

23 January 2023

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Dear Greg

DEVELOPMENT APPLICATION 115/2022 | 12 – 20 BERRY RD & 11 – 19 HOLDSWORTH AVENUE, ST LEONARDS SOUTH

Thank you for the correspondence dated 6 December 2022 which seeks additional information in relation to the abovementioned Development Application (DA). The correspondence also includes the minutes of the North Sydney Regional Organisation of Council's (NSROC) Design Excellence Panel (DEP) Meeting in relation to the proposal, held on 9 November 2022.

Gyde Consulting has been appointed by the applicant to respond to the matters raised in Council's correspondence dated 6 December 2022. Each of the matters raised are outlined in the following subheadings, after which a response is provided.

Several of the specialist disciplines engaged to prepare the original DA submission assisted with reviewing and responding to Council's correspondence. Specifically, the following documentation has been prepared in support of this response:

- Amended architectural plans by Silvester Fuller, including additional sun studies. Such plans respond to architectural and amenity matters raised by Council as well as the DEP.
- Correspondence and technical plans by Traffix. Such details address **most** of the parking and traffic related matters raised by Council.
- Amended landscape report by RPS in response to concerns raised by Council as well as the DEP.

In summary, we are of the view that the amended proposal warrants support from Council as well as the North Sydney Planning Panel predominantly for the following reasons:

- The design has been endorsed by the DEP as capable of achieving design excellence subject to minor architectural amendments.
- The proposal complies with the objectives of the Lane Cove Local Environmental Plan 2009, satisfies the objectives of the subject R4 – High Density Residential Zone, complies with the applicable overall height of building development standard, and complies with the applicable floor space ratio development standard. The proposal is also substantially compliant with the Lane Cove Development Control Plan 2010. Development control plans are non-statutory, non-binding and intended to provide guidance. Their controls can be applied flexibly.
- The proposal includes significant social infrastructure contributions which will be dedicated to Council. These include a childcare centre, a community centres, affordable housing, as well as a pedestrian through site link.
- The proposal's environmental impacts are not unreasonable.

1. Balcony encroachments into the green spine and exceedance of the 2.5m height standard

The *Lane Cove Development Control Plan 2010* (the **DCP**) requires Green Spines to be provided as set out in Figure 17 of the DCP (not dimensioned) and the *St Leonards South Landscape Master Plan* (the **LMP**). The LMP indicates that Green Spines should be 24-30m wide (page 28) and achieve a variety of performance requirements which are set out on page 41 of the LMP. An indicative typology for the Green Spine affecting 12–20 Berry Rd and 11–19 Holdsworth Ave (the **site**) is shown on page 45 of the LMP and reproduced below.



Figure 1 - Green spine typology from Landscape Masterplan with site outlined in yellow.

The proposed width of the Green Spine (i.e. the distance between the facades of the two buildings) on the site is 24.515m. Each of the building facades are punctuated by balconies that include decorative elements which protrude between 0.7m and 1m beyond the façade. The extent of the protrusion within the nominal 24m width of the Green Spine is therefore approximately 0.44m to 0.74m.

The protrusions relate to balconies that serve as private open space for the apartments, as well as a number of smaller decorative balconies. The purpose of the protrusion is to create visual interest and relief in the façade which improves the relationship of the buildings with the public domain, including the Green Spine. The protrusion is not strictly required to achieve the minimum amount of private open space required for each apartment and in this regard the balconies could be deleted and/or redesigned without affecting numerical compliance with the relevant design criteria in the ADG. Deletion of the decorative elements of the balconies would, however, result in an inferior design outcome as observed by the NSROC Design Excellence Panel on 9 November 2022:

“Several balconies project 1m into the central communal open space. The Panel supports this Non-compliance because the balconies give visual relief to the otherwise uniform building alignment suggested by the DCP.”

It is also important to observe that the balcony protrusions do not prejudice the achievement of any of the attributes or character of the Green Spines as set out on page 40 of the LMP. As can be seen in Figure 1, the protrusions do not prevent the achievement of the ground plane envisaged in the LMP as they sit over the indicative ground floor private terraces. Because the balcony protrusions occupy a relatively small area of each building façade and have been carefully designed as lightweight cantilevered elements with open balustrades, they do not adversely affect the visual bulk of the building and do not exacerbate the sense of enclosure already created by the apartment buildings which define the Green Spine.

Having regard to the above, we consider it appropriate, therefore, to exercise flexibility in the application of the numerical DCP criteria to permit the minor encroachment of the decorative building elements. Council would of course be aware that the consent authority is required to be flexible in applying the DCP provisions to allow

reasonable alternative solutions that achieve the objects of those standards (s.4.15(3A)(b) *Environmental Planning and Assessment Act*).

Regarding the Incentive Height of Building Control set out in clause 7.1(3)(a) of the *Lane Cove Local Environmental Plan 2009* (the **LEP**) and shown on the HOB Map, the balcony protrusions and the buildings they are attached to sit within the area shown as being subject to the 38m and 37m building height control. When measured from the centre of the lines demarcating the front property boundaries on Berry Road and Holdsworth Avenue and the change in the building height control on the HOB Map, the setback to the 2.5m building height control is 25.20m. The setback of the proposed buildings, inclusive of the balcony protrusions is 25.07m and in this regard the proposal strictly complies with clause 7.1(3)(a) of the LEP.

2. Number of Storeys

The number of storeys control (i.e. Table 7) is outlined in Part C (7) – Built Form of the DCP. The objectives of this part are as follows:

The objectives for Built Form are to:

- 1 Facilitate amalgamation opportunities that allow for economic and aesthetic redevelopment while preventing land fragmentation or isolation that detracts from the desired future character of the precinct.
- 2 Step the heights from tallest adjacent to the Railway Station, reducing with distance to the south and west (River Road and Park Road).
- 3 Minimise subterranean apartments and basement car parking protrusions in relation to the topography.
- 4 Ensure changes in landform are accommodated.
- 5 Provide transitional built form at edges of the precinct.
- 6 Locate building as "perimeter block" development fronting N-S streets in order to maximise solar access to building facades and open spaces.
- 7 Limit the length of façade of buildings, to provide appropriate levels of articulation, and to use a complementary palette of materials which will relate positively to the streetscape and enhance the public domain.
- 8 Encourage a stepped-back building form in order to reduce building bulk and scale to the street. To facilitate street and front setback (deep soil) tree planting to further reduce apparent bulk and scale.
- 9 Ensure that parking basements are located beneath perimeter building footprints, wherever possible, in order to protect 'central' deep soil zones (Green Spines).
- 10 Optimise solar access to all buildings, public domain and private open space.
- 11 Activate and engage with the public domain in a manner which optimises public interaction and public safety.
- 12 Encourage a mix and diversity of housing types within the precinct.

Figure 2 - Objectives to Section 7 Built Form in Part C of the DCP.

It is important to observe that the proposal satisfies each of the objectives as demonstrated by the broad support for the proposal offered by the NSROC Design Excellence Panel (the **Panel**) at their meeting of 9 November 2022. In relation to the height in storeys issue, the Panel specifically said:

Definition of storeys

The Panel notes the proposal does not appear to comply with the definition of part storeys and therefore exceeds the maximum number of 10 storeys prescribed in the DCP Clause 6.2.7. In order to be considered a part storey at least 50% of the space should be used as non-habitable space ancillary to the main purpose for the building (refer to DCP Attachment Dictionary as amended 23rd August 2022). However, the Panel considers the non-compliance is acceptable in this case and that this control should be applied flexibly because:

- the proposed building heights are below the LEP height control,
- of the significant topography,
- the southern building envelopes are well set back to roof levels 9 and 10, in order to provide communal open space, thereby limiting any additional overshadowing that may otherwise occur to the south,
- the maximum FSR would otherwise be an unreasonable shortfall.

This would be acceptable subject to the removal of townhouses B.CL 03 and B.CL 04, B.CL 05, their modification to each form a single storey at the current proposed upper level, or the adoption of the alternative design option.

Figure 3 – Extract from minutes from the NSROC Design Excellence Panel meeting of 9 November 2022

Additionally, it is noted that the proposal's two envelopes are stepped to achieve height transition, accommodate changes in landform and reduce building bulk. The proposal is well articulated, adopts high quality and suitable finishes, minimises the number of subterranean dwellings, and avoids the presentation of basements to any public domain.

As indicated earlier, the storeys control is provided in Table 7.1 of the DCP. Being a control within a development control plan, it is not a statutory requirement. Sections 3.42 and 3.43 of the Act provide that the purposes of development controls plans are to *"to provide guidance" - "giving effect the aims of any environmental planning instrument (such as the LEP) that applies to the land" and "facilitating development that is permissible under any such instrument"* and *"achieving the objectives of land zones under any such instrument"*. In this regard, *"the provisions of a development control plan...are not statutory requirements"*.

As noted earlier, section 4.15(3)(a) of the Act also requires a consent authority to be flexible in applying DCP provisions.

In relation to statutory controls, it is important to note that the proposal complies with the Incentive Height of Buildings development standard prescribed by Clause 7.1(3)(a) of the LEP and the Incentive Floor Space Ratio control in clause 7.1(3)(b).

The objectives of clause 7.1 include *"to promote, by providing building height and floor space incentives, residential development within the St Leonards South Area that provides for ... community facilities, open space, ... affordable housing ..."*.

It is relevant to observe that strict adherence to the non-statutory numerical criteria in the DCP would require the deletion of whole floors in the buildings and would prevent the achievement of the LEP height and floor space ratio incentives that have been carefully designed and calibrated to enable the provision, in the case of this development proposal, of a child care centre, community room and affordable housing at no cost to Council or the community. Not only would this hinder, rather than facilitate, development that is permissible under the LEP, but it would also be contrary to the aims of the LEP, and specifically aim (g) which seeks *"to provide for the range and types of accessible community facilities that meet the needs of the current and future residents and other users"* and aim (j) which seeks *"to increase the number of affordable dwellings in Lane Cove and to promote housing choice"*. Strict adherence to the numerical criteria in the DCP, therefore, is contrary to sections 3.42, 3.43 of the Act and any consent authority that attempted to enforced strict compliance with the DCP numerical criteria for storeys would, in the circumstances of this development application, be abrogating its responsibility under section 4.15 of the Act.

Given that the proposal satisfies the objectives of the control and the objectives of Part C (7) of the LCDCP 2010 more generally, the non-statutory nature of the control, the proposal's compliance with height of building development standard, as well as the Panel's support for the proposal (subject to minor design changes that have been incorporated in the amended plans), the flexible application of the number of storeys control must be supported by both Council and the consent authority, being the Sydney North Planning Panel (SNPP).

Further evidence that flexibility is warranted is found in the Landscape Master Plan for the precinct that stipulates a finished floor level of RL70 for the Green Spine where it runs through the site as well as the childcare centre. The existing ground level at the kerb along Berry Street ranges from 74.95 to 70.79. In order to achieve the prescribed finished floor level of RL70, a significant portion of the building (and specifically the childcare centre) is required to be below ground or at least partially below ground.

3. Building Setbacks and Balcony Encroachments

The proposal's front setbacks are closely linked to the proposal's number of storeys and overall height of building. As discussed immediately above, these warrant a flexible application of the non-statutory DCP criteria. For the same reasons, the front setbacks are also considered to be appropriate by the Panel.

The non-compliant setbacks to the east-west link are acknowledged, and addressed in the Statement of Environmental Effects which accompanied the DA. In summary, strict compliance with the Building Setback F controls would necessitate relocating building bulk to the southern end of the building envelopes. This would result in additional overshadowing to any proposal on the southern adjoining sites.

The DEP has confirmed, as shown in the following extract of the DEP minutes, that the proposal merits support and has specifically supported a flexible approach to the setbacks to the east-west link as follows:

Building setbacks

The DCP applies a 6m setback from the northern façades to the boundary of the east-west pedestrian link, while the proposal is for an approximately 1.38m setback. While other developments fronting such open spaces within the precinct generally comply, the Panel considers the non-compliance is acceptable in this case because:

- the setback is on the south side of the east-west pedestrian link and therefore not over-shadowing public space,
- the proposal provides for visual and physical activation of most of the southern edge of the east-west pedestrian link through the location of the community space, childcare centre, and the north-south communal open space,
- the proposal provides publicly accessible pedestrian amenity and building entrances to the northern facades and
- the maximum FSR would otherwise be an unreasonable shortfall.

Figure 4 - Excerpt from Panel minutes.

Further to the Panel's justification for the proposed setbacks to the east-west link, the proposal satisfies the Apartment Design Guide's (ADG) recommendations for building separation to any building on the opposite side of the east-west link. That is, the proposal achieves a minimum separation of 22m (by virtue of the pedestrian link's width) to any development to the north, thereby exceeding the ADG's recommendation of 18m for envelopes up to 8 storeys.

It is also worth noting that flexibility was applied to the setback controls for DA 21/162-01 for a similar development with similar circumstances at 13-19 Canberra Avenue, St Leonards South.

Overall, we are of the view that the proposed setbacks merit support given they result in a better design outcome as confirmed by the Panel. A compliant scheme would result in greater solar impacts to the southern adjoining allotment. Additionally, we note that similar flexibility has been applied to other DAs in the precinct.

4. Explanation for deep soil zones towards the southern end of the site

The requirement in the LCDCP 2010 and the Landscape Master Plan to achieve a finished floor level of RL 70 (more than 4m below existing ground level) necessitates extensive excavation at the site. Geotechnical testing indicates that such excavation will place much of the site's ground level RL on sandstone. To achieve adequate root zones, further excavation will be required. In effect, there will not be any significant natural deep soil zones on the site. Therefore, there is limited significance in relation to the location of deep soil zones.

Despite the above, the northern end of the site is likely to offer the most deep soil zones (natural or artificial) due to existing levels and the location of the basement driveway at the southern end of the subject site (discussed below). Subsequently, a number of large canopy trees are proposed at the northern end of the green spine. This also coincides with the location of the childcare centre, the community centre and the pedestrian link towards the northern end of the subject site. A more than adequate root zone and large canopy trees are provided at the southern end of the subject site and the minor relation of the canopy tree has no impact on the overall amenity of the Green Spine. The proposed location of the deep soil and canopy tree is also preferred by the child care operator.

5. Explanation for basement entry at southern end of site

The basement driveway is proposed at the southern end of the site largely because it minimises conflicts with pedestrians. Specifically, the northern end of the site is likely to experience higher pedestrian levels given the pedestrian east-west link is located at this end of the site. Any driveway in this location would conflict with associated pedestrians.

As discussed under the previous sub heading, locating the driveway at the southern end of the site allows for the site's optimal deep soil zone at the northern end of the site.

6. Childcare Centre – age breakdown and ratios

The childcare centre is only configured in an approximate manner at this stage. This is because the Planning Agreement which accompanies this DA, and which includes the subject childcare centre, is still being finalised. Whilst it is yet to be finalised, the intent is that the childcare centre will be dedicated to Council in a 'cold shell' format. It is worth noting that the Planning Agreement, as prepared by Council, specifically asks for a 'cold shell'. As a result, its final configuration including number of places and employees will be determined at a later date by Council (or the actual operator). This also means that there is ample flexibility to ensure that relevant design and parking standards can be met. That said, it is evident in the floor plan and basement plans that ample space is available for relevant standards to be met.

For the purpose of this DA, Council and the SNPP could apply a condition of any consent stating that the operation of the centre is subject to separate applications and approvals.

7. Bicycle Parking

Bicycle parking proposed within the lower ground (basement) level is for residents only. The bicycle parking area is fully enclosed and will be accessible via conventional secure means.

A further 4 bicycle spaces are also proposed within the lower ground (basement) level. These are for the purpose of the childcare centre. They are conveniently located in proximity to the lift which is proposed to service the childcare centre.

Separate additional bicycle parking for use by the general public is proposed within the east-west through site link.

8. Nature of Community Centre

As in the case of the childcare centre, the community centre forms part of a Planning Agreement which is in the process of being prepared in conjunction with Council. Discussions to date are on the basis that the community centre will be dedicated to Council in a 'cold shell' format (this is specified in the Planning Agreement as prepared by Council). In this case, Council and the SNPP could place a condition on any consent stating that separate applications and approvals are required for the exact configuration and operation of the community centre.

9. 'EV' Charging Stations

The proponent intends to install 'EV' charging infrastructure on the site.

10. Remaining Traffic Matters

Traffic consultants Traffix were engaged to inform the design of the proposal. Traffix prepared an assessment of the proposal which was submitted as part of the DA. Traffix was also engaged to consider and respond to the traffic related matters (other than those referenced directly above) in Council's correspondence. Their response is appended to this correspondence. In summary, their response addresses items such as swept paths, car sharing, 'STrAP', service vehicle accessibility, basement access management, gradients, sight lines, and the like.

11. Accessibility

Continuous accessibility throughout the external areas of the proposal and common areas was an integral element of the design. Any areas which were not accessible as part of the originally submitted architectural plans were minor and in error. These have been corrected and a continuously accessible path is now clearly shown on the plans.

Dimensions have been added to floor plans confirming that relevant accessibility standards can be met.

As Council has noted, Morris Goding Access Consulting (MGAC) assessed the proposal in detail. Their assessment concluded that *"accessibility requirements...pertaining to external site linkages, building access, common area access, sanitary facilities, accommodation and parking can be readily achieved..."*. On this basis, any outstanding accessibility matters can be addressed as part of any determination.

12. Ongoing Development of 'Connection to Country' Strategy

A detailed connection to country strategy was prepared by WSP and submitted as part of the DA submission. The preparation of this strategy included some preliminary consultation with relevant stakeholders. The proposal's landscape plan, prepared by RPS, integrated elements of WSP's strategy where suitable. These measures have established an elaborate, and therefore suitable strategy for this stage of the proposal. Any further development of the strategy, which is likely to focus on ongoing stakeholder consultation, can be achieved through relevant conditions of any consent.

13. Access to Green Spine from Areas 18 and 19/Public Access

The proposal provides extensive public areas and social infrastructure generally, including an east-west publicly accessible pedestrian link between Berry Street and Holdsworth Avenue, a childcare centre to be dedicated to Council, a community centre to be dedicated to Council, and affordable housing floor space which will also be dedicated to Council. These provisions are significant and adequate. Enabling public access to the green spine is not considered necessary in light of these provisions. Enabling such access, or access from other Areas within the precinct (such as Areas 18 and 19) is also likely to result in substantial public liability risks, as well as compromise the communal open space demands of the proposal's residents. Further, it is noted that public access through the green spine has not been a requirement of other DAs in the precinct.

14. Remaining Landscaping Comments

RPS have considered and addressed the remaining landscape concerns in Council's correspondence. Where possible and suitable, the landscape plan has been amended to reflect Council's comments. Reference should be made to the amended landscape strategy prepared by RPS which are appended to this correspondence. In summary, however:

- Further detail has been included in the plan to achieve greater coordination with any development on the northern side of the east-west link. In this regard, the seating node has been repositioned entirely within the boundaries of the subject site.
- The nature of the lighting around the community centre and the childcare centre were recognised during the initial design of the proposal. Suitable plant species for these areas were selected at this initial design stage. They have nevertheless been reviewed and determined as being suitable. Such species are suitable for low light, damp conditions.
- Due to built form requirements and subsequent spatial limitation, an additional 1m planting strip unfortunately cannot be provided along the Berry Rd boundary. Where possible, however, additional cascading species and lower height shrubs are proposed within boundary fencing planter boxes to soften the pedestrian interface.
- Canopy coverage has been recalculated as suggested and to the most accurate means possible noting that the exact coverage of all plantings cannot be determined at this stage. In summary, 58% of that portion of the through site link which forms part of the subject site will include vegetation canopy coverage, whilst 31% of the remainder of the site (i.e. that portion which will include the building envelope) will include vegetation canopy coverage.
- Ramps, footpaths and the like, through the east-west link will not unreasonably inhibit deep soil zones as such measures will either be elevated, with isolated footings or of an impervious nature such that they are navigable by roots or can be penetrated by rainfall.
- Soil volumes at levels 4 to 6 as well as the roof top were reviewed and considered suitable for the species proposed, climate and exposure.

15. Design Excellence Panel Comments

It is noted that the DEP was highly commendable of the proposal in their minutes of 9 November 2022. The DEP noted that the proposal was capable of achieving design excellence subject to relatively minor design amendments. As discussed earlier in this correspondence, the DEP acknowledged that the proposal did not comply with some controls in the LCDCP 2010, specifically controls relating to number of storeys and setbacks. In relation to these matters, the DEP supported the proposal and indicated that such controls should be applied flexibly.

The following is an itemisation of those matters which the DEP suggested should be amended in their minutes dated 9 November 2022. A response to each of the items is subsequently provided. These responses should be considered with the amended architectural plans and landscape plans appended to this correspondence.

15.1 Number of Storeys/Below Ground Town Houses

The alternative option as recommended by the DEP has been partially adopted within the revised plans. Specifically, dwellings B.CL.04 and B.CL.05 have been converted from 2 storey town houses to single bedroom, single level apartments with their RL slightly above street level. Their former lower level floor space has been converted to non-habitable space such as storage for parcels as well as additional bicycle parking.

B.CL.03 is retained as a 2 storey town house but it's RL has been raised to be within approximately 1m of the existing footpath level. Given the lower level is located behind boundary fencing, it would not be read as an additional storey. As also stated earlier, the proposal complies with the applicable FSR and height of building standards. As such, we are of the opinion that retaining this 2 storey town house is acceptable and without any unacceptable environmental impacts.

In relation to FSR for Area 17, the proposal decreases from 3.79:1 to 3.47:1 as a result of the abovementioned design modifications. The proposal, therefore, continues to comply with the maximum FSR of 3.8:1 applicable to Area 17 according to the LCLEP 2009. The proposed FSR for Area 16 has not changed as part of this response.

15.2 Site Wide Electrification/Electric Cooktops/'EV' Charging

The proponent has and will continue to make provisions for site wide electrification, avoidance of gas appliances, as well as 'EV' charging infrastructure. For example, the substation currently designed for the proposal has capacity for additional electricity loading.

15.3 Small Tree Sizes

RPS reviewed the size of trees included as part of the original landscape design. Their view is that the trees originally nominated is of a suitable size relative to their space, the intended nature of the area they would occupy, the quantity of sunlight, and any nearby built form. It is noted that the proposed trees range in size (at maturity) from 4m (height) and 8m (width) up to 24m (height) and 15m (width). We are of the view that these are substantial sizes.

15.4 Appearance of Carpark Ventilation Shafts

The ventilation shafts are divided into 3 stacks to reduce their overall volume compared to two or a single stack. Their volume has also been reduced since the DEP meeting of 9 November 2022 by removing some ancillary items which were previously integrated into the base of the stacks, such as seating and BBQ equipment (although, ample seating remains throughout the 'green spine').

In addition, landscaping in the vicinity of the stacks has been amended to minimise their visual perceptibility. Specifically, additional landscaping has been inserted between the stacks and the main pathway to provide a degree of screening and thereby minimising views to the infrastructure. These modifications are included in the landscaping plans appended to this correspondence.

15.5 'Zig Zag' Arrangement of East-West Link Footpath

It is noted that the proposal was referred by Council to landscape architects Oculus who prepared the St Leonards South LMP. Oculus endorsed the proposal's landscaping generally. They also specifically endorsed the design of the through site link. In this case, we are of the view that the through site link's current configuration can be supported.

This aside, the link is specifically designed mostly with low height shrubs and high canopy trees in order to provide adequate sight lines. Similarly, the colonnade includes high clearances and is surrounded by low height vegetation for suitable sight lines. The through site link will also be supported by lighting. Overall, our view is that the through site link provides suitable safety measures.

15.6 Additional Use of Sandstone In Lieu of Palisade Fencing

The intent of the originally proposed sandstone datum was to recreate, as best as possible, the original sandstone datum at the site before it was developed for its current purpose as dwellings. Nevertheless, the DEP's comments have been adopted and the line of sandstone has been increased by a further 500mm in most areas. In some sections, palisade fencing is retained as it achieves greater integration with landscaping, softening of edges, and passive surveillance of the communal open space and public domain.

15.7 Additional Solar Studies Required

The additional solar sun studies requested by the Panel are provided as part of the architectural package accompanying this correspondence. The sun studies include detailed images for solar access to the proposal's east facing dwellings at the times of 10.30am and 11.00am, as requested. In summary, the additional analysis

confirms that the proposal continues to satisfy the ADG's solar and daylight access guidelines in that 91 of the 130 proposed dwellings (or 70%) receive 2 hours solar access between 9am-3pm at mid-winter.

It is also worth noting that the St Leonards South Precinct is the subject of detailed master planning. The outcomes of such master planning were converted into the LCLEP 2009 and the LCDCP 2010. There are limited options in relation to the location and general configuration of building envelopes. In this case, the proposal's solar access outcomes are consistent with those anticipated by the master planning process. This aside, the proposal's dwellings are designed such that they will achieve a high level of internal amenity, and will be complimented with high quality open spaces. As indicated earlier, the DEP has confirmed that the proposal can achieve design excellence.

15.8 Additional External Sun Shading Devices Along Western Elevation

It is considered that sufficient external shading had been provided throughout the entire envelope and the western elevation in particular. The scheme, as presented at the DEP meeting of 9 November 2022, included careful proportioning between glazing and solid elements, double glazed widows, and some sun shading in the form of overhangs, reveals, balconies, loggias and wintergardens, as noted in the ESD report which accompanies the DA. The ESD report subsequently endorsed the proposal, which should provide Council and the NSPP with sufficient confidence in relation to this matter.

16. Conclusion

This correspondence, together with accompanying details, responds to the matters raised in Council's request for information dated 6 December 2022. The matters raised in the DEP's minutes of 9 November 2022.

Where suitable, the proposal has been amended to address concerns from Council and the DEP. Justification has been provided for those circumstances which were not responded to with design amendments.

As stated throughout this correspondence, the proposal has been determined by the DEP as being capable of achieving design excellence. The proposal is also substantially compliant with all other statutory or non-statutory controls. Environmental impacts from the proposal are not unreasonable. Arguably, the impacts are overwhelmingly positive and consistent with the master plan for St Leonards South. Significant social infrastructure contributions to Council and the community also form part of the proposal.

Council's correspondence noted that comments from WaterNSW were pending, and that contact should be made with Council's Waste Officer and internal Landscaping Officer in relation to any potential related matters. We continue to maintain contact with WaterNSW and expect General Terms of Approval to be issued. We have also sought to contact Council's Waste Officer and Landscaping Officer, without success. Should there be any related matters, we expected that they could form conditions of any consent.

Give the above, we are of the view that the proposal warrants support from Council and the NSPP.

Should any further information be required, or should Council wish to discuss the matter further, please contact the undersigned on 9068 7500.

Yours sincerely



Stephen Kerr
Executive Director