Mixed Use Residential Development

18-24 Railway Street, Lidcombe

Clause 4.6 Floor Space Ratio and Height of Building Requests

Prepared on behalf of Piety THP
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Preamble

This report has been prepared to supplement the Statement of Environmental Effects (SEE) for the proposed residential mixed use development at 18-24 Railway Street, Lidcombe to specifically and separately request variations to Floor Space Ratio (FSR) and Height of Building (HOB) development standards under Clause 4.6 of Auburn Local Environmental Plan 2010 (ALEP 2010). The clause 4.6 variation requests in this report replace the clause 4.6 variation request in the SEE.

It was requested by the Sydney Central City Panel to provide greater detail and assessment to assist its consideration and determination of the clause 4.6 variation requests.

This report also corrects some of the inaccuracies in the Assessment Report prepared by Cumberland Council and submitted to the Panel as to the scale of the variations.

The Assessment Report stated various incorrect percentages in relation to the proposed increase in the FSR development standard, stating an increase of up to 28% (refer table page 8)

The proposed variation to the FSR is from 5:1 to 5.28:1 being an additional area of 657m^2 (above the standard of 11,611m^2) and represents a 5.6% increase in the development standard.

The main contravention of the HOB control consists of one storey situated on the building's northwest corner representing a maximum of 7% to 13% variation to the roof top (reflecting the slope of the land) applying to 40% of the building footprint. Also , additional minor variations are required for plant, façade, barrier fencing and the like while a height increase is also requested to allow lift access to the roof where additional communal open space is provided for mid-winter sun.

The request for the variations arise from a re-massing of a compliant scheme to facilitate the widening of the rear lane to the site for improved access to the precinct as a whole and reduced impacts on surrounding streetscapes. The implementation of related public domain improvements is the subject of a separate voluntary planning agreement.

Please refer to details within the report.

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COVER

Proposed development when viewed looking south west from Railway Street

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1 Introduction

This report has been prepared to replace the clause 4.6 request in the SEE on behalf of BillOne Property (Piety THP) to Cumberland Council for a mixed use / residential development at 18-24 Railway Street, Lidcombe.

The report separately requests variations under Clause 4.6 of ALEP 2010 to the FSR and HOB development standards in clauses 4.4 and 4.3 respectively of ALEP 2010.

David Locke Associates were requested to undertake an urban design assessment of the proposal having regard to the variations sought to FSR and HOB (DLA Report).

This Report should be read in conjunction with the SEE (noting that its discussion of Clause 4.6 is superseded by this report) as well as the architectural, landscape and civil works plans submitted for approval and the Urban Design Report attached to this report.

The development standard variation requests have been prepared under Clause 4.6 of ALEP 2010 to justify the departures from development standards for FSR and HOB in clauses 4.4 and 4.3 of ALEP 2010 respectively.

The requests meet the objectives of clause 4.6(1),

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances,

and demonstrate for the purpose of clause 4.6(3):

(a) that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standards.

1.1 CASE LAW

The main principles adopted by the Land and Environment Court in considering variation requests to development standards are set out below.

Wehbe v Pittwater [2007] NSW LEC 827 (Wehbe)

Justice Preston set out five ways in which it could be established that compliance with a development standard is unreasonable or unnecessary, being as follows:

- Are the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- Is the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- Would the underlying objective or purpose be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;

- Has the development standard been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or
- Is "the zoning of particular land" "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land".

Randwick City Council v Micaul Holdings Pty Ltd [2016] NSW LEC 7 (Micaul)

In Micaul, Preston CJ approved a four stage test adopted by the Commissioner at first instance to ensure that the Court was satisfied that the variation request should be granted:

- that compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case,
- that there are sufficient environmental planning grounds to justify contravening the development standard,
- that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- that the proposed development will be 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.

1.2 STATUTORY PLANNING CONTEXT

The site is currently zoned B4 Mixed Use under ALEP 2010 whereby the zone's objectives are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage high density residential development.*
- *To encourage appropriate businesses that contribute to economic growth.*
- *To achieve an accessible, attractive and safe public domain.*

The proposed development for *Shop top housing* is permissible under this zone with development consent being defined as follows:

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

The site is subject to a HOB control of 32m and an FSR control of 5.0:1.

The subject land is not identified under ALEP 2010 as a reservation for acquisition (clause 5.1), being within a flood planning area (clause 6.3) or containing heritage or archaeological items (clause 5.10).

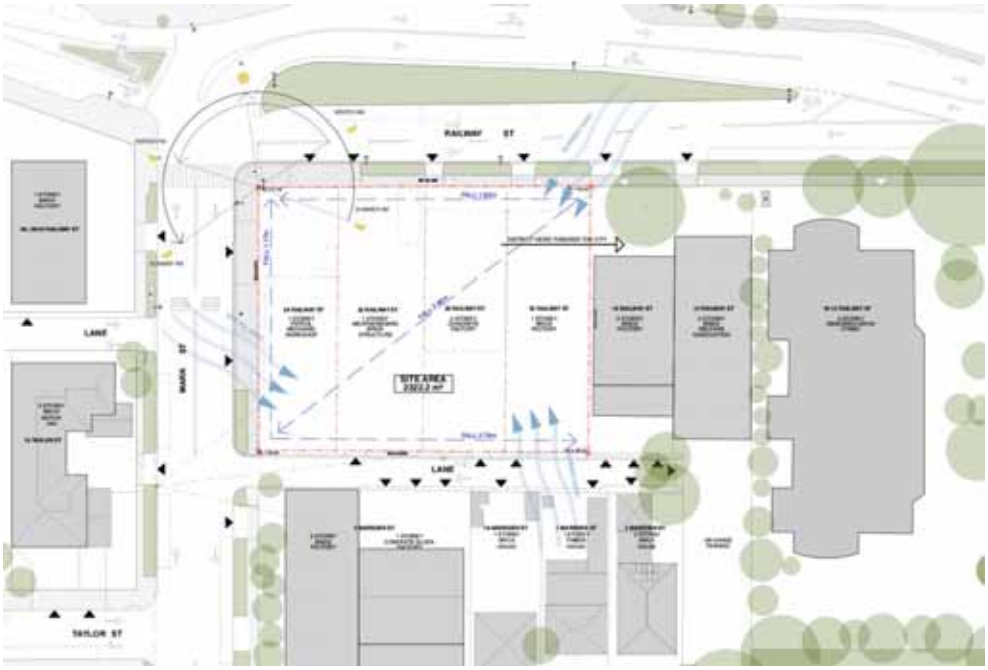
It is near an archaeological item A56 "*Lidcombe Signal Box*" opposite on Railway Street between Mark and East Streets south side of railway lines.

Additional provisions contained in ALEP 2010 are not relevant to the development proposal.

1.3 DEVELOPMENT OVERVIEW

1.3.1 Site and context

The site is known as 18-24 Railway Street, Lidcombe and comprises four allotments legally described as Lots 1 to 4, Section 2, DP 846.



Extract of Site Analysis Plan. Source Fuse - refer to architectural plans

It is regular in shape and has an area of 2,322 m2, with a primary frontage of approximately 54m to Railway Street, a secondary frontage to Mark Street of approximately 42.8 m and adjoins a 6m lane to the south of the site.

A physical survey of the site is included in the Appendices to the SEE. The four lots are currently occupied from west to east by a single storey service station, vacant land, a two storey brick and concrete block factory building and a single storey brick factory building.

The site is in close proximity to metropolitan rail and bus services and a wide range of retail, recreation, personal and business services, and employment within the surrounding Lidcombe Town Centre.

The surrounding area is zoned for mixed use redevelopment and the existing built form is varied with a mix of 2 to 4 storey retail and commercial buildings along with some

existing 1 to 2 storey detached dwellings along Marsden Street with rear access to the laneway directly south of the subject site.

There are recently constructed apartments of between 8 and 11 storeys located along Taylor Street and Mark Street to the south and west of the site in accordance with the planning provisions and are a response to the area's public transport accessibility and services.

As identified at Figure 10 of the DLA Report, there are 4 proposed developments to occur on the following sites:

- 9 Taylor Street;
- 13-15 Taylor Street;
- 1A-3 Marsden Street; and
- 21B-23 James Street.

A site analysis plan prepared by Fuse is in the Appendix to the SEE while a more complete description of the site's context is also provided in the Statement.

1.3.2 Development Details

The proposed development comprises of the demolition of existing buildings and construction of a 9 to 11 storey building containing ground floor commercial premises with apartments above and served by 3 to 4 levels of basement.

More specifically the proposed development consists of 12,268 m2 of gross floor area utilised for:

- seven ground floor commercial premises,
- 147 apartments in a mix of 1, 2 and 3 bedrooms,
- basement car parking spaces for residents, visitors and tenancies,
- on-site loading and waste facilities,
- landscaped private and communal open spaces,
- widening and improvement of the rear lane and dedication to Council of an area of land 88.5m^2, and
- upgrade of the adjacent street verges.

The site area is 2,322.20 m2 and floor area proposed is 12,268 m2 resulting in an FSR of 5.28:1.

The proposed development is detailed in the architectural plans in the SEE Appendices inclusive of Elevations, Sections, Materials, Shadow Diagrams, Explanatory and Compliance Diagrams. These are accompanied by photomontages and landscaping plans.

1.3.3 Site Configuration and Massing

Central to this request is the overarching site utilisation and massing strategy informed by the ADCP 2010 as applied to the site adjusted to achieve the public benefit of widening the rear lane to provides better access to redevelopment sites within the precinct as shown in the following diagrams.

Compliant building massing showing area affected by lane widening

Building with lane widening massing relocated

Additional massing to complete viable corner building form and provide roof access to communal open space

The proposed lane widening, improvements and land dedication to the Council is not a direct requirement of the development for which suitable access alternatives exist, but more generally assists in the implementation of the ALEP 2010 zone objectives and the desired LEP and DCP built form outcomes for Lidcombe Centre.

The applicant agreed to the laneway widening and dedication of this part of its site. The site area of 88.5m2 “lost” through the laneway widening could accommodate approximately 270m2 GFA of a DCP compliant built form and this has been relocated to a partial extra level to the building comprising 373.m2 GFA. Additional GFA of 284m2 was utilised to facilitate the re-massing for the laneway widening but which occurs below the extra level and results in a total floor space ratio of 5.28:1.

The DLA Report observes at page 9 that the additional level has been designed to form a ‘cap’ to the building, responding to the robust context allowed by this corner site while the re-massing is explained in the diagrams in the following page.

Accordingly, the proposed building comprises 9 to 11 storeys with a height of approximately 36m above ground level to the roof level of the northern and western street edges of the corner ‘cap’ form and 39.12m to the top of the single lift overrun. The majority of the proposed building roof height does not exceed the maximum height limit of 32m except for minor intrusions from roof plant, façade features, barrier fencing to communal open space and the like.

Additional details of the variations to the FSR and HOB standards of 5:1 and 32m are discussed in full in Sections 2 and 3 of this report.

2 Clause 4.6 FSR Variation Request Assessment

2.1 IS THE PLANNING CONTROL A DEVELOPMENT STANDARD?

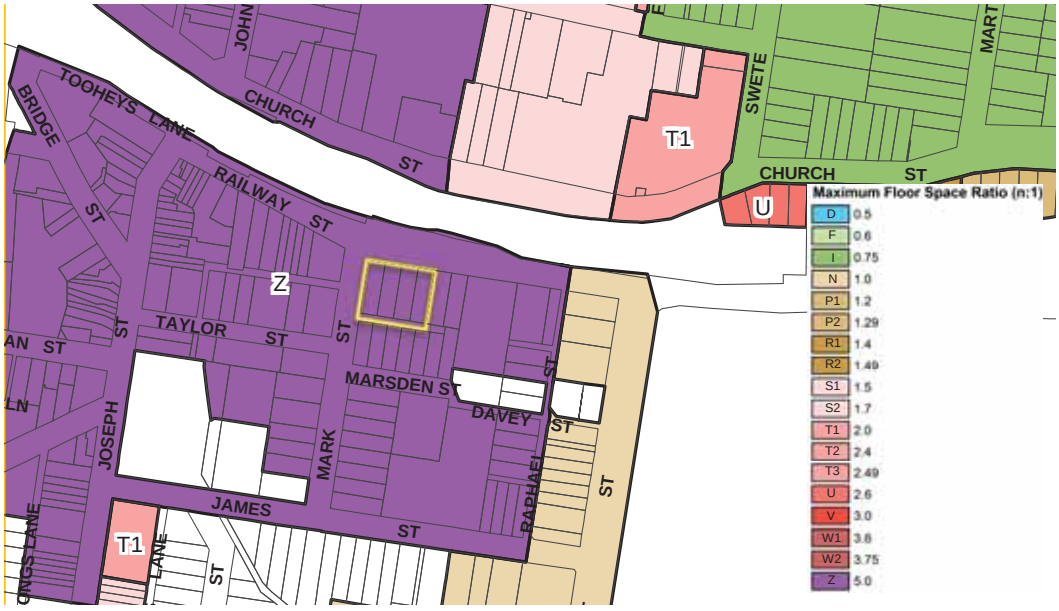
The planning control in Clause 4.4 of ALEP 2010 relates to the maximum floor space ratio that applies to the site and is a development standard as defined in the *Environmental Planning and Assessment Act 1979* that *(EP&A Act, Part 1 Section 4. Definitions):*

> *development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, ….*
>
> *(c) the character, location, siting, bulk, scale, shape, size, height,* ***density,*** *design or external appearance of a building or work,*
>
> *(d) the cubic content or floor space of a building,*
>
> *(e) the intensity or density of the use of any land, building or work, ….* (Emphasis added)

The application of clause 4.6 to the FSR development standard is not precluded by the operation of clause 4.6 (6) or 4.6 (8) of ALEP 2010.

2.2 THE NATURE OF THE CONTRAVENTION OF THE STANDARD

The site is subject to Clause 4.4 *Floor space ratio* where the Floor Space Ratio Map indicates category Z for the land that represents an FSR of 5:1.



ALEP 2010 FSR Map extract with subject land edged yellow.

The FSR of the proposal is 5.28:1 as a result of relocating the massing from the street widening (which is related to an offer to enter into a planning agreement for public

domain works) to create an appropriate corner element comprising an additional storey over part of the building footprint while providing additional floor area to derive an acceptable form.

The proposed increase in FSR by 0.28:1 represents a 5.6% variation of the standard.

2.3 OBJECTIVES OF THE ZONE AND STANDARD

2.3.1 Zone Objectives

The objectives of the applicable B4 Mixed Use Zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage high density residential development.*
- *To encourage appropriate businesses that contribute to economic growth.*
- *To achieve an accessible, attractive and safe public domain.*

The proposed development is considered to achieve and be consistent with the objectives for development within the B4 zone in providing a mix of compatible land commercial and residential uses within an area with substantial local shopping and recreational facilities; personal and business services; schools, churches and parks and a high level of public transport accessibility being within 200 m of Lidcombe train station with local and district bus services.

It represents suitable high density residential development with 147 apartments and seven ground floor commercial units encouraging appropriate businesses that contribute to economic growth.

In regard to the last objective, the proposed re-massing of the building and 5.6% increase in floor space will enable improved precinct accessibility via the rear lane to nearby redevelopment properties facing Railway and Marsden Streets.

As a consequence, rear lane basement entries and garbage services will remove the need for car and truck crossings on the main street frontages on Railway and Marsden Streets. This in turn will improve the attractiveness and safety of the public domain by removing the need for vehicle movements over pedestrian paths with improved streetscapes from the removal of basement entries from building facades addressing the streets.

In addition, the additional bulk on the north west corner is still of a form, scale and height that responds appropriately to site characteristics and the local character.

Accordingly, it is considered that the variation will enable the better realisation of the B4 zone objectives.

2.3.2 FSR Standard Objective

The objectives of the floor space ratio development standard stated in clause 4.4 are:

(a) *to establish a maximum floor space ratio to enable appropriate development density to be achieved, and*

(b) *to ensure that development intensity reflects its locality.*

The proposed FSR variation constitutes a relatively minor increase in the FSR by 5.6% when compared to the development standard and results in a development which would be similar in bulk and scale to a development that complies with the development standard as demonstrated under section 1.3.3 above and the DLA report discussion below.

The relatively minor increase in FSR will result in a development with a density and intensity which is acceptable from an infrastructure and traffic generation perspective as outlined in the SEE and the traffic impact assessment report submitted with the development application.

The proposed variation of the FSR control is consistent with the objectives of the development standard as the proposed development represents a high quality urban form in an appropriate density and is consistent with the emerging built form of the locality as reflected in the height and densities within the planning framework.

The appropriateness of the floor space ratio proposed for the development is assessed in the in the DLA Report which notes at page 13 that :

> *The non-compliant (FSR and) height component has been applied to the north west corner of the building, with setbacks from the southern edge of the building of approximately 14.5 metres and approximately 30 metres from the western boundary. The setbacks proposed are more than sufficient to ensure it will be visually recessive from lower scale dwellings to the south.*
>
> *The additional height location on the north west corner is still of a form, scale and height that responds appropriately to site characteristics and the local character. It's proposed location on the building helps to hold the corner, completing the building form.*

The Report identifies three potential off-site amenity impacts from an urban design perspective being visual bulk, overshadowing and visual privacy and provides the following assessments at page 15.

> ***Visual Bulk***
>
> *In relation to visual bulk, Section 2.3 'Building Envelope' of the ADCP includes a performance criteria which states the following:*
>
> > *"P1 The height, bulk and scale of a residential flat building development is compatible with neighbouring development and the locality. Residential flat buildings:*

- *Addresses both streets on corner sites;*
- *Align with the existing street frontages and/or proposed new streets; and*
- *Form an L shape or a T shape where there is a wing at the rear.*

The proposal rises to 11 storeys with an approximate width of 52 metres. The shape of the building is an 'L', with the highest point of the built form pushed to the north west corner, furthest away from the sensitive residential interfaces to the south. Pushing the greatest height away from the sensitive interfaces and towards the train station will help to reduce the visual bulk of the building as viewed from their backyards.

The provision of a courtyard in the south east corner of the site directly opposite the residential dwellings will allow for landscaping which will help to further shield their backyards from views of the built form.

Another way of mitigating visual bulk is to include height variation in the design. This helps to visually break up the built form mass and create a more varied skyline.

In summary, the built form has been designed appropriately to mitigate visual bulk issues. Further to this, the additional height proposed above the maximum set within the ALEP will further mitigate visual bulk by creating a varied skyline.

Overshadowing

The proposal has been designed to place the parts of the built form of greatest height to the north towards the railway station and away from the existing lower density dwellings along the laneway to the south.

Based on the current design, the proposal will cast shadow on the properties at 1A, 1 and 3 Marsden Street between the hours of 12 and 3pm.

However, I note these properties will receive full morning solar access, which is a reasonable expectation for sites within an area undergoing transition and zoned for higher density development.

I further note the addition of the non-compliant height will not increase the shadowing caused by a compliant scheme, due to its location within the north western corner of the site and its generous setbacks from the edges of the building.

Visual Privacy

The proposal has been designed to ensure adequate separation distances to boundaries in accordance with the ADG. The closest habitable rooms and balconies are within units 04 to 704 which are approximately 13 metres from the boundary of 1A Marsden Street. Therefore, the proposal will avoid overlooking to the south. The additional height proposed above the maximum set within the LEP will not increase the potential for overlooking.

Accordingly, the DLA Report confirms that the massing responds appropriately to site characteristics and street corner context. The relocation of permitted and additional

massing to allow for the widening of the rear lane and provide suitable basement access to future adjoining developments ‘enables appropriate development density to be achieved ‘in the immediate precinct in accordance with the objectives. .

The additional FSR is composed in a suitable building element to provide appropriate emphasis to the corner of Railway and Mark Streets and its intensity is in keeping with its location in the Lidcombe Centre and its close access to local services and mass public transport.

In addition, the variation requested is considered minor in nature and achieves an appropriate transition in built form and land use intensity from the town centre to lower scale forms at its periphery.

2.4 CONSISTENCY WITH THE OBJECTIVES OF CL 4.6?

The objectives of Clause 4.6 are:

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

When the development is tested against the underlying objectives of the zone and standard, compliance would be inconsistent with the aims of clause 4.6 because the proposed FSR is in response to the characteristics of the site and its contextual location as described in the DLA Report such that

- the objectives of the development standard are achieved notwithstanding non-compliance with the standard; and
- the underlying objective or purpose would not be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.

The proposed FSR allows site re-massing and assists the implementation of the zones objectives and broader planning framework for the surrounding town centre precinct by enabling the widening of the rear lane to allow better rear access to adjoining sites and thus improve the safety and amenity of nearby streets.

The variation to FSR will therefore allow a better outcome for and from development on the site and the locality especially as it will not be negated by adverse impacts on the surrounding environment as assessed in the DLA Report.

Accordingly, non-compliance provides an appropriate degree of flexibility to this particular development and its circumstances and that flexibility provides for a better planning outcome as it is considered to be appropriate, acceptable and consistent with the characteristics of the site and its highly accessible location as well as allowing the better implementation of the planning framework for Lidcombe centre in general and the precinct in particular by enabling lane widening.

2.5 IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES? CL 4.6(3)(A)

Strict compliance with Clause 4.4 of the ALEP 2010 is considered unreasonable and unnecessary in the circumstances of the case as the additional massing chiefly on the north west corner is still of a form, scale and height that responds appropriately to site characteristics and the local character and helps to hold the corner, completing the building form.

The non-compliance with the FSR standard is minor in nature yet enables re-massing of the building to provide site area for lane widening to assist in achieving a better outcome for development in the locality in accordance of the zone objectives as set out in section 2.3. The variation will not result in any unacceptable environmental impacts on the site or the adjoining residential properties.

Each of the matters listed within the 'five part test' outlined in Wehbe and "Varying development standards: A Guide" are listed and responded to as follows:

- The objectives of the standard are achieved notwithstanding non-compliance with the standard as set out in section 2.3.2
- The underlying objective or purpose of the standard remain relevant to the development and have been achieved as the proposed development has been designed to be compatible with the scale and character of the locality without additional adverse impacts on amenity of the neighbourhood.
- The underlying object or purpose of the standard would be defeated or thwarted if compliance was required as an 'appropriate' development density that accommodated a public benefit from facilitating site area for lane widening would not be able to be achieved as set out in section 2.3.2, and therefore compliance is unreasonable
- The development standard remains valid and the consideration of whether it has been virtually abandoned or destroyed by the consent authority in granting consents departing from the standard is not relevant
- The subject land is appropriate in the zone and the existing use of land and current environmental character Is not relevant.

In summary, it would be unreasonable to require compliance in the circumstance given that the objectives of the FSR standard and intent of ALEP 2010 are achieved as set out in section 2.3 and is appropriate in the building's context and accessibility to services and transport while the exceedance is relatively minor.

2.6 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENTION? CL 4.6(3)(B)

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

- The additional bulk on the north west corner responds appropriately to site characteristics and the local character and helps to hold the corner, completing the building form.

- The location of the bulk of the building to the north-west corner is setback from the southern edge of the building of approximately 14.5 m and 30 m from the western boundary. These setbacks ensure that the building will be visually recessive from the lower scale buildings at the periphery of the town centre.

- The proposed re-massing of the building and 5.6% increase in floor space will enable improved accessibility via the rear lane to nearby redevelopment properties facing Railway and Marsden Streets.

- As a consequence, rear lane basement entries and garbage services will remove the need for car and truck crossings on the main street frontages on Railway and Marsden Street with an overall improved attractiveness and safety of the public domain by removing the need for vehicle movements over pedestrian paths with improved streetscapes from the removal of basement entries from building facades addressing the streets..

- The intensity of the development is supported by local services and infrastructure, including public transport and there will be little additional traffic generated by the non-compliant development compared to a complying development but which can be accommodated as set out in the Traffic Report.

- The additional FSR can be supported on urban design grounds as assessed in the DLA Report and can be accommodated on the site without significant adverse impacts on the surrounding locality.

2.7 IS THE REQUEST WELL FOUNDED AND IN THE PUBLIC INTEREST? CL 4.6(4)(A) AND (B)

This request under clause 4.6 of ALEP 2010 to contravene the FSR standard as proposed has adequately addressed the matters required to be demonstrated by subclause (3) and is considered to be well founded and in the public interest for the following reasons.

- The proposed development is consistent with the objectives of the B4 zone as set out in Section 2.3.1 above.

- The development is consistent with the objectives of the FSR development standard as set out in Section 2.3.2 above.

- The development as proposed is appropriate in its location and provides for an appropriate response to its corner location.

- The proposed variation to FSR does not result in an urban form that adds significantly to the overall impacts of the development. Consequently, the non-compliance does not result in any significant adverse environmental impacts on the amenity of the surrounding area in general.

- The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out, and demonstrably results in a better planning outcome as outlined in Section 2.4.

2.8 SECRETARY'S CONSIDERATION. CL 4.6(5)

As the consent authority is the Panel, the Secretary's concurrence is assumed: Assumed Concurrence Notice from Carolyn McNally, Secretary, Department of Planning and Environment dated 21 February 2018 and Planning Circular PS-18003 issued 21 February 2018.

3 Clause 4.6 HOB Variation Request Assessment

3.1 IS THE PLANNING CONTROL A DEVELOPMENT STANDARD?

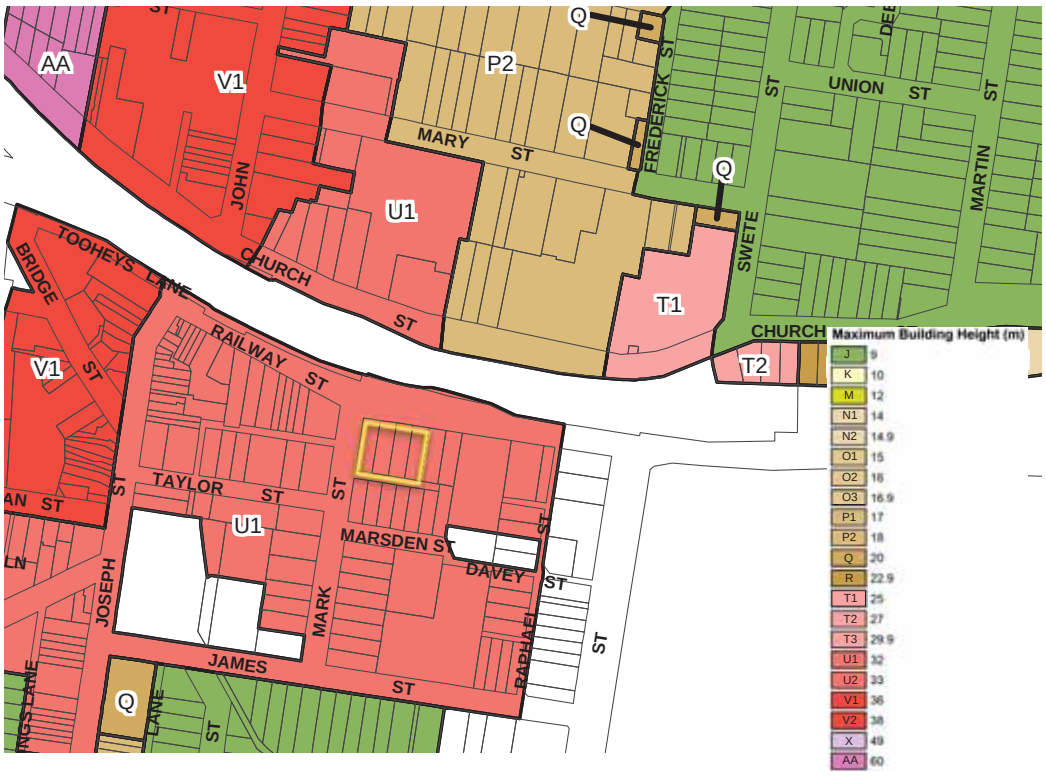
The planning control in Clause 4.3 Height of Buildings relate to maximum building height and is a development standard as definedin the *Environmental Planning and Assessment Act 1979 (EP&A Act, Part 1 Section 4. Definitions)*

> *development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, ….*
>
> *(a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point …*
>
> *(c) the character, location, siting, bulk, scale, shape, size, **height**, density, design or external appearance of a building or work,*
>
> *(e) the intensity or density of the use of any land, building or work, ….*

The application of clause 4.6 to the HOB development standard is not precluded by the operation of clause 4.6 (6) or 4.6 (8) of ALEP 2010.

3.2 THE NATURE OF THE CONTRAVENTION OF THE STANDARD

The site is subject to Clause 4.3 *height of buildings* where the Height Of Building Map indicates UI for the land that represents 32 metres above natural ground level.



ALEP 2010 HOB Map extract with subject land edged yellow.

The proposed development exceeds the height standard by about 4m on average above ground level to the roof level of the northwestern re-massed corner 'cap' form and representing a 7% to 13% variation of the standard taking account of the slope of the site.

In addition, a single lift overrun setback from the building edges, providing resident access to communal roof top open space with midwinter sun, exceeds the standard by 7.1m representing a variation of 22% of the height standard at this point.

Otherwise, the majority of the proposed building roof height does not exceed the maximum height limit of 32m except for minor intrusions from roof plant, façade features, barrier fencing to communal open space and the like.

The exceedance of the northwest corner element of the proposed building of the height control results mainly from the additional storey created by the relocation of massing for the laneway widening. The additional storey comprises only 40% of the building footprint and 27% of the site area.

Building area subject to additional height from massing (light green), remainder of building (yellow).

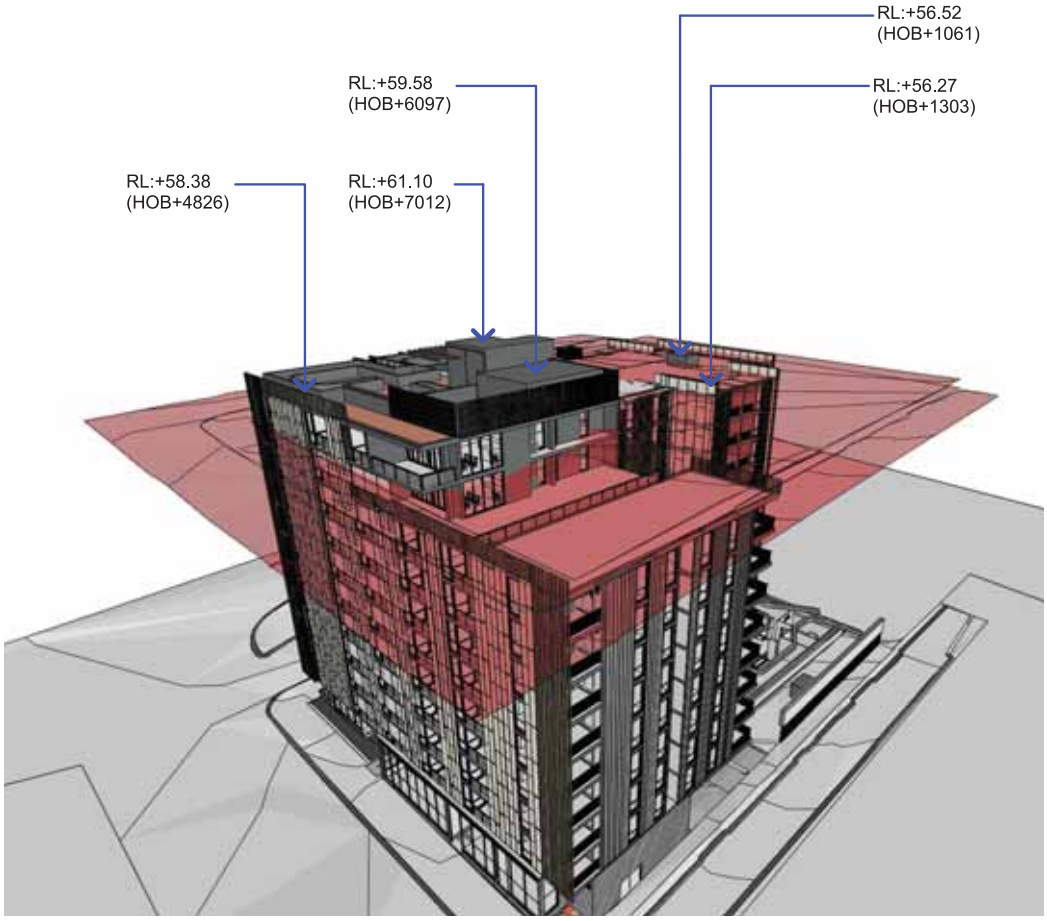
The proposed height of the proposed building varies from 9 to 11 storeys and generally the roof level is mostly within the HOB control other than the northwest corner building element. The proposed development results in a range of heights exceedances as follows:

- Minor intrusions for completion of the façade, slope of the land and roof plant: In particular, the façade extensions exceed the HOB control by 1.06m on the most eastern portion of the building that also disguises lower roof plant which is

well below the height control for the southern portion of the site where shadows have the greatest impact on neighboring properties.

- The transfer of floor space to the building northwest corner that would otherwise be derived from the area of land to be utilised for lane widening as well as additional floor space to compete the urban form
  The RL of the roof level is 57.13 at its greatest exceedance which is approximately 4.2m or 13% greater than the 32 m HOB control but reduces with the slope and only applies to less than 40% of the total roof area as shown in diagram above and elevations below.

- The addition of a lift access to the roof area for communal open space with good solar access is a consequence of the DCP desired massing of the building and its overshadowing of the ground level communal open space in midwinter. The RL of the top of the lift roof access is RL61.13 or 7.01m above the HOB control and represents the highest point of the building but setback substantially on the roof area to reduce visibility from the public domain and other buildings.



Extract from Height Control Analysis showing extent of height extrusions prepared by Fuse (SK01 attached)

North Elevation on Railway Street showing building height compared to HBO control (Plan DA203)

West Elevation on Mark Street showing building height compared to HBO control (Plan DA 20)

3.3 OBJECTIVES OF THE ZONE AND STANDARD

3.3.1 Zone Objectives

The objectives of the applicable B4 Mixed Use Zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage high density residential development.*
- *To encourage appropriate businesses that contribute to economic growth.*
- *To achieve an accessible, attractive and safe public domain.*

The proposed development is considered to achieve and be consistent with the objectives for development within the B4 zone in providing a mix of compatible commercial and residential land uses within an area with substantial local shopping and recreational facilities; personal and business services ; schools, churches and parks and a high level of public transport accessibility being within 200 m of Lidcombe train station with local and district bus services.

It represents suitable high density residential development with 147 apartments and seven ground floor commercial units encouraging appropriate businesses that contribute to economic growth.

In regard to the last objective, the proposed re-massing of the building and 5.6% increase in floor space will enable improved accessibility via the rear lane to nearby redevelopment properties facing Railway and Marsden Streets.

As a consequence, rear lane basement entries and garbage services will remove the need for car and truck crossings on the main street frontages on Railway and Marsden Streets This in turn will improve the attractiveness and safety of the public domain by removing the need for vehicle movements over pedestrian paths with improved streetscapes from the removal of basement entries from building facades addressing the streets.

In addition, the additional bulk on the north west corner is still of a form, scale and height that responds appropriately to site characteristics and the local character.

Accordingly, it is considered that the variation will enable the better realisation of the B4 zone objectives.

3.3.2 Height of Building

The objectives of the height of building development standard under clause 4.3 are:

(a) *to establish a maximum height of the buildings to enable appropriate density to be achieved; and*

(b) *to ensure that the height of buildings is compatible with the character of the locality.*

The proposed HOB variation constitutes a relatively minor increases in the HOB in between 7 and 13% in the main when compared to the development standard and in limited areas resulting in a development which would be similar in bulk and scale to a development that complies with the development standard as demonstrated under section 1.3.3 above and the DLA report discussion below.

The proposed variation of the HOB control is consistent with the objectives of the development standard as

- the proposed development is a high quality urban form and achieves an 'appropriate density'; and
- is compatible with the character of the locality with the emerging built form of the locality and reflected in the height and densities within the planning framework.

The appropriateness and compatibility of the proposed building heights for the development is assessed in the DLA Report which notes at page 13:

> *The non-compliant (FSR and) height component has been applied to the north west corner of the building, with setbacks from the southern edge of the building of approximately 14.5 metres and approximately 30 metres from the western boundary. The setbacks proposed are more than sufficient to ensure it will be visually recessive from lower scale dwellings to the south.*
>
> *The additional height location on the north west corner is still of a form, scale and height that responds appropriately to site characteristics and the local character. It's proposed location on the building helps to hold the corner, completing the building form.*

The DLA Report identifies three potential off-site amenity impacts from an urban design perspective being visual bulk, overshadowing and visual privacy and provides the following assessments at page 15.

> ***Visual Bulk***
>
> *In relation to visual bulk, Section 2.3 'Building Envelope' of the ADCP includes a performance criteria which states the following:*

"P1 The height, bulk and scale of a residential flat building development is compatible with neighbouring development and the locality. Residential flat buildings:

- *Addresses both streets on corner sites;*
- *Align with the existing street frontages and/or proposed new streets; and*
- *Form an L shape or a T shape where there is a wing at the rear.*

The proposal rises to 11 storeys with an approximate width of 52 metres. The shape of the building is an 'L', with the highest point of the built form pushed to the north west corner, furthest away from the sensitive residential interfaces to the south. Pushing the greatest height away from the sensitive interfaces and towards the train station will help to reduce the visual bulk of the building as viewed from their backyards.

The provision of a courtyard in the south east corner of the site directly opposite the residential dwellings will allow for landscaping which will help to further shield their backyards from views of the built form.

Another way of mitigating visual bulk is to include height variation in the design. This helps to visually break up the built form mass and create a more varied skyline.

In summary, the built form has been designed appropriately to mitigate visual bulk issues. Further to this, the additional height proposed above the maximum set within the ALEP will further mitigate visual bulk by creating a varied skyline.

Overshadowing

The proposal has been designed to place the parts of the built form of greatest height to the north towards the railway station and away from the existing lower density dwellings along the laneway to the south.

Based on the current design, the proposal will cast shadow on the properties at 1A, 1 and 3 Marsden Street between the hours of 12 and 3pm.

However, I note these properties will receive full morning solar access, which is a reasonable expectation for sites within an area undergoing transition and zoned for higher density development.

I further note the addition of the non-compliant height will not increase the shadowing caused by a compliant scheme, due to its location within the north western corner of the site and its generous setbacks from the edges of the building.

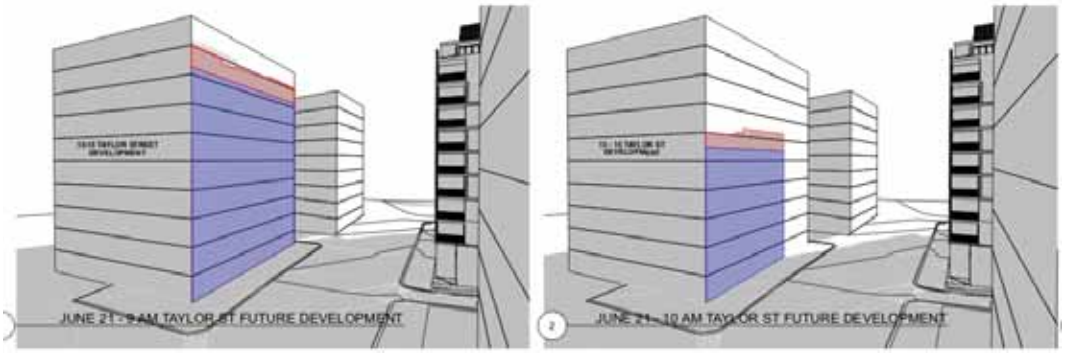
Visual Privacy

The proposal has been designed to ensure adequate separation distances to boundaries in accordance with the ADG. The closest habitable rooms and balconies are within units 04 to 704 which are approximately 13 metres from the boundary of 1A Marsden Street. Therefore, the proposal will avoid overlooking to the south. The

additional height proposed above the maximum set within the LEP will not increase the potential for overlooking.

As noted, the ameliorating effect of the massing setback minimises the potential impact of shadowing from the additional heights as shown in the Shadow Analysis plans DA 401 and 402 (extract below)

The plans demonstrate how the extra shadowing from additional height on the corner element will fall mostly onto the building roof from midday through the afternoon.



Extract from Shadow Diagram DA402 showing potential additional shadowing on future Tayler Street building (prepared by Fuse).

In the morning hours, the shadow towards Taylor Street is long as a result of topography (but falling short of the Lidcombe Bowling Club open space) and should have a limited effect because of this. Any additional shadowing would be particularly compensated by the shift of the southern-most building edge northerly to allow for the creation of the lane widening.

3.4 CONSISTENCY WITH THE OBJECTIVES OF CL 4.6?

The objectives of Clause 4.6 are:

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

When the development is tested against the underlying objectives of the zone and standard, compliance would be inconsistent with the aims of clause 4.6 because the proposed building heights are in response to the characteristics of the site and its contextual location as described in the DLA Report such that:

- the objectives of the development standard are achieved notwithstanding non-compliance with the standard; and
- the underlying objective or purpose would not be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.

The proposed building heights allows site re-massing and assists the implementation of the zones objectives and broader planning framework for the surrounding town centre precinct by enabling the widening of the rear lane to allow better rear access to sites within the redevelopment precinct and thus improve the safety and amenity of nearby streets.

It will also allow roof access by residents to additional communal open space that receives midwinter sun.

The variation to building heights will therefore allow a better outcome for and from development on the site and the locality especially as it will not be negated by significant adverse impacts on the surrounding environment as assessed in the DLA Report.

Accordingly, non-compliance provides an appropriate degree of flexibility to this particular development and its circumstances and that flexibility provides for a better planning outcome as it is considered to be appropriate, acceptable and consistent with the characteristics of the site and its highly accessible location as well as allowing the better implementation of the planning framework for Lidcombe centre in general and the precinct in particular by enabling lane widening.

3.5 IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES? CL 4.6(3)(A)

Strict compliance with Clauses 4.3 of the ALEP 2010 is considered unreasonable and unnecessary in the circumstances of the case as the additional massing chiefly on the north west corner is still of a form, scale and height that responds appropriately to site characteristics and the local character and helps to hold the corner, completing the building form.

The non-compliance with the HOB standard is not significant in nature yet enables re-massing of the building to provide site area for lane widening to assist in achieving a better outcome for development in the locality in accordance of the zone objectives as set out in section 3.3. The variation will not result in any unacceptable environmental impacts on the site or the adjoining residential properties.

Each of the matters listed within the ‘five part test’ outlined in Wehbe and “Varying development standards: A Guide” are listed and responded to as follows:

- The objectives of the standard are achieved notwithstanding non-compliance with the standard as set out in section 3.3.2
- The underlying objective or purpose of the standard remain relevant to the development and have been achieved as the proposed development has been designed to be compatible with the scale and character of the locality without additional adverse impacts on amenity of the neighbourhood.
- The underlying object or purpose of the standard would be defeated or thwarted if compliance was required as an ‘appropriate’ development density that accommodates a public benefit from facilitating site area for lane widening

would not be able to be achieved as set out in section 3.3.2, and therefore compliance is unreasonable

- The development standard remains valid and the consideration of whether it has been virtually abandoned or destroyed by the consent authority in granting consents departing from the standard is not relevant

- The subject land is appropriate in the zone and the existing use of land and current environmental character Is not relevant.

In summary, it would be unreasonable to require compliance in the circumstance given that the objectives and intent of the HOB standard are achieved as set out in section 3.3 and is appropriate in its context especially in regard to the emerging character in accordance with the planning framework and accessibility to services and transport, while the exceedance is not significant in nature and applies to only a portion of the development without unacceptable adverse impacts.

3.6 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENTION? CL 4.6(3)(B)

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

- The additional height on the north west corner responds appropriately to site characteristics and the local character and helps to hold the corner, completing the building form.

- The additional height on the north-west corner of the building mitigates visual bulk by providing height variation in the design. This helps to visually break up the built form mass and create a more varied skyline.

- The location of the bulk of the building to the north-west corner is setbacks from the southern edge of the building of approximately 14.5 m and 30 m from the western boundary. These setbacks ensure that the building will be visually recessive from the lower scale buildings at the periphery of the town centre.

- The addition of the non-compliant height does not increase the shadowing on properties on Marsden Strrret to its south that would be caused by a compliant scheme due to its location within the north-west corner and its generous setbacks from the from the southern and western boundaries. Additional shadowing on future built form occurs early in the day midwinter and is minor and partly offset by the reduction in building length on Mark Street.

- The additional height proposed above the HOB standard will not increase the potential for overlooking as it has been designed to ensure adequate separation distances to boundaries in accordance with the Apartment Design Guide.

- The proposed re-massing of the building in the north-west corner will enable improved accessibility via the rear lane to nearby redevelopment properties facing Railway and Marsden Streets.

- As a consequence, rear lane basement entries and garbage services will remove the need for car and truck crossings on the main street frontages on Railway and Marsden Street with an overall improved attractiveness and safety of the public domain by removing the need for vehicle movements over pedestrian paths with improved streetscapes from the removal of basement entries from building facades addressing the streets.
- In addition, the opportunity to address a specific site orientation issue by providing lift access to the roof to allow communal open space in excess of minimum area standards with improved mid-winter solar access is also considered to be sufficient grounds to justify the proposed contravention especially given the very limited extent of this variation.

3.7 IS THE REQUEST WELL FOUNDED AND IN THE PUBLIC INTEREST? CL 4.6(4)(A) AND (B)

This request under clause 4.6 of ALEP 2010 to contravene the HOB standard as proposed has adequately addressed the matter to be required to be demonstrated by subclause (3) and is considered to be well founded and in the public interest for the following reasons.

- The proposed development is consistent with the objectives of the B4 zone as set out in Section 3.3.1 above.
- The development is consistent with the objectives of the HOB development standard as set out in Section 3.3.2 above.
- The development as proposed is appropriate in its location and provides for an appropriate response to its corner location
- The contravention of the HOB control is a result of the response to broader plan implementation issues that is best remedied by the redevelopment of the specific site, and accordingly, is unique to the subject site and proposed development.
- The height of building proposed does not result in an urban form that adds significantly to the overall potential impacts of shadowing, outlook or privacy. Consequently, the non-compliance does not result in any significant adverse environmental impacts on the amenity of the surrounding area in general.
- The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out, and demonstrably results in a better planning outcome.

3.8 SECRETARY'S CONSIDERATION. CL 4.6(5)

As the consent authority is the Panel, the Secretary's concurrence is assumed: Assumed Concurrence Notice from Carolyn McNally, Secretary, Department of Planning and Environment dated 21 February 2018 and Planning Circular PS-18003 issued 21 February 2018.

4 Conclusion

It is concluded from that the proposed contraventions to the development standards as described, do not undermine or frustrate the underlying objectives of those standards and arise from the unique circumstance of development of the site.

As verified by the Urban Design Assessment, the proposed development in its current form has been demonstrated to result in a better planning outcome than that which could be achieved through strict compliance with the development standard. Compliance with the standards in this case, would likely result in a diminished planning and design outcome.

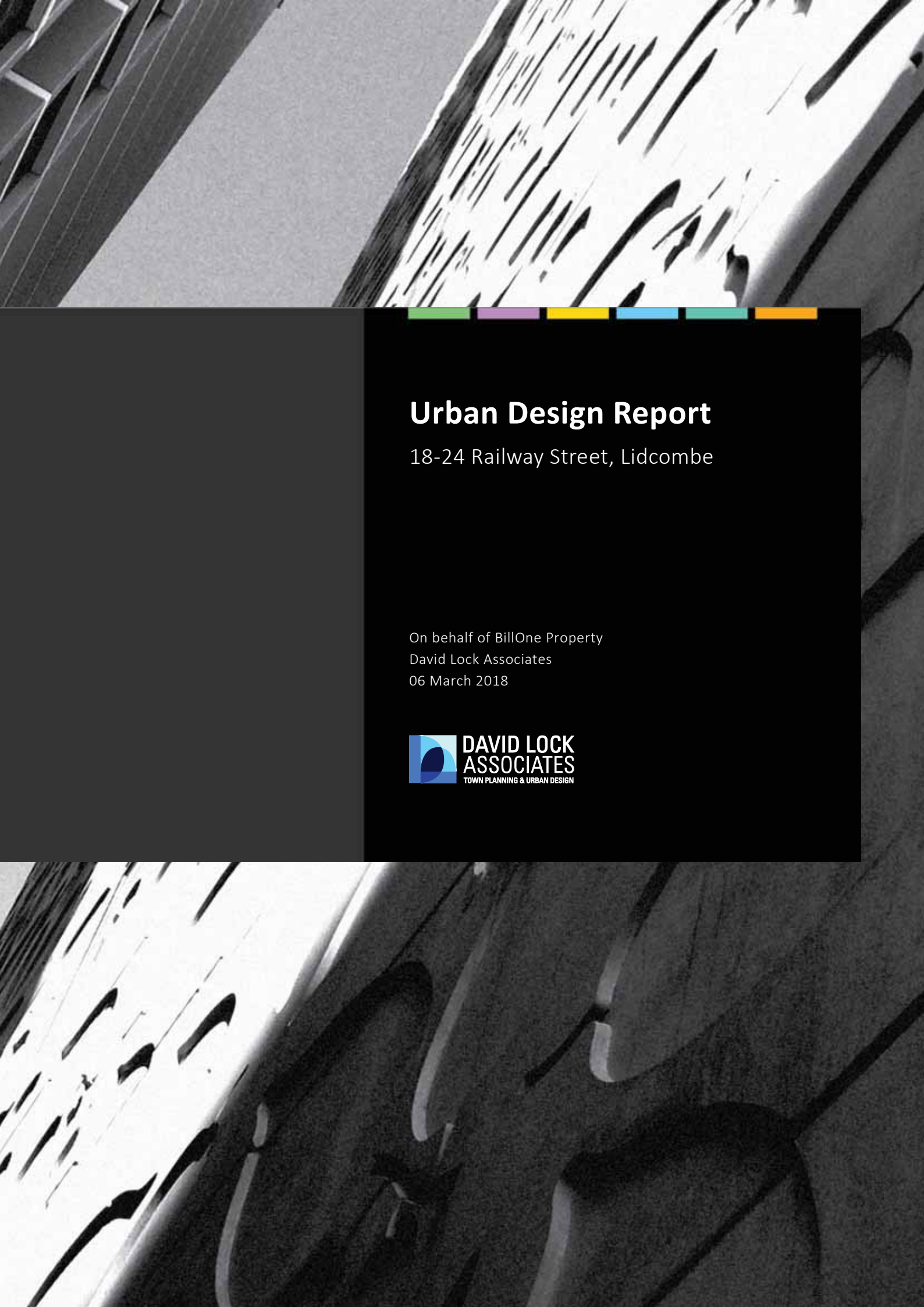
The non-compliances do not give rise to any significant additional adverse environmental impacts or matters of State or regional significance and are well-reasoned and implemented.

It is therefore considered that strict compliance with the FSR and HOB development standards is unreasonable and unnecessary in the circumstances of the case and that that there are sufficient environmental planning grounds and public benefits to justify contravening the development standards as proposed.

Further, the written requests have adequately addressed the matters required to be demonstrated in establishing the above and that the proposed development will be in the public interest and is consistent with the objectives for development within the B4 zone.

It is also considered appropriate to provide the required flexibility in applying the development standards to achieve better outcomes for and from development of the site and precinct as proposed in this particular circumstance.

Accordingly, the Panel could be satisfied that the clause 4.6 variation requests adequately address the matters required in clause 4.6(3) and that the proposed development will be in the public interest, satisfying the requirements in clause 4.6(4)(a)(2) of ALEP 2010.



Urban Design Report

18-24 Railway Street, Lidcombe

On behalf of BillOne Property
David Lock Associates
06 March 2018

DAVID LOCK ASSOCIATES
TOWN PLANNING & URBAN DESIGN

Contents

1.0 Introduction

Piety THP engaged David Lock Associates (DLA) to undertake an urban design assessment of the Development Application (DA) submitted to Cumberland Council in relation to 18-24 Railway Street, Lidcombe (DA-423/2016).

This report provides an independent urban design assessment of the proposal, with focus on the non-compliant components of the scheme (height and FSR).

This report is broken into the following sections:

- Introduction;
- Physical and Policy Context;
- Assessment of the proposal in relation to:
  - → *Character*
  - → *Off-site amenity*
  - → *Equitable development; and*
- Conclusions.

This assessment has been informed by the following documents from an urban design perspective:

- Development Application Plans prepared by FUSE Architecture (23/3/17);
- Statement of Environmental Effects, Dowling Urban;
- Revised Draft Central City District Plan – Connecting Communities, Greater Sydney Commission;
- Auburn Local Environmental Plan 2010 (ALEP);
- Auburn Development Control Plan 2010 (ADCP); and
- Urban structure and physical context of the site.

2.0 Physical and Planning Context

Physical Context

The subject site is located on the on the south east corner of Railway Street and Mark Street in Lidcombe, which is located 18km west of the Sydney CBD. The site has an area of 2,322m² and is located directly opposite the Lidcombe Railway Station. The subject site is regular in shape with a gentle slope upwards from the west to the east. The subject site is currently void of structures and vegetation.

The surrounding interfaces are as follows:

- Railway Street followed by Lidcombe Railway Station and the western rail corridor to the north;
- The Lidcombe Motor Inn (currently under construction) and church to the west on Mark Street;
- A laneway and rear interface to a factory and detached dwellings to the south; and
- A factory and commercial office buildings to the west on Railway Street accommodating the Sydney West Elderly Welfare Association and CMFEU offices.

Figure 1: Subject site

The site is well served by public transport including the Lidcombe Railway Station which is located on the western rail line with frequent metropolitan train services on 4 routes: T1 North Shore, Northern & Western Line, T2 Airport, Inner West & South Line and T7 Olympic Park railway line. There are also regular bus services nearby including metro routes M92 linking between Parramatta and Sutherland, N60 City to Fairfield and N50 City to Liverpool, as well as the more local service routes which include:

- 925 to Bankstown and East Hills;
- 401 to Sydney Olympic Park; and
- 915 loop to University of Sydney Cumberland Campus.

Also of note is the Auburn LGA on-road cycling route on Mark Street.

Figure 2: View towards subject site and railway line from Mark Street.

Figure 3: 16 Railway Street

Figures 4: View looking south east along abutting laneway.

Figure 5: View looking south through subject site to laneway

Planning Context

The subject site is within the B4 Mixed Use Zone which includes the following objectives:

- "To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible location so as to maximise public transport patronage and encourage walking and cycling.
- To encourage high density residential development.
- To encourage appropriate businesses that contribute to economic growth.
- To achieve an accessible, attractive and safe public domain."

The site is subject to a Height of Building control of 32m and a Floor Space Ratio control of 5.0:1. See Figure 6.

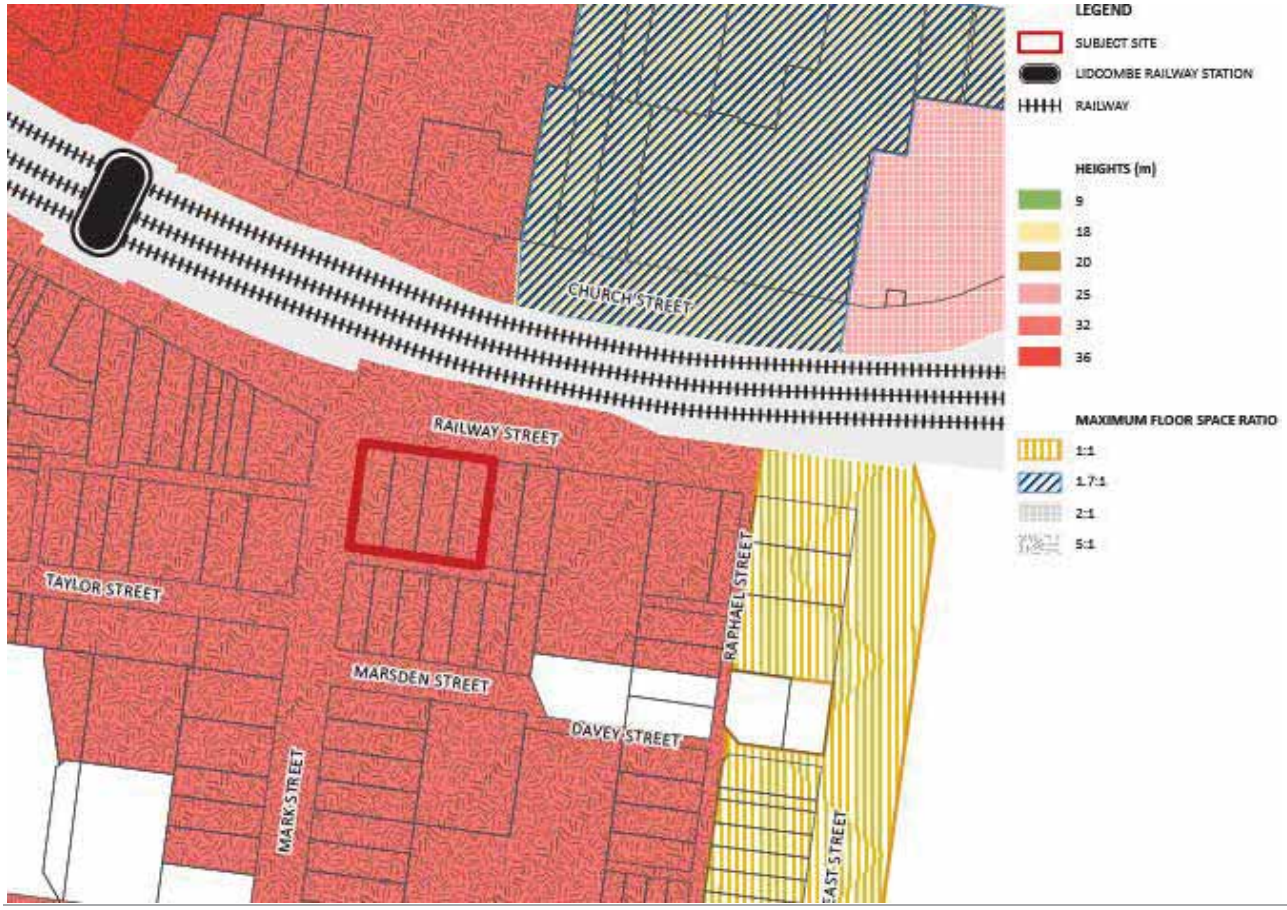


Figure 6: LEP FSR and Height

At state level, the Draft Central City District Plan prepared by the Greater Sydney Commission provides a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision of Greater Sydney. Planning Priority C5 seeks to provide housing supply, choice and affordability, with access to jobs and services. The NSW Department of Planning and Environment's projections of population and household growth in Central City District translate to the need for an additional 207,500 homes in the period between 2016 and 2036.

Planning Priority C5 seeks new housing in the right places well supported by local infrastructure to create liveable, walkable and cycle friendly neighbourhood with shops, services and public transport. Optimising existing local infrastructure is a key initiative of the Central City District Plan. The District Plan includes a series of locational criteria for urban renewal investigation opportunities. Of relevance to the subject site are the following criteria:

- "Accessibility to regional transport, noting that high-frequency transport services can create efficient connections to local transport services and expand the catchment area of people who can access regional transport.
- The catchment area that is within walking distance of centres with rail, light rail or regional bus transport."

Figure 14 of the Draft Central City District Plan identifies Lidcombe as part of the Central City District future housing supply.

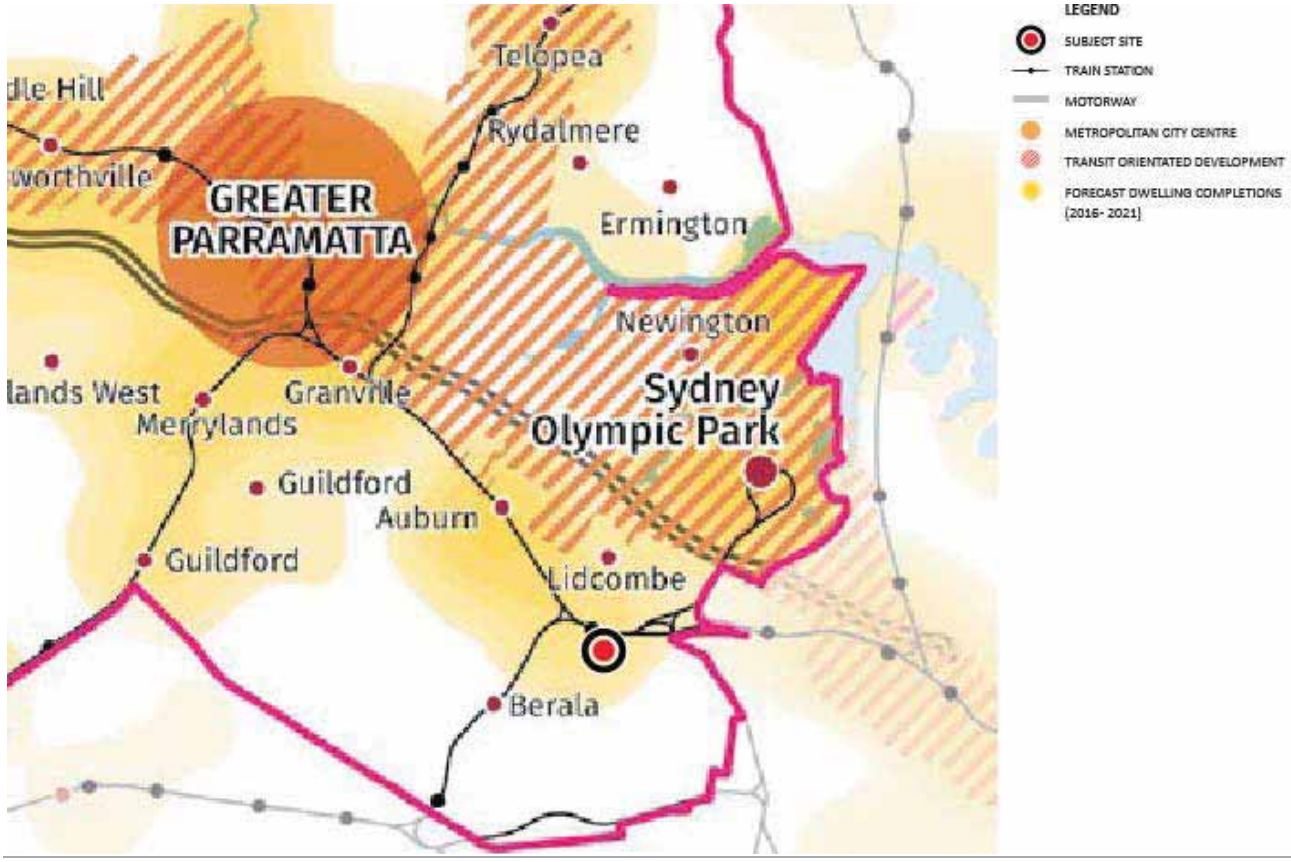


Figure 7: Draft Central City District Plan

In relation to the local policy context, the Auburn Development Control Plan 2010 provides policy direction with regard to Residential Flat Buildings and Local Centres.

The purpose of the Local Centres part of the DCP is to:

- "Promote vibrant, attractive and sustainable local centres;
- To ensure development within local centres has a high level of amenity, quality, architectural and design excellence;
- Contribute to the overall streetscape;
- Minimise the impact on the environment; and
- Optimise use of the land".
- Clause 2.0 'Built Form' outlines the following Objectives:
- "To provide richness of detail and architectural interest, especially to visually prominent parts of buildings such as lower storeys and street facades.
- To establish the scale, dimensions, form and separation of buildings appropriate for local centre locations.
- To encourage mixed use development with residential components that achieve active street fronts with good physical and visual connection between buildings and the street and maintain residential amenity.
- To achieve active street frontages with good physical and visual connections between buildings and the street.
- To ensure consistency in the main street frontages of buildings.
- To ensure building depth and bulk appropriate to the environmental setting and landform.
- To ensure building separation is adequate to protect amenity, daylight penetration and privacy between adjoining developments.
- To ensure that the form, scale, design and nature of development enhances the streetscape and visual quality of commercial areas.
- To ensure that the built form and density of a new development respects the scale, density and desired future character of the area.
- To ensure development appropriately supports the centres hierarchy. "

Clause 3.0 'Streetscape and Urban form' outlines the following Objectives:

- "To ensure development integrates well with the locality and respects the streetscape, built form and character of the area.
- To encourage innovative development which is both functional and attractive in its context".

The Residential Flat Buildings component of the DCP including the following objectives in relation to Built Form:

- "To ensure that all development contributes to the improvement of the character of the locality and streetscape in which it is located.
- To ensure that development is sensitive to the landscape setting and environmental conditions of the locality.
- To ensure that the appearance of development is of high visual quality and enhances and addresses the street.
- To ensure that the proposed development protects the amenity of adjoining and adjacent properties.
- To ensure that the form, scale and height of the proposed development responds appropriately to site characteristics and the local character.
- To ensure that development relates well to surrounding developments including heritage items, open space and other land uses.
- To ensure that development maximises sustainable living.
- To maximise views, solar and daylight access,
- To provide an acceptable interface between different character areas".
- To minimise the impacts of buildings overshadowing open spaces and improve solar access to the street.
- To contribute to the streetscape and form a clear delineation between the public and private domain.

Summary

In summary, the site is viewed as a location with a clear intention to achieve increased mixed-use development intensity, subject to responding to the existing character and any off-site amenity impacts. The sites location next to the railway station and within the Lidcombe Local Centre makes it an ideal site for urban consolidation, placing people close to jobs and public transport.

3.0 Urban Design Assessment

3.1 Character

The following section assesses how the proposal responds to the existing and emerging character, particularly in relation to the additional non-compliant height proposed within the DA.

Height

The LEP specifies a maximum height limit 32m and a Floor Space Ratio control of 5.0:1. The proposal includes 10-11 storey (38.87m to top of lift overrun) apartment building built to the northern and western street edges. On balance, the proposed building height does not exceed the maximum height limit of 32m. The additional height above 32m is contained to the north west corner of the building with an area of 657m2. The balance of the built form rises to a maximum height of 32m on the eastern most part and is below the maximum on the southern most part.

It is understood that at a pre-DA meeting Cumberland Council advised that the design should consider the preference of laneway widening to allow for access, parking and servicing requirements to other properties in the precinct so as to achieve a desired planning outcome that is consistent with Council's planning controls in relation to section 15.0 of the ADCP Local Centres.

Accordingly, the proponent has agreed to the laneway widening over this part of their site. The gross floor area lost through the laneway widening, which equates to 270m2 (calculated by gross floor area lost at each level) has been relocated to a partial extra level to the building, which therefore exceeds the 32m height control by approximately 7.01m to the top of the lift overrun, with the balance of the extra roof height reaching to 4.2m. To describe this further, Figure 8 depicts a compliant scheme in grey mass, with the area of the built form affected by the laneway widening shown in red. Figure 9 depicts additional massing added to the north west corner of the built form, completing the shape of the building, and offsetting the loss of floorspace associated with the laneway widening.

The additional floorspace added forming an 11th storey has a total gross floor area of 373m2. The additional level has been designed to form a 'cap' to the building, responding to the robust context a corner site of this nature allows while the remaining floor area of 284m2 required to facilitate the lane widening is below the height limit.

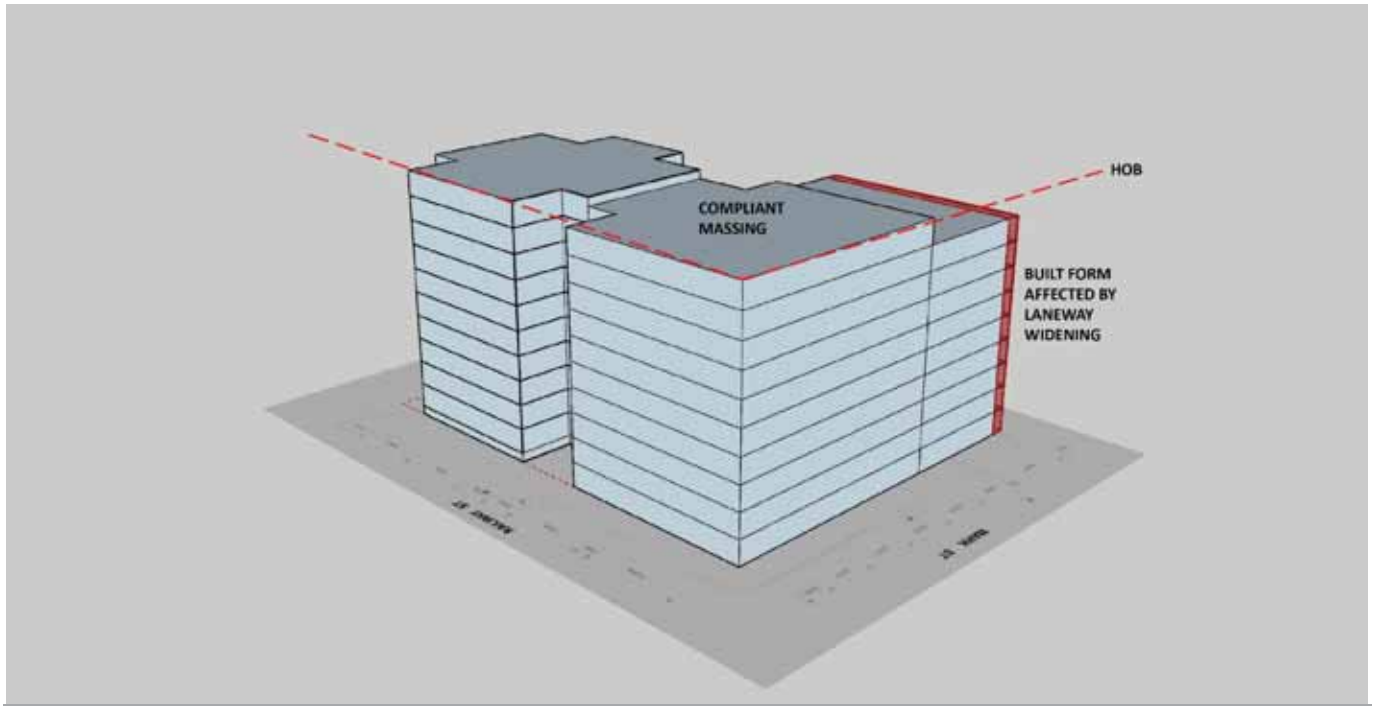


Figure 8: Compliant Scheme

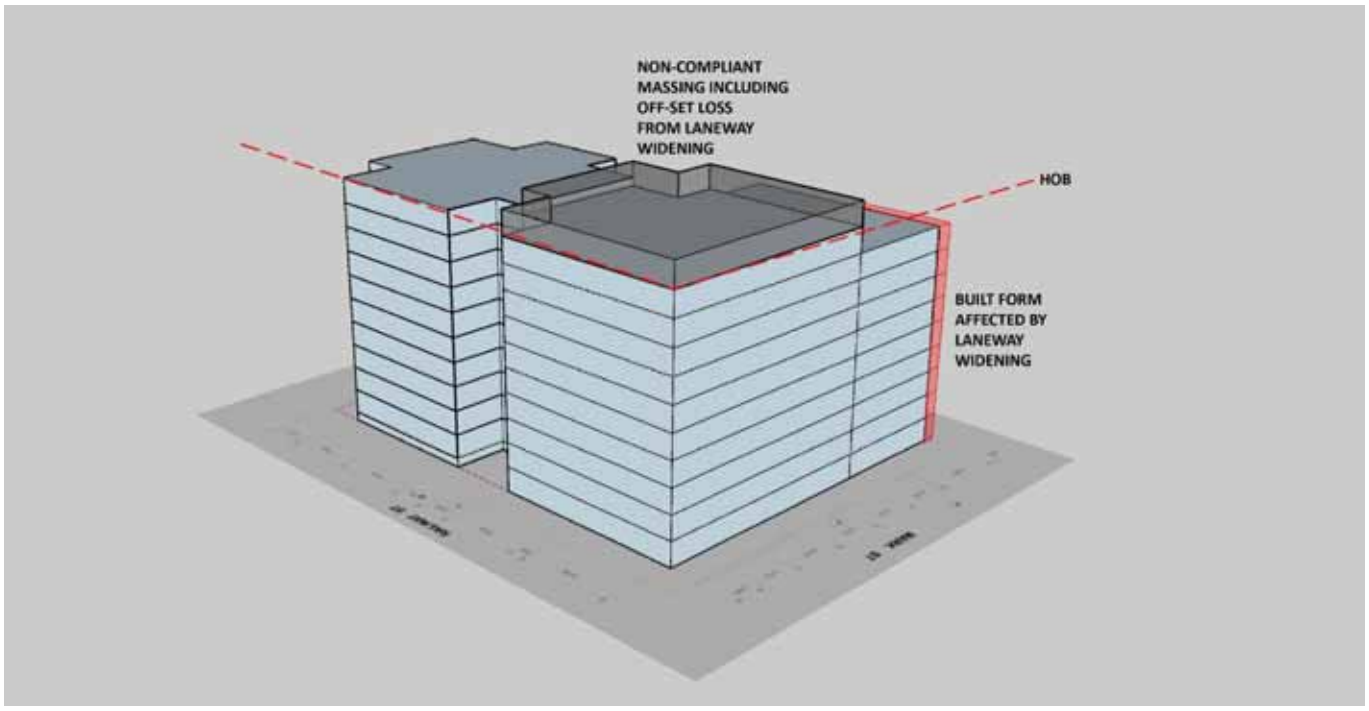


Figure 9: Non-compliant Scheme

It is noted that the surrounding existing built form is varied with a mix of 2 to 4 storey retail and commercial buildings along with some existing 1 to 2 storey detached dwellings along Marsden Street with rear access to the laneway directly south of the subject site.

The emerging built form character however is far greater in scale, responding to the areas public transport accessibility and services. Recently constructed apartments of between 8 and 11 storeys are located along Taylor Street and Mark Street to the south and west of the site. As identified at Figure 10, there are 4 proposed developments to occur on the following sites:

- 9 Taylor Street;
- 13-15 Taylor Street;
- 1A-3 Marsden Street; and
- 21B-23 James Street.

The subject site is located directly opposite the Lidcombe Railway Station. It is important to optimise the development potential of opportunities such as this.

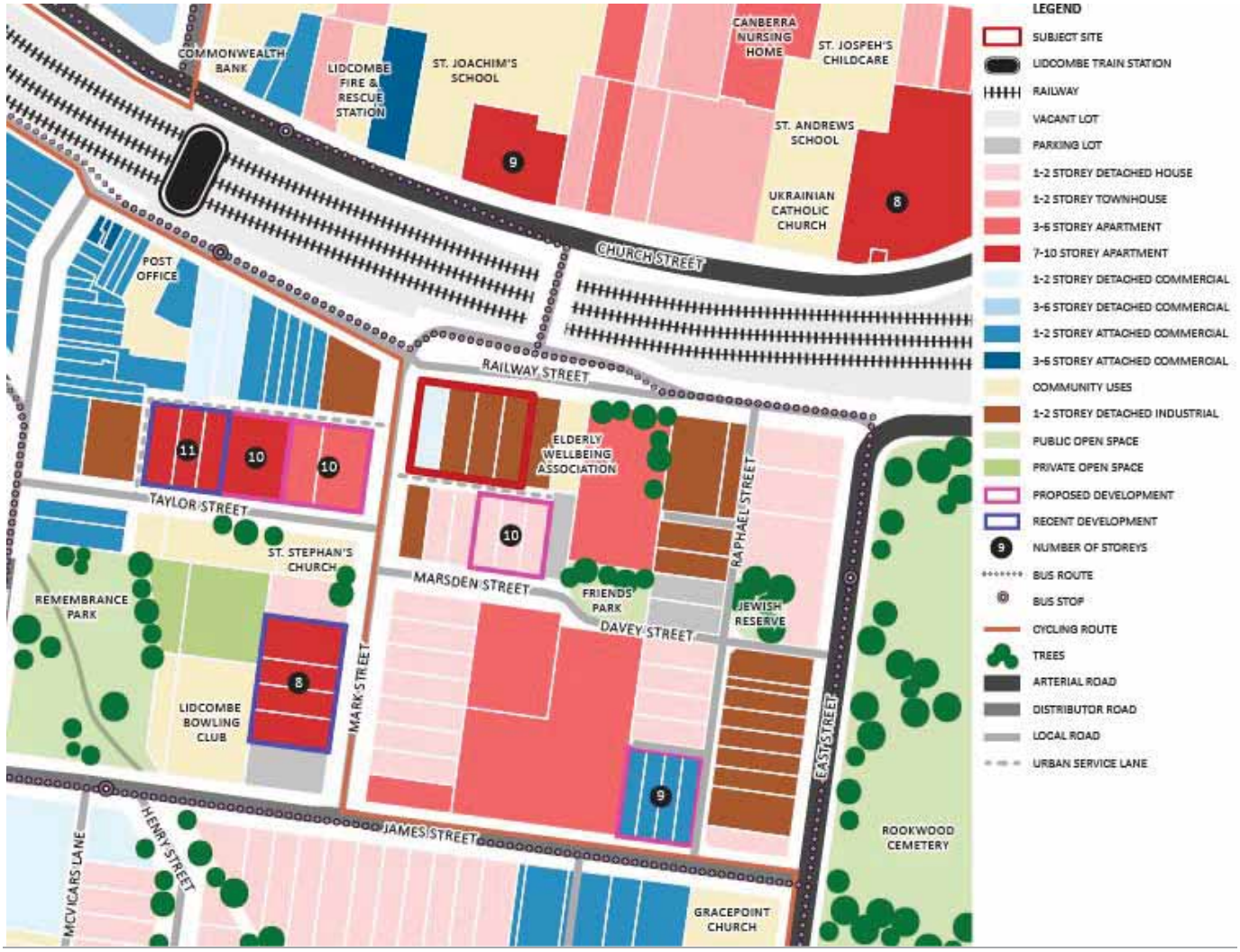


Figure 10: Urban Context

The non-compliant height component has been applied to the north west corner of the building, with setbacks from the southern edge of the building of approximately 14.5 metres and approximately 30 metres from the western boundary. The setbacks proposed are more than sufficient to ensure it will be visually recessive from lower scale dwellings to the south.

The additional height location on the north west corner is still of a form, scale and height that responds appropriately to site characteristics and the local character. It's proposed location on the building helps to hold the corner, completing the building form.

Figure 11 depicts a photomontage taken for the north west corner of Railway Street towards the corner of the proposal and the additional proposed height.

Figure 11: 3D Photomontage

3.2 Off-site Amenity Impacts

The proposal has residential interfaces to the south of the site. More specifically, numbers 1A, 1 and 3 are currently single storey detached residential dwellings.

There are three potential off-site amenity impacts from an urban design perspective: visual bulk, overshadowing and visual privacy.

Noting that within the context of the site, the amenity expectations of the residential dwellings need to be tempered because of the built form expectations the buildings set within the LEP, DCP and District Plan, which seek to redevelop (Lidcombe town centre) with newer taller buildings and a denser urban form.

Figure 12: Residential interfaces

Visual Bulk

In relation to visual bulk, Section 2.3 'Building Envelope' of the ADCP includes a performance criteria which states the following:

P1 The height, bulk and scale of a residential flat building development is compatible with neighbouring development and the locality. Residential flat buildings:

Addresses both streets on corner sites;

Align with the existing street frontages and/or proposed new streets; and

Form an L shape or a T shape where there is a wing at the rear.

The proposal rises to 11 storeys with an approximate width of 52 metres. The shape of the building is an 'L', with the highest point of the built form pushed to the north west corner, furthest away from the sensitive residential interfaces to the south. Pushing the greatest height away from the sensitive interfaces and towards the train station will help to reduce the visual bulk of the building as viewed from their backyards.

The provision of a courtyard in the south east corner of the site directly opposite the residential dwellings will allow for landscaping which will help to further shield their backyards from views of the built form.

Another way of mitigating visual bulk is to include height variation in the design. This helps to visually break up the built form mass and create a more varied skyline.

In summary, the built form has been designed appropriately to mitigate visual bulk issues. Further to this, the additional height proposed above the maximum set within the ALEP will further mitigate visual bulk by creating a varied skyline.

Overshadowing

The proposal has been designed to place the parts of the built form of greatest height to the north towards the railway station and away from the existing lower density dwellings along the laneway to the south.

Based on the current design, the proposal will cast shadow on the properties at 1A, 1 and 3 Marsden Street between the hours of 12 and 3pm.

However, I note these properties will receive full morning solar access, which is a reasonable expectation for sites within an area undergoing transition and zoned for higher density development.

I further note the addition of the non-compliant height will not increase the shadowing caused by a compliant scheme, due to its location within the north western corner of the site and its generous setbacks from the edges of the building.

Visual Privacy

The proposal has been designed to ensure adequate separation distances to boundaries in accordance with the ADG. The closest habitable rooms and balconies are within units 04 to 704 which are approximately 13 metres from the boundary of 1A Marsden Street. Therefore, the proposal will avoid overlooking to the south. The additional height proposed above the maximum set within the LEP will not increase the potential for overlooking.

3.3 Equitable Development

The subject site abuts land to the east zoned Mixed-Use Zone with an FSR of 5.0:1 and a height limit of 32m. No. 16 Railway Street is currently developed at 4 storeys and therefore it is likely that it will be redeveloped in the future.

It is also reasonable to expect that the properties on the southern side of the laneway (2, 1A, 1 and 3 Marsden St) will be redeveloped given they are located within the same zone and have the same height and FSR controls.

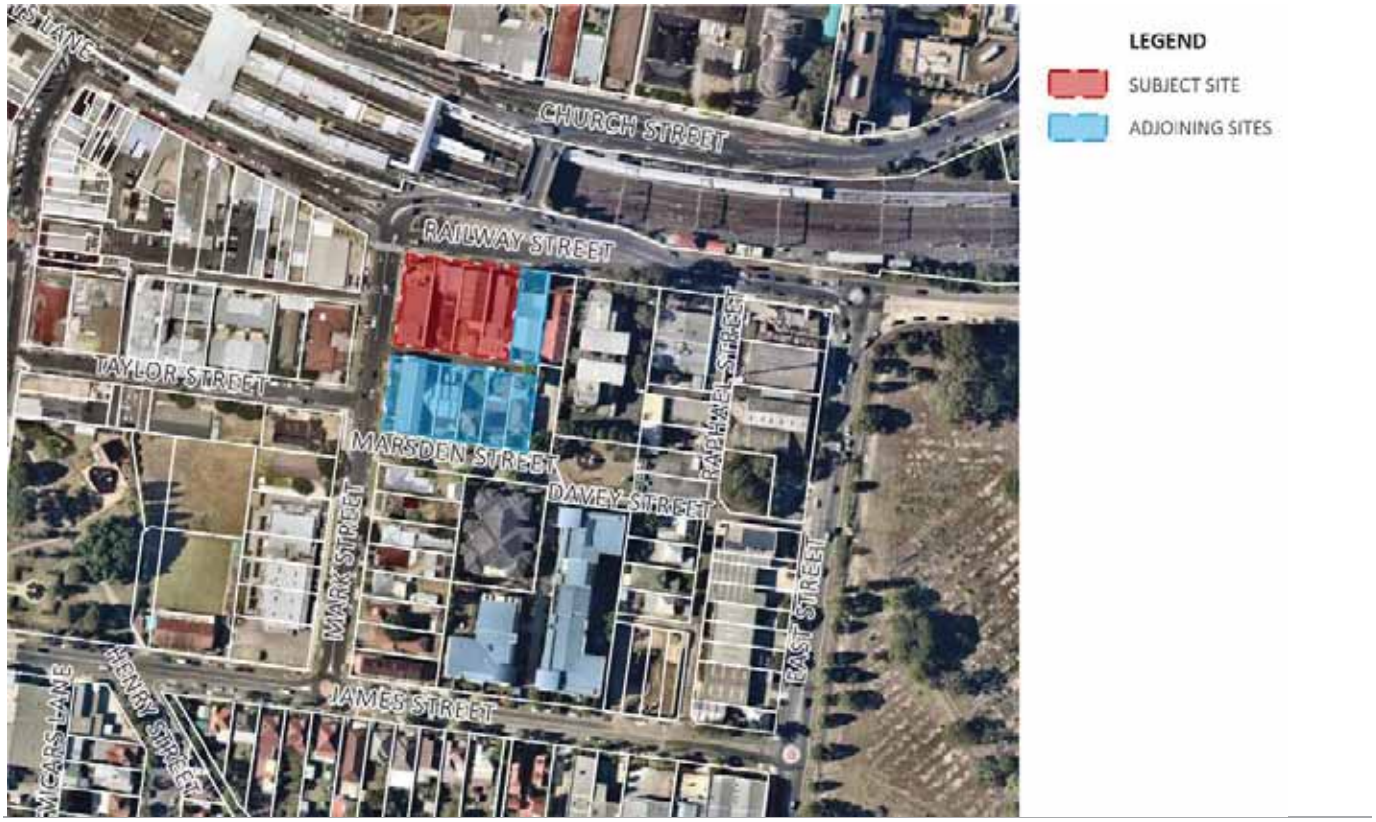


Figure 13: Adjoining properties

With respect to No. 16 Railway Street, the proposal includes no setback from the boundary and a blank party wall. This is an appropriate and equitable response to the eastern boundary and will facilitate the future redevelopment of that site.

To the south, the 'L' shaped building ensures that any south facing apartments above 9 storeys are setback approximately 22 metres from property boundary of No. 1A Marsden Street. This separation is more than adequate to allow future development of these sites, whilst supporting residential amenity.

The south western corner of the proposal is built on the boundary to a height of 8 storeys. This is considered appropriate considering the property at 2 Marsden Street opposite is a commercial building and has no windows facing the site.

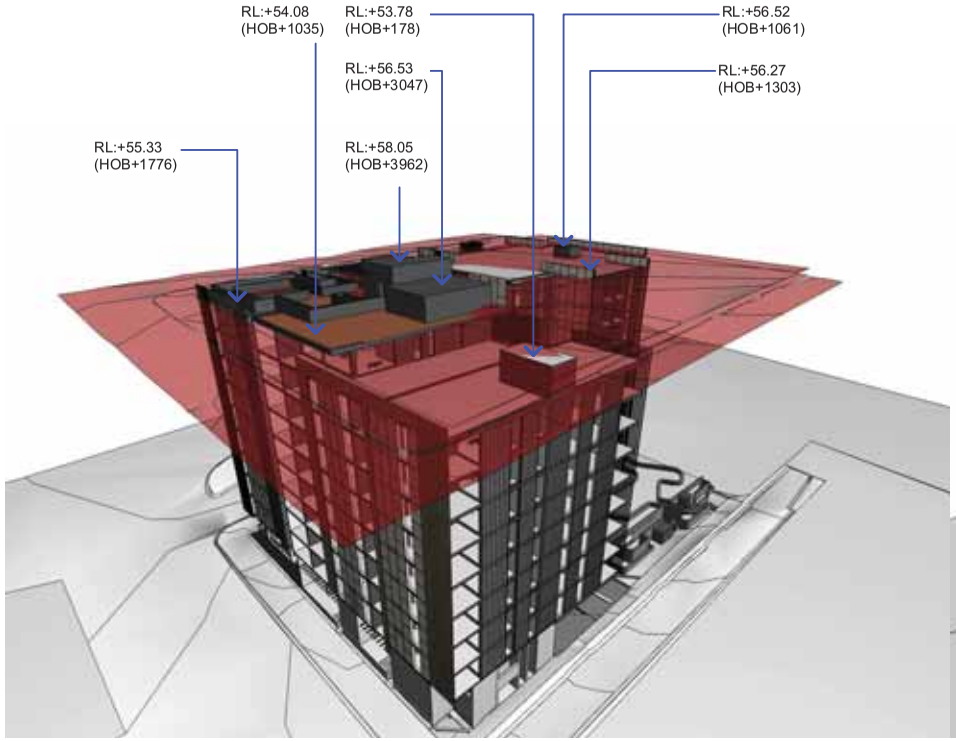
In relation to the non-compliant height increase proposed in the north west corner of the site, this will not impact the future development potential of the sites to the south and east, as it is setback a considerable distance from each boundary.

In summary, the proposal including the non-compliant component is acceptable from an equitable development perspective.

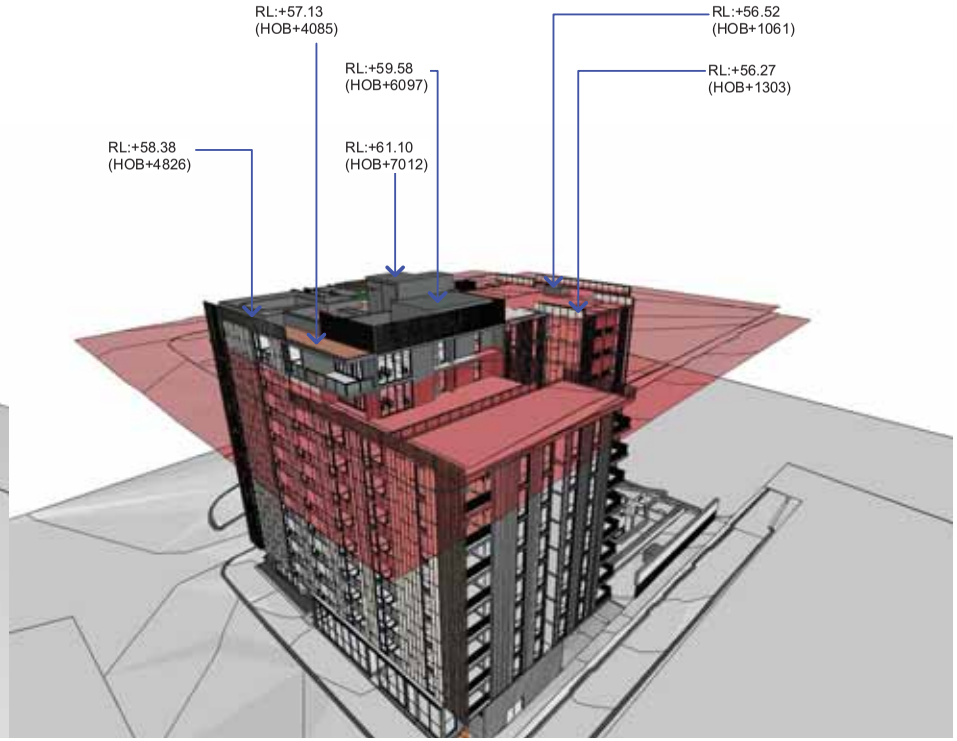
4.0 Conclusion

In conclusion, this report has assessed the proposed development and supports it from an urban design perspective for the following reasons:

- The proposal is of a height and scale that responds to its strategic location next to the Lidcombe Railway Station and the future emerging character within the centre;
- The proposal including the non-compliant component, manages issues of visual bulk, overshadowing and visual privacy to an acceptable standard; and
- The proposal will not hinder the future redevelopment of sites adjacent to it.



HOB WITHOUT REMASSING FOR LANE WIDENING



HOB AS PROPOSED AFTER REMASSING FOR LANE WIDENING

GENERAL NOTES

•THIS DRAWING IS NOT FOR CONSTRUCTION.
•ALL DIMENSIONS AND LEVELS ARE TO BE CHECKED ON SITE PRIOR TO THE COMMENCEMENT OF WORK.
•INFORM FUSE ARCHITECTURE OF ANY •DISCREPANCIES FOR CLARIFICATION BEFORE PROCEEDING WITH WORK.
•DRAWINGS ARE NOT TO BE SCALED.
•USE ONLY FIGURED DIMENSIONS.
•REFER TO CONSULTANT DOCUMENTATION FOR FURTHER INFORMATION.

file: 18.02.26_Lidcombe_DA.pln
print date and time:Wednesday, 7 March 2018 @ 4:46 pm

LEGEND

REVISION

B	RL ON NORTH WEST ROOF SURFACE ADDED	07.03.2018
A	URBAN DESIGN STUDY	27.02.2018

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CLIENT
Bill One Property

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PROJECT
18-24 RAILWAY ST LIDCOMBE

SITE ADDRESS
18-24 Railway Street Lidcombe

JOB NO
1604

CHECKED DRAWN

DATE 11.05.2016 SCALE @A3

PROJECT STATUS
DEVELOPMENT APPLICATION

DRAWING TITLE
HEIGHT CONTROL ANALYSIS

SHEET NO. **SK01** REVISION. **B**