

**Item No:** C0717 Item 9

**Subject:** **OVERVIEW: PLANNING PROPOSAL FOR UNITING CARE SITE AT 15-17 MARION STREET, LEICHHARDT**

**File Ref:** 17/6032/77192.17

**Prepared By:** Gill Dawson - Manager Environment and Urban Planning

**Authorised By:** Simon Manoski - Group Manager Strategic Planning

### **SUMMARY**

A planning proposal for the Uniting Care site at 15-17 Marion Street, Leichhardt has been received by Council requesting an amendment to Leichhardt Local Environmental Plan (LEP) 2013. The Proposal aims to redevelop an existing aged care facility.

### **RECOMMENDATION**

**THAT Council:-**

1. Receive and note this report and attachments;
2. Resolve to support the revised Planning Proposal as outlined in this Report.
3. Resolve to forward the revised Planning Proposal to the Minister for Planning and Environment for a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act 1979;
4. Delegate the preparation of a revised draft Development Control Plan (DCP) that will reflect the revised Planning Proposal to the General Manager;
5. Upon receipt of the Gateway Determination, the Planning Proposal should be put on public exhibition to meet the requirements of the Environmental Planning and Assessment Act 1979. The revised draft DCP should be exhibited concurrently and public authorities be consulted in accordance with the Gateway Determination; and
6. That a post exhibition report be prepared for Council consideration.

### **DISCUSSION**

In February 2013 representatives of Uniting Care Ageing (Uniting) met with representatives of Council to discuss general housing issues across the former Leichhardt Municipality and the potential planning options for a number of their Leichhardt (suburb) properties, including Annesley House at 15-17 Marion Street (**see image below**).



Figure 1.01: Site 1 -17 Marion Street - Annersley House, existing max. height 14.48m

Following this meeting Uniting Care wrote to Council requesting the establishment of a formal process for discussing the future use and planning of two sites, Annesley House and Harold Hawkins Court (18 Norton Street, Leichhardt).

At the April 2013 Council meeting it was resolved (**C126/13**) to:

*“... commence negotiations with Uniting Care Ageing to establish a planning agreement applying to properties at 15-17 Marion St (Annesley House) and 168 Norton St (Harold Hawkins House) to assist the provision of affordable and supported housing at those locations for people of all ages, key workers and people with disabilities. Council’s support for the social benefit enabled through the dedication of these valuable land holdings, and in light of the clearly stated philanthropic intent of Uniting Care Ageing to make a bold intervention assisting the capacity of Leichhardt’s residents to ‘age in place’, that Council explore opportunities made available to projects on both sites through the granting of density bonuses”.*

In August 2013 a report was presented to the Housing Advisory Committee (**see HC42/13 and C448/13**) outlining progress in relation to the Uniting Care properties.

The report noted that Council staff had begun the process of preparing for the negotiations for establishing an agreement with Uniting Care by identifying the key outcomes Council would like to achieve in relation to the two sites, namely:

- Facilitating the redevelopment of both sites
- Ensuring that redevelopment is financially viable
- Achieving a significant housing outcome in terms of the provision of one or more of the following on each of the sites:
  - Modern Aged Housing
  - Affordable Housing for Key Workers
  - Supported Housing
- Activating the ground level Norton Street frontage
- Providing on-site parking suited to the likely future demand created by tenants
- Ensuring that urban design considerations inform the ultimate building envelope and development footprint and confirm an upper limit in terms of floor area
- Involving the local community and other key stakeholders throughout the process

The report also examined potential formats for an agreement including a Memorandum of Understanding (MOU) and/or Voluntary Planning Agreement (VPA).

In January 2014 Uniting Care Ageing contacted Council and advised that they had reviewed Council resolutions and suggested that Council and Uniting Care should consult the local community as soon as possible. In response *local residents were notified in accordance with the provisions of the Notifications DCP and invited to attend a community briefing to obtain information from Council Staff and Uniting Care.*

The Community Forum was held in Leichhardt Town Hall on Wednesday 12th March 2014. Members of the Seniors Council’s and Housing Advisory Committee were also invited and a notice was placed on Council’s web site. 62 people attended the forum, the outcome of which confirmed unanimous support for Council working with Uniting Care and the local Uniting Church Congregation to address the housing Issues confronting the local community.

At the May 2014 Council meeting a report and noted (**C152/14**) was considered documenting the outcomes of the March Community Forum, including:

- All materials presented at the community forum
- Comments and concerns from local residents

- A program for taking the project forward, including confirmation of guiding principles and the development of plans for the future development of three Uniting Care properties in Leichhardt

Two further Community Forums were held in July 2014. Council Staff and consultants Allen Jack + Cottier (AJ+C) presented:

- A history of the sites
- Preliminary Site Analysis
- Site Constraints
- Site Opportunities
- Draft Guiding Principles

Final draft Building Envelopes and development controls were prepared by AJ+C (**see Attachment 1**) for each of the sites, developed in response to both the Guiding Principles and the discussion/feedback provided during the course of the final Community Forum.

Final outcomes of the Community Forums were reported to Council in September 2014.

In December 2014 Council resolved (**C455/14**) to authorize the Mayor and General Manager to execute a draft Memorandum of Understanding (MOU), which would include a summary of indicative development controls and anticipated community benefits. All documentation including draft building envelopes (**see below**) and controls was to be publicly exhibited and attendees of previous community forums notified.

### *Figures 1, 2 and 3 - Allen Jack + Cottier (AJ+C) Building Envelopes*

#### Floor to Ceiling Heights

The following minimum floor to ceiling heights apply:

Commercial/retail street level - 3.6 m.

Commercial/retail upper levels - 3.3 m.

Residential - 2.7 m

Balcony balustrade - 1.1 m (included within the building envelope)

Estimated FSR - 2:1

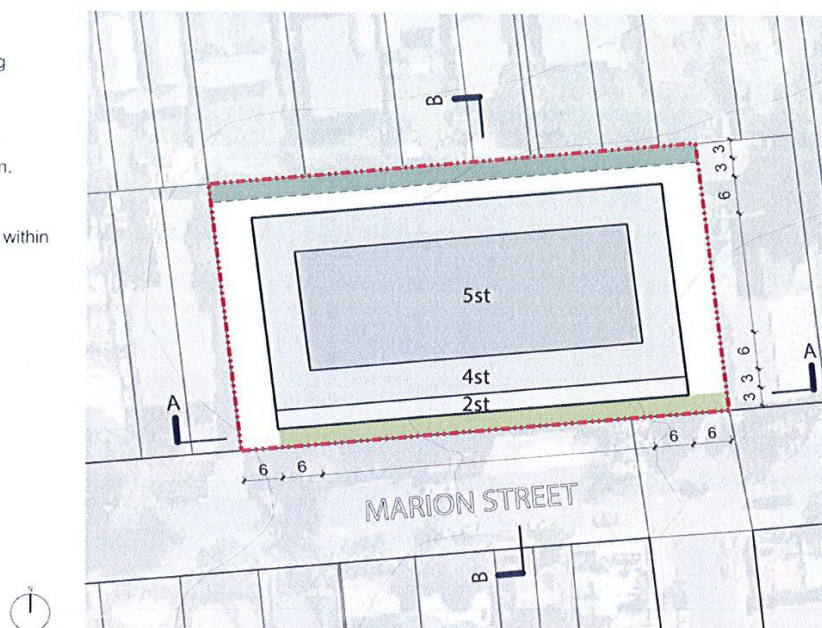


Figure 1.02 - Marion Street - Building envelope plan



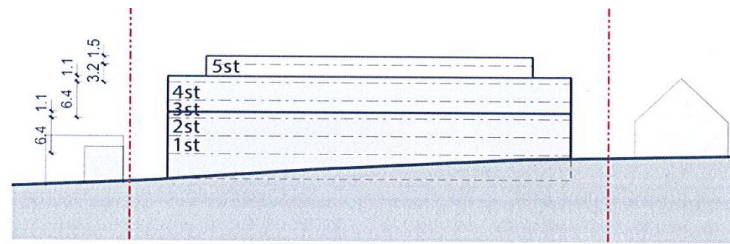


Figure 1.04 - Marion Street - Building envelope - Section A-A

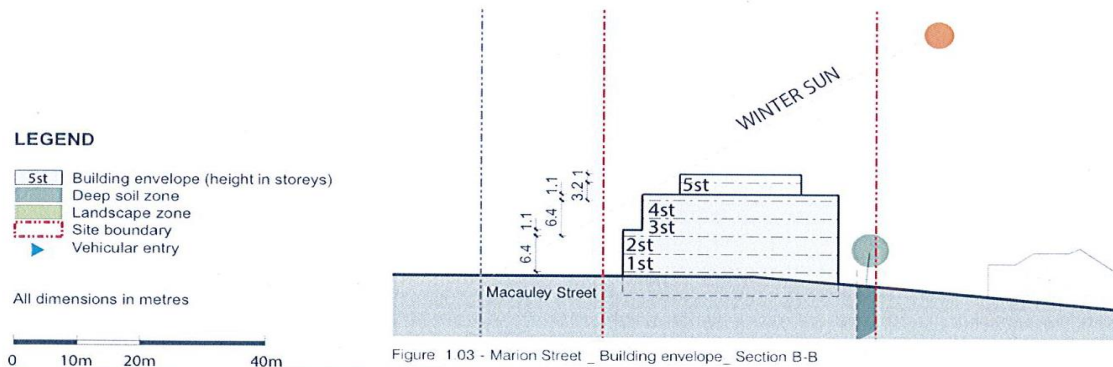


Figure 1.03 - Marion Street - Building envelope - Section B-B

### **Memorandum of Understanding**

On 5 March 2015 Leichhardt Municipal Council and the Uniting Church in Australia Property Trust NSW signed a Memorandum of Understanding (MOU) (**see Attachment 2**) with respect to three Uniting Aged Care properties in the suburb of Leichhardt.

This MOU includes key principles and objectives, proposed built form controls and anticipated community benefits drawn up in consultation with local residents and endorsed by Council.

*Figure 4 – Existing and indicative planning controls, height, land use and community benefits for 15-17 Marion Street, Leichhardt (March 2015)*

Sites	Current	Indicative proposal and example use	Indicative Anticipated Community benefits
15-17 Marion Street, Annarsley House	FSR control 0.5:1	FSR control 2.0:1	Upgrade and increase existing aged care accommodation within the Leichhardt LGA to accord with current Commonwealth best practice.
	FSR actual 1.5:1	FSR actual 2.0:1	
	3 storeys	5 storeys/ 18 metres	
	86 aged care beds	~108 aged care beds	

At the MOU stage both parties acknowledged that detailed assessment of site specific opportunities and constraints was lacking and that future planning proposals would determine

built form development controls that integrated with the local context and minimized detrimental impacts.

### **Pre-Planning Proposal**

In December 2016 a pre-planning proposal application was lodged with Council for 15-17 Marion Street, Leichhardt, Annersley House.

The initial proposal sought the following controls:

- FSR – 2.5:1
- Height – Maximum height of RL 57.5 (5 storeys)
- Use: Residential Aged Care Facility (90-95 beds) and Independent Living Units (ILUs, total 20 units)

Based on the information in the pre-planning proposal Council raised the following matters the proponent should address prior to lodgment of the Proposal:

- **Need for a Social Impact Study (including Net Community Benefit Test covering aged care)** - Council and the local community, through extensive public consultation and subsequent drafting of the MOU, agreed that upgrading and increasing the existing aged care accommodation is a desirable community benefit. The MOU includes an indicative 108 aged care beds, an increase of 22 beds (25%+) on the existing provision. The current pre-planning proposal envisages aged bed provision of potentially 90 aged care beds (an increase of 4.6%, over the existing 86 beds) with an additional 20 independent living units (ILUs). It is important to demonstrate and detail the proposed changes to the community benefit, the addition of the ILUs to the development proposal and the required bulk and scale of the building required to facilitate the ILUs compared with aged care beds.
- **FSR increase** – The pre-planning proposal states that for Uniting Church's model for seniors housing to be economically feasible a further increase to 2.5:1 (25% increase on the 2:1 MOU agreed control) is necessary. Further justification for this proposed significant increase is required, addressing the 'model' and collective economic feasibility in the context of the Uniting Church portfolio of sites in and around Marion / Norton / Wetherill Streets, particularly those covered by the MOU. This further detail should take into consideration any outcomes of the Social Impact Study regarding the make-up of the proposed development i.e. replacement and new aged cared beds versus number of ILUs.
- **Building height** – Inclusion of a maximum building height RL that establishes a planning control the equivalent of 5 storeys / 18 metres is agreed.
- **Building setbacks to Marion Street and adjoining properties** – The proposed adjustment to the setback from Marion Street to the 3 storey component of the future built form is inconsistent with the site specific controls set by AJ+C in their report endorsed by Council. The reduced articulation and increased bulk of the building as it presents to Marion Street would have a negative visual impact in general and in this location within the heritage conservation area adjacent to heritage items in particular. The urban design report suggestion that the change of the building to a predominantly 3 storey frontage character to screen more of the 4 storey elements is not recognised as a positive change to the proposed design. Further design work on the west-facing elements of the proposed building is also recommended to ensure that the future built form setback / articulation to the 3 or 4 storey components minimise detrimental amenity impacts upon adjoining properties.

- **Communal Open Space and Deep Soil Planting** – Communal Open Space to be incorporated in accordance with established guidelines and ideally designed to be integrated with required deep soil planting.
- **Compliance with Apartment Design Guide** – The Department of Planning has required compliance with ADG controls as a condition of more recent Gateway Determinations and Council will likely request it in this case. The planning proposal should demonstrate compliance with the relevant ADG controls including:
  - solar and daylight access
  - visual privacy
  - deep soil zones
  - setbacks
  - cross ventilation
  - private open space / landscaping

### **Planning Proposal**

In April 2017 the Planning Proposal (**see Attachment 3**) was lodged with Council for 15-17 Marion Street, Leichhardt, Annersley House.

The Proposal requests an amendment to Leichhardt Local Environmental Plan (LEP) 2013 seeking the following planning controls:

- FSR – 2.4:1
- Height – Maximum height of RL 57.5 (5 storeys)
- Use: Residential Aged Care Facility (90-95 beds) and Independent Living Units (ILUs, total 20 units)

### **Floor Space Ratio (FSR)**

The proposed FSR for the new building is 2.4:1. Still substantially above the indicative FSR of 2:1 under the MOU, the applicant yield analysis states that a feasible and functional seniors living development within the building envelope set by Council's consultants AJ+C cannot be supported and therefore the increase is necessary.

The Proposal reiterates that the development will replace an old building past its prime with new best practice accommodation for senior members of the community.

The Proposal outlines that the model the development is based upon focuses on allowing seniors to age in place with a high degree of independence (ILUs) as well as allowing for higher levels of care once required (aged care beds). This approach leads to higher floor space requirements and therefore a higher FSR control to facilitate the development.

### **Use (aged care beds and independent living units (ILUs))**

The Social Impact Statement (**see Attachment 4**) states that in Leichhardt the population of individuals aged 70 years or over currently numbers 4,544. The 70+ years population is expected to grow by approximately 190 people annually for the next 10 years reaching 6,450 people over the age of 70 by the year 2027.

Uniting Care's internal supply and demand assessment has calculated the following:

<b>Residential Aged Care (beds)</b>	
NOW	Oversupply by 140 beds
2027	Undersupply by 190 beds

**Independent Living Units (ILUs)**

NOW	Undersupply by 121 ILUs
2026	Undersupply by 123-395 ILUs

The Planning Proposal change from the MOU indicative proposal which showed an increase from 86 aged care beds to 108 aged care beds, to a development mix of 90-95 aged care beds and 20 independent living units is justified by this demand and the Uniting Model of Care providing for ageing in place determines the reduction of aged care bed provision.

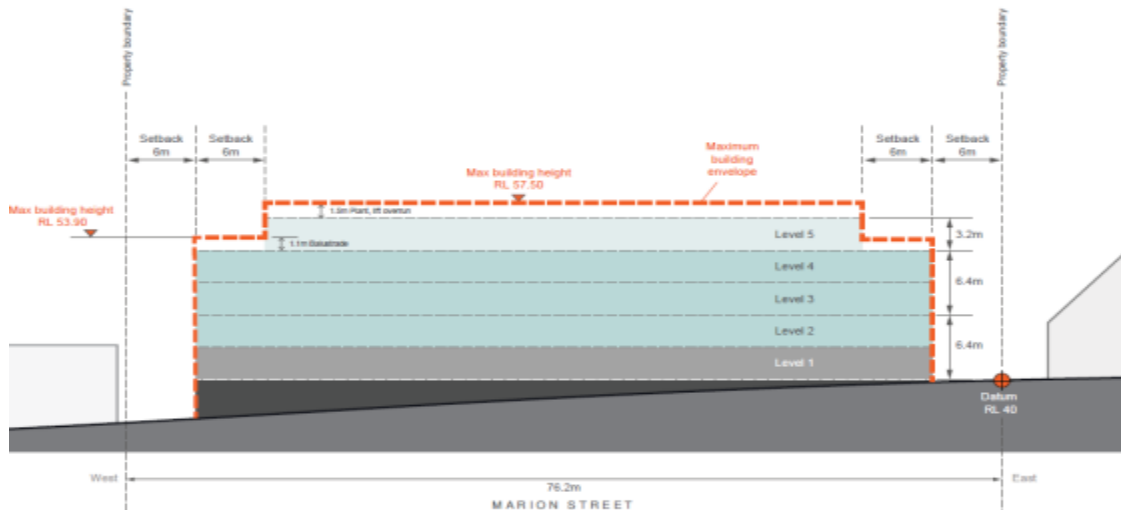
**Urban Design Report / Draft DCP / Architectural plans**

The proponent's urban design report and diagrams, proposed draft Development Control Plan and architectural plans (**see Attachments 5, 6 and 7 respectively**) suggest that a higher than MOU floor space ratio (2:1 increased to 2.4:1) and reduced setback (for level 3 facing Marion Street) is required to facilitate the built form and desired mix of aged care beds and independent living units.

The indicative draft plans and proposed development controls (**Figures 5, 6 and 7, see below**) propose to respond to the desired future scale and character of the streetscape while maintaining amenity for surrounding properties.

*Figures 5, 6 and 7 – Planning Proposal building envelope controls for the site*





### Heritage Impact Statement

The Heritage Impact Statement (HIS, **see Attachment 8**) acknowledges that the site:

- Is not a heritage item
- Is located within the Whaleyborough Heritage Conservation Area listed in Schedule 5 of Leichhardt Local Environmental Plan (LEP) 2013
- Is in close proximity to the Excelsior Subdivision Heritage Conservation Area
- Is located within close proximity of six heritage items located within the Norton / Marion Street Leichhardt Civic Precinct

The assessment concludes that the proposed planning controls and building envelopes will have no adverse impact on the significance of the heritage items or the heritage conservation areas.

### Traffic

The Traffic report (**see Attachment 9**) has assessed the traffic implications of the proposed development and found the following:

- The proposed development is easily accessible by public transport
- The parking provision will be adequate and appropriate
- Vehicular access and movements can be provided in accordance with relevant Australian standards
- The existing road network will be able to cater for traffic generated by the proposed development
- That the traffic generated by the proposed development will not be noticeable on the surrounding road network

### Arborist report

The Arborist report (**see Attachment 10**) provides an analysis of the impact of the existing development proposal on existing trees and guidance for the removal of some and protective measures for others.

The proposed development will require the removal of seven high category trees and recommends that in order to compensate for loss of amenity consideration should be given to replacement planting within the site.

### Voluntary Planning Agreement (VPA)



As of the deadline for reports to be tabled on the July 2017 Council Meeting Agenda no VPA has been provided to Council by the applicant.

Given that there is a proposed change in composition of the development (proposed aged care beds replaced with independent living units) and a proposed uplift in floor space ratio the potential for lodging a VPA offer has been discussed with the applicant, possibly addressing Council's affordable housing policy.

## **STAFF COMMENTS**

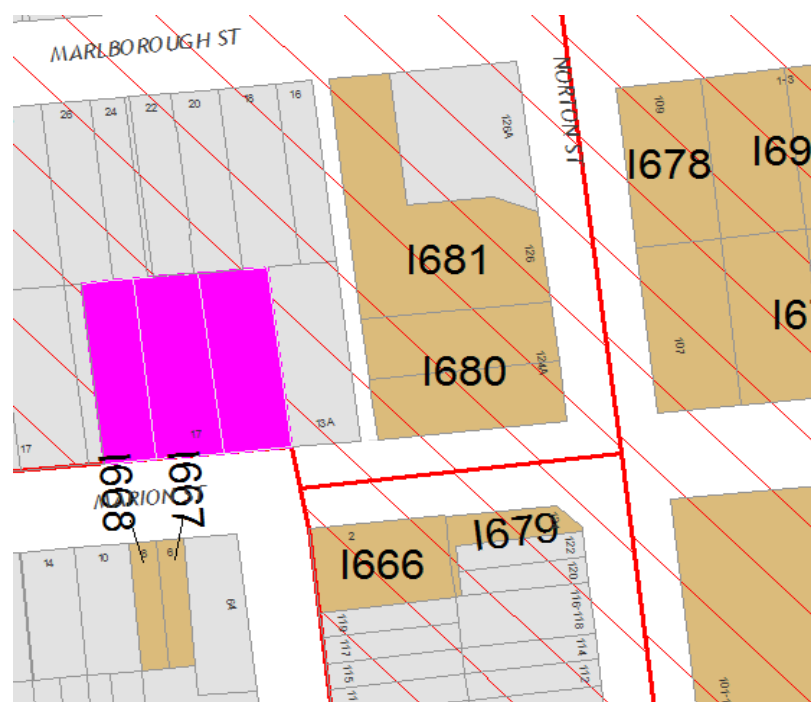
### **Heritage**

#### Existing status

The site is in the Whaleyborough Heritage Conservation Area and close to the Excelsior Subdivision Heritage Conservation Area (**see Figure 8**).

This is a conservation area and generally the enforcement of the Area and maintenance of the relevant heritage values and significance will mean little change can be expected other than modest additions and discrete alterations.

It is acknowledged that buildings which do not contribute to the heritage significance of the Area may be replaced with sympathetically designed infill.



**Figure 8** - An excerpt from Inner West Council's Latitude Maps showing the location of the eastern portion of the subject site (purple highlight) in relation to the nearest heritage items (tan shading). The heritage conservation area is depicted by the red parallel lines.

The site is also located within close proximity of a number of heritage items located within the Norton / Marion Street Leichhardt Civic Precinct. Measures must be taken to ensure that there are no negative impacts upon the adjacent items and if proposed building elements, bulk, scale and design have detrimental impacts these must be mitigated.

The subject property is located within the Leichhardt Development Control Plan West Leichhardt Distinctive Neighbourhood and any amendment to the DCP must not conflict with relevant objectives and standards.

The Heritage Impact Statement (HIS) prepared by City Plan Heritage

In the absence of any information to the contrary, the HIS claim that no significant historic fabric pertaining to the former, historic, partial use of the site, as a corset factory, remains on the site, is accepted. In the event of lodgment of a future development application for the subject site should Council officers determine that historic fabric is present measures to protect this may be implemented as conditions of consent.

The conclusions regarding the acceptability of the development proposal, from a heritage perspective, are not supported:

*“The proposed new building envelope is deemed acceptable from a heritage perspective. This will allow for a larger scale development, however, the proposed setbacks will allow for an appropriate distance from the street and surrounding buildings so that any future development has an appropriate curtilage around it. The gradual increase in the setbacks as the building increases in height also ensures any future development is reduced in bulk, providing articulation.”*

In this regard, it is considered that additional analyses could be undertaken to ensure the new building on the site integrates into its historic built context including the surrounding heritage conservation areas and adjacent and nearby locally listed heritage items.

Nonetheless, the final recommendations of the HIS are supported, as reproduced below:

- *“An archival recording should be conducted to record the Annesley House should demolition be proposed in the future;*
- *“Any new development should include heritage interpretation that explores the history of the site as a former corset factory (as reported) and as an aged care facility since the 1960s; and*
- *A separate Heritage Impact Statement will be required for any future proposed development of the site.”*

Urban Design Report (Heritage)

The Urban Design Report (UDR) provides informative 3D images and important design principles, which, if properly applied to this site, should ensure that the development proposal sits comfortably within its generally, lower scale historic built setting.



*Figure 9 - Existing Development 3D Image.*

The 3D image above shows how the existing development, despite its scale, minimises its visual intrusion into the surrounding heritage conservation area by modulating its bulk and scale, both horizontally and vertically. Although not shown in this image the use of brick as the main walling material has also ensured that the building is generally recessive in the streetscape despite its atypical bulk.

#### PROPOSED BUILDING ENVELOPE IN CONTEXT

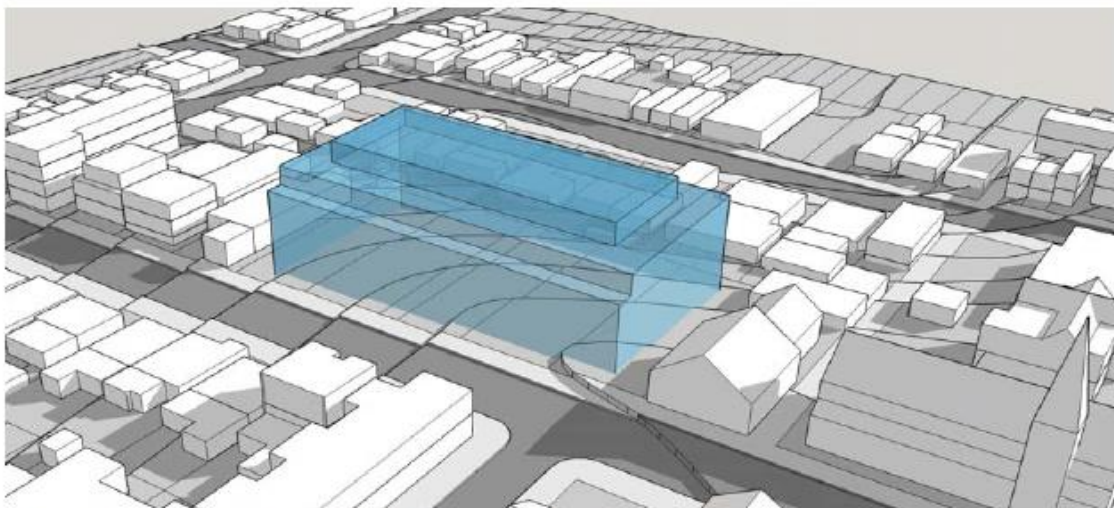


Figure 15 Proposed building envelope - model view, looking north-west

*Figure 10 - Proposed Development 3D Image*

In contrast with the existing development 3D Image, the proposed building envelope would not achieve the same level of integration because the mass of the proposed building is not sufficiently modulated, either vertically and horizontally. On this matter, it can be seen in the existing development 3D Image, how the widths of each horizontal component of the existing building roughly corresponds to the general width of the historic built forms located opposite in Marion Street, which also form part of the Excelsior Estate Conservation Area. Furthermore the slope of the site (down towards the west) provides opportunity to modulate the distinctively large proposed structure by stepping different components of the building down the slope, so that the two ends of the structure, and rear of the building better integrate with the lower scale

buildings to the east, west, and north. This approach would be consistent with the urban design principles submitted by the applicant and with the relevant Leichhardt Development Control Plan Desired Future Character design principles as follows:

*C3. Preserve and enhance the predominant scale and character of dwellings in this precinct, consisting of mostly single storey Victorian and Federation-style dwellings, with more dense development in appropriate areas.*

*C6. Allow for contemporary development, which is complementary to the existing streetscape.*

*C7. Preserve the consistency of the subdivision pattern in this area.*

*C8. Maintain existing views by stepping dwellings down contours along east/west streets.”*

Similarly Figure 11 (see below, pg. 20, Urban Design Principles) shows a desirable vertical integration between the subject site and adjacent low scale adjoining premises which will not be satisfied by the proposed building envelope.

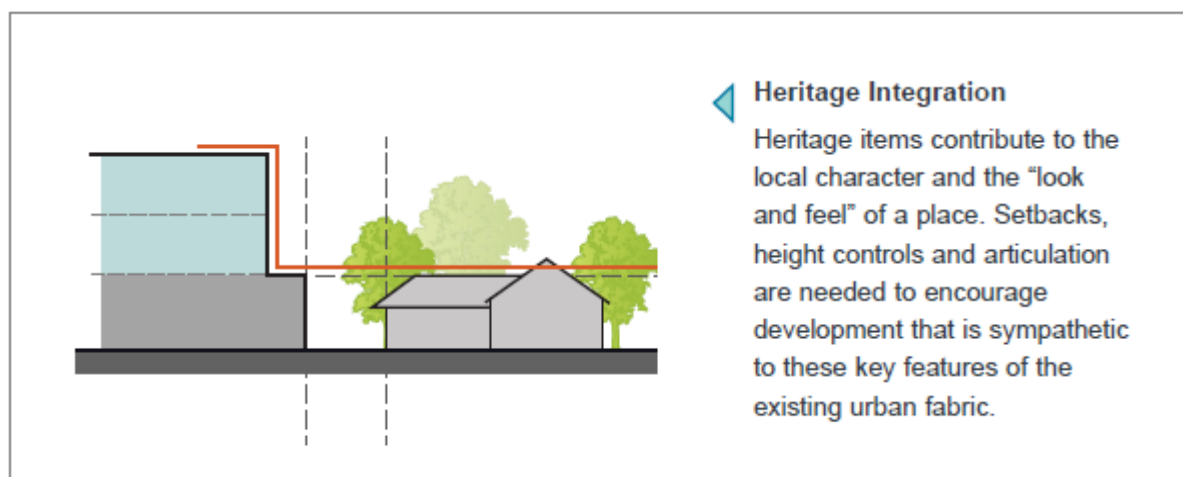


Figure 11 – Planning Proposal Urban Design Principle

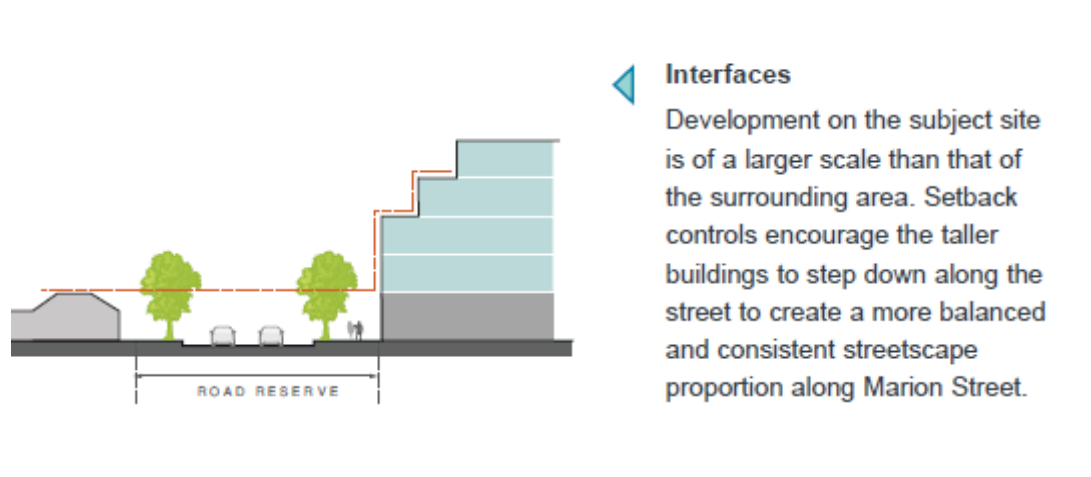


Figure 12 – Planning Proposal Urban Design Principle

Any future DCP controls addressing urban design should ensure that:

- the building is broken up into component parts that better respond to the predominant widths/forms of surrounding buildings; and
- the slope of the site and the scale of adjoining buildings on the edges and to the rear are taken into consideration when developing appropriate setbacks.



### Draft Development Control Plan (Heritage)

The 'Building height', 'Building setbacks, separation and articulation', and 'Building materials and finishes' sections do not adequately respond to or address the heritage conservation area setting of the property, or incorporate desirable heritage sensitive design principles (see Urban Design (Heritage) comments). The 'Building height' section of the draft DCP needs to be modified to show how the building should step down the slope to the west and how the eastern and western edges of the building should be lowered to better respond to the lower scale historic buildings on the eastern and western side property boundaries. Desirably, the rear section of the building, fronting the rear boundary, should also better respond to lower scale contributory buildings to the north.

The 'Building setbacks, separation and articulation' section of the draft DCP needs to acknowledge the historical built context of the site and clearly show how this is to be satisfactorily responded to in the future development of the property by breaking up the building into component parts which correspond to the width of historic buildings on the opposite side of Marion Street. The 'Building materials and finishes' section needs to set specific parameters for materials that ensure satisfactory integration with the historic built context. The use of distinctively modern off-form concrete, glass, steel, aluminium and other metallic materials such as walling is discouraged. The long established built character of this locality demands the use of predominantly brick walls, vertical timber or metal balustrades to balconies, vertically proportioned light to mid toned timber window and door frames and a solid to glazing ratio similar to historic properties in the locality.

Based upon the assessment of Council officers the draft DCP lodged with the Proposal cannot be supported in its current form and it is recommended that it be amended to ensure that the proposed building/buildings on the subject site better integrate with the surrounding heritage conservation areas and locally listed heritage items.

### Assessments

#### Building Articulation

- The proposed DCP controls will not achieve sufficient articulation. The block plan is very horizontal and without DCP instruction may present a façade/wall to Marion Street (and to the rear) that negatively impacts upon the existing streetscape. Requiring balconies does not guarantee the level of articulation required to reinforce the local character. Some articulation of the building footprint itself would achieve better integration with surrounding structures as required for heritage reasons.
- Additional setbacks to the upper levels are required, especially to the west and north. The proposed addition of large independent living units on levels 4 and 5 with large outdoor terraces will significantly increase the loss of amenity to surrounding residential dwellings.
- The building envelope, urban design principles and relevant draft DCP diagrams should be revised otherwise the building will present a bulk and scale that does not integrate with the surrounding built form and streetscape. This will detract from the dominance of the church/school/town hall node as pedestrians or vehicles approach the site via Norton Street or east to west along Marion Street.
- The Concept Sketch (**see Attachment 11**) artist representation overstates the visual role of the church/town hall node as viewed from west to east along Marion Street, the visual impact of how the building presents to the south is likely to be far greater, and greater still if the setback to the third level is reduced.

**Landscape**

The following requirements have been drawn up following review of the arborist report and are to be incorporated into the future draft development control plan.

- Reasonable sized trees (6m) in the front setback of 3m to Marion Street with gardens.
- Larger scale street trees to Marion Street to match the existing heights of street trees.
- Some larger scale trees on the northern boundary to soften the building.
- These should be included in a detailed landscape plan.
- Arborist advice required to retain and protect the existing trees.
- Small scale trees and gardens to the eastern boundary of the site.

**Infrastructure / Engineers**

Any site specific DCP should be consistent with the parking, traffic, stormwater and waste collection sections of the current Leichhardt Development Control Plan.

**CONCLUSION**

The proponent has proposed a larger building with a higher FSR than the built form established with Leichhardt Council through community forums, development principles devised by Council's urban designers AJ+C and in the Uniting Care / Council Memorandum of Understanding (MOU). Consequently the Planning Proposal should be amended to reflect the FSR of 2:1 stated in the MOU prior to its submission to the Gateway. The draft DCP also needs to be amended to take account of the prospective revised Planning Proposal prior to the exhibition of both.

**ATTACHMENTS**

1. Site Specific Controls for 3 sites
2. Memorandum of Understanding (MOU, March 2015)
3. Planning Proposal
4. Social Impact Statement
5. Urban Design Report
6. Draft DCP
7. Architectural Plans
8. Heritage Impact Statement
9. Traffic Report
10. Arborist Report
11. Concept Sketch Plan