

Clause 4.6 Request to Vary Development Standard – Floor Space Ratio

Introduction

This report seeks an exemption to the floor space ratio 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 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 floor space ratio development standard which applies to the land. The development comprises two residential flat buildings; of nine storeys or 30.7m (Building A) and 11 storeys or 37.7m (Building B). An objection to the applicable building height prescribed for the site has been prepared separately to this objection to the floor space ratio development standard.

The maximum permitted floor space ratio under Clause 4.4 of the SLEP 2012 is 1.2:1 (24,322m²). The proposal presents an FSR of 1.24:1 (25,165m²). As such, the variation sought from the numeric control 2.6% which equates to an additional gross floor area of 641m² or approximately 4 units. The variation translates directly to approximately two-thirds of the top floor of Building B i.e. a compliant FSR is achieved in approximately 10.3 storeys, based on the current footprint, and the variation is required to complete the level.

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 significant footprints. This is important for two reasons:

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**DA2017/168
13 June 2018**



- 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 additional residential levels. In comparison to the built form of the original proposal, this modulation of the building footprint results in improved the building articulation, a height differential between the two towers and considerably improved 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.

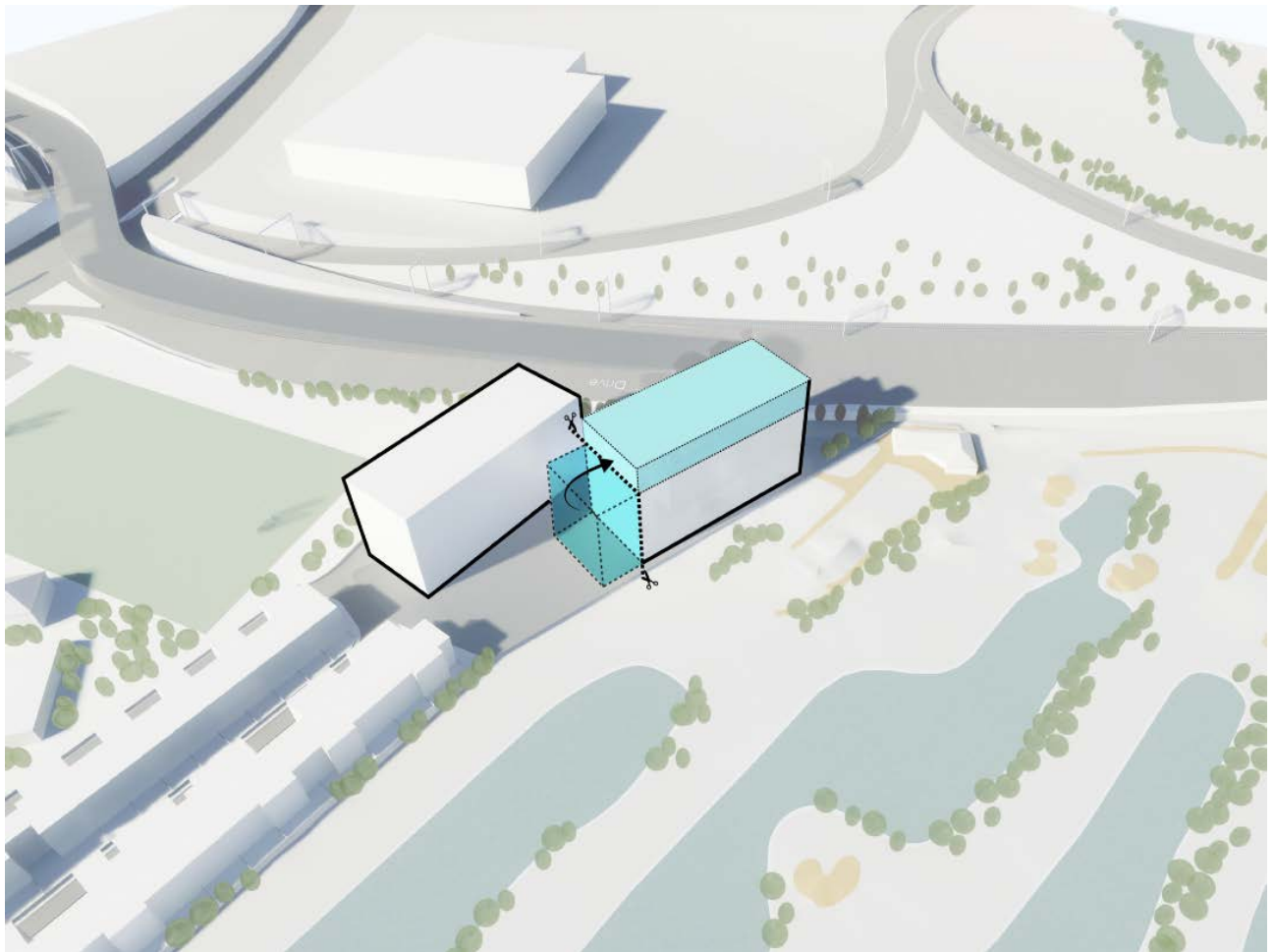


Figure 1: Depiction of the approach taken to Building B, relocating the blue dotted area from the eastern side of the building and placing into an additional two residential levels.

Development Standard

Pursuant to Clause 4.6 of the SLEP 2012, this objection seeks to vary the floor space ratio development standard stipulated in Clause 4.4 which states:

4.4 Floor space ratio

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

- (a) to ensure that dwellings are in keeping with the built form character of the local area,
- (b) to provide consistency in the bulk and scale of new dwellings in residential areas,
- (c) to minimise the impact of new development on the amenity of adjoining properties,
- (d) to minimise the impact of development on heritage conservation areas and heritage items,
- (e) in relation to Strathfield Town Centre:
 - (i) to encourage consolidation and a sustainable integrated land use and transport development around key public transport infrastructure, and
 - (ii) to provide space for the strategic implementation of economic, social and cultural goals that create an active, lively and people-orientated development,
- (f) in relation to Parramatta Road Corridor—to encourage a sustainable consolidation pattern that optimises floor space capacity in the corridor.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The relevant Floor Space Ratio Map (Sheet FSR_002) of the SLEP 2012 is reproduced in Figure 1. This provides a maximum floor space ratio of 1.2:1 (P) for the entirety of the site, including the eastern portion where townhouses have been constructed in Stage 1 of the development. It is important that the FSR be considered across the entirety of the site, as the townhouse portion of the site carries a lower FSR (approved at approximately 0.75:1) to enable the higher density development to be orientated toward Centenary Drive.



Figure 1: Excerpt from Floor Space Ratio Map (SLEP 2012). Subject site highlighted in red.

The Proposed Variation

As the Floor Space Ratio applies to the entirety of the site, and was applied that way in the original approval under DA2015/100, the calculation of FSR in the current application must be considered in the context of both stage 1 and stage 2 of development upon the site. The previous approved development on the site provides a compliant FSR of 1.2:1 (24,322m²). This is separated between the townhouse development (9,042m²) and the residential flat buildings (15,280m²).

To preserve residential amenity in Hedges Avenue, it was considered appropriate to place the lower density townhouse component of the development toward this sensitive boundary, with the higher density residential/mixed use buildings located on the western portion of the site. This is reflected both in the previous approval and the zoning and height controls applicable across the site.

As such, the lower density townhouse component of the development carries a lower FSR whilst a greater FSR is pushed onto the western portion of the site, where the residential flat buildings are approved, and proposed. When calculating over both stages 1 and 2, the compliant FSR of 1.2:1 was achieved.

A comparison of the approved and proposed FSR is provided in Table 1.

Table 1 Proposed Floor Space Ratio

	Total FSR	Stage 1 Townhouses GFA	Stage 2 Residential Flat Buildings GFA	Proposed variation (m ²)	Proposed variation (%)
Permitted SLEP 2012	1.2:1 (24,322m ²)			-	-
Approved DA2015/100	1.2:1 (24,322m ²)	9,042m ²	15,280m ²	Nil	Nil
Proposed	1.24:1 (25,165m ²)	9,042m ²	16,141m ²	641m ²	2.6%

Justification for Proposed Variation

This variation to the maximum permitted floor space ratio 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 floor space ratio development standard is appropriate in this case as the modulated built form presented in this proposal provides a better outcome than the approved building envelope. The unique characteristics of the site enable the additional density to be accommodated without causing environmental impact on the functionality of the existing road network, overshadowing or overlooking onto neighbouring properties and within an existing residential neighborhood that is well serviced by infrastructure, open space and transport.

Importantly, the increased building envelope required to accommodate the additional residential density beyond the permitted FSR can be provided on the site without discernably impacting nearby properties, and as discussed in the request to vary the height development standard, will result in an improved visual outcome for the local area where tall structures are primarily characterised by unsightly transmission towers, industrial silos and road infrastructure.

The proposal achieves a better outcome for the site by delivering an additional four residential units, with excellent residential amenity, and within a property that can readily accommodate the additional density without impacting upon adjoining development. This is particularly important as it is representative of the unique characteristics of the subject site, which is in a strategic location within proximity to existing services, transportation networks, schools and economic centres.

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 Floor Space Ratio development standard is not excluded from the function of this clause.

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, 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.

The aim of the Wehbe test is to demonstrate whether requiring compliance with the standard would be unreasonable or unnecessary in the circumstances of the case, as required by Clause 4.6(3)(a). The Wehbe test provides that compliance with a development standard can be deemed unreasonable or unnecessary in any of the following five ways:

- 1. The objectives of the standard are achieved notwithstanding 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 argued that compliance with the floor space ratio development standard is unreasonable and unnecessary in the circumstance of this development as the objectives of the standard can be achieved, notwithstanding the numeric non-compliance. The following discussion provides why this is the case in satisfaction of Clause 4.6(3)(a).

Each of the objectives of the floor space ratio development standard of Clause 4.4 of the SLEP are reproduced below, followed by commentary relevant to the proposal:

4.4 Floor Space Ratio

(1) The objectives of this clause are as follows

(a) to ensure that dwellings are in keeping with the built form character of the local area

The site is within a large open landscape that provides an unusual or rare opportunity. The context, 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 built form character contributing to the context of the site, and it is therefore argued that this objective is not relevant to the proposal in accordance with the second Wehbe test.

The built-form character of the local area can instead be attributed to unsightly road and electrical transmission infrastructure and industrial development along the southern side Liverpool Road, including the series of white silos that are highly visible from the roadway and front boundary of the site. The built form character on the school to the south of the site comprises two storey school structures surrounded by playing fields. Further east of the site, dwellings on Hedges Avenue are mostly of brick construction with single and two storey heights, however these are not directly within the visual catchment of the residential flat buildings.

Moreover, the current controls of the SLEP allow the approved building form of two x nine storey towers on the western portion of the site and thus envisage a different built form character on the site, that is clearly different from the built form character of the local area.

As such, the underlying purpose of this objective which seeks to maintain consistency in built form outcomes, is not relevant to the proposed development and therefore compliance is unnecessary.

An image taken from the site using a drone is provided below to provide a visual context to the site. Over page are a series of Google Streetview images. These are indicative of the lack of built-form character in the area, and are included to provide context to the consideration of the applicability of this objective.



Figure 3: Panoramic image taken using a drone looking south-east from the site.



Figure 3: 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 4: 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 5: 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



6: 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) is also visible to the right of the transmission tower. (Source: Google 2016)



Figure 7: View heading west toward 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 and the transmission tower discussed previously is visible in the background of the photo. (Source: Google 2016)

Clause 4.4 (1) cont.

(b) to provide consistency in the bulk and scale of new dwellings in residential areas

As discussed above, the proposed development is not located within a residential area and there is no consistency in the bulk and scale of development in the area surrounding the site.

As such, the underlying objective of the standard is not relevant to the development and in accordance with the second Wehbe test, compliance is unnecessary.

Clause 4.4 (1) cont.

(c) to minimise the impact of new development on the amenity of adjoining properties

Due to the unique nature of the site, the additional density can be accommodated to the residential flat buildings without impacting the amenity of adjoining properties. The closest residential neighbours to the proposed residential flat buildings are located on Hedges Avenue, approximately 230m from eastern extent of Building A. Also separating the residential flat buildings from the residential dwellings on Hedges Avenue are fifty approved two and three storey townhouses (currently under construction).

The 2.6% FSR variation proposed under this application results in an additional four units across the top floor of Building B. The additional units have been placed in the northern residential flat building (Building B) to overcome any overlooking or overshadowing impact on neighbours outside of the site. As demonstrated in the aerial photograph below, the easternmost extent of Building B is approximately 275m from the nearest low density residential property on Hedges Avenue, 335m from residential dwellings on Yarrowee Road and 400m from properties in Ada Avenue. This separation of distance ensures that there is no opportunity for increased overlooking created by way of the additional four residential units sought in Building B.

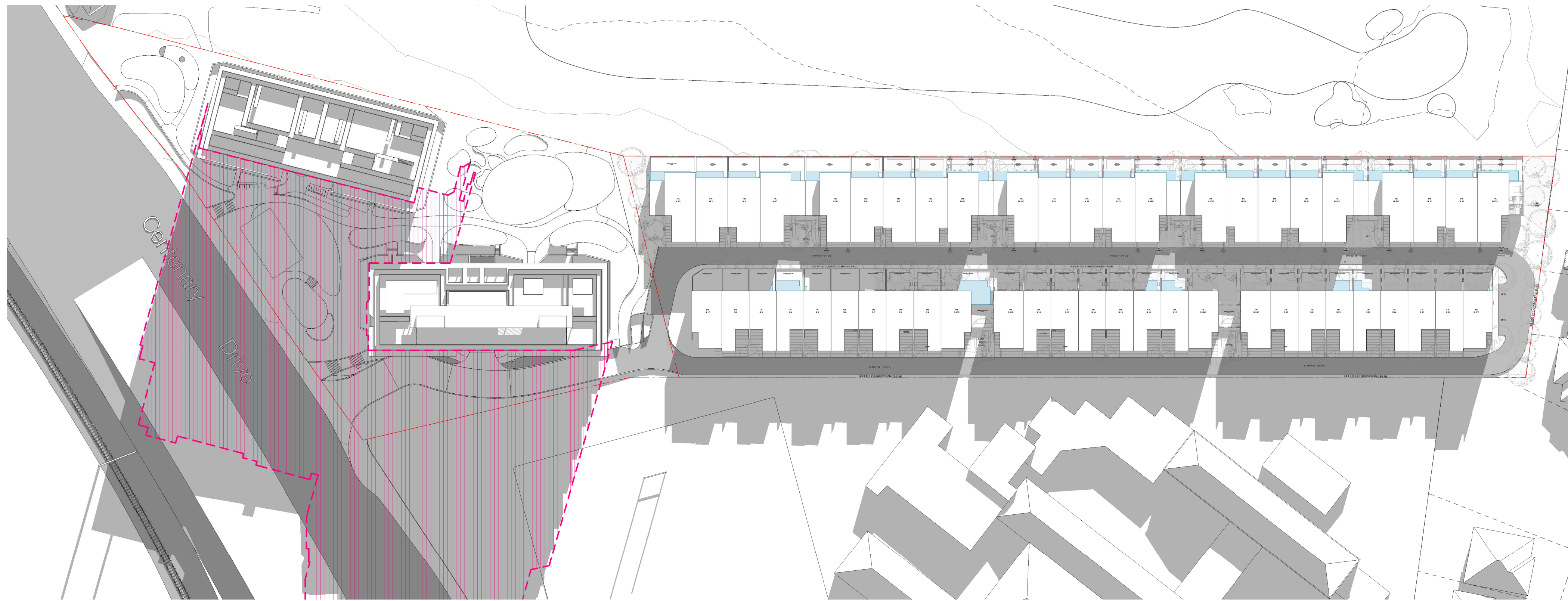


Figure 8: Aerial photograph of the site noting approximate distances to neighbouring residential development.
Source: NearMaps2017

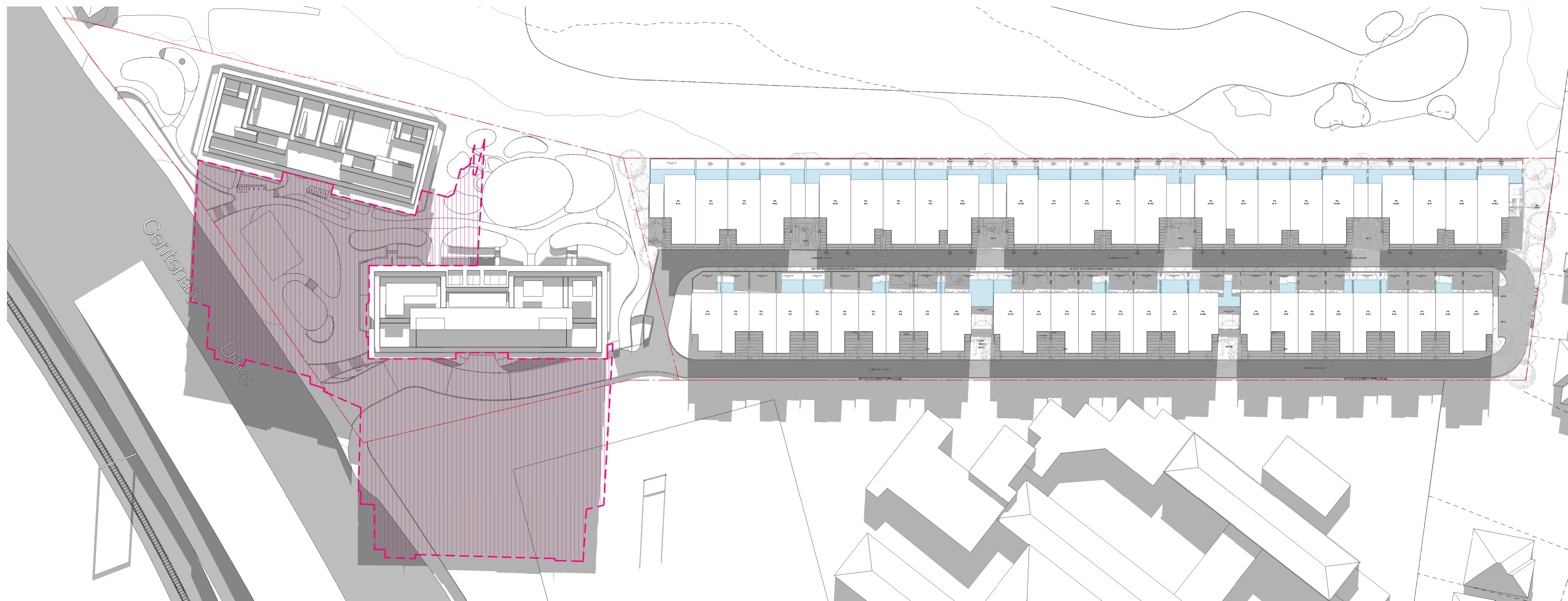
With respect to overshadowing, the proposal retains the same shadow impact as the previously approved scheme on the site. The shadow diagrams for the development are shown over page and provide a dotted outline (approved) and indication of the proposed shadow. The proposed and approved shadow impact is comparable. At mid-winter, the proposed residential flat buildings cast shadow onto Centenary Drive in the morning, relocating to within the site and over the northern portion of the playing field on the adjoining school at midday, and then west toward the townhouses at 3pm.

Importantly, the reconfiguration of the building footprints from what was previously approved in DA2015/100 provides improved separation between the two residential flat buildings on the subject site, providing improved solar access and outlook for future residents within the property. This reduced building footprint also ensures that the proposal does not further impact the townhouse component of the development, which is not impacted by shadow cast by the residential flat buildings until about 2pm at mid-winter, consistent with the previously approved (compliant) scheme.

Therefore, it is clear that the purpose of this objective, being to minimise impact on adjoining residential amenity, is able to be achieved notwithstanding non-compliance as the additional 641m² or 2.6% variation to the permitted FSR can be accommodated on the site (within Building B) without compromising amenity of the neighbouring school or nearby dwellings on Hedges Avenue and further afield on the northern side of the golf course.



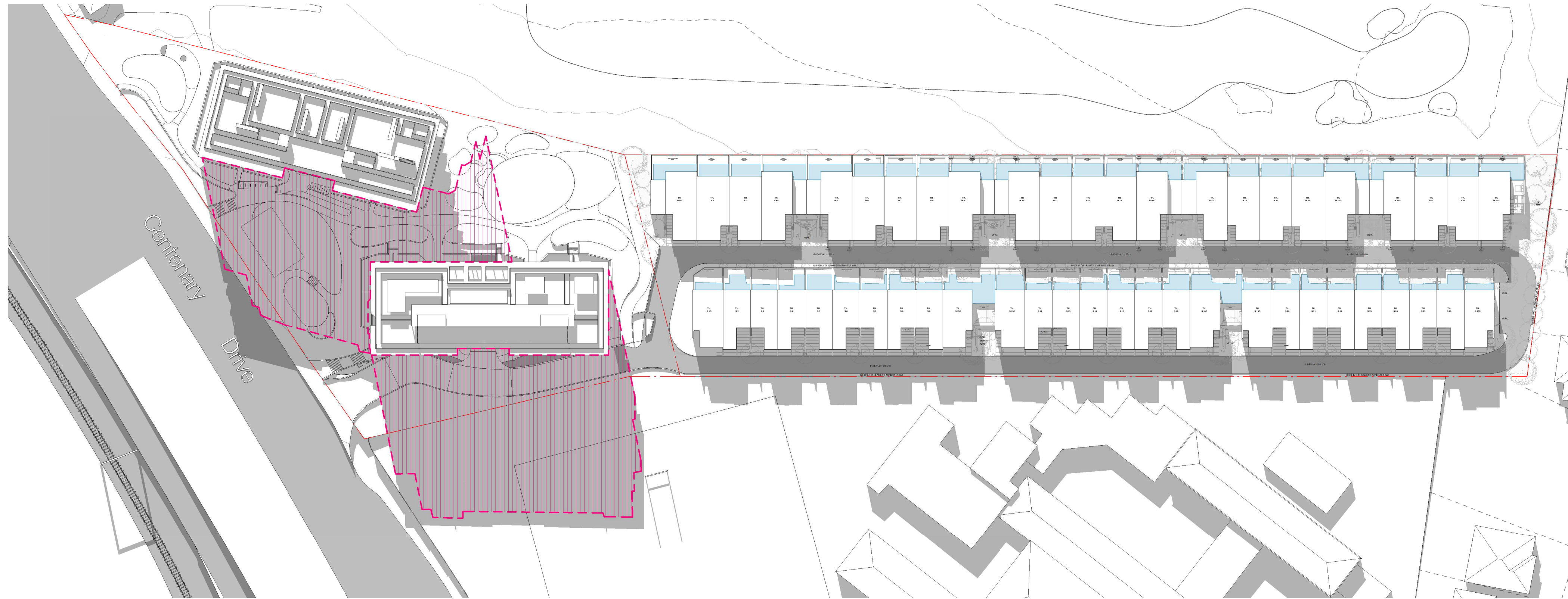
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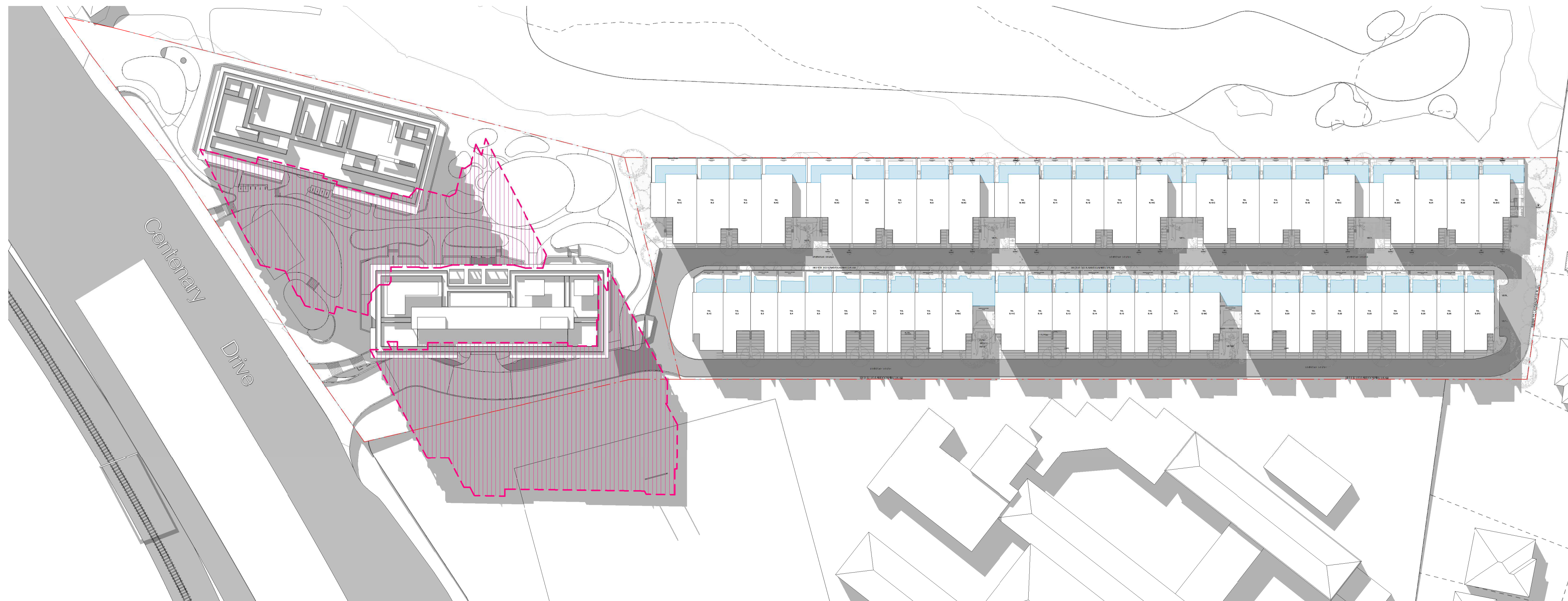
2 Shadow impact_21 Jun 10.00

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.

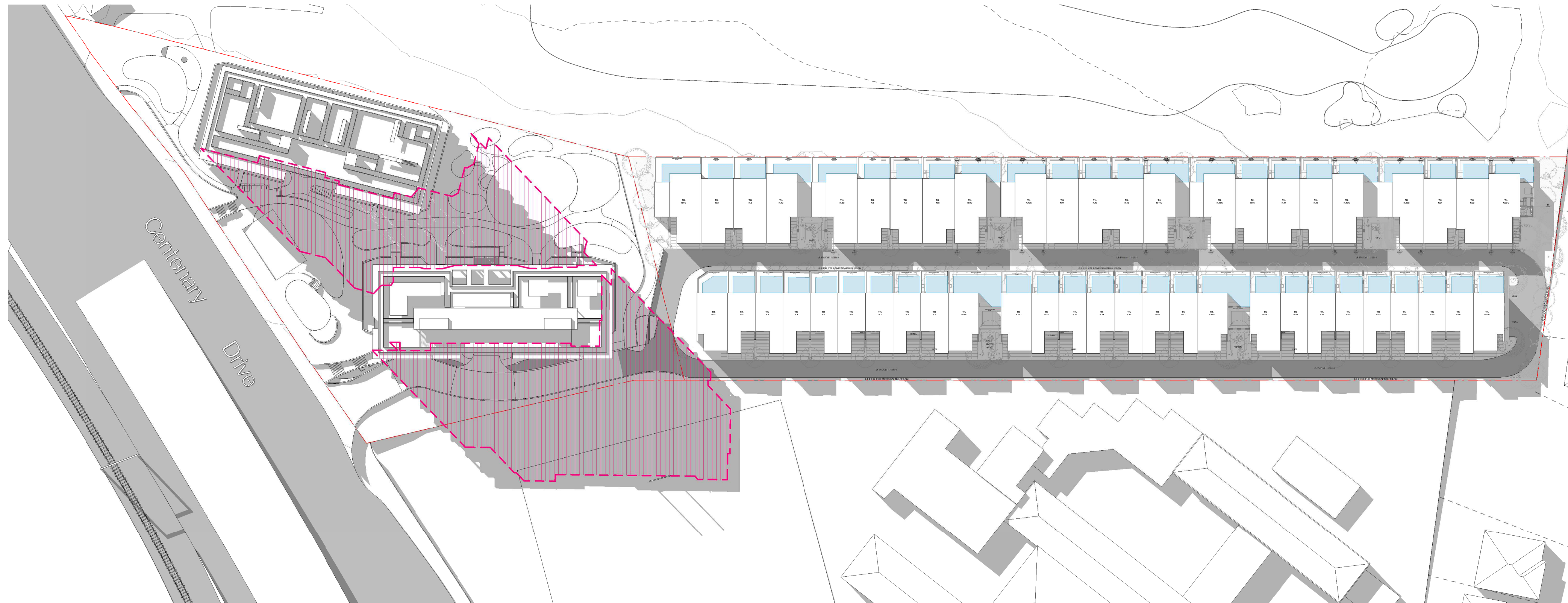


1 Shadow impact_21 Jun 11.00

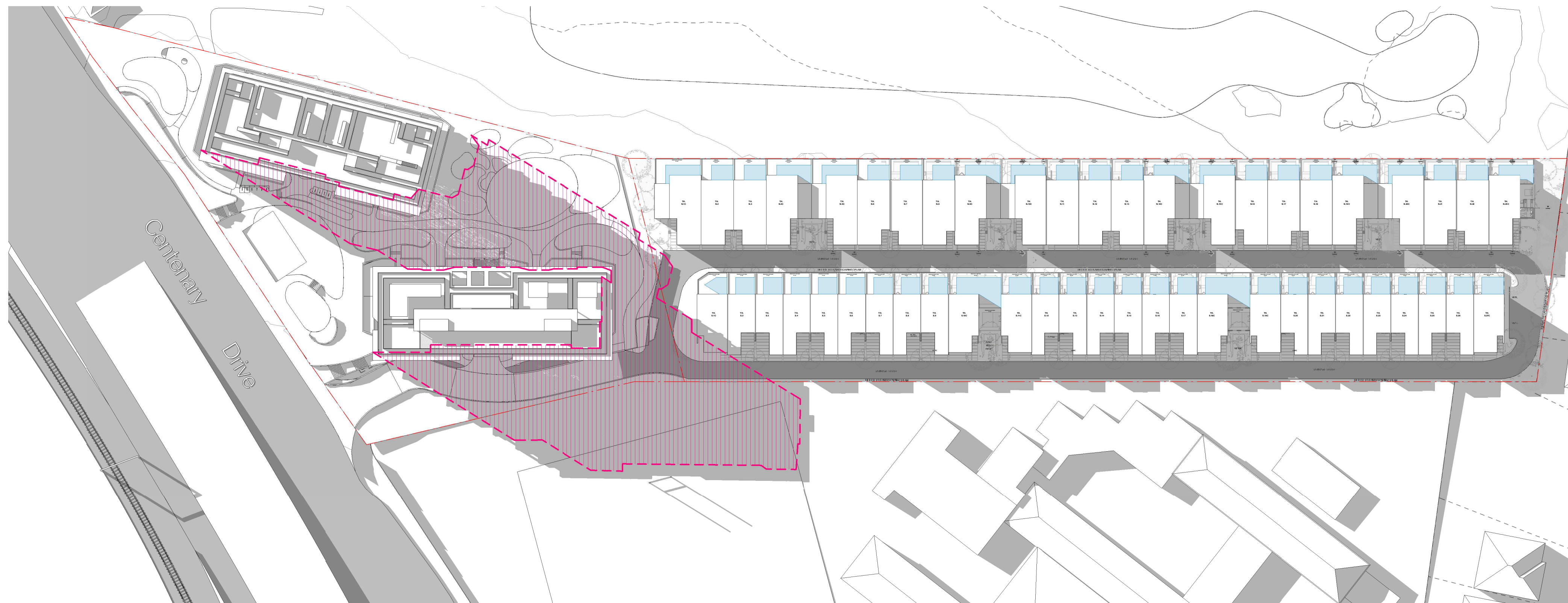


2 Shadow impact_21 Jun 12.00

- 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

Clause 4.4 (1) cont.

(d) to minimise the impact of development on heritage conservation areas and heritage items

The proposed development is not located within proximity of heritage conservation areas or heritage items. The additional floor space ratio sought will have no impact on the character and integrity of heritage items and conservation areas within the Strathfield area. Therefore, the underlying objective is not relevant to the proposal and therefore compliance is unnecessary in accordance with the second Wehbe test.

Clause 4.4 (1) cont.

(e) in relation to Strathfield Town Centre:

(i) to encourage consolidation and a sustainable integrated land use and transport development around key public transport infrastructure, and

(ii) to provide space for the strategic implementation of economic, social and cultural goals that create an active, lively and people-orientated development,

The proposed development is not located within the Strathfield Town Centre. Therefore, this objective is not relevant to the proposal and compliance is unnecessary in accordance with the second Wehbe test.

Clause 4.4 (1) cont.

(f) in relation to Parramatta Road Corridor—to encourage a sustainable consolidation pattern that optimises floor space capacity in the corridor.

The proposed development is not located within the Parramatta Road Corridor. Therefore, this objective is not relevant to the proposal and compliance is unnecessary in accordance with the second Wehbe test.

Clause 4.6 (3) cont.

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

Comment

The proposed FSR of 1.24:1 or variation of 2.6% (641m²) beyond the development standard is acceptable on the site and has environmental planning merit as follows:

- Lack of environmental impact

The site is within a large open landscape that provides an unusual or rare opportunity. The context, 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 impact resulting from the proposed 2.6% variation to the floor space ratio development standard. Similarly, due to the separation between the residential flat buildings and neighbouring properties, the additional units do not compromise amenity by way of overlooking, overshadowing or view loss.

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 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 created by the FSR variation (4 units) 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 (more than 300m), this impact is the same 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 bulk created by the additional FSR (and building height) can be accommodated without detrimental shadow impact outside of the site, by increasing the height of Building B. The shadow impact on the adjoining school, playing fields and westernmost townhouses remains comparable to the previous approval.

By locating the additional 2.6% FSR in the northern residential flat building, Building B, the shadow cast 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 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.

The shadow diagrams compare the approved and proposed shadow impact and demonstrate that the additional FSR does not create additional environmental impact on neighbouring properties and can be accommodated within the site with a good level of amenity for future residents.

- Strategic Location

The additional density provided by the 2.6% FSR variation provides the opportunity for additional infill residential housing, within proximity to existing services, infrastructure and public transportation. 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.

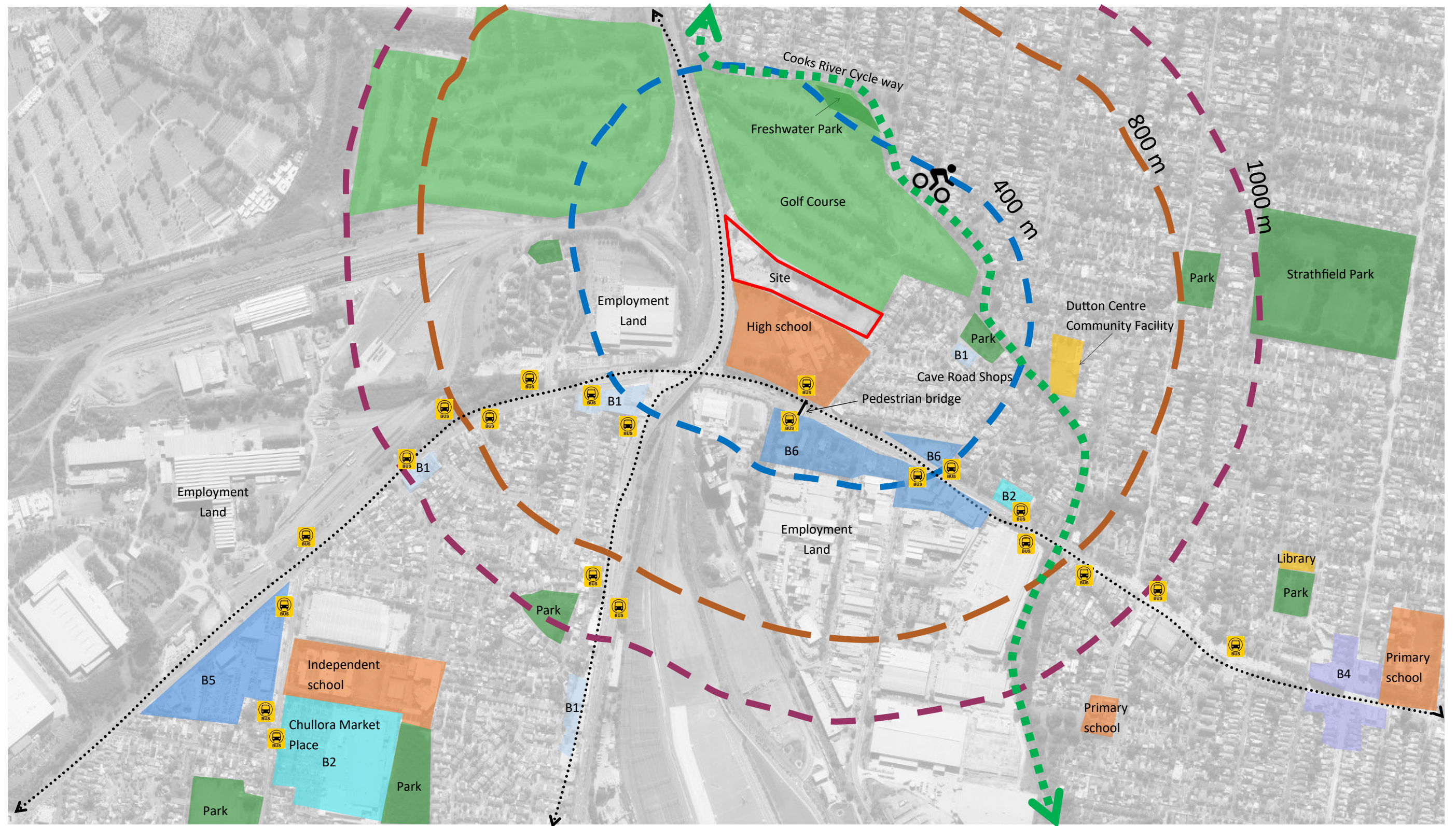
Providing additional residential density within existing developed areas, and within proximity to existing services and centres, is a primary objective of the *Greater Sydney Region Plan 2056* and the *Eastern City District Plan*. Both strategies note the importance of accommodating additional residential 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



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

- 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. The existing LEP controls for the site (FSR 1.2:1 and height of 28m) already envisage a change in urban form between the subject site

and surrounding development, and the proposal makes use of this opportunity to provide a landmark building.

The site can readily accommodate additional FSR beyond the maximum 1.2:1, as the additional building bulk will not detract from the urban hierarchy which is primarily characterised by transmission towers, existing industrial silos and the concrete flyover bridge between Roberts Road and Centenary Drive. The proposal will provide two interesting buildings of high architectural merit that will positively contribute to the appearance of the local area.

- Landmark Building

The site is at the gateway to Liverpool Road and the Strathfield locality, presenting an opportunity for a landmark building that delineates the change in the urban form. The proposed high quality architectural form and highly durable building materials will provide a landmark building that is readily identifiable and unique to the area, and which is consistent with the desired change in form envisaged by the existing LEP controls which encourage a higher and more dense building than surrounding 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), being that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify contravening the standard, have been addressed in detail in 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

Notwithstanding the numeric variation, the proposed development is consistent with the relevant objectives of the floor space ratio development standard as discussed above.

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. It is considered that 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 town centres at Homebush, Strathfield, Chullora, Bankstown, Belfield and Burwood.

- *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 Greater Sydney Region 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. In accordance with the relevant statutory considerations, the proposed variation does not raise any matter of state or regional significance and approval of the FSR standard would be in the public interest as it would deliver additional housing to ease supply issues, within a location that is well connected to existing services and that satisfies the '30-minute city'.

Conclusion

This discussion demonstrates that the proposed 2.6% variation to provide a floor space ratio of 1.24:1 (25,165m²), where the provisions of the SLEP 2012 permits 1.2:1 (24,322m²), is appropriate in the circumstances of the proposal and can be approved subject to the provisions of Clause 4.6 of the Strathfield Local Environmental Plan 2012.

This Clause 4.6 variation request is well founded as it demonstrates the following:

- The underlying purpose of a number of the objectives of the floor space ratio relating to consistency of urban form and residential character, or development in Strathfield Town Centre or Parramatta Road, are not relevant to the proposal and thus compliance is unnecessary in accordance with *Wehbe v Pittwater Council* [2007] NSW LEC 827 and Clause 4.6(3)(a) of the SLEP 2012;
- The additional density proposed by the subject application can be accommodated without impacting the amenity of adjoining properties. Therefore, despite the numeric non-compliance the objective of the development standard which seeks "*to minimise the impact of new development on the amenity of adjoining properties*" is able to be satisfied in accordance with *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 floor space ratio development standard and the proposed development results in a better outcome for the site

than a compliant proposal by delivering an additional four residential units in a strategic and well connected location within close proximity to existing transport, road networks, schools and services within local and regional centres. Therefore, the proposal satisfies 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 variation to the floor space ratio development standard, 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 and delivers an additional four units within a strategic location that is well serviced by existing infrastructure, transport, services and has excellent connectivity to local and regional centres. This demonstrates that through the flexible application of the floor space ratio development standard, a better planning outcome can be achieved on the subject site.