

Detailed information about proposal, assessment of Clause 4.6 variation request and assessment of departures from controls

1. The proposal

1.1. The applicant proposes to demolish the existing structures, remove all trees, subdivide the site in stages, construct new public roads and construct 9 x 4/5 storey residential flat buildings in a staged manner containing 650 apartments and basement car parking, communal open space, landscaping and associated stormwater drainage works and services at 23-27 Schofields Road, Schofields.

1.2. The following is a summary of the proposed stages and blocks/buildings:

Stage 1: Buildings A, B and C

Stage 2: Building D and E

Stage 3: Building F, G, H and I

1.3. The following is a summary of the apartment mix:

Type of Apartment	Apartments	% mix
Studio and 1 Bed	164	25%
2 Bed	460	71%
3 Bed	26	4%
Total	650	100%

1.4. The proposal provides basement car parking for each stage with access via the new public road. The basement levels also accommodate all waste storage and collection facilities and general loading bays. The provision of car parking and bicycle spaces is as follows:

Stage	Resident	Visitor	Total	Bicycle
Stage 1	264	51	315	86
Stage 2	147	28	175	48
Stage 3	280	51	331	86
Total	691	130	821	220

1.5. Waste collection is to be undertaken by a private waste contractor.

1.6. A total of 65 of the units will be adaptable, being 10%. The proposal includes 66 car parking spaces for the adaptable units.

1.7. One communal room/area is provided within the communal open space area in the central block located between Buildings D and E, for the use of residents and for owners' corporation meetings.

1.8. Outdoor communal open space areas are provided at ground level between the proposed buildings and within central courtyards. To ensure that the minimum required provision of communal open space is provided, the proposal also includes rooftop communal open space on Buildings E and G. The overall outdoor communal open space features courtyards, picnic areas with seating and BBQs, play areas with

children's equipment, passive and active recreation areas, water features, outdoor gyms, pedestrian links throughout the site and hard and soft landscaping.

- 1.9. The total provision of communal open space is 7,265 sqm.
- 1.10. The proposal generally satisfies the maximum permitted building height of 16 m under the Growth Centres SEPP, with the exception of the following variations:
 - Up to 1.6 m above the permissible height limit of 16 m due to lift overruns and roof parapets of buildings, representing a variation of 10%
 - Up to 4.05 m above the permissible height limit of 16 m due to the provision of lift overruns and fire stairs required to access the rooftop communal open space areas of Buildings E and G, representing a variation of 25%
 - Up to 800 mm for a minor part of Building A, representing a variation of 5%
 - Up to 200 mm for a minor part of Buildings B, C, E, F and G, representing a variation of 1%.
- 1.11. The applicant has submitted a Clause 4.6 request to vary the development standard. The applicant's Clause 4.6 request is at **Attachment 6**. Council's assessment of this variation is undertaken in Section 8 of the report and at point 2 below.
- 1.12. The proposal has an FSR of 1.68:1, which complies with the maximum FSR of 1.75:1 for the site.
- 1.13. Photomontages showing the streetscape presentation and the development plans are at **Attachment 5**.
- 1.14. The proposed staged subdivision of the site is demonstrated in the Concept Subdivision Plans provided at **Attachment 5**. Stage 1 of the subdivision is proposed to create development Lot 1 for Building A, development Lot 2 for Buildings B and C (being Construction Stage 1), a road lot for part of the new public road, residue Lot 5 for future residential flat buildings and the remainder of the new public road, and Lots 3 and 4 being the transport corridor investigation area. Stage 2 of the subdivision relates to residue Lot 5, and is proposed to create Lot 6 for Buildings D and E and an easement for access between the cul-de-sac and Berkeley Street (being Construction Stage 2), Lot 7 for Buildings F, G, H and I (being Construction Stage 3), and a road lot for the remainder of the new public road and cul-de-sac. The proposed subdivision reflects the timing of the proposed construction staging and road pattern variation discussed below.
- 1.15. The DA is accompanied by a Design Verification Statement prepared by Paul Buljevic of PBD Architects, in accordance with the requirements of SEPP No. 65. The development has been designed with a modern and clean aesthetic, with each building characterised by its articulated form, corner balconies and balcony projections, vertical blade walls, glazing and metal screening elements. Building colours are predominantly grey and white finishes, however various reveals, planes and recesses create an interplay of light and shade, which in culmination with strong horizontal tiers in the building successfully break down the massing of the building. The varied lengths and orientations of the buildings also assist with creating a distinct sense of place. The buildings are stepped to follow the slope of the site and follow street and ground levels.
- 1.16. Apartments facing the Transport Corridor Investigation Area and Schofields Road are to have specific glazing, window assembly and opening details to reduce external noise entering the building. Refer to **Attachment 9** for consideration of the design principles established within SEPP No. 65.

- 1.17. Council's Bushfire Prone Land Map identifies that the land to the south of Schofields Road contains Category 1 Bushfire Prone Vegetation with the 100 metre wide buffer zone to the vegetation extending onto the development site. As such, the proposal constitutes Integrated Development under Section 91(1) of the Environmental Planning and Assessment Act 1979. The proposal is accompanied by a Bushfire Protection Assessment prepared by Australian Bushfire Protection Planners Pty Limited which identifies that this Category 1 Bushfire Prone Vegetation has been removed by the recent subdivision of land, with the exception of some 3 hectares of retained woodland vegetation on land to the south-west of the site which is approximately 110 m away from this site. Due to the negligible level of bushfire risk, recommended bushfire management strategies are limited to extension of the existing Sydney Water reticulated services into the development site, with hydrants installed in accordance with relevant Australian Standards requirements and maintenance of the landscaped gardens to the standard of an Inner Protection Area. The NSW Rural Fire Service provided its concurrence to the DA subject to a condition of consent.
- 1.18. In response to the removal of trees on the site, the proposal includes a Landscape Strategy which provides replacement landscaping and trees throughout the site and which enhances the new sense of place for both the public and private realms. Conditions are recommended to be imposed to ensure that appropriate measures are undertaken during the dewatering of the dams and removal of trees to protect and relocate fauna, where necessary.
- 1.19. The DA is also accompanied by a Traffic and Parking Assessment Report prepared by WSP Parsons Brinckerhoff. The report reviews the current and future upgraded road network in the vicinity of the site and assesses the traffic implications of the development proposal in terms of road network capacity. The report identifies that, in accordance with the Roads and Maritime Services publication *Guide to Traffic Generating Developments, Section 3 – Land Use Traffic Generation* updated 2013, the development proposal yields a traffic generation potential of approximately 465 vehicle trips per hour during commuter peak periods.
- 1.20. The traffic generation of the proposed development has been estimated and added onto forecast traffic volumes for 2030 (being the completion of the last stage of the future upgraded road network in the vicinity of the site in 2020, plus 10 years). The performance of key intersections surrounding the site has been modelled using intersection software known as *Signalised and Unsignalised Intersection Design and Research Aid* (SIDRA). Overall, the impact of the additional traffic generated by the site was found to be modest. The SIDRA analysis established that the road network and intersection configurations already proposed and to be completed in 2020 have sufficient capacity to accommodate the development traffic without the need for further upgrades. This is consistent with the objectives of the rezoning of the local area and will not result in unacceptable traffic implications in terms of road network capacity.
- 1.21. The report has also undertaken an assessment of the required car parking for the proposal in respect of the development controls established by the Growth Centres DCP. The development proposal necessitates an off-street car parking requirement of 801 parking spaces. The proposal satisfies this requirement by providing 821 spaces (a surplus of 20 spaces). The report also concludes that the layout of the proposed car parking facilities has been designed to comply with the relevant requirements as specified in Australian Standard 2890.1, in respect of vehicular access, car parking and servicing areas. Conditions of consent are recommended to be imposed to ensure the proposal demonstrates compliance with the relevant Australian Standards.
- 1.22. The proposed staged subdivision of the site is demonstrated in the Concept Subdivision Plans provided at **Attachment 5**.

- 1.23. The proposed road layout is generally consistent with the current road pattern layout of the Riverstone Indicative Layout Plan (ILP) in the DCP. Due to safety concerns, a staggered intersection is not supported by Council at Gloucester Street, Whitechapel Avenue and Berkeley Street. In response, the Applicant has provided a cul-de-sac in this location with only one entry point via Berkeley Street. This arrangement is supported by Council's Access and Transport Management Services Section. The resulting variation to the current Riverstone Precinct Indicative Layout Plan, in response to the Transport Investigation Corridor Area along the southern portion of the site, and the staggered intersection at Gloucester Street, Whitechapel Avenue and Berkeley Street, is therefore supported in this instance. The road pattern variation is assessed in Section 8 of the report and Section 4 of this attachment.
- 1.24. This DA is required to demonstrate the proposed development will comply with the *Development near Railway Corridors and Busy Roads – Interim Guidelines*. Our Environmental Health Section has reviewed the Noise Impact Assessment prepared by Acoustic Logic which accompanies this DA and advises that it cannot be confirmed that the approach provided by the acoustic consultant is acceptable as the future extent of traffic volume and rail use has not been incorporated into noise mitigation strategies. However, Transport for NSW has provided its concurrence in support of the DA subject to a condition of consent requiring the submission of a report demonstrating the proposed development will comply with the *Development near Railway Corridors and Busy Roads – Interim Guidelines*. This will also assess impacts of airborne noise, ground borne noise and vibration from future rail operations and is required to be submitted prior to the issue of any Construction Certificate. This approach is considered satisfactory to ensure that the development provides a satisfactory development outcome which is capable of ameliorating potential adverse impacts from the Transport Corridor and Schofields Road.
- 1.25. A full assessment of the proposal against the relevant planning controls is provided at **Attachment 9**.

2. Assessment of the proposed Clause 4.6 request for variation

- 2.1 The proposal generally satisfies the maximum permitted building height of 16 m as required by Clause 4.3 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006, with the exception of the following variations:
- Up to 1.6 m above the permissible height limit of 16 m due to lift overruns and roof parapets of buildings, representing a variation of 10%
 - Up to 4.05 m above the permissible height limit of 16 m due to the provision of lift overruns and fire stairs required to access the rooftop communal open space areas of Buildings E and G, representing a variation of 25%
 - Up to 800 mm for a minor part of Building A, including the roofline and habitable room area, representing a variation of 5%. This exceedance relates to the slope of the land in this location
 - Up to 200 mm for a minor part of Buildings B, C, E, F and G for the roofline only, representing a variation of 1%.

Refer to the Elevation Plans provided at **Attachment 5** which demonstrate the extent of the portions of the roof area and rooftop structures which exceed the building height control. It is noted that we require the rooftop communal open space area is provided to ensure that adequate quantum and quality of communal open space is provided to

each resident and 'block'/building. Consideration of the Applicant's request to vary this development standard is provided as follows.

(a) Request under Clause 4.6 to vary the development standard

The Applicant has submitted a request for variation to the building height development standard pursuant to Clause 4.6 of the Growth Centres SEPP. The objective of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from the development by allowing flexibility in particular circumstances.

Clause 4.6 requires consideration of the following:

1. *Has the applicant submitted a written request that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *That there are sufficient environmental planning grounds to justify contravening the development standard.*
2. *Is the proposed development in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*
3. *Has the concurrence of the Director-General been obtained.*

The applicant's written request has adequately justified that compliance with the height development standard is unreasonable and unnecessary in this instance.

There are sufficient environmental planning grounds to justify varying this development standard. A copy of the applicant's written request is provided at **Attachment 6**.

The variation will generally not have unreasonable impacts on neighbouring properties or the character of the area. Building F, which surrounds the adjoining residential property (Lot 39 DP 1218200 56 Whitechapel Road, Schofields) exceeds the maximum permitted building height by 1 m (being a variation of 6.3%). As discussed in Section 8 of the Assessment Report, Building F is considered to result in unreasonable impacts on Lot 39 and on the character of the area. Therefore Building F is recommended to be reduced to a three storey RFB only. Subject to this amendment, Building F will comply with the development standard for building height and is considered to be satisfactory.

It is our preference that any rooftop lift overrun and stairwells which exceed the height plane are screened within an architectural roof feature, as directed by Clause 5.6 'Architectural roof features' of the Growth Centres SEPP for this Precinct (Condition 5.20.6). Subject to this amendment, these rooftop services are considered to be satisfactory.

The variation for the remainder of the development is not considered to have unreasonable impacts on neighbouring properties or the character of the area.

The proposal is also consistent with the objectives of the development standard and the R3 Medium Density Residential zone.

In accordance with Clause 64 of the *Environmental Planning and Assessment Regulation 2000*, a consent authority, in this case the Planning Panel, has 'assumed

concurrence' from the Secretary (formerly the Director-General) of the NSW Department of Planning and Environment.

(b) Justification for the variation

The Land and Environment Court has established the following 5-part test for a consent authority to take into consideration when deciding whether to grant concurrence to a variation to a development standard:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard

Height

The objectives of Clause 4.3 Height of buildings are as follows:

- (a) *To establish the maximum height of buildings for development on land within the Alex Avenue and Riverstone Precincts,*
- (b) *To protect the amenity of adjoining development and land in terms of solar access to buildings and open space,*
- (c) *To facilitate higher density development in and around the local centre, the neighbourhood centres and major transport routes while minimising impacts on adjacent residential, commercial and open space areas,*
- (d) *To provide for a range of building heights in appropriate locations that provide a high quality urban form.*

- **Maximum height**

The maximum height limit on the site is 16 m. Although the development exceeds the permissible height, the development does not achieve an additional residential level. Further, the height variation is offset throughout the development. The increase in height therefore does not impact on the density / floor area of the development. The increased height also has no impact on the scale of the development. The height variation is simply a result of the topography of the site, with no building entirely over the 16 m height limit.

- **Solar access to buildings and open space of adjoining development and land**

The additional shadow impacts are negligible given they are largely attributed to the centrally located lift overruns and only cast shadows on the rooftops of these buildings.

- **Facilitate higher density development in and around the commercial centres and major transport routes**

The site is located 1 km from the Schofields Railway Station and Town Centre to the south-west. The future Cudgegong Road Railway Station is to be delivered as part of the North West Rail Link and is located 2 km to the east. The high density of this development meets the objectives.

- **Range of building heights in appropriate locations**

The site is considered suitable for the development given the services it provides to the local residential population and as it is well serviced by new local roads.

The overall building height generally complies with the maximum permitted building height of 16 m, and is therefore consistent with intended 'ribbon' of redevelopment along Schofields Road and the Transport Corridor which permits Residential Flat Buildings and provides a consistent development outcome.

As discussed above, the proposal to provide a part 4/part 5 storey RFB (Building F) which wraps around the adjoining residential property (Lot 39 DP 1218200 56 Whitechapel Road, Schofields) which is now restricted to being redevelopment for the purpose of a dwelling house and Granny Flat only, is not suitable. The proposed building height of Building F is not considered appropriate in this location and is recommended to be reduced to a three storey RFB only. Subject to this amendment, Building F will comply with the development standard for building height and is considered to be satisfactory.

The relevant objectives of the development standard are achieved as the amenity of the nearby existing and future residential properties are protected in terms of solar access to buildings and open space, subject to Building F being amended to provide a three storey development only to satisfy the above objectives.

The overall design of the development to provide a cohesive residential development which provides stepped form which transitions from the residential dwellings to the north, the three storey form of Building F and the five storey form of the remainder of the proposed buildings, is considered to provide a suitable development outcome for this new Precinct. Subject to the Building F being amended to provide a three storey building for, this variation to building height is considered acceptable in this circumstance.

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

The purpose of the standard is still considered relevant to the proposal. However, 100% compliance in this circumstance is considered unnecessary.

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

The purpose of the development standard would not be defeated if compliance was required. However, 100% compliance is considered unreasonable as the variation is acceptable based on merit. The objectives of the standard, as outlined above, will still be achieved despite the variation.

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

Minor variations to the development standards of building height are similarly being considered in the Riverstone Precinct of the Growth Centre. These variations relate to portions of the roof line and rooftop lift overrun and stair access being above the maximum permitted building height with building, designed to be stepped to reflect the slope of the site similar to this proposal.

Despite this, the development standard for building height has not been virtually abandoned or destroyed through the granting of consents departing from the standard.

5. The 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

Given the greenfield context of the site, the topography of the land must be considered. The existing levels on the site result in an 11 m fall from the south-western portion of the site to the north-east portion. Site benching and earthworks required to meet civil grades and construction of the surrounding road network, compliance would be unreasonable in the circumstances. This includes the existing levels of the newly reconstructed Schofields Road to the south of the site and the design levels of the North West Rail Link currently under construction.

With the exception of the amendment of Building F to a maximum of 3 storeys and the imposition of Condition 5.20.6 to require rooftop lift overrun and stairwells to be within an architectural roof feature, the strict application of the building height development standard for this proposed development is unreasonable in the circumstances. The proposed building heights are considered to result in a suitable development outcome.

Based on the above assessment, the requested variation under Clause 4.6 is considered reasonable, well founded and is recommended for support.

3. Variations to the Apartment Design Guide

SEPP No. 65 requires that consideration must be given to the requirements of the Apartment Design Guide (ADG). Council's officer's assessment against the relevant design concepts and numerical guidelines of the ADG is at **Attachment 9**. The development complies with the ADG with the exception of building separation, communal open space, visual privacy, natural ventilation, common spaces/rooms, acoustic privacy, noise and pollution and apartment mix as discussed below.

(a) 2F Building separation

Section 2F 'Building Separation' of the ADG requires:

Up to 4 storeys/12 m:

12 m between habitable rooms / balconies

9 m between habitable rooms / balconies and non-habitable rooms

6 m between non-habitable rooms

5 to 8 storeys/up to 25 m:

18 m between habitable rooms / balconies

13 m between habitable rooms / balconies and non-habitable rooms

9m between non-habitable rooms

The proposal has been submitted as a single development across the overall development site.

However as directed by the ADG, building separation is imposed to ensure that amenity is improved through establishing minimum distances between apartments within the site, between apartments and with boundaries to neighbours. There we consider it appropriate to consider the building separation of each building within the development site and adjoining sites, with further consideration regarding the controls permitted for 3F Visual Privacy.

Adjoining site to the west

With regard to the adjoining site to the west which is capable of redevelopment for RFBS, the minimum required building separation is satisfied.

Separation within Buildings within the Development Site

The proposal includes various building separation non-compliances throughout the development as shown on the plans provided at **Attachment 5**.

Although the proposal consists of non-compliances to building separation, the overall development contributes to the urban form of the Precinct and provides a suitable level of amenity by providing open space areas which have components of usable spaces with landscaping, some deep soil and adequate sunlight. Within apartments, a suitable level of amenity is provided as the apartments are provided with adequate acoustic privacy, outlook, natural ventilation and daylight access.

It is recommended conditions of consent are imposed to ensure that all privacy screening measures are installed and acoustic attenuation is implemented to assist with protecting the visual and acoustic privacy of all apartments (Condition 13.3.5). Subject to the imposition of these conditions, no objection to a variation to building separation is raised in this instance.

Lot 39 DP 1218200 56 Whitechapel Avenue, Schofields

With regard to the adjoining Lot 39 DP 1218200 56 Whitechapel Avenue, Schofields ('Lot 39'), which is in the vicinity of L-Shaped Building F, a setback of 4.5 m to 8 m is provided to the ground level terraces, and a setback of 6.5 m to 9 m is provided for Levels 2 to 5. The proposed setbacks to Lot 39 generally exceed that required by the ADG, which is appropriate given that the development potential of Lot 39 is hampered due to this development, and the Applicant being unable to purchase Lot 39 to be amalgamated with this development site.

The ADG includes a consideration that 'At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3 m' This consideration would result in the building separation between Building F and the boundaries of Lot 39 to be 9 m for the first 4 levels and 12 m for the fifth level.

Although this requirement is not technically applicable in this case as this development site and Lot 39 are both zoned R3 Medium Density, due to the Applicant being unable to purchase Lot 39 for the purpose of amalgamation into

this development site, Lot 39 is effectively sterilised with regard to achieving its highest order of development as a residential flat building, and is restricted to a dwelling house. In effect, Lot 39 is now only capable of a lower density development outcome than the development site, and the increased building setbacks are reasonable to be applied in this case.

However, in isolation, it should be considered if merely increasing the building setback from Lot 39 is sufficient to achieve a good development outcome when considering the Precinct and its desired future character and streetscape. Consideration of this impact is provided at **Section 8** of the Assessment Report.

The Applicant's justification of the proposal in light of its impact on Lot 39 is provided at **Attachment 7**. The Applicant has also provided the following justification:

'The development has been designed to provide reasonable privacy and amenity through appropriate building separation and privacy design elements. A setback of 9m to approximately 12 m is proposed between the north façade of Building F and the single lot boundary at all levels. An additional setback at the 5th storey has not been provided as only one unit has the lesser setback of 9 m, the rest of the 5th storey is 9 m from balconies or 10.5 m from a blank wall or bedroom windows which can have louvre screens for increased privacy if required. Louvre privacy screens could also be provided to the balcony at the 5th storey if required.

The separation between the western boundary of the single lot and Building F is 6.7 m to bedroom windows and these can be screened for privacy if required.

To further contribute towards amenity and separation, comprehensive landscaping will be implemented between Building F and the site's northern boundary including medium sized trees to provide an attractive vegetated separation as illustrated below.'

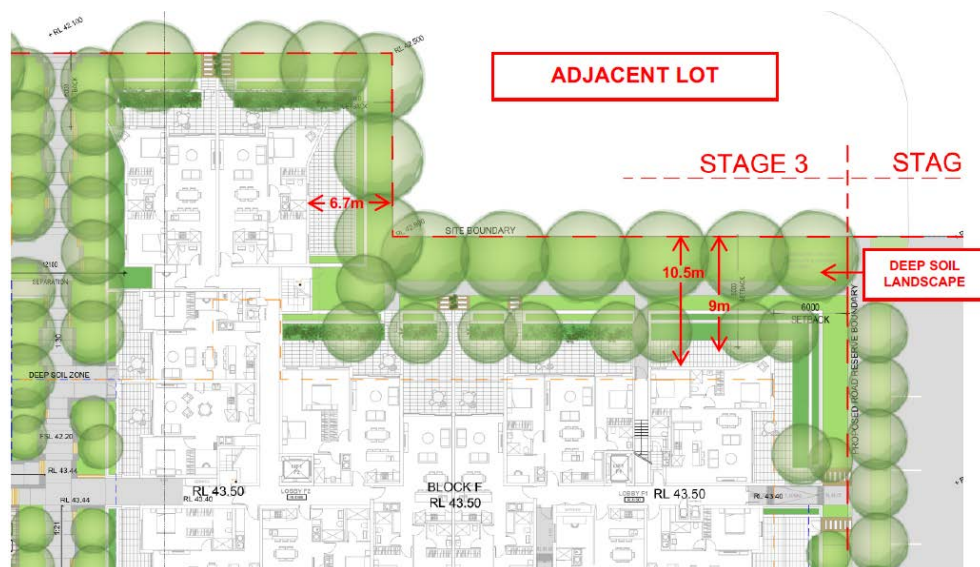


Figure 1 Extract of the Applicant's analysis of the setbacks and landscaping to buffer the proposed development from Lot 39 (Source: PBD Architects)

It is also noted that the owner of Lot 39 has considered this proposal and the potential impact on their property and future dwelling house, and has withdrawn

their submission to the proposal. Consideration of appropriate building separation and privacy screening methods are further considered at Section 8 of the Assessment Report and Attachment 10 in the Independent town planning consideration of the consequences of potential site isolation.

Overall, the non-compliances to building separation are not considered to diminish the amenity of the future residents of the apartments and is considered satisfactory in this instance.

(b) 3D Communal Open Space

Part 3D 'Communal Open Space' of the ADG requires communal open space (COS) to be provided which has a minimum area equal to 25% of the site.

To calculate this requirement, the Applicant contends that the site area includes the Transport Investigation Corridor Area, being a total site area of 4.921 hectares. Therefore the required COS is 12,310 sqm, the majority of which is provided within the Corridor area (Refer to Communal Open Space Plan DA5021 provided at Attachment 5). Only a minor portion of the usable COS is provided with the development.

However, we do not agree with the Applicant's approach to calculating site area and COS. The Growth Centres SEPP states that '*site area*' means '*the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Plan.*'

The Transport Investigation Corridor Area is excluded from the site area calculation due to Clause 6.10 Appendix 4 of the Growth Centres SEPP states that consent must not be granted to development in the Transport Corridor without the concurrence of Transport for NSW (TfNSW). The extent of the Corridor is shown on the Zoning Map in **Attachment 3**. Development for a purpose other than public transport projects is not permitted within the Corridor Area, therefore we do not consider that the site area of this proposal validly includes the Transport Corridor.

Notwithstanding the above, the final proposed plans now include the provision of rooftop communal open space to ensure that the minimum quantity and quality of usable communal open space is achieved for this application. This allowance is considered to be satisfactory.

(c) Visual Privacy

Section 3F of the ADG requires separation distances between buildings on the same site depending on the type of room as set out in Figure 3F.2, which is generally a distance of 12 m as all separation distances are between habitable rooms/balconies.

The minimum separation distances are generally satisfied, with the exception of some separation distances being only 10 m as shown on the proposed plans at Attachment 5. An example of this is provided in Figure 2 below:

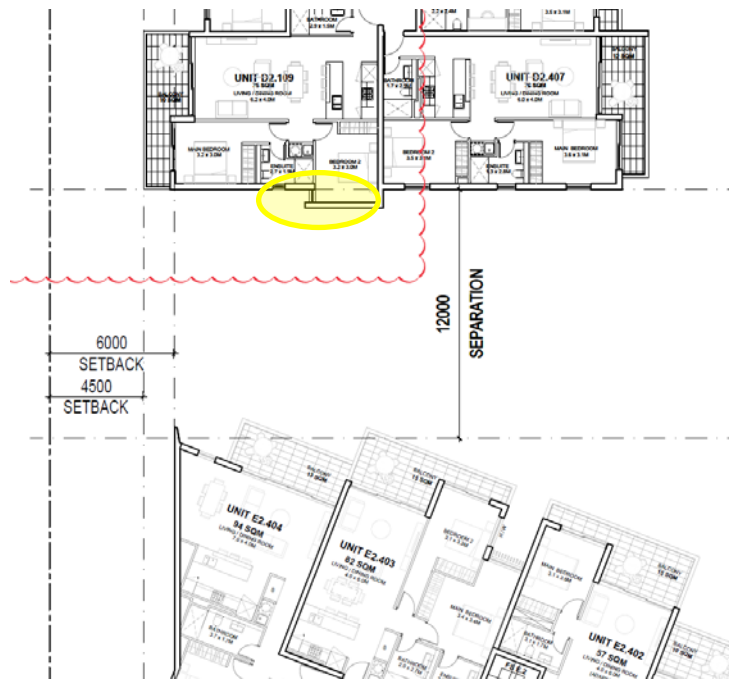


Figure 2 Extract of the Building D and E Level 4 Plan, Drawing No. DA 1205, showing a building separation of only 10 m between balconies and habitable rooms. The Applicant has provided some angled bedroom windows (highlighted in yellow) to assist with protecting visual privacy (Source: PBD Architects)

There are also instances of the 12 m building separation not being met by providing a 'blank wall effect' for some units which have the windows to their habitable rooms orientated away from nearby habitable rooms/balconies, as shown in Figure 3 below:

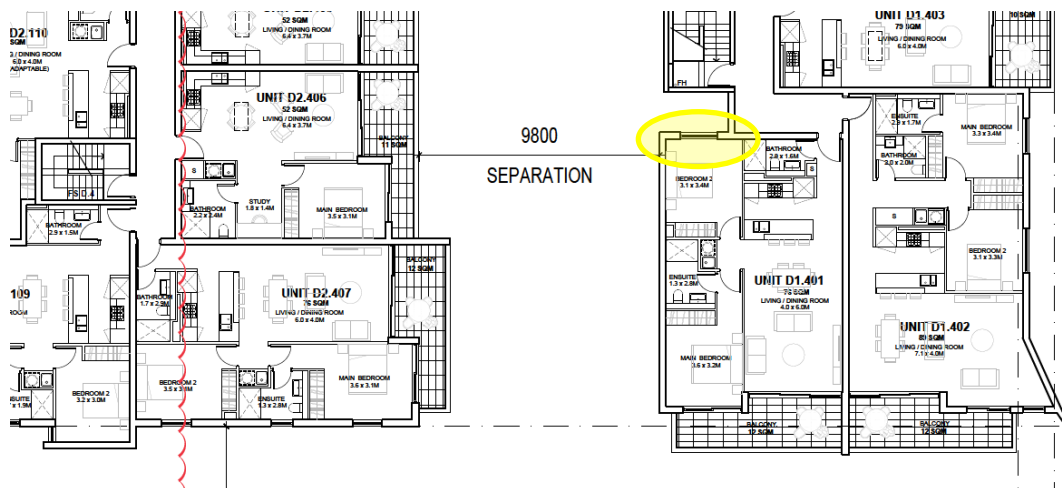


Figure 3 Extract of the Building D and E Level 4 Plan, Drawing No. DA 1205, showing a building separation of only 8 m to 9.8 m between the balconies (left) and the 'blank wall' on the right. The window of Bedroom 2 of Unit D1.401 (highlighted in yellow) is orientated away from the nearby balconies to avoid complying with the required 12 m distance for visual privacy (Source: PBD Architects)

With regard to visual privacy, the ADG also requires that where there may be oblique / angled views from balcony to balcony, or balcony to bedroom, that these are appropriately screened and identifies that privacy to apartments can be

improved by locating circulation cored at the internal corners of buildings (Figure 3F.10). The following Figure 4 is a key consideration of this.



Figure 4 Extract of the Building A Typical Floor Plan, Drawing No. DA 1106, showing the portion of the apartment building which overlooks the internal courtyard, and has several components of the development which have balcony to balcony, or balcony to bedroom, or bedroom to bedroom (Source: PBD Architects)

As demonstrated in Figure 4, the internal corners of this 'U-shaped' floorplan layout comprise circulation cores, a 'blank wall effect' in places, windows which are orientated to avoid direct lines of sight, and balconies with solid side walls and fixed privacy screens.

This arrangement is considered sufficient to protect the visual privacy of future residents as directed by the ADG.

(d) Natural Ventilation

Section 4B 'Natural Ventilation' of the ADG requires at least 60% of apartments to have natural cross ventilation. The objective of this is to maximise the opportunity to create a comfortable indoor environment for residents. The proposal provides natural cross ventilation for 60% of units, however 54 (8%) of the top floor apartments achieve this by providing a skylight to the living room only (as shown on the Natural Ventilation Diagrams provided at Attachment 5, Drawing Nos. DA5031, DA5032, DA5033 and DA5034).

The use of a skylight is considered to be acceptable in this case given these 54 single aspect apartments are designed to maximise natural ventilation as they feature narrow depths with a distance of only 8 m from any window to the rear

wall of apartments (as indicated by Objective 4B-2 of the ADG) and the skylights will be manually operable and capable of serving the needs of residents to gain airflow as an alternative to achieving this through providing dual aspect or corner apartments.

The alternate use of skylights to considered to be a satisfactory alternative in this instance.

(e) Community Spaces

Section 4F 'Common Circulation and Spaces' of the ADG states that for larger developments, community rooms for owners meetings or resident use should be provided.

The proposal is submitted with the intent of providing a single development or 'Precinct' across the overall development site. As lodged, there was no community room provided. In response to concerns raised by Council, the Applicant provided a centrally located 'Communal Pavilion' within the Communal Open Space area of Building D and E to be shared communally by all residents. This pavilion blocks the east-west vista throughout the site, and is not supported.

Given the substantial number of apartments proposed (650 apartments) the provision of a single community room is not considered to be sufficient to service the needs of such a large number of residents.

It is recommended that a Condition of consent is imposed requiring the provision of a Community Room for activities such as owners corporations meetings or resident use is provided for each of the 3 'Blocks'. This room is not to encroach on the proposed communal open space, and is to be within the building footprint as a room within the buildings, as opposed to a covered structure within the communal outdoor space areas (Condition 5.20.3). Subject to the imposition of this condition, it is considered that the provision of communal open space is considered to meet the minimum requirements for this development.

(f) Acoustic Privacy

Section 4H 'Acoustic Privacy' of the ADG includes an objective that noise transfer is minimised through the siting of buildings and building layout. This includes Design Guidance that adequate building separation is provided within the development and from neighbouring buildings/adjacent uses, and that windows and door openings are to be orientated away from noise sources.

This is generally achieved, with the exception of the relationship of the proposal to the adjoining Transport Corridor and Schofields Road to the south. The proposal results in reduced building setbacks and some window and door openings orientated to these noise sources.

The Applicant states that *'this setback provides an appropriate setback from the future transport corridor to accommodate future maintenance structures on the site without impact to transport infrastructure. A noise impact assessment cannot be undertaken from the proposed transport corridor as the numbers and types of vehicles using the corridor are unknown. However, incorporating upgraded single glazing such as 10.38mm laminated glass would be acoustically acceptable to ensure compliant internal noise levels are achieved.'*

The potential acoustic impact on the proposed apartments which are orientated towards or in the vicinity of the future Transport Corridor have been considered by Council's Environmental Health Section and by Transport for NSW in Section

11 of the Assessment Report, both of which confirm they do not raise any objection to the proposal and its setbacks, subject to conditions of consent to ensure that appropriate noise mitigation strategies are imposed on any consent issued with regard to potential noise impacts during construction and operation of the future extent of traffic volume and rail use of the Transport Corridor and Schofields Road to the south.

Given the above measures to mitigate potential acoustic impacts, full compliance with the building setback is not considered to improve the proposal's acoustic privacy of the future residents, and is supported in this instance.

(g) Noise and Pollution

Section 4J of the ADG 'Noise and Pollution' states that in noisy or hostile environments, the impacts of external noise and pollution are to be minimised through the careful siting and layout of buildings. The ADG identifies design solutions to mitigate noise transmission including:

- Limiting the number and size of openings facing the noise sources.
- Provide seals to prevent noise transfer through gaps.
- Using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens).
- Use materials with mass and/or sound insulation or absorption properties (e.g. solid balcony balustrades, external screens or soffits).

This is generally achieved, with the exception of some window and door openings orientated to the adjoining Transport Corridor and Schofields Road.

Given the arguments already identified in Section 3 (f) above, the proposal demonstrates some noise shielding or attenuation techniques for the building design, construction and choice of materials to mitigate the potential impacts to manage noise and pollution impacts.

Given the nature of the redevelopment of this site for medium density purposes which is in close proximity to major roads and transport corridors, it is recognised that there is difficulty in providing a development which achieves private open space and windows that provide natural ventilation to habitable rooms away from the busy road or rail corridor. Therefore, there is no objection to the outcome of a portion of the apartments which have openings solely to the rail corridor and Schofields Road.

(h) Apartment mix

Section 4K of the ADG 'Apartment mix' requires a variety of apartment types to be provided. The application was originally submitted with an apartment mix of 2 x studios, 162 x 1 bed, 447 x 2 bed and 40 x 3 bed. The Applicant has since revised the mix. With regard to the number of 3 bed apartments, 14 apartments have been deleted resulting in only 4% of the apartments being 3 bed apartments.

This is considered to be insufficient. At least 10% of the total apartments are expected to be 3 bedroom apartments to reflect a variety of apartment types, being 65 apartments.

However, in this instance we will allow only 6% of the total apartment, to be 3 bedroom apartments (as originally proposed). This will be imposed as a condition of consent (Condition 2.2.1 vii). A suitable and responsive apartment mix is capable of being provided within this development.

4. Variation to the Growth Centre Precincts DCP 2014 requirements

The provisions of the Growth Centres DCP 2014 are considered in detail at **Attachment 9**. The proposal satisfies these requirements with the exception of the ILP and setbacks to public roads.

(a) Road pattern variation

The application seeks to vary the road pattern identified within the Riverstone Precinct Indicative Layout Plan. The variations are identified in Figure 5 below and include:

- The deletion of the new public road connection to Berkeley and Whitechapel Avenue, to be replaced with a cul-de-sac (highlighted in yellow below).
- The addition of an east-west road to create a new connecting road (highlighted in blue below).

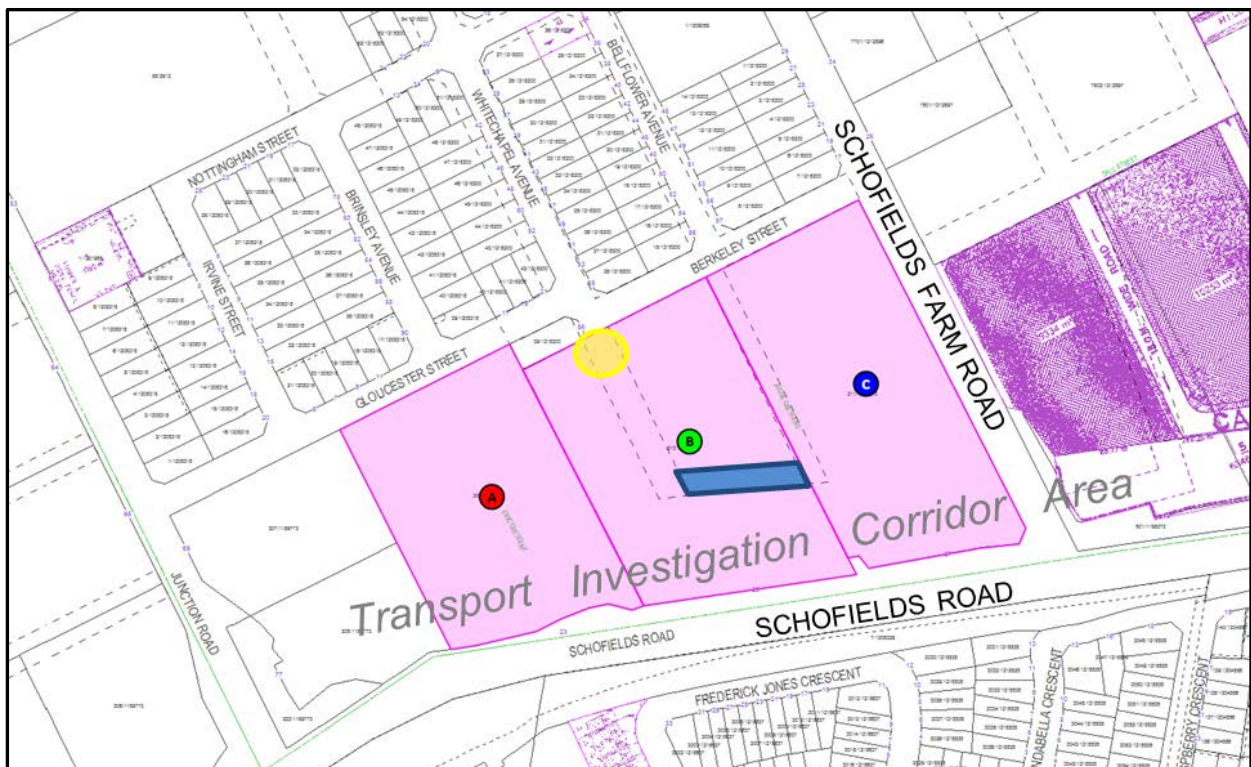


Figure 5 Extract of the Riverstone Precinct Indicative Layout Plan in the Growth Centres DCP 2014. The subject site is highlighted in purple. The new ILP road is shown in blue. The location of the proposed cul-de-sac at the staggered intersection of the new local roads Gloucester Street, Whitechapel Avenue and Berkeley Street is shown in yellow. (Source: BCC GIS)

The variation to the road pattern is considered acceptable given the following grounds:

- The ILP includes 2 north-south roads within the development site. However, Council's ATMS section does not support the staggered intersection at Gloucester Street, Whitechapel Avenue and Berkeley Street for safety reasons. ATMS recommended a 'peanut shaped' roundabout at this intersection. However, the Applicant has demonstrated that there is

insufficient area in this location for the installation of a roundabout. We recommended the Applicant acquire new Lot 39 DP 1218200 known as 56 Whitechapel Road, Schofields. The Applicant sought to acquire this property, however the owner declined to sell the lot and has elected to construct a dwelling house in this location, as discussed in detail at Section 8.3 of the report.

Instead of a roundabout, the Applicant has proposed a cul-de-sac within the development site, with all access via a new public road which connects to Berkeley Street and Bellflower Avenue. This portion of the proposed roads is generally consistent with the ILP. Council's ATMS section does not object to this proposed cul-de-sac arrangement, as it is a safer outcome for motorists and pedestrians.

- The addition of the south-west road along part of the new southern boundary of the site provides a connecting road which ensures that development site is properly serviced by vehicular access.
- The proposed layout is responsive to the imposition of the Transport Investigation Corridor Area along the southern portion of the site.
- With all road pattern variations considered, the proposal developable area is decreased, primarily due to the new east-west road highlighted in blue in Figure 5 above. This is considered acceptable.

(b) Building setbacks to public roads

The applicant seeks a variation to the Growth Centres DCP requirement setbacks to public roads which require a 6 m setback to the building line, and balconies and other articulation may encroach into the setback to a maximum of 4.5 m from the boundary for the first 3 storeys, and for a maximum of 50% of the façade length.

The proposal provides point encroachments throughout the development site which do not satisfy these requirements for each level as shown on the Articulation Diagram, Drawing No. 5024, Issue A provided at **Attachment 8**.

The proposal is considered to result in benefits to the Precinct by providing a significantly sized and cohesive development which creates an interesting and varied building line and streetscape. The proposal does not adjoin any properties which are adversely affected within regard to building separation or visual and acoustic privacy. The visual impact of the proposed setback variation is ameliorated by providing a mix of external colours and finishes and architectural features which, in culmination with the varied lengths and orientations of the buildings also assist with creating a distinct sense of place.

It is also noted that the proposed cul-de-sac creates a further increased building setback for the location of the turning circle which affects the setbacks to Buildings D and F. The apartments within the vicinity of the cul-de-sac have an increased setback in this location, however there are some habitable rooms which encroach within the 6 m setback to the building line, and some balconies which also encroach into the 4.5 m setback to balconies (refer to the Floor Plans DA1203 to DA1310 provided at **Attachment 5**). Despite these variations the proposal is considered to provide a suitable streetscape presentation which creates the visual impression of framing the cul-de-sac, and these apartments are not considered to be adversely affected with respect to amenity as they are afforded a suitable separation from other buildings and a cul-de-sac which is expected to experience a low level of vehicular use.

Overall, the proposed building setbacks to the public roads are considered to be satisfactory and are supported in this instance.

(c) Building setbacks to the transport corridor

Due to the recent extension of the North West Rail Link, the southern portion of the site is identified as a Transport Corridor Investigation Area under Clause 6.10 of Appendix 4 of the Growth Centres SEPP, as detailed in Section 5 of the Assessment Report and **Attachment 3**. The southern property boundary which adjoins this corridor is now subject to the building setback controls in the DCP, being a 6 m setback to the building line.

The Applicant proposes a varied setback which affects Buildings B, C, G and H as follows:

Building	Setbacks	Treatment
Building B	From 2.75 m to 3.4 m	5 bedrooms have their only window openings orientated directly to the Corridor. 4 bedrooms have window openings which are angled away from the Corridor and are treated with a screening wall. The majority of balconies are somewhat orientated away from the Corridor, with the exception of Unit B1.401 on the top level which is orientated directly to the Corridor.
Building C	From 2.5 m to 3.4 m	10 bedrooms have their only window openings orientated directly to the Corridor. 5 bedrooms have window openings which are angled away from the Corridor. The majority of balconies are somewhat orientated away from the Corridor.
Building G	From 3.4 m to 8 m	15 bedrooms have their only window openings orientated directly to the Corridor (the remainder of the bedrooms have a setback of at least 6 m to 8 m). 5 ground level terraces are within the 6 m setback area. 8 balconies are within the 6 m setback area.
Building H	From 3.4m to 6.75 m	22 bedrooms have their only window openings orientated directly to the Corridor (the remainder of the bedrooms have a setback of at least 6 m to 8 m). 5 ground level terraces are within the 6 m setback area. 9 balconies are within the 6 m setback area.
Buildings B, C G and H	As above.	<u>ALL</u> windows are to have specific glazing, window assembly and opening details to reduce external noise entering the building.

The Applicant states that *'this setback provides an appropriate setback from the future transport corridor to accommodate future maintenance structures on the site without impact to transport infrastructure. A noise impact assessment cannot be undertaken from the proposed transport corridor as the numbers and types of vehicles using the*

corridor are unknown. However, incorporating upgraded single glazing such as 10.38mm laminated glass would be acoustically acceptable to ensure compliant internal noise levels are achieved.'

The potential acoustic impact on the proposed apartments which are orientated towards or in the vicinity of the future Transport Corridor have been considered by Council's Environmental Health Section and by Transport for NSW in Section 11 of the Assessment Report, both of which confirm they do not raise any objection to the proposal and its setbacks, subject to conditions of consent to ensure that appropriate noise mitigation strategies are imposed on any consent issued with regard to potential noise impacts during construction and operation of the future extent of traffic volume and rail use of the Transport Corridor and Schofields Road to the south.

With regard to the visual impact of the proposed setbacks, as viewed from the public domain and in light of the varied width and alignments of the Transport Corridor and Schofields Road, the portions of the development which encroach into the 6 m setback line will not be visually discernible. Therefore full compliance with the building setback is not considered to improve the proposal's visual presentation or acoustic privacy of the future residents, and is supported in this instance.

(d) Building separation

The DCP requires a minimum building separation of 12 m between habitable room / balcony separation distance for buildings 3 storeys and above. Some internal separation distances do not strictly satisfy the 12 m separation distance, for example a separation distance of only 10 m for Buildings D and E.

The Applicant seeks to circumvent this by providing design techniques such as providing blank walls and orientating openings to habitable rooms away from balconies, some of which are suggested by Figure 3F.2 of Section 3F of the ADG.

This approach is considered to result in a poor outcome with regard to building separation and providing a sense of space and amenity for future residents, however no further objection is raised in this instance.