

**ANGEL PLACE
LEVEL 8, 123 PITT STREET
SYDNEY NSW 2000**

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14 December 2020

Mr Peter Debenham
Chair
Sydney North Planning Panel
Planning Panels Secretariat
Locked Bag 5022
Parramatta NSW 2124

Attention: Kim Holt, Project Officer

Dear Sir/Madam,

2018SNH070 - FORESTWAY SHOPPING CENTRE (DA2018/1924)

1. INTRODUCTION

We are writing to you on behalf of our client, Are Chem de La Foret ('Applicant') and in respect of the above matter which is being considered by the Sydney North Planning Panel on 15 December 2020. We respectfully requested that this correspondence be considered as part of the determination of the matter.

It is our view that the application can be approved as:

- Draft conditions proposed by Council clearly suggest that "deferred consent" conditions can be readily addressed, most notably the building setback.
- The logic that underpins the recommendation that the matter be refused on traffic impact grounds fails to acknowledge previously accepted practices of Council as well as failing to properly take account of a number of contextual factors that are reflected in the Council's own studies that underpin the NBHSP.

2. BACKGROUND AND SHARED OUTCOMES

Since lodgement of the DA some 2 years ago, the Applicant has worked collaboratively with Northern Beaches Council ('Council'). The key assessment matter with the application has always been securing concurrence from Transport for NSW ('TfNSW') to obtain a workable access/egress arrangement on Forest Way.

As stated in the Council's Assessment Report, TfNSW agreement to issue concurrence was obtained in late September 2020 and formed the basis for the amended traffic arrangements and design for the proposal. The Applicant's understanding on the agreed outcomes for the site, in its ongoing dialogue with Council, has been that:

- There was a general acceptance that **if concurrence was obtained from TfNSW then Council could support the access arrangement and traffic movements** in and around the centre.

- **The provision of a 3.5m land dedication/setback was in response to Council's request, in mid-2019, as it was deemed to assist in 'unlocking' and assist the broader Northern Beaches Hospital Structure Plan (NBHSP).** The applicant set the building back on Forest Way in good faith and the requirement for a VPA was only confirmed by Council in October 2020, following the issue of the TfNSW letter.

Following the receipt of TfNSW concurrence by their letter dated 23 September 2020, as per Condition 4, the applicant resubmitted amended DA plans to Council that incorporate an additional building setback to facilitate the future dedication of land and subsequent construction of an additional lane in Forest Way.

This additional setback is over and above the initial setback Council requested previously that was lodged in the re-submission dated 24 October 2019 (and again reiterated in the 13 March 2020 submission). The initial setback on the October 2019 submission was in response to Council's request that if the building is setback 3.5m to allow for future road widening, then Council would accept a Planning Proposal that is consistent with the Structure Plan. The request for a VPA came at the end of the assessment process and has been progressed by the applicant, in good faith, and is relevant to the provision of a \$3.5M slip lane accessing the centre on Forest Way.

- **The scheme is to reflect the future road framework (including closure of Russell Avenue) as well as the provision of a future pedestrian link to the 'green spine' as envisaged in the adopted NBHSP.** This has always been articulated and designed in every RFI response to Council.
- The development is **to ensure it can structurally and in a design sense accommodate a future mixed use development**, given the strategic direction in the NBHSP denotes the site as being re-zoned in Phase 3 to R3 Medium Density and having a height of 40m/FSR of 2.2:1.

3. RESPONSE TO KEY REFUSAL MATTERS

The following key points are made in response to Council's assessment report which either refute or resolve Council's raised issue, namely:

- **Building setback on Forest Way** – The applicant is willing to set the building back and this can readily be imposed by a condition of consent on the DA. It will result in a scheme with a reduced retail GFA and as such reduce car parking and traffic on the immediate surrounding roads.
- **Carparking numbers** – The applicant's traffic engineer has used an acceptable methodology for determining the maximum car parking demand and Council has previously acknowledged and supported this methodology in numerous meetings and on other development proposals, including Glenrose Shopping Centre and Warringah Mall expansions. In both centres the required parking was lower than the DCP rates.
- **Increase on the local road network, particularly traffic on Grace Avenue** – The proposal is consistent with the NBHSP future planning for the road network. Councils' own background report prepared by Arup as part of the precinct planning, nominates Grace Avenue as having an increase in traffic movements. In this regard Council's own documents state that it is proposed to:
 - Upgrade Grace Avenue
 - Extend Naree Road
 - Close Russell Avenue

Grace Avenue currently carries in the order of 800 vehicles per hour. As a designated collector road, such roads should be capable of carrying up to 1000 vehicles per hour in the peak. With respect to the increases in traffic on Grace Avenue (south) – of some 130 vehicles per hour, this comprises:

- 30 vehicles per hour diverted from turning right onto Forest Way from Russell Avenue. This traffic would turn left into Fitzpatrick Avenue and then left onto Warringah Road. This traffic will be diverted once Councils long term plan to close Russell Avenue is in place;
- some 40 additional vehicles per hour (two way) that would travel to/from the shopping centre and areas to the west and east via the intersection of Warringah Road/Fitzpatrick Avenue; and
- some 60 local additional vehicles per hour (two way) that would travel to/from the shopping centre and areas to/from the adjacent residential precinct to west – via Grace Avenue. These would be local trips using the local road network to access the shopping centre.

In other words, the proposal would yield an additional 40 non-local trips per hour to Grace Avenue compared to existing 800 vehicles per hour. This represents a 5% increase.

- **Development delivery and strategic timing** – It has always been acknowledged that the proposal site within Phase 3 of the NBHSP, being 10 years plus and contingent as stated in Council's report, on the delivery of the Beaches Link and/or Dee Why – Chatswood bus rapid transit. The following timeframes should therefore be noted
 - NBHSP Adopted August **2017**
 - Phase 3 (10 years +) – **2027**
 - Beaches Link (based on EIS assumptions and recent public statements by Govt) <https://www.smh.com.au/national/nsw/construction-to-start-on-northern-sydney-motorways-later-than-planned-20191126-p53e41.html> - circa **2026-2028**
 - Forest Way Shopping Centre Redevelopment (under existing controls)
 - Deferred Commencement – 2 years – December **2022**
 - Active Consent – 5 years – December **2027**
 - Construction timeframe (3 years as per Statement of Environmental Effects) – circa **2025**

The point being that delivery of the upgraded shopping centre will occur in stages and is relatively closely aligned with the delivery of state infrastructure as required by the NBHSP, with only a relatively short space of time (i.e. circa 3 years) during which a 5% increase in non-local trips is expected. This seems entirely reasonable when at the same time Council will be completing its own further strategic planning work including Phase 2 and 3 LEPs and local contributions plan to support the structure plan.

4. PUBLIC BENEFITS AND MERITS OF THE PROPOSAL

The **public benefits of the proposal** include:

- Consistency with the NBHSP - this includes modelling the closure of Russell/Naree extension and fruition of Grace Avenue as a collector road as well as provision in design for the future mixed use residential outcome in precinct.

- A generally compliant scheme against the planning controls. The submitted Clause 4.6 results in no increase in floor space or adverse impacts on neighbouring properties.
- Gifting of land for future widening of Forest Way by setting the building back (the subject VPA relates to the inclusion of a deceleration slip lane, worth \$3.6M, on Forest Way)
- Significant capital investment into the NSW State Government and the Northern Beaches economy, creating construction and ongoing jobs.
- Providing a local asset for the community to enjoy for generations including convenience shopping, new elevated green space by delivering a 2,500sqm publicly accessible Skypark, gym, childcare and new restaurants
- Improved northbound traffic flows on Forest Way due to the inclusion of a fully AustRoads compliant slip lane
- Improved visual appearance and streetscape on all three road frontages with a particular improvement on Forest Way by removing the existing unsightly carpark structure.
- Overall, our client is willing to invest in creating a convenience local shopping destination for the community to enjoy.

5. CONCLUSION

By Council's own omission, a determination of the DA is required by 31 December 2020 in order to secure public spaces funding from the NSW Government. This has nothing to do with the merits of the application currently before the Panel. Any impetus to achieve expedited assessment timeframes should not be the key factor influencing the determination of this application and is rejected by the Applicant. We believe that the setback and carparking numbers are technically resolved. Therefore, the question before the panel becomes:

"Does the public benefit generated by this project including construction and ongoing jobs; enhanced urban design and improved road safety through the delivery of this enhanced community asset outweigh the perceived inconvenience caused by a relatively minor quantum of additional vehicles on a designated collector road that is planned to be upgraded by Council as part of its NBHSP?"

If you would like to discuss further, please phone David Hoy or the undersigned.

Yours sincerely,



pers:

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TECHNICAL RESPONSE TO THE ASSESSMENT REPORT

The following provides a technical review of the 3 key matters that have primarily led Council's assessment to a recommendation of refusal, namely:

- impacts of the significant increase in traffic to the local road network
- shortfall in the on-site parking
- inadequate front setback to the Forest Way frontage of the site (if land dedication occurs).

This response has been prepared with inputs from CBHK (Traffic Advisors) and Buchan (Architects)

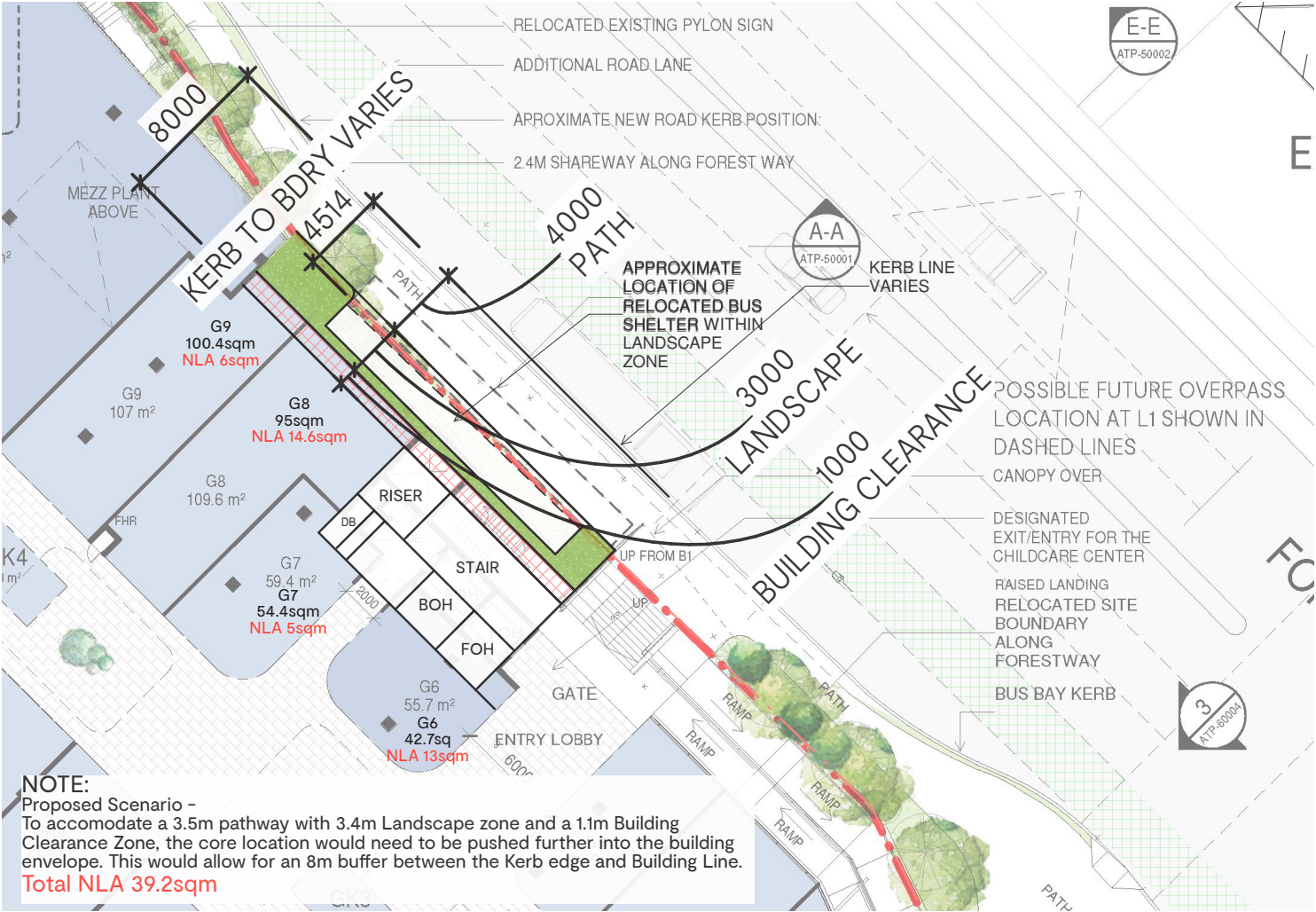
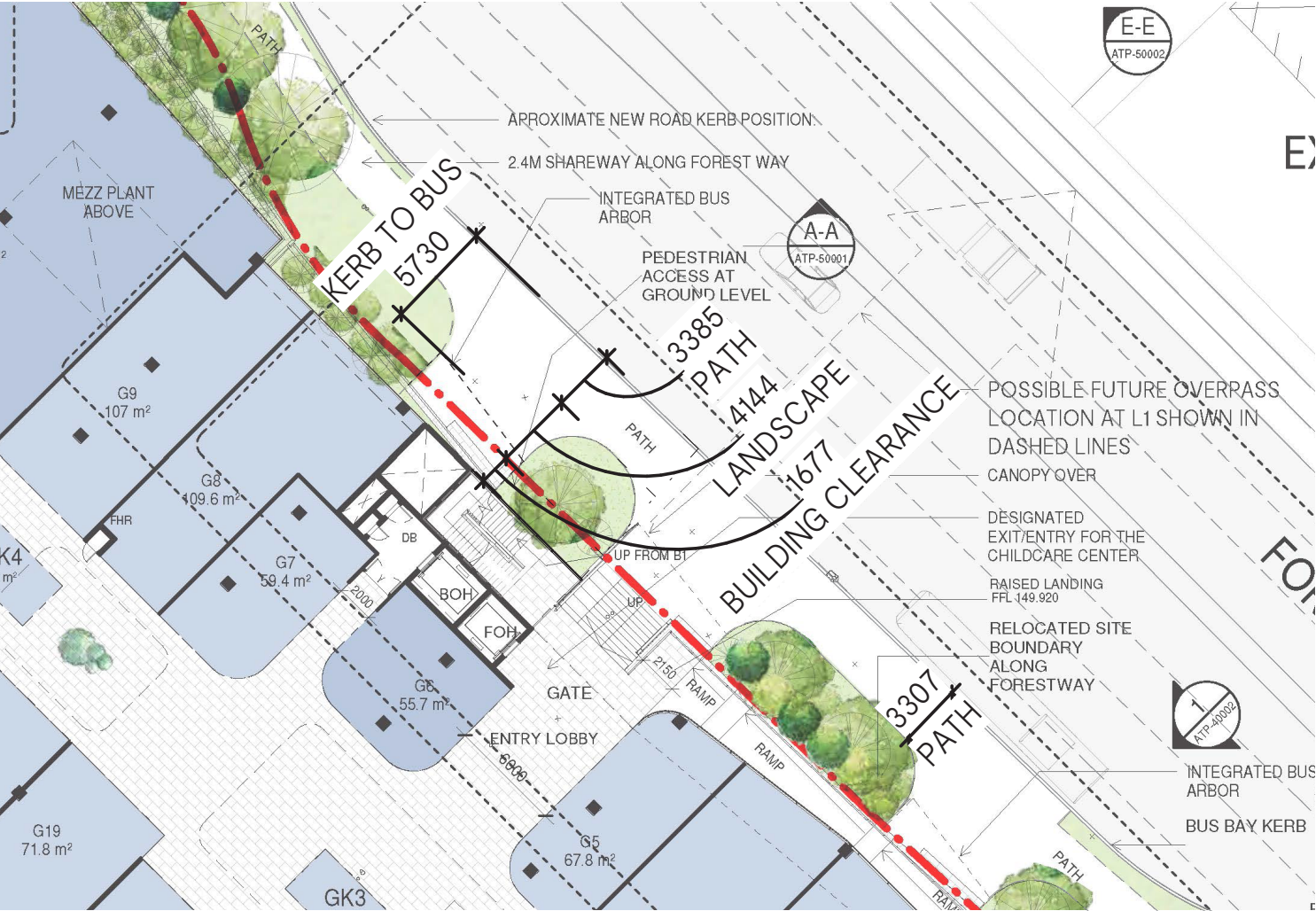
Table 1: Response to 2018SNH070 Assessment Report

Matter Raised	Response
Shortfall in car parking	
Inadequate Parking	<p>The method we have used is entirely appropriate and the carparking numbers satisfy that methodology. The DCP rate is not considered appropriate.</p> <p>The parking requirements for different development types are set out in Warringah DCP 2011. For shopping centres, the DCP suggest the following rates:</p> <ul style="list-style-type: none"> ▪ centres less than 10,000m² GLA – 6.1 space per 100m² GLA; ▪ centres 10,000m² to 20,000m² GLA – 5.6 spaces per 100m² GLA; ▪ centres 20,000m² to 30,000m² GLA – 4.3 spaces per 100m² GLA; and ▪ centres over 30,000m² – 4.1 spaces per 100m² GLA. <p>Using these rates, the existing shopping centre would require 585 spaces (only 348 provided plus 80 spaces in Sorlie Place) and the expanded shopping centre 939 spaces.</p> <p>Surveys of parking demand for the existing shopping centre (including parking in Sorlie Place) found a peak parking demand of 85% occupancy on a weekday and 75% occupancy on a Saturday. Thus peak surveyed parking demand was found to be 3.8 spaces per 100m².</p> <p>As the surveyed parking demand is much lower than the parking required using the suggested DCP rates, application of the DCP rate for the redeveloped centre is considered inappropriate. Using the surveyed parking rate provides a more accurate baseline for estimating parking requirements for the redeveloped centre. The use of the surveyed parking rate as a baseline is also considered more appropriate than determining parking requirements for the various components of centre. This is because the various components of the centre will have peak parking demands at different times. The surveyed parking rate takes this into account with the existing centre providing range of different uses.</p> <p>Applying the surveyed parking rate to the redeveloped shopping centre results in a requirement for 830 spaces. However the DCP rates for shopping centres notes that as the size of the centre increases, parking required per 100m²</p>

Matter Raised	Response
	<p>decreases. The rate for a shopping centre of 22,000m² is some 30% less than the rate for shopping centre of some 9,500m². Being conservative and applying a reduction in the parking rate of 15%, (3.3 spaces per 100m²) the redeveloped shopping centre would require 713 spaces. This is satisfied by the provision of 738 spaces.</p> <p>In practice parking in Sorlie Place (80 spaces) and on Grace Avenue (some 20 spaces) is also used by shopping centre customers, thus increasing parking provision to some 838 spaces.</p> <p>A Request for Information previously addressed car parking along these lines and no request for additional information was subsequently requested. It is also noted that Council has verbally in the past accepted this car parking rate and adequateness of the car parking.</p>
Access	
Banning of right turn out of Russell Avenue	<p>The access arrangement for the development has been driven by feedback from TfNSW.</p> <p>The ban on the turn is an extension of the existing right turn ban in the weekday AM peak period. It has been recommended by TfNSW to address existing safety concerns with traffic turning right out onto Forest Way (across 3 northbound traffic lanes). Currently the volume turning right out is low at 35 to 40 vehicles per hour.</p> <p>This traffic has been reassigned to the road network with 25% north on Grace Avenue and 75% south on Grace Avenue. It is noted that Council's long-term strategy is to close Russell Avenue and extend Narwee Road to connect Grace Avenue to Forest Way. Therefore in the long term this traffic would be diverted onto Grace Avenue in any event.</p>
Increased traffic flows on Grace Avenue	<p>As a result of the development, traffic flows in Grace Avenue will increase by some 180 and 130 vehicles per hour (two way) north of Russell Avenue and south of Sorlie Place respectively. A proportion of this increase is due to the banning of the right turn out of Russell Avenue onto Forest Way (10 to 30 vehicles per hour). We note that Grace Avenue currently functions as a collector road with existing traffic flows of some 800 to 850 vehicles per hour (two way) in the weekday afternoon peak hour. These flows are at the high end of a collector road (up to 1,000 vehicles per hour (two way)).</p> <p>As noted above Council's long term strategy is to close Russell Avenue which will result in a significant increase in traffic in the section of Grace Avenue (north of Russell Avenue). The amended DA allows for the future closure of Russell Avenue, with access to the shopping centre at the eastern end of Russell Avenue that would allow for left out access to Forest Way. This arrangement would reduce shopping centre traffic on Grace Avenue (north) compared to Council's long term strategy and offset any short term increases as a result of the proposed DA.</p> <p>With respect to the increases in traffic on Grace Avenue (south) – some 130 vehicles per hour, this comprises:</p>

Matter Raised	Response
	<ul style="list-style-type: none"> ▪ 30 vehicles per hour diverted from turning right onto Forest Way from Russell Avenue. This traffic would turn left into Fitzpatrick Avenue and then left onto Warringah Road. This traffic will be diverted once Councils long term plan to close Russell Avenue is in place; ▪ some 40 additional vehicles per hour (two way) that would travel to/from the shopping centre and areas to the west and east via the intersection of Warringah Road/Fitzpatrick Avenue; and ▪ some 60 local additional vehicles per hour (two way) that would travel to/from the shopping centre and areas to/from the adjacent residential precinct to west – via Grace Avenue. These would local trips using the local road network to access the shopping centre. <p>Therefore the increase in non-local trips on Grace Avenue from the expanded shopping centre would be low at some 40 vehicles per hour (two way) and these would only be on the short section (some 200 metres) between Sorlie Place and Fitzpatrick Avenue.</p> <p>CBRK notes that measures to reduce traffic flows in Grace Avenue through the provision of right turn access onto Forest Way (via traffic signals), either directly from the shopping centre or via Russell Avenue were investigated and not supported by TfNSW.</p>
Other matters raised in submissions including from the Member for Davidson	<p>The following traffic matters are raised in this submission:</p> <ul style="list-style-type: none"> ▪ proposal for 300 new residential units; ▪ banning the right turn out of Russell Avenue; and ▪ impact of additional traffic on Grace Avenue. <p>With respect to a) the DA does not include any residential development. With respect to b) and c) these are addressed above.</p> <p>Given the length of time the DA was under assessment and as revisions were made to accommodate TfNSW discussions and Council feedback, the DA was re-notified numerous times. The listed number of submissions, at 101, is unnecessarily inflated as many of the earlier submitters have prepared objections re-stating their earlier concerns.</p>
Voluntary Planning Agreement	<p>The applicant's legal advice suggested that the only way to impose the conditions as relevant to the requirements under Condition 3 and 4 of the TfNSW concurrence letter was to prepare a Voluntary Planning Agreement ('VPA'). The applicant has commenced the VPA process in good faith with Council. This will facilitate the deceleration lane.</p> <p>It should be noted though that the proposed development has been set back approximately 3.5m to allow for the future provision of a northbound lane on Forest Way, again to assist in the broader traffic movements in the precinct.</p>

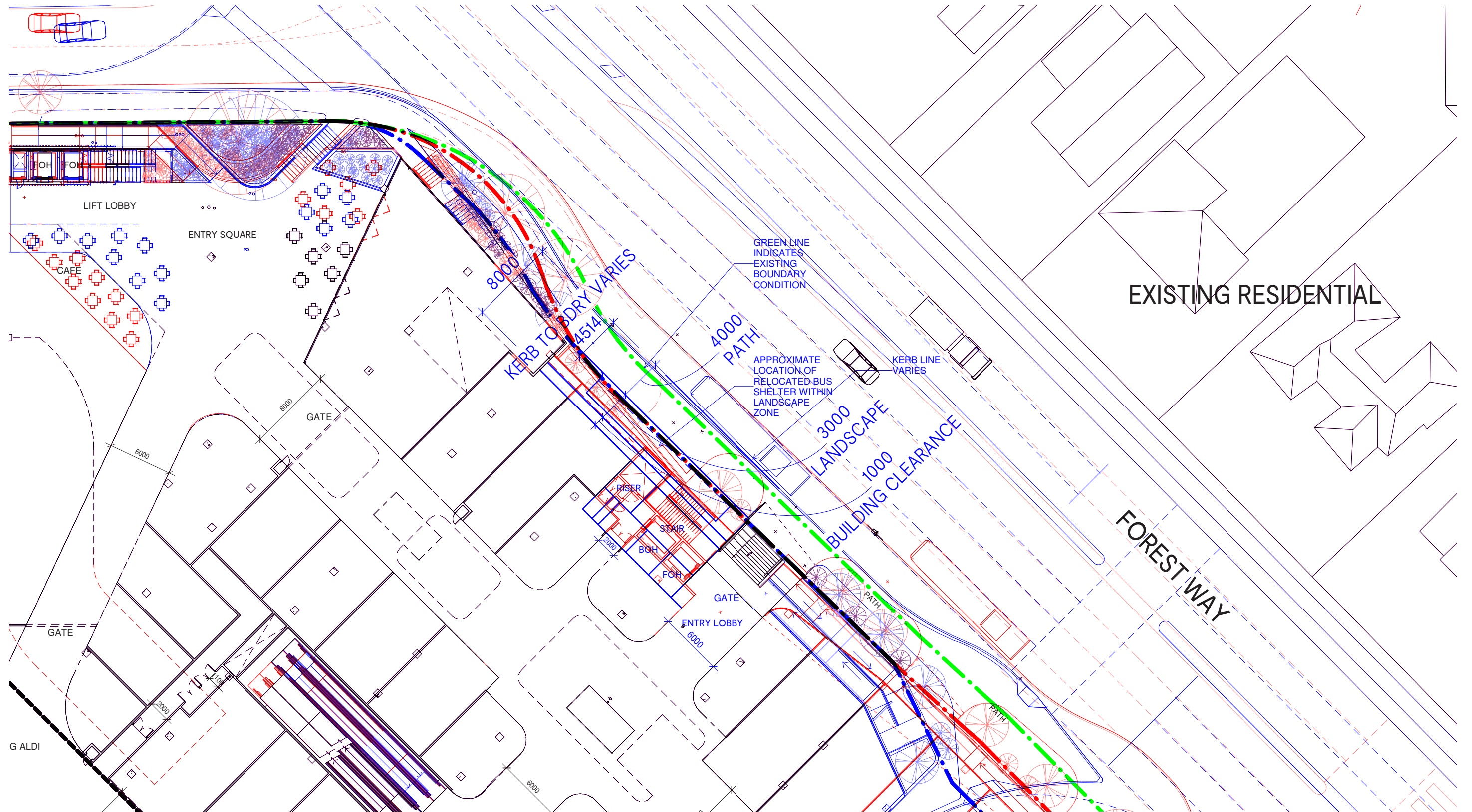
Matter Raised	Response
	<p>As outlined above, following the receipt of TfNSW' concurrence by their letter dated 23 September 2020, the applicant resubmitted amended DA plans to Council that incorporate an additional building setback to facilitate the future dedication of land and subsequent construction of an additional lane in Forest Way. This is consistent with the outcome envisaged by condition 4 of the TfNSW's in principle letter of support.</p> <p>This additional setback is over and above the initial setback Council requested previously that was lodged in the re-submission dated 24 October 2019 (and again reiterated in the 13 March 2020 submission). The initial setback on the October 2019 submission was in response to Council's request that if the building is setback 3.5m to allow for future road widening, then Council would accept a Planning Proposal that is consistent with the Structure Plan.</p>
Setback on Forest Way Elevation	<p>Council's urban design referral notes that an additional carriageway running north/south on Forest Way has been extended further to the west boundary alignment of the Forest Way elevation and therefore results in a reduced area for adequate circulation given the bus stop adjacent to the site.</p> <p>The referral suggested that an additional building setback is required. The applicant acknowledges this potential for congregation and a reduction in circulation (after a future land dedication) and as such would accept a condition of consent requiring a further setback of the building at this section of Forest Way.</p> <p>Attached with this letter is an amended drawing prepared by Buchan which demonstrates that the development can accommodate the 8m setback along the edge of the bus bays at a loss of 39.2sqm of GLA. The 8m is made up of 4m of clear pedestrian pathway or 'apron' adjacent the curb of bus stop, 3m of landscaping (including the integrated bus shelter) and 1m for the building interface. This can be achieved without significant redesign or adjustments to structure, including core shifts of basement car park column grid</p>



Current Proposal @ Feb 2020

Proposed Amendment w/ amended core location and widened footprint

Level GF



Level GF

Red/Blue Diagram Comparison
 Red - Current DA @ Feb 2020
 Blue - Proposed DA