

SYDNEY SOUTH WEST PLANNING PANEL

SUPPLEMENTARY REPORT

Panel Reference	2015SYW218
DA Number	DA-1212/2015
Local Government Area	Liverpool City Council
Proposed Development	Consolidation of four existing lots, demolition of existing structures and tree removal, and construction of a 6 to 9-storey high residential flat building comprising a total of 101 units over two levels of basement parking. The development provides a unit mix of 15 x 1 bedroom apartments, 73 x 2 bedroom apartments and 13 x 3 bedroom apartments.
Street Address	17-23 Goulburn Street, Liverpool (Lots 1- 4 DP 13932)
Applicant/Owner	Applicant – Mr W Chao Owner – PTA Dermatology
Date of DA Lodgement	11 December 2015
Number of Submissions	Nil
Recommendation	Approval (subject to conditions)
Regional Development Criteria (Schedule 4A of the Act)	The Capital Investment Value of the development is over \$20 million (\$26,483,460)
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • <i>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</i> <ul style="list-style-type: none"> - State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development - State Environmental Planning Policy No. 55 – Remediation of Land - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment - Liverpool Local Environmental Plan 2008 • <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii)</i> <ul style="list-style-type: none"> - N/A • <i>List any relevant development control plan: s79C(1)(a)(iii)</i> <ul style="list-style-type: none"> - Liverpool Development Control Plan 2008 <ul style="list-style-type: none"> - Part 1 – General Controls for all Development - Part 4 – Liverpool City Centre • <i>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv)</i> <ul style="list-style-type: none"> - No planning agreement relates to the site or proposed development

	<ul style="list-style-type: none"> • <i>List any coastal zone management plan: s79C(1)(a)(v)</i> <ul style="list-style-type: none"> - The subject site is not within any coastal zone management plan • List any relevant regulations: s.79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <p>Consideration of the provisions of the Building Code of Australia and National Construction Code (NCC)</p>
Does the DA require Special Infrastructure Contributions conditions (s94EF)?	The proposal is not subject to a Special Infrastructure Contributions (SIC) condition
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Alternative Scheme for the site • Letter in support of alternative scheme • Amended Architectural Plans • Letter in support of amended proposal • Amended Recommended conditions of consent • Detailed Site Investigation • Remediation Action Plan (RAP)
Report prepared by	Nelson Mu
Report date	24 May 2017
Meeting Date	Electronic Determination

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

No

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

1. EXECUTIVE SUMMARY

On 17 January 2017 the Sydney South West Planning Panel (SSWPP) considered a report in relation to the subject application (DA-1212/2015) for consolidation of four existing lots, demolition of existing structures and tree removal, and the construction of a 9-storey residential flat building comprising a total of 102 units (18 x 1 bedroom apartments, 71 x 2 bedroom apartments & 13 x 3 bedroom apartments) over two levels of basement parking.

The panel resolved to defer determination of the application as follows:

The Panel determined to defer the development application as described in Schedule 1 pursuant to Section 80 of the Environmental Planning and Assessment Act 1979.

The Panel is not satisfied that the site is suitable for the proposed development in terms of contamination in accordance with the requirements of SEPP 55. A Detailed Site Investigation study is required to be conducted by the applicant following demolition of the existing structures on the site, and subsequent documentation must be submitted to Council's Manager Development Assessment, demonstrating that the site can be made suitable for the proposed development consistent with the requirements of SEPP 55.

The Panel also requests that consideration be given by the applicant to amend the design of the building to improve solar access to the southern adjoining residential flat building and internally to the ground level communal open space within the development.

Upon receiving the supplementary report from Council, the Panel will further consider this application electronically.

The applicant has now responded to the items requested by the Panel. In this regard, the following information has been submitted by the applicant:

1. Amended architectural drawings that reduce the height of the south wing of the building from 8 storeys to 6 storeys and the north wing of the building increased to from 8 storeys to 9 storeys.
2. A Detailed Site Investigation Study; and
3. A Remediation Action Plan.

The amended plans and additional information have been reviewed by Council. This report deals with the additional information provided by the applicant. An assessment of the amended plans and additional information submitted has concluded that the proposed development is now satisfactory in terms of compliance with the requirements of SEPP 55 and that solar access to the southern adjoining residential flat building has been marginally improved. Accordingly, it is recommended that the application be approved subject to amended recommended conditions of consent.

2. HISTORY/BACKGROUND

The application was considered by the SSWPP at its meeting on 17 January 2017. The SSWPP deferred the application subject to the submission of a Detailed Site Investigation report and that consideration be given to amending the building to improve solar access to

the southern adjoining residential flat building and internally to the ground level communal open space within the development.

With respect to site contamination, the Panel requested that a Detailed Site Investigation (DSI) be prepared by the applicant following demolition of the existing structures on the site, and a report submitted demonstrating that the site can be made suitable for the proposed development consistent with the requirements of SEPP 55. The applicant's Environmental Consultant advised that a full DSI could be prepared without demolition of the structures and it was prepared on that basis.

The applicant has provided the following information to Council for assessment:

- A Detailed Site Investigation report from Martens Consulting Engineers entitled *Detailed Site Investigation 17-23 Goulburn Street, Liverpool, NSW*, dated March 2017 (Reference No. P1505008JR03V01).
- A Remediation Action Plan from Martens Consulting Engineers entitled *Remedial Action Plan: 17-23 Goulburn Street, Liverpool, NSW*, dated March 2017 (Reference No. P1505008JR04V01).
- Amended architectural plans prepared by Gus Fares Architects Pty Ltd, Project No. 2015-24, Issue D, dated March 2017.

3.1 Alternative Scheme: Re-orienting the Building

In response to the SSWPP's concerns relating to solar access, the applicant presented an alternative scheme by rotating the proposed U-shaped building to face Lachlan Street, as detailed in Figures 1-3 below. In so doing, the 2 wings which previously faced Goulburn Lane were re-orientated to face the southern adjoining property.

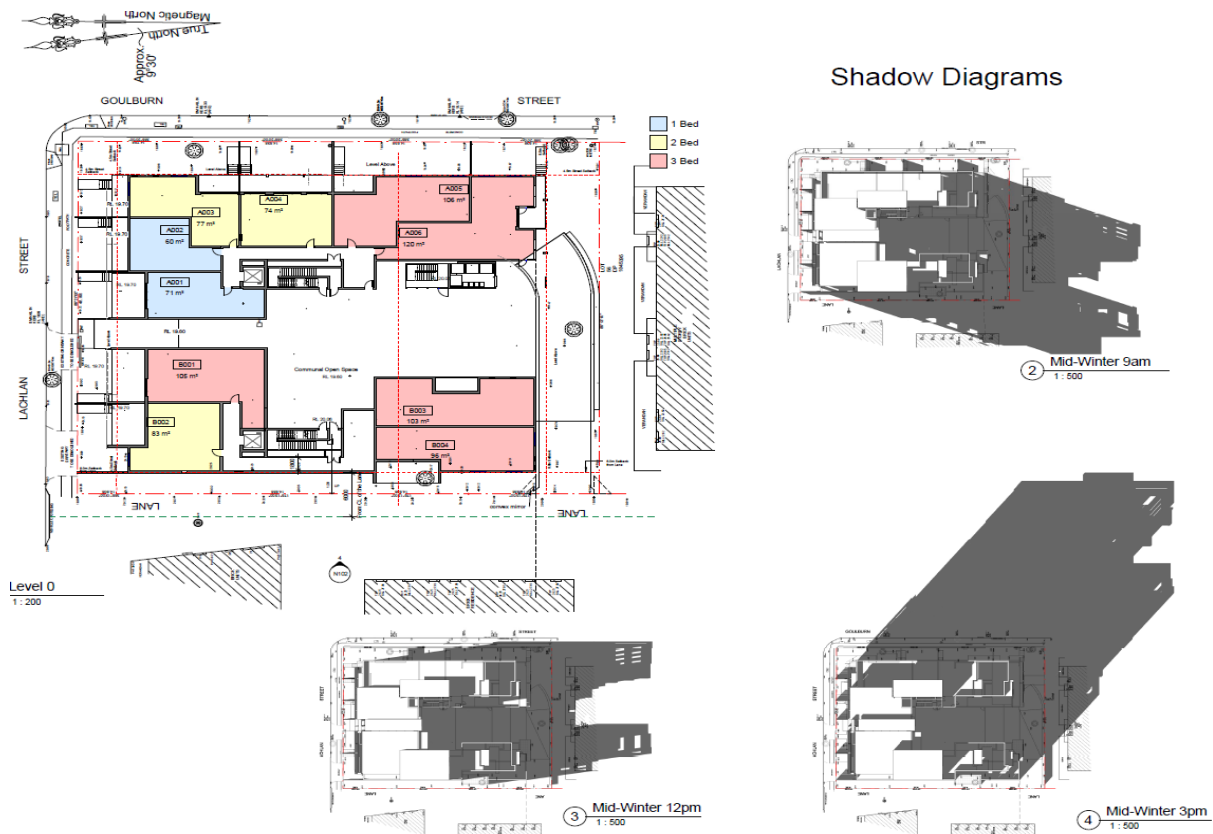


Figure 1: View of an alternative scheme re-orienting the building to face Lachlan St, showing the ground level building layout and shadows cast by the building at 9am, 12noon and 3pm in mid-winter.

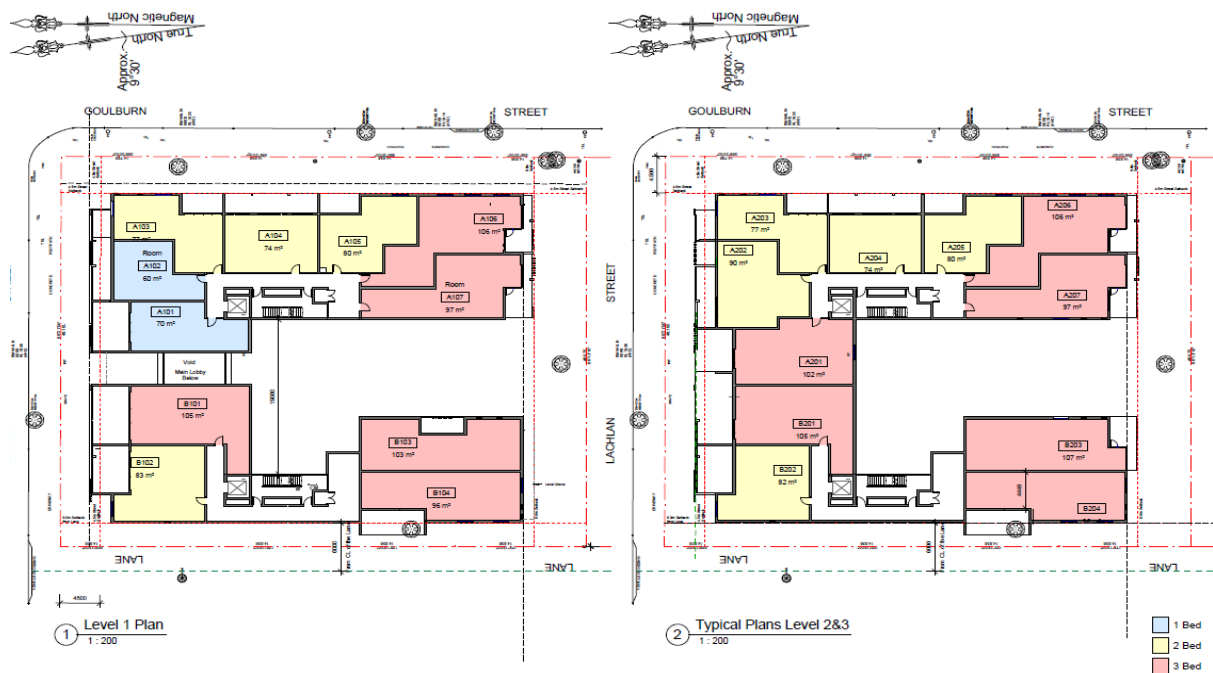


Figure 2: View of Levels 1-3 of the alternative scheme

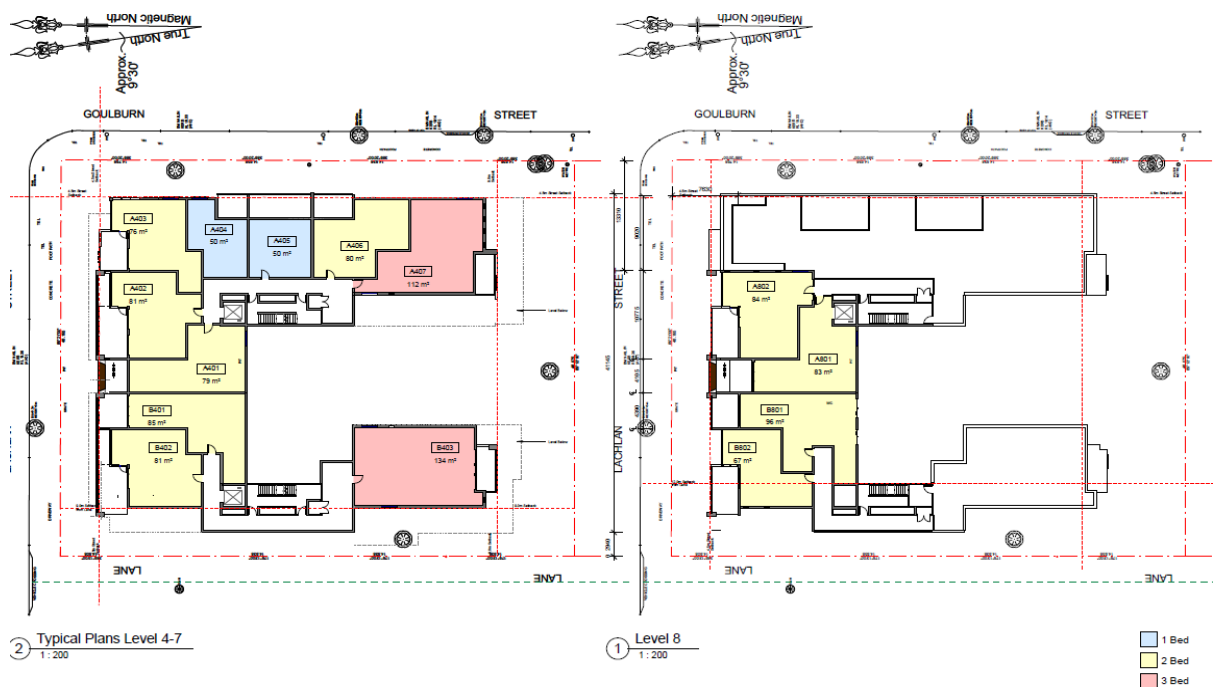


Figure 3: View of Levels 4-8 of the alternative scheme

In preparing the alternative scheme for the proposal, the applicant advised that a comparison study was made between the alternative scheme requested by the Panel and the proposed scheme and offered the following comments:

Solar Access:

The proposed application is fully compliant with the requirements of the ADG (SEPP65). The scheme represents 72% (73 Units of 102) of the units receiving a minimum 1m² of solar access for 2 hours between 9am and 3pm on the winter solstice.

The alternate design, does not comply with the requirements of the ADG (SEPP65). Only 68.9% (60 Units of 87) of the units will receive the required solar access.

Therefore, the alternative scheme will receive less solar access when compared to the original scheme.

Shadow Impact on the adjoining development:

It is evident that the shadow impact from the alternate scheme design on the adjoining development at 25-27 Goulburn Street in comparison to the proposed development indicates no reduction in shadow impact in the morning and afternoon diagrams.

The alternate scheme illustrates only a minor improvement in shadow impact during the midday time slot.

Communal Open space on Ground floor:

It is evident that 30-50% of communal open space will receive solar access between 12pm and 3pm in the original scheme.

It is evident that the alternate scheme will receive minimal to zero solar access in the winter solstice due to the southern orientation. In addition to this, the alternate scheme will implicate further privacy issues to the communal open space as it is in direct view of the southern neighbouring property.

Design and Development Yield:

It is evident that the proposed site is rectangular in shape, with any degree of rotation will implement a reduction in developable residential units. With reference to the alternate scheme, the total number of units is reduced from 102 to 87 units. If a re-design is required, amended project documentation must be compiled and then be provided to council for re-assessment; this process will significantly burden the applicant in terms of time and resources.

To conclude our findings, it is clearly apparent that the Original Scheme is compliant with the requirements of the ADG (SEPP65). With respect to the planning panel, the applicant has provided sincere consideration to an alternate design, which has concluded that the Original Scheme will produce a better design outcome.

Council was not satisfied that the alternative scheme of rotating the building to face Lachlan Street would represent a superior planning outcome. Whilst the alternative scheme demonstrates that solar access to the southern adjoining residential flat building is improved at midday, solar access to the ground level communal open space of the development is significantly compromised in that the ground level communal open space will receive no solar access at all. The original proposal allows solar access to the ground level communal open space in the afternoon at the winter solstice.

3.2 Amended Proposal

As a result of a review of the applicant's alternative scheme, Council requested that further design changes be made to the building. Consequently, and following discussions with Council, the applicant has made further amendments to the building incorporating the following design changes:

- i. The south wing of the proposed U-shaped building has been lowered from 8 storeys to 6 storeys. In doing so, 6 apartments (4 x 1-bedroom and 2 x 2-bedroom apartments) have been deleted. A rooftop communal open space, featuring a barbeque area, landscape area and WC facility, is now provided on top of the reduced south wing of the building.
- ii. The north wing of the building facing Lachlan Street has been increased from 8 storeys to 9 storeys. The 6 deleted apartments from the south wing have been relocated to the top floor of the north wing of the building. The previous rooftop communal open space on top of the north wing has been replaced with apartments (1 x 1-bedroom and 3 x 2-bedroom apartments). There is a net loss of 1 apartment.

The below Figures 4 to 9 provide a comparison between the amended proposal and the original proposal for the subject site.

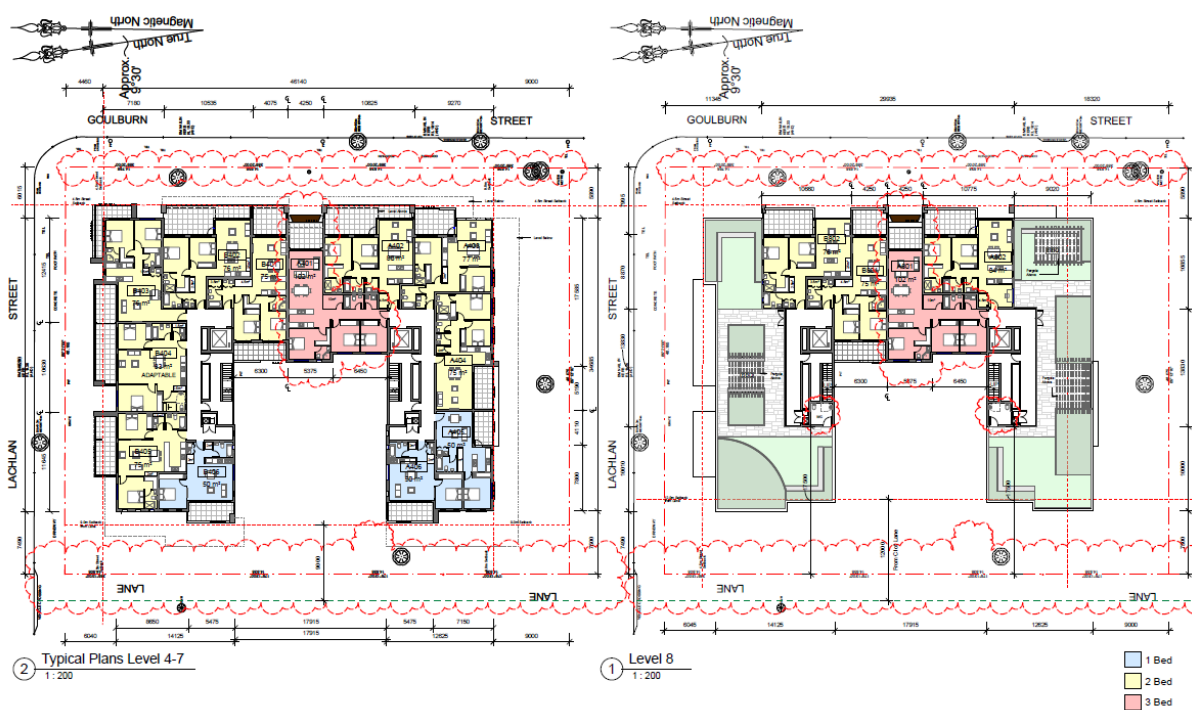


Figure 4: View of Levels 4-8 of the original proposal, consisting of a 9-storey building facing Goulburn St and an 8-storey north and south wings facing Goulburn Lane with rooftop communal open space on top of the 8-storey wings.

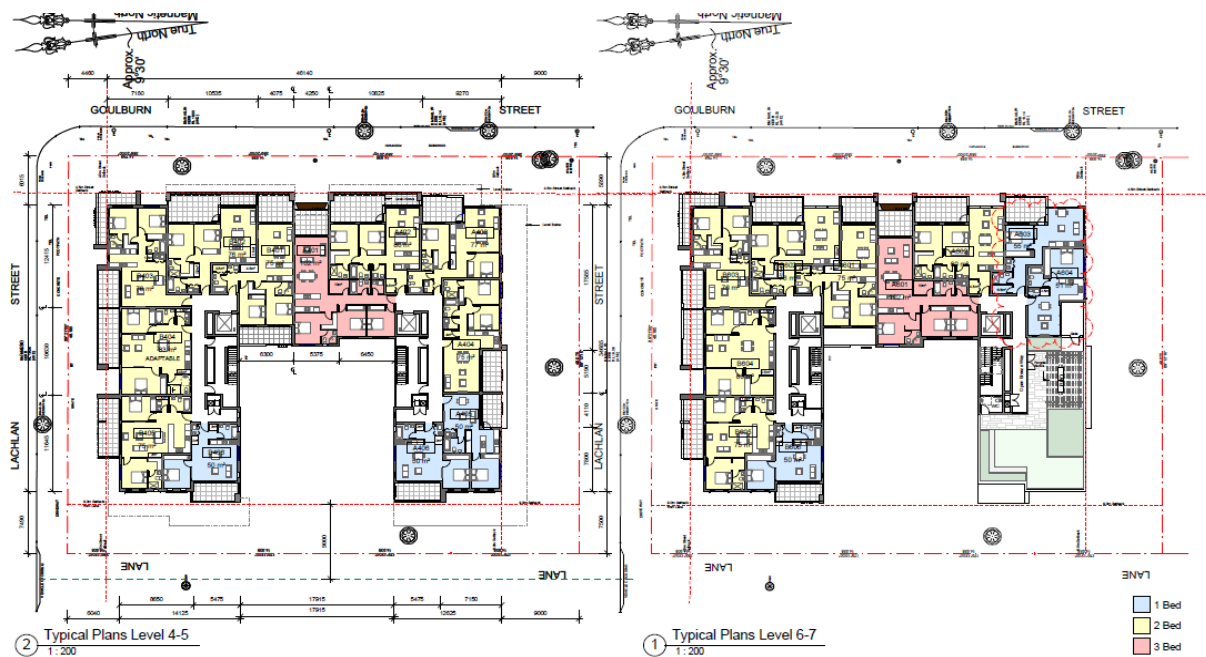


Figure 5: View of Levels 4-7 of the amended proposal, consisting of a 9-storey building facing Goulburn St and Lachlan St and a 6-storey south wing facing Goulburn Lane. The rooftop communal open space on top of the north wing of the building has been replaced with apartments.

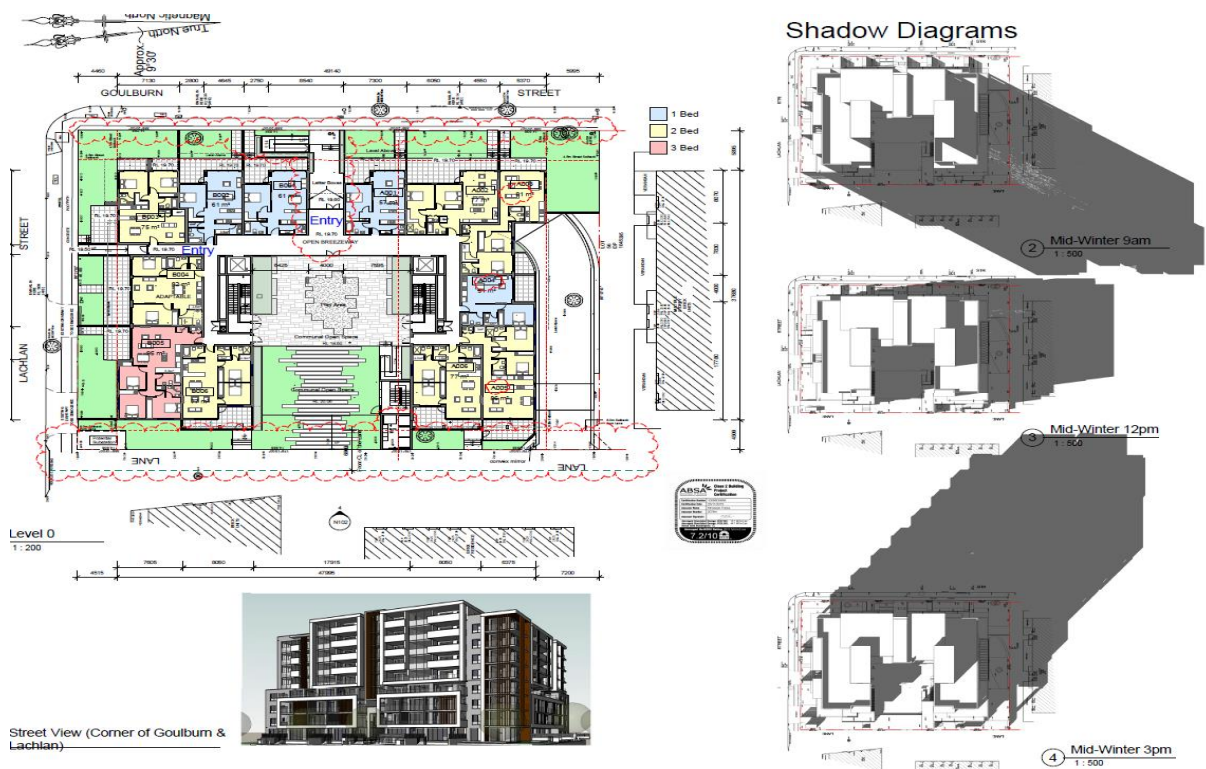


Figure 6: View of shadows cast by the original proposal at the critical hours of 9am, 12noon and 3pm at mid-winter.

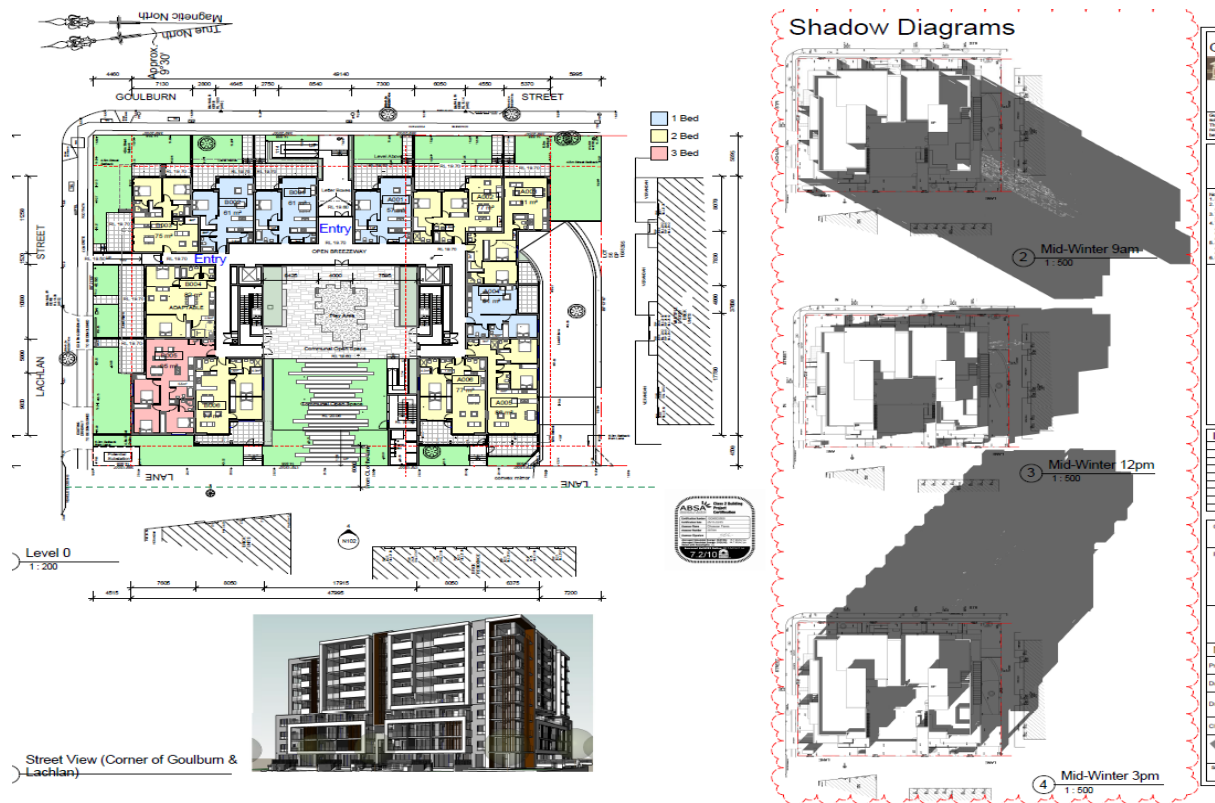


Figure 7: View of shadows cast by the amended proposal at the critical hours of 9am, 12noon and 3pm at mid-winter. The extent of shadows cast upon the southern adjoining sites have been reduced as a result of lowering the south wing of the building from 8-storey to 6-storey.



SHADOW ANALYSIS OF ADJOINING ELEVATIONS:

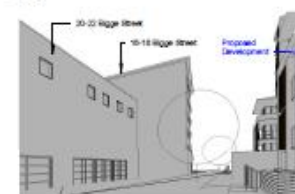
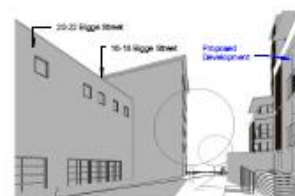
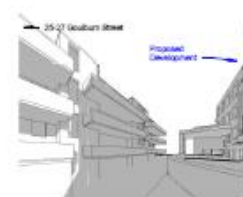
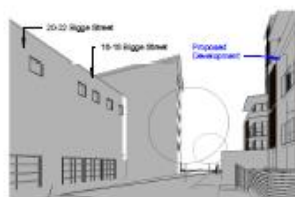


Figure 8: View of elevational shadows cast by the original proposal on the southern and western adjoining buildings

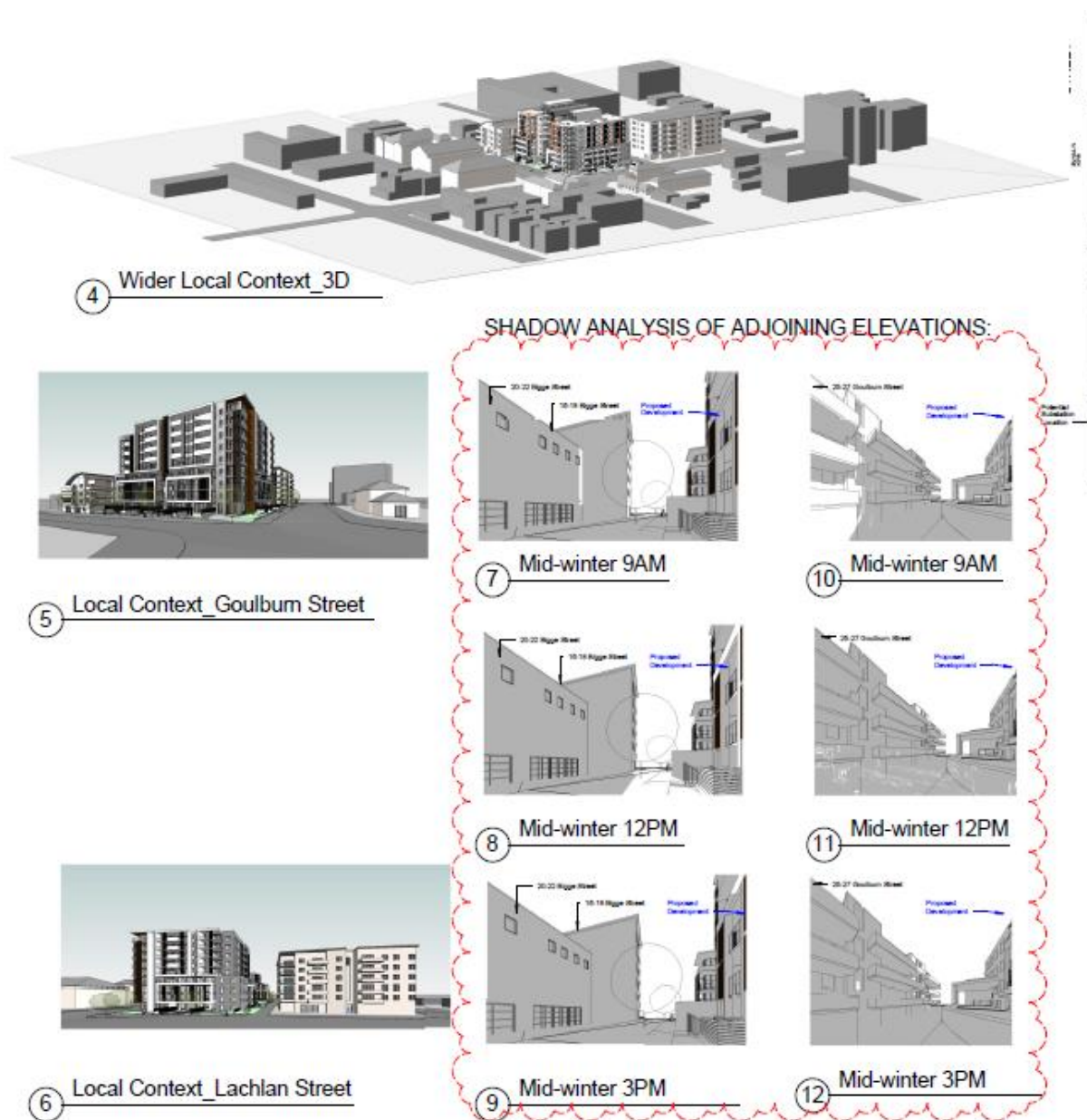


Figure 9: View of shadows cast by the amended proposal demonstrating that shadow impact upon the southern adjoining residential flat building is marginally improved at 12noon and 3pm at mid-winter.

The applicant also conducted a comparison between the original scheme and the amended scheme and has provided the following comments:

Solar Access:

- The proposed application is fully compliant with the requirements of the ADG (SEPP65). The scheme highlights that 72% (73 Units of 102) Units receive a minimum 1m² of solar access for 2 hours between 9am and 3pm on the winter solstice.
- The suggested scheme is also compliant with the requirements of the ADG (SEPP65). The scheme highlights that 74% (75 Units of 102) of units receive a

minimum 1m² of solar access for 2 hours between 9am and 3pm on the winter solstice.

- *Therefore, the number of unit which receive solar access has increased slightly in the suggested scheme.*

Natural Ventilation:

- *The proposed application is fully compliant with the requirements of the ADG (SEPP65). The scheme highlights that 65% (66 Units of 102) of units are cross ventilated.*
- *The suggested scheme is also compliant with the requirements of the ADG (SEPP65). The scheme highlights that 67% (68 Units of 102) of units are cross ventilated.*
- *Therefore, the number of crossed ventilated units has increased slightly in the suggested scheme.*

Communal Area:

- *The proposed application provides 1081m² (38% of site) of communal open space. 568.5m² (53%) of communal open space receives a minimum of 2 hours of solar access between 9am and 3pm on the winter solstice.*
- *The suggested scheme provides 788.2m² (27% of site) of communal open space. Only 251.5m² (32%) of communal open space receives a minimum 2 hours of solar access between 9am and 3pm on the winter solstice which does not comply with the requirement of the ADG (SEPP65).*
- *Therefore, as mentioned above, the area of communal open space provided in the suggested scheme will be significantly reduced and will receive less solar access when compared to the original scheme.*

Shadow Impact on the adjoining development:

- *It is evident that the shadow impact from the suggested Scheme design on the adjoining development at 25-27 Goulburn Street in comparison to the proposed development indicates no reduction in shadow impact. However, the plans shows a minor reduction in shadows casting on the surrounding buildings in the suggested scheme when compared to the original scheme.*

In conclusion, it is clearly apparent that the Original Scheme is compliant with the requirements of the ADG (SEPP65).

4. REFERRALS

Internal Referrals

Environmental Health Section Comments

The submitted Detailed Site Investigation Report and Remediation Action Plan were referred to Council's Environmental and Health Section for comments against the requirements of SEPP 55 – Remediation of Land.

Council's Environmental and Health Section provides the following comments in respect to the additional information received from the applicant:

The applicant has submitted a Detailed Site Investigation report prepared by Martens consulting engineers, dated March 2017, referenced as P1505008JR03V01. This report details an investigation which included 30 sample points which exceeds the minimum requirements of the NSW EPA sample design guidelines. The report details 3 areas of concern including two areas with elevated lead levels and one with elevated F2 TRH levels. The report recommends the preparation of a remediation action plan to address these areas.

The applicant has submitted a Remediation Action Plan (RAP) prepared by Martens consulting engineers, dated March 2017, referenced as P1505008JR04V01. This RAP provides an overview of suitable remediation strategies and recommends that the site is remediated through removal and off-site disposal of contaminated soils. This remediation strategy is considered suitable and conditions have been provided requiring the implementation of the RAP followed by site validation.

The DSI concludes that:

there were three SAC exceedances posing a risk to human receptors identified as part of this DSI, with two exceedances of lead concentration levels and once exceedance of F2 TRH concentration levels.

It recommended that a remedial action plan (RAP) be prepared for the site to address these exceedances, further delineate the extent of contamination, and provide a clear plan for remediation of the site prior to its proposed land use.

It is expected that the site will be fit for its proposed residential land use subject to a site RAP being carried out.

Having regard to the submitted DSI and RAP, it is considered that the applicant has sufficiently demonstrated that the subject site can be made suitable for the proposed development subject to the implementation of the remediation strategies outlined in the RAP. As a result of the assessment of the DSI and RAP, Council's Environmental and Health Section raises no objection to the proposed development subject to conditions of consent that have been incorporated into the draft recommended conditions of consent. The site is therefore considered suitable for its continued use for residential purposes.

5. ASSESSMENT

In relation to the design amendments incorporated, the following comments are provided:

- i. The reduction of the height of the south wing of the building from 8 storeys to 6 storeys has marginally improved solar access to the southern adjoining residential flat building particularly at 12noon and 3pm at the winter solstice. This is an improvement from the original proposal.
- ii. This reduction in building height to the south wing has significantly improved the relationship between the proposed development and the 4-storey southern adjoining residential flat building in terms of bulk and scale.

- iii. The amended proposal has improved solar access and cross-ventilation to the residential apartments in comparison to the original proposal. That is, solar access to the residential apartments has been increased from 72% to 74% (minimum required is 70%), whilst cross-ventilation has been increased from 65% to 67% (minimum required is 60%). However, it must be noted that the quantum of communal open space for the development has been reduced from 1081m² to 788m² as a result of the removal of the rooftop communal open space from the north wing of the building. Consequently, and as demonstrated by the applicant, solar access to the communal open space has been reduced. Given that the revised communal open space, equivalent to 27% of the site area, exceeds the minimum required of 25% of the site, the slight reduction of solar access to the communal open space is not considered to be unreasonable as solar access to the southern adjoining residential flat building has been improved and solar access to the residential apartments has also been improved.
- iv. Council's assessment indicates the following with respect to solar access to the communal open space of the development (as amended):
 - a. Approximately 65% (96m² out of 147m²) of the rooftop communal open space on top of the 6-storey wing will receive solar access at 12noon at the winter solstice;
 - b. Approximately 61% (90m² out of 147m²) of the rooftop communal open space on top of the 6-storey wing will receive solar access at 3pm at the winter solstice; and
 - c. Approximately 52% (280m² out of 540m²) of the ground level communal open space will receive solar access at 3pm at the winter solstice.
 - d. Solar access to the ground level communal open space between the original proposal and the amended proposal remain the same.
- iii. The increased building height to the north wing of the building facing Lachlan Street from 8 storeys to 9 storeys is still within the allowable building height for the site of 35m (29.25m proposed).

Overall, the proposed amendments to the building are considered to be a reasonable design response and has improved solar access to the southern adjoining residential flat building. Whilst there is no improvement to the ground level communal open space in terms of the solar access between the original proposal and the amended proposal, the design amendments incorporated into the building is considered satisfactory on balance. This must be considered in the context of the allowable building height of 35m and FSR of 3:1 for the site. In addition, it shall be noted that Council's Design Excellence Panel was satisfied with the proposal in respect to solar access and the scheme previously presented before the SSWPP was endorsed by the DEP.

6. CONCLUSION

The applicant has provided an amended proposal and additional information in response to the SSWPP's deferral of the matter in the form of revised plans and submission of a Detailed Site Investigation report and a Remediation Action Plan.

The revised plans and additional information were reviewed by Council and found to be satisfactory subject to conditions. Accordingly, Council is satisfied that the applicant has

sufficiently demonstrated that the subject site can be made suitable for the proposed development as required by the provisions of SEPP 55 – Remediation of Land.

Whilst the amended proposal has marginally improved solar access to the southern adjoining residential flat building, the relationship between the proposal and the southern adjoining 4-storey RFB has been significantly improved as a result of lowering the height of the south wing of the building from 8 storeys to 6 storeys. As for solar access to the ground level communal open space, it remains unchanged but considered acceptable in any case. On this basis, Council is satisfied that the amendments incorporated into the development has satisfactorily resolved the concerns of the Panel.

In view of the assessment of the application, it is recommended that this report be received and noted by the Panel and that the application be approved subject to amended recommended conditions of consent.

7. ATTACHMENTS

- 7.1 Amended Recommended Conditions of Consent
- 7.2 Alternative Scheme for the site
- 7.3 Original Architectural Plans – Issue C
- 7.4 Amended Architectural Plans - Internal Floor Plan Issue D
- 7.5 Amended Architectural Plans – External Issue D
- 7.6 Letter in support of alternative scheme
- 7.7 Detailed Site Investigation
- 7.8 Remediation Action Plan (RAP)