

State Environmental Planning Policy No. 1 Development Standards, Objection

This without prejudice State Environmental Planning Policy No. 1 Development Standards (SEPP 1) Objection accompanies a Development Application (DA) proposing the upgrade of the Springwood community and cultural facilities precinct at 102-108 Macquarie Road, Springwood (the **site**).

Calculations in this SEPP 1 Objection are based on plans and information provided by FJMT and should be read in conjunction with the detailed Statement of Environmental Effects (SEE) prepared by Lockrey Planning and Development Solutions Pty Ltd (LPDS), Traffic and Parking Development Application Report Version 5, dated 23 October 2012 (Parking Report) by Taylor Thomson Whitting (TTW) and other supporting technical documents.

1.0 Standard being objected to

This without prejudice SEPP 1 objection relates to the following development standard in Blue Mountains Local Environmental Plan 2005 (LEP 2005):

1.1 Clause -99 – Car Parking Provision

Clause 99 of LEP 2005 states:

- (1) *Off-street car parking is to be provided in accordance with the relevant part of the Council's Better Living DCP.*
- (2) *Notwithstanding subclause (1), the consent authority may permit development for the purpose of multi-dwelling housing with a lesser number of car parking spaces where it is demonstrated to the satisfaction of the consent authority that:*
 - (a) *future residents are likely to have a low level of car ownership, and*
 - (b) *the site is located within the Accessible Housing Area, as shown on Map Panel A, and*
 - (c) *the car parking spaces will be allocated so as to be available to all dwellings on a shared basis.*
- (3) *The consent authority shall, in respect of an application for consent to development for the purpose of accessible housing, bulk stores, bulky goods showrooms, car repair stations, caravan parks, commercial premises, clubs, district supermarkets, drive-in take-away food outlets, hotels, industries, light industries, motor showrooms, multi-dwelling housing, places of assembly, places of worship, service stations, shops or tourist accommodation or to the carrying out of any other development that, in the opinion of the consent authority, is likely to cause increased vehicular traffic on any road in the vicinity of that development, take into consideration:*
 - (a) *whether adequate vehicular exits from and entrances to the site or sites have been provided so that vehicles using those exits and entrances will not endanger people and vehicles using those roads, and*
 - (b) *whether the provision of space on the site or on land adjoining the site, other than a public road, for the parking or standing of such number of vehicles is as specified by the relevant part of the Council's Better Living DCP, and*
 - (c) *(Repealed)*

- (d) *whether adequate space has been provided within the site of the proposed development for the loading, unloading and fuelling of vehicles and for the picking up and setting down of passengers.*

The existing community centre development on the site has a gross floor area (GFA) of 3,772m² and provides 80 car parking spaces. This equates to 1 space per 47.15m² of GFA. Parking requirements for different types of development are determined by Blue Mountains Better Living Development Control Plan 2005 (DCP 2005). Under DCP 2005, the parking requirement associated with a community centre is one space per 20m² GFA, which equates to 189 spaces.

It is proposed to increase the car parking capacity of the site to 111 spaces (an increase of 31 spaces from that existing). Notwithstanding the additional car parking proposed, it is also proposed to increase the GFA of the community centre to 5,714m², representing an increase of 1,942m². Under DCP 2005, the parking requirements of the facility considering the entire floorspace is 286 spaces, and the parking requirement for the additional floor area if provided at the rate required by DCP 2005 would be 97 additional spaces.

Based on the above, the existing and proposed development departs from the car parking requirement development standard (which requires compliance with DCP 2005) at Clause 99(1) of LEP 2005.

2.0 SEPP 1 framework

The objective of SEPP 1 is to allow flexibility in the application of numeric development standards. It enables a consent authority to vary a development standard within an environmental planning instrument (EPI) where strict compliance with that standard is shown to be unreasonable or unnecessary, or would hinder the attainment of the objectives specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979 (the **Act**).

The objectives of Section 5(a) are to encourage:

- (i) *the proper management, development and conservation of natural and man-made resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
- (ii) *the promotion and co-ordination of the orderly and economic use of and development of land;*

Clause 6 of SEPP 1 provides that a person may make a written objection demonstrating that compliance with a development standard is unreasonable or unnecessary in relation to the proposed development.

Clause 8 of the Policy sets out matters to be considered by the Department of Planning or consent authority under delegation in assessing SEPP 1 objections where it states:

the matters that shall be taken into consideration in deciding whether concurrence should be granted are:

- (a) *whether non-compliance with the development application raises any matter of significance for State or regional environmental planning; and*
- (b) *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

If Council is satisfied that the objection is well founded and that the application still achieves the objectives of the planning controls, consent may be given to the DA.

2.1 SEPP 1 Considerations and relevant case law

This without prejudice SEPP 1 Objection is based on previous NSW Land and Environment Court (the **Court**) decisions. It is considered that for a SEPP 1 Objection to be upheld, it is necessary that Council or the Court be satisfied on the basis of certain principles. The case law generally referred to which identified these principles was *Winten Property Group Ltd v North Sydney Council (2001) NSWLEC 46*. The principles include:

- Is the planning control in question a development standard?
- What is the underlying purpose of the standard?
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- Is the objection well founded?

Recently the decision in *Wehbe v Pittwater Council (2007) NSWLEC 827* reassessed these principles and provided a different approach by the Court to SEPP 1 Objections. The approach is a five part test, which relates to the foundation of an objection. The five part test includes:

- Establish that compliance with the development standard is unreasonable or unnecessary because the proposed development proffers an alternative means of achieving the objective [of the standard, and] strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served);
- Establish that the underlying objective or purpose of the development standard is not relevant to the development with the consequence that compliance is unnecessary; or
- Establish that the underlying objective or purpose of the development standard would be defeated or thwarted if compliance was required with the consequences that compliance is unreasonable; or
- Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary or unreasonable; or
- Establish that the zoning of particular land was unreasonable or inappropriate so that the development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unnecessary or unreasonable.

Accordingly, the following SEPP 1 Objection is set out using the current LEC considerations for SEPP 1.

3.0 SEPP 1 assessment

3.1 Is the planning control in question a development standard?

The car parking control is not framed as a prohibition and it is therefore a ‘development standard’¹ as defined at clause 4 of the Act. Part (g) of the definition (refer Footnote 1) refers to the provision of car parking (amongst other things).

3.2 Assessment against LEP zone objectives

The site is located within the Village Town Centre Zone. Pursuant to Clause 32 of LEP 2005, a wide range of development is permissible with development consent in the Village Town Centre zone. Relevant permissible uses on the site and the proposal include:

- Commercial premises²;
- Community buildings³;

¹ Pursuant to clause 4 of the EP&A Act, 1979, **development standards** means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- (b) the proportion or percentage of the area of a site which a building or work may occupy,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work,
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- (h) the volume, nature and type of traffic generated by the development,
- (i) road patterns,
- (j) drainage,
- (k) the carrying out of earthworks,
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- (m) the provision of services, facilities and amenities demanded by development,
- (n) the emission of pollution and means for its prevention or control or mitigation, and
- (o) such other matters as may be prescribed.

² Pursuant to the Dictionary in LEP 2005, **commercial premises** means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere defined in this Dictionary.

³ Pursuant to the Dictionary in LEP 2005, **community building** means a building or place owned by the Council or under the Council’s care, control and management and used to provide facilities comprising or relating to any one or more of the following:

- (a) a public library,
- (b) public health and welfare services,
- (c) rest rooms,
- (d) meeting rooms,
- (e) indoor recreation,
- (f) child minding,
- (g) baby health centres,
- (h) public halls,
- (i) exhibition spaces,
- (j) club rooms,
- (k) bush fire brigade buildings,

- Community centres⁴;
- Parking facilities⁵;
- Refreshment room⁶;
- Shops⁷; and
- Visitor facilities⁸.

Pursuant to Clause 18 of LEP 2005, the objectives of the Village Town Centre zone are:

- (a) *To promote and consolidate the larger towns and villages within the Blue Mountains as the focus of retail, commercial, and community activity.*
- (b) *To promote the unique character of each of the towns and villages of the Blue Mountains.*
- (c) *To promote the economic viability of the towns and villages.*
- (d) *To encourage a broad range of tourist activity in the towns and villages.*
- (e) *To encourage a mix of residential land uses in association with business and community land uses.*
- (f) *To focus large scale retailing and other higher order uses in appropriate locations within the district centres of Katoomba and Springwood.*
- (g) *To promote high quality urban design of built forms.*

The proposal is consistent with the objectives of the Village Town Centre Zone as it:

- adaptively reuses an existing landmark building within the Springwood civic, cultural and community facilities precinct;
- maintains the character of the Springwood locality and its village/town centre status through the significant revitalisation and reuse of the existing buildings, new facilities and significant public domain works;
- has no identifiable impact on the viability of other villages/town centres within the Blue Mountains LGA;
- ensures that the Springwood civic, community and cultural precinct is a destination of choice for the community;
- provides a range of land uses that will positively contribute to the character of the precinct and the surrounding locality;
- will not have any impact on the future development of commercial office buildings and other similar land uses within the Blue Mountains LGA; and

(l) *refreshment rooms.*

⁴ Pursuant to the Dictionary in LEP 2005, **community centre** means a building or place used for the physical, social, cultural or intellectual development or welfare of the local community.

⁵ Pursuant to the Dictionary in LEP 2005, **parking facility** includes a paved or other area designed, marked or signposted for use for the parking of motor vehicles.

⁶ Pursuant to the Dictionary in LEP 2005, **refreshment room** means use of a building or place, such as a restaurant, cafe, tea room, eating house or the like, for the purpose of providing food for consumption on the premises, but does not include a land use elsewhere defined in this Dictionary.

⁷ Pursuant to the Dictionary in LEP 2005, **shop** means a building or place used for the purpose of selling, exposing or offering for sale by retail or hire, goods, merchandise or material, but does not include a building or place elsewhere defined in this Dictionary.

⁸ Pursuant to the Dictionary in LEP 2005, **visitor facilities** means interpretive signs, lookouts, picnic facilities, toilet facilities or access for people with a disability, and the like.

- maintains a human scale when viewed from the surrounding public domain, but at the same time reinforcing the existing built form on the site

3.3 Assessment against the standard's objectives

The objectives of the car parking development standard at Clause 99 of LEP 2005 are not expressly stated. However, Section C5.3 (Vehicular access and roads) of DCP 2005 provides a number of performance criteria relevant to car parking. These performance criteria are essentially objectives and are as follows:

1. ***Provide adequate and accessible off-street parking and loading facilities that meet the needs of users.***
2. ***Ensure safe and convenient movement of vehicles, cyclists and pedestrians.***
3. ***Minimise adverse impact on the environment and maximise the aesthetic quality of the roads and parking facilities.***
4. ***Create an environment which is safe from physical and personal threat.***

An assessment of the proposal's compliance with the assumed underlying objectives of the car parking standard in LEP 2005 follows below and as detailed in the Parking Report by TTW submitted under separate cover. Transport-related impacts can be addressed in terms of traffic operation, vehicular access, pedestrian safety and on-street parking.

Traffic Impacts

It is envisaged that the proposal will not generate any additional or minimal staffing requirements. The proposed additional seats at the expended theatre would increase its vehicular traffic generation by some 50 trips (based on 2-3 persons per car). However, these additional trips would occur outside the peak hours when the street system and parking areas are operating at a maximum capacity. Therefore, there will be no adverse impact on performance of the road network, intersections' operations or car parking use.

In addition, the library opens from 10am to 5.30pm. This indicates that the Library activities have minimal impact on the road network during AM peak hours (generally between 7.00am to 10.00am). The survey of parking activities shows that the use of library and the centre significantly decreases after 2.30pm, hence, minimal vehicular traffic during afternoon peak hours would occur as the result of the development which will have no significant impact on the road network. This is clearly evident by the level of parking use on site.

The operational characteristics of the site indicate that most of its activities occur outside the peak hours; therefore any additional traffic generation related to the site would have a minimal impact on the operation of the road network as during this period there is ample capacity along access roads to the site.

Accordingly, there would be no adverse impact on the street system and/or intersection operation of the road network as the result of the site's redevelopment. It is noted that current traffic congestion along Macquarie Road is a result of regional traffic and operation of the intersection at Hawkesbury Road and therefore separate to the site's redevelopment.

Intersection Operation

How adequate the capacity of an intersection is judged by whether it can physically and operationally cater for the traffic using it. The performances of the intersections relevant to the proposal have been assessed using the intersection modelling SIDRA software which provides an accurate and consistent guide to the performance of an intersection under the different traffic flow scenarios.

The modelling analysis of the intersections immediately adjacent to the site indicates that for pre-development conditions all intersections and driveway junctions are operating at a Level of Service A. There is spare capacity, minor delays and short queue lengths. The only exception is the Macquarie Road and Oriental Hotel Driveway right-turn outbound. Drivers are delayed while they wait for a suitable gap in the traffic flow. However they do have the option to turn left and use the Macquarie Road and Raymond Road roundabout to effect their eastbound journey.

The traffic generation for the proposed development is estimated to be 32 vehicles per hour (**vph**) in the peak periods, however for the intersection analysis a higher rate of 60vph was utilised. As detailed in the Parking Report by TTW, the operational analysis confirms that the level of traffic generation has a minimal impact on operation of the existing road system. Therefore, there would be no adverse impact on the street system and/or intersection operation of the road network as the result of the site's redevelopment.

Parking Assessment and Provision

The site currently contains 80 car parking spaces. If it were to comply with the requirements of DCP 2005, 189 car parking spaces would be required. An additional 31 spaces are proposed (total 111), however and cumulatively based on the increase in GFA, to comply with the requirements of DCP 2005 a total of 286 spaces would be required. Considering the existing use of the parking area associated with the site and its vacancy rate during a day (see above and Parking Report by TTW), it is evident that the current parking supply meets the existing parking demand of the site.

Further, the assessment of parking requirements for the site's varied land uses ought to be based on NSW RMS Guide to Traffic Generating Developments (**RMS TGD**) which recommends a survey of such site should be carried out to assess its parking demand. This has also been supported by Council's Strategic Planning Section where the use of DCP 2005 would be irrelevant due to multipurpose destinations of parkers and also initiatives to promote active and public transport.

It is important to note that the site provides various uses including community use, childcare, office and public spaces. Considering the location of the site within the Springwood Village Town Centre and its accessibility to shops, offices and services, indicates that most of its users have multiple destinations and the parking area is used by multiple purposes rather than single destination use. On this basis, it is more appropriate to assess the parking demand of the site based on the current activities of the area and its use rather than applying a blanket parking code for the site (e.g. 1 car spaces/20m² for a community building).

Therefore, following the methodology by the RMS GTD, and based on the site's existing GFA, a rate of 1 space per 39m² GFA would result, based on the existing 80 parking spaces. This is a valid approach as the car park experiences vacancy during a day. In terms of GFA, the site will expand by some 20% whereas its population and activities will generally remain the same. The theatre will have some 100 more seats but its main activity generally occurs after hours where there is a low level of parking demand in the area and therefore its impact would be minimal on parking conditions.

Nevertheless, as a worst case scenario assuming that the site's activities will increase by 25%, an additional parking demand of 20 spaces (25% of the existing 80 spaces) could be required. This is also similar to applying the above rate of 1 space/39m² for the additional 652m² of the site's overall GFA, which requires 17 spaces.

Having regard to the above it is proposed to provide an additional 31 spaces. Such parking provision will meet the potential additional parking demand of the site's expansion while avoiding the oversupply of parking facility and minimising any unnecessary additional funding. There would also be no adverse impact on parking within the village town centre.

As previously described, the site experiences a peak level of activity on occasional basis and generally outside of peak hours. Its redevelopment is mainly aimed to improve the existing facilities. The Parking Report by TTW recommends an additional 20 spaces be provided on site (and as confirmed by Council in its internal referrals). It is proposed to provide an additional 31 spaces, plus 5 motorcycle and 20 bicycle spaces. In addition it is noted (refer to the Parking Report by TTW) there is also a surplus of car parking spaces available on the surrounding road network and other dedicated car parking areas within the Springwood Village Town Centre.

Vehicular Access

Currently, two entry/exit points provide access to the site via Macquarie Road while access off Raymond and David Roads is also available. The vehicular access arrangement to the site (for all movements; cars, deliveries and pick up/set down activities) under the proposed redevelopment will remain per the existing situation while the access off Macquarie Road (most eastern) will be limited to one way "In only" and the central roadway access (i.e. theatre and child care) will be closed to promote a safe and efficient access to the site.

The existing access to the site via Raymond and David Roads will continue to provide appropriate access to the site. All movements to and from the site will take place in forward directions. Macquarie Road access is entry only and provides sufficient width for access for a medium rigid truck of length 8.8m. David Road has two entry/entry locations. The eastern driveway has sufficient width for 99% and 85% vehicles to pass each other with appropriate clearances. The driveway will only be used for light vehicles to enter and exit the lower eastern car park area. The western driveway has sufficient width for two 99% vehicles to pass each other with appropriate clearances.

The car park layout is in accordance with AS2890.1 Class 2 facility with car spaces typically 2.5m wide x 5.4 long (4.8m long, where overhang is permitted) and aisle width of 5.8m. This provides sufficient widths for 99% and 85% vehicles to pass each other with appropriate clearances.

Visibility, Pedestrian Safety and Security

The proposal allows vehicles to enter or exit the car parking areas and delivery area in a forward direction. The driveway area would allow adequate visibility for entering and emerging drivers. Pedestrian footpaths are available adjacent to the site providing a safe pedestrian environment. Access ramps will be provided for people with mobility difficulty or with prams.

Along the boundary of the site adjacent to Macquarie Road a formed pedestrian footpath exists with a tree located the western side of the entry. Approaching vehicles along Macquarie Road have clear visibility of pedestrian along the paths as the vehicle approaches the entrance or at the entrance prior to entering. A sight distance of 55m (5 second gap acceptance with a road speed of 40km/h) is provided along David

Road. Recommendations within the Parking Report by TTW will improve sightlines for both vehicles and pedestrians.

The existing array of buildings and open spaces, as well as steeply sloping topography, create difficulty in maintaining public safety and security. The dissection of the site and separate entries for each building, together with the varying levels of car park to the rear of the site, provide restricted visibility and overlooking. Public thoroughfares are generally poorly lit. The site's redevelopment (buildings and car parking areas) provides architectural, landscape and spatial interest and a clear address. The clear definition of the private and public domain and the sequences of the landscaped areas and the built form will improve amenity levels for users. The design of the mixed use development optimises safety and security both internal to the development and the public domain (in particular Macquarie and David Roads). Safety and security (in particular the car parking area) has been considered in accordance with the CPTED principles of surveillance (including cameras), access, territorial reinforcement and space management.

3.4 Why is compliance with the standard unreasonable and unnecessary?

Compliance with the car parking development standard is unreasonable as:

- the existing development does not comply with the standard;
- significant parts of the existing built form would need to be demolished in order to achieve compliance. This is economically ludicrous and impractical;
- the departure from the standard does not result in any adverse traffic and parking related impacts to adjacent properties and the surrounding local road network;
- the level of service of key intersections remains unaffected by the proposal;
- site works will improve the surrounding public domain, both internal and external to the site
- following detailed studies, the provision of parking on the site is more than acceptable and which has been confirmed by Council in its internal referral and consideration of the proposal;
- the proposal it reinvigorates an existing and iconic development site;
- approval of the proposal which has a more than acceptable environmental performance but which at the same time departs from that required (car parking provision only) will not set a precedent for other non-conforming applications.

For the reasons set out above, the existing and proposed development's departure from the car parking standard is well founded. Council in the past has considered applications favourably which depart from development standard(s) subject to a satisfactory environmental performance. The proposal is entirely consistent with this principle as it exhibits an appropriate redevelopment of the site without compromising or resulting in adverse environmental impacts to the adjoining and adjacent properties and the surrounding public domain, including the surrounding local road network.

3.5 Does compliance with the standard hinder the objects of the Act?

Clause 5(a)(i) and (ii) of the Act states:

The objects of the Act are:

(a) *to encourage:*

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*

The objects of the Act as specified in Section 5(a) (i) and (ii), are in our opinion, achieved by the proposed to be modified development in that:

- it constitutes *“proper management, development and conservation of natural and man-made resources”*;
- it promotes *“the social and economic welfare of the community and a better environment”* by better utilising the existing resources and infrastructure of the community; and
- it would result in *“the promotion and co-ordination of the orderly and economic use and development of land”*.

In addition to the above, compliance with the car parking standard would hinder the attainment of the objects of the Act as:

- the existing development departs from the development standard;
- the departure from the standard does not result in any adverse traffic and parking related impacts to adjacent properties and the surrounding local road network;
- following detailed studies, the provision of parking on the site is more than acceptable and which has been confirmed by Council in its internal referral and consideration of the proposal;
- to achieve compliance significant parts of the existing built form would need to be demolished;
- the proposal it reinvigorates an existing and iconic development site;
- preclude redevelopment of the site in the manner proposed; and
- not constitute the orderly, economic and sympathetic redevelopment of land.

3.6 Does the non compliance with the development standard raise any matter of significance for State or Regional Environmental Planning?

The proposed development and its variation from the car parking development standard at Clause 99 of LEP 2005 does not raise any matters of significance for State or regional environmental planning, nor does it conflict with any State planning policies or Ministerial directives. The SEPP 1 Policy has been specifically formulated to permit the variation from the standard. To refuse the proposal on the basis of the car parking non compliance would be flawed.

In addition to the above the proposed development supports state government policies of urban consolidation and centres policy. It is also consistent with the Metro Strategy by improving the viability and vibrancy of LGA's. The site provides various uses including community use, childcare, office and public

spaces. It is centrally located (the hub) within the Springwood Village Town Centre and its accessibility to shops, offices and services within the Village Town Centre will positively contribute to the character of the locality, a desired planning outcome.

3.7 The public benefit of maintaining the planning controls adopted by the environmental planning instrument

Pursuant to the provisions of Clause 99 of LEP 2005, compliance is required with DCP 2005 in relation to the provision of car parking on the site. The existing and proposed development departs from the standard. As such and based on the existing built form on the site, Council has permitted a relaxation of the planning controls relevant to car parking and therefore it can be concluded that there is no tangible public benefit in maintaining (physically and legally unable to in any case) the adopted planning controls for this site.

Notwithstanding the above and as demonstrated throughout this SEPP 1, despite the technical departure from the car parking standard, the existing and proposed provision of car parking on the site is actually higher than that required following detailed site analysis and studies. Furthermore it does not result in any adverse traffic and parking related impacts to adjacent properties and the surrounding local road network. Even though the existing and proposed car parking departs from the standard, approval of the proposal will not set a precedent for other non-conforming applications.

Based on the above it can be concluded that there is no tangible public benefit in maintaining the adopted planning controls for this site given the presented circumstances of the case.

3.8 Is the objection well founded?

For the reasons set out in the preceding sections of this report, the existing and proposed departure from the car parking development standard at Clause 99 of LEP 2005 is well founded.

4.0 Conclusion

This without prejudice SEPP 1 Objection has been prepared in support of a DA proposing the upgrade of the Springwood Community and Cultural Facilities Precinct at 102-108 Macquarie Road, Springwood. The SEPP 1 Objection has been made to Council's car parking development standard at Clause 99 of LEP 2005. The SEPP 1 Objection is considered to be well founded as the proposal achieves the following:

- it meets the LEP 2005 objectives;
- it meets the LEP 2005 Village Town Centre zone objectives;
- it meets the assumed LEP 2005 car parking standard's objectives;
- the existing development departs from the standard;
- the performance of the surrounding local street network is not materially affected by the proposal;
- the level of service of key intersections remains unaffected by the proposal;
- the provision of the additional car parking (31 spaces) on the site is actually greater than that required (20) following detailed analysis of the site's car parking demand, capacity and use;
- it is consistent with approved and existing development in the vicinity of the site whether or not that development complies with or exceeds the relevant standard;
- the proposal it reinvigorates an existing and iconic site; and

- the redevelopment of the site is in accordance with the adopted Masterplan for the site and therefore is consistent with Council's desired future character for the precinct and site.

Based on the above, the proposal despite its departure from the car parking standard at Clause 99 of LEP 2005, nevertheless satisfies the SEPP 1 test established by the Court and other relevant considerations. Compliance with the development standard is therefore unreasonable in the circumstances of the case, and refusal of the DA on these grounds is not warranted.