

Subject	Briefing Note to Sydney North Planning Panel
Property	Nos. 12-20 Berry Road and 11-19 Holdsworth Avenue, St Leonards
Description of Proposal	Demolition of existing structures and construction of a mixed-use development
Council/Panel Application No.	DA115/2022 / PPSSNH-339
Lodgement Date	26 September 2022
Indicative Determination Date	During the Second quarter of 2023
Capital Investment Value	\$78,000,000.00
Applicant / Owners	Hilary Apitz (Altis Bulky Retail P/L) (Applicant and Owner)

1. Strategic Planning Context

The subject Development Application is within the St Leonards South Precinct. The strategic planning context/background is provided at briefing stage for the benefit of the SNPP.

A. St Leonards South Precinct

The St Leonards South Precinct was brought into effect on **1 November 2020** through amendments to *Lane Cove Local Environmental Plan 2009* and *Lane Cove Development Control Plan 2010*. The plan was finalised concurrently with the *St Leonards Crows Nest 2036 Plan*. Further information on the history prior to finalisation is available on [Council's website](#) and the [Department's website](#).

The St Leonards South Precinct is bounded by Marshall Avenue to the north, Canberra Avenue to the east, Park Road to the west and River Road to the south as shown in **Figure 1** below.



Figure 1: St Leonards South Precinct

The vision of the St Leonards South Precinct is for a liveable, walkable, connected, safe, high density residential precinct which builds upon the transit and land use opportunities of St Leonards and Metro Stations and commercial centre.



Figure 2: St Leonards South Precinct – Concept Photomontage

B. Planning Scheme

The planning scheme for the St Leonards South Precinct is principally contained within [Part 7 of Lane Cove Local Environmental Plan 2009](#) and supported by a precinct-specific part of *Lane Cove Development Control Plan 2010*, a Landscape Master Plan, a Section 7.11 Contributions Plan and designation as a Special Infrastructure Contribution area. The Precinct is divided into 'Areas' which are the envisaged amalgamated development sites (**Figure 3**).



Figure 3: St Leonards South Precinct – Area Designation

Lane Cove Local Environmental Plan 2009

The key provisions of *Lane Cove Local Environmental Plan 2009* are summarised as follows:

i. Zoning

The Precinct is zoned R4 High Density Residential (with exception of a park and new road).

ii. Incentive Building Height and FSR

The planning scheme operates with an incentive building height and incentive floor space ratio control. The incentive maximum building height and floor space ratio are available only if the incentive provisions of Part 7.1(4) of *Lane Cove Local Environmental Plan 2009* are provided which are summarised as follows:

- **Unit Mix:** Minimum 20% of each 1, 2 and 3 bedroom dwellings (Part 7.1(4)(a)-(c);
- **Green Spine:** Setbacks to establish communal open space between buildings (Part 7.1(4)(d));
- **Minimum Site Area:** Site amalgamations as per **Figure 3** (Part 7.1(4)(e) and Part 7.2);
- **Affordable Housing:** The provision of affordable housing (Part 7.1(4)(f) and Part 7.3);
- **Recreation Areas and Community Facilities:** The provision of recreation areas and community facilities (Part 7.1(4)(g) and Part 7.4); and
- **Pedestrian Links and Roads:** The provision of pedestrian links and roads (Part 7.1(4)(h) and Part 7.5).

Note: Unit mix, green spine and site area provisions apply to all sites. Affordable housing, recreation areas and community facilities, and pedestrian links and roads are allocated on a per site/area basis.

iii. No Clause 4.6 Variation Requests

The planning scheme precludes the use of Clause 4.6 to vary the incentive building height, incentive floor space ratio, incentive provisions (with exception of the minimum site area provision to allow for site hold-out scenarios) and design excellence provisions.

iv. Design Excellence

The planning scheme seeks to provide design excellence in relation to architectural, urban and landscape design. The criteria for achieving design excellence is listed in [Part 7.6 of Lane Cove Local Environmental Plan 2009](#). The consent authority cannot grant development consent unless it is satisfied that design excellence is achieved.

v. NSROC Design Review Panel

The North Sydney Region of Council's Design Review Panel was established to coincide with the commencement of the St Leonards South Precinct planning scheme. The Panel will provide advice on SEPP 65 and design excellence (Part 7.6 of LCLEP 2009) for development within the St Leonards South Precinct.

The Panel process occurs **prior to lodgement of the Development Application** aiming to resolve key issues and provide for higher quality lodgements. The NSROC Design Review Panel comments will assist Council and the Sydney North Planning Panel in determining SEPP 65 and design excellence.

Lane Cove Development Control Plan 2009

A Precinct-specific Development Control Plan is contained within [Lane Cove Development Control Plan 2009 Part C – Residential Localities – Locality 8 – St Leonards South Precinct](#). The DCP guides infrastructure, access, built-form (setbacks etc.), public domain, private domain, sustainability and landscaping (including calling up the Landscape Master Plan). Key unique provisions of the DCP are discussed as follows:

i. Green Spines - Shared Communal Open Space

Green spines are a key feature of the St Leonards South Precinct. The green spine is a 24m wide shared communal open space between residential flat buildings. Ordinarily a residential flat building development would provide communal open space for its own use only. The green spines will combine the communal open space of multiple residential flat buildings with each contributing to, and sharing in, a larger communal open space area. The shared communal open space will be grouped in accordance with **Figure 3** and characterised by shared facilities and significant landscaping (50% minimum deep soil).



Figure 3: Green Spines (Shaded Green)

ii. Part Storey Control

The DCP includes a maximum number of storeys control. Importantly, the DCP includes the following in relation to calculating the number of storeys:

Part storeys resulting from excavation of steep slopes or semi basement parking will not count as a storey.

As per Amendment 20 the definition of a part storey is:

- a) “part storey means a storey where the floor level is partly more than 1 metre below ground level (existing) and where 50% of the space within the storey is used as non-habitable space (such as for car parking, vehicular access, plant rooms, mechanical

services, loading areas, waste storage or the like) that is ancillary to the main purpose for which the building is used.”

It is noted that at the same time as amending the definition of a ‘part storey’ Council also amended clause 1.6 Savings Provisions to include a ‘note’ as shown in bold italics below:

Note: The provisions of this DCP as amended by Lane Cove Development Control Plan 2009 (Amendment No. 20) apply to development applications made both before and after Lane Cove Development Control Plan 2009 (Amendment No. 20) came into effect, despite any other provision of this DCP.

Landscape Master Plan

The private and public domain urban and landscape design are further detailed within the [St Leonards South Landscape Master Plan](#). The Landscape Master Plan provides design guidance to the **public domain** (materiality, lighting, street trees, road infrastructure etc.), **private domain** (green spine levels, green spine facilities and landscaping calculations) and **public/private domain interface** (such as ground floor apartment fencing/landscaping design). An overview of the Landscape Master Plan design is provided in **Figure 4** below.



Figure 4: Landscape Master Plan Overview

St Leonards South Section 7.11 Plan

The provision of infrastructure is proposed to be facilitated in part through the [St Leonards South Section 7.11 Contributions Plan](#) which is now in force.

Special Infrastructure Contribution

The site is within the [St Leonards and Crows Nest Special Contributions Area](#) which requires the payment of a contribution to support the St Leonards and Crows Nest 2036 Plan.

2. Subject Site

The subject site is known as Nos. 12-20 Berry Road and 11-19 Holdsworth Road, St Leonards, St Leonards with a total site area of 5,015m² known as Areas 16 and 17 (refer to **Figure 3** above) within the St Leonards South Precinct planning scheme. The site is located in the central part of the Precinct.

3. Proposal Timeline

The proposal timeline (to date and forecast) is provided in **Table 1** as follows:

Table 1 – Proposal Timeline	
Date	Description
25 February 2022	NSROC Design Review Panel Meeting and Council Pre-DA Meeting.
19 May 2022	Meeting between Council and the proponent/developer (which was Aqualand P/L) to discuss concerns with proposed variations to height in metres (balconies encroaching into the maximum 2.5m building height control); height in storeys and building setbacks.
28 June 2022	Another meeting between Council and the proponent/developer (Aqualand) to further discuss the above listed concerns.
26 September 2022	Subject Development Application lodged.
12 October 2022	Meeting between Council and the applicant/the new developer (Altis) to discuss with them that the concerns raised previously have still not been addressed with the submission of the subject application.
30 September 2022	Public notification of Development Application commenced.
28 October 2022	Public notification of Development Application concluded (see Section 7 for summary of submissions received).
6 December 2022	Letter sent to the applicant requesting additional information.
24 January 2023	Applicant provided additional information.
30 January 2023	2nd notification period of Development Application commenced.
15 February 2023	2nd notification period of Development Application to concluded.
15 March 2023	Briefing of the Sydney North Planning Panel.
Second quarter of 2023	Determination by the Sydney North Planning Panel.

4. Proposal

The Development Application is for the demolition of existing structures and construction of a mixed-use development containing two buildings comprising a total of 130 apartments

(including 1 affordable dwelling), childcare centre, community facility and basement parking for 180 vehicles.



Figure 5: Perspective

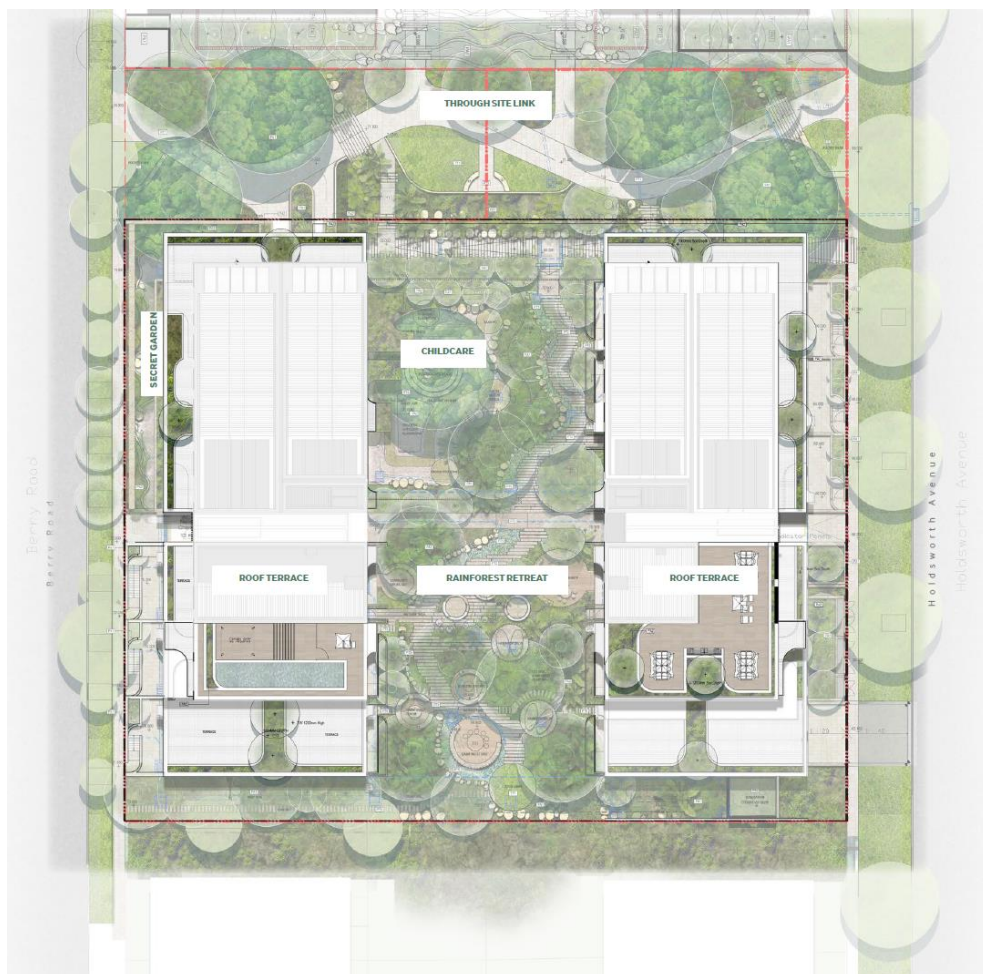


Figure 6: Landscape Plan

A. Key Development Statistics

Table 2 – Proposed Development Statistics	
Component	Description
Number of Storeys	11 storeys For Both Buildings
Part Storeys	One-Part Storey For Both Buildings (Note: See Further Discussion Below)
Building Height	Max. 37m – Holdsworth Avenue (Area 16) Max. 38m – Berry Road (Area 17)
Site Area	2,786m ² – Holdsworth Avenue (Area 16) 2,229m ² – Berry Road (Area 17) Total - 5,015m ²
Gross Floor Area	7,880m ² – Holdsworth Avenue (Area 16) 8,326m ² – Berry Road (Area 17) Total - 16,206m ²
Floor Space Ratio	2.83:1 – Holdsworth Avenue (Area 16) 3.74:1 – Berry Road (Area 17) Total - 3.23:1
Total Apartments	130
Unit Mix	28 x 1 bedroom (22%) 59 x 2 bedroom (45%) 33 x 3 bedroom (25%) 10 x 4 bedroom (8%)
Vehicular Access	Singular vehicular access point from Holdsworth Avenue.
Parking	180 vehicles
Pedestrian Link	The provision of 15m wide pedestrian link through the Area 16 portion of the subject development site
Childcare Centre	The provision of a childcare centre within the development
Community Facility	The provision of a community facility within the development
Deep Soil within Green Spine	50% of Green Spine Area

5. Preliminary Assessment

A. NSROC Design Review Panel

The NSROC Design Review/Excellence Panel has reviewed the proposal and is generally supportive of the design.

B. St Leonards South Precinct Planning Scheme

The key issues in the St Leonards South Precinct Planning Scheme as they relate to the proposed development are addressed as follows:

i. Incentive Qualification Criteria

The incentive qualification criteria applicable to the subject Development Application are listed in **Table 3** below.

Table 3 – Applicable Incentive Provisions		
Date	Requirement	Compliance
Unit Mix	Minimum 20% of 1/2/3-bedroom units	Yes
Green Spine Setbacks	The provision of setbacks to establish communal open space and green spines between buildings.	No – there are building encroachments into the required 24m wide Green Spine Area
Pedestrian Link	The provision of a 15m wide pedestrian link through the land to enable a connection between Berry Road and Holdsworth Avenue.	Yes
Minimum Site Area	The amalgamation of all sites within each development area.	Yes
Affordable Housing	The provision of 1 affordable housing dwelling on Area 17	Yes
Recreation Areas and Community Facilities	450 square metres will be used for the purpose of a recreation area 600 square metres will be used for the purpose of a community facility The recreation area will be adjacent to the community facility.	Yes

It is considered that the proposal does not entirely meet with the incentive provisions and accordingly the proposal cannot seek to utilise the incentive height and floor space ratio provisions.

ii. Incentive FSR and Building Height Provisions

The applicable incentive FSR and Building Height provisions map is provided in **Figures 8 and 9**.

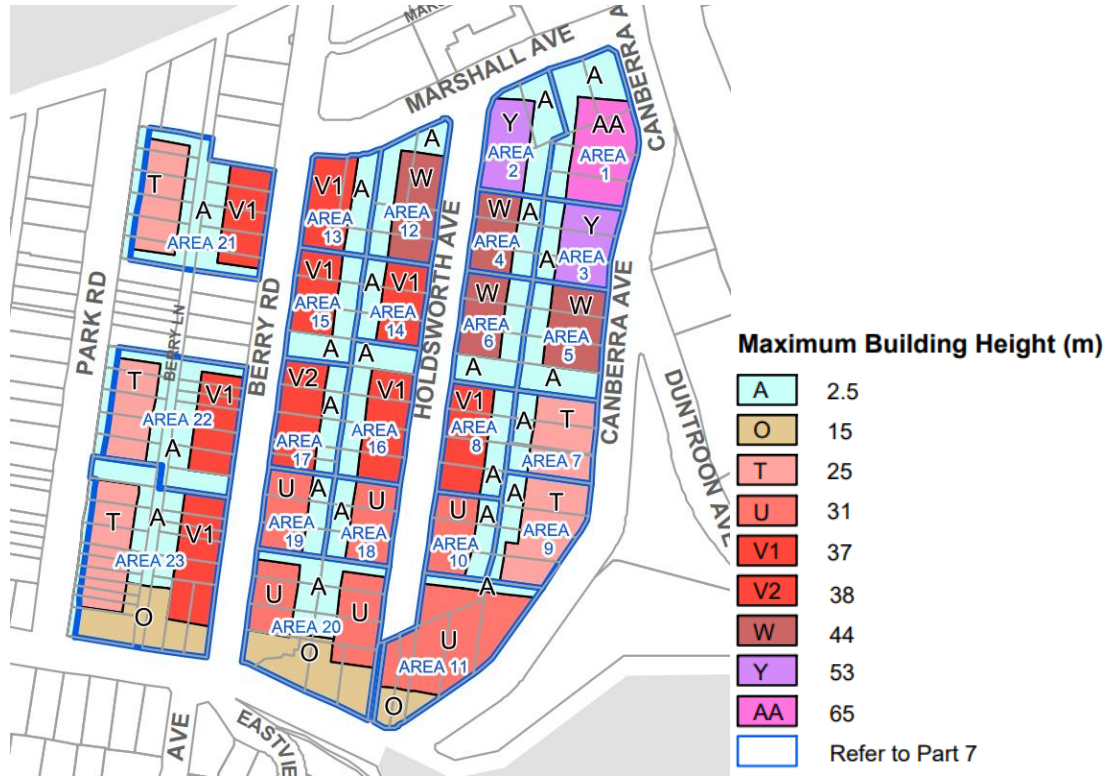


Figure 7: Incentive Height of Building Map

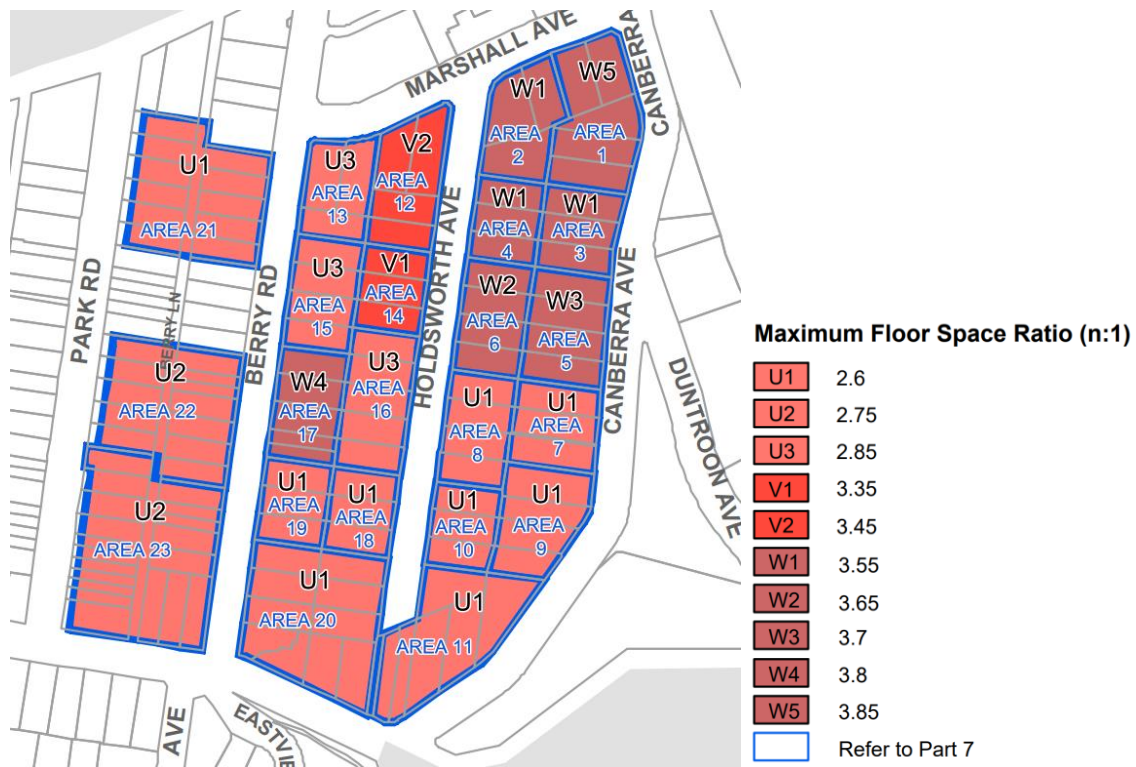


Figure 8: Incentive Floor Space Ratio Map

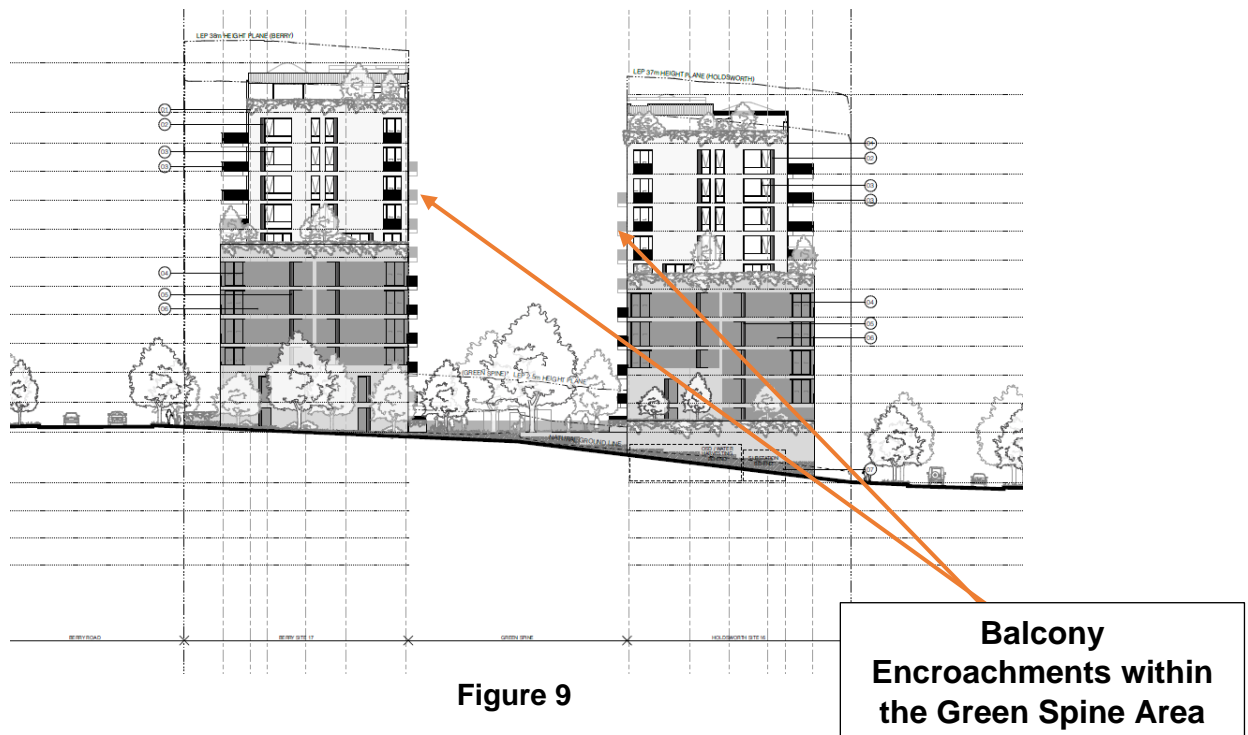
iii. Compliance with Incentive Height of Building and Floor Space Ratio

The proposals compliance with the incentive height of building and floor space ratio is detailed in **Table 4** below.

Table 4 – LCLEP 2009 – Compliance with Development Standards			
Standard	Requirement	Proposed	Compliance
Floor Space Ratio	2.85:1 (max) – Holdsworth Avenue (Area 16)	2.83:1 – Holdsworth Avenue (Area 16)	Yes
	3.8:1 (max) – Berry Road (Area 17)	3.74:1 – Berry Road (Area 17)	
Height of Buildings	2.5m (max) – Green Spine Area	2.5m	No, balconies encroach into the Green Spine Area
	37m (max) – Holdsworth Avenue (Area 16)	37m	Yes
	38m (max) – Berry Road (Area 17)	38m	Yes

Building Height Development Standard

It is advised that the proposal contains balconies elements into the required 24m wide Green Spine Area and would be contrary to the maximum 2.5m green spine building height development standard under the LCLEP 2009.



It was requested that these elements be deleted and in response the applicant had not deleted these encroachments. This design outcome is not supported as other approved and proposed developments within the Precinct have fully complied with this requirement. Full compliance ought to be fully achieved and these elements be deleted.

iv. Lane Cove Development Control Plan

Number of Storeys/Part Storey Controls

Figure 10 of Locality 8 – St Leonards South Precinct of Part C – Residential Localities LCDCP 2010 which permits a **maximum of 10 storeys** on the subject development site.



Figure 10: Height of Buildings (in storeys)

Figure 10

Based on the relevant 'part storey' definitions provided above in this briefing note and the maximum 10 storeys control, it is considered that the proposal does not comply with the relevant number of storeys and part storeys DCP controls. A **maximum of 11 storeys** is proposed for the building on **Area 16** and a **maximum of 12 storeys** for the building on **Area 17** are proposed.

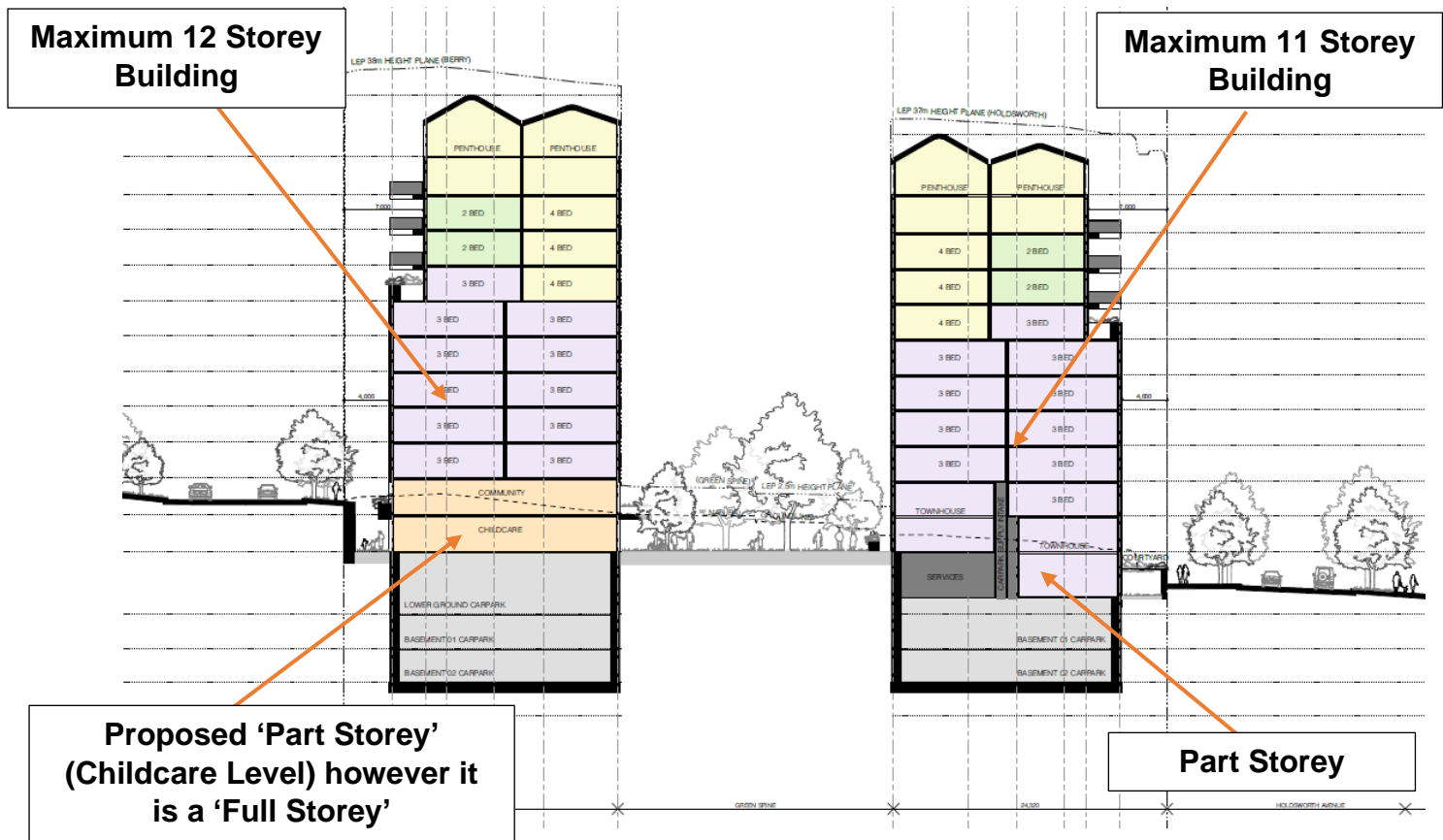


Figure 11

Further, the applicant is of the opinion that the proposed ground childcare level is a 'part storey' however it is Council's view that it does not constitute as a 'part storey' rather as a 'full storey'. This level is to be counted as a storey.

The applicant was requested to redesign the proposal to comply with the maximum number of storeys controls and the applicant in response did not amend the proposal to comply. Full compliance ought to be achieved and it is recommended that the subject Development Application be refused on this basis.

Building Setback Controls

It is advised that the subject proposal does not comply with the required setbacks to Berry Road and Holdsworth Avenue under Part 7 Built Form – Building Envelope – Setbacks of Locality 8 – St Leonards South Precinct of Part C – Residential Localities LCDCP 2010.

Front Building Setbacks A (Refer to Figure 9)

- 4m at street level
- + 3m at and above Level 6

To Canberra, Marshall, Holdsworth & Berry (1-19) + east (21-23)

Further, the proposal also does not comply with the required setbacks to the east-west pedestrian link and the required setbacks are:

Building Setbacks F
(Refer to Figure 9)

- 6m at park and east-west pathway reservation level
- +3m at and above Level 5
- To Local Park (eastern buildings of Areas 21 and 22) and
- to east-west pathway reservation as shown in Figure 5(b) (for Areas 5, 6, 7, 8, 14, 15, 16 and 17).



Figure 9: Building Setbacks / Building Depth

Figure 12

There are substantial variations being proposed to the required **minimum 7m setback** for both buildings **at Level 6 and above to Berry Road and Holdsworth Avenue** (see Figure 13).

Further, there are substantial variations being proposed to the required **minimum 6m and 9m setback** for both buildings to 15m wide pedestrian link (see Figures 14 and 15).

Again, the applicant was requested to redesign the proposal to fully comply with the DCP setback requirements and the applicant had chosen to do so. It is noted that Council will not support any building setback variations in this instance.

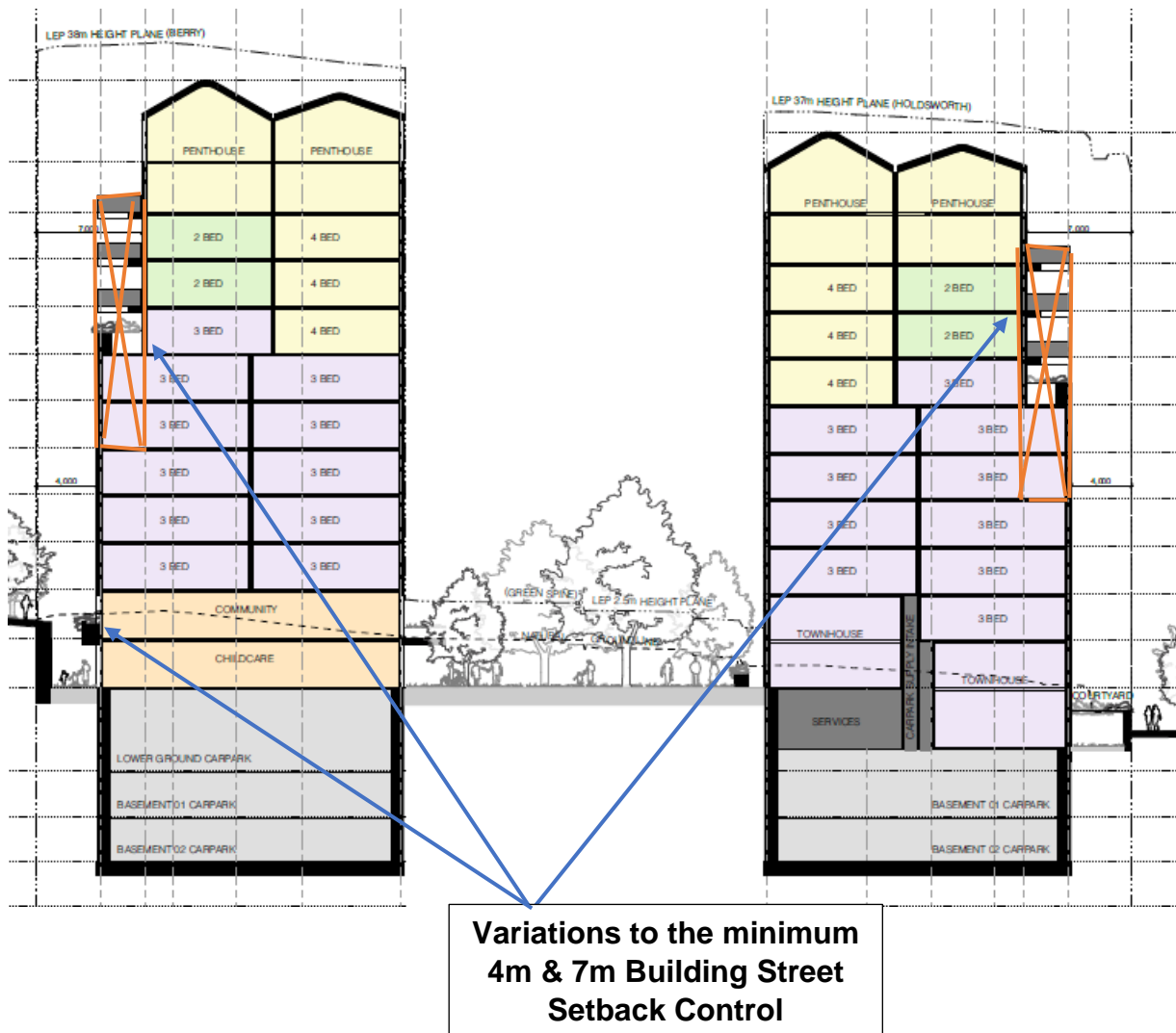
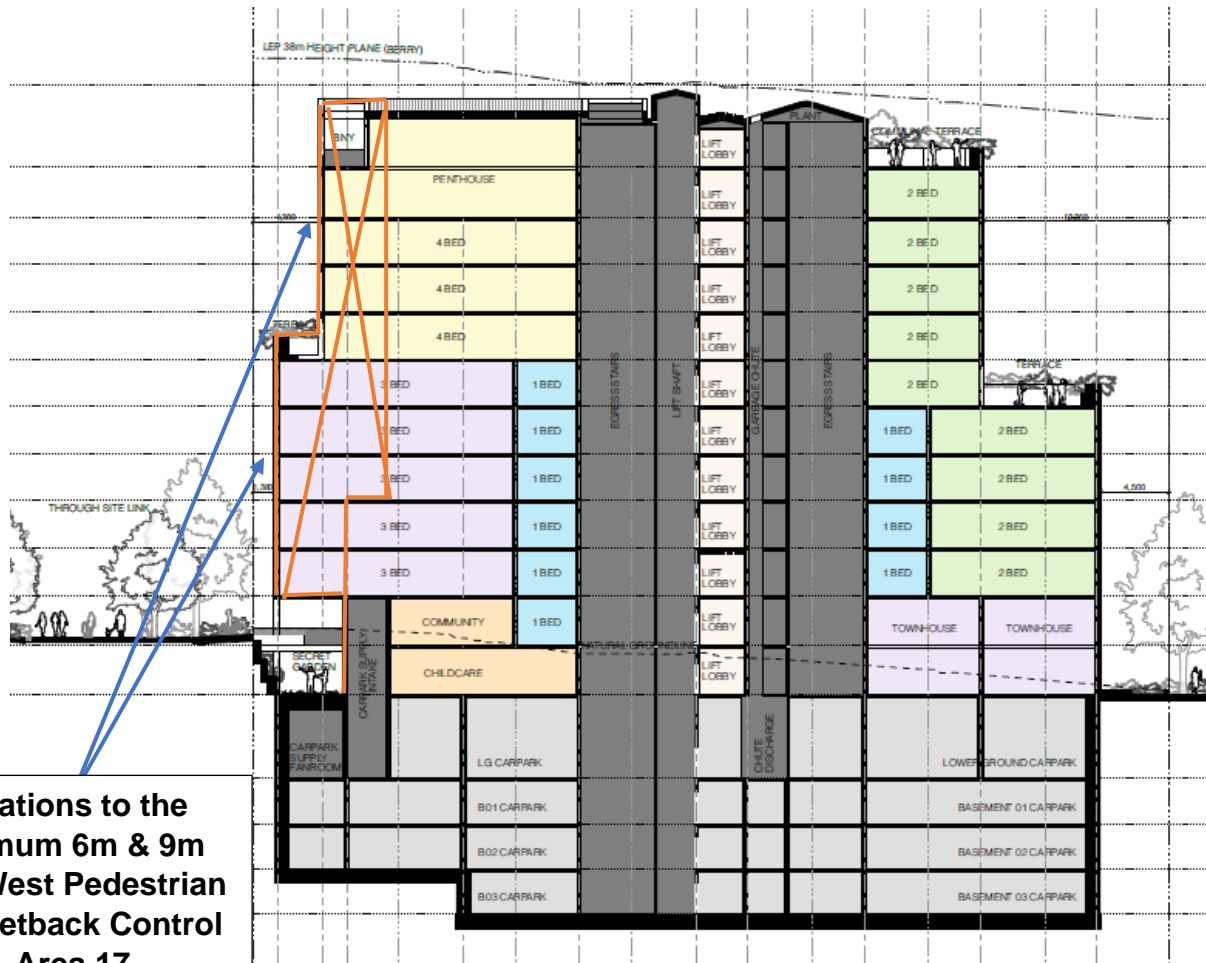


Figure 13



**Variations to the
minimum 6m & 9m
East-West Pedestrian
Link Setback Control
- Area 17**

Figure 14

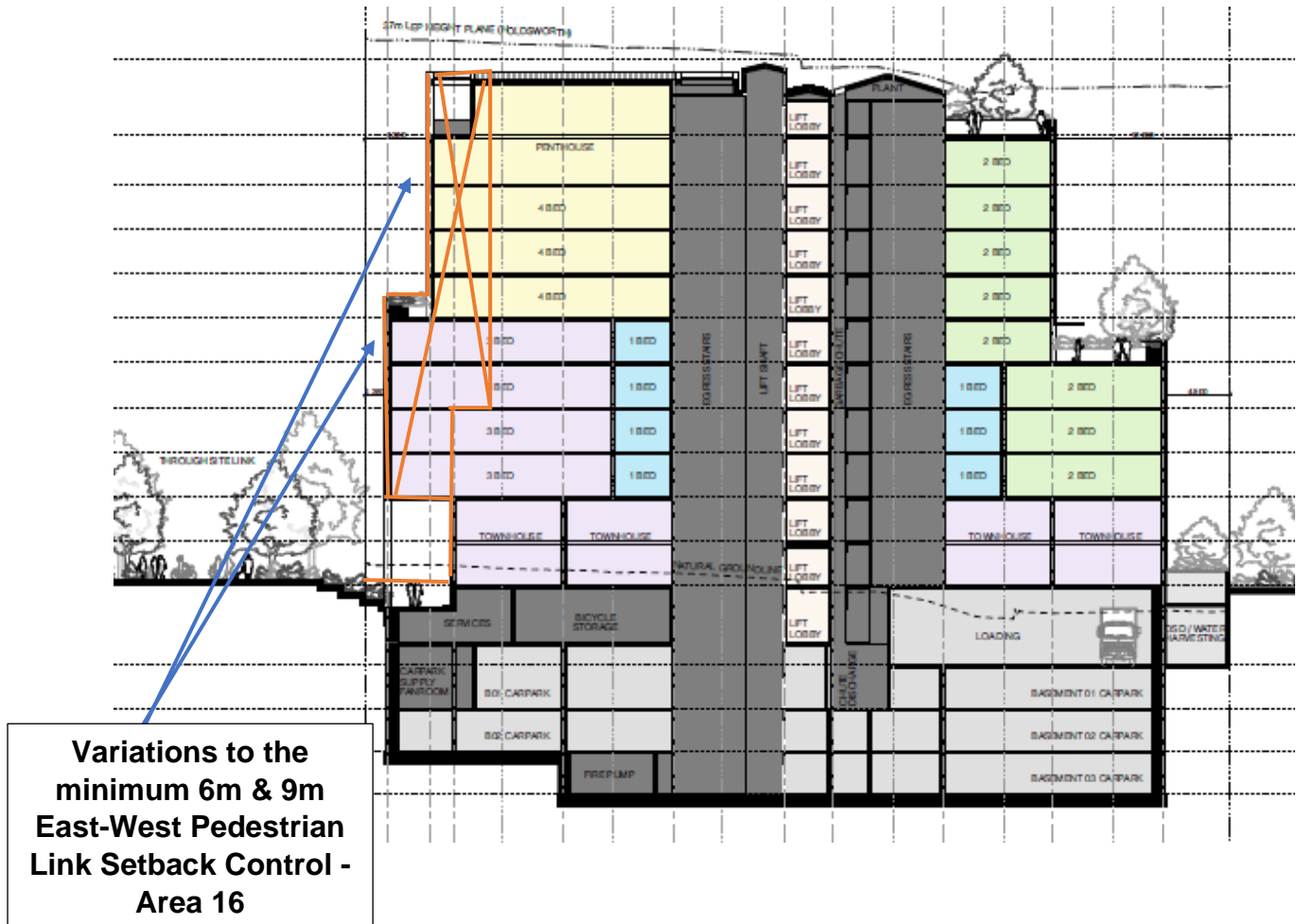


Figure 15

6. Submissions

The proposal was notified in accordance with Council policy and four submissions were received by way of objection.

The issues relate to the following matters:

- FSR
- Design excellence/quality
- Height, bulk and scale
- Setbacks and separation
- Street wall height
- Inconsistent with existing character and topography
- Solar access
- Natural ventilation
- Overshadowing
- Traffic, transport and access
- Parking
- Flora and fauna
- Trees
- Through site link

- Sustainability
- Lack of open space
- Loss of privacy
- Design Review Panel concerns
- Lack of infrastructure provision
- Canberra Avenue closure
- Excavation

7. Next Steps

The next steps is the final assessment reporting to the Sydney North Planning Panel for determination with a likely **recommendation of refusal** (tentatively scheduled during the second quarter of 2023).

Attachment A – Council Request for Further Information