

Statement of Environmental Effects

Project No.106

Client: Bramston Properties Pty Ltd

The Site: 19,21,23 Quinn Street and
1,3,5,7,9 Florence Street
South Wentworthville

Proposal: Mixed Use Commercial and
Residential Apartments

Date: 2 December 2013



1	Executive Summary	1
1.1	Purpose	1
1.2	Description of the proposal	1
1.3	Capital Investment Value	2
1.4	Environmental Impacts	2
1.5	Impact Identification	2
1.6	Mitigation	3
1.6.1	Tree Protection Zones	3
1.7	Documentation	4
1.8	Director Generals Guidelines	6
2	The Site	6
2.1	Address and Real Property Description	6
2.2	Real Property Descriptions and Principal Development Standards	6
2.3	Site Constraints	8
2.4	Site Attributes	8
2.5	Site History	9
2.6	Existing Character	11
2.7	Desired Future Character	11
2.7.1	Holroyd Targeted Precincts Urban Design Framework (the framework)	11
2.8	Accessibility	14
2.8.1	Bus	15
2.8.2	Rail	15
2.8.3	Taxi	17
2.8.4	Private vehicles	17
2.8.5	Public Parking	18
2.8.6	Pedestrian	18
2.9	Utility Services	18
2.9.1	Water and Sewer	18
2.9.2	Electricity	18
2.9.3	Natural Gas	18
2.9.4	Telecommunications	18
3	The Proposal	19
3.1	Site works	19
3.1.1	Environmental Controls	19
3.1.2	Erosion and Sedimentation Controls	19
3.1.3	Tree Protection Zones	19
3.1.4	Hours of development work	19
3.2	Demolition	20
3.3	Dedication of Land	20
3.4	Geotechnical and remediation works	22
3.5	Resource recovery and disposal of demolition and excavation waste	22
3.6	Building work	22
3.7	Landscaping	22
3.8	Commissioning	23
3.9	Stratum Subdivision	23
3.10	Strata Subdivision	23
3.11	Occupation and initial use	23
3.11.1	Hours of use	24
4	Development Standards and Controls	24
4.1	State Environmental Planning Policies	24
4.1.1	State Environmental Planning Policy No 1—Development Standards	25
4.1.2	State Environmental Planning Policy No 6—Number of Storeys in a Building	25
4.1.3	State Environmental Planning Policy No 55—Remediation of Land	25
4.1.4	State Environmental Planning Policy No.65 (SEPP 65)	26
4.1.5	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	27
4.1.6	State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)	27
4.1.7	State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)	27
4.2	Draft State Environmental Planning Policies	28

Table of Contents

4.3	Holroyd Local Environmental Plan 2013 (LEP)	29
4.3.1	Land Use Table Extract	29
4.3.2	LEP Compliance Table	30
4.4	Draft Environmental Planning Instruments	34
4.5	Holroyd Development Control Plan (DCP)	34
4.5.1	DCP Compliance Table	35
4.5.2	Lot Amalgamation Plan	43
4.5.3	DCP Inconsistency with LEP – HOB v Number of Storeys Development Control	44
4.5.4	Building Setbacks	47
4.6	Holroyd Section 94 Contributions Plan 2013 (Contributions Plan)	48
5	Likely Impacts of the Proposal	50

The application is supported by a Waste Management Plan.

Figure 3	- Site Analysis	3
Figure 4	- Aerial Site Photograph	6
Figure 5	- Cadastral Map	7
Figure 6	-Detail Survey	7
Figure 7	- Site Consolidation (Framework extract p.44)	12
Figure 8	- Juxtaposition of site to Finlayson T-Way Station and M4 (Framework extract p.41)	13
Figure 9	- Quinn Street Extension	14
Figure 11	- Extract Parramatta Bus Network Map (15
Figure 12	- Near level access from Quinn Street to Finlayson Station	15
Figure 13	- Extract Framework - Quinn Street Extension	20
Figure 14	- Extract DCP Part N Figure 14	21
Figure 15	- Extract Landscape Plan	23
Figure 16	- LEP Zone Map Extract	29
Figure 17	- Extract LEP HOB Map – HOB (S1) 23m and (T1) 26m	33
Figure 18	- Extract LEP FSR Map – FSR (T2) 2.2:1	33
Figure 19	- GFA & FSR Calculations	33
Figure 20	- Site Consolidation (Framework extract p.44)	43
Figure 21	- Extract DCP Part N Figure 13 - Lot Amalgamation Plan	44
Figure 22	- Extract DCP Figure 18 Setbacks	47
Figure 23	- Extract Landscaping to New Quinn Street (Drawing LPDA 14-132/1)	48
Figure 25	- Extract Contributions Plan Figure 2	49
Figure 26	- Extract Contributions Plan Figure 4 – Proposed Works - Traffic, Transport & Parking	49

1 Executive Summary

1.1 Purpose

This Statement of Environmental Effects ("SEE") has been prepared for submission with the integrated development application (DA) as required by Schedule 1, Part 1, Section 2 (1)(c) of the *Environmental Planning & Assessment Regulation 2000* ("Regulation") in accordance with the Section 105 (j-k) of the *Environmental Planning and Assessment Act 1979* ("Act").

Schedule 1, Part 2(4) of the Regulation provides:

"A statement of environmental effects referred to in subclause (1) (c) must indicate the following matters:

- a) the environmental impacts of the development,*
- b) how the environmental impacts of the development have been identified,*
- c) the steps to be taken to protect the environment or to lessen the expected harm to the environment,*
- d) any matters required to be indicated by any guidelines issued by the Director-General for the purposes of this clause."*

This SEE does not purport to be an assessment under section 79C and limits itself to the requirements of the Regulation. This SEE relies in good faith upon details provided by the architect and a range of consult experts as is necessary and reasonable subject to clause 283 of the Regulation.

The DA is integrated development in that:

- it seeks consent under section 138 of the *Roads Act 1993* for works within a classified road (footway and frontage works).

The DA seeks the concurrent approval Council as the Road Authority:

- it seeks consent under section 138 of the *Roads Act 1993* for works within a local road (footway frontage works and new driveway access off Florence Street).

The DA is traffic-generating development under clause 104 of the Infrastructure SEPP (ISEPP) and requires referral to the Sydney Regional Development Advisory Committee of the Roads and Maritime Service and Council area required to take into consideration those matters specified by the ISEPP (additionally clause 102 of the ISEPP).

1.2 Description of the proposal

The proposal is a mixed-use development within the Zone B6 Enterprise Corridor.

There are 3 residential tower elements containing 154 apartments, over ground floor commercial/retail (Building C) and basement parking and storage.

The proposal fully complies with the 2.2:1 FSR, with SEPP 65 and the RFDC requirements. A clause 4.6 objection to the HOB development standard accompanies the application.

There are very minor exceedance of the HOB within Buildings A and B. The worst case HOB is 2m above the 23m HOB at a single point on the south-eastern corner of unit C63 bedroom 2 (a 8.7% variation at this point). Other variations are 88mm (Building B), 50mm (Building C) and less than 20mm (Building A), all considered so insignificant that unless plotted using CAD they may not have been discovered.

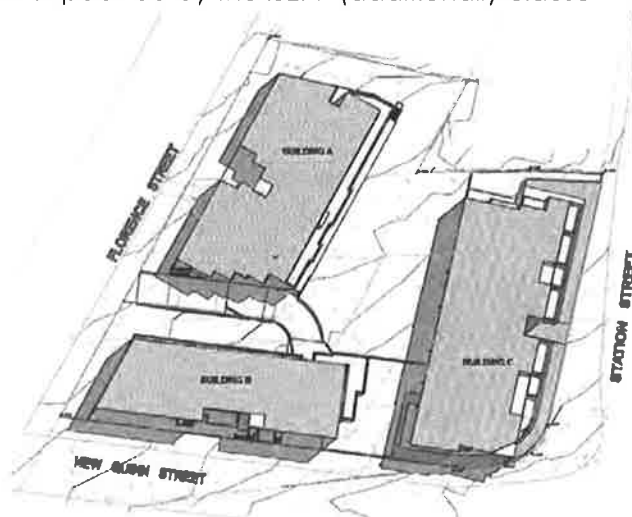


Figure 1 - Building Layout

The application description is:

Implementation of environmental controls and OH&S requirements. Demolition of all existing buildings and structures. Dedication of a portion of site as a public road for the Quinn Street extension to Florence Street. Construction of a mixed-use development as permitted within the B6 Enterprise Corridor zone. Consent is sought for the initial use of the commercial/retail areas as shops. The development would proceed under multiple Construction Certificates.

Occupation and initial use of commercial-retail areas as shops in accordance with Occupation Certificates.

Note: Strata Subdivision of each Stratum will be effected under the Codes SEPP. Initial use will permit occupation and use of the shops under the Codes SEPP in terms of fit-out.

NUMERICAL OVERVIEW OF PROPOSED DEVELOPMENT	
COMPONENT	PROPOSED
Site Area	6,126.61
Area ceded to Quinn St	731.21
Usable area	5,395.40
Total FSR (m ²)	2.19 :1
Total GFA (m ²)	13,478.54
Residential GFA (m ²)	12,907.26
Commercial GFA (m ²)	536.99
Total No. of Residential Units	154
Building Height	7 & 8 Storeys
Deep Soil Area	1596.01 29.58%
No. Car parking Spaces	212
No. Bicycles Spaces	100

Figure 2 - Numeric Outcomes

1.3 Capital Investment Value

The quantity surveyors report by Newton. Fisher & Associates Pty Ltd dated 22 November 2013 has determined that the value of the work proposed is \$33,070,000 excluding GST.

This places the development well above the \$20 Million JRPP threshold and there is no contention that the application must not be reported to and determined by the JRPP.

The Quantity Surveyors report is attached to the application.

1.4 Environmental Impacts

The key issues are:

- Compliance with the LEP & DCP.
- Design Quality of Residential Flat Development (SEPP 65) including CPTED principles.
- Traffic Generating Development (ISEPP) & referral to the RMS (SRDAC)
- Traffic Noise (ISEPP).
- Road extension and widening to Quinn Street (LEP & DCP), the funding of new road works under Council's Contribution Plan and the dedication of approximately 1,421.19m² of the site for this purpose by the owners of the site.
- Tree Preservation (See Arboricultural Impact Assessment).
- Environmental Sustainability (BASIX).
- Support to adjoining land and roads (See Geotechnical report).
- Salinity of the soils and ground water (See Geotechnical report).
- Social Impact (Social Impact Assessment).

1.5 Impact Identification

The environmental impacts have been identified by reference to:

- The Act
- The Regulation
- Pre-DA PDA/119 dated 6 June 2013

Statement of Environmental Effects

- The LEP and LEP maps
- The DCP
- The Contribution Plan
- Relevant SEPP
- Site Investigations by relevant experts
- Site Analysis

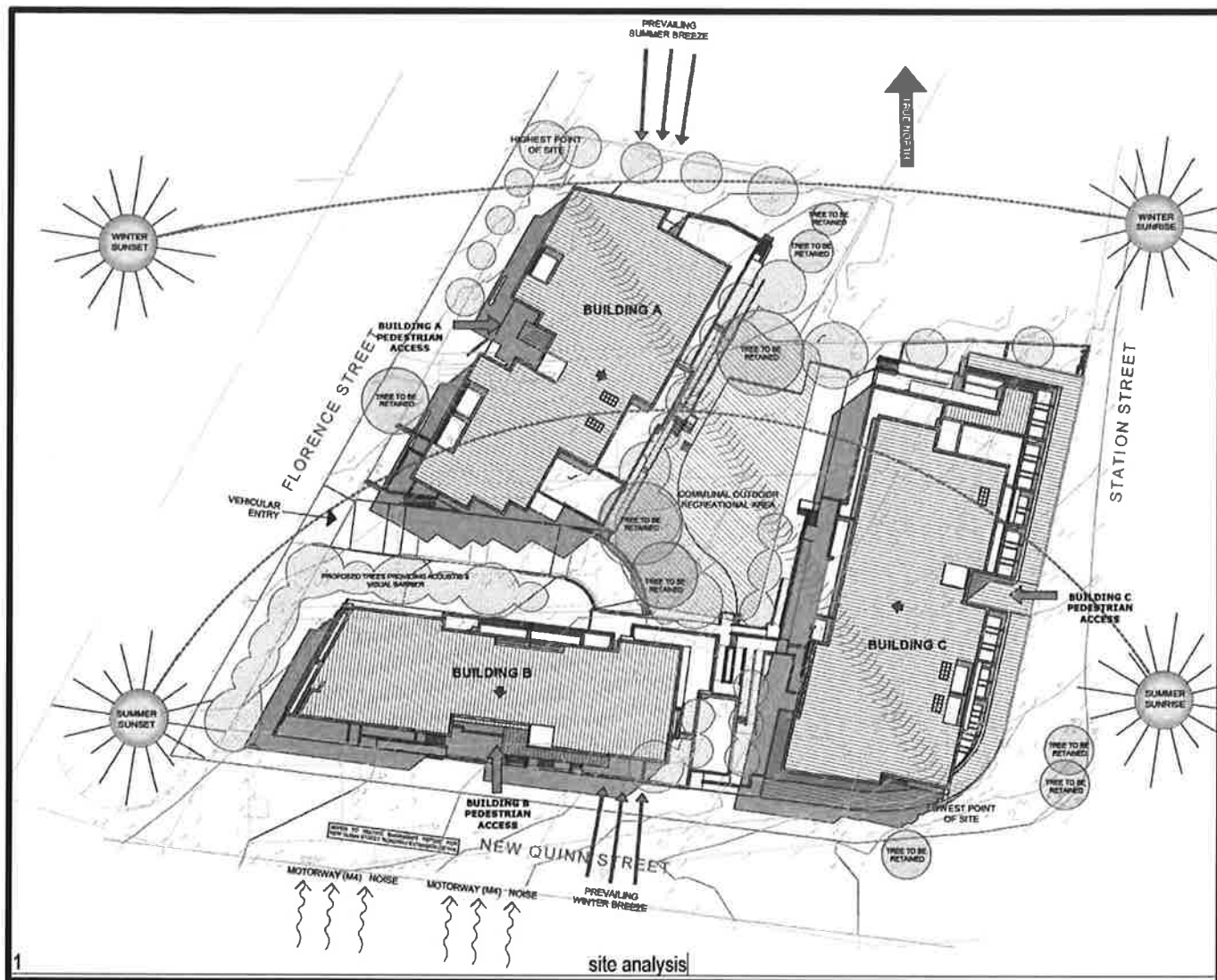


Figure 3 - Site Analysis

1.6 Mitigation

The steps to be taken to protect the environment or to lessen the expected harm to the environment include:

- Environmental Controls including Tree Protection Zones
- Erosion and Sedimentation Controls

1.6.1 Tree Protection Zones

Advanced Treescape Consulting has completed a detailed Arboricultural Impacts Assessment. There has been a detailed assessment of the 46 trees that exist on the site.

In summary:

- Tree that fail the VTA and are not suitable to be considered for retention 18.

Statement of Environmental Effects

- Tree that have an unacceptable impact from the proposed development and are recommended for removal 19.
- Trees that are to be retained and protected 9.

The report make specific recommendations relating to the creation of Tree Protection Zones (TPZ) and it is expected that these recommendation will form conditions of development consent.

- Hours of development work
- Demolition complying with AS2601
- Resource recovery and disposal of demolition and excavation waste
- Dedication of new public road from land contained within the site
- Vehicular access of Florence Street (local road) with no vehicular access off classified roads or near intersections.
- Compliance with the LEP and attainment of DCP objectives
- Compliance with SEPP 65 and the RFDC
- Compliance with Acoustic Assessment
- Hours of Use limitations

Mitigation measures are fully discussed in Part 3 of this SEE.

1.7 Documentation

This SEE is based upon the following documentation provided by the Applicant.

Drawings and Documents			
	FLOOR PLANS	DRAWINGS	SIZE
1	A 000	Cover Sheet	A1
2	A 001	Site Analysis	A1
3	A 002	Erosion & Sediment Control P	A0
4	A 003	SWMP	A1
5	A 100	Roof Plan	A1
6	A 101	Car Park 03	A1
7	A 102	Car Park 02	A1
8	A 103	Car Park 01	A1
9	A 104	Ground Floor	A1
10	A 105	First Floor	A1
11	A 106	Second Floor	A1
12	A 107	Third Floor	A1
13	A 108	Fourth Floor	A1
14	A 109	Fifth Floor	A1
15	A 110	Sixth Floor	A1
16	A 111	Seventh Floor	A1
ELEVATIONS			
17	A 200	Elevations 01	A1
18	A 201	Elevations 02	A1
19	A202	Elevations 03	A1
SECTIONS			
20	A 300	Sections 01	A1
21	A301	Sections 02	A1
DIAGRAMS			

Statement of Environmental Effects

22	A 400	Deep Soil	A1
23	A 401	FSR ground & First	A0
24	A 402	FSR second & Third	A0
25	A 403	FSR Fourth & Fifth	A0
26	A 404	FSR Sixth & Seventh	A0
27	A 405	Adaptable units	A1
28	A 406	HOB diagram	A1
SHADOW DIAGRAMS			
29	A 500	9:00:00 AM June 22nd	A1
30	A 501	10:00:00 AM June 22nd	A1
31	A 502	11:00:00 AM June 22nd	A1
32	A 503	12:00:00 PM June 22nd	A1
33	A 504	1:00:00 PM June 22nd	A1
34	A 505	2:00:00 PM June 22nd	A1
35	A 506	3:00:00 PM June 22nd	A1
36	A 507	4:00:00 PM June 22nd	A1
HOB 3Ds			
37	3D 700	HOB images 01	A3
38	3D 701	HOB images 02	A3
SCHEDULE OF FINISHES			
39	SB	Schedule of finishes	A3
40	PHOTO MONTAGE	PHOTO MONTAGE	A3
STORMWATER			
41	C1.01	COVER SHEET	A1
42	C1 02	OSD CATCHMENT PLAN	A1
43	C2.02	CONCEPT SECP	A1
44	C2 02	SECP	A1
45	C3.01	STORMWATER MGMT PLAN G.	A1
46	C3.02	STORMWATER MGMT PLAN CP1.	A1
47	C3.03	STORMWATER MGMT PLAN CP 3	A1
48	C4.01	FLOOD LEVELS & EXTENTS PLAN	A1
49	C.5.01	STORMWATER DETAILS SHEET	A1
LANDSCAPE			
50	LPDA 14-132/1	MATER PLAN	A0
51	LPDA 14-132/2	PLANTING PLAN	A0
52	LPDA 14-132/3	Landscape Details	A1
53	SURVEY	SURVEY	A1
REPORTS			
1	Geotechnical Report		A4
2	Quantity Surveyor		A4
3	Site Waste Minimisation and Management Plan		A4
4	Arboricultural Impact Assessment		A4
5	Acoustic Assessment		A4
6	Access Review		A4
7	BASIX Certificate		A4
8	Assessor Certificate		A4
9	Flood Management Letter		A4

1.8 Director Generals Guidelines

The Director General has not gazetted and guidelines under Schedule 1, Part 2(4)(d) of the Regulation. The format of this SEE and relevant content follows DoPI draft guidelines (un-published).

2 The Site

2.1 Address and Real Property Description

The site is 19,21 and 23 Quinn Street and 1,3,5,7 and 9 Florence Street, South Wentworthville being 8 Torrens title lots as identified below.



Figure 4 - Aerial Site Photograph

2.2 Real Property Descriptions and Principal Development Standards

The site consists of 8 lots with a total site area detailed by the Attachment 1- Detail Survey of 6,127m².

Table 1 - Real Property Description & Principal Development Standards

Lot	Section	DP	Site Area	Zone	HOB	FSR	Max GFA
19	-	DP793928		B6	23m	2.2:1	
17	-	DP8773		B6	23m	2.2:1	
18	-	DP8773		B6	23m	2.2:1	
19	-	DP8773		B6	23m	2.2:1	
2	-	DP516861		B6	23m	2.2:1	
B	-	DP376698		B6	26m & 23m	2.2:1	
A	-	DP376698		B6	26m & 23m	2.2:1	
20	-	DP8773		B6	26m & 23m	2.2:1	
Total Site Area			6,127m ²		Total Maximum GFA		13,479.4m ²

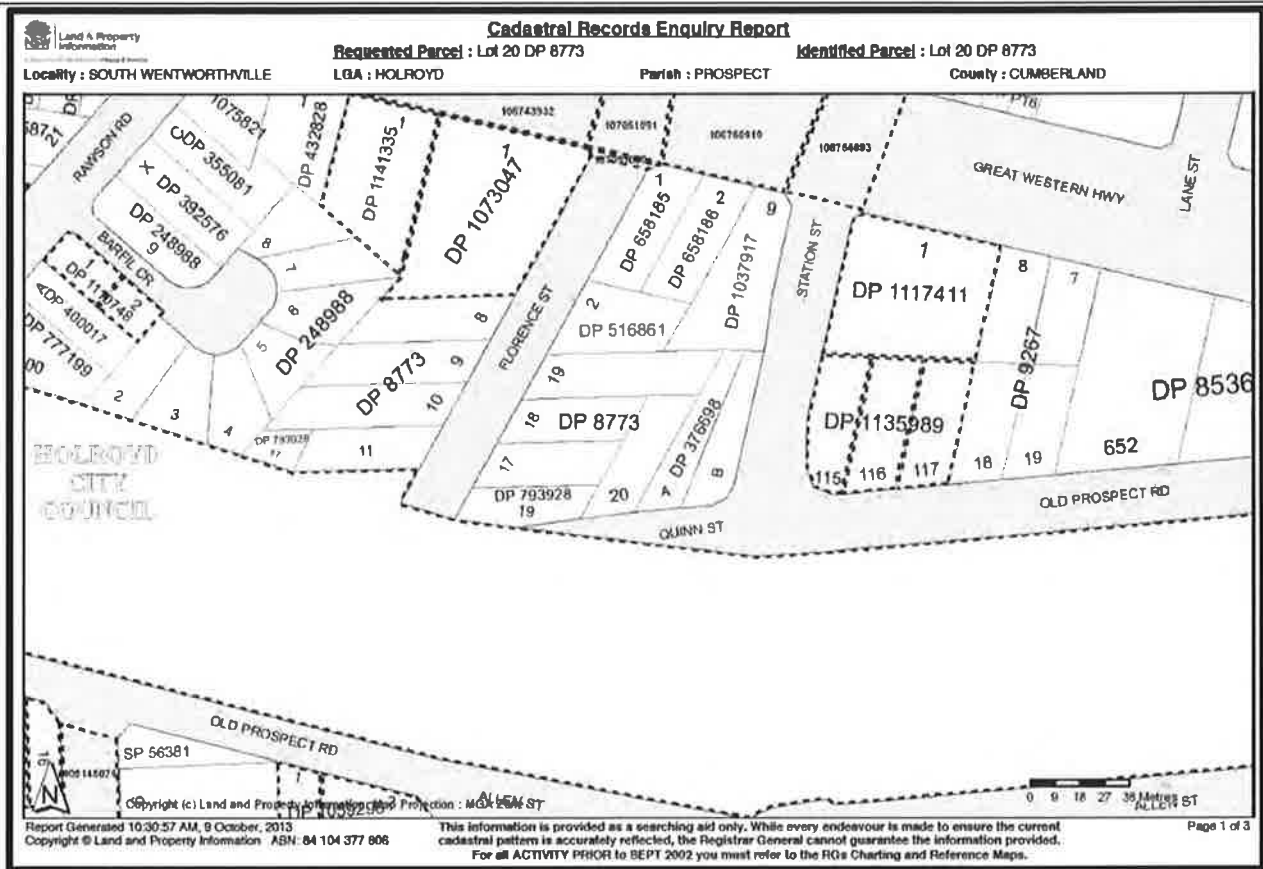


Figure 5 - Cadastral Map

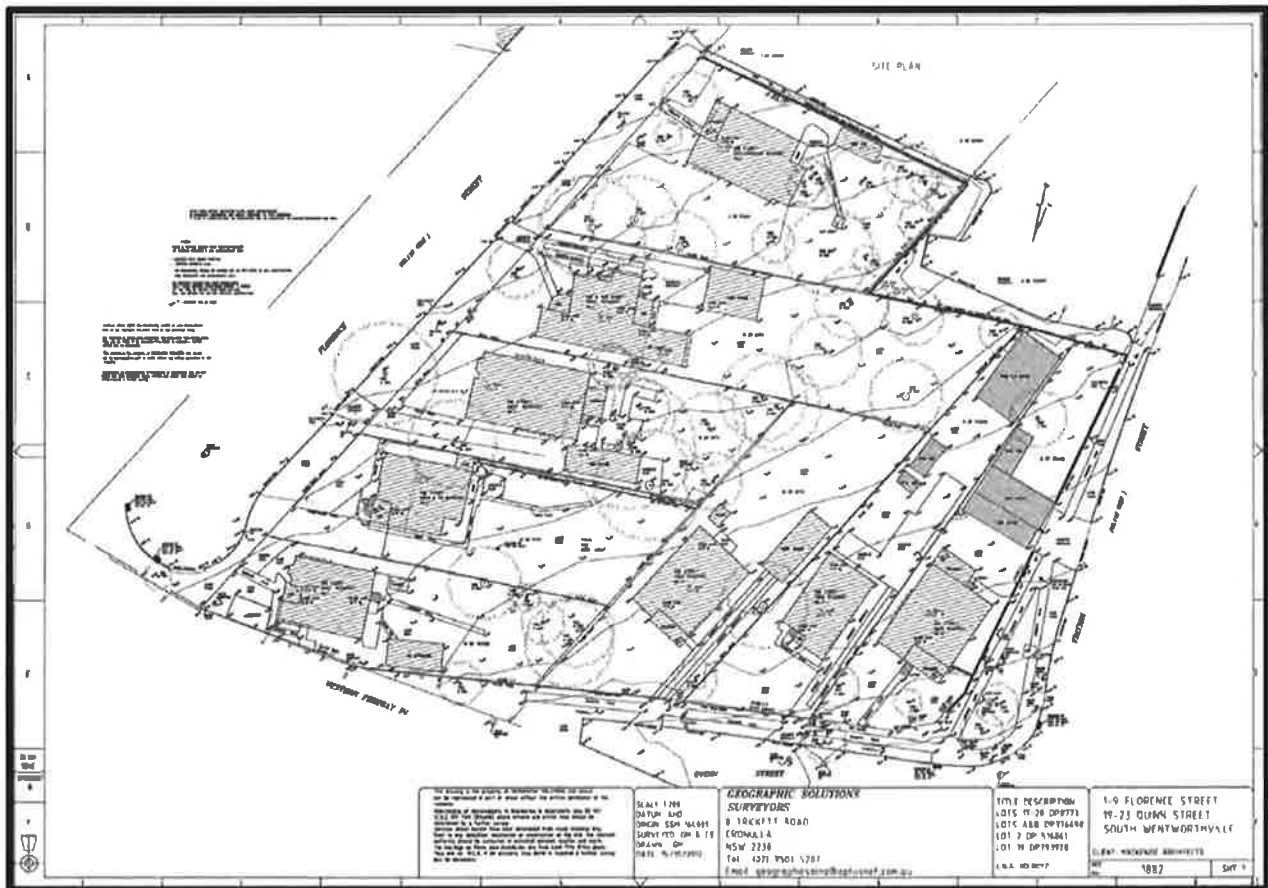


Figure 6 -Detail Survey

2.3 Site Constraints

The identified site constraints are:

- The principal development standards in Table 1 above.
- DCP Objectives and development controls (see compliance table below)
- State Environmental Planning Policies
- Accessibility
- Proposed road widening
- Potential Road Noise
- Potential Traffic Impacts
- Potential overland flows
- Potential flooding
- Disposal of stormwater
- Disposal of waste water
- Water Supply
- Electricity Supply
- Gas Supply
- Telecommunications
- Maintenance of support to adjoining land and roads

2.4 Site Attributes

The most significant site attributes are:

- Consolidation of eight (8) low-density sites to create a significant urban renewal site.
- Classified and local roads creating a buffer resulting in no adverse environmental, economic or social impacts upon any neighbours.
- The sites contribution through dedication of land for public road to the extension of Quinn Street to Florence Street delivering LEP and DCP objectives.
- Accessibility to public transport – Liverpool Parramatta T-Way
- Accessibility to major roads
- Accessibility to employment lands (see SGS report¹)
- Accessibility to retail and commercial services in the immediate locality
- Accessibility to open space in the immediate locality

This is a large site, 6,127m². It is capable of providing a mix of uses, creating a destination and living environment that will make a substantial contribution in meeting an economically achievable balance between dwelling and job targets for Holroyd Council. The site has exceptionally good accessibility (private and public transport - "T-Way").

The B6 zone gives flexibility to achieve this, but densities delivered by the proposed development standards will not promote the achievement of urban renewal nor do they adequately compensate the owners in consolidating and delivering the extension to Quinn Street.

The site's juxtaposition to the M4 to the south, other roads buffering the site and being at a low point in the precinct, allow larger buildings to be achieved without amenity impacts upon any other residential or commercial property, helping meet targets, but **"retaining the low-density character of other areas"**².

Incorporating a dedication of the extension of Quinn Street to Florence Street, should be an integral part of planning the site, improving the buffer to the M4 and accessibility to the whole precinct, not only the subject site. Through site pedestrian links and activated ground floor commercial/retail uses and a mix of residential would provide natural surveillance and a safe environment. Through site pedestrian links to the proposed B2 zone, from Florence Street, would also meet the objects of that zone and support pedestrian access from sites further to the west into the Local Centre.

¹ SGS Employment Lands Study Final Report April 2009

² Clause 1.2(2)(d) of the Holroyd Local Environmental Plan 2011

The owner's previous submission articulated that the site presents a rare opportunity, to Council, to significantly increase densities without any potential community backlash or objection. This is consistent with the aim of the LEP 2011:

"to concentrate intensive land uses, increased housing density, and trip-generating activities in close proximity to centres and major public transport nodes, and retain the low-density character of other areas"³.

The landowners of the eight (8) lots, actively support substantially higher densities and a rezoning to B6. This site has always been considered to be a rare opportunity to consolidate eight (8) separately titled house sites, into one significant site that can sustain densities that cannot be tolerated in other locations.

The submission was that site should be zoned B6 and been seen as an integral part of the local centre to the east with the same FSR as the B2 zone to the East, 2.5:1 FSR (U1) and a maximum 29m height).

The LEP rezoned land in the same precinct (off Rawson Road) R3. The subject site can sustain and complement higher densities because the major roads around it buffer it.

It is irrefutable that the site, subject to this DA, would be better buffered by an extension to Quinn Street to Florence Street, from the impacts of the M4, than the proposed R3 zone off Rawson Road, which has no buffer.

In short, if residential is acceptable off Rawson Road, un-buffered from the M4, then residential is equally as acceptable as a significant component of zoning the subject site B6 and the juxtaposition of the site buffered by major roads means there are no adverse overshadowing, overlooking, or other adverse amenity impacts that may ordinarily accompany increased densities and HOB.

The final submission (not accepted) was that the density be increased with an FSR of 2.5:1 and maximum height of 29m, such that the objective of the Draft LEP 2011 *"to concentrate intensive land uses, increased housing density, and trip-generating activities in close proximity to centres and major public transport nodes, and retain the low-density character of other areas"*⁴ is achieved.

In consideration of the Draft DCP Council adopted numbers of storeys controls lower than what the LEP HOB and FSR would permit, but invited the owners to make application for a variation on its merits. This application proposes a variation to HOB and the DCP number of storeys development control.

The higher built form is only created at the sites low point (southern end).

The number of storeys control adopted by the DCP is considered to thwart the LEP aims and objectives as per the submission to Council 21 June 2013. This SEE specifically notes this very important strategic planning history for the site and a variation to the HOB (supported by an objection under clause 4.6 of the LEP) and number of storeys is sought.

2.5 Site History

The existing and all previously known uses of the site are residential uses.

In January 2003 Planning Logic Pty Ltd lodged a planning proposal seeking to rezone the site for bulky goods retail. This was unsuccessful.

On Tuesday, 9 August 2011 the owners of the site made a detailed submission on the draft LEP with specific reference to the key findings of the Targeted Precinct Urban Design Framework - Liverpool to Parramatta Transit way (Finlayson Precinct). The LEP submission was that site is clearly capable of supporting heights and densities of 2.5:1 and up to 29m maximum height in the south eastern portion of the site, transitioning in height towards Florence Street with lower building forms to the north, as a minimum. The LEP proceeded to gazettal with an FSR of 2.2 (0.3:1 less than sought) and a maximum 26m HOB (3m less than sought) as detailed below.

³ *ibid* [1].

⁴ *ibid* [1].

On 22 May 2013 A Pre-Development Application Advisory meeting was held.

On 6 June 2013 Council's advice was received and has formed a central consideration by the Applicant in the development of the DA. (**Attachment 3 – Pre DA Advice**).

On 21 June 2013 with respect to the then Draft DCP, the owners of the site made a detailed submission to Council and at Council's Meeting 16 July 2013 submitted that:

"HEIGHT OF BUILDING

We have significant concerns that the DCP is inconsistent with the LEP with respect to HOB at page 216 limiting heights to 7 Storeys and 6 storeys whereas the LEP HOB and the pre-DA information we have already provided demonstrates that we can create 7-8 storeys, consistent with our detailed LEP submission and the lower final LEP HOB's assigned to the site.

We submit that 8 storeys can be sustained where the DCP shows 7 storeys and 7 storeys can be sustained where the DCP shows 6 storeys, within the FSR under the LEP.

A 7-8 storey outcome will comply with the HOB in the LEP and produce a less bulky built form as the FSR is distributed over the additional levels. We can do this fully compliant with SEPP 65 and the RFDC requirements. In fact, the narrower the building the better for ventilation and solar access.

As articulated through the LEP submission, the site, even at higher heights than the LEP adopted, will have no adverse impacts with shadows falling upon the M4. We submitted that a higher stronger built form should occupy the corner of Centenary and Quinn and sustain this opinion as part of this submission.

In short, the DCP storeys controls would deliver a worse outcome than the LEP contemplates with the appropriate LEP relationship between HOB and FSR thwarted by the DCP provisions with shorter fatter wide building footprint and building form, being driven by the storeys limit.

SETBACKS

We ask that the setback to Quinn be decreased. This is a unique site and there is no pressing need for any setback on this south boundary to Quinn, which abuts the M4 Freeway. As there are no buildings to the south there are no amenity impacts or other SEPP 65 or RFDC impacts driving a need for a setback at all. We ask that the setback be NIL.

The requirements of SEPP 65 and the RFDC for articulated built form in tandem with the appropriate relationship between HOB and FSR in the LEP will deliver a well articulated building as demonstrated in the Pre-DA.

COUNCIL'S URBAN DESIGN EXPERT

We ask that Strategic Planning review the comments of Council's Urban Design Expert with respect to the Pre-DA. We submit that Council's DCP should not constrain the appropriate relationship between HOB and FSR and the DCP setback should consider the well advanced design work undertaken for the Pre-DA.

We note Council's Urban Design expert stated in Pre-DA advice:

"Density

It is understood that the pre-DA concept complies with the 2.2:1 proposed in Council's new LEP. Given the site's location, access to public transport and proposed densities for sites to the east and west, the intensity of development is supported"

Reducing the HOB will have a negative impact upon the distribution of bulk in particular. A 5m setback to Quinn is not required and the topography of the site is not conducive to ground floor

south facing single aspect SOU to Quinn Street, the only reason why anyone would propose a 5m setback to Quinn. It should have a NIL setback and provide more sunlit open space within the site to the north of the southern most building

SUMMARY

Applying good planning principles DCP must facilitate the LEP not act against the LEP."

2.6 Existing Character

8 low-density large single dwelling house lots currently occupy the site. The existing character is jarringly discordant with its neighbours from the northwest through north-to-north east, which are large floor plate retails land uses. The western side of Florence Street has a similar existing character. To the east (across Centenary Road) is a large public Electricity Substation. To the south of the site is Quinn Street and further south the M4 Western Motorway.

The existing character of the locality is an area in transition from low density residential to a high density residential, enterprise corridor and Local Centre.

2.7 Desired Future Character

The desired future character is articulated through the relevant EPI and DCP as informed primarily by the **Holroyd Targeted Precincts Urban Design Framework (the framework)**.

2.7.1 Holroyd Targeted Precincts Urban Design Framework (the framework)

The framework is a comprehensive urban form study commissioned by the Council.

Part 6.0 of the framework focuses upon the Finlayson Station precinct. This framework finds, among other issues, states that there is :

- *"Under-utilised opportunity to significantly increase densities in close proximity to the existing [Finlayson] transit station." (p.35)*
- *Opportunity to: "Maximise the opportunity for the wholesale redevelopment/master planning of the existing pocket of residential bounded by Florence, Quinn and Station Streets to the west." (p.35)*
- *"Opportunity to take advantage of the topography to accommodate taller buildings in lower lying areas." (p.35)*
- *"Opportunity exists to comprehensively redevelop the western precinct area to overcome amenity and access constraints." (p.39)*

The framework clearly articulates the need for "urban restructuring and street based connect through lot consolidation" (p.39). In plain English the extension of Quinn Street to meet Florence as part of a consolidated development of the site subject to this submission, thence also Florence to Rawson Road.

Salient points:

1. The site is underutilised and can sustain significantly increased densities as it within 200m of the transition station;
2. The site is the that land specifically identified for wholesale redevelopment and/or master planning;
3. The site's low point at the intersection of Quinn Street and Centenary Road is a low lying area and can accommodate taller buildings with no impacts;
4. The site's consolidation can overcome amenity and access constraints, turning it's back to the M4 freeway, shielding the sites further north by significantly high enough buildings, which by their mass, height and position can attenuate freeway noise.
5. The site's consolidation and the dedication of land to the extension of Quinn Street to meet Florence Street will achieve a key urban design and urban renewal objective.

The stated desired future character is a precinct with:

Statement of Environmental Effects

- "... higher density residential development occurring in close proximity to the Finlayson Station." (p.40)
- "A variety of uses at ground level will create a safe and animated environment.(p.40)
- "Taller buildings will be placed to take advantage of a topography which will minimise their impact." (p.40)
- "Lower buildings will provide a transition between the precinct and adjoining low rise dwelling." (p.40)
- Site consolidation will allow ample communal open space to be offered to residents. (p.40)
- Visitors and residents will enjoy a pedestrian network that is pleasant and convenient while access nearby parks will be improved. (p.40)

The framework clearly articulates a site consolidation pattern consistent with the site subject to this submission. Site amalgamation is required to deliver the desired future character objectives of the framework - see Figure 20 - Site Consolidation (Framework extract p.44).

The only exception is No.9 Florence Street. There are no realistic short to medium term prospects that No.9 can consolidate with the existing commercial use to its north.



Figure 7 - Site Consolidation (Framework extract p.44)

With respect to building FSR and height the only criticism of the frame work is that whilst it talks about the desirability of having taller and more dense development in the low lying areas and where their juxtaposition to other residential sites minimise their impacts, the densities proposed and height map fails to recognise that one of the lowest lying areas is at the intersection of Quinn Street and Centenary Road.

This location can sustain "significantly higher" and "significantly increase densities" with no impacts, (see Figure 8 - Juxtaposition of site to Finlayson T-Way Station and M4 (Framework extract p.41), because:

1. it is one of the lowest points in the whole precinct,
2. the site is one of the closest and most accessible locations to the Finlayson Station,
3. all shadows between 9am and 3pm (even at heights well in excess of 8 storeys) will fall on the M4 Freeway.
4. it is approximately 2 storeys below the north western corner of the same city block,
5. it is approximately 3-4 storeys below the level of the M4 freeway,
6. there is an Energy Australia substation to the east (no impacts)
7. the M4 Freeway to the south (no impacts)
8. Florence Street provides an excellent transitional buffer to the west (no impacts)

Statement of Environmental Effects

As recommended by the framework, this site could easily sustain buildings with far more bulk and height than the framework, LEP or this DA, propose.

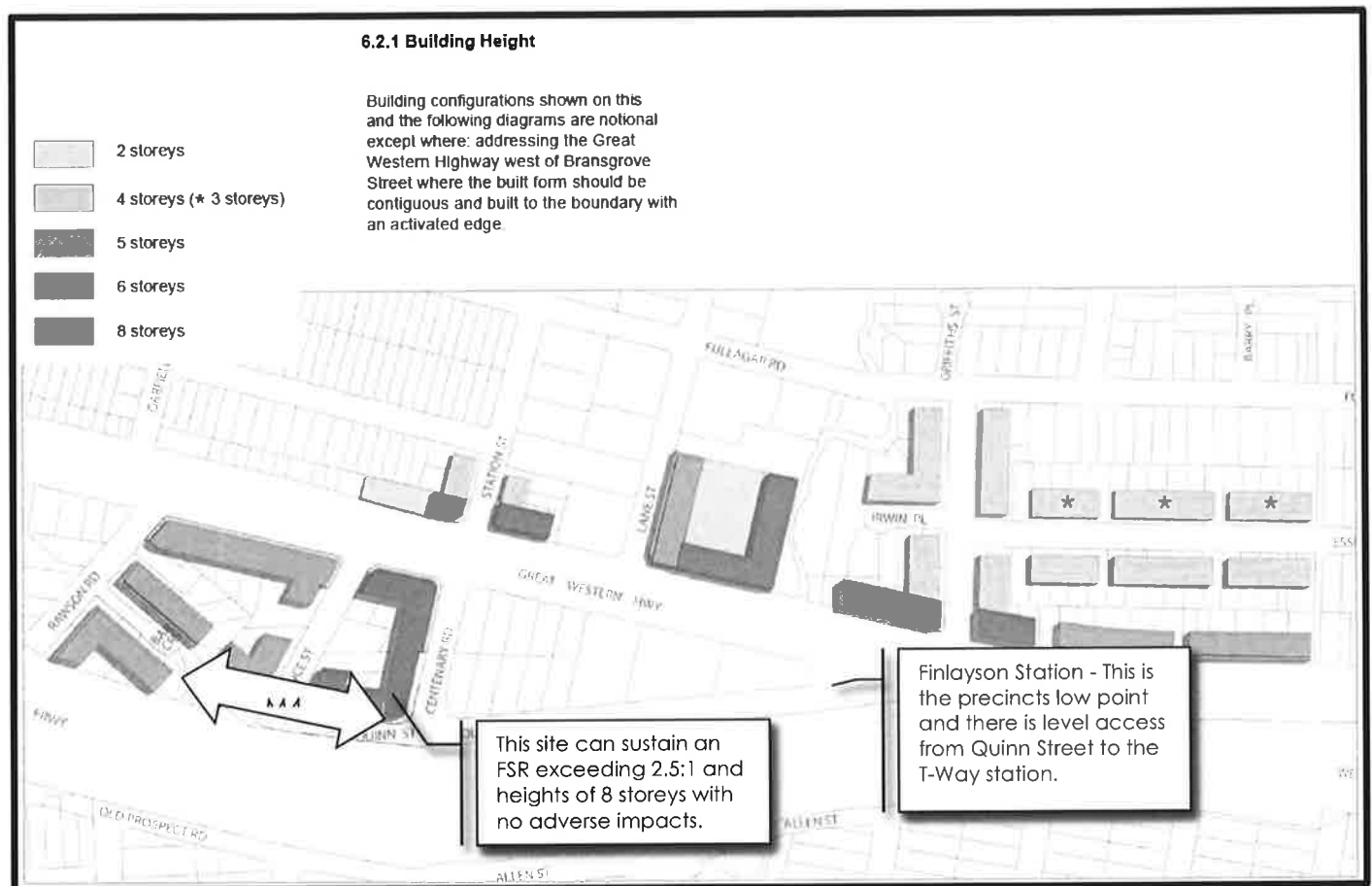


Figure 8 - Juxtaposition of site to Finlayson T-Way Station and M4 (Framework extract p.41)

The only conclusion one may reasonably draw, is that the framework supports this application seeking, in framework's own words:

- *significantly increase densities*
- *opportunity for the wholesale redevelopment*
- *taller buildings in lower lying areas*
- *comprehensively redevelop the western precinct area to overcome amenity and access constraints*

Special Conditions specifically relate to the subject site under the framework.

The extension of Quinn Street will provide a significant public benefit. See Figure 9 - Quinn Street Extension.

The restructuring of the western portion of the Finlayson Precinct can only be achieved by economic incentives to the consolidation of the site and dedication of private land as a public road.

6.2.4 Special Conditions

The significant amenity and access constraints confronting the area bound by Rawson and Centenary Roads can only be overcome by restructuring the area.

This is best achieved through comprehensive redevelopment that creates a secondary access to the terminated Quinn Street.

The street is required to have a minimum width of 15m to provide a pleasant domain that becomes a positive focus for community connectivity.

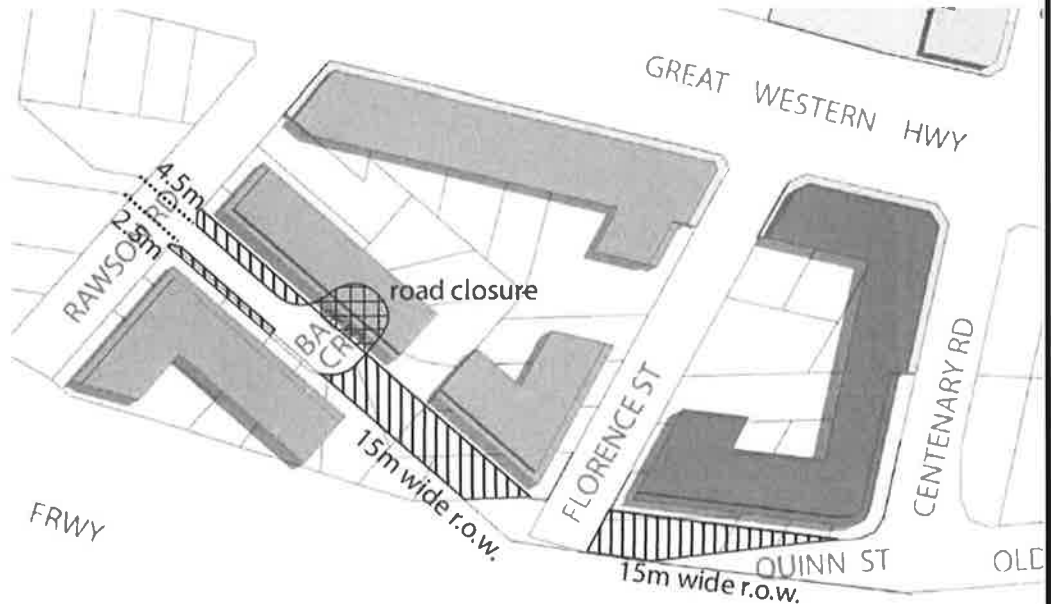


Figure 9 - Quinn Street Extension

2.8 Accessibility

The SGS report⁵ clearly articulates that the intrinsic assets for employment generation are centred on the major industrial areas, Smithfield, Yennora, and Girraween. The SGS report also articulates that the train lines provide access to the commercial centres only.

Therefore, sites, such as the site subject to this DA, not only provide local employment opportunities close to local centres, but because of their location relative to the T-Liverpool Parramatta T-Way, as well as major arterial roads, also provide housing to service the major industrial areas. The SGS report specifically states that "Smithfield industrial land has direct access to the Cumberland Highway; Girraween, South Wentworthville.

With the M7 Light Horse Interchange intersection only 6km east of the LGA via the M4, the site, having access to the Great Western Highway, and excellent public transport via the T-Way, is particularly well suited to the range of uses permissible under the B6 zone.

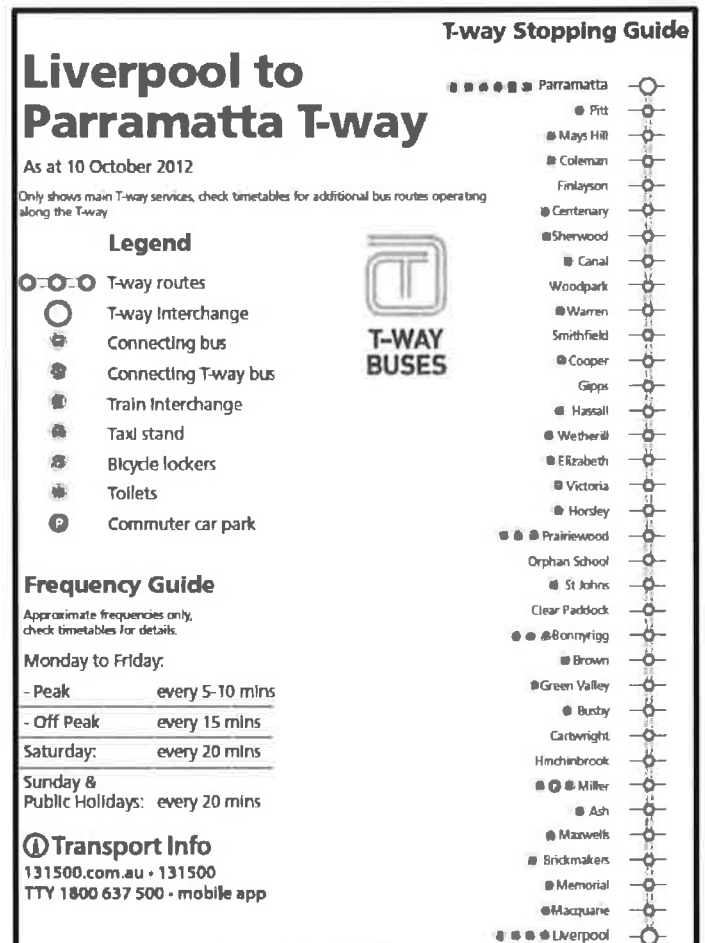


Figure 10 - Liverpool Parramatta T-Way

⁵ SGS Employment Lands Study_Final Report_April09

2.8.1 Bus

The Liverpool-Parramatta Transitway (LPT) and the 810X and 881X bus services service the site.

It is operated by Western Sydney Buses, a subsidiary of State Transit, as Route T80.

The 31km Transitway, or T-way, connects the major regional centres of Liverpool and Parramatta, and traverses residential areas, education facilities, the industrial areas of Wetherill Park and Smithfield, and the commercial areas of Prairiewood and Bonnyrigg.

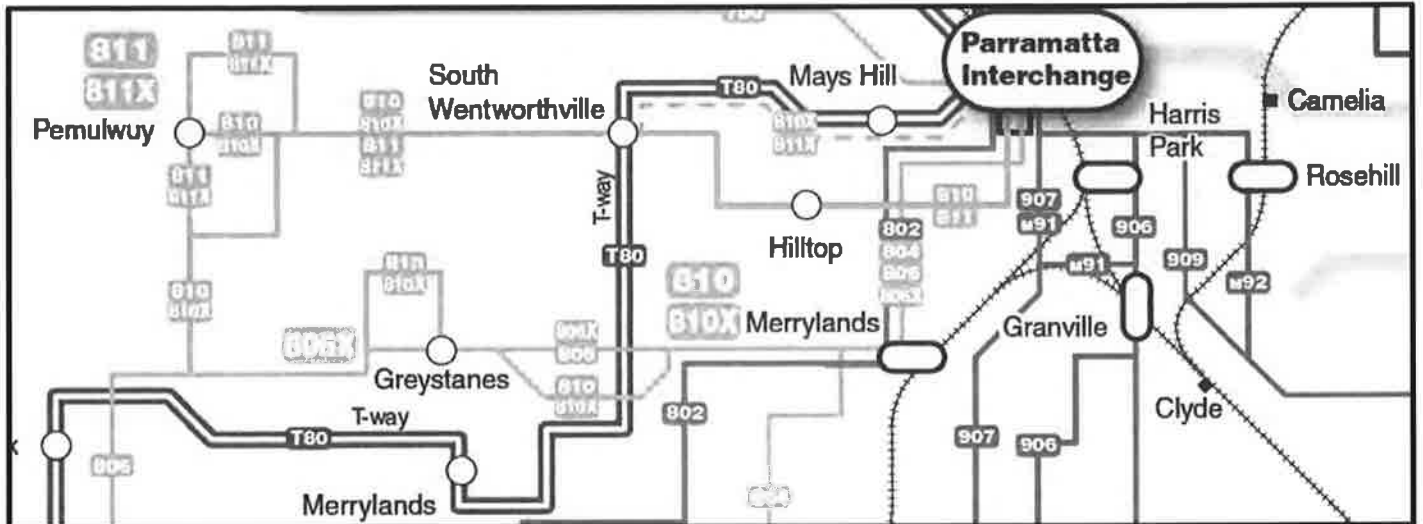


Figure 11 - Extract Parramatta Bus Network Map (

The LPT service operates daily, with frequent services from early in the morning until late at night. There are 35 stops along the route that feature modern stations with seats, lighting, real-time information digital display screens and audio announcements to provide actual arrival and departure times. There are also timetables and local area maps on display at each station.



Hillsbus/Westbus operate the 810x and 811 X services:

- The 810X services Merrylands via South Wentworthville, Greystanes, Pemulwuy and Merrylands West providing 30 peak hours services.
- The 811X services Pemulwuy via South Wentworthville and Bathurst St with 30 PM peak services

Figure 12 - Near level access from Quinn Street to Finlayson Station

2.8.2 Rail

The Liverpool-Parramatta Transitway (LPT) and the 810X and 881X bus services provide direct access to numerous train stations as detailed by Figure 10 - Liverpool Parramatta T-Way.

The most accessible station being Parramatta. Parramatta Railway Station is the main station in Sydney's satellite city of Parramatta. It serves the Parramatta central business district and the surrounding area. The station lies on the Western Line and Cumberland Line on Sydney's Sydney Trains network. NSW TrainLink Intercity trains on the Blue Mountains Line and Country services operating between Sydney and Dubbo and Broken Hill also serve Parramatta station.

In addition to train services Parramatta Transport Interchange provides the following interconnecting services:

STAND A2:

- 520 - Night time service - to Circular Quay via UWS Rydalmere, Ermington, West Ryde, Ryde, Gladesville and Drummoyne (Sydney Buses)
- M52 - metrobus service - to Circular Quay limited stops via UWS Rydalmere, Ermington, West Ryde, Ryde, Gladesville and Drummoyne (Sydney Buses)
- 521 - Weekdays and Saturday service - to Eastwood via UWS Rydalmere, Park Road (Rydalmere) and Mobbs Lane (Sydney Buses)
- 523 - Weekdays and Saturday service - to West Ryde via UWS Rydalmere, Ermington Shops and Cowells Lane (Ermington) (Sydney Buses)
- 524 - to West Ryde via UWS Rydalmere, South Street (Rydalmere), Ermington Shops and Melrose Park (Sydney Buses)
- 525 - to Burwood via UWS Rydalmere, Newington, Olympic Park and Strathfield (Sydney Buses)
- 545 - to Chatswood via Dundas Valley, Eastwood, Macquarie Park and North Ryde (Sydney Buses)
- 547 - Limited weekdays and Saturday service - to Macarthur Street Loop (Sydney Buses)
- 829 - Hassle Free Nights (Friday and Saturday) service - to North Parramatta via Marsden Street and Church Street (Hopkinsons)
- N60 - Night time service - to Town Hall via Granville, Strathfield and Leichhardt (NightRide)
- N70 - Night time service - to Town Hall via Strathfield and Leichhardt (NightRide)
- N71 - Friday, Saturday, Sunday night time service - to Town Hall via Strathfield and Leichhardt (NightRide)

STAND A3:

- 546 - to Epping via Oatlands and Carlingford (Sydney Buses)
- M54 - metrobus service - to Macquarie Park via Carlingford, Epping and Macquarie University (Sydney Buses)
- 549 - to Epping via North Rocks (Sydney Buses)
- 552 - Weekdays loop service - to Oatlands (Bettington Road) (Sydney Buses)
- 609 - to Lake Parramatta via North Parramatta (Hillsbus)
- 625 - to Pennant Hills via Carlingford and Thompsons Corner (Hillsbus)
- M92 - metrobus service - to Sutherland via Rosehill, Lidcombe, Bankstown, Padstow and Menai (Veolia Transport NSW)

STAND A4:

- M60 - metrobus service - to Hornsby via Baulkham Hills, Castle Hill, Cherrybrook, Pennant Hills and Thornleigh (Hillsbus)
- 600 - Night time service - to Castle Hill via Baulkham Hills (Hillsbus)
- 600 - AM and PM peak hour weekdays service - to Cherrybrook via Baulkham Hills and Castle Hill (Hillsbus)
- 601 - to Rouse Hill Town Centre via Baulkham Hills and Kellyville (Hillsbus)
- 603 - to Glenhaven via Baulkham Hills East, Cook Street (Baulkham Hills), Castle Hill, and Knightsbridge (Hillsbus)
- 604 - to Castle Hill via Model Farms and Baulkham Hills Pool (Hillsbus)
- 606 - to Winston Hills via Old Toongabbie (Hillsbus)

STAND B1:

- 906 - Weekdays and Saturday service - to Fairfield via Harris Park, Granville, Excelsior Street (South Granville) and Old Guildford (Veolia Transport NSW)
- 907 - to Bankstown via Woodville Road, Villawood, Bass Hill Plaza and Yagoona (Veolia Transport NSW)
- 909 - to Bankstown via Harris Park, Parramatta Road, Auburn Station, Regents Park and Potts Hill (Veolia Transport NSW)
- M91 - metrobus service - to Hurstville via Granville, Blaxcell Street (South Granville), Chester Hill, Yagoona, Bankstown, Padstow and Peakhurst (Veolia Transport NSW)

STAND B2:

- 802 - to Liverpool via Merrylands, Guildford West, Fairfield, Bonnyrigg and Miller (Hopkinsons, Westbus)
- 804 - to Liverpool via Merrylands, Guildford West, Fairfield, Greenfield Park and Hinchinbrook (Westbus)
- 806 - to Liverpool via Merrylands, Greystanes, Bossley Park, Abbotsbury and Edensor Park (Westbus)
- 806X - PM peak hour weekdays service - to Greystanes via Merrylands (Westbus)
- 810 - Weekdays and Saturday service - to Merrylands via Hilltop, Pemulwuy, Greystanes and Merrylands West (Westbus)

Statement of Environmental Effects

- 810X - Peak hour weekdays service - to Merrylands via Great Western Highway, Pemulwuy, Greystanes and Merrylands West (Westbus)
- 811 - to Greystanes via Hilltop and Pemulwuy (Westbus)
- 811X - PM peak hour weekdays service - to Greystanes via Great Western Highway and Pemulwuy (Westbus)
- 829 - Hassle Free Nights (Friday and Saturday) service - to Anderson Street via Church St (Hopkinsons)
- T80 - to Liverpool via South West T-Way (Western Sydney Buses)
- N60 - Night time service - to Fairfield via Merrylands (NightRide)
- N70 - Night time service - to Penrith via Blacktown and Mount Druitt (NightRide)
- N71 - Friday, Saturday, Sunday night time service - to Richmond via Blacktown and Riverstone (NightRide)

STAND B4:

- 700 - to Blacktown via Mays Hill, Girraween and Prospect (Hillsbus)
- 705 - to Blacktown via Wentworthville, Pendle Hill, Seven Hills and Lalor Park (Hillsbus)
- 708 - Limited weekdays service - to Constitution Hill via Wentworthville and Pendle Hill (Hillsbus)
- 711 - to Blacktown via Westmead Hospitals, Wentworthville, Seven Hills and Lalor Park (Hillsbus)
- T60 - to Castle Hill via North West T-Way, Winston Hills Mall and Crestwood (Hillsbus)
- T61 - to Blacktown via North West T-Way, Kings Langley and Sunnyholt T-Way (Hillsbus)
- T62 - to Castle Hill via North West T-Way, Bella Vista, Norwest Business Park and Tuckwell Road (Hillsbus)
- T63 - Weekdays service - to Rouse Hill Town Centre via North West T-way, Glenwood, Stanhope Gardens and Kellyville Ridge (Hillsbus)
- T64 - to Rouse Hill Town Centre via North West T-Way, Norwest Business Park and Beaumont Hills (Hillsbus)
- T65 - to Rouse Hill Town Centre via North West T-Way (Hillsbus)
- T66 - to Rouse Hill via North West T-Way and Rouse Hill Town Centre (Hillsbus)

Darcy St:

- 900 - Free Parramatta Shuttle (Veolia Transport NSW)

By any measure the site has exception connections to both the bus and rail network via the Parramatta Transport Interchange.

2.8.3 Taxi

The site is serviced by # taxi companies:

- Premier Cabs (including Maxi Taxi)
- Prestige Cabs (including Maxi Taxi)
- Western District Cumberland Cabs (including Maxi Taxi)
- City Maxi Cabs

The site is:

- 4.14km from Merrylands by taxi with a current estimate fare of \$14.81
- 5.18km from Parramatta by taxi with a current estimated fare of \$17.85
- 27.56km from Sydney GPO with a current estimated fare of \$77.23
- 30.99km from Sydney International Airport with a current estimated fare of \$85.74

In summary the site is well serviced by taxi services most likely to be utilised by those hold pensioner and disability benefits given the costs of taxi are prohibitive.

2.8.4 Private vehicles

The site with direct access from Florence Street and Quinn Street to the classified roads, Great Western Highway and Centenary Road has exceptionally convenient access to the broader Sydney Road Network.

The Traffic and Parking Report has demonstrated that the services levels despite increased parking onsite will remain and "A" for Florence Street and the Great Western Highways and "B" for Quinn Street and Centenary Road.

2.8.5 Public Parking

The provision of commercial and retail parking has been made in accordance with Council's DCP requirements please refer to the Traffic and Parking Report of McLaren Traffic Engineering.

2.8.6 Pedestrian

Near level pedestrian access is provided from the site to the Finlayson Transitway Station.

2.9 Utility Services

2.9.1 Water and Sewer

A Section 73 Compliance Certificate will be lodged by a Water Servicing Coordinator through Sydney Water's e-Developer system as is required, prior to the submission of any Construction Certificate because the proposal involves subdivision by strata and is a (multi-unit) residential development.

Detailed provisions will be made by the services consultants at the construction certificate stage.

The Applicant will comply with Sydney Water's:

- [*Property development connection requirements \(water\)*](#)
- [*Property development connection requirements \(wastewater\)*](#)

See: http://www.sydneywater.com.au/SW/plumbing_building_developing/developing/land_development/

2.9.2 Electricity

Electricity is available to the site. Application will be made in accordance with Ausgrid's general requirements for the provision of electricity connection to the Ausgrid network for the proposal under the terms of Ausgrid's Standard Form Customer Connection Contract.

The Applicant will provide the Ausgrid advice as soon as practicable. The services consultants will make detailed provisions at the construction certificate stage.

See: <http://www2.ausgrid.com.au/internet/pdfs/ES10-CIA.pdf>

2.9.3 Natural Gas

Natural gas will we be connected to meet commitments under the BASIX Certificate. There are no apparent impediments to the provision of natural gas to service the development. The services consultants will make detailed provisions at the construction certificate stage.

2.9.4 Telecommunications

The Australian Government requires fibre-to-the-premises (FTTP) infrastructure installed in new developments. This will give property buyers early access to the benefits of next-generation broadband and help avoid future retrofitting costs. From 1 January 2011, in all types of new developments, developers must ensure that pit and pipe—including trenching and ducting, design and third-party certification for development approval purposes—are installed and are fibre-ready.

The applicant will consult with NBN Co. This will be detailed in the provision of services at the Construction Certificate stage.

See: http://www.dbcde.gov.au/broadband/rational_broadband_network/fibre_in_new_developments

3 The Proposal

3.1 Site works

3.1.1 Environmental Controls

The principal contractor will ensure that the following works, monitoring, measures and controls are installed and maintained as required by any consent and other statute:

- Erosion and sediment controls,
- Dust controls,
- Filtering and treatment of construction stormwater discharges,
- Hours of work and Noise controls restrictions;
- Vibration monitoring and controls as recommended by the Geotechnical engineer;
- Site facilities and ablutions;
- Site crane;
- Site fences and hoardings.

3.1.2 Erosion and Sedimentation Controls

Erosion and sedimentation controls will be implemented under a soil and water management plan, provided at the Construction Certificate stage, complying with:

- "Managing Urban Stormwater - Soils and Construction" published by the NSW Department of Housing 4th Edition" (*The Blue Book*'), and consistent with,
- "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organisation of Councils, 2001.

A soil and water management plan is attached to the DA.

The final erosion and sedimentation control work will be assessed and approved pursuant to clause 161(1)(a)(v) of the Regulation, prior to the issue of any construction certificate and it expected that this requirement will form a condition of the development consent.

A detailed soils and water management plan is submitted with the application.

3.1.3 Tree Protection Zones

Advanced Treescape Consulting has completed a detailed Arboricultural Impacts Assessment. There has been a detailed assessment of the 46 trees that exist on the site.

In summary:

- Tree that fail the VTA and are not suitable to be considered for retention 18.
- Tree that have an unacceptable impact from the proposed development and are recommended for removal 19.
- Trees that are to be retained and protected 9.

The report make specific recommendations relating to the creation of Tree Protection Zones (TPZ) and it is expected that these recommendation will form conditions of development consent.

3.1.4 Hours of development work

The proposal seeks development consent to carry out all potentially noisy construction activities development only work between:

- 7.00am and 7.00pm, Mondays to Fridays and

- 7.00am and 5.00pm Saturdays.

No potentially noisy construction activities or development work is proposed to be undertaken on Sundays or Public Holidays.

3.2 Demolition

Consistent with clause 92 of the *Regulation* all demolition work will be carried out in accordance with Australian Standard AS 2601—1991: *The Demolition of Structures*, published by Standards Australia, and as in force at 1 July 1993, by a Workcover NSW licenced contract. Such contractors are bound by their licence conditions and Workcover NSW OH&S laws and requirement to identify asbestos, lead and other potentially harmful waste and ensure that it's demolition, temporary storage and removal comply with current OH&S and environmental standards.

Demolition must occurred in compliance with AS2601 as has been recently confirmed in *K & M Prodanovski Pty Ltd v Wollongong City Council* [2013] NSWCA 202, this includes:

- investigate the site and structures for hazardous substances in line with clause 2.2 of AS2601- 2001,
- prepare a work plan pursuant to AS 2601-2001, and
- prepare a hazardous material survey.

Compliance with AS2601-1991 may form a relevant condition of the development consent.

3.3 Dedication of Land

Consistent with DCP Clause N2.2 objectives and control N2.2(C2) the proposal is to dedicate that land necessary from the site to provide a 15 metre connecting laneway between Florence Street and Quinn Street as required in accordance with Figure 14 of the DCP.

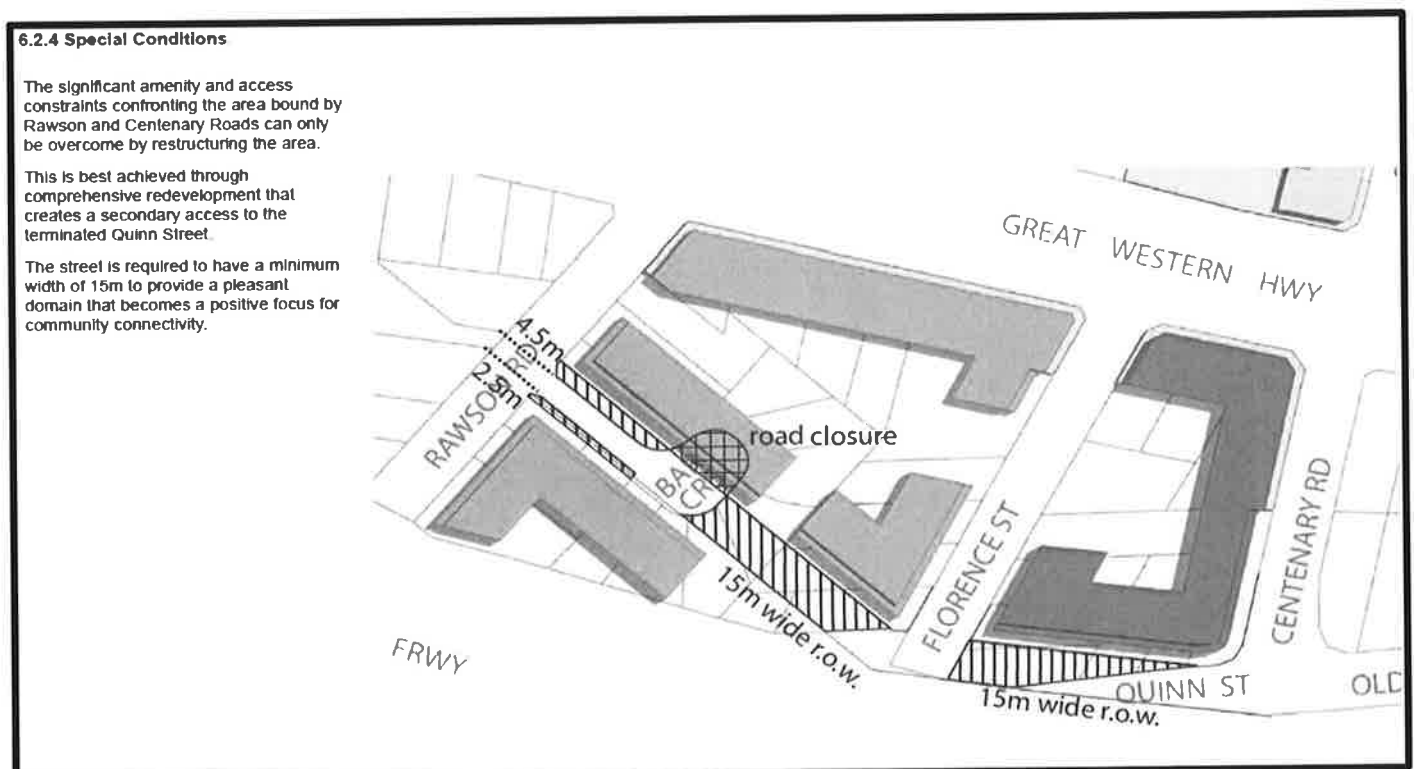


Figure 13 – Extract Framework - Quinn Street Extension

It is noted that the Contribution Plan provides for section 94 and other funding to physically construct the new road and other public domain improvements and that the dedication of the land under the DCP and Contribution Plan is expected by the without other compensation.

Statement of Environmental Effects

It is also noted that clause 5.1 of the LEP provides for relevant acquisition authority in relation to the land shown on the Land Reservation Acquisition Map. It is noted that the site is not identified by the Land Reservation Acquisition Map and is not subject to compulsory acquisition. The dedication of the land is subject to the favourable determination and agreed dedication of the owners of the land.

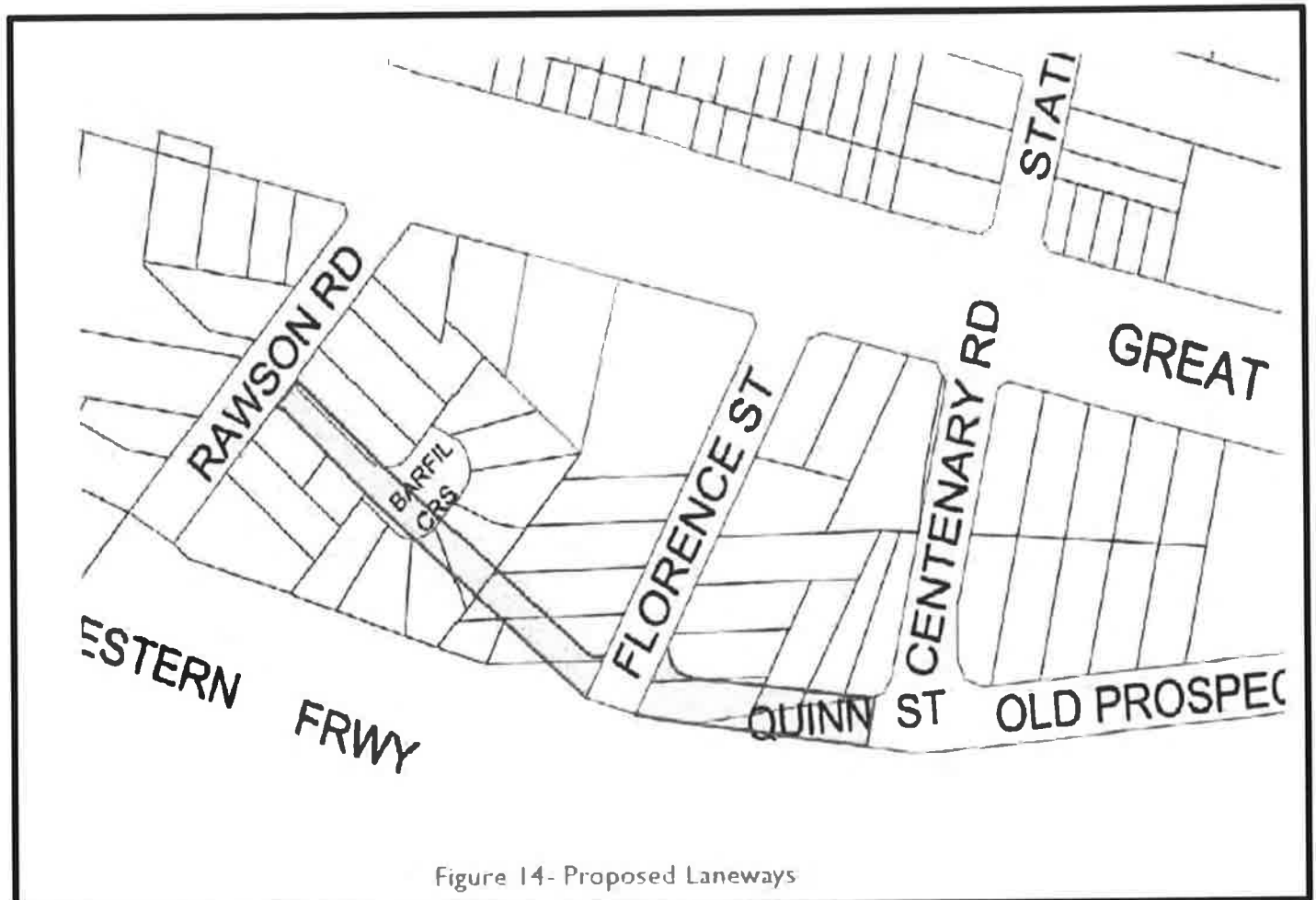


Figure 14 - Extract DCP Part N Figure 14

3.4 Geotechnical and remediation works

The application is supported by a detailed report on the geotechnical investigations by JK Geotechnics dated 24 October 2013 Ref: 26955Lrpt.

The site will require approximately 11m depth of excavation and the removal of virgin excavated natural material (clean fill) that may be reused as VENM on other projects requiring clean fill.

Key geotechnical findings are:

- ❖ The excavations will need to be supported by properly designed insitu shoring systems which are installed prior to commencement of excavation.
- ❖ Drainage will need to be provided both during construction and in the long term below the basement floor slab.
- ❖ All new footings will need to be uniformly founded on the underlying weathered rock.
- ❖ The site is adjacent to a high embankment supporting the M4 Motorway, and while the proposed development is extremely unlikely to have any adverse impact on the embankment or Motorway, it is possible that RMS may require confirmation by way of a letter or analysis.

It is accepted that compliance with geotechnical recommendations will likely form a condition of development consent.

3.5 Resource recovery and disposal of demolition and excavation waste

Site Waste Minimisation and Management Plan Template (Part A pages 106-109) in the DCP

3.6 Building work

All building works will comply with the BCA. The development will consist of - Class 7 Basement Car-parking and Storage, Class 5 & 6 Commercial-Retails and Class 2 Residential Apartments above.

A detailed access review has been undertaken by Morris Goding Accessibility Consulting and is attached to the development application.

3.7 Landscaping

The proposal is supported by a detailed landscaping plan that will create a pleasant urban design outcome and inviting, north facing, communal open space area as well as provide high levels of amenity to private open space within the development.

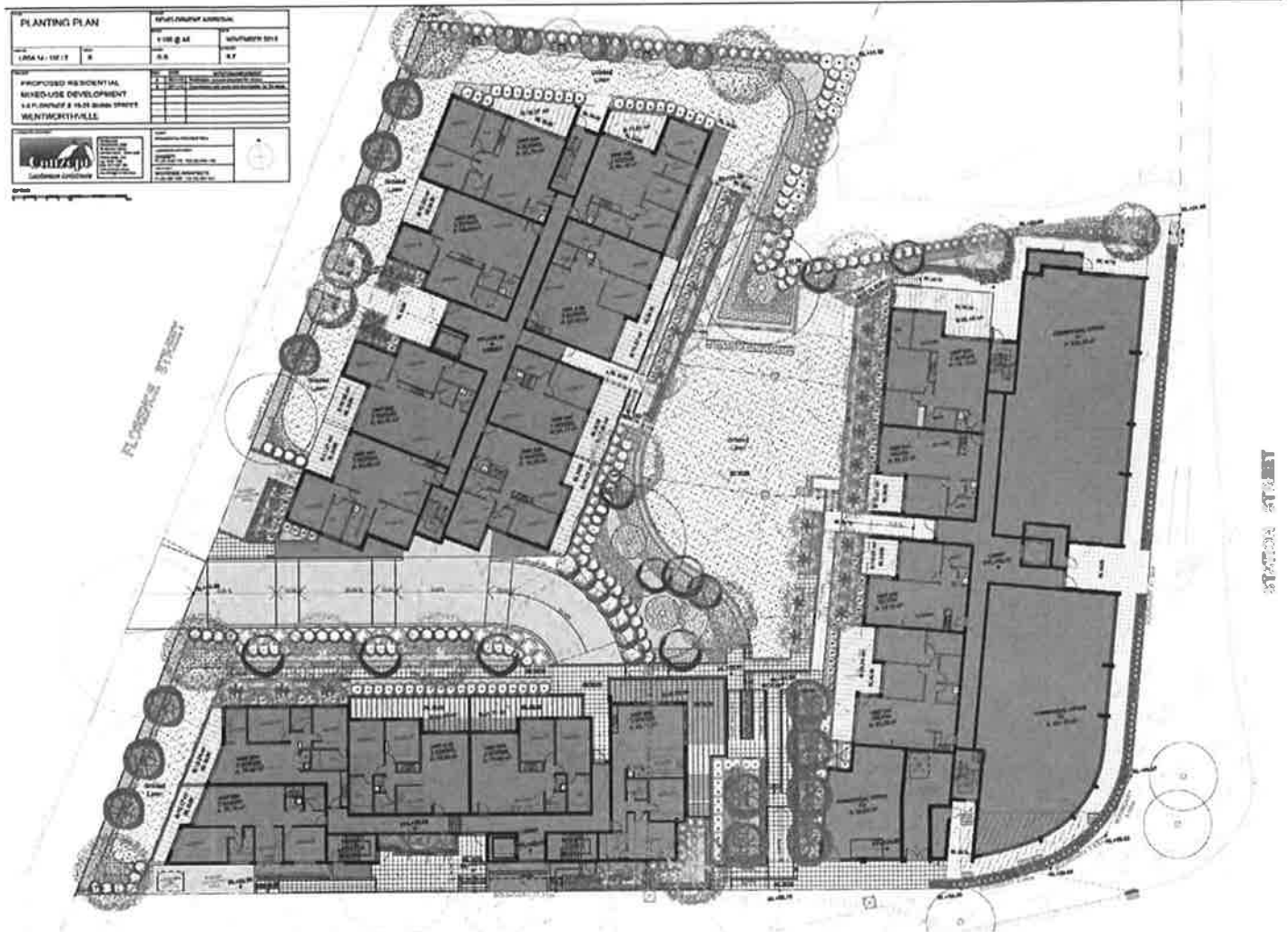


Figure 15 - Extract Landscape Plan

3.8 Commissioning

The commission of all building services including all essential fire safety measures detailed by the Construction Certificate(s) will be subject to formal commissioning and certification by relevant professional engineers.

The commissioning of all building services will be completed prior to the issue of any occupation certificate for each relevant part of the building.

3.9 Stratum Subdivision

There is no proposal to stratum subdivide the proposal.

3.10 Strata Subdivision

The Strata Subdivision of the building under Strata Schemes (Freehold Development) Act 1973 will proceed under Part 6 Subdivisions Code of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as complying development when the requirements of section 37 or 37A of the Strata Schemes (Freehold Development) Act 1973 are able to be satisfied.

3.11 Occupation and initial use

The occupation and use of the building will be in accordance with the development consent and relevant Occupation Certificate(s).

Statement of Environmental Effects

Given the scale of the development it is likely that interim occupation certificates may be sought as retail and commercial elements are completed and ready for occupation subject to the relevant provisions of section of 109H of the Act being satisfied.

This application seeks development consent for the initial use of the retail/commercial ground floor elements of the development for general retail uses (shops), such that the fit-out of these spaces for use as shops and offices ("the current use of the premises must be a lawful use"⁶), may proceed under Part 5 General Commercial and Industrial Code of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and residential apartments for the remainder of the development.

3.11.1 Hours of use

The proposal seeks the following hours of use for the initial uses. Any change to the hours of use proposed by individual owner will be subject to separate applications.

Initial use of the Commercial Offices 01 and 02 on the ground floor of Building C is sought in accordance with the hours of use permissible under Part C5.3(C1) of the DCP for South Wentworthville being 6:00am to 12:00am within Centenary Road and Quinn Street.

The Applicant wishes to discuss any proposed conditions relating to hours of use with Council staff prior to the finalisation of the staff's development assessment report for the JRPP.

4 Development Standards and Controls

The relevant EPI development standards and DCP controls have been from www.legislation.nsw.gov.au and Holroyd City Council's website.

This Statement of Environmental Effects has not considered any amendments to EPI, Draft EPI or DCP post 30 November 2013.

If necessary, subject to consideration of any savings and transitional provision the Applicant may be required to provide an addendum to the SEE addressing subsequent changes.

4.1 State Environmental Planning Policies

The following SEPPs as in force at 5 October 2013 are (or are not) relevant to the proposal (as distinct from relevant to the land):

Current State Environmental Planning Policies	Relevant
State Environmental Planning Policy No 1—Development Standards	X
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	✓
State Environmental Planning Policy No 6—Number of Storeys in a Building	✓
State Environmental Planning Policy No 14—Coastal Wetlands	X
State Environmental Planning Policy No 15—Rural Land sharing Communities	X
State Environmental Planning Policy No 19—Bushland in Urban Areas	X
State Environmental Planning Policy No 21—Caravan Parks	X
State Environmental Planning Policy No 22—Shops and Commercial Premises	X
State Environmental Planning Policy No 26—Littoral Rainforests	X
State Environmental Planning Policy No 29—Western Sydney Recreation Area	X
State Environmental Planning Policy No 30—Intensive Agriculture	X
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	X
State Environmental Planning Policy No 33—Hazardous and Offensive Development	X
State Environmental Planning Policy No 36—Manufactured Home Estates	X
State Environmental Planning Policy No 39—Spit Island Bird Habitat	X
State Environmental Planning Policy No 44—Koala Habitat Protection	X
State Environmental Planning Policy No 47—Moore Park Showground	X
State Environmental Planning Policy No 50—Canal Estate Development	X
State Environmental Planning Policy No 52—Farm Dams and Other Works	X
State Environmental Planning Policy No 55—Remediation of Land	✓
State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential	X

⁶ Cause 5.2(a) of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Statement of Environmental Effects

Current State Environmental Planning Policies	Relevant
State Environmental Planning Policy No 60—Exempt and Complying Development	✓
State Environmental Planning Policy No 62—Sustainable Aquaculture	X
State Environmental Planning Policy No 64—Advertising and Signage	X
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	✓
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	X
State Environmental Planning Policy No 71—Coastal Protection	X
State Environmental Planning Policy (Affordable Rental Housing) 2009	X
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	✓
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	X
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	X
State Environmental Planning Policy (Infrastructure) 2007	✓
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	X
State Environmental Planning Policy (Kurnell Peninsula) 1989	X
State Environmental Planning Policy (Major Development) 2005	X
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	X
State Environmental Planning Policy (Penrith Lakes Scheme) 1989	X
State Environmental Planning Policy (Port Botany and Port Kembla) 2013	X
State Environmental Planning Policy (Rural Lands) 2008	X
State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011	X
State Environmental Planning Policy (State and Regional Development) 2011	X
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	X
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	X
State Environmental Planning Policy (Temporary Structures) 2007	X
State Environmental Planning Policy (Urban Renewal) 2010	X
State Environmental Planning Policy (Western Sydney Employment Area) 2009	X
State Environmental Planning Policy (Western Sydney Parklands) 2009	X
Sydney Regional Environmental Plan No 18—Public Transport Corridors	X

4.1.1 State Environmental Planning Policy No 1—Development Standards

SEPP 1 does not apply, however this proposal is subject to an objection to the HOB development standard under clause 4.6 of the LEP. See clause 4.6 of the LEP below.

4.1.2 State Environmental Planning Policy No 6—Number of Storeys in a Building

Pursuant to clause 5, SEPP 6 only applies to Environmental Planning Instruments not DCP.

Pursuant to clause 6 of SEPP 6 the proposed building contains 16 storeys. It must be noted that this is different from most other definitions of storeys, including but not limited to the definition of rise in storeys under the NCC.

Given that the LEP defines the HOB and the DCP contains no provision which limits the number of storeys SEPP 6 is of no practical effect.

4.1.3 State Environmental Planning Policy No 55—Remediation of Land

SEPP 55 applies to the land and pursuant to section 79C is a relevant consideration for the Council.

Clause 7 of the SEPP 55 provides:

- " (1) A consent authority must not consent to the carrying out of any development on land unless:
- it has considered whether the land is contaminated, and
 - if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

Statement of Environmental Effects

(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is:

- (a) land that is within an investigation area,
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge)."

Contaminated land is land in, on or under which any substance is present at a concentration above that naturally present in, on or under the land and that poses, or is likely to pose, an immediate or long-term risk to human health or the environment.

Appendix A of the *Managing Land Contamination, Planning Guidelines, SEPP 55—Remediation of Land*, provides a list of land use activities, that through an investigation of "site history", if disclosed, would found reasonable ground to trigger the "site investigation process" entailing investigations beyond "preliminary investigation" of "site history".

There are no known previous land uses that would trigger SEPP 55.

4.1.4 State Environmental Planning Policy No.65 (SEPP 65)

SEPP 65 applies to the erection of a new *residential flat building*. For the purposes of SEPP 65:

Residential flat building means a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops),

but does not include a Class 1a building or a Class 1b building under the *Building Code of Australia*.

The proposal contains 3 or more storeys and 4 or more self-contained dwellings being class 2 building under the *Building Code of Australia*.

Schedule 1, Part 1, Clause 2(5) of the Regulation requires that in addition to a statement of environmental effects where SEPP 65 applies the following must be provided:

"In addition, a statement of environmental effects referred to in subclause (1) (c) or an environmental impact statement in respect of State significant development must include the following, if the development application relates to residential flat development to which State Environmental Planning Policy No 65—Design Quality of Residential Flat Development applies:

- a) *an explanation of the design in terms of the design quality principles set out in Part 2 of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development,*
- b) *drawings of the proposed development in the context of surrounding development, including the streetscape,*

Statement of Environmental Effects

- c) development compliance with building heights, building height planes, setbacks and building envelope controls (if applicable) marked on plans, sections and elevations,
- d) drawings of the proposed landscape area, including species selected and materials to be used, presented in the context of the proposed building or buildings, and the surrounding development and its context,
- e) if the proposed development is within an area in which the built form is changing, statements of the existing and likely future contexts,
- f) photomontages of the proposed development in the context of surrounding development,
- g) a sample board of the proposed materials and colours of the facade,
- h) detailed sections of proposed facades,
- i) if appropriate, a model that includes the context."

4.1.4.1 Explanation of the design in terms of the design quality principles

This is addressed by the Architect's submission as supported by the design verification statement. I have reviewed the Architect's letter dated 2013.11.27 containing the design verification statements and the Architect's explanation of the design in terms of the design quality principles, which in my opinion satisfactorily addressed the design quality principles and RFDC requirements.

Of worthy note is that the DCP directly conflict with the RFDC and to the extent to which the DCP complicit with the RFDC the Architect has correctly adopted the accepted rules of thumbs within the RFDC, most significantly as to cross ventilation as discussed in the DCP compliance table.

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

A BASIX Certificate is attached to the DA and makes relevant commitments. Should there be any amendments to the design it is likely that this will have to be reviewed prior to any determination. Amendment of the BASIX Certificate is so required is an administrative process, but nevertheless, a statutory precondition to that grant of development consent.

To the extent that any other EPI or DCP provision is a *competing provision* it is not a relevant consideration for Council's assessment or for the JRPP's determination of the DA.

Competing provisions are noted in the relevant compliance tables.

4.1.6 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)

Where available to the Applicant, Owner and Principal Contractors works may be carried out subject to compliance with the relevant provisions of the Codes SEPP as either exempt or complying development.

4.1.7 State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The annual average daily traffic volume on adjoining classified roads triggers clause 102 of the ISEPP.

An annual average daily traffic volume of more than 40,000 vehicles triggers the ISEPP.

See: http://www.planning.nsw.gov.au/planningssystem/pdf/guide_infra_devtra/roadcorridors_interim.pdf

Clause 101 is satisfied in that vehicular access to the land is provided by a road other than the classified road (Florence Street) and as to other considerations see clause 104 below.

Clause 104 Traffic Generating Development is triggered. The site access is within 90m of Florence Street, measured to the intersection of the Great Western Highway.

This traffic generating development is triggered by column 3 to Schedule 3 of the ISEPP:

Relevant uses from column 1 are:

- Apartment or residential flat building 75 or more dwellings (135 proposed)

The proposal is traffic generating development under clause 104 of the ISEPP.

The proposal requires consideration of Development Near Rail Corridors and Busy Roads – Interim Guideline ISBN 978-0-7347-5504-9. © The State Government of NSW through the Department of Planning 2008, DoP 08_048.

The DA is supported by a detailed Acoustic Assessment by Acoustic Logic dated 25/11/2013 addressing all relevant noises issues for Council's consideration. Subject to the adoption of the recommendations detailed within Part 4 of the acoustic report traffic noise impacts have been satisfactorily resolved.

We note that Council's DCP provisions are imprecise as they fail to state a time descriptor. We also note that to the extent that the DCP would be inconsistent with the ISEPP, the ISEPP should prevail. The Acoustic Engineer has appropriately adopted the ISEPP criteria. As for the relevant rW assessments these will be completed under the Building Code of Australia at the Construction Certificate stage.

The Applicant's project team wish to attend the RMS Sydney Regional Development Advisory Committee meeting with respect to the Council's referral of this application to the RMS such that any issues arising may be promptly addressed by the Applicant's project team.

4.2 Draft State Environmental Planning Policies

Our search of the Department of Planning and Infrastructure's "on exhibition" page failed to disclose any relevant Draft SEPP.

Title	Date Lodged	Date of Gateway Determination	Date of Publication	Local Government Area	Stage
<u>Reclassification of 28-36 McFarlane Street, Merrylands</u>	26/06/2013	10/07/2013		Holroyd	Approved at Gateway and with RPA for implementation
<u>Holroyd Local Environment Plan 1991 (Amendment No 54)</u>	7/10/2011	1/11/2011	14/12/2012	Holroyd	Approved by Minister or Delegate

4.3 Holroyd Local Environmental Plan 2013 (LEP)

The LEP is a standard instrument LEP. The site is Zone B6 under Part 2 of the LEP.

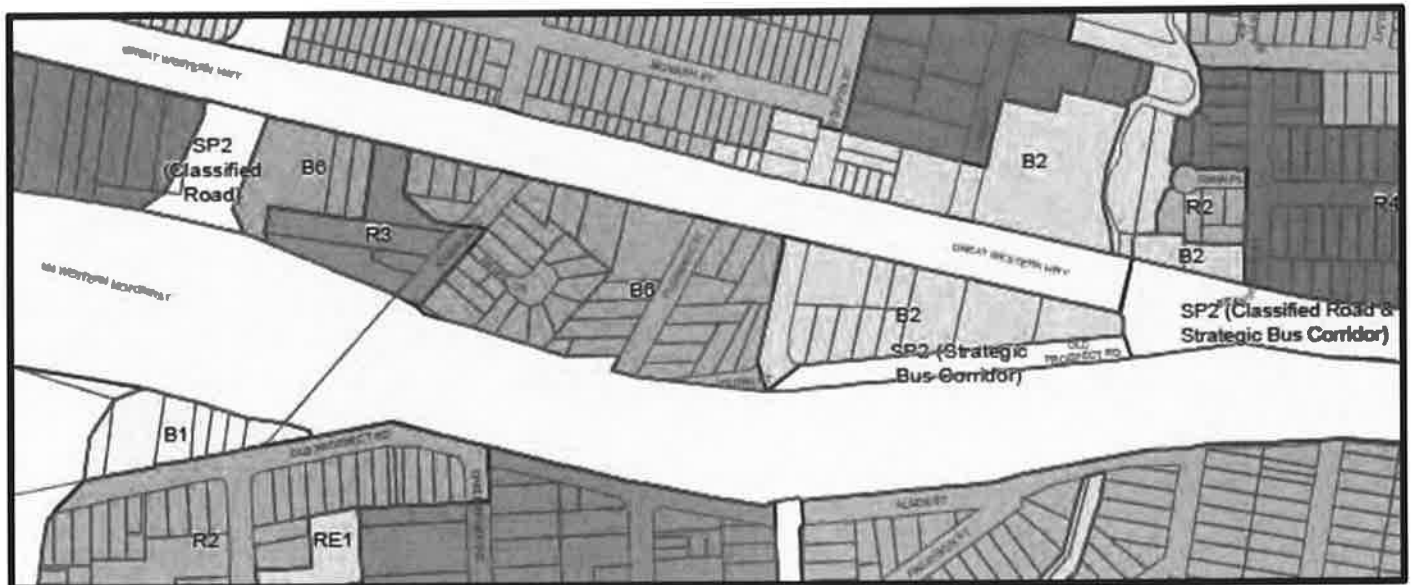


Figure 16 - LEP Zone Map Extract

4.3.1 Land Use Table Extract

Zone B6 Enterprise Corridor

1 Objectives of zone

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.
- To provide for residential uses, but only as part of a mixed use development.

2 Permitted without consent

Nil

3 Permitted with consent

Boarding houses; Bulky goods premises; Business premises; Community facilities; Food and drink premises; Garden centres; Group homes; Hardware and building supplies; Hostels; Hotel or motel accommodation; Landscaping material supplies; Light industries; Multi dwelling housing; Neighbourhood shops; Passenger transport facilities; Plant nurseries; Residential flat buildings; Roads; Shop top housing; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4 [Underlining notes relevant permissible uses subject to this DA]

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises;

Statement of Environmental Effects

Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Home occupations (sex services); Industrial retail outlets; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Resource recovery facilities; Restricted premises; Rural industries; Sewage treatment plants; Sex services premises; Storage premises; Truck depots; Vehicle body repair workshops; Veterinary hospitals; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities

4.3.2 LEP Compliance Table

Key: ✓ Complies, ✗ Fails to Comply, □ Not Applicable.

Clause	Requirement	Complies	Comment
1.2 Aims of Plan	(2) The particular aims of this Plan are as follows: (a) to provide a clear framework for sustainable land use and development in Holroyd, (b) to provide for a range of land uses and development in appropriate locations to meet community needs, including housing, education, employment, recreation, infrastructure and services, (c) to promote ecologically sustainable development by facilitating economic prosperity, fostering social well-being and ensuring the conservation of the natural environment, (d) to concentrate intensive land uses, increased housing density and trip-generating activities in close proximity to centres and major public transport nodes in order to retain the low-density character of other areas, (e) to promote the efficient and equitable provision of public services, infrastructure and amenities, (f) to protect the environmental and cultural heritage of Holroyd including: (i) identifying, conserving and promoting cultural heritage as a significant feature of Holroyd's landscape and built form as a key element of its identity, and (ii) effectively managing the natural environment (including remnant bushland and natural watercourses) to ensure its long-term conservation.	✓	The DA introduces intensive land uses, increased housing density and trip-generating activities in close proximity to centres and major public transport nodes (T-Way and major roads) in order to retain the low-density character of other areas. It does this whilst in full compliance with principal development standards, SEPP 65 and the RFDC. ESD is ensured through compliance with BASIX and WSUD. The development provides for a range of land uses and development in appropriate locations to meet community needs, including housing, employment, recreation, infrastructure and services.
2.3 Zone objectives	Consent authority must have regard to the objectives for development in a zone when determining a development application	✓	The proposal promotes businesses along main roads and to encourages a mix of compatible uses, provides a range of employment uses, maintain the economic strength of centres by limiting retailing activity and provides for residential uses, but only as part of a mixed use development
2.6 Subdivision consent requirements	Subdivision requires consent	✓	The proposal will subject to Part 6 of State

Statement of Environmental Effects

	unless exempt development		<i>Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> be strata subdivided as complying development.
2.7 Demolition require consent	The demolition of a building or work may be carried out only with development consent.	✓	The DA seeks consent to demolish all existing structures on the site.
4.3 Height of buildings	26m & 23m	✗	<p>The proposal fails to comply with the HOB development standard as detailed by the proposal. The application is subject to a cause 4.6 submission objecting to the development standard as the building exceeds the HOB by a maximum of 2m or 8.7% but only at one point and for a very limited area of Building C. Very minor non-compliance ranging between 20mm and 88mm affect Buildings A and B.</p> <p>Clause 5.6 of the LEP permits roof features to exceed the maximum HOB.</p>
4.4 Floor space ratio	2.2:1	✓	See clause 3.2 of this SEE for the calculations
5.1 Relevant acquisition authority 5.1A Development on land intended to be acquired for public purposes	Land is required to be acquired under the owner-initiated acquisition provisions	<input type="checkbox"/>	<p>The site is not identified by the LEP and relevant LEP map as subject to clause 5.1. On this basis the site is not then subject to clause 5.1A which may otherwise prohibit the development of the land subject to acquisition. The Council are relying upon the DCP and the Contributions Plan. The Council are expecting that the site will dedicate the land required for the extension of Quinn Street to Florence Street at no cost and the Contributions Plan articulates the funding of the new road. Please refer to the DCP and Contributions Plan.</p>
5.3 Development near zone boundaries	Additional permissible logical uses may be permitted.	<input type="checkbox"/>	The DA relies upon the B6 zone.
5.6 Architectural Roof Features	Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.	✓	<p>Parapets may be reasonably considered to be architectural roof features therefore to the extent that the HOB is exceeded by parapets one may assume that clause 4.6 has been satisfied.</p> <p>Please note that for the purposes of the Clause 4.6 submission objecting to the HOB under clause 4.3 we have not excluded parapets from the calculation.</p>
5.9 Preservation of trees or vegetation	Preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.	✓	<p>A detailed Arboricultural Impacts Assessment has been completed by Advanced Treescape Consulting. 37 trees are proposed to be removed, noting that non native and endemic species identified by the DCP for the purpose of clause 5.9 may be removed without development consent. 9 significant trees are proposed to be retained.</p>
5.10 Heritage conservation	<p>(a) to conserve the environmental heritage of Holroyd,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<input type="checkbox"/>	The site and sites in the vicinity of the site do not contain any heritage item, are not within a heritage conservation area and do not contain any known Aboriginal objects or places of heritage significance.
6.1 Acid sulphate soils	Development does not disturb, expose or drain acid sulphate soils and cause environmental damage.	<input type="checkbox"/>	The site is not identified by upon any Acid Sulphate Soils Map under the LEP as with any Acid Sulphate Soils Class.
6.2 Earthworks	Earthworks for which development consent is required will not have a	✓	The DA is supported by a Geotechnical Report setting out relevant constraints and precautions required to be followed

Statement of Environmental Effects

	detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land		including salinity. There are no heritage issues.
6.3 Essential services	Essential for the development are available or that adequate arrangements have been made to make them available	✓	Water, electricity, sewage, stormwater and suitable road access are proposed by the DA.
6.4 Flood planning	(a) to minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change, (c) to avoid significant adverse impacts on flood behaviour and the environment.	✓	The proposed floor levels have been set subject to the advice of Council and the Applicant's Professional Engineers. The single basement access from Florence Street is on the high side of the site removed from the areas most susceptible to potential flooding in Quinn Street adjoin and under the M4 Freeway at the intersection of Centenary Road (Station Street).
6.5 Terrestrial biodiversity	(a) protecting native fauna and flora, and (b) protecting the ecological processes necessary for their continued existence, and (c) encouraging the conservation and recovery of native fauna and flora and their habitats.	<input type="checkbox"/>	Not identified by 3950_COM_BIO_005_010_20130218
6.6 Riparian land and watercourses	(a) water quality within watercourses, (b) the stability of the bed and banks of watercourses, (c) aquatic and riparian habitats, (d) ecological processes within watercourses and riparian areas.	<input type="checkbox"/>	Not identified by 3950_COM_WCL_005_010_20130218
6.7 Stormwater management	(a) to minimise the impacts of urban stormwater on properties, native vegetation and receiving waters, (b) to avoid any adverse impacts on soils and land stability, (c) to protect the environmental values of water identified for urban waterways in the Sydney Harbour and Parramatta River and Georges River catchments.		Detailed Stormwater Concept designs, including OSD and Soil and Water Management Plans have been prepared by Northrop professional engineers. Ref 130655 series and attached to the DA.
6.8 Salinity	Appropriate management of land that is subject to salinity and the minimisation and mitigation of adverse impacts from development that contributes to salinity.	✓	The Geotechnical Report and this SEE have highlighted the need for further detailed salinity investigations prior to the commencement of excavation. This clause can be satisfied by imposition of relevant conditions required to be satisfied prior to the issue of any construction certificate.



Figure 17 - Extract LEP HOB Map – HOB (S1) 23m and (T1) 26m



Figure 18 - Extract LEP FSR Map – FSR (T2) 2.2:1

The proposed FSR complies as detailed by Figure 19 - GFA & FSR Calculations.

MAX. FSR ALLOWED				2.2 :1
BUILDING				
FLOOR	A	B	C	
G	698.08	425.64	931.77	2,055.49
1	677.00	416.46	736.71	1,830.17
2	677.00	416.43	731.99	1,825.42
3	677.00	416.46	733.87	1,827.33
4	677.00	417.39	731.99	1,826.38
5	623.02	417.39	733.87	1,774.28
6	0.00	417.39	733.85	1,151.24
7	0.00	416.73	733.87	1,150.60
				Total GFA
TOTAL	4,029.10	3,343.89	6,067.92	13,440.91
				FSR 2.19 :1

Figure 19 - GFA & FSR Calculations

4.4 Draft Environmental Planning Instruments

A search of the Department of Planning and Infrastructure's LEP tracking system disclosed the following Draft LEPs as at 30 November 2013.

To the extent that any are relevant Council must take them into consideration in accordance with section 79C(1)(a)(ii) of the EPA Act.

Title	Date Lodged	Date of Gateway Determination	Date of Publication	Local Government Area	Stage
Reclassification of 28-36 McFarlane Street, Merrylands	26/06/2013	10/07/2013		Holroyd	Approved at Gateway and with RPA for implementation
Holroyd Local Environment Plan 1991 (Amendment No 54)	7/10/2011	1/11/2011	14/12/2012	Holroyd	Approved by Minister or Delegate

It does not appear from our review of the Gateway Register that these Draft EPI are relevant.

4.5 Holroyd Development Control Plan (DCP)

Holroyd Development Control Plan (DCP) 2013 became effective from Monday, 5 August 2013 and replaces Holroyd DCP 2007.

The Holroyd DCP 2013 provides guidance for the design and operation of development within Holroyd to achieve the aims and objectives of Holroyd Local Environmental Plan (LEP) 2013.

The weight to be given to a DCP has been recently affected by amendments to section 79C that added section 79C(3A) in the following terms:

“(3A) Development control plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

(c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, **standards** include performance criteria.”

Section 74C(5) of the Act ##### in the following terms:

- (5) A provision of a development control plan (whenever made) has no effect to the extent that:
- (a) it is the same or substantially the same as a provision of an environmental planning instrument applying to the same land, or
 - (b) it is inconsistent or incompatible with a provision of any such instrument.

These provisions are highlighted as the Applicant's contention is that the number of storeys development control within Part N, 2.3 (c2) is a provision that seek to limit the height of the building (HOB) “substantially

Statement of Environmental Effects

the same" as the LEP HOB development standard and is inconsistent with the development standard in the circumstances of this case.

The relevant DCP provisions are:

- Cover and Introduction
- Part A - General Controls
- Part B - Residential Controls
- Part C - Commercial, Shop Top Housing and Mixed Use Development Controls
- Part F - Advertising and Signage Controls
- Part N - Transitway Station Precinct Controls
- Part R - Definitions

4.5.1 DCP Compliance Table

Key: ✓ Complies, ✗ Fails to Comply, □ Not Applicable.

DCP Compliance Table																																																						
Clause	Status	Comment																																																				
PART A – General Controls	✓	Part A- General Controls <ul style="list-style-type: none">• Roads and Access• Car Parking• Trees and Landscaping• Stormwater Management• Flood Prone Land• External Noise and Vibration• Waste Management.																																																				
Part A1 – Subdivision	✓	The site will be consolidated with road widening dedicated to the Road Authority and then strata subdivided.																																																				
Part A2 – Roads and Access	✓	<p>The proposal will deliver road widening to Quinn Street please refer to the road design by McLaren Traffic Engineering.</p> <p>It is noted that the LEP Land Reservation Acquisition Map – Sheet LRA_005 fails to identify road widening and acquisition to Quinn Street. This is addressed in detail under N2.2 and the detailed discussion with respect to the Contributions Plan below.</p>																																																				
Part A3 - Parking	✓	<p>The proposal will provide sufficient parking and loading facilities complying with AS2890 as applicable. Please refer to the traffic and parking report.</p> <p>The site triggers referrals to the SRDAC of the RMS as traffic generating development under the ISEPP and in relation to traffic noise.</p> <p>The Traffic and Parking Report has regard to the DCP provisions.</p> <table><tr><th colspan="5">PARKING SPACES</th></tr><tr><th>CAR PARKING</th><th>Bldg A</th><th>Bldg B</th><th>Bldg C</th><th>TOTAL</th></tr><tr><td>RESIDENTS</td><td>53</td><td>37</td><td>62</td><td>152</td></tr><tr><td>VISITORS</td><td>11</td><td>7</td><td>13</td><td>31</td></tr><tr><td>COMMERCIAL OFFICES</td><td>N/A</td><td>N/A</td><td>27</td><td>27</td></tr><tr><td>TOTAL</td><td>64</td><td>44</td><td>102</td><td>210</td></tr><tr><td colspan="5"> </td></tr><tr><td>No. of Disabled parking spaces</td><td>8</td><td>7</td><td>11</td><td>26</td></tr><tr><td colspan="5"> </td></tr><tr><td>BICYCLES</td><td>32</td><td>22</td><td>46</td><td>100</td></tr></table>			PARKING SPACES					CAR PARKING	Bldg A	Bldg B	Bldg C	TOTAL	RESIDENTS	53	37	62	152	VISITORS	11	7	13	31	COMMERCIAL OFFICES	N/A	N/A	27	27	TOTAL	64	44	102	210						No. of Disabled parking spaces	8	7	11	26						BICYCLES	32	22	46	100
PARKING SPACES																																																						
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TOTAL	64	44	102	210																																																		
No. of Disabled parking spaces	8	7	11	26																																																		
BICYCLES	32	22	46	100																																																		
Part A4 – Tree and Landscape works	✓	<p>The arborist reports upon all trees and their SULE. Justification for their removal has been provided by the arborist's expert opinion. New landscape works are proposed as detailed by the landscape plans achieving the LEP objectives relating to trees and landscape works.</p>																																																				

Statement of Environmental Effects

DCP Compliance Table

Clause	Status	Comment
Part A5 - Biodiversity	<input type="checkbox"/>	<p>The site is not subject to any biodiversity constraints having regard to the fact it is not identified by LEP maps:</p> <ul style="list-style-type: none"> Biodiversity Map – Sheet BIO_005 demonstrates that the site is not within affected Remnant Native Vegetation land. Riparian Lands and Watercourses Map – Sheet WCL_005 demonstrate the site is not within affected Riparian Lands.
Part A6 – Soil Management	✓	<p>6.1 Cut & Fill and Retaining Walls - Bulk earth works will be required to construct the three basement areas detailed by the architectural plans. All cut/fill and retaining works will be undertaken in accordance with the recommendations of the Geotechnical Report.</p> <p>6.2 Site Contamination and Land Filling - The history of the site does not disclose any potential contamination. Salinity Map Sheet SAL_005 indicates a moderate salinity potential. Please refer to the assessment under SEPP 55 above.</p> <p>6.3 Erosion and Sediment Control - An erosion and sediment control plan has been submitted see clause 6.4 below.</p> <p>6.4 Erosion and Sediment Control Plan - A erosion and sediment control plan has been submitted that will achieve compliance with the <i>Managing Urban Stormwater - Soils and Construction</i> published by the NSW Department of Housing 4th Edition" ('The Blue Book'). It is expected that development consent would reference this plan.</p> <p>6.5 Salinity Management - The Geotechnical Report has confirmed the Council's LEP mapping and that salinity may affect the site. Ground water and soil will be tested during excavation phase to determine the extent if any of salinity.</p> <p>If salinity is encountered, the structural design of the shoring walls, substructures and sub-soil drainage will be designed and constructed in compliance with the recommendations contained in the Department of Environment and Climate Change's publication "Building in a Saline Environment ISBN - 978 07347 59702 second Edition August 2008.</p>
Part A7 Stormwater Management	✓	<p>All roof and surface water will be collected, retained, reused and disposed of in accordance with the stormwater concept plans submitted with the application and in accordance with the BASIX Certificate.</p>
Part A8 Flood Prone Land	✓	<p>The proposed FFLs have been set with regard to achieving Council's required freeboard about the 1:100 year events. Vehicular access has been sighted in Florence Street, the high point of the site to reduce risk of stormwater into the basement. Driveway and basement drainage system have been designed in concept to work with OSD to reduce flooding impacts.</p> <p>The Applicant's engineers have stated by letter dated</p>
Part A9 Managing External Road Noise and Vibration	✓	<p>This DCP provision directly reflects the requirements of clause 102 of the ISEPP. As it a DCP has no effect where it is the same or substantially the same as a provision of an EPI the ISEPP requirement being satisfied that is the relevant requirement.</p> <p>The site's is on land in or adjacent to the M4, Centenary Road and the Great Western Highway, being a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA. It is likely to be adversely affected by road noise or vibration. The consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.</p>

Statement of Environmental Effects

DCP Compliance Table

Clause	Status	Comment
		<p>The consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:</p> <p>(a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am, (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.</p> <p>The acoustic assessment directly addresses the requirements that must be achieved in order to ensure LAeq levels are not exceeded. It is expected that the acoustic recommendations will form part conditions of development consent.</p>
Part A10 Safety and Security	✓	This DCP provision directly reflects the requirements of SEPP 65 and the RDFC. As if a DCP has no effect where it is the same or substantially the same as a provision of an EPI, the SEPP 65 and RDC requirement being satisfied this DCP provision is satisfied.
Part A11 Waste Management	✓	The application is supported by a Waste Management Plan.
Part A12 Services	✓ <input type="checkbox"/>	The consolidation of 8 existing sites into a single development site with coordinated access to all relevant services will achieve the service objectives.
Part B6 Residential Flat Building	<input type="checkbox"/>	Part B only applies to development types detailed within this Part and for the development of land zoned Residential under Holroyd Local Environmental Plan 2013. It is nevertheless a guide as to RFB requirements. We note that the subject site is zoned B6 – A business zone and is subject to Part C DCP provisions.
6.1. Lot size and frontage	<input type="checkbox"/>	<p>C1. The minimum lot frontage for residential flat buildings at the property line of 45 metres for all development 6 storeys or more has been achieved. The site results in the consolidation of 8 residential lots where as the minimum required by Council is more than one. Residential Flat Buildings are not permitted on battle-axe lots and this consolidated site will not only not be a battle axe but it will have three road frontages and only one vehicular crossing. It will remove 7 vehicular crossing providing additional on-street parking.</p> <p>Council does not permit isolated sites and as such a detailed submission has been made to include an additional site that would otherwise become an isolated site.</p> <p>Consolidation has been achieved through negotiation efforts such that lots with a frontage of less than what is required under C1 is not in contention.</p>
6.2. Site Coverage	<input type="checkbox"/>	The maximum site coverage of any residential flat development shall not exceed 30% of the site area. The proposal is a mixed-use development such that this control is not relevant to the site.
6.3. Setbacks and Separation	<input type="checkbox"/>	Front Setback for the Finlayson Transitway precinct are set out in Part N, Clause 2.4 of the DCP. To the extent that Part B is inconsistent with Part N prevails.
6.4. Height	<input type="checkbox"/>	<p>The minimum floor to ceiling heights comply with the following requirements measure from finished floor level (FFL) to finished ceiling level (FCL):</p> <ul style="list-style-type: none"> • 2.7 metres for habitable rooms. • 2.4 metres for non-habitable rooms. <p>Heights in the B6 zone are also subject to Part C1.3. Heights for the Finlayson Transitway precinct are set-out in Part N, Clause 2.3 of the DCP. To the extent that Part B is inconsistent with Part C or N may prevail.</p>
6.5. Building Depth	<input type="checkbox"/>	The maximum internal plan depth of the residential flat buildings does not exceed 18 metres.

Statement of Environmental Effects

DCP Compliance Table		
Clause	Status	Comment
6.6. Open Space	<input type="checkbox"/>	<p>Communal Open Space - Both areas of proposed communal open spaces have a northern aspect and is a deep soils and predominantly lawn area with a deep soil profile. Communal open space is provided behind the building line, in one unbroken parcel having a minimum dimension significantly exceeding the minimum 4 metres in any direction. It is provided at ground floor level within a deep soil zone with substantial landscaping and facilities. Clause 6.6 C3 Applies to residential flat buildings not mixed use developments and therefore the requirement for a minimum area of 10m² per dwelling or 30% of the site area, whichever is the greater, does not strictly apply. Communal open space is located where it is highly visible and directly accessible to the maximum number of dwellings, avoiding excessively long paths of travel to and from communal open space. Communal open space is integrated with the site and designed with uses such as circulation, BBQ or play areas or passive amenity.</p> <p>Communal open space is adequate is size and appropriately landscaped and ensure active and passive recreation through the provision of facilities such as seating, pergolas, barbeque facilities and the like. The Communal open space is not proposed to be fenced or contain one item of heavy-duty playground equipment per five dwellings, and may contain facilities for adult recreation and permanent seating.</p> <p>Private Open Space and balconies - Each dwelling has access to primary private open space, in the form of a deck, balcony, courtyard or terrace, accessible from main living areas of the dwelling complying with SEPP 65 and RFDC provisions that are replicated in the DCP.</p> <p>Planting on structures - The landscape plans contain detailed requirements to ensure plantings on structures shall be provided with appropriate soil conditions, drainage and irrigation.</p>
6.7. Building Appearance	<input type="checkbox"/>	The building's appearance is addressed by the plans, sample board, design verification statement and the explanation of the design in terms of the design quality principles under SEPP 65.
6.8. Building Entry and Pedestrian Access	<input type="checkbox"/>	Refer to SEPP 65 Explanation of the design in terms of the design quality principles
6.9. Parking and Vehicular Access	<input type="checkbox"/>	The General parking requirements have been addressed by the Traffic and Parking Report in satisfaction of Part A of the DCP.
6.10. Dwelling Layout and Mix	<input type="checkbox"/>	Refer to SEPP 65 Explanation of the design in terms of the design quality principles
6.11. Internal Circulation	<input type="checkbox"/>	Refer to SEPP 65 Explanation of the design in terms of the design quality principles
6.12. Facilities and Amenities	<input type="checkbox"/>	Refer to SEPP 65 Explanation of the design in terms of the design quality principles
6.13. Natural Ventilation	<input type="checkbox"/>	99 of 154 apartments or 64.29% of all apartments are cross-ventilated. 58 of 154 apartments have kitchen windows this is 37.66% of all apartments. The proposal complies with SEPP 65 – RFDC rules of thumb.
6.14. Maintenance	<input type="checkbox"/>	Essential Fire Safety Measures are subject to Annual Fire Safety Statements under the EPA Act and Regulation.
6.15. Waste Management	<input type="checkbox"/>	There are 3 residential Waste Storage rooms and 1 commercial/retail waste storage rooms. The three residential facilities are provided with lifts as it is proposed to employment large MGBs. Above ground areas for the standing of waste and recycling MGB area provided. Please refer to

Statement of Environmental Effects

DCP Compliance Table		
Clause	Status	Comment
PART C – Commercial, Shop top housing and Mixed use development Controls		
Part C1.1 Lot Size and Frontage	✓	8 lots are to be amalgamated forming an exceptionally good development site with an area of 6,127m ² and a minimum street frontage of dimension of 55.27m to Centenary Road (Station Street).
Part C1.2 Site coverage, floor area and building use	✓	There is no specific site coverage control for mixed use development in the B6 zone. C4 requires that food and drink premises not exceed 1,000m ² . There are two ground floor commercial/retail spaces that will be subject to subsequent DAs before the occupation and use as anything other than commercial offices. The area of commercial office 01 is 245.38m ² and the area of commercial office 02 is 231.92m ² .
Part C1.3 Building Height (Storeys)	X	<p>Heights for the Finlayson Transitway precinct are set-out in Part N, Clause 2.3 of the DCP. To the extent that Part C is inconsistent with Part N prevails.</p> <p>See clause 4.5.3 below, section 74(5) of the Act provides that these types of provisions are of no effect notwithstanding that the DCP Objectives will be achieved in the circumstance of this case.</p> <p>The minimum floor to ceiling heights comply with the following requirements measure from finished floor level (FFL) to finished ceiling level (FCL):</p> <ul style="list-style-type: none"> • 3.5m ground floor commercial/retail (complies) • 3.3 metres for first floor regardless of use. (flexibility sought) • 2.7 metres for residential apartments (complies) • 2.4 metres for non-habitable rooms. (complies) <p>The proposal does not seek to provide a 3.3m FFL to FCL height within the residential 1st floor levels in excess of the provisions of SEPP 65 and the RFDC. If there was a later application to convert these areas to offices given the requirements have separate access to commercial and residential portion of the building there would be CPTED issues that would likely preclude such conversions. As it is highly unlikely that such may reasonably occur providing 3.3m FFL to FCL heights is unfair and unreasonable in the circumstance of this case.</p>
Part C1.4. Setbacks, Separation and Depth	<input type="checkbox"/>	Setbacks for the Finlayson Transitway precinct are set-out in Part N, Clause 2.3 of the DCP. To the extent that Part C is inconsistent with Part N prevails.
Part C1.5 Landscaping and Open Space	X	<p>Total deep soil areas comprise 29% of the site and extensive high quality landscaping is proposed.</p> <p>The total communal open space occupies the majority of the deep soils areas. Two significant areas of communal open space are both north facing and while north facing is not a DCP requirement, these communal open space areas provide very high levels of amenity due to their favourable orientation.</p> <p>These areas heavily landscaped so as to meet the objectives of this clause, but still contain two large areas of grass.</p> <p>The RFDC states that if Communal Open Space is less than desired that one method to justify that is by ensuring the Private Open Space compensates. POS does compensate significantly in this proposal with up to 64.97m² of POS and many more with significant POS areas detailed by the tables on Plan No.000.</p> <p>Given the very large area of the site area that of the site area has to be dedicated to public road (Quinn Street extension to Florence Street) 721.31m² it is fundamentally unfair and unreasonable to require full compliance with the 25% communal open space requirement especially when significant additional POS is available to many apartments.</p>

Statement of Environmental Effects

DCP Compliance Table		
Clause	Status	Comment
		<p>In is accepted in the rules of thumb under the RFDC that contribution of land towards open space is desirable. In this circumstance the contribution is toward an equally value public asset being a public road, 721.31m² of the site area that might otherwise have been retained for communal open space should be given proper consideration on balance.</p> <p>It should also be appreciated that the proposal complies with the maximum FSR and seeking to remove those elements that exceed the HOB as detailed by the clause 4.6 submission would only further increase the footprint, reduce deep soils and potentially further reduce communal open space.</p> <p>On balance it is submitted that the public benefits being obtained in the dedication of 721.31m² of the site area to public road, significant private open space in excess of RFDC guidance and the fact that both areas of communal open space are north facing high amenity spaces, significantly offset the variation sought in the circumstance of this case.</p>
Part C 2.1 Rear Lane and Private Access ways	<input type="checkbox"/>	Not Applicable
Part C 2.3 Building entries	✓	Refer to SEPP 65 Explanation of the design in terms of the design quality principles
Part C 2.4 Vehicle Access	✓	The new single driveway access as proposed meets all relevant objectives. Refer to Traffic and Parking Report
Part C 2.5 Parking	✓	Refer to Traffic and Parking Report
Part C 3.1 Safety and Security	✓	Refer to SEPP 65 Explanation of the design in terms of the design quality principles
Part C 3.2 Façade design and Building Materials	✓	Refer to SEPP 65 Explanation of the design in terms of the design quality principles
Part C 3.3 Laneway and Arcade Design	<input type="checkbox"/>	No public lanes or arcades are proposed.
Part C3.4 Shopfronts	✓	Refer to SEPP 65 Explanation of the design in terms of the design quality principles
Part 3.5 Daylight Access	✓	108 of the 154 units received not less than 3 hours of direct solar access at the winter solstice, that is 70.13% of all units. Refer to SEPP 65 Explanation of the design in terms of the design quality principles.
Part 3.6 Visual and Acoustic Privacy	✓	Refer to SEPP 65 Explanation of the design in terms of the design quality principles. Also note that DCP and RFDC compliant separation has been achieved within the development,
Part 3.7 Managing External Noise and Vibration	✓	Refer to the Acoustic Assessment
Part 3.8 Awnings	✓	The building has been designed with a publically accessible, open colonnade that extends from Quinn Street wrapping around the corner into and extending the length of the Centenary Road (Station Street) frontage. It is submitted that on the fringe of the B6 zone that this is the best solution as neighbouring sites are not relying upon a contiguous awning for further developments. I.e. this site is not part of a strip shopping centre where contiguous awnings are commonly required.
Part 3.9 Apartment Layout	✓	Refer to Plan No.000

Statement of Environmental Effects

DCP Compliance Table		
Clause	Status	Comment
Part 3.10 Flexibility and Adaptability – Residential Mix	X	<p>Refer to Plan No.000. The proposal seeks consent for 154 units. 25 units or 16% of these units will be adaptable units (refer to the Accessibility Report). Well in excess of the minimum requirements.</p> <p>The Applicant has identified the need for a predominance of 1 and 2 bedroom units in this locality and an absence of demand for 3 bedroom units.</p> <p>Nevertheless, the demand is for larger 1 bedroom units (the majority being design to have a floor area of 56m² or more and larger 2 bedroom units ranging between 76.89m² and 94.12m².</p> <p>Noting that the DCP range of unit sizes is 1-50m², 2 bed 70m², 3 bed 95m², there are 5 apartments that may be reasonably adapted to 3 bedroom, albeit 1-2m² short of the desired 95m² area.</p> <p>With 64.29% fully cross ventilated, 37.66 with direct kitchen windows and 70.13% attaining not less than 3 hours of direct sunlight the design exhibits an excellent level of compliance with the DCP and RFDC.</p>
Part C3.11 Corner Building	✓	<p>Refer to SEPP 65 Explanation of the design in terms of the design quality principles – The proposal is well designed, promotes a strong and legible streetscape character by ensuring the corner of Quinn Street and Centenary Road is reinforced. The LEP gave this corner additional height to reinforce this prominence and the proposal meets the desired future character for this corner.</p>
Part C3.12 Ground Floor Apartments	✓	<p>There are 17 ground floor apartments all with a range of private court yards many north facing apartments and well above the minimum 25m² of POS desired, see Plan Ref 0000 for the full areas of all POS.</p>
Part C3.13 Internal Circulation & Storage for residential uses	✓	<p>Refer to Plan No.000 for a summary of provision made for storage for apartments.</p>
Part C3.14 Balconies	✓	<p>Every apartment is provided with private open space in the form of a terrace or balcony opening from living areas each with balcony or terrace and POS between 10m² and 64.97m². In terms of POS achieved both balconies and terraces at ground levels the outcomes are excellent. The extent of POS support flexibility with respect to amount of communal open space.</p>
Part C3.15 Natural Ventilation	X	<p>The are 154 apartments, 99 fully cross ventilated (64.29%) and 58 have directly naturally ventilated kitchen windows (37.66%).</p> <p>Building and apartment depths are shallow.</p> <p>The DCP seeks a target of 80% cross-ventilated. This is a development controls that is more onerous than the RFDC. This cross ventilation development control is substantially the same as the SEPP 65-RFDC Rule of Thumb (Page 87 of the RFDC) and inconsistent and incompatible with the 60% Rule of Thumb.</p> <p>In fact at 80% (qualified by the word "should") the DCP provisions is jarringly discordant with the RFDC, other Council DCPs and what would reasonably be expected or accepted by any professional planner.</p> <p>The application of 80% is unfair and unreasonable and the extent of compliance demonstrated more than sufficient to satisfied the objectives of SEPP 65.</p>
Part C3.16 Roof Design	✓	<p>Refer to SEPP 65 Explanation of the design in terms of the design quality principles.</p>
Part C3.17 Maintenance		<p>The materials proposed are accepted as having appropriate durability.</p>

Statement of Environmental Effects

DCP Compliance Table

Clause	Status	Comment
	✓	There are currently no statutory durability provisions adopted under NSW Building Regulation. Material installed to comply with the BCA and relevant Australian Standards are acceptable as fit for purpose subject to evidence of suitability being provided during the CC, Critical Stage Inspection and pre-OC stages. Essential Fire Safety measures will be subject to Annual Fire Safety Statement.
3.18 Waste	✓	The application is supported by a Waste Management Plan.
Part C4.1 Wind Mitigation	<input type="checkbox"/>	The HOB is less than 41m and a wind mitigation analysis and report is not reasonably necessary.
Part C5.1 Public Art	<input type="checkbox"/>	No public art is proposed.
Part C5.2 Signage	<input type="checkbox"/>	No signs are proposed.
Part C5.3 Hours of Operation	✓	Initial use of the Commercial Offices 01 and 02 on the ground floor of Building C is sought in accordance with the hours of use permissible under Part C5.3(C1) for South Wentworthville being 6:00am to 12:00am within Centenary Road and Quinn Street.
Part C 6 Large Store/Mall Development	<input type="checkbox"/>	Not Applicable.
Part C7 Residential Mix for Business zoned land	✗	Refer above as discussed in Part 3.10 Flexibility and Adaptability – Residential Mix.
Part C8 Operations Management	<input type="checkbox"/>	Not applicable to general commercial offices as proposed. These provisions are aimed at intensification of use applications for licensed and gambling premises or staged construction projects.
Part C9 Environmental Health	<input type="checkbox"/>	No food or other premises that requires registration or inspection under the Public Health Act proposed. No cooling towers, warm water system or the like proposed that would trigger any environmental health consideration.
Part C10 Amusement Machines and Centres	<input type="checkbox"/>	Not Applicable.
Part C11 Business, Commercial and ancillary uses on Residential zoned land	<input type="checkbox"/>	Not Applicable.
Part C12 Health Consulting Rooms	<input type="checkbox"/>	Not Applicable.
PART F - Advertising and Signage Controls	<input type="checkbox"/>	All signage otherwise than signage that is exempt development will be subject to relevant separate applications for development consent.
Part N2 – Finlayson Transitway Station Precinct		
Part N2.0 Desired Future Character	✓	The desired future character has been discussed in detail above. This comment will not repeat that discussion. The development will deliver fine grain retail and commercial uses, at ground floor fronting Centenary Road activating the western side of this classified road and the corner of Quinn. The residential component is achieved within core principal development standards with design quality, including CPTED, delivered through compliance with SEPP 65 and the RFDC. ESD is achieved through BASIX compliance. Internal open and private open spaces shielded by built form from traffic noise. Aesthetic quality and amenity for both occupants and the adjoining public domain are achieved by a skilful design taking on board the Urban Design feedback through the formal pre-DA process.
Part N2.1 Site consolidation	✗	See clause 4.5.2 below – No.9 Florence Street is proposed to be incorporated into the site in order to avoid that site becoming an isolated site. The DCP Objectives are better achieved by the inclusion of No.9 Florence Street as part of the site.
Part N2.2 Private Access way, Land Dedication and Vehicular Entries	✓	The proposal include the dedication of 731.21m ² of the site as public road for the extension of Quin Street to meet Florence Street being a major strategic planning objectives of the Council's. The dedication of this land

Statement of Environmental Effects

DCP Compliance Table		
Clause	Status	Comment
		delivers a significant improvement aims at the long term access through Florence Street to Rawson Road.
Part N2.3 Building Height	X	See clause 4.5.3 below the section 74(5) of the Act provides that these types of provisions are of no effect notwithstanding that the DCP Objectives will be achieved in the circumstance of this case.
Part N2.4 Building Setbacks	X	See: clause 4.5.4 below the DCP objectives achieved subject that favourable consideration should be given to the minor technical non-compliances noted. It is also noted that clause Part B, Clause 6.7 (C3) provides that articulation elements may be forward of the required building line up to a maximum of 600mm.

4.5.2 Lot Amalgamation Plan

The site owner's original LEP submission was:

"The framework clearly articulates a site consolidation pattern consistent with the site subject to this submission. Site amalgamation is required to deliver the desired future character objectives of the framework - see Figure 20 - Site Consolidation (Framework extract p.44). The only exception is No.9 Florence Street. There are no realistic short to medium term prospects that No.9 can consolidate with the existing commercial use to its north."

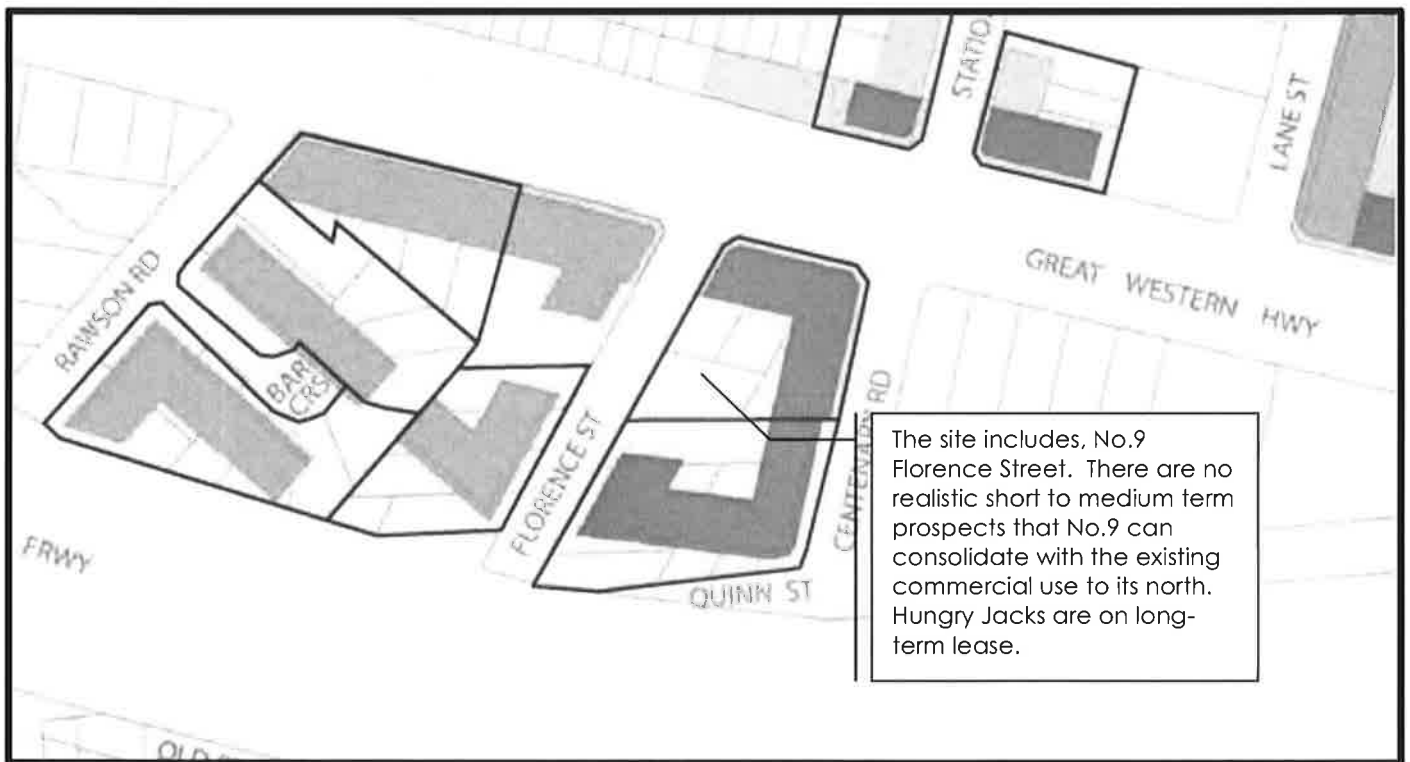


Figure 20 - Site Consolidation (Framework extract p.44)

Despite this very logical submission the DCP has adopted (Figure 13 – Lot Amalgamation Plan), an illogical Lot Amalgamation Plan. This SEE will not repeat the LEP submission but simple reinforce that the DCP adopted lot amalgamation plan makes no planning sense having proper regard to the existing lot ownership and existing use patterns within this urban block.

The strict application of the amalgamation pattern in Part N, Figure 13 of the DCP would result in the creation of an isolated site (No.9 Florence Street) rendering the DA non-compliant with DCP Part N2.1 objectives.

DCP N2.4 - Figure 18 also shows some confusion including No.9 Florence Street as part of the site.

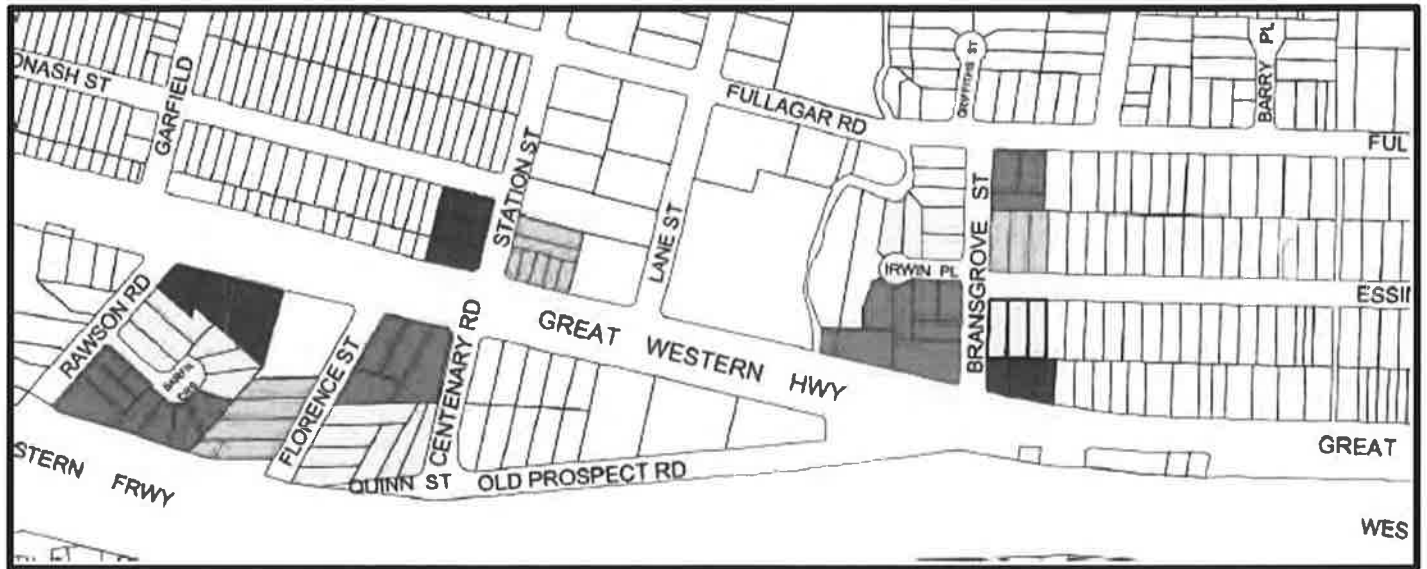


Figure 21 - Extract DCP Part N Figure 13 - Lot Amalgamation Plan

No.9 Florence Street (Lot 2 DP516861) must be included as part of the site to achieve compliance with DCP Part N2.1 objectives. The residual three lots to the north of the site have sufficient areas and frontages, with vehicular access from both Centenary Road and Florence Street to be redeveloped in compliance with the DCP.

4.5.3 DCP Inconsistency with LEP – HOB v Number of Storeys Development Control

The urban design comments at the pre-DA stage supported 8 stories on the corner of Centenary Road (Station Street) and Quinn Street. The proposal adopts this 8 Storey component as a strong reinforcing element on the corner of Centenary and Quinn.

The proposal seeks a variation to the number of storeys development control to allow 8 storeys and 7 storeys to the western section of Quinn and the Florence Street elevation. We note that the HOB in these areas is in substantial compliance with the HOB but for minor parapet breaches between 20mm and 88mm which are considered inconsequential.

This Applicant submits, consistent with the staff report to Council 16 July 2013 that:

"The Act states that a provision of a DCP has no effect where it is the same or substantially the same as a provision of an LEP that applies to the same land, or where a DCP provision is inconsistent or incompatible with a provision of an LEP." (16. Report of the Ordinary Meeting of Council 16 July 2013

The Council report essential reinforces the following provisions of the Act:

"Section 74C(5) of the Act:

- (5) A provision of a development control plan (whenever made) has no effect to the extent that:
 - (a) it is the same or substantially the same as a provision of an environmental planning instrument applying to the same land, or
 - (b) it is inconsistent or incompatible with a provision of any such instrument."

"79C(3A) Development control plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (c) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

- (d) **if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development,** and
- (e) may consider those provisions only in connection with the assessment of that development application.

In this subsection, **standards** include performance criteria."

Therefore there are two ways to demonstrate compliance:

1. The DCP provision is of no effect because it is substantially the same or inconsistent or incompatible with a provision of the LEP, or
2. Being applied in a flexible manner it has been demonstrate that the underlying objectives of the LEP and DCP have been achieved despite the numerical non-compliance.

DCP Part N – Clause 2.3 (C2) is of no effect

The number of storeys control is substantially the same as HOB in that they seek to control the building's **appropriate scale** and **height**.

Further, the DCP is incompatible and inconsistent, as whilst complying with FSR, HOB (substantially), RFDC and DCP FFL to FCL 2.7m, 8 storeys can be contained on the corner of Quinn Street and Centenary Road (Station Street).

It must be recalled that section 74(5) of the Act states (a) **or** (b). Thus whilst one might argue about (b), focusing on (a) - the LEP development standard is substantially the same as the DCP control;

Part H, Clause 2.3 of the DCP Objective 1:

"To require **appropriate scale** relationship between **building heights** and street width".

LEP Clause 4.3 objective:

"(c) to provide **appropriate scales** and intensities of development through **height controls**."

In this specific circumstance, where the FSR of the building complies, HOB is substantially compliance (fully compliance at its highest point) and floor to ceiling heights are further controlled by SEPP 65 and the RFDC and DCP are complied with in full, the rigid application of the number of storeys control in the circumstances of this site will thwart the achievement of the maximum HOB permitted under the LEP and no deliver would not deliver a better outcome.

Expressed positively, the proposal will better achieved the broader SEPP 65 (RFDC), LEP and DCP objectives by retaining the complying FSR (also substantially within the LEP HOB), within the footprints of the proposed building as an additional storey.

Expressed differently, forcing the 2.2:1 FSR to be contained with a built form 1 storey less across the site, the footprint of the building (site coverage) would be increased, producing a far less desirable, one would say poorer, environmental outcome for the site in terms of site coverage, separation and access to common open space.

It is argued that the number of storeys control is substantially the same as the HOB and inconsistent and incompatible with the HOB provisions for the site contained in the LEP.

The application demonstrates through full compliance with SEPP 65 and the RFDC that the more skilful design is to distribute the GFA attained by the FSR through the additional storey within the maximum FSR and substantially under the maximum HOB, such that narrower taller buildings are created without any additional adverse environmental or amenity impacts due to the site's juxtaposition and buffers created by major and local roads to its east, south and west.

In simple terms the additional storey contained within the site, fully compliant with the FSR development standards will result in a better environmental and urban form outcome than the same FSR constrained by one less storey across the site.

Council's report of 16 July 2013 (p.16) also states:

"A recent amendment to the Act has clarified the application of the provisions of a DCP in the assessment of development applications. It sets out that:

- where an application complies with applicable standards, that the consent authority is not to require more onerous standards with respect to that aspect of development*
- Where a development does not comply with a applicable standard, Council is to be flexible in applying the provisions and allow reasonable alternative solutions to achieve the objectives of those standards .*

This amendment highlights the importance of objectives within the DCP, to allow, where necessary the flexibility of standards, but the assurance that the objectives of such standards is still achieved."

The note to Part C1.2 (C3) provides:

"Note:

- Permitted height in storeys have been determined based on a number of assumptions including minimum floor to ceiling heights, slab thicknesses, roof heights, slope of the land, basement provision, floor level requirements for flooding. 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. A full and proper assessment including relevant controls such as floor to ceiling height, floor space ratio, flooding, amenity and character will determine the appropriate height for the specific site."*

Compliance with LEP and DCP Objectives

Returning to both LEP and DCP objectives relating to height of buildings they are achieved in the circumstances of this case:

- The visual impact of the development is acceptable (LEP 4.3 (1)(a) & DCP N(2.3)(O4))
- Solar access to all commercial and residential neighbours is unaffected (LEP 4.3 (1)(a) & DCP N(2.3)(O2))
- There are no privacy impacts at any height given the nature of adjoining uses and separation to the nearest residential properties well exceed RFDC, AMCORD and Court Planning Principles (LEP 4.3 (1)(a) & DCP N(2.3)(O2))
- The tallest element (corner of Quinn Street and Centenary Road) is at the low point of the site and seeks to reinforce the corner with a strong built form. (LEP 4.3 (1)(b) & DCP N(2.3)(O2))
- The intensity of use is governed primarily through GFA (FSR is compliant with the LEP) is satisfactory. (LEP 4.3 (1)(a&c) & DCP N(2.3)(O5))
- Street widths and orientations as well as the juxtaposition to the M4 to the south achieve N.2.3(O1 of the DCP).
- Proposed FFL to FCL at 2.7m comply with the RDC and DCP (LEP 4.3 (1)(a) & DCP N(2.3)(O3))

In short all relevant LEP and DCP objectives for height of buildings are achieved by the proposal.

The DCP figure 18 requires a 5m setback.

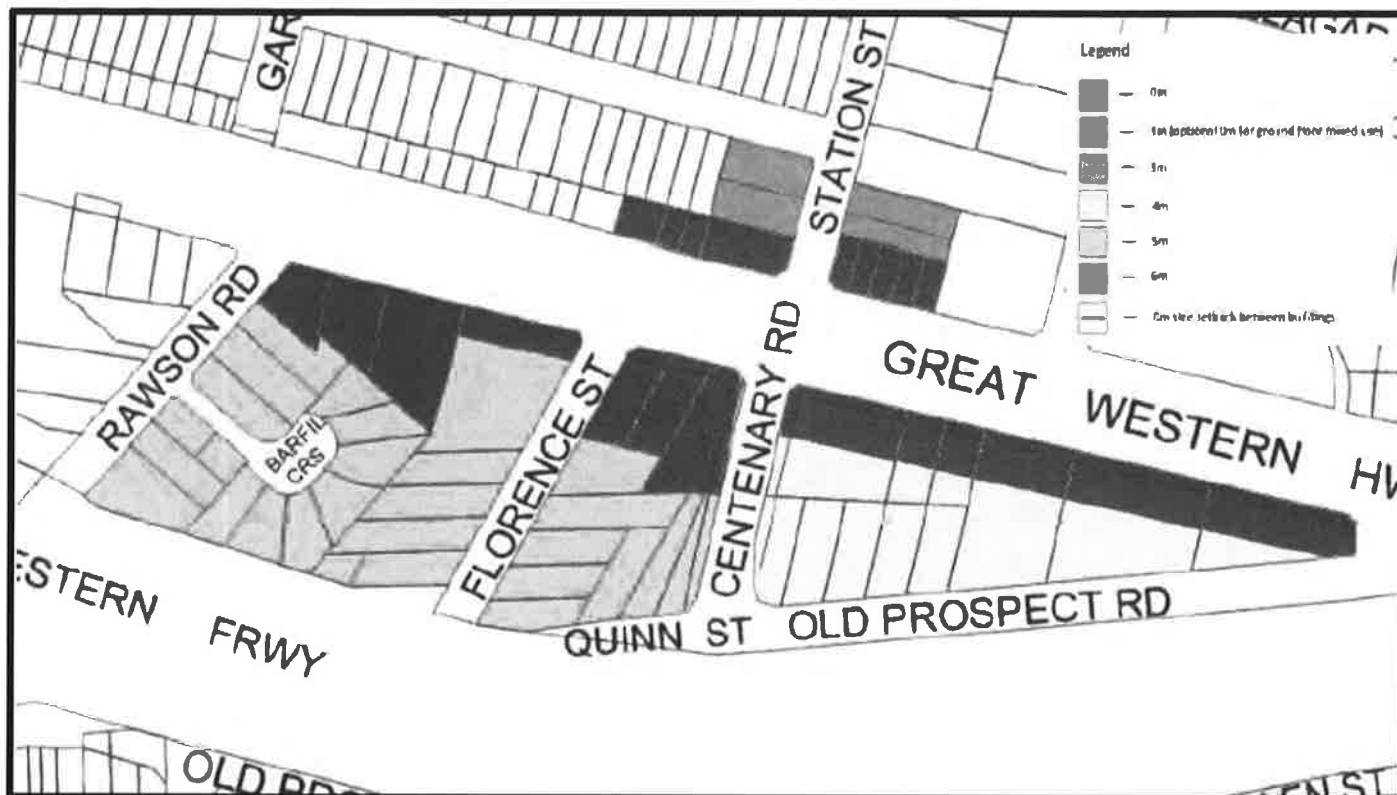


Figure 22 - Extract DCP Figure 18 Setbacks

Building A is fully compliant to Florence Street and the properties to the north. Building B complies to Florence Street at 5m. There is a proposed minimum 2.589m setback to the proposed new boundary line to Quinn Street.

Building C complies in its setback to the properties to the north of the site and proposes a 2m setback to Centenary Road for the commercial/retail levels activating the streetscape consistent with the DCP. The walls of the residential portion facing Centenary Road (Station Street) are setback 5m compliant with the DCP.

The proposed 2.589m setback to Quinn Street is less than the 5m-setback control. The 2.411m variation sought to this setback is in the circumstances of the case considered reasonable as pushing the buildings 0.411m further north would diminish internal private and communal open space, deep soils and would not significantly improve the streetscape to Quinn Street such as to justify forcing compliance with the 3m development control. The 2.589m setback provides sufficient areas for landscaping as detailed by the Landscape Plans.

The request for a variation to the front boundary setback is supported by the achievement of the Part N, Clause 2.4 Objectives:

O1. The proposed setback is well landscaped as demonstrated by Figure 23 - Extract Landscaping to New Quinn Street (Drawing LPDA 14-132/1) and the residential levels elevated above ground level as the result of the need to achieve flood freeboard levels that the setback is sufficient to provide a clear threshold and transition between public and private space.

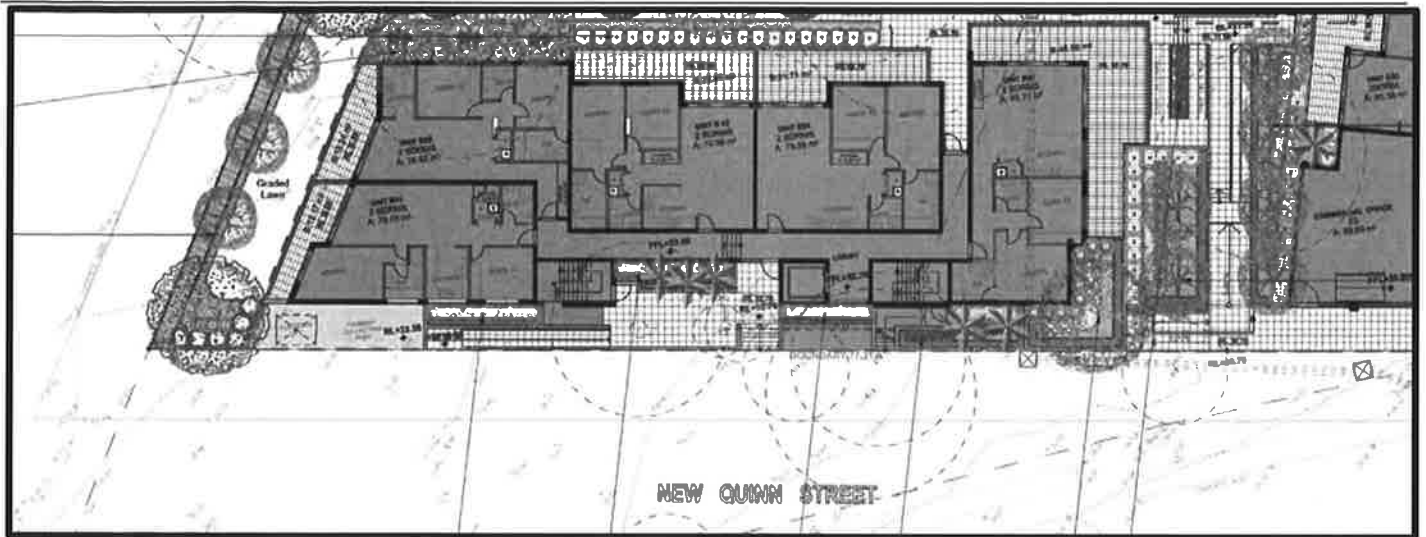


Figure 23 - Extract Landscaping to New Quinn Street (Drawing LPDA 14-132/1)

O2. Quinn Street is not a typical street in that the southern side of Quinn Street does not present an opportunity for further urban form as it is the embankment of and has sitting upon it the noise walls of the M4 Motorway. The desired spatial proportions of Quinn Street are no comparable to the proportions of Centenary Road, the main commercial retail frontage or Florence Street which acts as an appropriate transition to the lower density B6, FSR 1.8:1 HOB 20m on the western side of Florence Street. In this regard the proposal observes the 5m setback in Florence Street and Centenary Road, and only seeks flexibility in the application of the development control in Quinn Street.

O3. If commercial uses were created to Quinn Street, not seen as desirable due to the southern aspect in the shadow of the proposal itself, the permissible setback would be zero as it is a requirement to have a continuous built edge within commercial and mixed use development for activation of the street edge. In this case CPTED principles in terms of natural surveillance is created by residential activation at a proposed 2.589m setback to Quinn Street.

O4. The outcomes are equivalent to Figure 24 - Extract RFDC Figure 2.40 **Error! Reference source not found.**, when viewing the proposed residential apartments from Quinn Street. The proposed setback, fenestration design, room uses and elevation all combined to ensure that the residential apartments attain privacy.

O5. The setbacks appropriately respond to the building separation requirements because there are no building so the south and the only structures to the South are Quinn Street, the embankment, noise walls and the M4 motorway itself.

O6. The B6 zone and more specifically Quinn Street will be provided with a landscaped setback character for the residential component of this development as articulated by Figure 23 - Extract Landscaping to New Quinn Street (Drawing LPDA 14-132/1).

In conclusion, the flexible application of the 5m setback control in the DCP is reasonably applied in the specific circumstances Quinn Street as there are no adverse environmental impacts arising and increase the setback to 5m would not make any significant improvement, but would detrimentally impact upon the north facing areas of internal communal and private open space and the RFDC compliant separation that has been achieved between Building B and other buildings within the site.

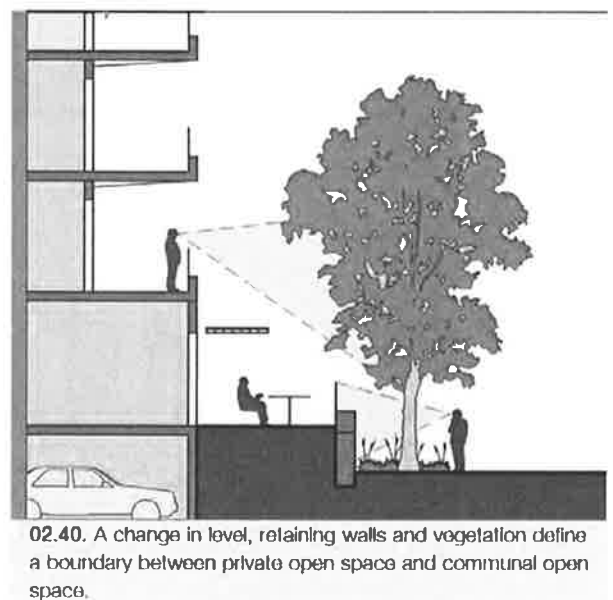


Figure 24 - Extract RFDC Figure 2.40

4.6 Holroyd Section 94 Contributions Plan 2013 (Contributions Plan)

Statement of Environmental Effects

The new Holroyd Section 94 Contributions Plan commenced on 5 August 2013. The site is located within the South Wentworthville Centre.

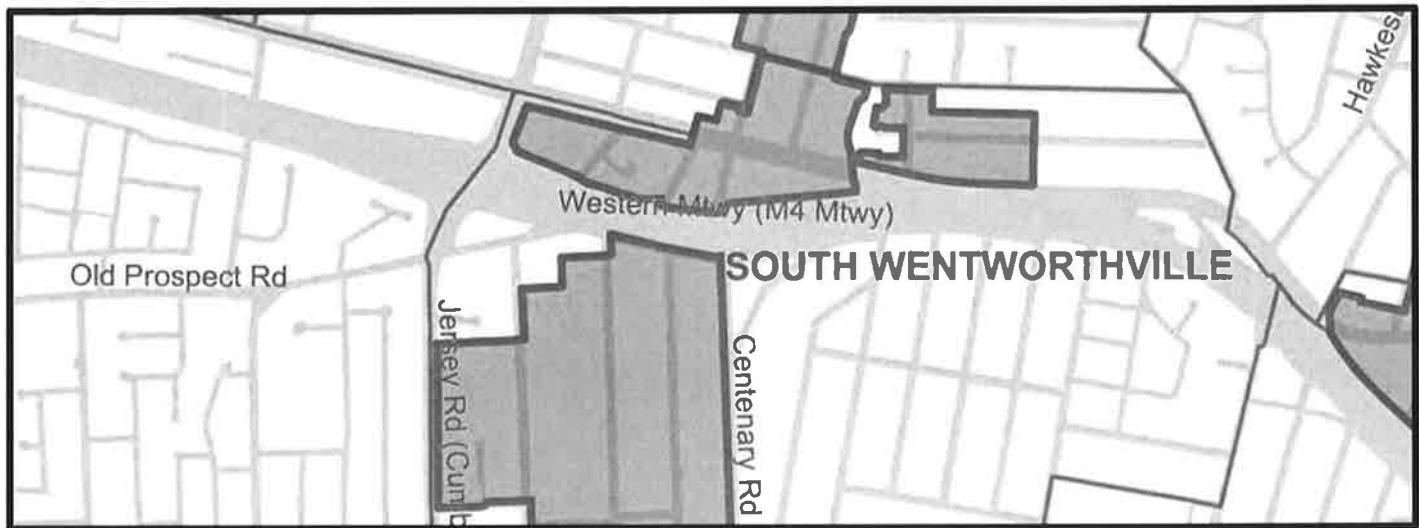


Figure 25 – Extract Contributions Plan Figure 2

Contributions Plan Figure 4, Proposed works – Traffic Transport & Parking, demonstrates that the new Quinn Street extension and associated road works as well as public domain works (Contributions Plan - Figure 3) are works subject to the Contributions Plan. The Quinn Street extension and associated works are specifically proposed as TSW05 under the Contributions Plan. At page 79 of the Contribution Plan the new road from Barfil Crescent to Centenary Road is noted as follows:

TSW05	South Wentworthville	New road - Barfil Crescent - Centenary Road	1421	\$780,000	\$175,000	100%	\$955,000	\$0	Low	\$0	\$955,000
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In summary, the extension to Quinn Street is planned to be funded from \$780,000 in section 94 contributions and \$175,000 with the full length of the new road to Barfil estimate to costs \$955,000.

The Contribution Plan's Consolidated Schedule of Land Dedications (at page 85) provides:

TSW01	South Wentworthville	Between Barfil Crescent & Centenary Road	New road connecting Barfil Crescent, Florence Street and Centenary Road	1421.19	N/A
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Note: The Contribution Plan's Consolidated Schedule of Land Dedications reference to TSW01 (Additional Pedestrian Crossing Great Western Hwy) appears to be an error and the correct reference would appear to be TSW05 (New Road – Barfil Crescent – Centenary Road).

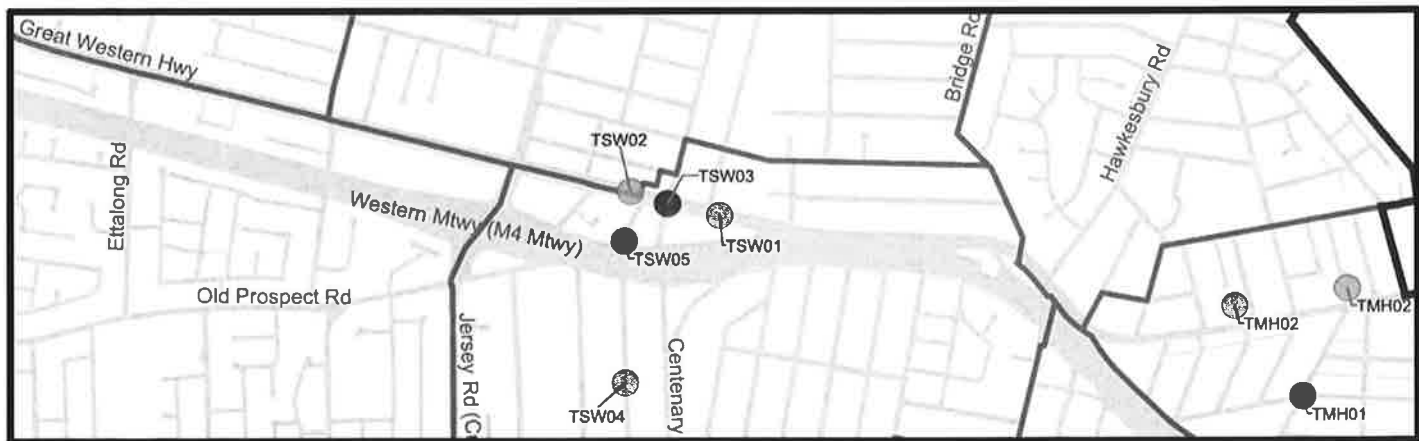


Figure 26 - Extract Contributions Plan Figure 4 – Proposed Works - Traffic, Transport & Parking

The proposal is to dedicate the land necessary for Council to build the road as funded by the section 94 contributions. There have been no discussions between the Council and the applicant regarding any potential Voluntary Planning Agreement.

Statement of Environmental Effects

On this basis the application proposes to dedicate the land as necessary for the extension of Quinn Street to Florence Street and Council will have to design and construct the new road funded, as planned, from section 94 contributions under Holroyd Section 94 Contributions Plan as commenced on 5 August 2013.

5 Likely Impacts of the Proposal

In summary, the critical potential impacts are considered to be:

Nature of Impact	Impact
Traffic	Negligible – Refer to Traffic Engineering Report , the service level at the intersection of Florence Street with the Great Western Highway will remain at A and the service level at the intersection of Quinn Street and Centenary road will remain at B. There are no unsatisfactory traffic impacts.
Parking	Negligible - Refer to Traffic Engineering Report, onsite parking at satisfactory rates will be provided to service the demands created by the development including visitor and residential parking.
Solar Access	Minor – Whilst it is acknowledge that the shadow cast by the proposal will be significant given the proposal will attain a HOB of 26m, as planned for by the LEP provisions, the shadows will fall upon Roads and an electricity sub-station and will have no impact upon the amenity of any residential property, commercial property, public or private open space.
Noise	Negligible – The primary noise sources are the M4 Motorway, Centenary Road and to a very much lesser extent, Florence and Quinn Streets. An Acoustic Assessment has accompanied the application and Part 4 of that assessment details the acoustic building attributes required to ensure that compliance can be achieved with the ISEPP and the Development Near Rail Corridors and Busy Roads – Interim Guideline ISBN 978-0-7347-5504-9. © The State Government of NSW through the Department of Planning 2008, DoP 08_048. It is expected that these requirements will form conditions of development consent.

Impact Assessment Methodology

1. **Negligible** – Insignificant, tiny, slight, unimportant, trifling, petty
2. **Minor** – Inconsequential, small, inconsiderable, marginal, low in severity
3. **Moderate** – Reasonable, modest, sensible, restrained, judicious, temperate, fair, mild, rational, measured.
4. **Severe** – Stark, harsh, extremely unpleasant, upsetting
5. **Devastating** – Shocking, disturbing, distressing, shattering, damaging

Note: The merit determination of impacts undertaken seeks to take a dispassionate view of the impacts. There will be disagreements about the weight given to such assessments by those who perceive any adverse impacts as the result of the proposal.



**Exceptions to development standard (HOB)
Project No.106**

Client: Bramston Properties Pty Ltd

**The Site: 19,21,23 Quinn Street and
1,3,5,7,9 Florence Street
South Wentworthville**

Date: Monday, 25 November 2013

Contents

1. Executive Summary	1
2. The Site	1
3. Proposed Development.....	2
4. Methodology	2
5. Objection	3
5.1 Name of the environmental planning instrument.....	4
5.2 Zone	4
5.3 Zone Objectives.....	4
5.4 The Development Standard.....	5
5.5 Development Standards	5
5.6 Objectives of Development Standards	5
5.7 Numeric Value	5
5.8 Proposed Numeric Value.....	6
5.9 Percentage Variation Sought.....	7
5.10 Objectives - Section 5(a)(i) and (ii) of the Act.	7
5.11 Strict compliance with the development standard is unreasonable or unnecessary .7	
5.11.1 There are sufficient environmental planning grounds to justify contravening the development standard	8
5.12 Performance based development standards.....	9
6. Assumed Concurrence.....	9
7. Summary.....	10

1. Executive Summary

This objection is to the development standard relating to the maximum Height of Building (HOB) under clause 4.3 Height of buildings of *Holroyd Local Environmental Plan 2013* (LEP), in circumstances where strict compliance with HOB would, in this particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Environmental Planning and Assessment Act 1979 (EPA Act).

The proposal complies with the maximum Floor Space Ratio (FSR). Gross Floor Area (GFA) within the FSR limit (2.2:1) has been redistributed by the design within HOB primarily within the northern end of Building C that would exceed HOB by a half storey. The same GFA could have been redistributed within the site but that would result in larger building footprints, reducing deep soil areas, and resulting in less communal open space and reduced setbacks between buildings within the site.

SEPP 65 and the RFDC acknowledge that it is desirable to maintain as much deep soil, communal open space, solar access and ventilation around and through buildings by maximising separation. The proposal will achieve these legitimate objectives.

Having articulated the broad reasons why compliance with HOB would, in this particular case, be unreasonable and unnecessary and tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the EPA Act, and whilst acknowledging that the absence of environmental harm in of itself cannot sustain an objection to a development standard, it is noted that the environmental outcomes are better than a development that would redistribute GFA within the FSR limit within the site under the HOB within the LEP.

The very insignificant exceedance of the HOB only increases overshadowing that falls outside the site upon a large electricity substation complex to the south-east (from Building C and only in the late PM) and upon Quinn Street and the M4 Freeway to the south (from Building B).

In simple terms the proposal achieves a better outcome in satisfaction of the LEP and DCP objectives whilst having no adverse environmental impacts upon any neighbour or the public domain due to its orientation and juxtaposition to the utility facilities and with major roads to its east and south. It is also buffered to its west by Florence Street, a zone boundary.

The proposal will not effect planning change that ought reasonably occur under Part 3 of the EPA Act given the unique circumstance of the site and the proposal.

The Council are encouraged to support this objection to the HOB development standard to the extent necessary to allow it to undertake a full merit assessment of the proposal under section 79C of the EPA Act and report to the Joint Regional Planning Panel.

2. The Site

The site is 19, 21 and 23 Quinn Street and 1,3,5,7 and 9 Florence Street, South Wentworthville, being 8 Torrens title lots as identified in full by clause 2 of the Statement of Environmental Effects, a site area of 6,126.61m².

Current residents have acknowledged the desired future character of the area is for a high-density redevelopment. They no longer support retention of their individual properties as single dwelling houses and are behind this proposal. They all support the application and this objection to the development standard on the basis that it will allow the site to be redeveloped. They are the only residential properties that would be adversely impacted by the proposal (they are part of the site).

3. Proposed Development

The proposal is a mixed-use development containing ground floor commercial uses to Centenary Road (also known as Station Street) and 154 apartments, above basement parking and storage as bound by Quinn Street (to be extended) and Florence Street.

The urban design seeks to create a large area of communal open space in the centre of the site by maximising the deep soil area. Put another way, GFA has been distributed in some additional height primarily in Building C to limit the footprint area, thereby increasing deep soil, communal open space and separation.

NUMERICAL OVERVIEW OF PROPOSED DEVELOPMENT	
COMPONENT	PROPOSED
Site Area	6,126.81
Area ceded to Quinn St	731.21
Usable area	5,395.40
Total FSR (m ²)	2.19 :1
Total GFA (m ²)	13,478.54
Residential GFA (m ²)	12,907.26
Commercial GFA (m ²)	536.99
Total No. of Residential Units	154
Building Height	7 & 8 Storeys
Deep Soil Area	1596.01 29.58%
No. Car parking Spaces	212
No. Bicycles Spaces	100

A key strategic planning outcome for this Transitway Precinct is the dedication of 731.21m² of the site to allow the Council to extend Quinn Street to meet Florence Street.

It is submitted that the proposal delivers LEP and DCP objectives not least a significant contribution in the public interest with the dedication of 731.21m² of the site to allow the Council to extend Quinn Street extension delivering better internal amenity outcomes (consistent with SEPP 65 –RFDC) whilst have no external impacts upon neighbours or the public domain.

The clause 4.6 objection to HOB arises as GFA is redistributed in reducing the building footprint resulting in the need for this clause 4.6 objection to HOB, but does so wholly within the maximum GFA determined by the FSR for the site.

4. Methodology

It has been established by a series of decisions in the Land and Environment Court that generally in order to maintain an objection that compliance with a standard is unreasonable or unnecessary, it is first necessary to discern the underlying object or purpose of the standard.

To found an objection it is then necessary to be satisfied that compliance with the standard is unnecessary or unreasonable in the circumstances of the case. Although the court has urged a generous application of SEPP No. 1 and has repeatedly declined to attempt exhaustively to define the limits of the dispensing power and, in particular, what is embraced by the expression "circumstances of the case", it is now established that it is not sufficient merely to point to what is described as an absence of environmental harm to found an objection (cf *Wehbe v Pittwater*, *Memel Holdings* etc.).

Furthermore, the objection is not advanced by an opinion that the development standard is inappropriate in respect of a particular zoning. In *Wehbe v Pittwater Council* [2007] NSWLEC 827 Preston CJ is very clear where he says:

"An objection would not be well founded by an opinion that the development standard is inappropriate in respect of a particular zoning (the consent authority must assume that standard has a purpose)."

Therefore, it is now established that although the discretion conferred by SEPP No. 1 (clause 4.6 equivalent) is not to be given a restricted meaning and its application is not to be

confined to those limits set by other tribunals in respect of other legislation, it is not to be used as a means to effect general planning changes throughout a municipality such as are contemplated by the plan making procedures set out in Part 3 of the *Environmental Planning and Assessment Act 1979*.

Again Preston CJ confirms this when he states in *Wehbe* that:

"The dispensing power under SEPP 1 also is not a general planning power to be used as an alternative to the plan making power under Part 3 of the Act."

See also *Hooker Corporation Pty Limited v Hornsby Shire Council* (NSWLEC, 2 June 1986, unreported).

Objections must therefore justify the departure from a development standard having regard to the above principles. In *Winton Property Group Limited v North Sydney Council* (2001) NSW LEC 46 (6 April 2001) it was established that in order to apply the principles of the Hooker case five (5) questions should be asked. These questions form the basis of this process.

5. Objection

This SEPP 1 applies the guidelines under SEPP 1 and Clause 4.6 of the Standard Instrument LEP, "*Varying development standards: a guide*", published by the NSW Department of Planning and Infrastructure (DoPI) dated August 2011.

The DoPI guidelines require that the following questions be answered:

1. What is the name of the environmental planning instrument that applies to the land?
2. What is the zoning of the land?
3. What are the objectives of the zone?
4. What is the development standard being varied? e.g. FSR, height, lot size
5. Under what clause is the development standard listed in the environmental planning instrument?
6. What are the objectives of the development standard?
7. What is the numeric value of the development standard in the environmental planning instrument?
8. What is proposed numeric value of the development standard in your development application?
9. What is the percentage variation (between your proposal and the environmental planning instrument)?
10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?
11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act. Note: If more than one development standard is varied, an application will be needed for each variation (e.g. FSR and height).
12. Is the development standard a performance-based control? Give details.
13. Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary? Why?

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

5.1 Name of the environmental planning instrument

Holroyd Local Environmental Plan 2013

5.2 Zone

The current zone is B6 Enterprise Corridor under the LEP.

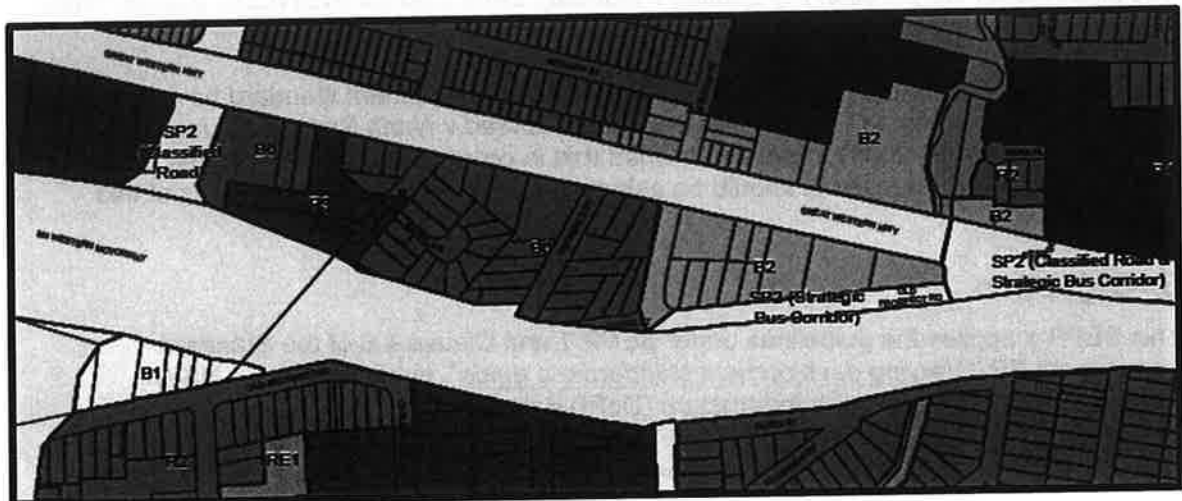


Figure 1 - Extract LEP Zoning Map

5.3 Zone Objectives

Zone B6 Enterprise Corridor

1 Objectives of zone

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses).
- To maintain the economic strength of centres by limiting retailing activity.
- To provide for residential uses, but only as part of a mixed-use development.

2 Permitted without consent

Nil

3 Permitted with consent

Boarding houses; Bulky goods premises; Business premises; Community facilities; Food and drink premises; Garden centres; Group homes; Hardware and building supplies; Hostels; Hotel or motel accommodation; Landscaping material supplies; Light industries; Multi dwelling housing; Neighbourhood shops; Passenger transport facilities; Plant nurseries; Residential flat buildings; Roads; Shop top housing; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4 [Underlining notes relevant permissible uses subject to this DA]

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Home occupations (sex services); Industrial retail outlets; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Resource recovery facilities; Restricted premises; Rural industries; Sewage treatment plants; Sex services premises; Storage premises; Truck depots; Vehicle body repair workshops; Veterinary hospitals; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities

5.4 The Development Standard

The development standard in contention is *Holroyd Local Environmental Plan 2013. (LEP)*

5.5 Development Standards

The HOB provision is contained at clause 4.3 Height of buildings of the LEP.

5.6 Objectives of Development Standards

“4.3 Height of buildings

(1) The objectives of this clause are as follows:

- (a) to minimise the visual impact of development and ensure sufficient solar access and privacy for neighbouring properties,
- (b) to ensure development is consistent with the landform,
- (c) to provide appropriate scales and intensities of development through height controls.”

5.7 Numeric Value

The numeric development standards for HOB applying to the site are twofold 23m and 26m as detailed by the following LEP Map extract.

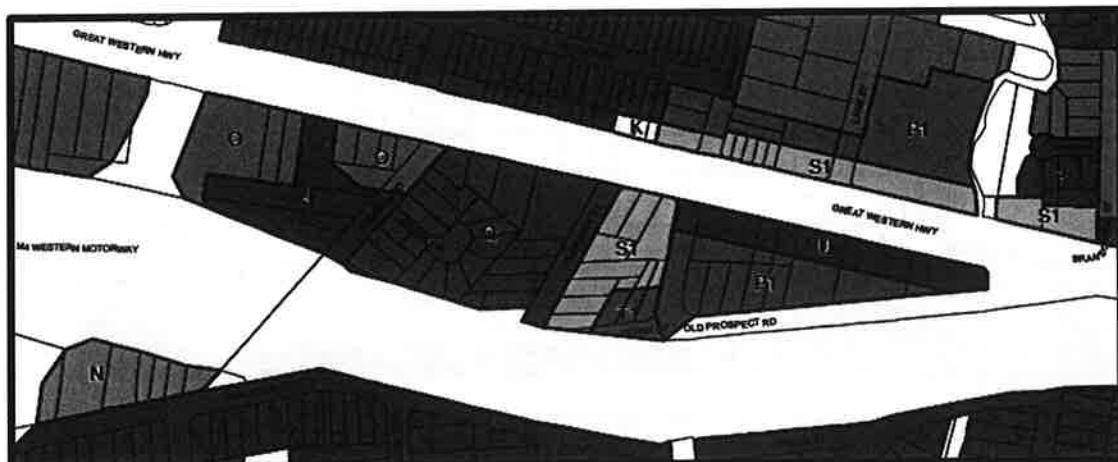


Figure 2 - Extract LEP HOB Map – HOB (S1) 23m and (T1) 26m

5.8 Proposed Numeric Value

The extent of the exceedance of the HOB is shown on the following diagrams. The HOB is exceeded by a maximum of 2m at one point, but predominantly significantly less.

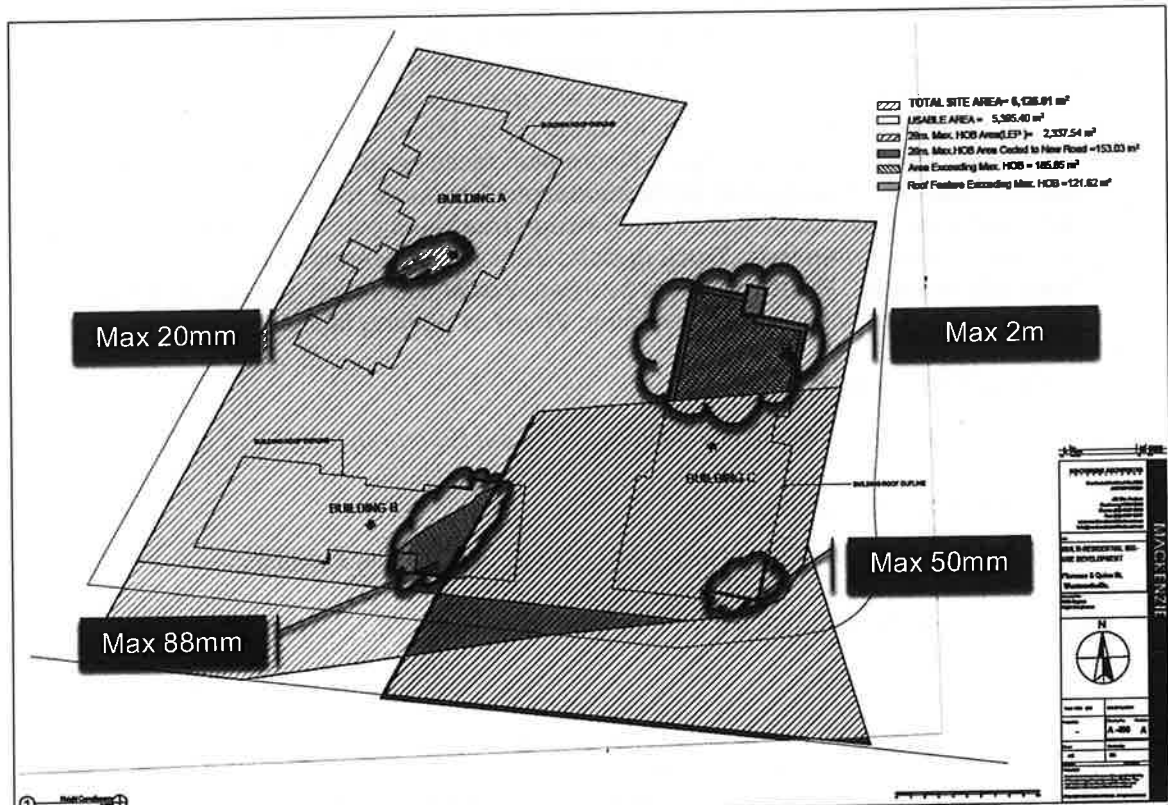


Figure 3 - Plan view showing areas of Building B & C above HOB

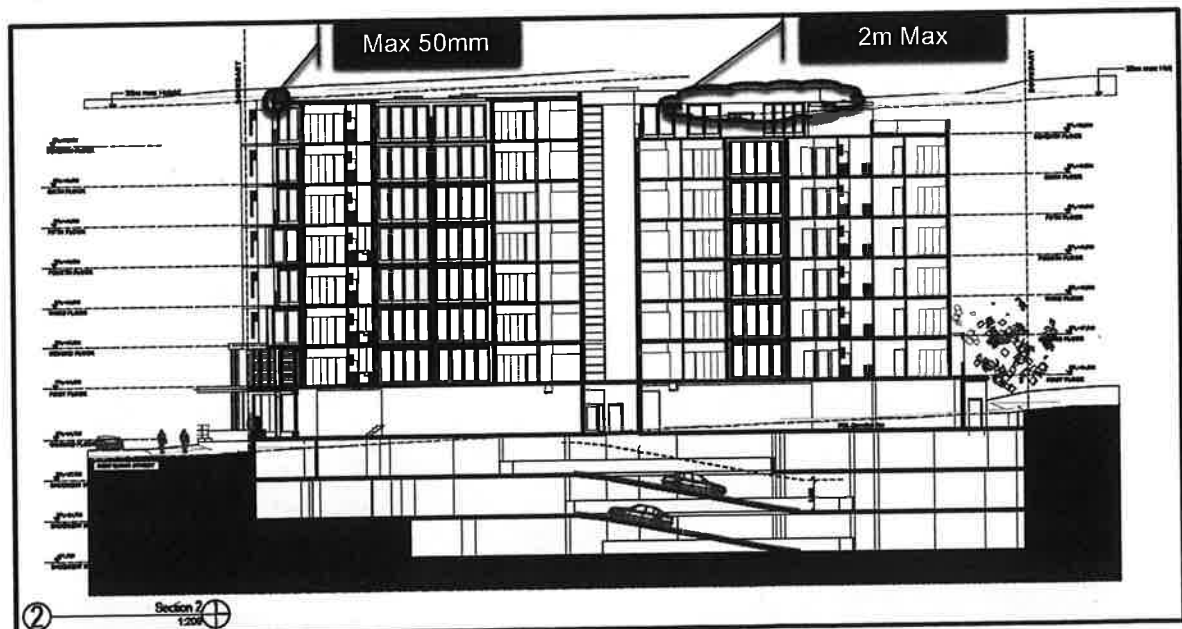


Figure 4 - Sectional View Building C area above HOB

The exceedances of the HOB in order of significances are:

1. The exceedance of the 23m HOB at a single point by a 2m maximum but predominantly, and significantly, less than 2m as shown in the cross sections submitted with the application and as follows;
 - a. North west=745mm
 - b. North east =1682mm
 - c. South west=1470mm
 - d. South east=2000mm
2. The exceedance of the 23m HOB by 0.088 (88mm) above Finished Ceiling Level on the southeastern corner of building B, and lift overrun.
3. The exceedance of 26m HOB by 0.050m (50mm) on the corner of Centenary and Quinn, this minor exceedance (less than 50mm) is the roof feature above unit C65 balcony.
4. The exceedance of the 23m HOB by less than 0.020 (20mm) Building A

5.9 Percentage Variation Sought

The maximum variation, at only 1 point, is 2m above the 23m HOB equating to an 8.7% point encroachment above the 23m. It must be reinforced that in plan view it is calculated that all exceedances of the HOB total less than 3% of the total site area. That is a maximum 8.7% for less than 0.01% of the site area.

5.10 Objectives - Section 5(a)(i) and (ii) of the Act.

The objects in s 5(a)(i) and (ii) of the Act are to encourage:

“(1) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

(2) the promotion and coordination of the orderly and economic use of developed land.”

The proposal achieves the objectives:

1. It is zoned to permit mixed use development
2. It meeting the broader public interest in job and housing supply.
3. It creates *Diverse housing* as defined by the LEP.
4. It is consistent with the Council's treatment of other anomalous and rare circumstances, in this case its juxtaposition to the M4 to the south, Great Western Highway to the north, Centenary Road, all classified roads as well as Florence Street to the west.
5. It contributes to diverse range of housing and to ensure the orderly and economic use and development of residential land.

5.11 Strict compliance with the development standard is unreasonable or unnecessary

In the circumstance of this case the proposal has been designed to fully comply with the FSR, the primary determinate of the building's final bulk and scale.

The application of the pure numerical development standard is unreasonable and unnecessary in the circumstance of this case. The 5-part test has been applied below.

5.11.1 There are sufficient environmental planning grounds to justify contravening the development standard

In (Wehbe v Pittwater Council [2007] NSWLEC 827), Preston CJ expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. the objectives of the standard are achieved notwithstanding noncompliance with the standard;

Submission: The aims and objectives of clause 4.6 of the LEP are achieved as follow;

- (a) the proposal is an excellent urban design specifically designed to ensure that its is well articulated by form and materials such that its visual impacts will make appositve contribution to the locality and set a benchmark in terms of achieving these desired future character of the B6 zone. The proposal will have no impacts upon any adjoining residential property in terms of overshadowing or over looking. The proposal, including the redistribution of GFA within a very modest increase (point encroachments less than half a storey maximum) above the HOB, will improve deep soil, solar access and separation within the site better achieving SEPP 65 and RFDC aims objectives and rule of thumb.
- (b) The proposal is consistent with the land form with the higher 26m HOB on the corner of Centenary and Quinn maintained and Building C tapering as Centenary Road increases in grade towards the intersection of the Great Western Highway. The same outcome is achieved on Quinn Street to retain the highest built form outcome on the corner of Quinn and Centenary as per the intention of the LEP, being to reinforce the built form on the corner.
- (c) The element that breaches the 23m HOB is less than half a storey, the scale and intensity of the proposal meets the desired future character objectives utilising the topography rather than a stepped building form to achieve the desired future character.

These development standard objectives having been achieved the objection is well founded on satisfaction of the objectives alone.

2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

Submission: The underlying objective or purpose of the standard is relevant and noted as achieved above.

3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

Submission: It is possible to redesign the building distributing the complying GFA under the 2:1 FSR is a shorter fatter built form. A shorter fatter built form will have not discernable external benefits but would reduce deep soil within the site, increase building footprints, reduce separation, reduce solar access and not only thwart the development standard objectives but thwart SEPP 65 and RFDC objectives. In short, forcing compliance with the HOB would result in a worse environmental outcome.

4. the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

Submission: The development standard has not been abandoned and supporting this clause 4.6 submission cannot be seen to undermine or to abandon the LEP HOB as there are no other sites that have all of the following attributes:

- (a) have no adverse impacts (solar and privacy being key objectives) upon any other neighbours as a result of the variation
- (b) the proposal would only overshadow the M4 and other classified road and an electricity substation
- (c) the site is within 200m of the Transitway on Old Prospect Road.
- (d) the site is lower than the M4 freeway

This proposal cannot be reasonably used by others as a precedence unless they could demonstrate that such other proposal meets possesses the same site attributes.

- 5. compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

Submission: The land is appropriately placed in the B6 zone, but in addition its unique circumstances, including its juxtaposition to bounding roads, its contribution to the extension of Quinn Street meeting important Strategic Planning objectives of the LEP and DCP, its topography and colocation with the Transitway; the site will consolidate 8 single dwelling house to create 154 apartments specifically achieving the aims clause 1.2(2)(d) Aims of Plan of the LEP, in particular *"to concentrate intensive land uses, increased housing density and trip-generating activities in close proximity to centres and major public transport nodes in order to retain the low-density character of other areas"*.

In short, this site is but one, of very few sites, in the Sydney region that can sustain significant increases in HOB and FSR with no discernable adverse environmental impacts upon any of its neighbours.

5.12 Performance based development standards

The development standard proposed to be varied is not performance-based, the development standard is a numerical standard.

6. Assumed Concurrence

In regard to the assumed concurrence of the Director General I rely upon:

- 1. PS 08-003 - Department of Planning
- 2. Varying Development Standards: A Guide August 2001 - NSW Department of Planning & Infrastructure.

The Joint Regional Planning Panel (JRPP) as the relevant consent authority have assumed concurrence. The extent of the variation being a maximum 8.7% at one point, it is less than 10%, being an accepted threshold within which objections to development standards may be more appropriately sustained.

7. Summary

It is submitted that:

1. The objection is well founded and the LEP's aims and objectives achieved with a better outcome than compliance with the HOB would otherwise achieve (rather than compliance with HOB would thwart the achievement of the LEP objectives).
2. Supporting the objection and allowing a merit consideration of the proposal is consistent with the aims of s 5(a)(i) and (ii) of the EPA Act,
3. The non-compliance does not raise any matter of State or regional significance.
4. There is no public benefit maintaining the developments standards in the circumstances of this case.

Upholding the objection is a precondition which must be satisfied before the proposed development can be considered on the merits: *Winten Property Group Ltd v North Sydney Council* (2001) 130 LGERA 79 at 87-88 [19], 90 [29], 92 [44]-93 [45].

The Council should uphold the SEPP 1 objection and proceed to a consideration of the application upon the merits and report the application to the JRPP for determination. This objection under clause 4.6 of the LEP applies the "Varying development standards: a guide", published by the NSW Department of Planning and Infrastructure (DoPI) dated August 2011.

Conclusion

The worst case HOB is 2m above the 23m HOB at a single point on the southeastern corner of unit C63 bedroom 2 (a 8.7% variation at this point). Other variations are 88mm (Building B, 50mm (Building C) and less than 20mm (Building A), all considered so insignificant that unless plotted using CAD they may not have been disclosed.

The objectives of clause 4.6 of the LEP are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

In the context of the design and urban design outcomes achieved the objectives of LEP and the HOB Development Standard are better achieved by the proposal such that this clause 4.6 objection to the HOB development standard should be accepted permitting a merit assessment and determination under section 79C of the EPA Act.

Yours faithfully,



Brett Daintry, MPIA, MAIBS, MEHA
Director
Daintry Associates Pty Ltd