

**Proposal:** Demolition of existing structures; consolidation of 6 lots into 1 lot; construction of a 9 storey mixed commercial/residential development over 2 levels of basement parking and a 2 storey commercial building, accommodating (8) commercial suites with a total gross leaseable floor area of 2229sqm, 146 dwellings, 246 parking spaces and strata subdivision into 154 lots.

**Location:**

Lot 8, Sec 1, DP 752	1 Addlestone Road
Lot 1A, DP 315369	272 Merrylands Road
Lot 2A, DP 315369	274 Merrylands Road
Lot 3A, DP 315369	276 Merrylands Road
Lot 42, DP 1005784	280 Merrylands Road
Lot 41, DP 1005784	282 Merrylands Road

**Owner/**

**Proponent:** NR Complex Pty Ltd

**Capital  
Investment**

**Value:** \$38,779,137

**File No:** DA 2013/450/1

**Author:** Mark Stephenson, Senior Development Planner  
Holroyd City Council

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**RECOMMENDATION**

1. That the application proposing the demolition of existing structures; consolidation of 6 lots into 1 lot; construction of a 9 storey mixed commercial/residential development over 2 levels of basement parking and a 2 storey commercial building, accommodating (8) commercial suites with a total gross leaseable floor area of 2229sqm, 146 dwellings, 246 parking spaces and strata subdivision into 154 lots, be approved subject to a deferred commencement provision requiring the redesign of acoustic measures, and subject to conditions as outlined in Attachment H of this report.

## **SUPPORTING DOCUMENTS**

<b>AT-A</b>	Site Locality Plan
<b>AT-B</b>	Architectural Plans
<b>AT-C</b>	Statement of Environmental Effects (incl. Annexure 1: Clause 4.6 Variation)
<b>AT-D</b>	Design Verification Statement
<b>AT-E</b>	Traffic Report
<b>AT-F</b>	Acoustic Report
<b>AT-G</b>	Submissions
<b>AT-H</b>	Draft Conditions of Consent

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## **EXECUTIVE SUMMARY**

This development application proposes the demolition of existing structures; consolidation of 6 lots into 1 lot; construction of a 9 storey mixed commercial/residential development over 2 levels of basement parking and a 2 storey commercial building, accommodating (8) commercial suites with a total gross leaseable floor area of 2229sqm, 146 dwellings, 246 parking spaces and strata subdivision into 154 lots.

This report summarises the key issues associated with the development application and provides an assessment of the relevant matters of consideration in accordance with the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy No. 65 – Residential Flat Development, the Holroyd Local Environmental Plan 2013 and the Holroyd Development Control Plan 2013.

The application was placed on public exhibition for a period of thirty (30) days, wherein letters were sent to adjoining and surrounding owners and occupiers, an advertisement was placed in the local paper and a notice was placed on site. Three (3) submissions were received in response.

The application was referred to Council's Building Services Section, Development Engineering Section, Traffic Section, Landscaping Section, Environmental Health Unit, Waste Management Section, Strategic Planning Section, Community Services Section (Social Planning and Accessibility), Heritage Advisor and Consultant Urban Design Advisor. In addition, the application was referred externally to the NSW Office of Water, Sydney Water, Roads and Maritime Services, Holroyd Police and Endeavour Energy. No objections were raised to the development, subject to conditions.

The application is referred to the Sydney West Joint Regional for consideration pursuant to Clause 23G of the Environmental Planning & Assessment Act 1979, as the development has a capital value in excess of \$20 million.

The proposed development exceeds the maximum height requirements contained within the Holroyd LEP 2013, and in this regard, a written application pursuant to Clause 4.6 of the LEP has been submitted. The submitted Clause 4.6 variation is considered to be well founded and is supported.

In addition, the acoustic barriers recommended by the acoustic consultant to be constructed on the southern and eastern boundaries of the site will restrict the overland flow path traversing the site. In this regard, it is recommended that, as a deferred commencement provision, the acoustic barriers be removed and alternative acoustic measures devised.

It is considered that the proposed development is appropriate for the site and for the locality and will have minimal impact on the surrounding environment. Based on an assessment of the application, it is recommended that the application be approved subject to a deferred commencement provision requiring the redesign of acoustic measures, and subject to conditions as outlined in Attachment H of this report.

## SITE DESCRIPTION AND LOCALITY

The subject site encompasses a number of allotments, which are identified as follows:

Lot 8, Sec 1, DP 752	1 Addlestone Road
Lot 1A, DP 315369	272 Merrylands Road
Lot 2A, DP 315369	274 Merrylands Road
Lot 3A, DP 315369	276 Merrylands Road
Lot 42, DP 1005784	280 Merrylands Road
Lot 41, DP 1005784	282 Merrylands Road

The subject site is situated on the southern side of Merrylands Road, approximately 450 metres west of Merrylands Railway Station. The subject site is bounded on 3 sides by Addlestone Road to the east, Merrylands Road to the north and Burford Street to the west. To the south are two residential flat buildings.

The site is rectangular in shape and has a combined area of approximately 5,480sqm. The site has a frontage to Merrylands Road of approximately 90 metres and frontage to Addlestone Road and Burford Street of approximately 60 metres.

The site currently accommodates 2 commercial buildings and an old residential cottage which is also being used for commercial purposes. Traversing the site is a large concrete-lined stormwater canal which is a significant development constraint.

The subject site is located on the south-western periphery of the Merrylands Town Centre. To the north and east is single and two-storey commercial development characteristic of the town centre. To the south and west is residential flat development, 3-4 storeys in height. To the north-west are 2 heritage items, being the Merrylands School of Arts and an Electrical substation.



**Site Plan** (Source: Statement of Environmental Effects – Think Planners, 30 October 2013)

## PROPOSAL

This application proposes the demolition of existing structures; consolidation of 6 lots into 1 lot; construction of a 9 storey mixed commercial/residential development over 2 levels of basement parking and a 2 storey commercial building, accommodating (8) commercial suites with a total gross leaseable floor area of 2229sqm, 146 dwellings, 246 parking spaces and strata subdivision into 154 lots.

Specific details of the proposed development are as follows:

### Residential component

The proposal incorporates the construction of 146 residential units within levels 1 – 8 of the mixed use building. The development comprises the following unit mix:

- 16 x 1 bedroom units
- 118 x 2 bedroom units
- 12 x 3 bedroom units

The proposal includes 15 Class A adaptable housing units and 15 Class B adaptable housing units.

### Commercial component

The proposal incorporates 6 commercial tenancies located on the ground floor of the main building, with following floor areas:

- Tenancy 1: 388sqm
- Tenancy 2: 196sqm
- Tenancy 3: 163sqm
- Tenancy 4: 487sqm
- Tenancy 5: 412sqm
- Tenancy 6: 163sqm

The secondary building (2 storey commercial fronting Addlestone Road) comprises a ground floor and a first floor, with the following floor areas:

- Tenancy 7: 170sqm
- Tenancy 8: 250sqm
- Total Gross leaseable floor area: 2,229sqm

#### Parking

A total of 246 parking spaces are proposed, with the following breakdown:

- 146 residential spaces + 26 tandem spaces (designated as a second stacked space for 26 units)
- 29 residential visitor spaces
- 45 commercial spaces (staff and visitors)
- The above parking spaces includes 30 accessible parking spaces (to service the 30 adaptable units)
- 10 motorcycle spaces
- 54 bicycle spaces

The proposal includes 2 levels of basement parking under the main building and grade level parking for 8 vehicles adjacent to the two storey commercial building fronting Addlestone Road.

#### Servicing

- 2 indented loading bays servicing the western portion of the development capable of accommodating Medium Rigid Vehicles (MRV).
- 1 indented loading bay servicing the eastern portion of the development capable of accommodating a Small Rigid Vehicle (SRV).
- A garbage collection area adjacent to the loading bays on the western portion of the development site capable of accommodating 10m long garbage trucks.

#### Communal Open Space

- The proposal includes a roof top garden with an area of 1,525sqm.
- Public forecourt area located at the entrance to the building adjacent to the stormwater canal.
- Outdoor dining areas in front of commercial tenancies 2 & 3 adjacent to Merrylands Road.

#### Subdivision

The proposed subdivision will create 154 Strata Lots.

### **SECTION 79C OF THE EP&A ACT**

The application has been assessed against the relevant matters for consideration under Section

79C(1) of the *Environmental Planning and Assessment Act, 1979* as amended. The assessment is as follows:

**(1) Matters for consideration—general**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) *the provisions of:*

(i) *Any environmental planning instrument*

***State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004***

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) came into force on 1 July 2004 and has been progressively implemented to the various types of residential development. The intent of the BASIX SEPP is to encourage sustainable residential development by requiring applicants to make commitments to incorporating sustainable design / building techniques in order to achieve more water and energy efficient residential buildings.

BASIX is an on-line program that assesses a residential dwelling against water, thermal comfort and energy reduction targets. Designs must meet these targets before a BASIX Certificate can be issued. Commitments made during the BASIX assessment process must be shown on plans and adhered to during construction.

A BASIX Certificate (No. 510445M-02, dated 29 October 2013) has been submitted with the application and demonstrates that the proposed development meets the required water, thermal comfort and energy targets. The BASIX Commitments specified in the BASIX Certificate and nominated on the architectural drawings will need to be incorporated into the construction and fit-out of the development. A condition to require the BASIX commitments to be implemented in the construction of the development will be included in the recommended conditions of consent. As such, Council is satisfied that the sustainability obligations under the SEPP have been met.

***State Environmental Planning Policy No. 55 – Remediation of Land***

The intent of *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55) is to provide a consistent approach to the remediation of land across the State by specifying certain matters that consent authorities must consider when determining development applications on land which is potentially contaminated.

Under the provisions of Clause 7 of SEPP 55 the consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. If the land is found to be contaminated, the Consent Authority must be satisfied that the land is suitable in its contaminated state or can and will be remediated in order for it to be suitable for the purpose for which the development is proposed.

Given the potential for contamination at the site, the applicant was requested to submit a Preliminary Contamination Assessment for Council's consideration. A Preliminary Environmental Site Assessment was prepared by Environmental Investigations, Report No. E1997 AA, dated 31 October 2013, which found that the site was suitable for the proposed use. This finding was accepted by Council's Environmental Health Unit, subject to the

recommendations made within the Preliminary Environmental Site Assessment being implemented.

### ***State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings***

*State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings* (SEPP 65) is part of a suite of documents developed by the State Government in an effort to improve the quality of design in residential flat buildings. The Policy recognises that the design quality of residential flat development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.

The Policy identifies 10 quality design principles which are applied by consent authorities in determining development applications for residential flat buildings. The design principles do not generate design solutions, but provide a guide to achieving good design and the means of evaluating the merits of the proposed solutions.

By virtue of its height and number of dwellings, the proposed development is subject to SEPP 65 considerations. A design verification statement has been submitted from the registered architect who designed the building. The design verification statement demonstrates that the proposal is consistent with the 10 design principles. The design verification statement has been assessed as being acceptable.

In addition, the application was forwarded to Council's consultant Urban Design Advisor who also considers the proposed development to be satisfactory from an urban design point of view.

Clause 30(2) of SEPP 65 requires Council to take into consideration the Department of Planning's publication titled *Residential Flat Design Code*. An assessment of the proposal against the main provisions of the *Residential Flat Design Code* is presented in the following table:

#### **Part 1 – Local Context**

<b>Primary Control</b>	<b>Guideline</b>	<b>Provided</b>	<b>Compliance</b>
Building height	To ensure the proposed development responds to the desired scale and character of the street and local area and to allow reasonable daylight access to all developments and the public domain.	Holroyd LEP stipulates a maximum height of 29 metres. The proposed development has an overall height of 32.2metres.	<b>No</b> See below Clause 4.6 Variation provided under LEP section
Building depth	Generally, an apartment building depth of 10 – 18 metres is appropriate. Developments that propose wider than 18 metres must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	The depth of the building from glass line to glass line is generally 18 metres or less. There are a small number of instances where the recommended 18 metre depth is exceeded, however, adequate light and ventilation is still achieved.	Considered satisfactory
Building separation	Nine storeys and above - <ul style="list-style-type: none"> <li>24m between habitable rooms/balconies;</li> </ul>	Minimum separations achieved.	Yes

	<ul style="list-style-type: none"> <li>• 18m between habitable rooms/balconies and non-habitable rooms; and</li> <li>• 12m between non-habitable rooms</li> </ul>		
Street setbacks	To establish the desired spatial proportions of the street and define the street edge. To relate setbacks to the area's street hierarchy.	Setbacks consistent with Part M of the Holroyd DCP 2013 –Merrylands Town Centre.	Yes
Side and rear setbacks	To minimise the impact of development on light, air, sun, privacy, views and outlook for neighbouring properties, including future buildings. Test side and rear setbacks with building separation, open space, deep soil zone requirements and overshadowing of adjoining properties.	Setbacks consistent with Part M of the Holroyd DCP 2013 –Merrylands Town Centre, however, SEPP 65 separations are also achieved given adjacent roads and rear laneway / stormwater culvert.	Yes
Floor Space Ratio (FSR)	To ensure that development is in keeping with the optimum capacity of the site and the local area. (FSR is not specified in the Design Code).	The Holroyd LEP 2013 stipulates an FSR of 4:1. The proposed development has an FSR of 2.8:1	Yes

## Part 2 – Site Design

Primary Control	Guideline	Provided	Compliance
Deep soil zones	A minimum of 25% of the open space area of a site should be a deep soil zone, more is acceptable.	<p>240sqm deep soil zone is proposed. This represents 17.5% of the open space area recommended by SEPP 65.</p> <p>Council's DCP provides flexibility with regard to the provision of a deep soil zone within built-up commercial areas. Council's DCP also defines deep soil zone as any area capable of sustaining landscaping. When considering this definition, the garden areas on the roof-top garden would be included, thus the minimum 25% would be achieved.</p>	Considered satisfactory
Fences and walls	To define the edges between public and private land.	N/A	N/A
Landscape design	To add value to residents' quality of life within the development in the forms of	The landscape design has been assessed by Council's Landscaping and Tree	Yes



	privacy, outlook and views, and provide habitat for native indigenous plants and animals.	Management Officer and is considered satisfactory.	
Open space (Communal)	Provide a communal open space which is appropriate and relevant to the context of the buildings setting. An area of 25% to 35% of the site is to be provided as communal open space.	1,525sqm of communal open space area is provided, which is 28% of the site area.	Yes
Orientation	To protect the amenity of existing development, and to optimise solar access to residential apartments within the development and adjacent development.	The longest elevation of the building is orientated north, and therefore solar access to the most number of units is maximised.  The building is configured in a 'U' shape in order to achieve solar access and ventilation to rear units	Yes
Stormwater management	To ensure adequate stormwater management.	The drainage design has been assessed by Council's Development Engineer and is considered satisfactory.	Yes
Safety	To ensure residential developments are safe, and contribute to public safety.	The application has been assessed by the NSW Police who have recommended the implementation of design features to enhance safety and security.	Yes
Visual privacy	To provide reasonable levels of visual privacy externally and internally, during the day and at night.  To maximise outlook and views from principal rooms and private open space without compromising privacy.	As discussed in this report, visual privacy is maintained through the use of appropriate building separation and privacy screening.  Units are orientated toward external view corridors.	Yes
Building Entry	To create entrances with identity and assist in orientation for visitors.	All entrances are visible.	Yes
Parking	To minimise car dependency, whilst still providing adequate car parking.	Parking is considered satisfactory	Yes
Pedestrian access	Connect residential development to the street.  Provide barrier free access to 20% of dwellings.	Direct pedestrian access is provided to the commercial spaces. Access to residences is via lobby.	Yes
Vehicle access	Limit width of driveways.  Locate driveways away from	Vehicle access is off the secondary street away from pedestrian entries via a two-	Yes

	main pedestrian entries, and on secondary streets.	way entry ramp to basement level parking.	
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### Part 3 – Building Design

Primary Control	Guideline	Relevant Control	Compliance										
Apartment layout	Depth of single aspect apartment – 8 metres	Depth of single aspect units ranges from 7 – 9 metres	Considered satisfactory										
	Back of the kitchen not more than 8 metres from a window.	All kitchens are either adjacent to a window or less than 8 metres to a window.	Yes										
	Width of cross-over or cross through apartments over 15 metres deep should be min 4 metres.												
	Apartment sizes:	All apartments are well in excess of the minimum sizes	Yes										
	<table><tr><th>Dwelling Type</th><th>Minimum Area</th></tr><tr><td>Studio</td><td>40m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>95m<sup>2</sup></td></tr></table>	Dwelling Type	Minimum Area	Studio	40m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	95m <sup>2</sup>		
	Dwelling Type	Minimum Area											
Studio	40m <sup>2</sup>												
1 bedroom	50m <sup>2</sup>												
2 bedroom	70m <sup>2</sup>												
3 bedroom	95m <sup>2</sup>												
Apartment mix	To provide a diversity of apartment types, which cater for different household requirements now and in the future.	A variety of 1, 2 & 3 b/r units are provided.	Yes										
Balconies	Minimum 2 metres in depth.	Minimum 2 metres provided.	Yes										
Ceiling heights	Minimum ceiling height of 3.3m for ground floor commercial and 2.7m for residential floors above.	Minimum ceiling heights provided.	Yes										
Internal circulation	Where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to 8.	2 x dual lifts provided within each core.	Yes										
Mixed use building	The mix of uses should be compatible with each other like food retail, small scale commercial and residential.	The end uses of the commercial space is unknown, however, having regard to the size of units proposed, they are likely to be small scale retail and commercial.	Yes										
	Legible circulation system which ensure safety of users.	Circulation of pedestrian and commercial uses appears	Yes										

	Positive contribution of the building to the public domain and streetscape.	straight forward  Given the location, and having regard to the size of the development, it is considered that the proposed development will be a gateway building into the Merrylands Town Centre. In this regard, it is considered that the architecture proposed will make a positive contribution to Merrylands.	Yes								
Storage	<p>To provide adequate storage for everyday household items within easy access of the apartment, and to provide storage for sporting, leisure, fitness and hobby equipment.</p> <p>At least 50% of required storage should be within each apartment.</p> <table><tr><td>Dwelling Type</td><td>Minimum Area</td></tr><tr><td>1 bedroom</td><td>6m³</td></tr><tr><td>2 bedroom</td><td>8m³</td></tr><tr><td>3 bedroom</td><td>10m³</td></tr></table>	Dwelling Type	Minimum Area	1 bedroom	6m³	2 bedroom	8m³	3 bedroom	10m³	All units provided with the minimum storage requirements	Yes
Dwelling Type	Minimum Area										
1 bedroom	6m³										
2 bedroom	8m³										
3 bedroom	10m³										
Acoustic privacy	To ensure a high level of amenity by protecting the privacy of residents within residential flat buildings both within the apartments and in private opens spaces.	Standard construction methods in accordance with the BCA will ensure acoustic privacy between units and between units and commercial suites.	Yes								
Daylight access	<p>Optimise the number of apartments receiving daylight access to habitable rooms and principal windows.</p> <p>Ensure daylight access to habitable rooms and private open space, particularly in winter</p> <p>Design for shading and glare control, particularly in summer using shading devices, such as eaves, awnings, colonnades, balconies, pergolas, external louvres and planting</p>	<p>The orientation of the building provides for the optimal level of solar access.</p> <p>All units achieve daylight access to living areas and POS areas</p> <p>All units have balconies above private courtyards thus achieving a good level of shading during summer.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>								

	<p>Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable.</p> <p>Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10 percent of the total units proposed.</p>	<p>The applicant has demonstrated through amended plans that 65% of dwellings receive 3 hours of direct sunlight during mid-winter and 70% receive 2 hours.</p> <p>Notwithstanding the above, Council's DCP requires that mixed-use development in a commercial zone shall receive at least 2 hours of direct sunlight between 9am and 3pm in Mid-winter. In this regard, the application is compliant.</p> <p>There are no single aspect units facing south</p>	<p><b>No</b>, however considered to comply with Council's DCP.</p> <p>Yes</p>
Natural ventilation	<p>Limit building depth from 10 to 18 metres.</p> <p>60% should be naturally cross ventilated.</p> <p>25% of kitchens should have access to natural ventilation.</p>	<p>The depth of the building from glass line to glass line is generally 18 metres or less. There are a small number of instances where the recommended 18 metre depth is exceeded, however, adequate light and ventilation is still achieved.</p> <p>87 units or 60% are cross-ventilated.</p> <p>All kitchens are located so that adequate ventilation is achieved.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Facades	Facades should define and enhance the public domain.	Considered satisfactory	Yes
Roof design	To integrate the design of the roof into the overall façade.	Considered satisfactory	Yes
Energy efficiency	To reduce the necessity for mechanical heating and cooling.	Basix Certificate submitted	Yes
Maintenance	To ensure long life and ease of maintenance for the development.	Considered satisfactory	Yes
Waste	Provide waste management	WMP provided	Yes

management	plan Allocate storage area.	Bin storage area satisfactory	
Water conservation	Reduce mains consumption, and reduce the quantity of stormwater runoff.	Basix Certificate submitted	Yes

As demonstrated above, the proposal is considered to comply with the requirements of the Residential Flat Design Code (RFDC). The non-compliances with regard to ‘deep soil zone’ and ‘solar access’ are considered to be satisfactory, as the development complies with Council’s DCP controls for these matter.

### ***State Environmental Planning Policy (Infrastructure) 2007***

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) aims to facilitate the effective delivery of infrastructure across the State. The ISEPP also contains provisions with respect to roads and traffic, including development in or adjacent to road corridors and road reservations. Clauses 85-87 and 101-102 apply to development on sites that are likely to be affected by rail noise and/or road noise.

#### Clause 102 – Impact of road noise or vibration on non-road development

Merrylands Road is a Classified Road, and in this regard, the proposed development is subject to the noise requirements outlined in Clause 102 of the ISEPP. In support of the application, an acoustic report assessing the noise impact on the development of vehicles travelling along Merrylands Roads was prepared in accordance with the requirements of the SEPP. The findings of this report are discussed in detail in the assessment section of this report.

#### Clause 104 – Traffic-generating development

Given the proposed development has a size or capacity greater than 75 dwellings and the proposed access to the development is within 90 metres of a Classified Road, the application was referred to the Roads and Maritime Services (RMS) for comments. The RMS raised no objection to the proposed development and provided recommended conditions of consent.

### ***Holroyd Local Environmental Plan 2013***

The Holroyd Local Environmental Plan 2013 applies and the site is located in the B4 – Mixed Use zone. The proposed 9 storey mixed-use building is best defined as ‘shop top housing’ under the LEP, which is permissible within the zone. The proposed 2 storey commercial building is best defined as a ‘commercial premises’, which is also permissible in the B4 zone.

The objectives of the B4 zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To facilitate a vibrant, mixed-use centre with active retail, commercial and other non-residential uses at street level.*
- *To encourage the development and expansion of business activities that will strengthen the economic and employment role of the Merrylands town centre.*

The proposed development is considered to be consistent with the objectives of the zone as it provides for a mixed commercial / residential development with provision for active retail, commercial and other non-residential activities within the Merrylands Town Centre and in close proximity to the Merrylands Railway Station.

An assessment against the relevant LEP clauses is provided in the table below:

<b>Standard</b>	<b>Required/Permitted</b>	<b>Provided</b>	<b>Compliance</b>
2.2	Demolition requires consent.	Consent is being sought for demolition of the existing buildings on the site.	Yes
4.3	Height of Buildings - Max. 29 metres	The proposed maximum building height is 32.2 metres	<b>No</b> Clause 4.6 Variation submitted. See below for further details
<b>Standard</b>	<b>Required/Permitted</b>	<b>Provided</b>	<b>Compliance</b>
4.4	Floor Space Ratio - Max. 4:1	The proposed floor space ratio is 2.8:1	Yes
	Minimum Lot Size - No minimum in Town Centre	The subject site has an area of 5,480m <sup>2</sup> .	N/A
5.10	Heritage	The site is not listed as a heritage item, but is located directly across from two heritage items. Council's Heritage Advisor has assessed the development, and has indicated that the proposal will not have a negative impact on either item.	Yes
6.1	Acid Sulfate Soils	The site is not affected by ASS	Yes
6.4/6.7	Flood Planning and Stormwater Management	Council's records indicate that an overland flow path inundates the site in the 1% Annual Exceedance Probability (AEP) storm event. A flood impact assessment report was submitted and the findings were accepted by Council's Development Engineering Branch.	Yes
6.5	Terrestrial Biodiversity	There is no evidence of any terrestrial biodiversity on the site.	Yes
6.8	Salinity	The site is located on lands identified as being affected by moderate salinity.	To be conditioned

### Height

The proposed development incorporates a height of 32.2 metres where the LEP specifies a maximum height of 29 metres. The application includes a Clause 4.6 Variation arguing that, in the circumstances of the case, strict adherence to the control is unnecessary and the consent authority should allow the variation. It is considered that the written application meets the requirements of a Clause 4.6 Variation, and in this regard, the variation can be considered.

With regard to the merits of the variation sought, the applicant's town planner offers the following:

- The 29 metre maximum height is exceeded by only 3.2 metres, which equates to only a 10% variation (actual variation is 11%).
- The non-compliance is in part due to the increased floor to ceiling heights at the lower levels, and the provision of the roof-top communal open space elements, which provide visual interest to the roof.
- The development complies with the objectives of the height control as specified in the LEP, as there is a significant amount of separation between the proposed building and the residential flat buildings to rear. This large separation mitigates any visual impact and issues associated with privacy and overshadowing. The development also provides an appropriate size and scale for the B4 Mixed Use zone.
- A compliant built form, through the removal of the roof-top communal open space and architectural roof elements, would reduce amenity for residents and result in a building with less architectural merit.
- The development is constrained by flooding, which raises the height of the ground floor level.
- The proposal complies with FSR requirements.
- The proposal does not restrict view corridors.
- The proposed development is in the public interest as it provides for the housing needs of the community close to public transport and contributes to the variety of housing forms in a higher density context.
- The proposal will not have any adverse effect on the surrounding locality and the development is consistent with the height allowable for the zone.
- Strict compliance with the prescriptive height requirement in this case is unreasonable and unnecessary, as the proposal meets the underlying intent of the height control.

### Response

From a visual impact point of view, the main building form is only 1 metre higher than the maximum 29 metres. The architectural roof top features, which extend the overall height to 32.2 metres, add to the visual interest of the roof and do not create any adverse visual impacts. The applicant has stated that the roof features are unable to be used as additional floor spaces, and in this regard, the roof features would meet the requirements of Clause 5.6 – *Architectural roof features*. On this basis, the architectural roof features that extend above the maximum height limit could be considered to be exempt from the height requirements of Clause 4.3.

This Council has in the past supported variations to the maximum height limit where the site is flood affected, meaning that the finished floor level is elevated to comply with Council's flood policy. The subject development would be consistent with this precedent.

Given that the main building form extends only 1 metre above the maximum height and the roof-top features that extend beyond this do not create any visual impact, as well as the fact

that the building is compliant with regard to separation distances and does not create any adverse privacy impacts or overshadowing, it is considered that the proposed variation has merit and can be supported.

The applicant's Clause 4.6 variation is considered to be well founded and meets the requirements of the clause. In this regard, given the circumstances of the case, it is considered unreasonable and unnecessary to require strict adherence to the maximum height control.

- (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

There are no draft environmental planning instruments affecting the site.

- (iii) *any development control plan*

### ***Holroyd Development Control Plan 2013***

The Holroyd Development Control Plan (DCP) 2013 came into effect on 5 August 2013 replacing the Holroyd DCP 2007. The DCP provides guidance for the design and operation of development within Holroyd to achieve the aims and objectives of *Holroyd Local Environmental Plan 2013*.

The following table provides an assessment of the proposed development against the relevant controls under Holroyd Development Control Plan 2013:

<b>Part A – General Controls</b>			
<b>Standard</b>	<b>Required/Permitted</b>	<b>Provided</b>	<b>Compliance</b>
3.1	<b>Car Parking:</b>  <u>Residential</u>  - 0.8 spaces per studio / 1 b/r unit (16 units) = 12.8 spaces  - 1 space per 2 b/r unit (118 units) = 118 spaces  - 1 space per 3 b/r unit (12 units) = 12 spaces  - Visitor parking 0.2 spaces per unit (146 units) = 29.2  Total = 172 spaces  <u>Commercial</u>  - 1/50sqm GFA (B4 zone)	- 172 resident spaces have been proposed within the basement level.	Yes



	<p>- 2,229sqm of GFA @ 1/50sqm = 44.6</p> <p>Total = 45 spaces</p> <p><u>Bicycle</u></p> <p>Commercial GF: Staff – 1/300sqm Visitor – 1/2500sqm</p> <p>Commercial FF: Staff – 1/200sqm Visitor – 1/750sqm</p> <p>Residential: 0.5 per dwelling 0.1 per dwelling for visitors</p> <p>= 53.8 required</p>	<p>- 45 commercial spaces provided within the basement levels and at grade</p> <p>- 54 bicycle spaces have been proposed within the basement level.</p>	<p>Yes</p> <p>Yes</p>
3.3	Dimensions of Car Parking Facilities, Gradients, Driveways, Circulation and Manoeuvring.	Council's Traffic Engineer has assessed the submitted plans and documentation and advised the proposal is acceptable, subject to conditions.	Yes
3.5	<p><b>Driveways</b></p> <p>Driveways shall be setback a minimum of 1.5m from the side boundary.</p>	The proposed driveways are located a minimum of 1.5 metres from the southern boundaries.	Yes
3.6	<p><b>Accessible parking</b></p> <p>- 2 spaces per 100 spaces</p>	30 accessible spaces are provided (1 for each adaptable unit).	Yes
6.1	<p><b>Retaining walls</b></p> <p>- Generally &lt;1m in height.</p>	There are no proposed retaining walls higher than 1m.	Yes
6.3	<b>Erosion and Sediment Control</b>	A detailed sediment and erosion control plan was submitted and is considered to be acceptable.	Yes
7.4	<b>Stormwater Management</b>	Council's Development Engineer has reviewed the Stormwater Drainage Plans and calculations and advises that the design is acceptable.	Yes
11	<b>Site Waste Minimisation and</b>	Council's Waste Officer	Yes

	<b>Management Plan (SWMMP)</b>	has reviewed the proposed waste and recycling arrangements and SWMMP and has advised that they are acceptable.	
<b>Part M – Merrylands Centre Controls</b>			
<b>Standard</b>	<b>Required/Permitted</b>	<b>Provided</b>	<b>Compliance</b>
3	<b>Public Domain</b>		
3.1	<b>Roads and Circulation</b>  The DCP requires the provision of an 8 metre wide laneway at the rear of the site.	Given that Sydney Water will not allow the stormwater canal to be built upon, the proposal is unable to provide a dedicated through laneway. However, a minimum 8 metres has been provided at the rear of the site for vehicle access, which if not for the canal, would constitute a laneway, and could be converted in the future if required.	Considered satisfactory.
3.3	<b>Landscaping and Open Space</b>  Given the commercial nature of the site / locality, the DCP indicates that the site is required to provide ‘planting on structures’ as the opportunity to provide deep soil zones is limited.	The proposal includes a roof top garden with an area of 1,525sqm.  240sqm dedicated deep soil zone is proposed.	Yes  Yes
4	<b>Building Envelope</b>		
	<b>Site amalgamation and Minimum Frontage</b>  Amalgamation of lots in accordance with Figure 5 is required for redevelopment.  The minimum site width achieved shall determine the height of buildings (in storeys) Site width shall be measured at the primary frontage.  Site width (m) / Max. Height (storeys) 20m / Maximum 3 storeys 26m / Maximum 8 storeys	The lots are to be amalgamated in accordance with the lot amalgamation diagrams provided in the DCP.  The consolidated site has a width of approximately 90 metres and a depth of approximately 61 metres. The site meets the minimum requirements.	Yes  Yes

	32m / Maximum 20 storeys										
4.2	<p><b>Building and Ceiling Height</b></p> <p>Maximum permitted building height in storeys shall be in accordance with the following table (refer DCP for full table).</p> <table><tr><th colspan="2">Permitted Height (storeys)</th></tr><tr><th>Height (m)</th><th>Storeys</th></tr><tr><td>29</td><td>8</td></tr></table> <p>Each storey shall have the following minimum floor to ceiling heights:</p> <p>Ground floor - 3.5m First floor (regardless of use) - 3.3m All other floors - 2.7m</p>	Permitted Height (storeys)		Height (m)	Storeys	29	8	<p>The proposed development is 9 storeys in height</p> <p>Minimum floor to ceiling heights provided</p>	<p><b>No</b> See below for further details</p> <p>Yes</p>		
Permitted Height (storeys)											
Height (m)	Storeys										
29	8										
4.3	<p><b>Street Setbacks, Road Widening and Street Frontage Heights</b></p> <p>Street setbacks in accordance with Figure 6 are required for redevelopment.</p> <p>0.5m road widening is required for both sides of Merrylands Road in accordance with Figure 2.</p> <p>Street wall height of buildings (podium) shall be 3 storeys, with a minimum height of 11m and maximum height of 14m.</p> <p>Upper level (above street wall) street frontage setbacks for Merrylands Road, McFarlane Street and Pitt Street will be based on storey height, in accordance with the table below and Figure 7:</p> <table><tr><th>Storeys</th><th>Street frontage setback (m)</th></tr><tr><td>4-8</td><td>4</td></tr><tr><td>9-12</td><td>5</td></tr><tr><td>13-20</td><td>6</td></tr></table> <p>Minor projections into the street setback will be accepted for sites</p>	Storeys	Street frontage setback (m)	4-8	4	9-12	5	13-20	6	<p>0m on all frontages for podium level, except for canal side</p> <p>0.5m road widening along Merrylands Road provided</p> <p>3 storey street wall height provided</p> <p>4 metre setback provided on Storeys 4-8</p> <p>4 metre setback only provided on 9<sup>th</sup> storey</p> <p>Awning projects 3 metres as per DCP requirements</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p><b>No</b> See below for further details</p> <p>Yes</p>
Storeys	Street frontage setback (m)										
4-8	4										
9-12	5										
13-20	6										

	<p>where 0m setback is required, in accordance with the table below:</p> <table><tr><td>Projection</td><td>Permitted length</td></tr><tr><td>Awnings</td><td>3m</td></tr><tr><td>Awnings (laneways)</td><td>Max. 1.5m</td></tr><tr><td>Balconies (above 3<sup>rd</sup> storey)</td><td>600mm</td></tr></table>	Projection	Permitted length	Awnings	3m	Awnings (laneways)	Max. 1.5m	Balconies (above 3 <sup>rd</sup> storey)	600mm		
Projection	Permitted length										
Awnings	3m										
Awnings (laneways)	Max. 1.5m										
Balconies (above 3 <sup>rd</sup> storey)	600mm										
4.4	<p><b>Building Depth and Length</b></p> <p>The maximum permissible building plan depth for residential accommodation is 18m. The maximum permissible building envelope depth for residential accommodation is 22m.</p>	<p>The depth of the building from glass line to glass line is generally 18 metres or less. There are a small number of instances where the recommended 18 metre depth is exceeded, however, adequate light and ventilation is still achieved.</p>	<p>Considered satisfactory.</p>								
4.5	<p><b>Setbacks and Separation</b></p> <p>Where street setback is 0m, a continuous built edge shall be provided</p> <p>Where a lane is required, the minimum rear setback shall be 8 metres.</p> <p>Setbacks to secondary streets (above podium) to the property line shall be provided as below:</p> <table><tr><td>Storeys</td><td>Setback (m)</td></tr><tr><td>4-8</td><td>3</td></tr><tr><td>9-12</td><td>6</td></tr></table> <p>Minimum rear setbacks to a common boundary with a residential zone. (Maximum 12 metres required)</p>	Storeys	Setback (m)	4-8	3	9-12	6	<p>Continuous built edge provided</p> <p>9.5 metres provided</p> <p>Storeys 4-9 provide a 4 metre setback, consistent with the primary street setback.</p> <p>Development provides 14.2 metres</p>	<p>Yes</p> <p>Yes</p> <p><b>No</b> See below for further details</p> <p>Yes</p>		
Storeys	Setback (m)										
4-8	3										
9-12	6										
4.6	<p><b>Active Frontage, Street Address and Building Use</b></p> <p>Provide Active frontages at street level, orientating onto streets, laneways and public places, as</p>	<p>Active frontage provided, with the ability to provide retail and outdoor dining</p>	<p>Yes</p>								

	<p>identified on Figure 9.</p> <p>Active frontages consist of the following:</p> <ul style="list-style-type: none"> <li>- Shopfront</li> <li>- Food and Drink premises such as Restaurant or Café</li> <li>- Entrance to public buildings or commercial building foyers</li> <li>- Customer service areas and receptions (where visible from the street)</li> </ul>	facilities.	
<b>Part C – Commercial Controls</b>			
<b>Standard</b>	<b>Required/Permitted</b>	<b>Provided</b>	<b>Compliance</b>
<b>1</b>	<b>Movement</b>		
1.1	<p><b>Building Envelope</b></p> <p>Min. lot frontage for Zone B2, B4, B5 and B6 is:</p> <ul style="list-style-type: none"> <li>• Up to 3 storeys – 20m</li> <li>• 4-8 storeys – 26m</li> <li>• ≥9 storeys – 32m</li> </ul> <p>Council may require consolidation of more than 1 existing allotment to meet the DCP.</p>	<p>90 metre frontage to Merrylands Road</p> <p>Lot consolidation undertaken in accordance with Part M</p>	<p>Yes</p> <p>Yes</p>
1.2	<p><b>Building Use</b></p> <p>Commercial development shall be located at street level, fronting the primary street, and where possible the secondary street.</p> <p>Residential development is not permitted at ground floor in Zone B2 and B4.</p>	<p>Commercial development fronts Merrylands Road, Addlestone Street and Burford Street.</p> <p>Complies</p>	<p>Yes</p> <p>Yes</p>
1.3	<p><b>Building height</b></p> <p>Min. floor to ceiling height of commercial development / component:</p> <p>Ground Floor - 3.5m First Floor (regardless of use) - 3.3m All other floors - 2.7m</p> <p>Maximum building height in storeys shall be provided in</p>	<p>Min. floor to ceiling levels provided.</p> <p>32.2 metres / 9 storeys</p>	<p>Yes</p> <p><b>No</b> See below</p>

	accordance with the table below: - 29m or 8 storeys		for further details
1.4	<p><b>Front Setback</b></p> <p>Zone B2 and B4 are within site specific section of DCP</p> <p>Street wall height of 3 storeys (11-14m) is required for all commercial development and mixed use development, unless otherwise stated in site specific controls.</p> <p>3m setback required above street wall height</p> <p>Where site adjoins a business zone, no side setback requirement, unless otherwise stated in site specific controls.</p> <p>Development adjoining residential zone shall have a rear setback of 6m.</p> <p>Where adjoining a residential zone, the development must demonstrate that the proposed setbacks will enable the achievement of access to sunlight and privacy</p>	<p>Complies with site specific controls in Part M of DCP</p> <p>Street wall height provided</p> <p>Minimum setbacks provided as per site specific controls in Part M</p> <p>Complies with Part M</p> <p>Min. 8 metres provided</p> <p>The development complies with the minimum separation requirements as per SEPP 65.</p> <p>In addition, the proposed development provides significant separation to the residential flat buildings (RFB) to the south.</p> <p>At its minimum, the south-western portion of the development provides a 15 metre separation to the rear RFB. The south-eastern portion of the development provides a 22 metre separation to the rear RFB. Through the middle of the development, the building is 33 metres from the southern boundary. Such</p>	<p>Yes Complies with Part M of the DCP, with the exception of the 9<sup>th</sup> storey</p> <p>See below for further details</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

		<p>separations allow northern, north-eastern and north-western sun to penetrate the rear development.</p> <p>The large separation also negates any privacy concerns.</p>	
1.5	<p><b>Landscaping and Open Space</b></p> <p>Landscaped area is not required in business zones</p>	<p>Whilst landscaping and open space is not a requirement in the commercial zone, the development includes residential dwellings, and as such, the development provides a roof-top garden with 1,525sqm of communal open space area</p>	Yes
2	<b>Movement</b>		
2.1	<p><b>Rear Laneways</b></p> <p>Vehicular access must be provided where buildings have access to existing laneways</p> <p>Laneways shall be min. 8m in width.</p>	<p>Access from secondary street and rear laneway</p> <p>Min. 8 metres provided</p>	<p>Yes</p> <p>Yes</p>
2.2	<p><b>Pedestrian Access</b></p> <p>Direct access shall be provided from the car park to all residential and commercial units.</p> <p>Main building entry points shall be clearly visible.</p>	<p>Provided</p> <p>Three (3) entry points are clearly visible</p>	Yes
2.3	<p><b>Building Entries</b></p> <p>Separate entries from the street shall be provided for cars, pedestrians, multiple uses and ground floor apartments.</p> <p>Residential entries must be secure where access is shared between residential and commercial uses.</p>	<p>Separate entries provided</p> <p>Access control provided for ground floor, however, basement car park allows access to both commercial and residential spaces. In this regard, it is</p>	<p>Yes</p> <p>To condition</p>

	Multiple cores which access above ground uses shall be provided where the site frontage $\geq 30\text{m}$ .	recommended that the basement car park layout be modified prior to the issue of a Construction Certificate in order to provide access control between the commercial and residential parking spaces.  Multiple cores provided	Yes
2.4	<p><b>Vehicle Access</b></p> <p>Driveways shall be provided from laneways, private access ways and secondary streets where possible.</p> <p>Loading and unloading facilities shall be provided from a rear lane, side street or right of way where possible.</p> <p>One two-way driveway is permitted per development site up to <math>10,000\text{m}^2</math>.</p> <p>Driveways are limited to a maximum of 6m or 8m for commercial loading docks and servicing.</p>	<p>Vehicle access to basement provided from secondary street and rear laneway</p> <p>Loading / unloading facilities provided off rear driveway</p> <p>Provided</p> <p>7 metre two-way driveway proposed off rear laneway. Considered satisfactory by Council's Traffic Section</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
2.5	<p><b>Parking</b></p> <p>Onsite parking is to be provided underground where possible.</p> <p>Basement parking shall be consolidated under building footprint to maximise landscaping.</p> <p>Parking shall not be visible from main street frontages.</p> <p>Natural ventilation or ventilation grills shall be provided to basement parking.</p>	<p>Basement parking provided</p> <p>Development complies</p> <p>Basement parking provided for main building. Parking for secondary building to be screened from view by site landscaping.</p> <p>Basement car park will be both naturally and mechanically ventilated</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>



	Visitor parking shall is not to be stacked parking.	Development complies	Yes
3	<b>Design and Building Amenity</b>		
3.1	<p><b>Safety and Security</b></p> <p>Casual surveillance is to be achieved through active street frontages and creating views of common internal areas.</p> <p>Building entries are to be provided with clear lines of site, should be provided in visually prominent locations and separate residential and commercial entries shall be observed.</p> <p>Adequate lighting shall be provided within the development i.e. pedestrian access ways, common areas and communal open space, car parking areas and all entries.</p> <p>Landscaping shall avoid opportunities for concealment.</p>	<p>Casual surveillance provided to all 3 street frontages and to the rear loading areas</p> <p>Development complies</p> <p>To be conditioned</p> <p>Landscaping considered satisfactory</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
3.2	<p><b>Façade Design and Building Materials</b></p> <p>All walls are to be articulated via windows, verandahs, balconies or blade walls. Articulation elements forward of the building line max. 600mm.</p>	The design of the building is considered satisfactory	Yes
3.3	<p><b>Laneways</b></p> <p>Laneways shall:</p> <ul style="list-style-type: none"> <li>- Define private and public spaces.</li> <li>- Ensure clear lines of sight.</li> <li>- Eliminate spaces that enable hiding.</li> <li>- Ensure overlooking through balcony / window location.</li> <li>- Provide suitable lighting.</li> <li>- Public access shall be provided at all times.</li> </ul> <p>Min. width of 6m and minimum 4m high.</p>	<p>Treatment to rear laneway considered satisfactory</p> <p>Main entrance and internal arcade is 6 metres wide</p>	<p>Yes</p> <p>Considered satisfactory</p>

	Direct and unrestricted access to be provided during business trading hours.	and has a head height of 4 metres at the entrance, and an internal head height ranging from 4 metres to 3.3 metres  To be conditioned	Yes
3.4	<b>Shop Fronts</b>  Solid roller shutters and security bars are not permitted.  Open grill (concertina) and transparent grill shutter security devices are permitted.  All windows on the ground floor to the street frontage are to be clear glazing.	Roller shutters not proposed  Shutters on shop fronts not proposed as part of this application  Glazing provided	Yes  Yes  Yes
3.5	<b>Daylight Access</b>  Developments shall be designed to maximise northern aspects for dwellings and offices.  Habitable rooms and primary private open spaces should be located on northern, eastern and western aspects.  Single aspect dwellings that have a southerly aspect (SW-SE) shall be limited to a maximum of 30% of the total number of dwellings proposed within a development.  Living rooms and private open spaces in a minimum of 70% of dwellings within a development shall receive at least 2 hours of direct sunlight between 9am and 3pm in Mid-winter.  Maintain 3 hours of direct sunlight to 70% of dwellings in adjoining R4 zones.	Given the nature of the site, the building is able to maximise exposure to north, east and west, allowing for sufficient solar access to both dwellings and commercial suites.  There are no units with a single aspect that are south facing (SW-SE). Additionally, there is only a small percentage of units on the southern side, and all are dual aspect with the primary or secondary aspect facing east or west  The applicant has demonstrated through amended plans that 65% of dwellings receive 3 hours of direct sunlight during mid-winter and 70% receive 2 hours.  Shadow diagrams submitted in support of the application show the	Yes  Yes  Yes

		<p>following:</p> <ul style="list-style-type: none"> <li>- Southern RFB on Addlestone Road – of the 9 units facing north, only 1 receives less than 3 hours, and receives at least 2 hours (89%).</li> <li>- Southern RFB on Burfod Street – of the 9 units facing north, only 2 receive less than 3 hours, and these units receive between at least 2 hours (78%).</li> </ul>	
3.6	<p><b>Visual and Acoustic Privacy</b></p> <p>Provide adequate building separation and setbacks</p> <p>Building and apartment configuration shall be designed to minimise noise intrusion</p>	<p>The proposed development complies with the setback requirements of Part M and Part C of the Holroyd DCP 2013, as well as the separation requirements of SEPP 65</p> <p>Visual privacy between units is maintained via blade walls.</p> <p>Standard construction methods in accordance with BCA will ensure acoustic privacy between units.</p>	Yes
3.7	<p><b>Managing External Noise and Vibration</b></p>	Acoustic report submitted to demonstrate compliance with requirements of ISEPP	Yes, discussed in greater detail below
3.8	<p><b>Awnings</b></p> <p>Awnings:</p> <ul style="list-style-type: none"> <li>• Should be flat.</li> <li>• Must be 3m deep.</li> <li>• Setback from the kerb a min. 600mm.</li> <li>• Min. soffit height of 3.2m-3.3m.</li> <li>• Slim vertical facias and/or eaves <math>\leq 300\text{mm}</math>.</li> <li>• To be located over all</li> </ul>	Development complies	Yes

	building entries.		
3.9	<p><b>Apartment layout</b></p> <p>No part of any residential unit shall be more than 8m from the glass line.</p> <p>Single aspect apartments are to have a maximum depth of 8m from the glass line.</p> <p>The back of the kitchen shall be no more than 8m from a window.</p> <p>The width of any apartment is to be no less than 4.5m (4.3m internally).</p> <p>Residential apartments are to have the following minimum internal floor areas:</p> <ul style="list-style-type: none"> <li>• Studio - 40m<sup>2</sup></li> <li>• 1 bedroom - 50m<sup>2</sup></li> <li>• 2 bedroom - 70m<sup>2</sup></li> <li>• 3 bedroom - 95m<sup>2</sup></li> <li>• 4 bedroom - 120m<sup>2</sup></li> </ul>	The development complies with the stated controls, which are taken from SEPP 65	Yes
3.10	<p><b>Flexibility and Adaptability</b></p> <p>Design commercial uses to permit adaptation and flexibility for future development.</p> <p>20% of dwellings to meet adaptable housing requirements</p> <p>Pre- and post-adaptive designs are required to be submitted at DA stage to demonstrate compliance with the relevant sections of the checklist provided in Appendix A of AS 4299-1995.</p> <p>A variety of apartment types between studio, one, two, three and three plus bedroom apartments shall be provided in each development.</p> <p>Studios and 1 bedroom apartments are not to exceed 20% of the total apartment mix within each development.</p>	<p>Commercial suites are able to be adapted to suit future uses</p> <p>30 units (20%) provided as adaptable</p> <p>Provided</p> <p>Unit mix provided:</p> <ul style="list-style-type: none"> <li>- 16 x 1 bedroom units,</li> <li>- 118 x 2 bedroom units</li> <li>- 12 x 3 bedroom units</li> </ul> <p>11% provided</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Satisfactory mix provided</p> <p>Yes</p>

3.11	<p><b>Corner Buildings</b></p> <p>Generally, corner building shall be designed to:</p> <ul style="list-style-type: none"> <li>- Articulate street corners by massing and building articulation,</li> <li>- To add variety and interest to the street,</li> <li>- Present each frontage of a corner building as a main street frontage,</li> <li>- Reflect the architecture, hierarchy and characteristics of the streets they address, and</li> <li>- Align and reflect the corner conditions.</li> </ul>	The proposed development is considered to satisfy this criteria	Yes, see below for further details
3.13	<p><b>Internal Circulation &amp; Storage for Residential Use</b></p> <p>Where apartments are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor is to be limited to eight.</p> <p>In addition to kitchen cupboards and bedroom wardrobes, accessible storage facilities shall be provided at the following rates as a minimum:</p> <ul style="list-style-type: none"> <li>• Studio apartments 6m2,</li> <li>• One bedroom apartments 6m2,</li> <li>• Two bedroom apartments 8m2, and</li> <li>• Three plus bedroom apartments 10m2.</li> </ul>	<p>Multiple cores provided</p> <p>Minimum storage requirements provided within basement level</p>	<p>Yes</p> <p>Yes</p>
3.18	<p><b>Waste Management</b></p> <p>Garbage/recycling storage areas must be located so as to be easily serviced and not cause any negative impacts in terms of visual appearance, noise or smell, to residents, adjoining properties or to the street. Storage areas for bins are to be located away from the front of the development in a location with a practical distance</p>	The proposed waste system has been assessed by Council's Waste Management Section and is considered to be satisfactory	Yes

	from the final collection point.		
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As demonstrated above, the proposal is considered to comply with the requirements of the Holroyd DCP 2013, with the exception of the following:

**i. Building and ceiling height**

Whilst the DCP specifies a maximum height of 8 storeys, the number of storeys referred to is a guide based on the height in metres, minimum floor to ceiling heights, etc. Part C of the Holroyd DCP states that there may be instances where development is able to achieve a greater number of storeys and still comply with maximum height under Holroyd LEP 2013.

However, this application does not comply with the maximum height of 29 metres as prescribed within the LEP. The proposed height is 32.2 metres. In this regard, the applicant has lodged with Council a written application pursuant to Clause 4.6 of the Holroyd LEP 2013. As indicated above, the arguments provided by the applicant are considered to be well founded and in this regard the variation is supported.

**ii. Street wall setback**

The DCP requires a 4 metre setback (above podium level) for storeys 4-8 and a 5 metre setback from the street for storeys 9-12. The development only provides a 4 metre setback, and in this regard, the 9<sup>th</sup> storey would be non-complaint.

Firstly, it is noted that the DCP also allows balconies to project by 600mm into this setback area and the 9<sup>th</sup> storey setback area comprises mostly of balconies, but also internal rooms. Notwithstanding this, it is considered that, by enforcing strict compliance with this setback control, the architecture of the building is adversely impacted and the architecture of the building suffers. The building's main focus are the two vertical corner elements. These architectural elements define the building, and requiring the 9<sup>th</sup> storey to be set back behind these elements would detract from the overall composition. This position is supported by Council's consultant urban design advisor.

**iii. Setbacks and separation**

The DCP requires a setback from the secondary street of 4 metres for storeys 4-8 and 6 metres for storeys 9-12. The development provides a 4 metre setback for all storeys above podium level.

Firstly, it is again noted that the DCP also allows balconies to project by 600mm into this setback area and the 9<sup>th</sup> storey setback area comprises mostly of balconies, but also internal rooms.

Secondly, it is noted that, for storeys 4-8, the development provides a 4 metre setback where only 3 metres is required. This is for the reasons stated above, that a varied setback (i.e. wedding cake effect, instead of tower effect) would detract from the overall composition of the building.

The above non-compliances with regard to setbacks are supported on architectural merit.

- (iia) *any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*

N/A

- (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

There are no specific matters prescribed by the Regulations that apply to this development.

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

### Built Form

Whilst the building is relatively large in scale, it is considered that the architectural articulation employed ameliorates the overall bulk of the structure. In particular, the middle recess gives the impression that there are two separate buildings.

When the initial proposal came before Council at pre-DA stage, one large structure was proposed, and Council's consultant urban design advisor recommended that the building be broken into two separate buildings. Whilst this has not been done, Council's consultant urban design Advisor has indicated that the recess helps break up the structure, and on this basis the building form is supported.

Council's DCP designates the north-western corner as a (gateway element). It is considered that the corner treatment achieves this, even though this treatment is applied to both corners.

With regard to context and setting, it is important to note that, whilst the site borders an R4 High Density Residential zone, the site itself is zoned B4 Mixed Use. This is a commercial zone, and for this reason, increased height and density is representative of the commercial zone.

The test for compatibility in this context then would be whether the overall height of the building is satisfactory with regard to visual privacy, solar access, overshadowing, etc. On these amenity issues, the development complies, and in this regard, the proposed height is considered appropriate.

All four elevations are sufficiently articulated and provide visual interest through this articulation and through the variety in finishes. The overall composition is considered to be appropriate and will be a positive attribute for the Town Centre.

### Traffic & Parking

With regard to the number of parking spaces provided, the above compliance table (Part A of DCP) indicates that the proposed development provides the minimum number of parking spaces required in accordance with Council's DCP controls. In this regard, the level of car parking provided on site is considered satisfactory.

With regard to traffic, it is noted that a development of this scale has the potential to have an impact on the local traffic network. As such, the applicant prepared a traffic impact assessment report to assess the likely traffic implications of the development, to determine whether the development is satisfactory, and recommend appropriate remedial measures if required.

Using the Roads and Traffic Authority (now RMS) publication *Guide to Traffic generating Developments*, the report assesses the traffic demand of the existing development and the projected demand of the proposed development. The findings of the report are as follows:

- *The proposed site-wide off-street parking provision complies with the requirements contained within DCP 2013;*
- *The proposed access arrangements are projected to provide for safe and efficient site access movements;*
- *The proposed internal circulation and manoeuvring arrangements are capable of providing for safe and efficient vehicular movements during peak times;*
- *The overall existing level of service throughout the surrounding road network is good, with the exception of the junction of Merrylands Road and Burford Street;*
- *In order to improve the level of safety and efficiency at the junction of Merrylands Road and Burford Street, it is recommended that a peak hour right turn prohibition be implemented;*
- *The subject development is projected to generate in the order of 126 peak hour vehicle trips to and from the subject site; and*
- *The surrounding road network is projected to be capable of accommodating the additional traffic projected to be generated by the subject development as well as the local redistribution of traffic associated with the recommended implementation of a right turn prohibition at the junction of Merrylands Road and Burford Street up to 2020.*

*Based on the contents of this report, we consider that there are no traffic related issues that should prevent approval of the subject application and we therefore recommend that action to Council.*

The application was assessed by the Roads and Maritime Services, given the proximity to Merrylands Road, being a Classified Road, and no objections were raised and conditions of consent were provided.

The application was also assessed by Council's Traffic Section and found to be satisfactory. Given the proposed 'No Right Turn' into Burford Street, a report to the Holroyd Traffic Committee was prepared by Council's Senior Traffic Engineer, which recommended the following:

- *'No Right Turn' restriction is supported considering the close proximity to the signalised intersection of Merrylands Road with Treves Street.*
- *The 'No Right Turn' restriction should be all day and physically restricted with a 'seagull' median on Burford Street.*
- *A raised median on Merrylands Road cannot be implemented due to the carriageway width of Merrylands Road.*
- *The applicant raised no issue with the installation of a 'seagull' median on Burford Street.*
- *The RMS representative commented that Burford Street is too narrow for parking and two way flow. The installation of 'No Stopping' will be investigated separate to the development application.*



At their meeting on 4 June 2014, the Holroyd Traffic Committee recommended the following:

- i) *The installation of 'No Right Turn' restriction and 'seagull' median on Burford Street to restrict right turn movements at the intersection of Merrylands Road with Burford Street be supported.*
- ii) *The installation of the 'No Right Turn' restriction and 'seagull' median be undertaken as part of the proposed development at 1 Addlestone Road and 272 – 284 Merrylands Road, Merrylands. The applicant shall prepare plans in accordance with Australian Standards, Austroads and RMS Supplement which shall be reported to the Holroyd Traffic Committee.*
- iii) *The installation of 'No Parking' restriction on Burford Street be investigated and the result reported back to the Holroyd Traffic Committee.*
- iv) *The affected businesses and residents be consulted and the result be reported back to the Holroyd Traffic Committee if objections are received.*

Council resolved to adopt the above recommendations at their Ordinary Meeting on 24 June 2014. Council's Traffic Section has included the above in their conditions, which form part of the draft conditions of consent.

Having regard to the above, it is considered that, whilst the development will generate additional traffic movements on the surrounding road network, this increase is not a significant adverse impact on the road network.

The local road network will still be able to operate with the existing levels of service at all intersections to remain unchanged, with the exception of the intersection of Merrylands Road and Burford Street, where the level of service is expected to improve in the morning peak due to the implementation of the 'No Right Turn' restrictions. The level of service for the afternoon peak is expected to remain the same.

#### Solar Access and Overshadowing

The proposed development provides significant separation to the residential flat buildings (RFB) to the south. This large separation is in part due to the existing stormwater canal and the need to provide a minimum 8 metre vehicle accessway at the rear to the service the site and provide for the future laneway as required by the DCP.

At its minimum, the south-western portion of the development provides a 15 metre separation to the rear RFB. The south-eastern portion of the development provides a 22 metre separation to the rear RFB. Through the middle of the development, the building is 33 metres from the southern boundary. Such separations allow northern, north-eastern and north-western sun to penetrate the rear development.

As discussed in the compliance table, the development complies with Part C of the Holroyd DCP, which requires that new development must maintain 3 hours of direct sunlight to 70% of dwellings in adjoining R4 zones. The elevational shadow diagrams indicate that, for the southern RFB on Addlestone Road, of the 9 units facing north, only 1 receives less than 3 hours, and this unit receives at least 2 hours (89%). For the southern RFB on Burford Street, of the 9 units facing north, only 2 receive less than 3 hours, and these units receive at least 2 hours (78%). Compliance is therefore achieved.

It is considered that the architect has considered both the issues of solar access to the units within the development and the overshadowing of dwellings to the rear, and has designed the

building accordingly. The U-shaped configuration of the building allows north-eastern and north-western sunlight to penetrate the units located along the internal elevations. This U-shaped configuration also, as well as the large separation to the rear buildings, allows sunlight to penetrate the residential flat buildings to the rear.

Having regard to the above, it is considered that the development is satisfactory with regard to solar access and overshadowing.

#### Acoustic Amenity

- Road traffic noise

Given the proximity of the site to Merrylands Road, which is designated as a 'Classified Road', the applicant was required to prepare an acoustic report to assess the impact of noise intrusion from vehicles travelling along Merrylands Road, and provide measures to ensure compliance with SEPP (Infrastructure) 2007. The report was required to be prepared in accordance with the NSW Environment Protection Authority Industrial Noise Policy & NSW DP&I's Development Near Rail Corridors And Busy Roads – Interim Guideline.

The noise report found that road traffic noise from Merrylands Road will potentially exceed noise criteria when windows are opened (exceed criteria by up to 17 and 20 dB(A)) and when closed (exceed criteria 7 and 10 dB(A)). To reduce the impact from noise, the acoustic consultant states that windows and doors will need to be closed. In this regard, windows and doors will need to incorporate attenuation measures to achieve compliance. Additionally, as windows will need to be closed, the acoustic consultant recommends that alternative ventilation methods that meet the requirements of the BCA be incorporated into the design.

The submitted report was assessed and found to be satisfactory by Council's Environmental Health Unit. The recommendations provided by the acoustic consultant have been incorporated into the draft conditions of consent.

- Noise generated by the development

In addition to the above, the applicant was requested to prepare an acoustic assessment of noise generated from the development itself, including but not limited to proposed mechanical plant (i.e. air conditioners, automatic roller doors, ventilation plant for the underground car park, loading/unloading operations, etc). This assessment was required to be prepared in accordance with the requirements of the NSW Industrial Noise Policy and the NSW Road Noise Policy.

The acoustic report has found that noise from loading and unloading operations and from vehicle movements will exceed noise criteria. In this regard, the acoustic consultant has recommended restrictions to the times in which loading activities can occur and when the commercial car park can operate. Additionally, the acoustic consultant has recommended the erection of a 3 metre high acoustic barrier on the western portion of the southern boundary, a 2.4 metre high acoustic barrier on the eastern portion of the southern boundary, and a 2.4 metre high acoustic barrier on part of the eastern boundary adjacent to the grade car parking area.

With regard to the above recommendations, whilst it is considered necessary to provide measures to reduce noise, it is noted that the abovementioned acoustic barriers will restrict the overland flow path traversing the site.

As such, it is recommended that, as a deferred commencement provision, the acoustic barriers be removed and alternative acoustic measures devised. Should boundary treatments still be proposed in order to maintain acoustic integrity, they shall be designed such that:

- The overland flow path is not impeded and the impacts of the overland flow path are not exacerbated;
- Any barrier to be erected on the southern boundary shall not exceed a height of 2.4 metres, with a solid non-see through section not to exceed 1.8 metres in height;
- Any barrier to be erected on the eastern boundary shall not exceed 1.2 metres in height
- The location and design of the acoustic barriers shall not impede site distance to pedestrians at the property boundary. In this regard, any barriers shall comply with AS 2890.2-2004.
- Any acoustic barriers shall be clear of Sydney Water's asset. Alternatively, approval from Sydney Water shall be obtained and submitted to Council.

The above has been incorporated into the draft conditions of development consent.

#### *Social Impact*

In accordance with Council's *Social Impact Assessment Policy August 2012*, a Social Impact Assessment was prepared and submitted for Council's consideration. Council's Social Planner has assessed the report and found that the report followed Council's methodology by reviewing the proposal's potential impact on population structure, housing, mobility and access, community connectedness, health and wellbeing, crime and safety, and the local economy.

Council's Social Planner reported that, the major identified positive impacts are the proposal's supply of much needed affordable and mixed type housing, maintenance of social diversity (due to housing mix), increase viability of Merrylands CBD based business (from the additional residents) employment (during construction phase and operation of commercial spaces) improved safety in the locality from the additional surveillance provided by new residents, and the physical improvements to the locality due to the design/aesthetics of the proposal.

The negative impacts are confined to the short term impacts during demolition and construction, however, this is not significant and can be controlled through the implementation of a Construction Management Plan (to address traffic control, noise and dust), which can form a condition of consent. A condition to this effect has been included within the draft conditions of consent.

#### *(c) the suitability of the site for the development*

The site is considered suitable for the proposed development. There are no known constraints which would render the site unsuitable for the proposed development.

With regard to potential site contamination, a Preliminary Contamination Assessment identified that the site is suitable for its intended purpose. In addition, whilst the site is flood affected, Council's Development Engineering Branch has assessed the proposed flood measures to be satisfactory.

The site is quite large with a total site area of 5,480sqm. The individual lots are to be consolidated in accordance with the site specific requirements of the DCP. The consolidated site has a width of approximately 90 metres and a depth of approximately 61 metres. The site meets the minimum width requirements.

At a strategic level, the site has been assessed during the comprehensive LEP process as being able to sustain a higher height and higher density.

*(d) any submissions made*

In accordance with the Holroyd Development Control Plan 2013, the application was notified to adjoining and surrounding owners and occupiers for a period of thirty (30) days, an advertisement was placed in the local newspaper and a notice was placed on the site. During this time, three (3) submissions were received raising concern with the proposed development. These concerns are addressed below:

**1. The proposed development will significantly increase traffic levels in an already busy section of the Merrylands Town Centre.**

As indicated above in this report, a traffic impact assessment was undertaken, which found that the local road network will still be able to operate with the existing levels of service at all intersections to remain unchanged, with the exception of the intersection of Merrylands Road and Burford Street, where the level of service is expected to improve in the morning peak due to the implementation of the 'No Right Turn' restrictions. The level of service for the afternoon peak is expected to remain the same.

**2. The Burford Street intersection is very busy and the development will lead to more accidents.**

As part of their report the applicant's traffic consultant assessed the safety implications of the development on the surrounding road intersections. The report provides the following:

*In order to assess the most appropriate infrastructure or traffic management modification, this Practice has obtained a 5 year (2008 – 2012 inclusive) crash history from the Roads & Maritime Service for the signage controlled junction of Merrylands Road and Burford Street. This analysis indicates that the junction was the site of 6 recorded crashes (none fatal) during the 5 year period, with 4 of these being directly or non-directly associated with right turn movements to and from Burford Street (full details are available upon request).*

*In consideration of the crash history and the abovementioned discussion, it is recommended that right turn movements to and from Burford Street be prohibited by way of the installation of 'No Right Turn' signage at the subject intersection. It is considered that this prohibition should only apply during weekday peak periods as observations during other periods have indicated that right turn movements are able to occur with a satisfactory level of safety and efficiency.*

Notwithstanding the comments made by the traffic consultant, the Holroyd Traffic Committee recommended the inclusion of a 'seagull' median at this intersection to provide a physical measure to reinforce the no right turn restriction.

Given the measures proposed, the level of service for the Merrylands Road and Burford Street intersection will improve in the morning peak but remain as existing for the afternoon peak. Having regard to the Traffic Impact Assessment undertaken

by the applicant's traffic consultant and the subsequent assessment of the development by Council's Traffic Section, it is considered that the proposal will not result in a significant adverse impact upon the local road network.

**3. The height of the development will block out the sun and overshadow our buildings**

It is noted that none of the objectors reside in the residential flat buildings located directly behind the subject development. No submissions were received from owners or occupiers of the flat buildings to the south.

Notwithstanding this, as indicated above, the development complies with Part C of the Holroyd DCP, which requires that new development must maintain 3 hours of direct sunlight to 70% of dwellings in adjoining R4 zones. The elevational shadow diagrams provided by the applicant indicate that, for the southern RFB on Addlestone Road, of the 9 units facing north, only 1 receives less than 3 hours, and this unit receives at least 2 hours (89%). For the southern RFB on Burford Street, of the 9 units facing north, only 2 receive less than 3 hours, and these units receive at least 2 hours (78%). Therefore, compliance with Council's controls is achieved.

**4. The length of time during construction and the noise generated will cause unacceptable stress.**

Whilst Council cannot govern the duration of the construction phase, strict conditions will be imposed upon the times during which construction can occur. Additionally, Council's Social Planner has indicated that the short term negative impacts during demolition and construction are not significant and can be controlled through the implementation of a Construction Management Plan. A condition requiring the preparation of a Construction Management Plan has been included within the draft conditions of consent.

**5. High rise buildings should not be built in Merrylands**

As part of the comprehensive LEP process, wherein local councils across NSW were required to amend their local environmental plan to achieve consistency with the standard LEP template, Holroyd increased densities in many existing town centres, but particularly the primary town centre of Merrylands. This was in response to required state government targets for increases in housing supply to cater for projected population growth.

The impacts of such growth has been assessed by Council and the Department of Planning as part of the new LEP process, and this growth was assessed as being appropriate for the locality

While 'high rise' is a subjective and relative term, some maximum building heights allowable in the centre of the Merrylands Town Centre increased to 65 metres, whereas the subject site is designated for 29 metres. Prior to the implementation of the new LEP, the subject site was zoned 3(a) General Business and, pursuant to Development Control Plan No. 45 – Merrylands Town Centre Precinct, April 2006, the subject site could build up to a height of 7 storeys and 24 metres.

Therefore, considering what could be built on the site as far back as 2006, the increased heights prescribed under the new LEP are not considered to be a significant increase, and such growth has been assessed as being able to be accommodated within the Merrylands Town Centre.

**6. Building height of 9 storeys, plus roof-top garden, when DCP / LEP ‘height of buildings’ mandates maximum height of only 8 storeys**

The LEP prescribes a maximum height of 29 metres. Whilst the DCP specifies a maximum height of 8 storeys, the number of storeys referred to is a guide based on the height in metres, minimum floor to ceiling heights, etc. Part C of the Holroyd DCP states that there may be instances where development is able to achieve a greater number of storeys and still comply with maximum height under Holroyd LEP 2013.

However, this application does not comply with the maximum height of 29 metres as prescribed within the LEP. The proposed height is 32.2 metres. In this regard, the applicant has lodged with Council a written application pursuant to Clause 4.6 of the Holroyd LEP 2013. As indicated earlier in this report, the arguments provided by the applicant are considered to be well founded and in this regard the variation is supported.

**7. Ensure that visual and acoustic privacy complies**

This report identifies that the minimum separation distances are provided to ensure visual privacy is maintained, both for the occupants of the subject development and for the occupants of surrounding dwellings.

With regard to acoustic privacy, an acoustic report was submitted which assessed the impact of noise on the development from Merrylands Road (Classified Road), as well as noise generated from the development itself. Council’s Environmental Health Unit assessed the report and considers the findings acceptable, subject to the recommendations made with the report.

**8. The minimum number of commercial parking spaces and resident visitor spaces is not provided.**

The proposed development complies with Council’s minimum requirements for car parking.

With regard to commercial space, the DCP takes into account Gross Leaseable Floor Area (GLFA) not total commercial floor space. The GLFA of the development is 2,229sqm. At a rate of 1 space per 50sqm of GLFA, the development is required to provide 45 spaces for staff and visitors. The development complies in this regard.

With regard to resident visitor spaces, given the overall number complies, notwithstanding that 29.2 visitor parking spaces are required (which should round up to 30) whilst only 29 are provided. Council’s Traffic Section raise no objection to this minor non-compliance, and further, the RMS recommends that Council consider reducing the number of spaces required for this development based on the proximity to the Railway Station.

**9. The proposed 9 storey development is not compatible with adjoining development**

The zoning of the subject site (B4 Mixed Use) is different to the zone on which the surrounding 3 and 4 storey residential flat buildings are situated (R4 High Density Residential). In this regard, the heights of buildings located within a mixed use zone are somewhat higher than the adjoining zones.

The test for compatibility in this context then would be whether the overall height of the building is satisfactory with regard to visual privacy, solar access, overshadowing, etc. On these amenity issues, the development complies, and in this regard, the proposed height is considered appropriate.

- 10. The DCP states a mix of residential unit accommodation shall be provided, involving no less than 10% of one bedroom, two-bedroom, three-bedroom units. This DA does not meet this standard**

The DCP requires that a variety of apartment types between studio, one, two, three and three plus bedrooms are provided in each development., however, studios and 1 bedroom apartments are not to exceed 20% of the total apartment mix within each development.

It is considered that a variety of apartment types have been provided and 1 bedroom apartments represent 11% (16 out of 146). In this regard, the development complies.

- 11. This DA does not have a through accessway between Burford and Addlestone, as is required in the DCP. Does this DA contain adequate access for this site? Will the 200+ residential and visitor cars be able to enter and exit all onto Burford Street?**

Given that Sydney Water will not allow the stormwater canal to be built upon, the proposal does not provide a dedicated through laneway. However, a minimum 8 metres has been provided at the rear of the site for vehicle access, which if not for the canal would constitute a laneway, and could be converted in the future if required.

The site has three road frontages, and whilst vehicular access is denied off Merrylands Road, the development provides vehicular access off both Addlestone Road and Burford, with the lion's share of vehicles accessing the development via Burford Street.

As identified above, a traffic impact assessment was undertaken, which found that the local road network will still be able to operate with the existing levels of service at all intersections to remain unchanged.

- 12. As there is a canal running through this block, are there appropriate flood mitigation strategies in place, particularly as there are 2 levels of basement parking?**

In addition to a Flood Impact Assessment Report, the applicant also provided Stormwater Management Plan and detailed hydraulic plans to mitigate the impacts of flooding. The information was assessed by Council's Development Engineering Branch and was considered acceptable.

- 13. Roof-top garden**

Concern was raised over safety for users of the proposed roof-top garden, and the structural ability of trees and other elements to withstand strong winds.

Rooftop gardens are not new and are provided in major cities in Australia and overseas. They are gaining popularity as the preferred method of providing communal open space in built-up areas where open space is limited. Part M of Council's DCP – Merrylands Centre Controls, requires 'planting on structures', and a roof-top garden would meet this requirement.

With regard to safety, the roof-top garden elements are subject to compliance with the Building Code of Australia and relevant Australian Standards, as any other element of a building would be. With regard to high winds, the roof-top would not have the depth of soil to sustain large plantings, and in this regard the plan specifies smaller trees for the rooftop.

It is considered that the roof-top garden should not be counted as another storey as is suggested.

#### **14. Tree removal**

As indicated in the submission, the application does involve tree removal. In this regard, an arborist report was submitted with the application, wherein the proposed removal of trees was considered by the Arborist as appropriate. Council's Landscape and Tree Management Coordinator has assessed the development and the submitted Arborist report and raises no objection to the proposed removal.

Contrary to the submission however, there is also significant planting at street level, in the south-eastern corner of the site, along the rear boundary and along all street frontages.

#### **15. Submission / exhibition process**

Concern was raised over the limited extent of public exhibition of the application. However, the application was exhibited in accordance with Part E of the Holroyd DCP 2013, entitled Public Participation, wherein the application was placed on public exhibition for a period of 30 days, letters were sent to adjoining and surrounding owners and occupiers, an advertisement was placed in the local newspaper and a notice was placed on the site.

##### *(e) the public interest*

Given the positive benefits of the proposal, which were identified by Council's Social Planner, are considered to outweigh any negative impacts that may arise as a result of the proposal, it is considered that the proposal is in the public interest.

### **INTERNAL REFERRALS**

During the assessment process, comments were sought from a number of sections within Council, as detailed below:

Building Services Section	No objection, subject to conditions
Development Engineering Section	No objection, subject to conditions
Traffic Section	No objection, subject to conditions
Landscaping Section	No objection, subject to conditions
Environmental Health Unit	No objection, subject to conditions
Waste Management Section	No objection, subject to conditions
Strategic Planning Section	No objection, subject to conditions
Community Services Section (Social Planning and Accessibility)	No objection
Heritage Advisor	No objection



Consultant Urban Design Advisor	No objection
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## EXTERNAL REFERRALS

Comments were also sought from a number of external authorities, as provided below:

NSW Office of Water	No objection, subject to conditions
Sydney Water	No objection, subject to conditions
Roads and Maritime Services	No objection, subject to conditions
Holroyd Police	No objection
Endeavour Energy	No objection

## SECTION 94 CONTRIBUTIONS

The subject site is located within the Merrylands Centre – Central Drainage Precinct contribution area. The following contributions apply to mixed residential / commercial development in this area:

- Residential
  - 16 x 1 b/r units @ \$8,623.56 per unit = \$137,976.96
  - 118 x 2 b/r units @ \$14,583.97 per unit = \$1,720,908.46
  - 12 x 3 b/r units @ 20,000.00 per unit = \$240,000
  - Subtotal \$2,098,885.42
- Commercial
  - 2,229sqm of GFA @ \$196.99 per sqm = \$439,090.71
  - Total **\$2,537,950.92**

## RECOMMENDATION

As identified above, it is considered that the proposed design is a good response to the constraints of the site. Whilst a relatively large building, it is considered that the architectural articulation employed ameliorates the overall bulk of the structure. In particular, the middle recess gives the impression that there are two separate buildings. All four elevations are sufficiently articulated and provide visual interest through this articulation and through the variety in finishes. The overall composition is considered to be appropriate and will be a positive attribute for the Town Centre.

Notwithstanding its size, given the large separation provided to the adjoining development, the building is satisfactory with regard to visual privacy, solar access and overshadowing, and on this basis, the proposed height is considered satisfactory.

It is important to note that, being within the Merrylands Town Centre, which is the primary town centre within the Holroyd LGA, Council has resolved to increase densities to

accommodate State Government targets of increased population growth. The impacts of such growth has been assessed by Council and the Department of Planning as part of the Strategic LEP process, and this growth was assessed as being appropriate for the locality.

More importantly, the development results in an increase in the supply of much needed affordable housing and mixed housing types, maintenance of social diversity, a reinforcement in the viability of the Merrylands Town Centre, and improvement to the built environment. It is considered that these positives outweigh any perceived negative aspects of the proposed development.

Having regard to the above, it is recommended that the application proposing the demolition of existing structures; consolidation of 6 lots into 1 lot; construction of a 9 storey mixed commercial/residential development over 2 levels of basement parking and a 2 storey commercial building, accommodating (8) commercial suites with a total gross leaseable floor area of 2229sqm, 146 dwellings, 246 parking spaces and strata subdivision into 154 lots, be approved subject to a deferred commencement provision requiring the redesign of acoustic measures, and subject to conditions as outlined in Attachment H of this report.