

Clause 4.6 Request to Vary Development Standard - Height of Buildings

Introduction

This report seeks an exemption to the height of building development standard prescribed by the Strathfield Local Environmental Plan 2012 (SLEP 2012). This report should be read in conjunction with the Statement of Environmental Effects prepared for the demolition of the existing structures on the site and the construction of two residential flat buildings at 84 Centenary Drive, Strathfield. This objection must be considered in conjunction with the complete set of Architectural Plans prepared by Woods Bagot (Project No. 121086 Plan Rev E).

This exception is sought pursuant to Clause 4.6 of the Strathfield LEP 2012 and seeks to vary the application of the height of building development standard which applies to the land. The development comprises two residential flat buildings; the southern tower (Building A) achieving a height of 30.7m and the northern tower (Building B) achieving a height of 37.7m. The maximum permitted building height under Clause 4.3 of the SLEP 2012 is 28m. As such, the variation sought for Building A is 2.7m or 9.6% and for Building B is 9.7m or a 34.6% departure from the numeric standard.

This request has been updated to reflect Planning Circular PS 18-003 issued 21 February 2018 which confirms that independent hearing and assessment panels can assume the Secretary's concurrence for numeric variations beyond 10%.

This request has been prepared in accordance with the Department of Planning & Environment's (DP&E) Guideline for Varying Development Standards: A Guide, August 2011, and has incorporated the relevant principles identified in the following Land and Environment Court judgements:

- Randwick City Council v Micaul Holdings Pty Ltd [2016] NSW LEC 7
- Four2Five Pty Ltd v Ashfield Council [2015] NSW CA 248
- Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC 90
- Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC 109
- Whebe v Pittwater Council [2007] NSW LEC 827

History of Previous Approvals

The existing planning controls within Council's LEP, and the building envelope approved in the previous development application (DA2015/100), permit two nine-storey buildings with very large footprints. This is important for two reasons:

- Firstly, the controls already envisage a different urban form on the subject site that is much higher and denser than surrounding development, i.e. the existing height and FSR controls do not call for



consistency in built form but instead encourage a landmark building that is taller and denser than surrounding development.

- Secondly, the previous approval presents as a bulky and unrelieved built form, due partly to the size of the building footprints and also to the consistency in building height across the two buildings.

The proposal enhances the existing approved built form by removing part of the building footprint of Building B and placing this into two additional residential levels. In comparison to the built form of the original proposal, this modulation of the building footprint results in improved building articulation, a height differential between the two towers and considerable improvement to internal amenity. The proposal achieves at least two hours' solar access to 72% of units and cross ventilation to 71% of units (in first 9 storeys), has generous unit sizes many with multiple balconies and extensive areas of northerly orientated common open space.

The proposal introduces an area of common open space to the rooftop of Building A, which increases the building height beyond the permitted height by providing lift access and amenity including kitchen facilities, washrooms and shade pergolas. In the previously approved application, rooftop areas were not accessible as private or common open space, which was a missed opportunity given the excellent orientation and views from the development. Providing access to these areas increases amenity for all residents.

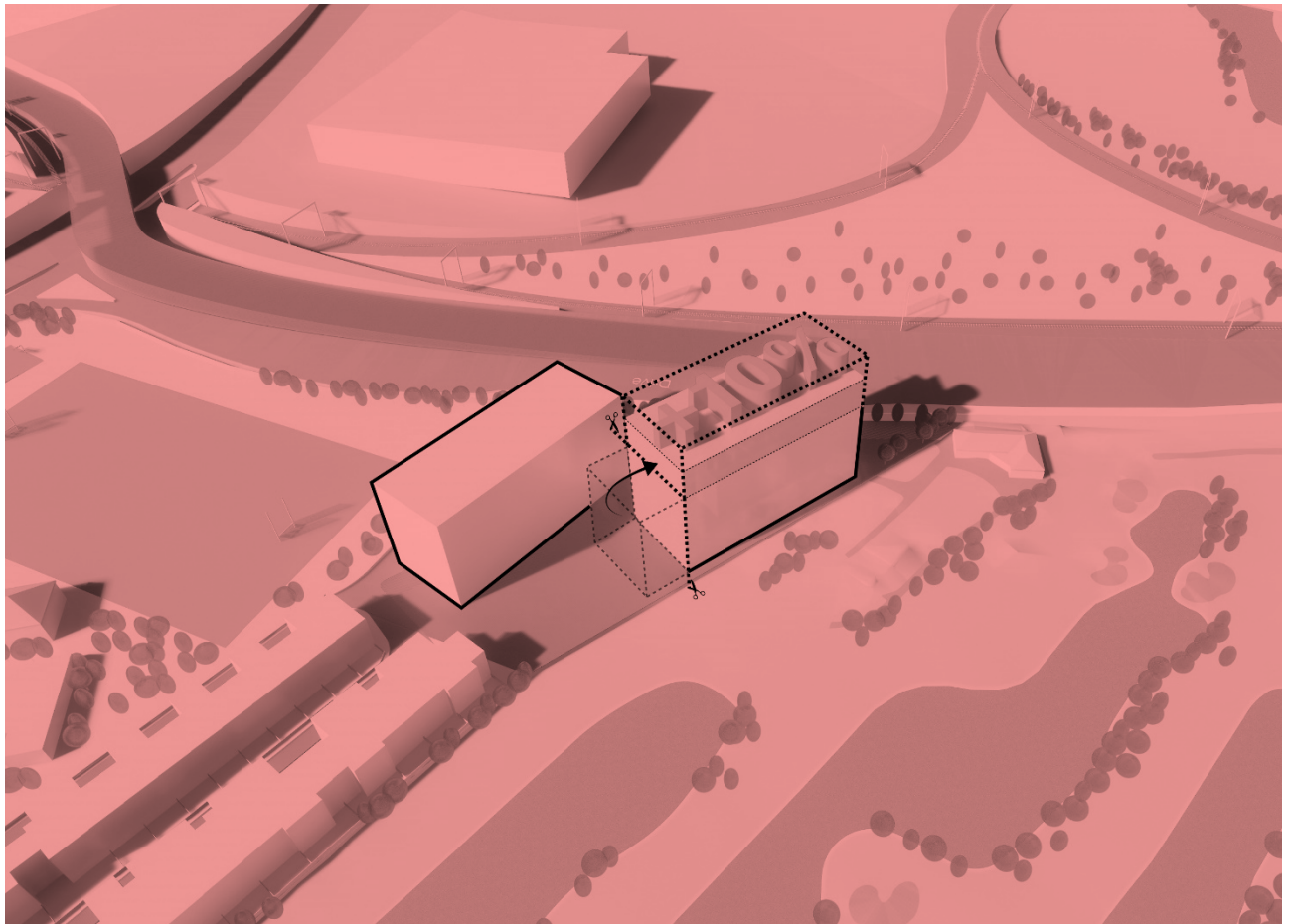


Figure 1: Depiction of the approach taken to Building B, relocating the blue dotted area from the eastern side of the building and placing into an additional residential level.

Development Standard

Pursuant to Clause 4.6 of the SLEP 2012, this objection seeks to vary the height of building development standard stipulated in Clause 4.3 which states:

4.3 Height of buildings

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

- (a) to ensure that development is of a height that is generally compatible with or which improves the appearance of the existing area,
- (b) to encourage a consolidation pattern that leads to the optimum sustainable capacity height for the area,
- (c) to achieve a diversity of small and large development options.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The relevant Height of Building Map (Sheet HOB_002) of the SLEP 2012 is reproduced in Figure 1. This provides a maximum height of 28m (T2) for the western portion of the site, where the two residential flat buildings are proposed.



Figure 2: Excerpt from Height of Buildings Map (SLEP 2012). Subject site highlighted in red.

The Proposed Variation

The architectural elevations below demonstrate the extent of the height variation. Building A, the southern tower, is proposed with a height of 30.7m and Building B, the northern tower, achieves a height of 37.7m. The maximum permitted building height under Clause 4.3 of the SLEP 2012 is 28m. As such, the variation sought for Tower A is 2.7m or a 9.6% departure and for Tower B is 9.7m or a 34.6% departure from the numeric control. A clear breakdown of the numeric controls and the proposed variations is provided in Table 1.

Table 1 Proposed Building Heights

| | Existing surveyed ground level (AHD) | Proposed Height (AHD) | Proposed Height (m) | Permitted Height (m) | Proposed variation (m) | Proposed variation (%) |
|------------|--------------------------------------|-----------------------|---------------------|----------------------|------------------------|------------------------|
| Building A | 24.4 | 55.1 | 30.7m | 28m | 2.7m | 9.6% |
| Building B | 23.0 | 60.7 | 37.7m | 28m | 9.7m | 34.6% |

Justification for Proposed Variation

This variation to the maximum permitted building height is sought under the provisions of Clause 4.6 of the SLEP 2012 which aims to provide flexibility in the application of certain development standards. The objectives of Clause 4.6 are as follows:

4.6 Exceptions to development standards

- (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.

Comment

The flexible application of the height development standard is appropriate in the case of the proposal as it results in an improvement to urban form and amenity when compared to the previous approval. Building B takes on a smaller footprint than the previous approval, relocating approved bulk into two additional residential levels and improving amenity through improved separation and reduced shadow.

By flexibly applying the height standard, the proposal introduces diversity in building height and improves the urban form of the development. A comparison of the previous approval and the proposed development is provided in Figure 2 (over page). The reduced building footprint also improves amenity within the development by reducing shadow impacts between the buildings and providing additional access to northerly sunlight and outlook over the golf course.

Building A

The design approach retains the approved building footprint to Building A, to minimise the shadow cast onto the adjoining school. The additional 2.7m building height sought beyond the 28m is attributed to lift access to the rooftop open space, including shade pergolas, embellishment with outdoor kitchen and common bathrooms.

The previous approval did not provide rooftop open space, and given the expansive views from the rooftop, this was seen by a missed opportunity when revisiting the design. The access stair, lift overrun and pergola is located centrally and to the north of the rooftop, to ensure that the shadow cast by the additional 2.7m building height is captured within the site.

Building B

Building B incorporates an additional two storeys of residential accommodation beyond the approved nine storey envelope. The building footprint to Building B is reduced from the original approval to improve separation and overshadowing to Building A, improving residential amenity within the site. Due to the

orientation of the site, the additional height to Building B does not cause any additional environmental impact to adjoining properties by way of overlooking or overshadowing.

The taller building form to Building B in this proposal achieves a better outcome for the local area by introducing diversity in building height. The upgraded architectural appearance provides improved articulation and modulation of building bulk, whilst the difference in building heights between the two towers improves visual interest.

Together, the buildings demonstrate a similar architectural language and present two high quality landmark buildings that achieve infill residential density without impacting the amenity of the local area or shadows cast to the adjoining high school. The site presents a rare opportunity to increase residential density within the site with minimal impact on adjoining properties. Applying flexibility to the height of building development standard facilitates better outcomes in accordance with the objectives of the clause.

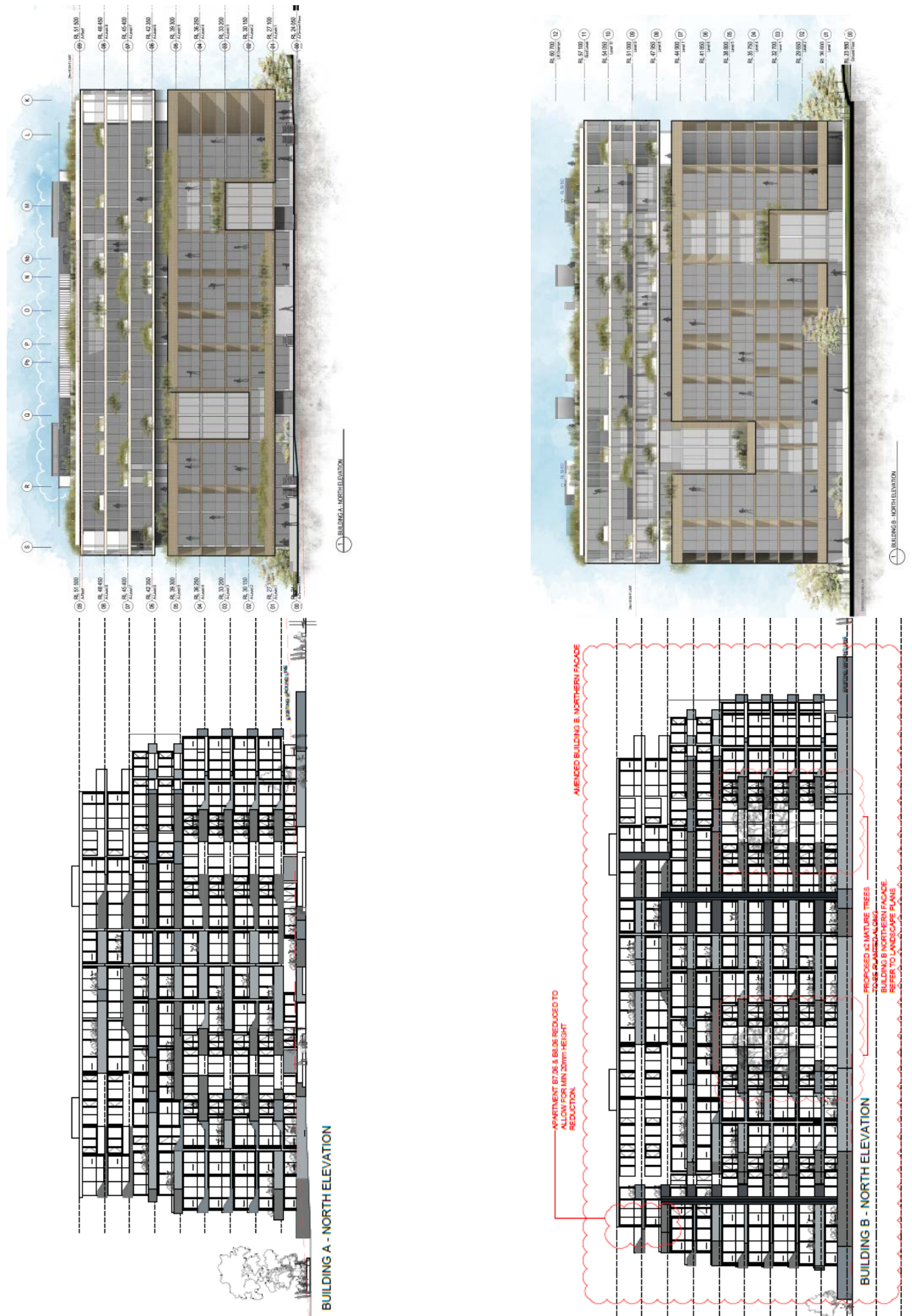
A comparison of the approved and proposed building forms is provided on the following page. Whilst the approved development complied with the bulk, height and scale controls of Council's LEP and DCP controls, the proposed development improves the design outcome and residential amenity within the site. The introduction of different building heights between the two residential flat buildings achieves a more interesting visual experience and improves the amenity of Building A and the school.

Figure 3:

Comparison of approved and proposed building forms

Northern Elevation (as viewed from Golf Course) – Approved (DA2015/100)

Proposed under this DA & CI 4.6 Objection



4.6 Exceptions to development standards cont.

(2) Development consent may subject to this clause be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment

The Height of Building development standard is not excluded from the function of this clause and therefore can be considered under Clause 4.6 of the SLEP 2012.

4.6 Exceptions to development standards cont.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant 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

Comment

In *Wehbe v Pittwater Council* [2007] NSW LEC 827, the Chief Judge of the Land and Environment Court, Preston J, developed the five point test for consideration of a SEPP 1 objection. The applicability of the *Wehbe* test to a request to vary development standards under Clause 4.6 of the Standard Instrument has been confirmed in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSW LEC 7.

As required by CI 4.6(3)(a), the *Wehbe* test provides that compliance with a development standard can be demonstrated as being 'unreasonable or unnecessary' in any of the following five ways:

- 1. The objectives of the standard are achieved notwithstanding the non-compliance with the standard;*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 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;*
- 5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable and unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

In accordance with the tests in (1) and (2) above, it is justified that compliance with the height of building standard is unreasonable and/or unnecessary in the circumstance of this development. The following discussion addresses each objective of the height of building standard of Clause 4.3 of the SLEP and demonstrates why compliance with this numeric standard is either 'unreasonable' or unnecessary':

4.3 Height of buildings

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

(a) *to ensure that development is of a height that is generally compatible with or which improves the appearance of the existing area*

The site is within a large open landscape that provides an unusual or rare opportunity. The context of the site within a golf course, absorbs the scale and bulk of the buildings more readily than an urban landscape. As a result, there is a limited visual context that contributes to 'height compatibility' – the underlying purpose of this objective.

The existing planning controls within Council's LEP and as approved in the previous development application (DA2015/100) permit two nine-storey buildings with significant footprints. This is important as it demonstrates that the existing controls already envisage a different urban form on the subject site that is much higher and denser than surrounding development, i.e. the existing height and FSR controls do not call for consistency in built form but instead encourage a landmark building that is taller and denser than surrounding development.

Height cues with proximity to the site are taken from nearby transmission lines with an approximate height of 55m to 60m, a series of white industrial silos located on the southern side of Liverpool Road (approx. 40m height) and the concrete flyover bridge between Roberts Road and Centenary Drive. As a result, the height plane in the surrounding area primarily comprises large scale, bulky infrastructure.

The following figures provide an indication of the visual context of the site on approach from nearby roads. The configuration of the site provides a limited street frontage, and views to the site from the south and west are mostly fleeting as they are obtained from travelling vehicles. Views looking south toward the site, across the golf course, are obscured by mature trees and separation of distance. Therefore, the compatibility of the proposed buildings with the character of the neighbourhood is not relevant to the proposal. Instead, the relevant question is whether the proposal *'improves the appearance of the existing area'*.

The proposal presents two modern and well-articulated residential flat buildings that will improve the appearance of the existing area by breaking up views of the elevated road infrastructure and transmission towers. The highly durable materials comprise timber, cream facebrick and concrete framing with vertical cut-out sections and balcony plantings. The building's architecture provides a clearly defined base, middle and top and has a less visually bulky appearance than the existing approved building form on the site. The proposal also introduces diversity in heights, rather than two buildings of similar bulk and scale, providing additional visual interest and distinctiveness.

The proposed development will positively contribute to upgrading the appearance of the existing area and will provide a landmark building of good architectural merit. The site has a gateway location which calls for a landmark building. The proposal, including the additional building height, provides an improved building form and appearance that will upgrade the residential development on the site.



Figure 4: View heading north toward the site from the commencement of the Centenary Drive flyover vehicular bridge. Industrial development on right-hand side of the photograph is a series of industrial silos (approx. 40m height) and a transmission tower (approx. 55m to 60m height) is located on the left-hand side of the photograph. (Source: Google 2016)



Figure 5: View heading north toward the site from the Centenary Drive flyover vehicular bridge. Industrial development on right-hand side of the photograph is a series of industrial silos (approx. 40m height). (Source: Google 2016)



Figure 6: View heading north toward the site from the top of the Centenary Drive flyover vehicular bridge. Note the limited visual cues. The crane on the right-hand side is constructing Stage 1 (townhouses). (Source: Google 2016)



Figure 7: View heading east toward the site along Liverpool Road. The transmission tower is one in a series of transmission towers in the area with an approximate height of 55m to 60m. The flyover vehicular bridge (approx. 12m height to top of barrier) is also visible to the right of the transmission tower. (Source: Google 2016)



Figure 8: View heading west along Liverpool Road. Strathfield South High School is located beyond the approx. 4m high noise wall on the right-hand side of the photograph. The concrete flyover vehicular bridge is approximately 12m in height to the top of the barrier and the transmission tower discussed previously is visible in the background of the photo. (Source: Google 2016)

Clause 4.3 (1) cont.

(b) to encourage a consolidation pattern that leads to the optimum sustainable capacity height for the area

The site does not alter the lot consolidation pattern. Lots to the north and south do not permit the construction of a residential flat building and cannot be consolidated with the site under the current land zoning. As such, the proposal does not compromise consolidation patterns in the area.

Clause 4.3 (1) cont.

(c) to achieve a diversity of small and large development options.

The site introduces height differentials between the two buildings, nine storeys to Building A and 11 storeys to Building B. Together, the two and three storey townhouse development to stage 1, and the apartment buildings to stage 2 provide a diversity of small and large development options and a variety of housing typologies.

Therefore, notwithstanding the numeric variation, the proposal achieves the underlying purpose of this objective in accordance with the first test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827.

Accordingly, the proposal has addressed the requirements of Clause 4.6(3)(a) by demonstrating that compliance with the objectives of the development standard can be achieved, notwithstanding the numeric departure.

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

Comment

The proposed height variation is acceptable on the site and has environmental planning merit as follows:

- Lack of environmental impact

Due to the characteristics of the site and location on the edge of a golf course, the proposed 9.7m or 34.6% variation to the height of Building B will not impact adjoining properties by way of overlooking, overshadowing or view loss. The 2.7m or 9.6% variation beyond the 28m height limit to Building A is due to the lift overrun and stair providing access to the rooftop open space, which is located centrally to contain the additional shadow within the existing building shadow.

The reduced building footprint to Building B improves separation between the residential apartments within the site and provides improved solar access and outlook to the proposed units in Building A. The improvement to residential amenity proposed in the subject application is evident in the SEPP 65 and ADG assessment undertaken within the main body of the Statement of Environmental Effects which demonstrates that all targets are met or exceeded.

Due to the separation to the townhouses and other residential neighbours on Hedges Avenue and north of the golf course, the additional residential density will not provide opportunities for direct overlooking or loss of privacy. Whilst it is appreciated that the proposed buildings will be visible from the low density residential properties that adjoin the golf course, views from these properties are dominated by mature trees planted along the boundaries of the golf course. These immediate views of the golf course are not to be modified, however there will be distant views to the proposed buildings beyond the established trees. Due to the separation of distance, this impact is similar whether the proposal is for two x nine storey buildings (as approved) or for the proposed 11 storey and nine storey buildings.

Due to the orientation of the site, the existing building height can be accommodated to Building B without causing additional detrimental shadow impact outside of the site. The shadow impact on the adjoining school and playing fields remains comparable to the previous approval.

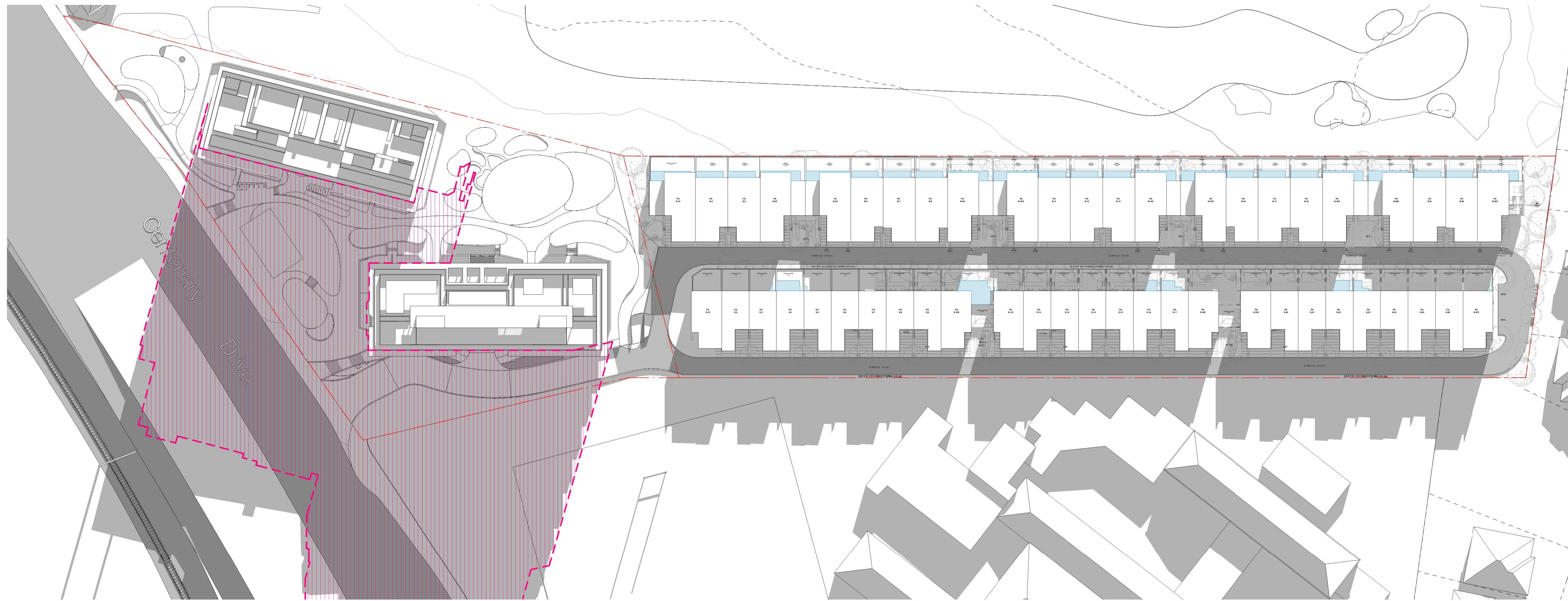
The shadow cast by the 9.7m height variation to Building B is entirely contained to the adjoining roadway (Centenary Drive) during the morning, moving to the area of open space between the residential flat buildings through the middle of the day and then east toward the townhouses in the late afternoon. Common open space areas continue to receive at least two hours of direct solar access at mid-winter, whilst the impact on the townhouses remains consistent with the previous approval, as the shadow only reaches this portion of the development at 2pm.

For comparison, shadow diagrams presenting the approved (building envelope compliant) shadow impact (pink dotted line) and the proposed shadow impact are provided in the amended architectural plans and reproduced over page.

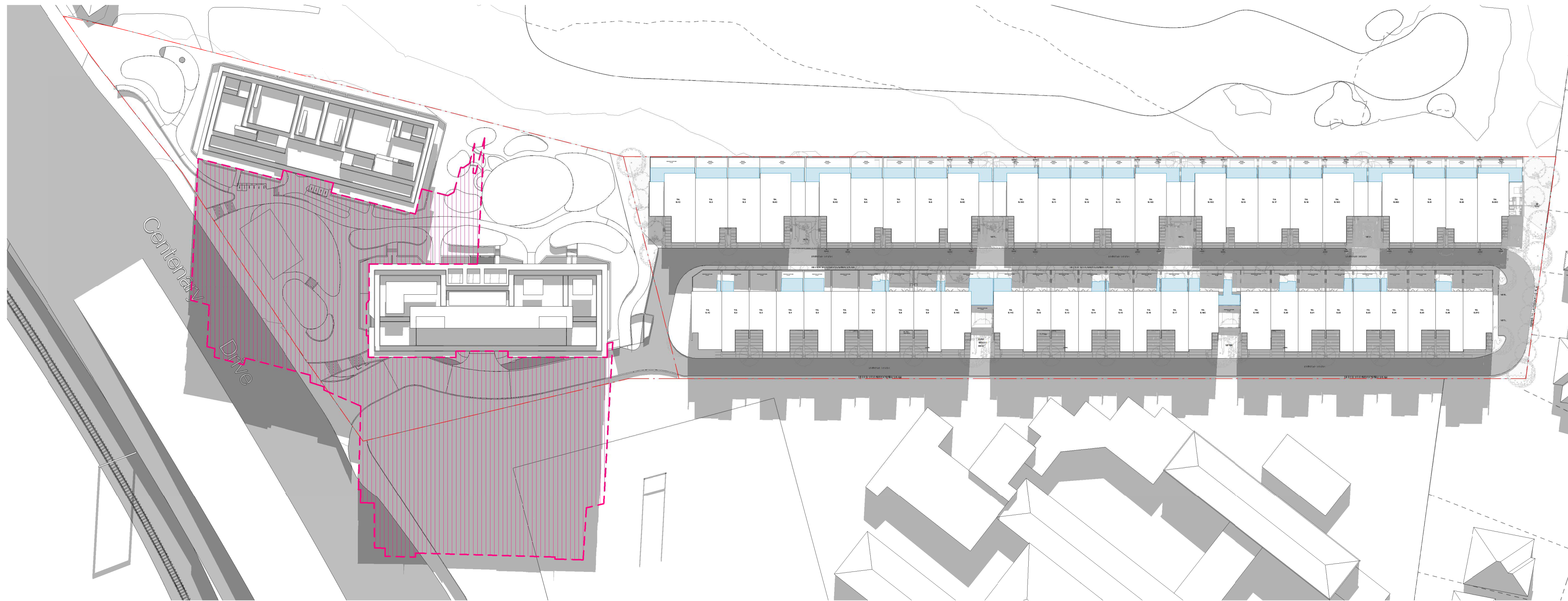
- Strategic Location

The additional building height, together with the FSR variation sought, provide the opportunity for additional infill residential housing, with proximity to existing services, infrastructure and public transport. The connectivity map provided on the following page visually demonstrates the availability of local services (and identified zonings to accommodate future local shops) within walking distance of the site.

Providing additional residential density within existing developed areas, and within proximity to existing centres, is a primary objective of the *Greater Sydney Region Plan 2056* and the *Eastern City*



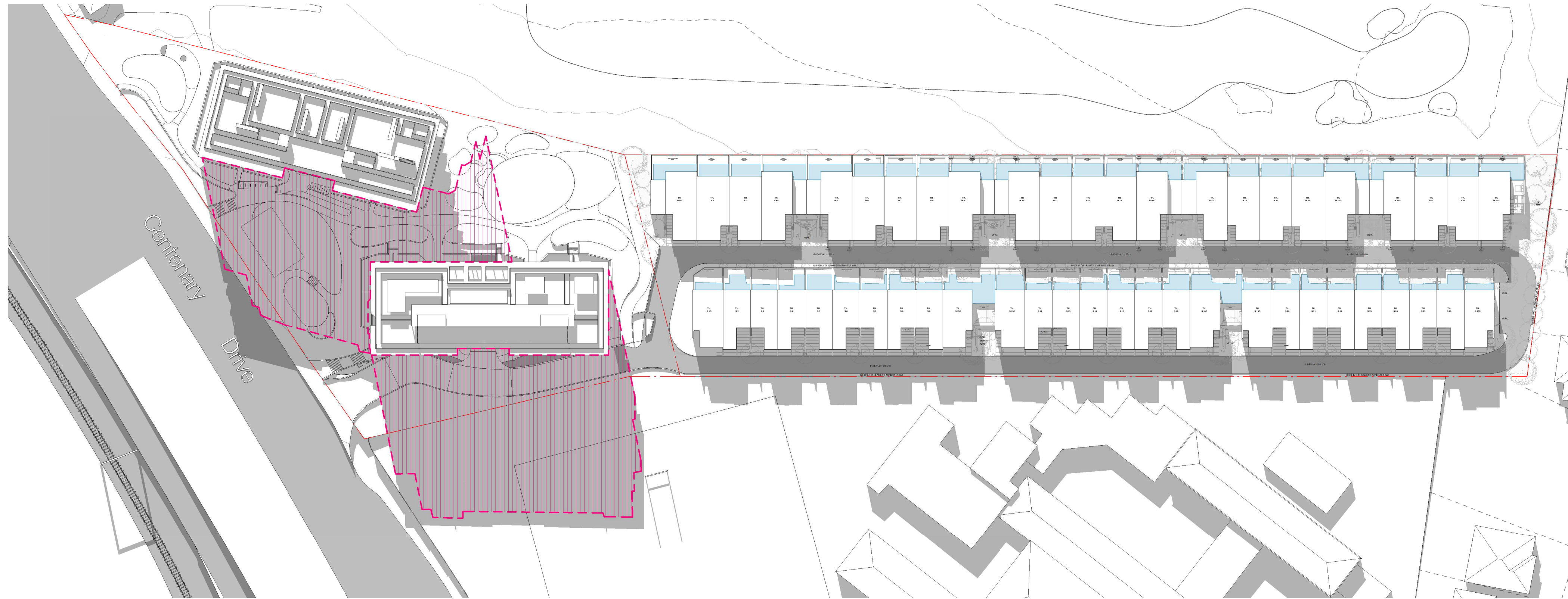
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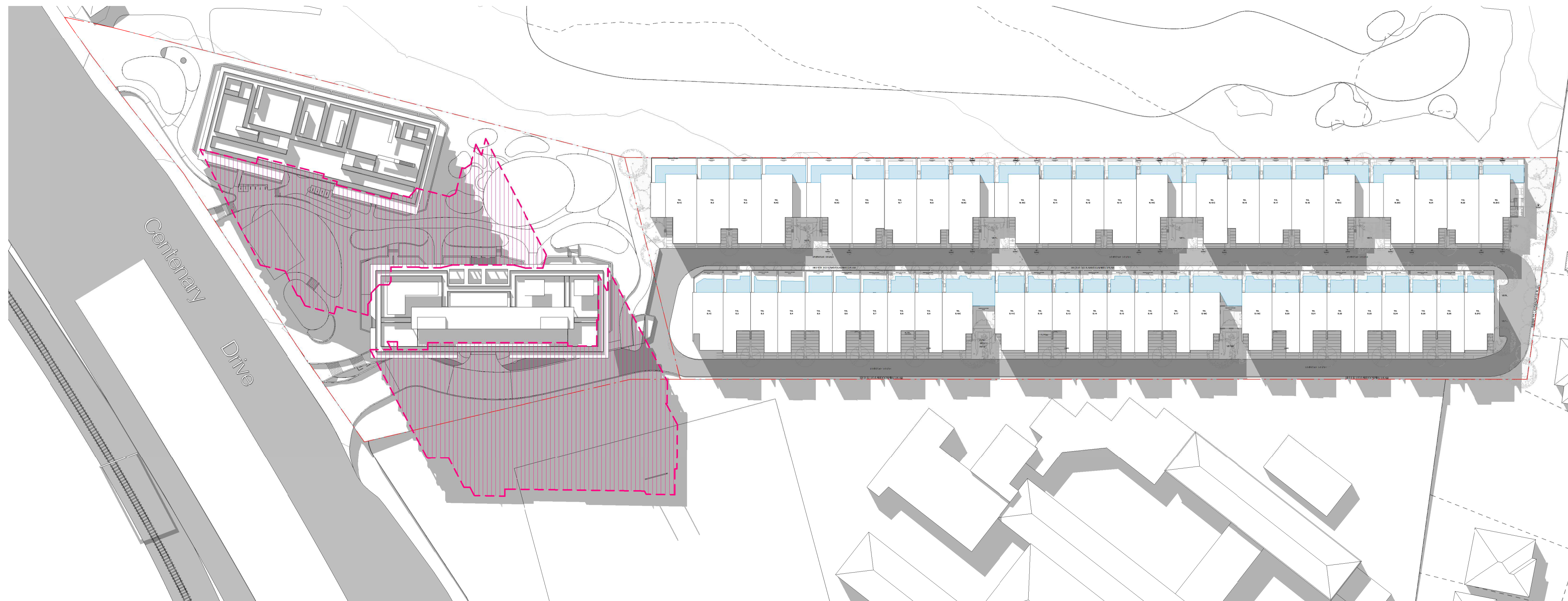
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Disclaimer note:
Indication of impacts based on information provided to date.

- PORTION THAT WILL RECIEVE DIRECT SUNLIGHT
- EXTENT OF OVERSHADOWING BY APPROVED DA
- SHADOW CAST BY PROPOSAL



1 Shadow impact_21 Jun 11.00

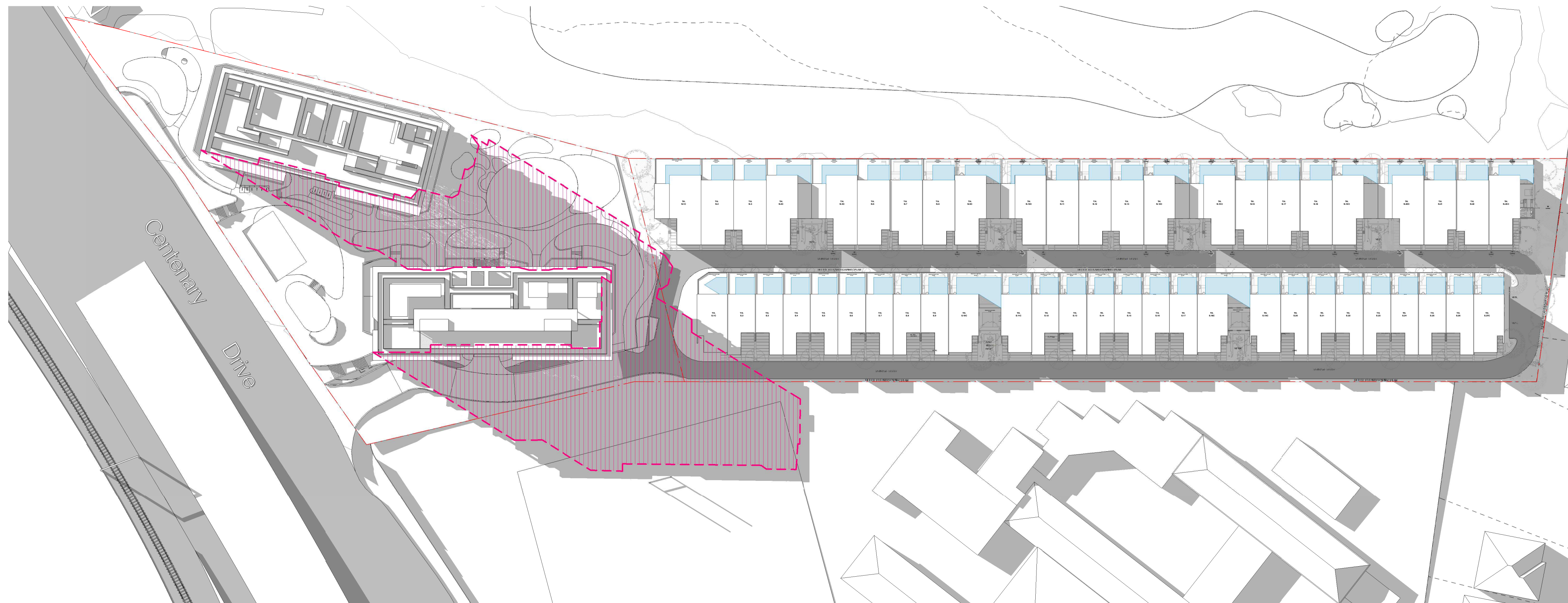


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- PORTION THAT WILL RECIEVE DIRECT SUNLIGHT
- EXTENT OF OVERSHADOWING BY APPROVED DA
- SHADOW CAST BY PROPOSAL



1 Shadow impact_21 Jun 13.00



2 Shadow impact_21 Jun 14.00

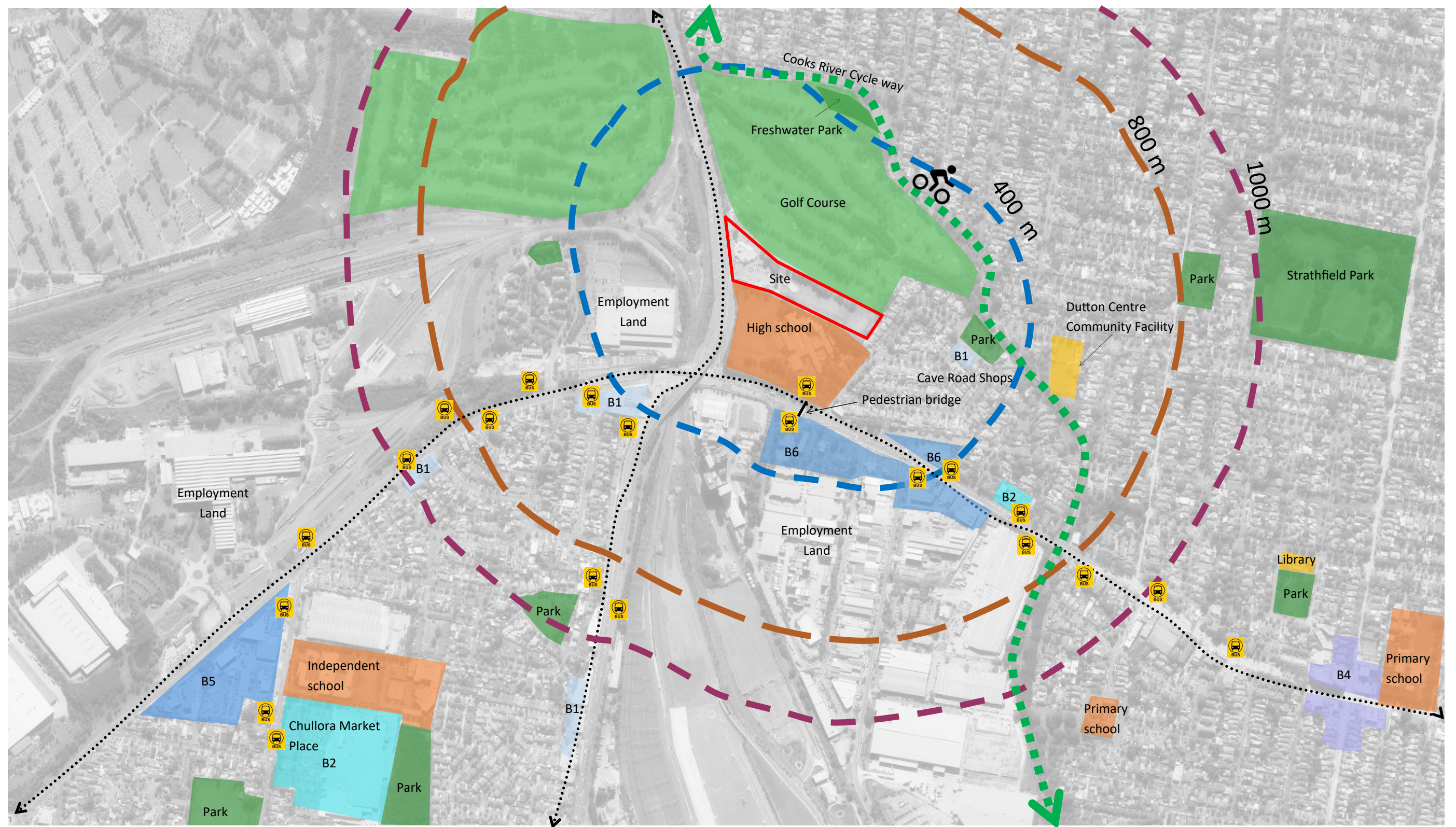
PORTION THAT WILL RECIEVE DIRECT SUNLIGHT
 EXTENT OF OVERSHADOWING BY APPROVED DA
 SHADOW CAST BY PROPOSAL

Disclaimer note:
Indication of impacts based on information provided to date.



1 Shadw impact_21 Jun 15.00

- PORTION THAT WILL RECIEVE DIRECT SUNLIGHT
- EXTENT OF OVERSHADOWING BY APPROVED DA
- SHADOW CAST BY PROPOSAL



Zone References Strathfield LEP 2012 and Bankstown LEP 2015

B1 Neighbourhood Centre | B2 Local Centre | B4 Mixed Use | B5 Business Development | B6 Business Enterprise

Connectivity Analysis

86-88 Centenary Drive, Strathfield

Project 3002600 Rev 01 SO Date 2.05.2018

District Plan. Both strategies note the importance of accommodating additional residential density in well-connected, infill sites to combat urban sprawl, and note that additional density is particularly desirable where it can be accommodated without compromising existing residential amenity, specifically the following directions:

- *Direction: A city supported by infrastructure*
 - Objective 4: Infrastructure use is optimised
 - Planning Priority E1: Planning for a city supported by infrastructure

This proposal would permit additional density in an infill context, where use of existing road and public transport infrastructure can be maximised.

The Site is well serviced by existing high capacity and high-frequency bus services that provide onward connection to the Metropolitan Transport Network including local railway stations at Strathfield (11min journey) and Burwood (20min journey). Express train services from both Strathfield and Burwood Railway Stations provide access to major CBD employment hubs in Parramatta and Sydney CBD within a 30-minute commute.

- *Direction: A city for people*
 - Objective 6: Services and infrastructure meet communities changing needs
 - Objective 7: Communities are healthy, resilient and socially connected
 - Planning Priority E4: Fostering healthy, creative, culturally rich and socially connected communities

The proposal is serviced by existing health and educational establishments within the local area. The adjoining school has had declining enrolments in recent years (Strathfield South High School Annual Report 2017), whilst existing health and community services are accessible in nearby centres at Strathfield (4km), Burwood (5km), Bankstown (9km) and Concord (8km).

The development will also provide opportunities for casual social interaction between residents and will provide housing that is designed to assist ageing in place (15% adaptable units plus an additional 20% liveable units). Proposed shared facilities within the site will include swimming pool, gym, multi-court, playground, shared bicycle paths and a shuttle operating in peak periods for access to/from local railway stations. This is consistent with the desire of the developer to provide high quality 'resort style' accommodation within an infill context, which is supportive of all age groups.

- *Direction: Housing the city*
 - Objective 10: Greater housing supply
 - Objective 11: Housing is more diverse and affordable
 - Planning Priority E5: Providing housing supply, choice and affordability with access to jobs, services and public transport

The proposal will deliver a variety of housing styles across the site to meet the needs of various households at all life stages, with housing linked to existing local infrastructure to create livable neighbourhoods.

- *Direction: A city of great places*
 - Objective 12: Great places that bring people together
 - Planning Priority E6: Creating and renewing great places and local centres, and respecting the District's heritage

The Site is located within walking or cycling distance of numerous local town centres and established parks, cycleways and golf courses. Additional density can be supported on this undeveloped and relatively unconstrained site to ensure character and heritage of existing places can be preserved.

- A well-connected city

- Objective 14: A metropolis of three cities – integrated land use and transport creates walkable and 30-minute cities.
- Planning Priority E10: Delivering integrated land use and transport planning and a 30-minute city

This DA seeks to deliver additional dwellings within a 30-minute commute of Burwood strategic centre, Parramatta and Central Sydney CBDs (via bus/cycle to nearby stations and express train). The Site is very well connected to a variety of land uses including business and employment zones, community facilities in Strathfield, a local shopping centre in Chullora (1km), designated bicycle and pedestrian routes, schools and public transport.

- Urban hierarchy

The proposal is not inconsistent with the established or anticipated future urban hierarchy. The context of the site is somewhat unique, being on the southern end of an expansive area of open space (golf course) and alongside major arterial road infrastructure. As previously discussed, the structures within proximity of the site that will provide visual context to the building height are transmission towers, existing industrial silos and the concrete flyover bridge between Roberts Road and Centenary Drive. The proposed buildings will provide interesting buildings of high architectural merit that will positively contribute to upgrading the appearance of the local area.

- Landmark Building

The site is a gateway location on Liverpool Road, at the entrance to the Strathfield locality, and presents an opportunity for a landmark building that delineates the change in urban form. The existing planning controls within Council's LEP already envisage a different urban form on the subject site that is much higher and denser than surrounding development, i.e. the existing height and FSR controls do not call for consistency in built form but instead encourage a landmark building that is taller and denser than surrounding development.

The proposal capitalises on the opportunity for a landmark building, and presents a high quality architectural design with highly durable building materials. The additional building height assists in providing a landmark building that is readily identifiable and unique to the area. The building heights can be accommodated without environmental impact and would not appear out of place given the diversity of built form in the area, including unsightly electrical infrastructure and industrial development.

Clause 4.6 cont.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

Comment

The matters required by subclause (3) have been addressed in detail in the above sections of this objection.

Clause 4.6(4) cont.

(ii) 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, and

Comment

The above discussion demonstrates that notwithstanding the numeric variation, the proposed development is consistent with the relevant objectives of the height of building development standard which include ensuring development *'improves the appearance of the existing area'* and *'achieve[s] a diversity of small and large development options'*.

In relation to the second requirement, being consistency with the zoning objectives; the site is zoned B4 Mixed Use pursuant to the SLEP 2012 and is consistent with the objectives of the zone as follows:

- *To provide a mixture of compatible land uses.*

The proposed residential flat building is a permissible use in the B4 Mixed Use zone. The proposal includes a café to service the needs of residents within the site and the local area. Residential accommodation presents the highest and best use of the site, and allows the provision of additional residential density to support local services which are readily accessible in Homebush, Strathfield, Chullora, Bankstown, Belfield and Burwood. The site is also located within close proximity of B1 Neighbourhood Centre, B2 Local Centre and B6 Business Enterprise land that will support compatible local 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.*

The proposal provides residential accommodation within a highly accessible and strategic location, connected to existing high frequency local and regional bus services operating along Liverpool Road and connecting to Strathfield and Burwood transport interchanges. The site is well connected to existing walking and cycling paths within the Cooks River Cycleway, and is a 15-minute bicycle commute to Strathfield Station.

The proposal meets the '30-minute city' objective of the Sydney Regional Strategy 2056 by providing additional residential density within 30 minutes travel time from existing economic centres in Central Sydney, Burwood, Strathfield, Parramatta and Bankstown.

- *To facilitate mixed use urban growth around railway stations and transport nodes and corridors, commercial centres and open space.*

The proposal supports this objective by facilitating additional residential density within an established area, with great connectivity to transport nodes, railway stations and commercial centres. The proposal is adjacent to an expansive golf course and is within easy walking distance of public open space at Freshwater Park, Strathfield Park and Edwards Park. The proposal also incorporates expansive areas of common open space within the site including unencumbered open space, rooftop common areas, a multi-court and a variety of areas for passive recreation.

- *To provide local and regional employment and live and work opportunities.*

The proposal supports this zone objective by providing additional residential accommodation in an area well serviced by multiple established local and regional employment centres. Additionally, common room facilities on the ground floor of Building A are intended to provide bookable office areas to support live-work opportunities for residents.

Clause 4.6(4) cont.

(b) the concurrence of the Secretary has been obtained.

Comment

The concurrence of the Secretary has been assumed in accordance with *PS 18-003: Variations to development standards* dated 21 February 2018.

Clause 4.6(5)

(5) In deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

Comment

The proposed variation to the height of building development standard does not raise any matter of significance for State or Regional Planning. It has been clearly demonstrated in this application and Clause 4.6 request that the site can readily accommodate the additional 2.7m and 9.7m in building height to Building A and B, respectively, with very little impact on adjoining properties.

The site is relatively unique within both the Strathfield context and wider Sydney Metropolitan area, being located adjacent to a golf course, high school and major road, with a limited residential interface. There is public benefit in varying the height control, along with the FSR standard, as it will deliver additional housing on this well-connected infill site.

It would be contrary to the public interest to arbitrarily restrict the height of development on this site, which can clearly accommodate high density, high quality infill residential development with good connectivity to existing public transport and established centres and without adverse environmental impact.

Conclusion

The above discussion demonstrates that the 9.7m (34.6%) variation from the maximum 28m height of building standard for Building B and 2.7m (9.6%) for Building A is appropriate in the circumstances of the proposal, subject to the provisions of Clause 4.6 of the SLEP 2012. This Clause 4.6 variation request is well founded as it demonstrates the following:

- Compliance with the height of building development standard is unreasonable or unnecessary as the objectives of the standard can be achieved notwithstanding the numeric non-compliance, thus

satisfying the tests developed in *Wehbe v Pittwater Council* [2007] NSW LEC 827 and Clause 4.6(3)(a) of the SLEP 2012;

- There are sufficient environmental planning grounds to justify the contravention of the height of building standard and the proposed development results in a better outcome for the site than a compliant proposal, thus satisfying Clause 4.6(3)(b) of the SLEP 2012.
- There is a lack of environmental impact resulting from the numeric variation, the proposal is within a strategic location to support additional residential density and building height, and the proposed landmark building is appropriate for the built form context of the area. These matters justify that there are *'sufficient environmental planning grounds to justify contravening the development standard'* in accordance with Clause 4.6(3)(b) of the SLEP 2012;
- The development remains consistent with the relevant objectives of the B4 Mixed Use zone, notwithstanding the numeric variation in accordance with Clause 4.6(4)(a)(ii) of the SLEP 2012.
- The proposed development and specifically, the proposed height variation, is in the public interest as the proposal can provide additional residential density without causing unreasonable impacts on adjoining properties by way of overlooking or overshadowing, thus satisfying Clause 4.6(4)(a)(ii) of the SLEP 2012.
- The proposed development improves the visual bulk and scale, solar access and overall amenity, improves the availability of open space between the buildings and adds an additional area of rooftop open space. The proposal presents a superior outcome for the site, in comparison to the previous approval under DA 2015/100 which conformed with the building height control. This demonstrates that through the flexible application of the building height development standard, a better planning outcome can be achieved on the subject site.