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The General Manager
Holroyd City Council
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**DA2014/427 – Affordable housing mixed use development
148-150 Great Western Hwy, Westmead
Local character assessment**

DA2014/427 was submitted to Holroyd City Council by St George Community Housing (SGCH) on 25/09/14 for a “mixed use” development comprising two uses:

- Residential flat building with 72 units;
- Community facility of 59m² on the ground floor.

Following review of the DA by the Western Sydney Joint Regional Planning Panel, Council issued a letter on 30/01/15 requesting further information on a range of matters to enable further assessment of the development.

This letter provides information addressing item 1(v) of Council’s letter which is:

Council’s desired future character of the area is to promote commercial activities on the ground floor of the sites facing the Great Western Highway incorporating a nil setback to activate the street frontage. The proposed development does not strictly adhere to Council’s desired future character. A detailed statement as to why Council should support the development as proposed shall be submitted. Please note that Council cannot consent to the development unless it has taken into consideration whether the design of the development is compatible with the character of the local area as per Clause 16(a) of the ARH SEPP 2009.

This letter does not seek to repeat the assessment of compatibility of the built form of the development with the character of the local area that was provided at pages 16-17 of the Statement of Environmental Effects (SEE) and in Attachment 3 to the SEE (DCP Compliance Table). Rather, it addresses the compatibility of the proposed mix of uses which is the focus of Council’s current request.

Considerable care is required in identifying suitable “commercial activities” in an accessible but out-of-centre location such as this. If the extent or type of non-residential floorspace exceeds or does not match market demand, there is the strong risk that the space will remain vacant. This would have a highly counterproductive effect by creating territorially ambiguous space with poor surveillance that would be prone to graffiti and vandalism, thus driving away street level activity - the exact opposite of the objective of the mixed use requirement. Nothing kills street activation more effectively than vacant shopfronts and SGCH is determined to avoid this risk.

Modified proposal

In response to comments by the JRPP and Council, the design has been modified to incorporate non-residential uses along the entire Highway frontage of the site and partly on the Broxbourne St frontage. This has been achieved by:

- Expanding the community facility to also encompass the area formerly occupied by Unit 30;
- Converting the area occupied by Unit 29 into additional community facility space;
- Reconfiguring the three remaining two-bedroom units into live/work units comprising 30m² of business floorspace fronting the Highway and an inter-connected studio unit behind.

As a result of these changes, the amount of non-residential floorspace has increased nearly five-fold from 59m² to 279m² and now extends along the whole of the Highway frontage and part of the Broxbourne St frontage.

In addition, the canopy over the entry has been extended to reinforce the entry's function and outdoor seating is provided in front of the building to facilitate informal social interaction.

The community facility space will be utilised by SGCH as outlined in the SEE and consistent with the following definition of community facility in Holroyd LEP 2013 (HLEP2013):

community facility means a building or place:

(a) owned or controlled by a public authority or non-profit community organisation, and

(b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

It will be owned, controlled and managed by SGCH (a non-profit community organisation) for purposes promoting the physical, social, cultural or intellectual development or welfare of the residents of the building and SGCH tenants from the wider community. The activities and programs that will be run from the facility are currently being developed but are expected to include:

- Skills development seminars and workshops on topics such as IT, social media, language, parenting, volunteering and job seeking;
- Meetings of resident social clubs and committees such as hobby groups, book clubs and resident representative committees;
- Social and cultural events;
- Tenancy and facility management.

The different size community facility spaces provide flexibility in the type of functions and activities which can be accommodated and for the possibility of Council-initiated community activities in conjunction with SGCH activities.

The home business spaces will be utilised in accordance with the following HLEP2013 definition:

home business means a business that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:

(a) the employment of more than 2 persons other than those residents, or

(b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or

(c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or

(d) the exhibition of any signage (other than a business identification sign), or

(e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

Under Clause 5.4 of HLEP2013, the business floorspace of a home business is limited to 30m². This standard is excluded from Clause 4.6 (Exceptions to Development Standards) and therefore is unable to be exceeded.

Continued application of ARHSEPP

Council has previously questioned whether the development might comprise “shop top housing” and thereby would be excluded from the operation of *SEPP (Affordable Rental Housing) 2009* (ARHSEPP).

ARHSEPP confers two substantial benefits on affordable housing projects:

- 0.5:1 FSR bonus in addition to the existing FSR standard of the LEP;
- Non-refusable development standards (most importantly, car parking and dwelling size).

These benefits are fundamental to the success of this project, so it is crucial that ARHSEPP continue to apply.

If the ground floor was utilised for *retail premises* or *business premises*, the development might be classified as “shop top housing” defined in HLEP2013 as:

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

Division 1 of ARHSEPP (Infill Affordable Housing) applies exclusively to three particular types of residential accommodation and to no other uses:

- Dual occupancies;
- Multi-dwelling housing;
- Residential flat buildings.

Shop top housing is a specific land use in its own right and is not one of the three specific uses to which ARHSEPP applies. If the ground floor was utilised for retail premises or business premises and the development became classified as shop top housing, ARHSEPP would cease to apply. The project would then be limited to a FSR of 1.8:1 and Council’s full suite of development controls for conventional private market housing would apply. Under these circumstances, the provision of affordable housing on this ideally located but expensive site would become non-viable and the opportunity to achieve the associated social and economic benefits would be lost.

The modified proposal avoids the risk of the project being classified “shop top housing” because both “home business” and “community facility” are separate land uses to “retail premises” and “business premises”. A mixed use building comprising residential flat building, home business and community facility therefore cannot be shop top housing.

While the modified proposal results in the loss of 3 valuable units of affordable housing (2 converted to community facilities and 1 converted to a live/work unit that will be privately sold), thus diminishing the supply of affordable housing from 48 units to 45, it at least avoids the total loss of all affordable housing which would result from the project being characterised as “shop top housing”.

Satisfaction of planning objectives

HLEP2013 identifies the following objectives for the B6 Enterprise Corridor 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.*

The following land uses are permitted with consent in the B6 zone:

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

The following land uses are prohibited in the B6 zone:

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.

The objectives of the zone are internally contradictory and also partly contradict the land use table.

On face value, the first two objectives are contradicted by the third which is an important objective given the site's close proximity to Parramatta regional centre which is being promoted by metropolitan strategy as Sydney's second CBD.

The promotion of office uses by the second objective is inoperable, as office premises (being a species of the prohibited use "commercial premises") are prohibited in the zone. This prohibition is sensible given that offices extending along the Highway would damage the metropolitan objective of focussing office employment in the most accessible location, Parramatta CBD.

Retail premises are also a species of *commercial premises* and therefore are generally prohibited - except for the specific types of retail premises listed as permitted in the zone.

Given that general retail uses are prohibited and retail is discouraged by the third objective, and office premises are excluded by the land use table, the range of uses which might realistically (and legally) be established in conjunction with residential uses as part of the mixed use development referred to in the fourth objective are very limited.

The land-extensive retail uses permitted in the B6 zone are the traditional mainstays of an enterprise corridor zone - *bulky goods premises, garden centres; hardware and building supplies; landscaping material supplies; plant nurseries; timber yards; vehicle sales or hire premises*. But these not compatible with residential use nor encouraging of pedestrian activity at street level.

The only other type of shop permitted is "neighbourhood shop" which is restricted by Clause 5.4 of HLEP2013 to a maximum retail floor area of 100m² (about one-third of the amount of non-residential floorspace now proposed). This use is analogous to the traditional corner store selling a range of daily convenience items. The convenience store in the service station directly across the road from the site already performs this function and would limit the viability or benefit of such a use on the site.

Business premises are also permissible but these are specialty uses typically found in shopping centres where they are supported by retail shops with high turnover. It is unrealistic to expect that such uses could operate viably in an out-of-centre location such as this where supportive retail uses are restricted by both the zone objectives and the land use table.

Food and drink premises are permissible but again, operate most effectively in centres where they can play a valuable role in activating the centre after hours. Care is required in the design, siting and management of food and drink premises to avoid adverse impacts on residential amenity such as odours and fumes, waste management, litter and after-hours noise from plant and patrons.

If the B6 zone objectives and land use table are considered collectively (which they must be), it is difficult to identify the overall intention of the zone.

Part N of Holroyd DCP 2013 – Transitway Station Precinct Controls provides detailed controls for the Mays Hill Precinct in which the site is located and for the other transitway stops. If the larger planning framework incorporating the LEP and the DCP is considered, it becomes evident that an underlying planning purpose is to provide pedestrian activity at street level around the Transitway stops so that using them will be a safe and attractive experience and will encourage social interaction and a sense of community. This is consistent with the following desired future character statement in Part N of the DCP:

The desired future character for Mays Hill is an active, urban area which makes full use of its proximity to public transport and services, as well the Parramatta Central Business District.

A mix of uses and good pedestrian access will encourage a fuller utilisation of the interface along the Great Western Highway.

The proposed modified development is entirely consistent with this desired future character because:

- The density bonus of ARHSEPP, in conjunction with the compact size of units, lower car ownership of the resident group and the reduced amount of on-site parking, means that firstly - there will be more residents in the building than if it was a private market residential project, and secondly - that a higher proportion of these residents will be using the T-Way rather than private cars. This development will therefore generate considerably greater pedestrian activity at street level than a smaller, private-market housing project sited over underutilised business uses and a large residential carpark. The proposed canopy extension and outdoor seating will support this “busy entry” effect.
- The community facility use is intended to have a high level of patronage. Activities will not be restricted to residents of the building but will include residents of other SGCH housing and the general community. As these residents will generally be working people, some of the activities will be conducted out of business hours. This will provide valuable surveillance and activation of the street after-hours when a business or retail use would typically be closed.
- The proximity of the T-Way which provides a 5-minute trip to and from Parramatta transport interchange running every 4-10 minutes from early morning until late at night, together with the restriction of parking on the Highway and on-site, provides a strong incentive for patrons to access the community facility by bus, thereby contributing to street level activation.
- Because they are sold on the same title as the connected unit, the home business spaces fronting the Highway will be utilised and less likely than a free-standing commercial space to remain vacant.
- The definition of home business permits employment of up to 2 people other than the residents, which promotes the employment-generation objective of the zone. The location of the site next to a T-Way stop and restriction of parking on the Highway or on-site will encourage these employees to commute and make business trips by bus, thus contributing to street level activity.
- Retail sale of goods produced within the home business is permitted which will also create street activity and visual interest – but not of an extent that would contravene the zone objective “to maintain the economic strength of centres by limiting retailing activity.”

- The operation of the home business by residents of the building will also encourage familiarity and social interaction between residents, again supporting one of the underlying objects of the precinct controls.

It is concluded that the proposed modified development will make a substantial contribution to the street level activation sought by mixed use. It successfully addresses the objectives of the B6 zone and the precinct controls of the DCP while avoiding the risks of counterproductive vacant shopfronts or the loss of affordable housing through classification of the building as shop top housing.

Yours sincerely



Mark Shanahan BTP Dip Law
Director

Submission by letter dated 10/10/14		
SUB1.1	Proposed 7-storey height exceeds 6 storeys permitted under DCP.	<p>Justification of the proposed variation is provided in the SEE (pg3 of Attachment 3) on the basis that the proposal:</p> <ul style="list-style-type: none"> • complies with the HLEP2013 height standard; • has the benefit of bonus floorspace conferred by ARHSEPP; • proposes a floor-to-ceiling height of 2.7m on the second level in order to permit an additional floor level and therefore maximise yield which is of crucial importance in an affordable housing project. The requirement for a 3.3m ceiling on the first floor is not practical as offices are not permissible in the zone and any other non-residential use of this level would not be viable.
SUB1.2	Adverse impact on privacy contrary to DCP Part B, 1.4 Privacy	<p>Visual privacy is addressed in the SEE (pg11, Attachment 3) and was considered acceptable on the following basis:</p> <p>The development is a multi-storey building which by virtue of the applicable FSR and height controls under HLEP2013, will be substantially higher than existing residential development on adjoining areas to the north. The building fronts the Highway to the south which encourages balconies and living rooms on the northern side of the building. In this context, it is inevitable that there will be increased potential for overlooking of properties to the north until those properties are redeveloped. However, the building provides a generous 12m rear setback which together with landscaping along the rear boundary, provides for an adequate level of privacy.</p>
SUB1.3	The development will contribute to on-street parking pressure, particularly with loss of on street parking in Broxborough St as a result of the proposed driveway.	<p>The former service station on this site had a 9m wide driveway to Broxborough St. The proposed 6m wide driveway therefore results in a net gain in kerbside parking space. The 38 parking spaces proposed exceed the 35 spaces required by ARHSEPP. The Traffic Assessment by TTM concluded that the proposed amount of parking was adequate having regard to the likely</p>

		needs of the development and availability of public transport.
SUB1.4	Increased traffic load presents a serious threat to inner street and highway safety and damage to residential amenity.	The Traffic Assessment by TTM concluded that the development would not have adverse impacts on the safety or efficiency of the road system. The increase in vehicle movements is not of an extent that would impact on residential amenity.
SUB1.5	Development does not respect local context and street pattern or scale and proportions of surrounding buildings and would be entirely out of character of the area.	A detailed assessment at pp16-17 of the SEE concluded that the development would be compatible with the DCP's statement of the desired future character for the Mays Hill Precinct.
SUB1.6	We believe that the proposed development would significantly alter the fabric of the area and amount to serious 'cramming' in what is a low density road. The proposal allows very little space for landscaping and we believe that it would lead to gross over-development of the site. The proposed development would not result in a benefit in environmental and landscape terms, to the contrary it would lead to the loss of valuable green space.	The density of the development has been reduced to comply with the floor space ratio permitted by the LEP and ARHSEPP. The amount of open space exceeds that required by the DCP and the RFDC. The service station that previously occupied the site would have had minimal landscaped area. The development therefore results in a net increase in green space.
SUB1.7	In conclusion we would also like to request that, should the application be approved, the council consider using its powers to enforce controlled hours of operation and other restrictions that might make the duration of the works more bearable. The proposed site of development is very small and contained, with very limited road frontage, so we would ask that consideration be made about how and where construction vehicles and staff would gain access to the site for unloading and parking without causing a inner street and highway hazard or inconveniencing neighbours.	A Construction Traffic Management Plan can be required by condition of consent.

Submission by email dated 25/10/14

SUB2.1	The pre lodgement public engagement for this development was excellent activity. The issue of this development raised from this consultation were mostly actioned. *	Noted
SUB2.2	Amount of carparking provided under ARHSEPP is less than required by DCP and will lead to on-street parking.	Refer SUB1.3: The former service station on this site had a 9m wide driveway to Broxborough St. The proposed 6m wide driveway therefore results in a net gain in kerbside parking space. The 38 parking spaces proposed exceed the 35 spaces required by ARHSEPP. The Traffic Assessment by TTM concluded that the proposed amount of parking was adequate having regard to the likely needs of the development and availability of public transport.
SUB2.3	T-Way bus service is limited, does not service Westmead medical and educational precinct or employment precincts excluding those near to Parramatta transport hub, therefore will not significantly reduce car reliance by residents of the development.	The Mays Hill T-Way stop adjacent to the site has bus services every 4-10 minutes from early morning until late night with a travel time of less than 5 minutes to Parramatta transport

		interchange. The interchange provides fast connections via rail, T-Way and regular bus routes to the Westmead medical and educational precinct. To fulfil its role as Sydney's second CBD, the metropolitan strategy (<i>A Plan for Growing Sydney</i>) proposes that employment in Greater Parramatta will grow to 100,000 jobs in the next 20 years. Many of these jobs will be in walking distance to the transport interchange or a short trip by bus or train. The T-Way stop across the Highway (via signalised pedestrian crossing) provides access to other employment centres such as Sydney's largest industrial areas (Smithfield and Wetherill Park). The site therefore enjoys an excellent level of public transport access that will provide a practical and affordable alternative to commuting by private car.
SUB2.4	Collection of multiple waste bins from Broxborough St will adversely impact resident amenity.	A waste management plan has been prepared by Leigh Design
SUB2.5	No traffic plan for the construction of the development.	A Construction Traffic Management Plan can be required by condition of consent.
Petition by Gmail dated 28/10/14		
SUB3.1	Parking – refer SUB2.2	Refer SUB2.2
SUB3.2	Public transport – refer SUB2.3	Refer SUB2.3
SUB3.3	Waste management – refer SUB2.4	Refer SUB2.4
SUB3.4	Construction traffic plan – refer SUB2.5	Refer SUB2.5
Submission by email dated 29/10/14		
SUB4.1	Parking – refer SUB2.2	Refer SUB2.2
SUB4.2	Public transport – refer SUB2.3	Refer SUB2.3
SUB4.3	Waste management – refer SUB2.4	Refer SUB2.4
SUB4.4	Construction traffic plan – refer SUB2.5	Refer SUB2.5