

ATTACHMENT 1

Ordinary Council Meeting 5 December 2011 ENVIRONMENTAL SERVICES DIVISION REPORT NO. 36

Reference: Environmental Services Division Report No. 36
Subject: Planning Proposal for 1-25 Marshall Avenue St Leonards
Record No: SU4508 - 48285/11
Author(s): Vivienne Albin

Executive Summary

A planning proposal has been submitted to Council for an amendment to the Local Environmental Plan (LEP) 2009 for 1-25 Marshall Avenue, St Leonards. The proposal seeks to amend the LEP Height and Floor Space Ratio (FSR) Maps. The site's current Mixed Use (B4) zoning is not proposed to be changed.

The proposed amendment to the LEP seeks to suppress the height over the majority of the site while increasing height to the eastern most portion near the railway line to allow a tower development. The proposal does not increase the total floor space over the entire site, but reallocates the floor space to that part of the site closest to the railway line. This shift in floor space aims to improve design outcomes, most importantly, overshadowing to the existing dwellings on the southern side of Marshall Avenue.

The planning proposal seeks to shift the site's massing east to improve the development and amenity outcome for the subject site and for surrounding property owners generally. Council staff support the proposal which seeks to improve amenity and add value to the commercial, mixed use and low scale residential development of the locality.

Council is requested to support the recommendation at the end of this report. The intention is to proceed to the LEP Gateway to enable public consultation at exhibition stage. After exhibition Council would have the opportunity to confirm, vary or not proceed with the draft amendments.

Background

The LEP Gateway Process

The new process to amend local environmental plans was introduced by the then Department of Planning in 2009, and involves making a submission to the "LEP Gateway" for permission to proceed to exhibition. At that stage further studies prior to exhibition may be required by the Department. The steps involved in the Gateway process are shown in the attachment at AT-1, and are intended to reduce processing times for draft LEPs.

Council may submit a planning proposal to the DOPI based upon a private applicant's submission. This proposal is then considered and if approved by the Gateway process then the proposal is exhibited. After exhibition, the proposal is then put before Council again in a second report which assesses the submissions received. Finally, the proposal is sent back to the DOPI for notification (gazettal).

Brief History of the Site and the LEP Process to Date

In relation to the subject site, the LEP process to date has included the following:

- Draft LEP 2007 exhibited the site with an FSR of 3:1 and heights of 18m and 9.5m. The graduation of heights was to step the development down to Marshall Avenue to improve the interface with low scale dwelling houses to the south.
- Following submissions concerned with the financial viability of the locality, DLEP 2008 was

exhibited including an FSR of 5:1 and a height of 36m.

- LEP 2009 was finalised by the DOPI with an FSR of 5.1:1 and a height of 36m across the entire block (except a narrow strip of 9.5m flanking Marshall Avenue for height graduation). Following this, the development control plan (DCP) was edited as an interim measure to state that a flexible approach would be taken to proposed developments for the area and parts of the DCP were also deferred.
- On 6 December 2010, Council resolved to seek a mechanism with the DOPI to minimise the impact of the Marshall Avenue mixed use area on the low scale dwelling houses to the south.
- In early 2011, Loftex discussed with Council a proposal to vary the LEP (and the DCP accordingly). Council was of the view that the proposal potentially provided a suitable mechanism to manage development on the site while minimising overshadowing and bulk effects to other sites in the vicinity and broadly considered it suitable to propose to the DOPI.
- The planning proposal currently before Council was formally lodged with Council by Loftex in October 2011.

Preliminary Community Consultation

Prior to lodgement of the Planning Proposal, community meetings were held by Loftex with residents and commercial owners in the locality.

Submitted Documentation

In support of their planning proposal the applicant has submitted:

1. A covering letter from Loftex formally lodging the planning proposal for Council's consideration, dated 11 October 2011 (**AT-2**);
2. The Planning Proposal, prepared by Don Fox Planning, dated October 2011 (**AT-3**);
3. A letter outlining the proposed DCP amendments, prepared by Don Fox Planning, dated 7 October 2011 (not attached as not being considered as part of this report); and
4. An Urban Design Report, prepared by GM Urban Design, dated October 2011 (**AT-4**).

Relevant Strategic Framework

In accordance with the DOPI's "Guide to preparing planning proposals", the Loftex Planning Proposal includes consideration of the proposal's relationship to the broader strategic planning framework.

Consideration is given in the planning proposal to the proposal's consistency with the:

- Objectives and actions contained in the Draft Inner North Subregional Strategy (2007) and the Metropolitan Plan;
- St Leonards Strategy;
- Lane Cove Council Draft Community Strategic Plan 2025;
- Applicable State Environmental Planning Policies;
- Applicable Ministerial Directions.

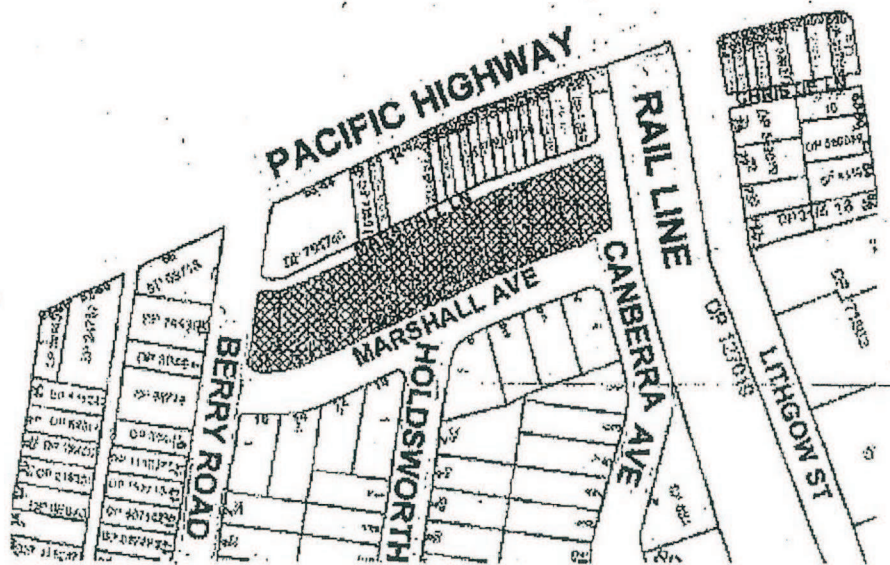
As it is not proposed to change the mixed use zoning, or increase the total floor space for the site, it is considered that the planning proposal's relationship with the above strategic documents would remain the same as under the existing height and FSR. Please refer to pages 10-14 of **AT-3** for the applicant's detailed consideration of the proposal's support of the above strategic documents.

Site Description

The subject site comprises 19 allotments and occupies a whole street block (see map below). The

block is bounded by Marshall Lane to the north, Canberra Avenue to the east, Marshall Avenue to the south and Berry Road to the west.

It is currently known as 1 to 25 Marshall Avenue, St Leonards. The total site area is 6,296.1 m².



Map 1 – The Subject Site

The site generally slopes from Marshall Lane down to Marshall Avenue and also from Berry Road down to Canberra Avenue. Due to the topography, current development on the site is elevated above street level, and the streetscape on the northern side is characterised by retaining walls and fences.

Development on the site currently comprises dwelling houses (mostly semi-detached dwellings) constructed in the early 1900s. The site's western most property at 25 Marshall Avenue is used as a medical practice.

Marshall Avenue is also characterised by mature landscaping within the verge and on private land.

The Locality

The site is located within the St Leonards centre and is within a short walk of the St Leonards railway station, Royal North Shore Hospital, bus routes along the Pacific Highway and open space areas (Newlands Park and Gore Hill Park).

Immediately to the north of the site on the opposite side of Marshall Lane is commercial development fronting the Pacific Highway, two to four storeys in height. To the north east, is the Forum development over the railway station and further to the north east are other commercial towers.

To the south east is Canberra Avenue and flanking Canberra Avenue further to the east is the North Shore Railway Line set down in an open cutting below road level.

To the south on the opposite side of Marshall Avenue is low scale residential development comprising single family dwellings, one to two storeys in height. In addition, two medical practices are located at the western end.

Berry Road runs along the western site boundary and on the opposite side are three to six storey commercial developments with an associated open car park.

More broadly speaking, the site is within a context characterised by low scale single dwellings to the south and south west, railway line and commercial development to the north, north east and east and hospital and open space uses further to the north.

It is worth noting that the Minister for Planning and Infrastructure has approved a concept plan under Part 3A of the EPA Act in the vicinity of the site. The concept plan is for a commercial building at 88 Christie Street, St Leonards (to the east of the railway line) to a height of RL 149.50m AHD (eighteen commercial storeys plus plant room). Although the proposal still has to obtain DA approval, it seems likely that some form of the development will go ahead on the site and even if this proposal does not eventuate, it may be likely that another development of a similar scale is built on the site in the foreseeable future. Accordingly, it is prudent to take this Part 3A approval into consideration when assessing the urban form of the locality.

Discussion

In support of this planning proposal, the applicant (Loftex) has prepared detailed documentation in the format required by DOPI. As well as a planning proposal for an LEP amendment (see **AT-2**, **AT-3** and **AT-4**), the documentation also proposes changes to the Lane Cove Development Control Plan (DCP).

The proposed DCP supports the proposed LEP and as such any changes to the existing DCP must be made in tandem with the LEP amendments for the site. However, any DCP amendments are not being considered at this point in time but would be considered and exhibited alongside the LEP, should the planning proposal obtain support through the gateway process.

A commentary on the submitted documentation follows later in this section.

Key Features of the Planning Proposal

The planning proposal includes consideration of three options for the site resulting in a preferred option which is then put forward as the proposed LEP amendments.

1. Option A represents the current LEP controls.
2. Option B involves a scheme where the height is reduced over half the site and increased over the other half of the site.
3. Option C is a scheme where the building height is lowered for two thirds of the site and increased for one third of the site and is now put forward as the preferred planning proposal.

Staff concur with the Applicant's decision to pursue Option C as the preferred option given Option A (the existing situation) has constraints regarding overshadowing and Option B only goes part of the way to realising opportunities of a masterplan approach to this amalgamated site.

The key features of the planning proposal include amendment to the LEP in relation to:

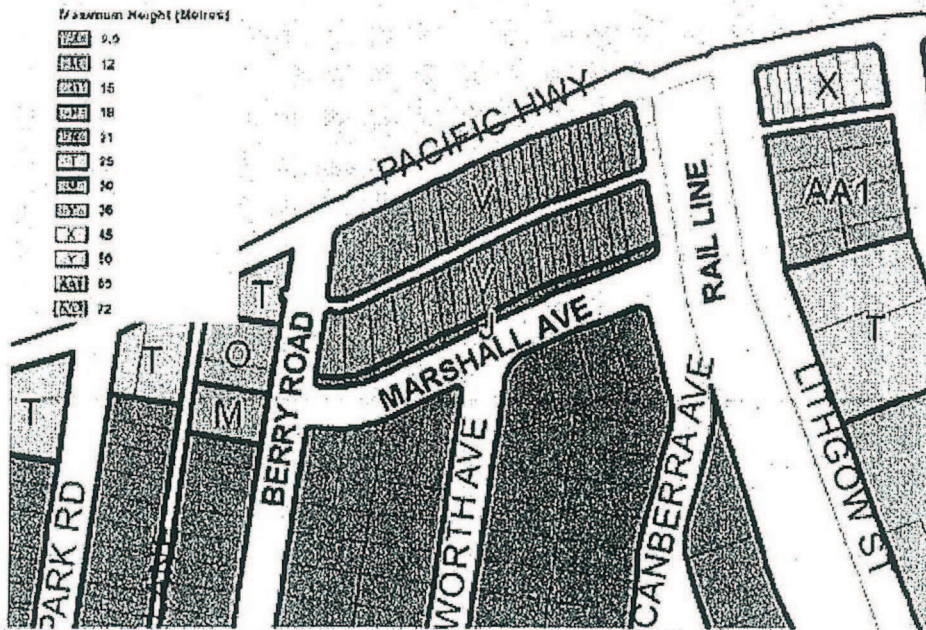
- The LEP Height Map
- The LEP FSR Map

LEP Height Amendment

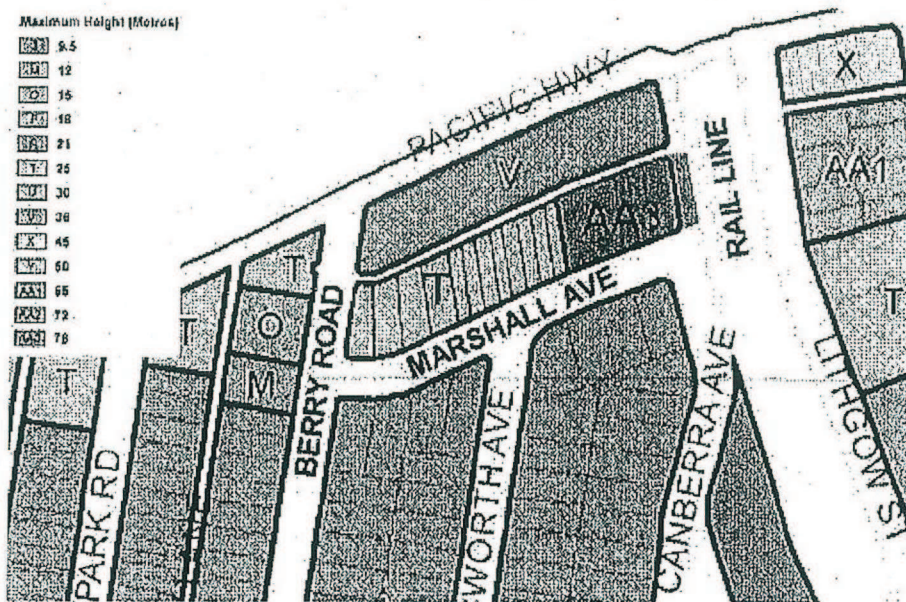
Currently the LEP height limit for the site is 36m (appears as "V" on Map 2 - LEP 2009 Height Map excerpt below) with the exception of a narrow strip along Marshall Avenue, which is 9.5m ("J").

The proposed amendment to the LEP 2009 map involves reducing the height from 36m to 25m ("T") for approximately two thirds of the site and then increasing the height from 36m to 78m ("AA3") for the eastern third of the site. See Planning Proposal - Map 3 below.

The narrow 9.5m height band is not proposed to be retained as this strip was designed to minimise height impacts to Marshall Avenue. The current proposal addresses height impacts by reducing the allowable height for most of the site.



Map 2 - LEP 2009 Height Map (excerpt)

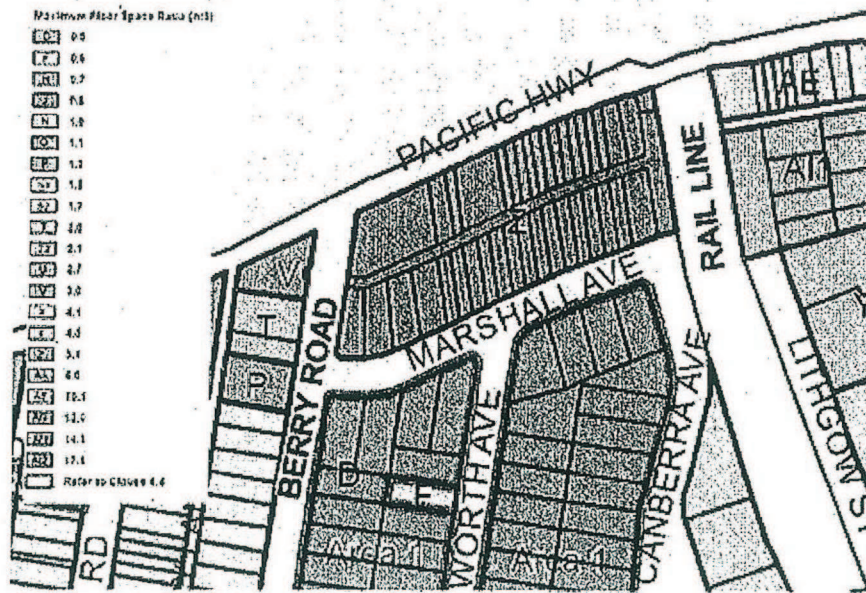


Map 3 - Planning Proposal LEP Height Map Amendment
LEP FSR Amendment

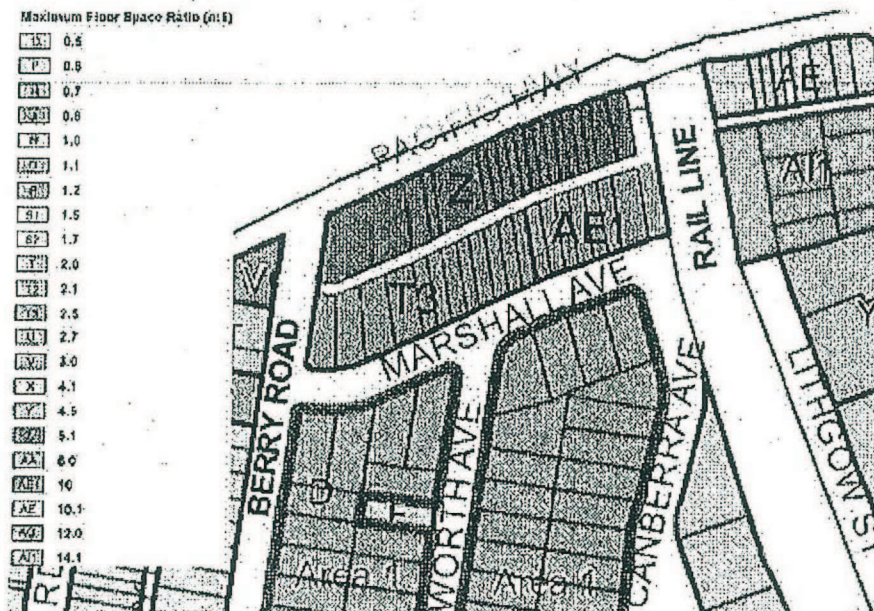
Currently the LEP FSR limit for the site is 5.1:1 (shown as "Z", see Map 4 - LEP 2009 FSR Map excerpt below). The proposed amendment reduces the FSR for two thirds of the site from 5.1:1 to 2.5:1 ("T3") and increases the FSR for the eastern most end of the site from 5.1:1 to 10:1 ("AE1"), (see below Map 5 - Planning Proposal LEP FSR Map Amendments).

It should be noted that the overall FSR for the site (1-25 Marshall Avenue) is not proposed to be increased and is in fact marginally decreased. The current allowable floor space on the site is 32,110 m² and the allowable floor space under the proposal would be 31,480 m².

The proposal involves distributing the FSR differently within the block.



Map 4 - LEP 2009 FSR Map (excerpt)



Map 5 - Planning Proposal LEP FSR Map Amendments

Applicant's Assessment of the Planning Proposal and Council Officer Comment

Shadows from an existing compliant scheme would be generally solid and reach the low sc. The applicant contends that there are several advantages to the proposed shift in allowable building massing as summarised below:

1. Reduction in Shadow Impacts

The first amenity advantage included in the planning proposal is the reduction in shadows to the dwellings on the southern side of Marshall Avenue. The Urban Design Report submitted with the proposal includes shadow diagrams of possible building massing under Option A (current LEP controls), and the preferred Option C.

The existing scheme shows substantial shadows extending over dwellings to the south, particularly

at the eastern end (due to the topography). After 1pm, shadows extend down Holdsworth Avenue and Canberra Avenue.

The shadow assessment of the Preferred Option, outlined in the Urban Design Report, indicates that the proposed reduced building heights on the western part of the site would result in reduced shadow impacts to dwellings on the southern side of Marshall Avenue. The tower however, would cast a longer shadow, which is narrower, and moves more rapidly across the residential area than shadows from the existing scheme, and moves off the residential area by 1pm.

The planning proposal states that *"The analysis demonstrates that the heights proposed in the Planning Proposal can achieve significant improvements in terms of shadow impacts to the adjoining residential areas."* (AT-3 – Planning Proposal, page 7).

Comment

The Urban Design Study includes shadow diagrams for the winter solstice for a scheme using the current LEP controls and a scheme under the preferred Option C.

ale dwellings on the opposite side of Marshall Avenue at 10am with the shadowing increasing throughout the day. Shadows extend down both Holdsworth and Canberra Avenues from 2pm in the afternoon.

Shadows generated from the lower height western portion under preferred Option C do not affect the low scale dwellings on the opposite side of Marshall Avenue until 2pm. The shadow cast by the tower element is long and narrow and moves over the residential area to the south relatively quickly with the bulk of the shadow falling on the road and railway line after 2pm.

The shift in building massing put forward by the planning proposal would likely result in a substantial improvement to the shadow impacts of development on the subject site.

2. Urban Form of the St Leonards Locality

The preferred scheme (Option C) indicates how the height can be reduced over the western two thirds of the site by transferring the floor area into a tower form at the eastern end of the site. The western portion of the site is proposed to have a height limit of 25m while the eastern portion is proposed to have a height of 78m (RL 149m AHD).

The height of the tower has been selected to match the height of the Part 3A proposal at 88 Christie Street, St Leonards, while taking into account roof plant and topography. The planning proposal considers that in the urban context, the proposed tower height would have urban design merit as it would seek to balance the likely tower east of the rail line.

Comment

The St Leonards commercial centre is characterised by tall buildings approximately 10-35 storeys (eg, The Forum, The Abode, IBM Building), many of which are in either Willoughby or North Sydney LGAs. The recent uplift in height and FSR for that part of St Leonards in the Lane Cove LGA reflects a strategic decision by Council to facilitate the upgrading of the Lane Cove Council portion of the St Leonards commercial centre.

The proposed 78m height limit will allow a building of a commensurate height to other tall buildings in the locality. The Part 3A Concept Plan Approval at 88 Christie Street is for a building to RL 149.50m (AHD). The Forum on the opposite side of the Highway and above the railway line has a maximum RL of 151.3m. Therefore a tower on the eastern end of the subject site up to 78m (RL149m) will not appear as an anomaly in the locality and would provide visual balance to the proposed 88 Christie Street development on the opposite side of the railway line.

The 25m height limit, proposed over two thirds of the site, appears appropriate in the locality. It provides a transition element from the allowable height of 36m along the Pacific Highway down to

the 9.5m height limit of the southern side of Marshall Avenue. The shadow diagrams discussed above add support for the appropriateness of the proposed 25m height limit.

The two proposed height limits for the subject site are considered appropriate given the existing and likely future tower development in the St Leonards centre and the need for an area of lower height providing a transition down to Marshall Avenue.

3. Massing to Marshall Avenue

The planning proposal sets out the third advantage of the proposal. This is the substantial reduction in massing achieved by transferring floor space from the western site portion into the tower at the eastern end, which allows:

- massing over most of the site to be broken up into smaller discrete envelopes, separated by landscaped spines between each building;
- the proposed built form for most of the site to be more in keeping with development on the southern side of Marshall Avenue; and
- reduced visual impact.

Comment

In comparing the preferred Option C with an existing compliant scheme, greater flexibility would be achievable and smaller building footprints would be possible. This reduction in building mass has several positive effects; it allows greater landscaping between buildings, provides an opportunity for sunlight penetration to Marshall Avenue and retains some opportunity for views over the site from the existing/future commercial premises fronting the Pacific Highway.

The proposed reduction in height on the western two thirds of the site reduces the number of residential storeys allowable from 12 to approximately 8. This is likely to result in a substantial improvement to the perception of bulk as viewed from the southern side of Marshall Avenue, thereby minimising the visual impact of future buildings.

A tower development at the end of the subject site would have a visual impact on Marshall Avenue as the scale is radically different from the low scale residential area to the south. However, the tower is likely to be read as part of the St Leonards centre where towers are already located or likely to be established in the future. The tower would be located at that part of the site likely to have the lowest amenity currently due to the noise of the railway line and Pacific Highway. However, it is considered to be the best location in terms of minimising building mass and overshadowing impacts to most of the residential area to the south.

4. Relationship to Pacific Highway Properties

The planning proposal argues that the current LEP potentially produces a uniform building height and massing to Marshall Lane which would create a sensitive interface between buildings on the site and commercial development facing the Pacific Highway. Potential issues are likely to result from lack of building separation (eg, shadows, visual & acoustic amenity).

The preferred scheme is designed to reduce the impacts by allowing the transfer of floor space to the tower, thereby promoting the reduction of building footprints on the western portion of the site. Reduction in footprints would allow landscaped spines and view corridors between the proposed buildings from current/future development along the Highway. Accordingly, it is believed that *"The improved relationship with the Pacific Highway properties will maintain the development feasibility of those properties."* (AT-3 – Planning Proposal, page 8).

Comment

It is agreed that relocating building mass to the eastern end of the site provides an opportunity for greater separation of buildings within the site. This provides advantages for the Pacific Highway properties in terms of views over/through the subject site and minimisation of potential shadowing

impact on the subject site when the Pacific Highway properties redevelop. This is considered to be an added advantage when seeking to encourage amalgamation and development of the existing small and narrow lots fronting the Pacific Highway.

5. Internal Amenity (SEPP 65 Considerations)

The planning proposal states that the preferred scheme, as opposed to a development under the current LEP, has a significantly improved ability to comply with SEPP 65 and meet the objectives of the Residential Flat Design Code (RFDC). Particular elements supporting SEPP 65 include narrow building footprints, increased building separation, improved ventilation and improved solar access outcomes.

Comment

It would appear that the planning proposal provides a greater potential to increase amenity and meet SEPP objectives for future residents and, as such, would be welcomed.

Summary of Applicant's Assessment of the Planning Proposal and Council Officer Comment

The Planning Proposal, and supporting Urban Design Report, sets out five advantages of the preferred Option C. These advantages have been discussed above and include:-

- reduced shadow impacts to the south;
- heights in character with the St Leonards urban context which is currently in transition;
- reduced bulk and massing to Marshall Avenue;
- improved relationship with commercial properties fronting the Pacific Highway;
- improved opportunities to meet SEPP 65 for future developments on the site.

It is considered that the preferred Option C, compared to the existing controls, would potentially yield an improved urban form for the site and surrounds. Therefore, the Planning Proposal prepared by Don Fox Planning, dated October 2011, and included as **AT-3** is supported.

Consideration of the Planning Proposal in the Context of Commercial Development on the Site

The planning proposal envisages residential development over the subject site which is permissible in the mixed use zone. However, as commercial development is also permissible in the zone, Council must consider the effect of amending the LEP Height & FSR map if the site is not developed for residential but commercial development.

All the advantages of the proposal, with the exception of any reference to SEPP 65 compliance, carry over equally to commercial development on the site. Therefore, whether the site is eventually developed for residential (as envisaged by the applicant) or commercial (as possible within the zone) development, the planning proposal would still produce a better outcome over the site than the existing controls.

Consideration of Planning Proposal in Relation to the Proposed Plaza over the Railway Line

The planning proposal was referred to the Open Space and Urban Services Division. Council's Urban Design Manager made comments in relation to the proposed rezoning (see **AT- 5**).

The Urban Design Manager commented that Council is pursuing the development of the St Leonards Precinct, particularly around the railway line. Consequently, staff have developed an urban design concept that integrates the proposed Part 3A development at 88 Christie Street and the proposed Loftex development, with a bus/rail interchange and plaza over the railway line. These two private developments would be considered anchor developments for the plaza. Furthermore, the increased residential density adjacent to the proposed plaza would also benefit the plaza concept.

The Urban Design Manager also commented that some refinement of the Master Plan is needed in terms of traffic, open space and public domain dedication.

Comment

Council's Urban Design Manager supports the planning proposal as it would complement the St Leonards bus/rail/ interchange and plaza project being developed by Council. Refinement of parking, open space and public domain, and many other development details for the site, would take place at a subsequent DCP amendment stage for this site.

Community Consultation

Statement of Intent

The consultation is designed to (i) conform with the Department of Planning and Infrastructure's requirements as may be advised at the LEP Gateway stage and (ii) seek the views of the community on the potential LEP amendments. Any comments received would be reviewed and evaluated and reported to Council prior to a final determination whether or not to proceed, with or without variation, with the amendments.

Method

Level of Participation	Inform	Involve	Consult
Form of Participation	Open	Targeted	Open
Target Audience	Lane Cove Community, community groups, and adjacent Councils	Key message givers eg. Relevant property owners	Lane Cove Community
Proposed Medium	Advertisements, Letters, Public Exhibition, E-newsletter and Website Exhibition	Letters	Public Exhibition, Public Hearing, E-newsletter and Website Exhibition
Indicative Timing	Early 2012	Early 2012	Early to mid 2012

Conclusion

This planning proposal has been submitted to Council for an amendment to the Local Environmental Plan (LEP) 2009 for 1-25 Marshall Avenue, St Leonards. The proposal seeks to amend the LEP Height and Floor Space Ratio (FSR) Maps. The site's current Mixed Use (B4) zoning is not proposed to be changed.

It is proposed to suppress the height over the majority of the site and increase in the height for the western most portion near the railway line to allow a tower development.

The proposed amendment to the LEP does not increase the total floor space over the entire site, but seeks to reallocate the floor space to that part of the site closest to the railway line. This shift in

floor space aims to improve design outcomes, most importantly, overshadowing to the low scale dwellings on the southern side of Marshall Avenue and would have the potential to encourage added flexibility and greater amenity internal and external to the site.

Council is requested to support the recommendations below. The intention is to proceed to the LEP Gateway to enable public consultation at exhibition stage. After exhibition Council would have the opportunity to confirm, vary or not proceed with the draft amendments.

The single ownership of 1-25 Marshall Avenue presents an opportunity for both the developer and the community to add value and minimise external impacts and increase flexibility that comes from a larger site. There are a number of clear benefits to the developer if Council agrees to this planning proposal. These benefits include the ability to concentrate density in a way that adds value to the development of residential units with significant views while also seeking to increase the amenity of the residue by increasing design flexibility and product range.

The opportunity for existing residents is to further reduce the likely impacts (although reasonable) of overshadowing, bulk, scale, height and impact of future development.

For Council the potential benefits include the opportunity to minimise physical impacts on existing dwellings (height/bulk/overshadowing etc.) while increasing viewing corridors and opportunities for greater on-site amenity for future development along with the potential for greater encouragement for amalgamation and development potential for sites on the Pacific Highway.

The planning proposal presents a planning opportunity that has the potential to add value for all stakeholders in the precinct and should be supported to the gateway process and exhibition. The proposal would also have implications for the planning and development of Council and other public lands. Bearing such in mind, staff will actively consider the range of partnership opportunities in the community's interest including Voluntary Planning Agreements.

RECOMMENDATION

That Council:-

1. Adopt the draft amendments to LEP 2009 Height Map for submission to the Department of Planning, as detailed at **AT-3**;
2. Adopt the draft amendments to LEP 2009 FSR Map for submission to the Department of Planning as detailed at **AT-3**;
3. Submit the LEP with adopted amendments in the form of a planning proposal to the Department of Planning LEP Gateway, requesting approval to proceed to exhibition;
4. Undertake a public exhibition of the LEP amendments for a period of 6 weeks after gateway approval (no sooner than February 2012) in accordance with the Environmental Planning & Assessment Act and Consultation Strategy outlined in the report;
5. Receive a further report evaluating the Community Consultation and options for determination; and
6. Investigate Voluntary Planning Agreement opportunities for the establishment and/or development of community infrastructure associated with this zoning proposal.

Michael Mason
Executive Manager

Environmental Services Division

ATTACHMENTS:

AT-1 View	Gateway Process Chart - Department of Planning & Infrastructure	1 Page
AT-2 View	Loftex Covering Letter for Planning Proposal 11 October 2011	2 Page
AT-3 View	Planning Proposal prepared by Don Fox Planning, October 2011	23 Page
AT-4 View	Urban Design Report by GM Urban Design for Marshall Avenue Precinct, October 2011	30 Page
AT-5 View	Referral Comment - Urban Design Manager	1 Page

ERRATUM

Ordinary Council Meeting 5 December 2011
ENVIRONMENTAL SERVICES DIVISION REPORT NO. 36

Subject: Planning Proposal for 1-25 Marshall Avenue St Leonards
TRIM Ref: 50773/11

Please replace page 7 of the above report (page 258 of Agenda document) with the attached page. A formatting error has been corrected.

Ordinary Council Meeting 5 December 2011
ENVIRONMENTAL SERVICES DIVISION REPORT NO. 36

Applicant's Assessment of the Planning Proposal and Council Officer Comment

The applicant contends that there are several advantages to the proposed shift in allowable building massing as summarised below:

1. Reduction in Shadow Impacts

The first amenity advantage included in the planning proposal is the reduction in shadows to the dwellings on the southern side of Marshall Avenue. The Urban Design Report submitted with the proposal includes shadow diagrams of possible building massing under Option A (current LEP controls), and the preferred Option C.

The existing scheme shows substantial shadows extending over dwellings to the south, particularly at the eastern end (due to the topography). After 1pm, shadows extend down Holdsworth Avenue and Canberra Avenue.

The shadow assessment of the Preferred Option, outlined in the Urban Design Report, indicates that the proposed reduced building heights on the western part of the site would result in reduced shadow impacts to dwellings on the southern side of Marshall Avenue. The tower however, would cast a longer shadow, which is narrower, and moves more rapidly across the residential area than shadows from the existing scheme, and moves off the residential area by 1pm.

The planning proposal states that *"The analysis demonstrates that the heights proposed in the Planning Proposal can achieve significant improvements in terms of shadow impacts to the adjoining residential areas."* (AT-3 – Planning Proposal, page 7).

Comment

The Urban Design Study includes shadow diagrams for the winter solstice for a scheme using the current LEP controls and a scheme under the preferred Option C.

Shadows from an existing compliant scheme would be generally solid and reach the low scale dwellings on the opposite side of Marshall Avenue at 10am with the shadowing increasing throughout the day. Shadows extend down both Holdsworth and Canberra Avenues from 2pm in the afternoon.

Shadows generated from the lower height western portion under preferred Option C do not affect the low scale dwellings on the opposite side of Marshall Avenue until 2pm. The shadow cast by the tower element is long and narrow and moves over the residential area to the south relatively quickly with the bulk of the shadow falling on the road and railway line after 2pm.

The shift in building massing put forward by the planning proposal would likely result in a substantial improvement to the shadow impacts of development on the subject site.

2. Urban Form of the St Leonards Locality

The preferred scheme (Option C) indicates how the height can be reduced over the western two thirds of the site by transferring the floor area into a tower form at the eastern end of the site. The western portion of the site is proposed to have a height limit of 25m while the eastern portion is proposed to have a height of 78m (RL 149m AHD).

The height of the tower has been selected to match the height of the Part 3A proposal at 88 Christie Street, St Leonards, while taking into account roof plant and topography. The planning

**Ordinary Council 5 December 2011
MINUTES**

Councillor McIlroy returned to the meeting at 8:39pm.

Councillor Bennison left the meeting at 8:40pm.

Councillor Bennison returned to the meeting at 8:41pm.

ENVIRONMENTAL SERVICES DIVISION REPORT NO. 36

SUBJECT: PLANNING PROPOSAL FOR 1-25 MARSHALL AVENUE ST LEONARDS

399 RESOLVED on the motion of Councillors Gaffney and Smith that Council:-

1. Adopt the draft amendments to LEP 2009 Height Map for submission to the Department of Planning, as detailed at **AT-3**;
2. Adopt the draft amendments to LEP 2009 FSR Map for submission to the Department of Planning as detailed at **AT-3**;
3. Submit the LEP with adopted amendments in the form of a planning proposal to the Department of Planning LEP Gateway, requesting approval to proceed to exhibition;
4. Undertake a public exhibition of the LEP amendments for a period of 6 weeks after Gateway Approval (no sooner than February 2012) in accordance with the Environmental Planning & Assessment Act and Consultation Strategy outlined in the report;
5. Receive a further report evaluating the Community Consultation and options for determination; and
6. Investigate Voluntary Planning Agreement opportunities for the establishment and/or development of community infrastructure associated with this zoning proposal.

For the Motion were Councillors Bennison, Brooks-Horn, Gaffney, Longbottom, Palmer and Smith (Total 6).

Against the Motion were Councillors Forrest, McIlroy and Tudge (Total 3).

ORDERS OF THE DAY

ORDER OF THE DAY NO. 23

SUBJECT: COUNCIL AND COMMITTEE MEETING SCHEDULE FEBRUARY 2012

400 RESOLVED on the motion of Councillors Brooks-Horn and Smith that the Council and Committee Meeting Schedule for February 2012 be adopted.

For the Motion were Councillors Bennison, Brooks-Horn, Forrest, Gaffney, Longbottom, McIlroy, Palmer, Smith and Tudge (Total 9).

Against the Motion was Nil (Total 0).