meet this direction the Draft Policy presents six key principles:

1. Retail and commercial activity should be located in centres to ensure the most efficient use of transport and other infrastructure, proximity to labour markets, and to improve the amenity and liveability of those centres;
2. The planning system should be flexible enough to enable centres to grow, and new centres to form;
3. The market is best placed to determine the need for retail and commercial development. The role of the planning system is to regulate the location and scale of development to accommodate market demand;
4. The planning system should ensure that the supply of available floor space always accommodates the market demand, to help facilitate new entrants into the market and promote competition;
5. The planning system should support a wide range of retail and commercial premises in all centres and should contribute to ensuring a competitive retail and commercial market; and
6. Retail and commercial development should be well designed to ensure it contributes to the amenity, accessibility, urban context and sustainability of centres.

The Draft Policy identifies methodologies for assessing floor space demand and retail and commercial floor space targets. It suggests that in the first instance Council should examine whether market demand could be accommodated through more flexible zoning in existing centres and an expansion of existing centres' (p.11). It identifies 'suitability criteria' comprising:

- access to public transport, or the infrastructure capacity to support future public transport;
- good pedestrian access;
- good road access for employees, customers and suppliers and, where necessary, capacity to provide new road infrastructure;
- close proximity to local labour markets with the skills required by business;
- urban design opportunities that create the potential to integrate with surrounding land uses;
- potential to increase the amenity of the local area;
- capacity to contribute to environmental outcomes;
- environmental constraints, such as flooding;
- impact on the supply of the existing land use such as residential land (including impacts on housing supply and affordability) or industrial lands (particularly Category 1 and 2 Industrial lands).

It suggests that priority should be given to sites which perform best against the criteria (however it is not necessary for sites to meet all the criteria).

It concludes that any proposal must be subject to a merits based assessment at the time that a development application is lodged and that *'the planning system should allow for competition between retail and commercial premises and innovation in different formats ... The merit assessment process should not take into consideration the likely competition impact of a new entrant on any existing retail and commercial premises'* (p.27).

The requested amendments in this proposal respond to the six key principles of the Draft Policy as:

- Principle 1. It seeks to focus retail activity in the existing Macpherson Street centre facilitating the efficient use of transport and other infrastructure, proximity to labour markets, and to improve the amenity and liveability of the centre;
- Principle 2. It seeks to introduce flexibility to enable the centre to grow and evolve;
- Principle 3. Community demand for floor space has determined the need for additional retail floor space;
- Principle 4. It seeks to support a planning system that ensures that the supply of available floor space always accommodates the market demand, to help facilitate new entrants into the market and promote competition;
- Principle 5. It seeks to promote a planning system that supports a wide range of retail and commercial premises in all of Waverley's centres, contributing to ensuring a competitive retail and commercial market; and
- Principle 6. The development concept proposes a well-designed mixed use facility, ensuring it contributes to the amenity, accessibility, urban context and sustainability of the Macpherson Street Centre.

4. Is The Planning Proposal Consistent with The Local Council's Community Strategic Plan, or Other Local Strategic Plan?

Waverley Together 3.

Waverley Council's 12-year community strategic plan is entitled, *Waverley Together 3.* It reflects the Waverley community's long-term priorities and aspirations for the future, and forms the foundation for all Council operations and subsequent plans.

Many principles, objectives, goals and visions embodied in the plan support the planning proposal. For example:

- Sustainable Community Directions include "C2 The community is welcoming and inclusive and people feel they are connected and belong". The proposal achieves this direction by increasing the opportunities for social interaction and community building by the mixed range of community service oriented uses proposed.
- Sustainable Community Directions include "C3 Housing options are available to enable long term residents and those with a connection to the community to remain in Waverley". The proposal achieves this direction by increasing the supply and range of housing types in the Waverley LGA close to public transport and local services.

- Sustainable Living Directions include “L3 Waverley’s public places and spaces look and feel good,” “L4 The unique physical qualities and strong sense of identity of Waverley’s villages is respected and celebrated”, “L5 Buildings are well designed, safe and accessible and the new is balanced with the old”, and “L6 Roads and intersections are safer and less congested.” The consultant investigations that accompany this planning proposal demonstrate that the proposed redevelopment of the site would achieve all these directions.

5. Is The Planning Proposal Consistent with Applicable State Environmental Planning Policies?

The following State Environmental Planning Policies are relevant to the planning proposal:

SEPP	Requirement	Planning Proposal	Consistent
No. 55 – Remediation of Land	Introduces state-wide planning controls for the remediation of contaminated land. If the land is unsuitable, remediation must take place before the land is developed. Clause 6 of the SEPP requires consideration of contamination in any change in use that may permit residential use.	The known history of the use of the lands in the site suggests that they have not contained activities that have generated any contamination that cannot be readily remediated.	Yes
(Exempt and Complying Development Codes) 2008	The Exempt and Complying SEPP applies to the site and permits development of minor environmental significance without the need for development consent. The SEPP lists developments that are exempt development and do not require consent and some developments which are complying development for the purposes of the EP&A Act.	The provisions of the SEPP in permitting developments of minor environmental significance without the need for development consent will be considered in future development of the site.	Can be consistent
(Infrastructure) 2007	The relevant matters for consideration include the requirement to address traffic impact and acoustic impact	Detailed compliance with the SEPP will be demonstrated at the time of making an application for development consent.	Yes
(Building Sustainability Index: BASIX) 2004	The SEPP establishes a state wide building sustainability index, which seeks to encourage sustainable residential development. This policy aims to ensure consistency in the implementation of the BASIX scheme throughout the State.	Detailed compliance with the SEPP will be demonstrated at the time of making an application for development consent.	Yes
No.65 – Design Quality of Residential Flat Development	The SEPP identifies 10 design quality principles for residential flat development and design guidance	Detailed compliance with the SEPP will be demonstrated at the time of making an application for development consent. A preliminary SEPP 65 assessment is presented in Attachment 5.	Yes

Draft SEPP (Competition) 2010

The Planning Proposal is also relevant to the Draft SEPP (Competition) 2010. The aims of the Policy are:

- to promote economic growth and competition, and
- to remove anti-competitive barriers in environmental planning and assessment.

Being a Draft SEPP that has been subject to exhibition and consultation, it would be a matter for consideration in the assessment of any development applications submitted as an outcome of this proposal.

6. Is The Planning Proposal Consistent with Applicable Ministerial Directions (S.117 Directions)?

The S.117 Directions that are relevant to a Planning Proposal lodged under the LEP Gateway are:

S.117 Direction	Contents	Amendments to Planning Proposal	Consistent
1.1 Business and Industrial Zones	Planning proposals must encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	The amendments provide increased employment opportunities and have no impact on employment zoned land. They respond to a recognised shortfall in the provision of retail floor space and will have no impact on surrounding existing centres.	Yes
3.4 Integrating land use and transport	Planning proposals must be consistent with DUAP publications "Improving Transport Choice" and "The Right Place for Business and Services".	The amendments are consistent with these documents in providing opportunity for development of new retail floor space within the established Bronte Centre in an area well served by existing infrastructure, transport and services.	Yes
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The proposed LEP height and FSR standards are not considered to be particularly restrictive and therefore are consistent with this Direction.	Yes
7.1 Implementation of the Metropolitan Plan for Sydney 2036	The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.	The amendments are considered to be consistent with the Plan as described in above.	Yes

Section C – Environmental, social and economic impact

7. Is There any Likelihood That Critical Habitat or Threatened Species, Populations or Ecological Communities, or Their Habitats, Will Be Adversely Affected as a Result of The Proposal?

Given the modified character of the site, it is considered that there is no critical habitat, and no threatened species, populations or ecological communities or their habitats on the lands that will be adversely affected as a result of the proposal.

8. Are There any Other Likely Environmental Effects as a Result of The Planning Proposal and How are They Proposed to be Managed?

The proposed height and FSR amendments requested in this Planning proposal invoke consideration of the following potential built form impacts:

-
- Amenity (Visual Impact, View Loss, Overshadowing, Overlooking);
 - Built Form and Streetscape (Scale, architectural and public domain character and height) Compatibility; and
 - Traffic.

Amenity (Visual Impact, View Loss, Overshadowing, Overlooking)

Investigations confirm that there would be no unreasonable environmental or amenity impacts associated with the proposal, View loss is minimal, visual impact is minimal, shadow impact is reduced compared to the existing building and privacy is improved compared to the existing building as described in this planning proposal report.

Built Form and Streetscape (Scale, Architectural Character and Height) Compatibility

The issue of 'compatibility' of proposed built form, with that which exists within the area arises.

In considering 'compatibility' in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191, Senior Commissioner Roseth SC discussed the 'planning principle' applicable to a development's 'compatibility' in an urban environment. He notes:

"It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve."

It should be noted that compatibility between proposed and existing is not always desirable. There are situations where extreme differences in scale and appearance produce great urban design involving landmark buildings. There are situations where the planning controls envisage a change of character, in which case compatibility with the future character is more appropriate than with the existing. Finally, there are urban environments that are so unattractive that it is best not to reproduce them.

Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.

- *Are the proposal's physical impacts on surrounding development acceptable?*
- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?"*

Physical impacts of the development can be assessed with objectivity. Such issues as noise, overlooking, overshadowing and traffic of WLB's preferred proposal have been examined. The studies conclude that the proposal's physical impact on surrounding development is acceptable.

In contrast, Senior Commissioner Roseth notes that to determine whether or not a new building appears to be in harmony with its surroundings is a more subjective task.

"For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment. In some areas, planning instruments or urban design studies have already described the urban character. In others (the majority of cases), the character needs to be defined as part of a proposal's assessment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping. In special areas, such as conservation areas, architectural style and materials are also contributors to character.

Buildings do not have to be the same height to be compatible. Where there are significant differences in height, it is easier to achieve compatibility when the change is gradual rather than abrupt. The extent to which height differences are acceptable depends also on the consistency of height in the existing streetscape.

Front setbacks and the way they are treated are an important element of urban character. Where there is a uniform building line, even small differences can destroy the unity. Setbacks from side boundaries determine the rhythm of building and void. While it may not be possible to reproduce the rhythm exactly, new development should strive to reflect it in some way."

These matters are addressed in WLB's vision for the site. Specifically:

- The Planning Proposal seeks to define the urban character of the area and concludes that there are sufficient cues within the locality to propose the height limit and floor space ratio requested. The relationship of the built form to surrounding space can be demonstrated as positive;
- No adverse impact on the public domain will result from the development in terms of overshadowing, loss of privacy, traffic generation or noise as a result of the proposed building height, and the development will maintain a human scale when viewed from street at all of its various perspectives as demonstrated in the view and montage studies;
- In particular, the design and form of the proposal does not present as a bulky or out of scale building. Through the appropriate articulation and modulation of the building mass, the proposal presents as a compatible element adjoining the Ocean View building. It can be demonstrated that the height of the proposed development will not be significant when viewed from street level in the local context; and
- Furthermore, it is considered to improve the relationship between the proposed development and neighbouring dwellings.

Traffic

With regard to traffic, WLB commissioned Varga Traffic Planning to undertake a revised traffic and transport impact assessment of WLB's preferred proposal.

The revised Varga study found that the proposed development will not cause any detrimental effects to the operation of the surrounding road network. Rather:

- It will most likely reduce the number of kilometres travelled by local residents and they will have the opportunity to shop locally, and will have greater opportunity to walk to do their shop;
- Due to the nature of the character of the shops, vehicle deliveries will be made in vehicles that are smaller than the 11.3 metre rigid truck which previously made deliveries to the club loading dock via Chesterfield lane;

- The proposed development is expected to result in a reduction in the volume of traffic using Chesterfield Lane due to the removal of the existing car park and loading dock;
- Macpherson Street has the capacity to accommodate the additional traffic generated by the site; and
- The nearby intersection of Macpherson / Arden Streets has spare capacity to accommodate the additional traffic generated by the site.

The study concludes that it is clear that the proposed development will not have any unacceptable traffic implications in terms of road network capacity. Rather, it will offer a number of opportunities to reduce the impact of traffic use on surrounding streets.

9. How Has The Planning Proposal Adequately Addressed any Social and Economic Effects?

The proposed development generates a number of positive social and economic impacts. The proposed development will:

- Enable the Bronte Centre to evolve and continue to meet the needs of local residents. The applicant wishes to create a modern facility that can meet the needs of the neighbourhood and locality, which, in turn, will contribute towards enhancing the well-being and amenity of residents;
- Provide an increase in the number of dwellings available within close proximity to public transport enhancing resident access to public transport and promoting the achievement of broader Ecologically Sustainable Development (ESD) goals by providing greater opportunity for reductions in car use and trip generation;
- Promote enhanced neighbourhood safety and security through casual surveillance generated by the presence of a permanent resident population in the site (particularly compared to the present) and building design;
- Improve patronage to local retail businesses and services through an increase in resident population and complimentary retail facilities that will reduce escape expenditure out of the area;
- Provide short-term economic benefits through construction expenditure and employment; and
- Provide improvements to streetscape appearance, character, amenity and access to retail services enhancing resident quality of life, satisfaction and generating potential opportunities for increased property values.

Some key aspects are worthy of note:

Community Opinion

The original proposed development raised significant concerns within the community that unfortunately involved acts of vandalism to the premises and other unfitting behaviour by some individuals.

The forceful objections received would suggest that social impacts are significant and the development would not be in the public interest.

However, the history of the proposed development, and the extensive consultation undertaken to date by both Council and WBL provides a useful insight to the basis of the issues and concerns of the local community and surrounding residents.

As note in the introduction, the dissemination within the community of incorrect or misleading information, notwithstanding the significant body of publicly accessible professional evidence that confirms the contrary, unfortunately may have directly or indirectly influenced individual opinion and unnecessarily fuelled the concerns that have been evident.

The concerns raised by residents are widely known and are effectively summarised in the report to Council's 11 December 2012 meeting (p. 198) as follows:

1. Traffic generation particularly if the RSL site was to be developed;
2. The effect on the amenity of the surrounding environment due to a district wide retailer opening in the centre with most mentioning increases in traffic volumes as their main concern;
3. The redevelopment of the Bronte RSL site. There was both opposition to and support of redevelopment of the site. Potential impacts on the neighbourhood were also raised;
4. Land Use / vision for the neighbourhood centre, particularly regarding types of retail, green space, residential on the RSL site and the desire for a local focus.
5. Built form and controls should ensure that the future character of the neighbourhood centre is in keeping with the existing small scale character and respects the amenity of housing to the south.

However, the consultant reports commissioned by both Council and WLB, and the facts of the matter, address these and other concerns in various places. This is summarised in the table below.

Community Concern	Comment
1. Traffic generation particularly if the RSL site was to be developed;	The original traffic assessment by Varga Traffic Planning was reviewed by GTA Consultants on behalf of Council in November 2012. An updated assessment that incorporates the comments in the GTA review was presented to Council and a revised report is presented here in. All reports confirm that the proposed development will have no adverse traffic impact. Rather, it has the potential to reduce the number of local trips. There is no technical evidence, or any doubt, to suggest that there will be any traffic impact resulting from the proposed development. Rather, there is a positive impact.
2. The effect on the amenity of the surrounding environment due to a district wide retailer opening in the centre with most mentioning increases in traffic volumes as their main concern;	Traffic is addressed above. In terms of potential economic impact, all economic consultants (the revised economic assessment by Location IQ, and Council's two assessments by both Urbis and Hill pda) support the inclusion of the proposed fresh food market within the site as beneficial to the viability and range of services offered to local residents by the Macpherson Street Centre. There is significant technical evidence to confirm that there will be no negative impact on the role, viability and vitality of the existing retail facilities in the Macpherson Street Centre. Rather it provides positive benefits to the local community.
3. The redevelopment of the Bronte RSL site. There was both opposition to and support of redevelopment of the site.	There is no evidence to indicate that there will be any unreasonable environmental impacts on the neighbourhood.

Community Concern	Comment
Potential impacts on the neighbourhood were also raised;	
4. Land Use / vision for the neighbourhood centre, particularly regarding types of retail, green space, residential on the RSL site and the desire for a local focus.	The proposed uses (and their mix) are all of a low scale nature suited to the area. The retention of the RSL (albeit smaller), the provision of 26 new homes and the provision of new shopping opportunities in an area that is demonstrably undersupplied with facilities are appropriate for the character of the area and the scale of the existing centre. There is no evidence to suggest that the local scale of the area will be injuriously impacted by the presence of the proposed development.
5. Built form and controls should ensure that the future character of the neighbourhood centre is in keeping with the existing small scale character and respects the amenity of housing to the south.	In terms of height, the proposed height of the development provides an opportunity for a new building to accompany the presence of the large Ocean View Building adjoining the site and other tall buildings in Bronte. Furthermore, relevant to this site, the proposal reduces the visual impact of the Ocean View Building as an isolated stand alone tower, and improves the streetscape character of Macpherson Street. Any potential townscape and streetscape visual impact of the additional bulk and scale of built form within the site is visually absorbed by the presence of the existing Ocean View Apartment building adjoining it. There is evidence to demonstrate that there will be negligible, if any, impacts on adjoining homes by way of view loss, noise, shadow and privacy. Rather, for many dwellings to the south in Chesterfield Lane, the proposed development will offer an improvement on the overlooking and shadow currently generated by the existing development. There is no evidence to suggest that there will be any impacts on the character of the area.
6. The proposed development will set a precedent for a high rise centre on Macpherson Street [Photomontages supplied].	Since Council resolved in March 2012 to consider site specific controls for the Bronte RSL it has always been based on the resolution, and written intent, that such controls will respond to the unique circumstances of the Bronte RSL site only. By definition, Council's consideration, and the development application, is site specific. Suggested photomontage streetscape views of McPherson Street in the future presented in objectors' websites are included without any justification, technical basis and are in most instances inaccurate. They appear to be intended to merely unnecessarily inflame community concerns, rather than make any constructive contribution to the debate. Furthermore, other images showing visual interpretations of perceived impacts such as shadow, traffic and visual are, in our view, also inaccurate.
7. The Ocean View Apartment Building is currently, or has been in the past, subject to an ICAC investigation	This is incorrect.
8. The Bronte RSL will not be returning to the site in the new development.	This is incorrect.
9. There are significant safety and security concerns for children using the primary school.	No details are provided to support any concerns as to how a development of the nature proposed would invoke safety and security fears for children. There is no evidence to suggest that there will be any impact on the safety and security of children.

Positive Economic Impact

In terms of economic impact, there have been two consultant reports commissioned by Council: Urbis and Hillpda. A revised economic impact statement has also been undertaken by Location IQ on behalf of WLB to support WLB's vision. This is reproduced in Attachment 2.

It is relevant to summarise the key findings of Council's reports.

Urbis (commissioned by Council)

- The proposed development at 1,246sqm is relatively modest in scale and is located on the edge of an existing retail strip;
- The scale of grocery retailing is likely to be highly convenient for Main Trade Area residents undertaking top-up food shopping;
- Although there may be minor competitive impacts on individual retailers within the Main Trade Area, the development should strengthen the overall retail offer on Macpherson Street. The specialty shops are oriented to the street and should therefore complement the existing retail strip; and
- There are no economic grounds in the Location IQ report on which the proposed development should be refused planning consent.

Hill PDA review (commissioned by Council)

- General support for a Harris Farm or similar food and grocery store of up to 1,000 sqm being provided on the site for the following reasons:
 - > it would provide a net benefit to the local area (in economic terms and excluding any potential environmental and traffic concerns);
 - > such a use would provide an important anchor for the Macpherson Street Centre which is currently lacking;
 - > it would improve the retail offer for local residents and provide a service for regular shopping for essential items (foods and groceries);
 - > it would reduce the number of necessary trips by car into Bondi Junction or other higher order centres for local residents that need to top-up their food and groceries;
 - > Harris Farm, Thomas Dux and similar stores are a relatively new store types that serves higher socioeconomic demographic areas which is the case in Bronte;
 - > impacts on existing specialties in the Macpherson Street Centre would be mixed with some possible short-term changes but the medium term impacts will be positive due to a likely nexus and complementary relationship with the anchor tenant; and
 - > the proposal is unlikely to adversely impact any other centre to any significant level;
- Harris Farm would elevate the centre to 'village centre' as per the Metro Strategy definition. The centre's strategy defined in the draft Subregional Strategy seeks to provide a guide only and is not meant to be prescriptive or prevent development;
- It is the assessment of economic impact which should determine its permissibility, rather than whether it would accord with the definition of the centre in the draft Subregional Strategy. The NSW Draft Centres Policy advocates a flexible approach towards the retail centres hierarchy and the draft SEPP (Competition) supports a positive approach towards new retail proposals with the role of planning to regulate the location and scale of such proposals, not the principle;

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- The report analyses the issue of floor space caps and refers to the Productivity Commission report and relevant case law. The report notes that a 500sqm store would prevent a Harris Farm store from operating on the site and, while there are some food and grocery retailers that can fill smaller areas (below 500sqm) such as an IGA Friendly Grocer or Coles Express, there is a risk that the store would be too small to provide a sufficiently strong retail offer for a future tenant on the site to attract a sufficient level of trade to ensure its commercial viability in this location;
 - It is more appropriate to have capped areas in the DCP to ensure greater flexibility. Standards in an LEP become too prescriptive and undermine the potential to accommodate a new format if that is deemed desirable. DCPs are far more flexible to accommodate changes and new format types;
 - If Council was to impose a 500sqm cap there is some risk that the centre would not get an anchor tenant.; and
 - A 500sqm cap would not stop two units of 500sqm being provided rather than one unit of 1,000sqm. The trading impact of two convenience stores of 500sqm each trading on the site would be similar or identical to that of one 1,000sqm convenience store trading from the site.

All three economic impact reports unconditionally support the proposal both in terms of its use and scale.

Section D – State and Commonwealth Interests

10. Is There Adequate Public Infrastructure for the Planning Proposal?

Public Infrastructure encompasses:

- Public transport;
- Civil Infrastructure (sewer, stormwater, power, potable water, gas);
- Emergency Services; and
- Road Access.

The site subject to the proposed rezoning enjoys good access to a good bus service. All infrastructure networks serve the site and traffic impact assessment confirms that the surrounding road network can accommodate the proposed development.

11. What are The Views of State and Commonwealth Public Authorities Consulted in Accordance with The Gateway Determination?

As part of the Gateway Rezoning process Council will consult with a range of government agencies that are relevant. No consultation with Commonwealth authorities has been undertaken to date on the Planning Proposal.

Part 4 – Mapping

Preliminary mapping that identifies the site and the nature of the proposed amendments is contained in Part 2 above.

Part 5 – Community Consultation

The rezoning will be the subject of reporting to Council and endorsement by Council for exhibition in accordance with the Act and Regulation.

Part 6 – Project Timeline

Due to the history and complexity of the proposal, the level of information provided with the planning proposal is considered to enable the plan making process to be completed within a reasonable time.

Attachment 1.
Revised Traffic Impact Report, Varga Transport Planning.

Attachment 2.
Revised Economic Impact Assessment, Location IQ.

Attachment 3.
Architectural Concept Plans, Aleksandar Design Group.

Attachment 4.
Compliance with Goals of NSW State Plan 2021.

ACHIEVEMENT OF STATE PLAN 2021 GOALS AND STRATEGIES

Strategy and Goal	Contribution to Achievement	Comment
Rebuild the Economy		
1. Improve the performance of the NSW economy	Yes	Development in accordance with the amendments to the Planning proposal will be the catalyst for significant investment by the private sector in development and construction. Location IQ notes that provision of an additional retail floor space in Bronte will potentially generate new local jobs. Both construction and subsequent businesses that occupy development within the site will provide access to increased locally based employment and potential 'on-the-job' and apprenticeship training opportunities. Furthermore, there will be enhanced investment and economic benefits achieved by the multiplier effects of the injection of wages into the economy and the increased business confidence and certainty that may emerge in undertaking investment in the Waverley LGA.
2. Rebuild state finances		
3. Drive economic growth in regional NSW		
4. Increase the competitiveness of doing business in NSW		
5. Place downward pressure on the cost of living		
6. Strengthen the NSW skill base		
Quality services		
7. Reduce travel times	Yes	Trip generation and travel times for access to a wide range of non-locally based services will be reduced, potentially reducing traffic volumes on busy collector roads in Bronte. Provision and agglomeration of an increased range of locally based retail, commercial and associated activities within Bronte will enhance the attractiveness and viability of the existing public transport that serves the centre for local trips due to the diminished need to commute out of the area to gain access to services and employment. Provision and agglomeration of an increased range of locally based retail, commercial and associated activities within Bronte will enhance the attractiveness and scope of using cycles and walking as a viable transport mode, compared to the provision of activities in more distant locations.
8. Grow patronage on public transport by making it a more attractive choice		
9. Improve customer experience with transport services		
10. Improve road safety		
11. Keep people healthy and out of hospital	Yes	Development of the site provides greater opportunities for active, healthy lifestyles by the promotion of greater use of public transport and walking due to an improved concentration and increased locally based range of services.
12. Provide world class clinical services with timely access and effective infrastructure	n/a	
13. Better protect the most vulnerable members of our community and break the cycle of disadvantage		
14. Increase opportunities for people with a disability by providing supports that meet their	Yes	A modern development will meet all current disability access requirements providing a superior level of access and support compared to similar dated developments.

Strategy and Goal	Contribution to Achievement	Comment
individual needs and realise their potential		
15. Improve education and learning outcomes for all students		No impact.
16. Prevent and reduce the level of crime	Yes	A modern development will meet all incorporate 'Crime Prevention Through Environmental Design' (CPTED) design principles offering improved performance in reducing the propensity for crime compared to similar dated developments.
17. Prevent and reduce the level of re-offending		
18. Improve community confidence in the justice system		No impact.
Renovate infrastructure		
19. Invest in critical infrastructure	Yes	Development undertaken in response to the amendments to this planning proposal will: • Result in more efficient use of existing infrastructure; and • Justify and support Government investment in road and public transport infrastructure.
20. Build liveable centres	Yes	The provision of a wide range of conveniently accessible, locally based services reduces travel times, enhances personal and household quality of life and improves the functionality and attractiveness of urban areas.
21. Secure potable water supplies		A modern development will meet incorporate contemporary water saving and other' green building' measures compared to similar dated developments.
Strengthen our Local Environment and Communities		
22. Protect our natural environment	Yes	A modern development will meet incorporate contemporary water saving and other' green building' measures compared to similar dated developments. Preliminary assessment of the site indicates that environmental impacts will be minimal.
23. Increase opportunities for people to look after Their own neighbourhoods and environments	Yes	Development undertaken in response to the amendments to this planning proposal will provide greater opportunities for social interaction and community pride by enabling a wider range of local meeting places.
24. Make it easier for people to be involved in their communities		
25. Increase opportunities for seniors in NSW to fully participate in community life		
26. Fostering opportunity and partnership with Aboriginal people		Will not hinder achievement of goal.
27. Enhance cultural, creative, sporting and recreation opportunities	Yes	Development will provide greater opportunities for social interaction and community pride by enabling a wider range of local meeting places.
28. Ensure NSW is ready to deal with major emergencies or natural disasters		Will not hinder achievement of goal.

Strategy and Goal	Contribution to Achievement	Comment
Restore Accountability to Government		
29. Restore confidence and integrity in the planning system	Yes	The Gateway Rezoning Process is a transparent and accountable process.
30. Restore trust in State and Local Government as a service provider		
31. Improve government transparency by increasing access to Government information		
32. Involve the community in decision-making on Government policy, services and projects	Yes	The amended planning proposal, should it receive preliminary support by Council and the State Government will be placed on public exhibition for community comment prior to any decision being. Community comments will be considered in the assessment of the rezoning proposal.

Attachment 5.
Compliance with SEPP 65.