



MAJOR PROJECT ASSESSMENT:
Major Project 06_0231
Concept Plan
St Vincent's Hospital (O'Brien Building) and
Caritas site, Darlinghurst



Source: architectus

Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979
February 2007

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1 EXECUTIVE SUMMARY

- 1.1 St Vincent's Hospital (the proponent) is proposing to redevelop the O'Brien Building (located on Burton Street within the St Vincent's Hospital Campus) to provide upgraded and integrated mental health / drug and alcohol and community services facilities in a new eight storey building. The Caritas site (299 Forbes Street, Darlinghurst) on which some of these mental health services are currently provided will be decommissioned. To facilitate the proposal, a Concept Plan (in the order of **\$43-48 m** Capital Investment Value for the Caritas and **\$41 m** CIV for O'Brien Building) covering both sites was lodged under Part 3A of the Environmental Planning and Assessment Act 1979. When lodging the Concept Plan, the proponent concurrently lodged an early works project application (**\$4.5 m**) for the O'Brien Building. This report considers both the Concept Plan and project application.
- 1.2 South Sydney Local Environmental Plan 1998 (SSLEP) zones both sites Special Uses (Hospital). The O'Brien Building redevelopment **is permissible** with development consent and by virtue of this the Minister can approve a concept plan for the entire proposal under the provisions of Part 3A of the Environmental Planning and Assessment Act, 1979. The SSLEP also include flexible zone provisions which would permit the Caritas redevelopment to adopt the adjoining residential or mixed use zones. Notwithstanding this, the Department will shortly be recommending the Minister nominate the Caritas site as a State Significant Site in Schedule 3 of the Major Projects SEPP. This process will implement a new planning regime for the site that will reconcile the underlying land use controls with the development proposed by this Concept Plan.
- 1.3 The Concept Plan seeks approval for:
- Demolition of the existing O'Brien Building fronting Burton Street;
 - Early and site preparatory works (including excavation) on the O'Brien Building site;
 - Construction of a new 8 storey O'Brien Building (of approximately 10, 401m² GFA), 228 car parking spaces, and ancillary facilities / infrastructure;
 - Demolition of the Caritas Rehabilitation Centre fronting Burton Street (1962);
 - Excavation for new basement car parking;
 - Envelopes for the future construction of new mixed use buildings fronting Burton and Bourke Streets;
 - Demolition of rear additions to Caritas House (generally dated around 1935 and 1962); and
 - Retention and change of use of the heritage items being Caritas House and Caritas Cottage and also the old Kitchen block from institutional use to residential and commercial use.
- 1.4 The new eight storey O'Brien Building redevelopment will essentially replace the existing structure in terms of height and GFA. On completion of the new building, the facility will provide **27 in-patient beds (no change to existing), and accommodate up to 200 staff**. Approximately **125 construction jobs** are likely to be generated through the O'Brien Building redevelopment.
- 1.5 The redevelopment of the **4477m² Caritas site** is also **expected to generate up to 150 construction jobs**. The **proposal is entirely compliant** with Council's planning controls.
- 1.6 On 28 August 2006, the Minister formed the opinion that the project is a development to which Part 3A applies. The project was placed on formal exhibition from 4 October 2006 to 2 November 2006. The Department received **four public authority submissions** (City of Sydney Council, NSW Heritage Office, Department of Housing and EnergyAustralia), and **one hundred and five (105) objections from adjoining landowners / community members**. **Clover Moore (the Mayor of City of Sydney)** also made a submission as **Local Member for Bligh**.

- 1.7 Issues include urban design, heritage, compatibility with surrounding area, traffic generation and management, car parking provision, impact of commercial and retail uses, tree removal, loss of open space, construction impacts and infrastructure capacity. The most significant of those were the **height, density / FSR, bulk and scale, heritage, visual impact and traffic generation and car parking matters**. The revised scheme proposed by the preferred project report is a direct response to these issues.
- 1.8 The proponent lodged a preferred project report, response to issues, and a revised statement of commitments on **19 December 2006**. This was used as an opportunity to address issues raised during the exhibition period. The preferred project proposes a number of significant amendments to the Caritas proposal, including: **reductions in height (5 storeys less), density (- 0.61:1 FSR), dwelling yield (- 19 dwellings) and car parking (-22 spaces)**. The preferred project report does not seek to amend the O'Brien Building from the exhibited proposal, other than to revise the Statement of Commitments for that component of the project.
- 1.9 The Department is of the view that the revised scheme, and combination of statements of commitment made by the proponent together with supplementary modifications / conditions of approval, will effectively mitigate and manage all issues within acceptable environmental limits. The Department is satisfied that the **no further environmental assessment is required for the construction of the new O'Brien Building** on the basis that the same building envelope is proposed. The **Department is therefore recommending that the Minister grant project approval to the entire redevelopment of the O'Brien Building (i.e. demolition, early works and staged construction) subject to conditions**. The recommended conditions will require submission of detailed design for facades and treatments, manage construction impacts and seek to maintain the amenity of the adjoining heritage listed deLacy Building.
- 1.10 St Vincent's Hospital owns the O'Brien Building site. It has been granted **landowner's consent** to lodge the concept plan application by Department of Lands which owns the Caritas site. The proponent is currently undertaking legal proceedings in the Supreme Court to transfer the current perpetual lease the site is under to freehold title. This course of action, discussed in Section 6.13, is a separate process outside the scope of the Minister's consideration under Environmental Planning and Assessment Act, 1979. The Supreme Court proceedings **do not** preclude the Minister's approval of wither the concept plan or the project application.
- 1.11 Redevelopment of the O'Brien Building and Caritas site will secure **significant social investment** benefiting the greater metropolitan region and the State. The strategic need for the proposal is readily justified through the **improved and integrated mental health facilities**; continuing provision of 27 beds improving the growing **community's access to high level mental health and hospital services**; and **provision and strengthening of continuing mental health care** in the community. The Caritas site redevelopment will provide **housing choice** in a dynamic area close to employment, social infrastructure and public transport nodes. The Caritas component of the proposal is a **positive contribution to the streetscape** and will create an **improved street / built form interface**, by **activating the street frontage** and opening up the site, and heritage items within it, to the wider public.
- 1.12 The Department **recommends that the Concept Plan application be approved** subject to the imposition of the modifications set out in Appendix A. In granting project approval for the requested early works, the Department has also formed the view that the **construction of the O'Brien Building can proceed without further assessment** and therefore **recommends concurrent project approval** subject to the conditions in Appendix A.

2 BACKGROUND

2.1 Site Description and Context – Caritas and O'Brien



Source: architectus

Figure 1: St Vincent's / Caritas site (Bourke & Burton Sts, Darlinghurst)

- 2.1.1 The **Caritas** site is bounded by Bourke, Burton, and Forbes Streets, Darlinghurst (see Figure 1 above) and is part of a triangular street block. The site is approximately 0.4477 hectares (or 4477m²) in area and sits to the north of Oxford Street and about 500m – 1km east of the Sydney CBD. The site sits within the City of Sydney LGA and the State seat of Bligh.
- 2.1.2 The property is legally known as Lot 1612 – DP 752011 (299 Forbes Street, Darlinghurst) and its title is in perpetual lease in favour of the St Vincent's Hospital Trustees. Conversion to a freehold title is presently being undertaken and is understood to be shortly completed. The Department of Lands has formally given landowner's consent for the lodgement of Concept Plan over the Caritas portion of this proposal.
- 2.1.3 The site is developed and is currently occupied by the St Vincent's Hospital's Caritas Centre Group of uses including the Caritas Rehabilitation Centre. The nature of the uses and services located on the property means the site is secure and not open to the public.
- 2.1.4 The site is generally surrounded by low to mid-rise development of between 2 to 6 storeys, and principally for residential purposes. To the north of the site (along Burton Street) stands terrace housing and mixed business/commercial development within modified terrace buildings. Opposite the site along Bourke Street, is further terrace housing and a recent Department of Housing redevelopment at the corner of Bourke and Burton Sts. Diagonally opposite the site sits the "Republic" development which is a modern 6 storey residential block – the densest and tallest development in the immediate vicinity of the site and generally used as a benchmark for the subject redevelopment proposal.
- 2.1.5 To the south of the site and abutting is the former Darlinghurst Police Station which fronts Taylor Square. Opposite the site on Forbes Street is the existing Sydney Institute of Technology East Sydney (within the former Darlinghurst Gaol site) and the Darlinghurst Courthouse precinct. These

developments are significant heritage buildings and sites.

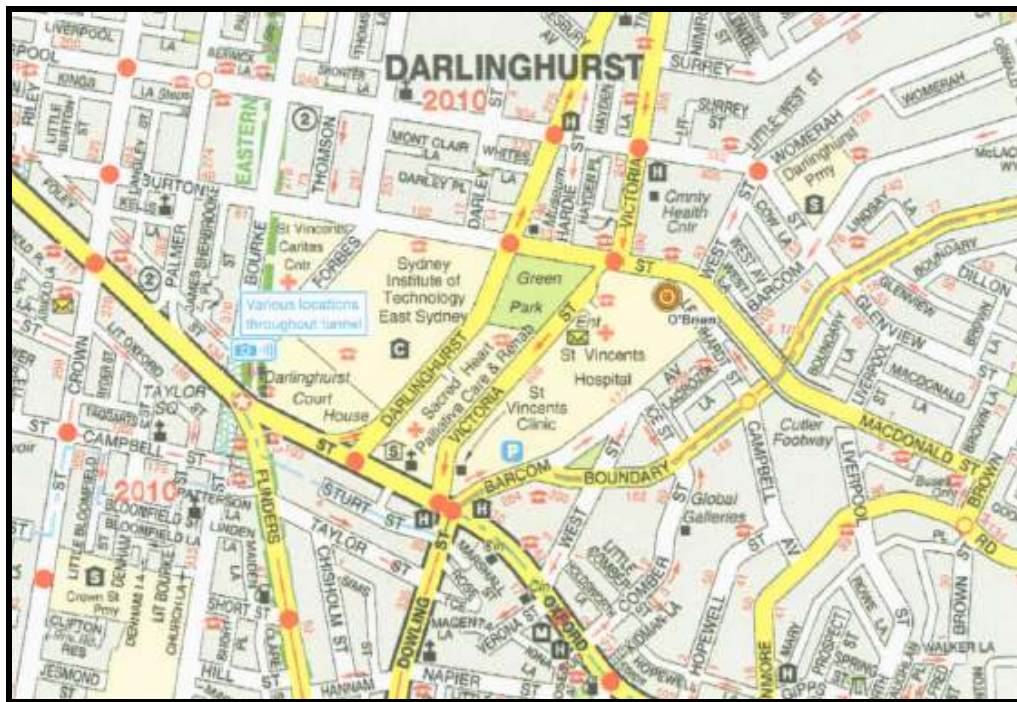
- 2.1.6 Generally development in the vicinity of the site can be described as being variable in its age, style, height, form and function. The only typical or consistent built form prevailing is that of 2-3 storey terrace housing. The institutional buildings opposite Forbes Street are set back behind the sandstone wall of the former Darlinghurst Gaol.
- 2.1.7 The site's topography is such that the land falls diagonally from south-west to north-east by about 9 metres from RL48.34 to RL39.56. This is the lowest point of the site - at the corner of Burton and Bourke Sts. The Burton Street frontage itself drops from RL47.73 to RL39.56 – about 8m over its short length of about 80 metres.
- 2.1.8 There are a number of London Plane trees located on-site – two of which front Burton Street and have a significant contribution to the streetscape. These Plane trees constitute the most significant vegetation. There is also a small expanse of lawn within the site towards the Forbes Street frontage.
- 2.1.9 The existing built form on the site generally constitutes a mix of both newer non-significant buildings and more significant (and heritage-listed) 19th century buildings such as Caritas House, and the Gatehouse (Caritas Cottage) which sit towards the centre of the site, whilst the Arts & Crafts (or Old Kitchen Block) building fronts Burton Street at its Bourke Street intersection. The equivalent 3-4 storey Caritas Centre dominates the Burton Street frontage. The site also features heritage perimeter fencing and walls (see Figure 2 below).



Source: architectus

Figure 2: Aerial View of the Site

- 2.1.10 The site is well located to existing public transport services along Oxford Street and is within easy walking distance to the CBD and other public transport options.
- 2.1.11 The **O'Brien Building** forms part of the existing group of buildings which comprises the St Vincent's Hospital. The property is legally known as Lot 2 in DP 804753 and fronts Burton Street, Darlinghurst (see Figure 3 below). The site is approximately 1732m² in area, being the existing footprint of the basement levels.



Source: architectus

Figure 3: O'Brien Building Site (Burton Street, Darlinghurst)

- 2.1.12 The hospital is subject to the St Vincent's Hospital Act 1912. Clause 2 of the Act cites the appointment of the Superior-General of the Congregation of the Religious Sisters of Charity of Australia, the Sister Administrator and the Treasurer of St Vincent's Hospital as the Trustees of all land belonging to, or used in connection with the hospital. At present the title is in perpetual lease in favour of the St Vincent's Hospital Trustees being Elizabeth Anne Dodds, Peter James Ferris, and Helen Anne Clark.
- 2.1.13 To facilitate the redevelopment of the site, the perpetual lease will need to be converted into freehold title. This process is currently underway and is addressed in detail in Section 6.13 of this report.
- 2.1.14 The O'Brien site sits a further 200-300m east of the Caritas site along Burton Street (see Figure 4 below). It is currently occupied by the redundant building that gives this part of the site its name. The building is flanked by the heritage-listed de Lacy Building (which fronts Victoria Street) and the also redundant and vacant (former nurses quarters) Cahill Building.
- 2.1.15 The surrounding uses form part of the hospital's functions. The recently completed Xavier Building abuts the site to the south whilst the Victor Chang Cardiac Research Institute is located opposite the site on Burton Street. The site is generally distant from residential development, the nearest of which is located to the north (see Figure 5 below).
- 2.1.16 The entire site is covered by the existing building and its related hard surfaces for access and circulation purposes. There is no vegetation on-site. The building is not heritage-listed (in fact, it generally detracts from the site). The topography of the long and narrow site is relatively flat in a north-south orientation, however the short Burton Street frontage of the site (east-west orientation) falls by about 1.5 metres between the de Lacy Building and the Cahill Building.
- 2.1.17 The O'Brien Building is also well located to existing public transport services.



Source: architectus

Figure 4: Aerial View (Caritas and O'Brien Sites)



Source: architectus

Figure 5: Aerial View (O'Brien site in its context)

2.2 Existing uses on-site

2.2.1 The Caritas site is presently used by St Vincent's Hospital for mental health services and includes:

- **Clinical Research Unit for Anxiety Disorders** - CRUFAD is a shared facility between St Vincent's Hospital and the University of New South Wales. It offers programs for people with a range of anxiety and emotional disorders such as the Anxiety Disorders Clinic.
- **Inpatient Unit** - The inpatient unit at the St Vincent's MHS is called CARITAS. CARITAS offers supervised care in hospital when community treatment is not possible. People are admitted to

the inpatient unit with a mental illness or disorder, for treatment to stabilise their mental state. The inpatient unit offers education and support to consumers and their families during their stay in hospital and provides activity programs and occupational therapy.

- **Program for Early Intervention and prevention of Disability** - *The Program for Early Intervention and Prevention of Disability (PEIPOD) team works with young people aged between 16-24 who are at risk of developing mental health problems such as psychosis, mood disorders and depression. The PEIPOD teams usually see young people for assessment and treatment, and may work with the young person's family and/or their carers.*
- **Quality Improvement Unit** - *Staff in this unit evaluate the quality of mental health services that are offered and work with the clinical teams to develop ways to improve the quality of service and outcomes for consumers. A report on consumer participation has recently been completed and consumer surveys will be introduced in the future so that feedback can be used to maintain and improve services.*
- **Rehabilitation Service** - *The rehabilitation team works with consumers to improve or develop their living skills (such as how to use public transport, how to manage money and how to prepare and cook food) and their work skills. The team often links consumers with community resources such as Centrelink, to assist them with specific problems. Although the rehabilitation team often works one-to-one with consumers, they also run a wide range of activities for groups of consumers. Rehabilitation can begin when someone is in hospital and may continue throughout the recovery period.*

The adjoining Darlinghurst Community Health Centre (within the former Police Station) also provides the following St Vincent's Services:

- **Crisis and intake services** - *The Crisis and Intake team is the emergency service based in the inner city of Sydney for the St Vincent's Mental Health Service. The service carries out emergency mental health assessments and offers short-term care for people who are in crisis or emotionally distressed. This service also assists people who have recently left inpatient services and offers case management to people who live in hostels for the homeless in the inner city.*
- **Case Management Service** - *The Case Management Service provides ongoing treatment and support to people with long-term mental health disorders such as schizophrenia and mood disorders. Services offered include:*
 - *Mental Health Care*
 - *Cognitive Behavioural Therapy*
 - *Education about mental health and illnesses*
 - *Programs for Cantonese speaking mental health consumers*
 - *Programs for the older aged with mental health problems*
 - *Programs for those with a substance use disorder and a mental health problem's*
 - *Relapse prevention*

Source: <http://www.sesahs.nsw.gov.au/areamentalhealth/StVincentMHS.asp>

2.2.2 The O'Brien Building is presently vacant.

2.3 Caritas Site History

2.3.1 There is no confirmed Aboriginal use of the site although it is known the Cadigal people speaking the Eora language did occupy land in the area and that this area was known as *Woolloomooloo*. It is possible the local Eora people did use the site given the views that would have been enjoyed of Sydney Harbour as well as the nearby fresh water supply.

- 2.3.2 The European development and use of the site dates from about 1800 when Darlinghurst was first subdivided and early land grants issued. The adjacent Darlinghurst Gaol was built from 1822 to 1865 with the first prisoners arriving in 1841.
- 2.3.3 It is possible the first European use of the site involved the public hanging of John Knatchbull, prisoner of Darlinghurst Gaol, on 13 February 1844. It is unlikely any physical evidence of the event remains on-site. Further possible uses included the residence of the Gaol's first Governor, Henry Keck, from about 1841 to 1865. The site was also set aside for Police purposes from 1841, but the first documented buildings on-site date from 1865. This included 4 police and gaol related buildings, possibly including the Keck residence. Photographs from 1875 show a complex of police buildings on the site, while a survey from 1884 shows the addition of numerous outbuildings in the intervening period. By 1899 the corner of Bourke and Forbes Streets was occupied by the new Darlinghurst Police Station – now used by the Darlinghurst Community Health Centre.
- 2.3.4 The site-proper was first used for health related purposes in 1868 when the Darlinghurst Reception House for Lunatics was completed. The purpose of this house was to temporarily detain persons believed to be insane or potentially endangering themselves or the community. In 1880 a ward was opened for male patients requiring extended care. This ward functioned to 1922.
- 2.3.5 By about 1923 the layout and use of the site is understood to have been significantly changed with the addition of 3 buildings. These buildings included the Kitchen Block (c.1920s), Caritas Cottage as a reworking of a former Police lock-up and earlier stables buildings (c.1910), and workshops.
- 2.3.6 The Reception House (Caritas House) was modified about 1935 (which included the demolition of the central bay of the building, reconfigured windows, and addition of a third floor) and later converted into a mental health unit for St Vincent's Hospital in 1962. It was also at this time that the site was reopened as the "Caritas Centre" and new additions (the Burton Street building in 1965) were also added in replacing the earlier 2-3 storey Voluntary Mental Hospital facility (1908 – 1922). This appears the most recent addition to the site.
- 2.3.7 Generally, the site has seen phases of change and building modifications as a result of new uses and the changing standards in the care of the mentally ill. From the original Reception House construction in 1867-68, and addition of buildings around the turn of the century, the most significant alterations and modifications occurred in 1935 and again in 1962 when the Caritas Centre was established. Throughout the course of time the Caritas group of buildings have also been subject to variable internal alterations to meet new functional needs.

2.4 O'Brien Building Site History

- 2.4.1 The 7-storey and single basement level O'Brien Building was designed in 1937-38 and completed in 1941. It was named in 1988 as part of a new naming system devised at that time for St Vincent's principal buildings. Its name is derived from Sister Mary de Sales O'Brien, one of five original founding Sisters of Charity who commenced the first Catholic Hospital in Australia in Potts Point in 1857.
- 2.4.2 The building commenced use in 1941 as an outpatients block and is representative of the modernist idiom of that era. It was considered a state-of-the-art building at that time. Over time however various functions within the block were relocated to other newer, larger and more efficient buildings and numerous modifications made to the building to suit new uses. By the end of the 20th century the building was largely redundant and is presently disused and vacant.

2.5 Heritage Listings

- 2.5.1 None of the existing buildings or elements on the **Caritas** site are listed on the State Heritage Register (SHR) as an item of State significance. This includes Caritas House and Caritas Cottage, as well as the Arts & Crafts / Old Kitchen Building.
- 2.5.2 The whole of the site is however included in the East Sydney Darlinghurst Heritage Conservation Area by the City of Sydney and is a contributory and heritage item under South Sydney LEP 1998 (Item No.

461 in Figure 6). Three buildings/items within the Caritas Centre Group are also individually listed (although not mapped) in the LEP. This includes: "the two storey Victorian Regency style building, c. 1867 with third storey addition", "two storey Federation Arts and Craft style building" and "perimeter fences". In order, these constitute the Caritas Main House, the Caritas Cottage, and perimeter fencing and walls. The Concept Plan proposes to retain these heritage buildings / items.

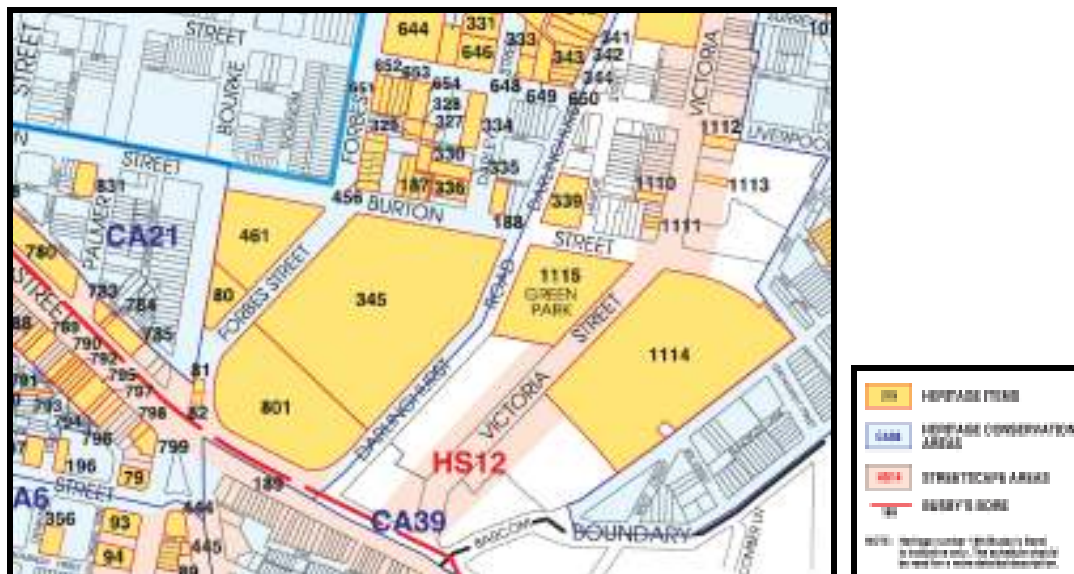


Figure 6: Heritage Items on the Caritas Site

- 2.5.3 The **O'Brien** Building itself is not heritage-listed and is not considered to have any heritage significance. The adjoining de Lacy Building fronting Victoria Street is however listed as an item of local significance under the South Sydney LEP 1998 as part of the overall listing of the "St Vincent's Hospital Group, including the Main Building, and three storey Victorian Free Classical style building, 1867" (Item No. 1114 in Figure 6). The St Vincent's Hospital Group is not located within a heritage conservation area. No works are proposed that will impact on the significance of the de Lacy Building. Existing walkways between de Lacy and O'Brien at the rear of both buildings are to be replaced.

2.6 Vehicular Access and Car Parking

- 2.6.1 Vehicular access to the Caritas site is presently off Forbes Street (the uppermost part of the site) with car parking generally shared between the Darlinghurst Community Health Centre and Caritas Cottage. There is also existing access off Bourke Street.

2.7 Pedestrian Access

- 2.7.1 There is no existing public pedestrian access into or through either of the two sites. The Caritas site is a secure area due to nature of its use. There is no existing public open space on either site.

3 PROPOSED DEVELOPMENT

3.1 Approval Originally Sought

- 3.1.1 The objectives of the Concept Plan are to seek the Minister's approval of a reuse of the Caritas site for new residential and commercial uses including the adaptive reuse of heritage buildings on the site. The Concept Plan proposal also seeks the Minister's approval of new heights and densities associated with the reuse of the Caritas site as well as approval of a replacement building at the site of the O'Brien Building within the St Vincent's Hospital complex.
- 3.1.2 The proposal has arisen due to the need for St Vincent's Hospital to replace now inadequate mental health facilities at the Caritas Centre whilst at the same time maximising the reuse potential of the now redundant O'Brien Building. This opportunity has enabled a first of its kind in Australia, the co-location of three historically discrete services together within an integrated model of care (being mental health services, drug & alcohol services, and community health services). Whilst traditionally these services have been segregated, it is known that access to one or more of these or other related services will be required at some point in time. Co-location of these services within a purpose-built facility therefore enables an improved more comprehensive delivery of health services where there may otherwise be service gaps or duplication.
- 3.1.3 The design concept for the O'Brien building therefore seeks to create an integrated service cluster enabling shared reception, triage area, provision of 27 inpatient beds, assessment and treatment centre, administration, interview and meeting rooms, service call centre, education and research facilities and staff amenities all within a single building.
- 3.1.4 The relocation of the existing Caritas Centre to the O'Brien building will in turn enable the redevelopment of the Caritas site with new uses consistent with the ongoing development of the Darlinghurst area. The proposal will realise the opportunity to achieve an improved streetscape and interface with local heritage items as well as allowing public access to and through the site.
- 3.1.5 Concept Plan approval was originally sought for the following works on the **Caritas** site:
- Demolition of the Caritas Rehabilitation Centre fronting Burton Street (1962);
 - Excavation for new basement car parking;
 - Envelopes for future construction of new mixed use buildings fronting Burton and Bourke Streets;
 - Demolition of rear additions to Caritas House (generally dated around 1935 and 1962);
 - Retention and change of use of the heritage items being Caritas House and Caritas Cottage and also the old Kitchen block from institutional use to residential and commercial use.
- 3.1.6 The original **Caritas site** proposal involved new development envelopes comprising **2 levels for basement parking for 166 cars, 131 dwellings** within 3 new buildings ranging in height from **4, 7 and 11 storeys** (from the internal courtyard – higher from the street – 5 to 12 storeys), and **1085 m² of commercial floorspace**.
- 3.1.7 The perimeter fences and walls are generally proposed to be retained in situ. However, the heritage sandstone wall and particularly the more recently added brick components of the wall are proposed to be punched through to enable basement access into the site. This is proposed towards the lowest part of the site on Bourke Street. Pedestrian access points are also proposed in the vicinity of the vehicular access as well as at the southern boundary of the site on Bourke Street.
- 3.1.8 The initial proposal sought to retain as many trees and vegetation as possible. Four (4) mature trees were to be removed in order to enable the development. New publicly accessible landscaped open

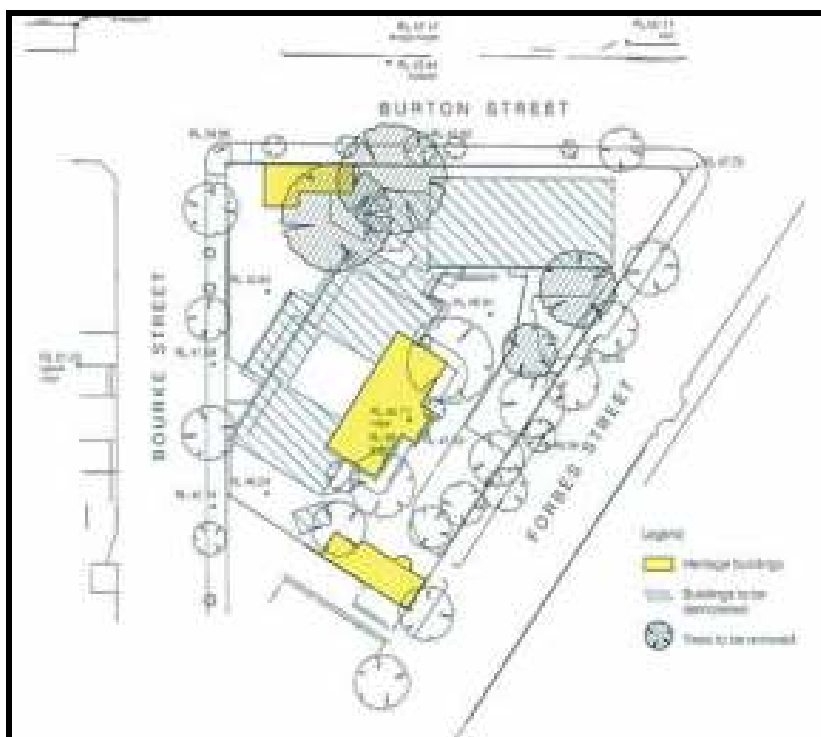
space was also to be provided through the central portion of the site.

- 3.1.9 The initial density of development was in the order of a **FSR of 3.36:1** or about 292 dwellings per hectare. The initial exhibited proposal is highlighted below at Figures 7, 8 and 9.



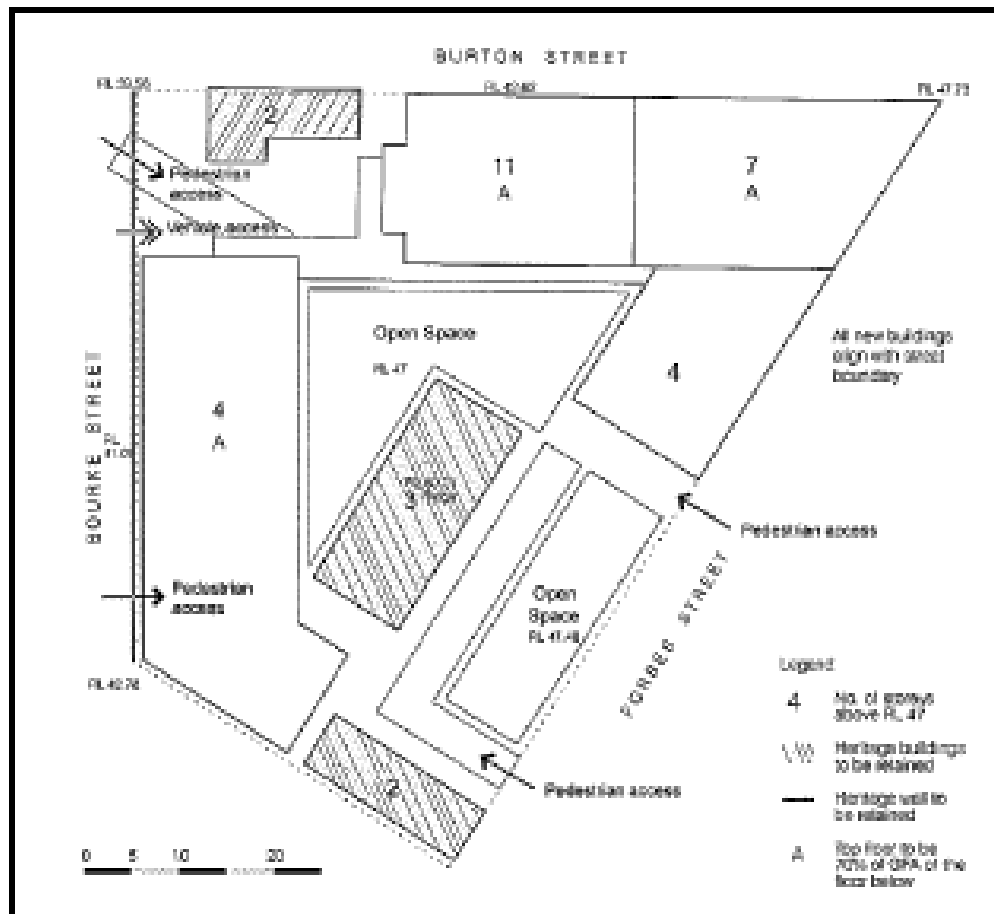
Source: architectus

Figure 7: Initial Proposed Layout



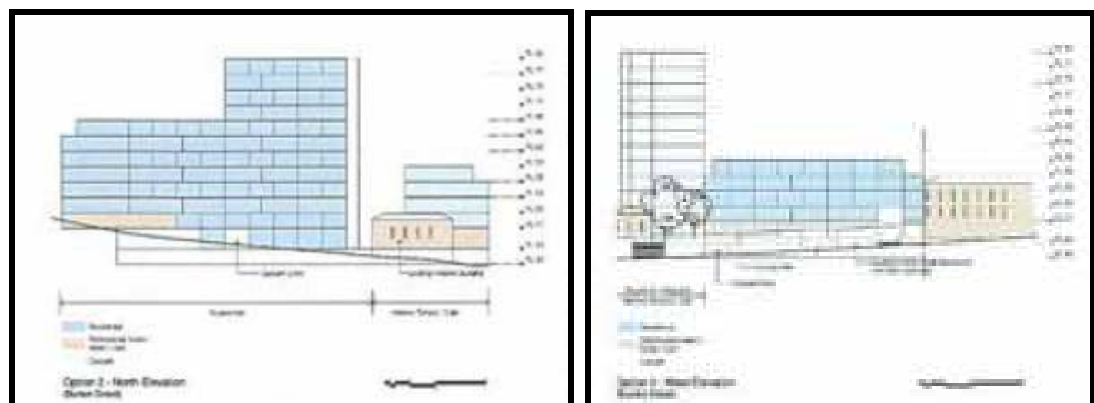
Source: architectus

Figure 8: Buildings Originally Proposed to be Retained
(from top to bottom; Old Kitchen Block, Caritas House, and Caritas Cottage)



Source: architectus

Figure 9: Initial Proposed Heights (NB: Heights measured from internal open space of RL 47)



Source: architectus

Figure 10: Initial Proposal Elevations from Burton and Bourke Sts (respectively)

3.1.10 As part of the same concept plan for the Caritas site, approval was originally sought for the following works on the **O'Brien** site:

- Demolition of the now redundant 7-storey O'Brien Building (including existing single basement level);
- Excavation of the site; and
- Construction of a new 7-storey hospital building (as well as associated three-level basement for staff car parking).

3.1.9 The average floorplate of the proposal is 1640m² with a total of 7250m² over the 7 floors (27.36 metres in height from the low side of Burton Street). Due to economic considerations St Vincent's initially wish

to only construct to 4 storeys with a view to completing the proposal to 7 storeys once funds become available at a later stage. The development seeks to achieve the same massing and height of the current O'Brien Building, albeit with minor increase in footprint towards the rear of the building.

- 3.1.10 It should be noted that the demolition and excavation related to this proposal is also subject to a separate project application under Part 3A of the EP&A Act currently before the Department of Planning and the Minister. This early works project application is the subject of this assessment report in conjunction with the concept plan covering both the Caritas site and the O'Brien Building site.

3.2 Amendments to the Proposal (submission of a Preferred Project Report)

- 3.2.1 The proponent lodged a response to the issues raised in submissions during the exhibition period, a preferred project report outlining proposed changes to the proposal to minimise its environmental impact and a revised statement of commitments (see Appendices B, C and D) pursuant to Section 75H(6) of the Act on **19 December 2006**.

- 3.2.2 The general amendments to the **Caritas** proposal set out within the preferred project report are as follows:

- Refined modelling of the development, particularly reduction in heights, yield, density, and car parking provision; and
- Demolition of the non-listed Old Kitchen Block (c 1920s) at the corner of Burton and Bourke Sts

- 3.2.3 Specifically the preferred project report seeks the:

- Retention of the Caritas Cottage (ridgeline RL 61.93) and Caritas House (ridgeline RL 66.6) for a mix of residential and commercial uses;
- Demolition of the non-listed but contributory Old Kitchen Block (c 1920s) at the corner of Burton and Bourke Sts and its replacement with a 7 storey residential / commercial building (roof RL 62) and new public access into the site and view corridor from Burton Street to the façade of Caritas House;
- Deletion of the 12-storey tower element from the site, and introduction of a stepped 7-storey building (Roof RL 69 to RL 65) for this section of the Burton Street frontage;
- Set back of the new Forbes Street building from Forbes Street and increased in height by 1 storey to 5 storeys (roof RL 62);
- Remodelling of the Bourke Street building footprint and heights increased in the order of about 1 to 2 storeys – to a roof RL 62;
- Retention of two (2) existing mature London Plane trees fronting Burton Street (revising removal of total trees to only two (2), both at the Forbes Street frontage;
- Reduction of dwellings from 131 to 112;
- Reduction in residential floorspace from 13967m² to 11226m² (and Residential FSR from 3.1:1 to 2.5:1 and Total FSR from 3.36:1 to 2.75:1) – this also equates to a reduction in dwellings per hectare from 292 to 250;
- Reduction in highest building height from 36m (12 storeys) to 21m (7 storeys); and
- Reduction in residential and total car parking from 157 and 164 spaces to 135 and 142 spaces respectively.

- 3.2.4 There is no change to the proposed commercial floor space (1085m²), and commercial and visitor parking (7 and 0 spaces respectively). During assessment, the Department was made aware of anomalies between the site layout as indicated on the plans and the numerical figures provided for the proposed open space (3141m²) and deep soil planting areas (1685m²) as exhibited and outlined in the

preferred project report. These anomalies have now been clarified and are outlined in the table of changes for all aspects of the proposal shown in Table 1 below:

Table 1: Caritas Site: Comparison of Changes from Exhibited Scheme to Preferred Project Report

Element	SSLEP / SSDCP	Exhibited Concept Plan	Preferred Project Report
Site area (m ²)	n/a	4477	4477
Gross Floor Area (m ²)			
Residential	n/a	13,967	11,226
Commercial	n/a	1,085	1,085
Floor Space Ratio*	2.5:1 + 0.25:1	3.36:1	2.75:1
No. of Apartments	n/a	131	112
Building Height			
Burton Street Building	21.6m (plus roof space)	7 – 12 storeys (21 -36m)	7 storeys (21m)
Bourke Street Building		5 storeys (15m)	7 storeys (21 m)
Open Space (m ²) (%)	1, 119 (25)	3, 141 (70)	1, 904 (43)
Deep soil (m ²) (%)	559 (50)	1, 685 (54)	1, 195 (63)
Car Parking			
Residential			
1 bedroom	0.5		
2 bedroom	0.2	157 (total)	135 (total)
3+ bedroom	2		
Commercial	7	7	7
Visitor	Nil	Nil	Nil

Source: architectus

NOTES:

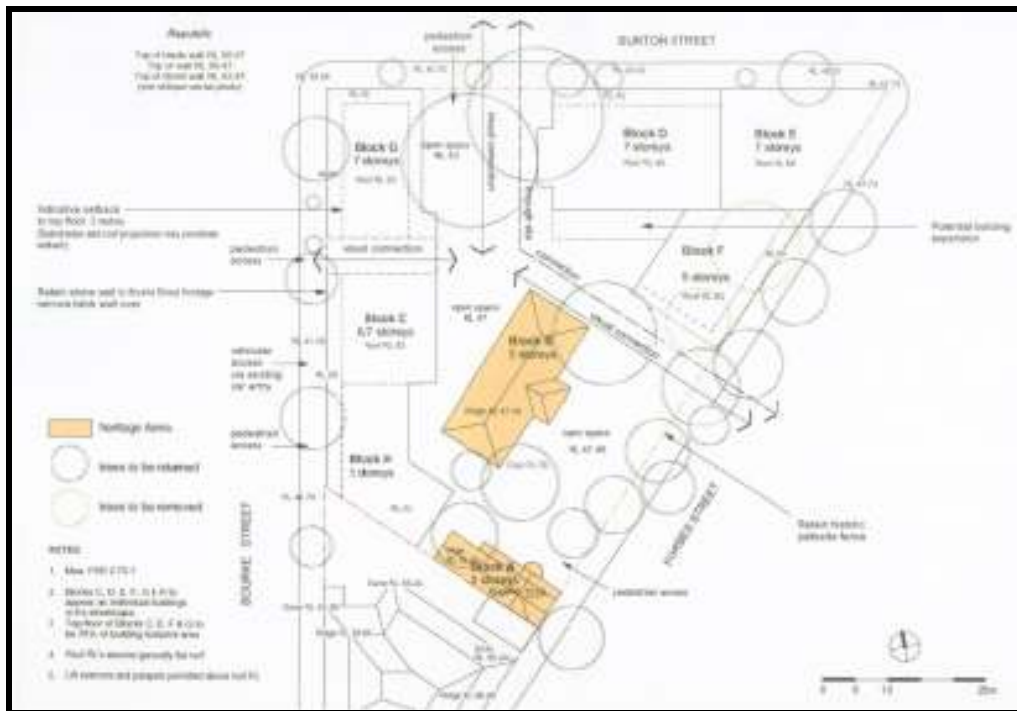
* = FSR and landscaping do not apply to the site due to its current Special Use zoning. The respective controls are based on the adjacent Mixed Use zoning controls that could apply to the Caritas site.

** = Average apartment size is 100m² GFA. The project application may vary the apartment mix and sizes.

*** = Section 2.3 of SSDCP for infill linear buildings.

**** = car parking is calculated in accordance with Part 5 of Sydney LEP 2005 not applicable South Sydney controls.

- 3.2.5 Diagrammatic representations of the revised scheme and changes to the proposal are highlighted in Figures 11, 11, 13, and 15. Figures 14 and 16 are artistic renderings submitted with the Preferred Project Report which indicate how the envelopes may be filled with development. The proponent has noted that the use of “double storey” articulation has the effect of reducing the visual dominance of the development. This method was also used in the “Republic” development opposite the site.



Source: architectus

Figure 11: Preferred Project Report – Building Envelope Control Plan

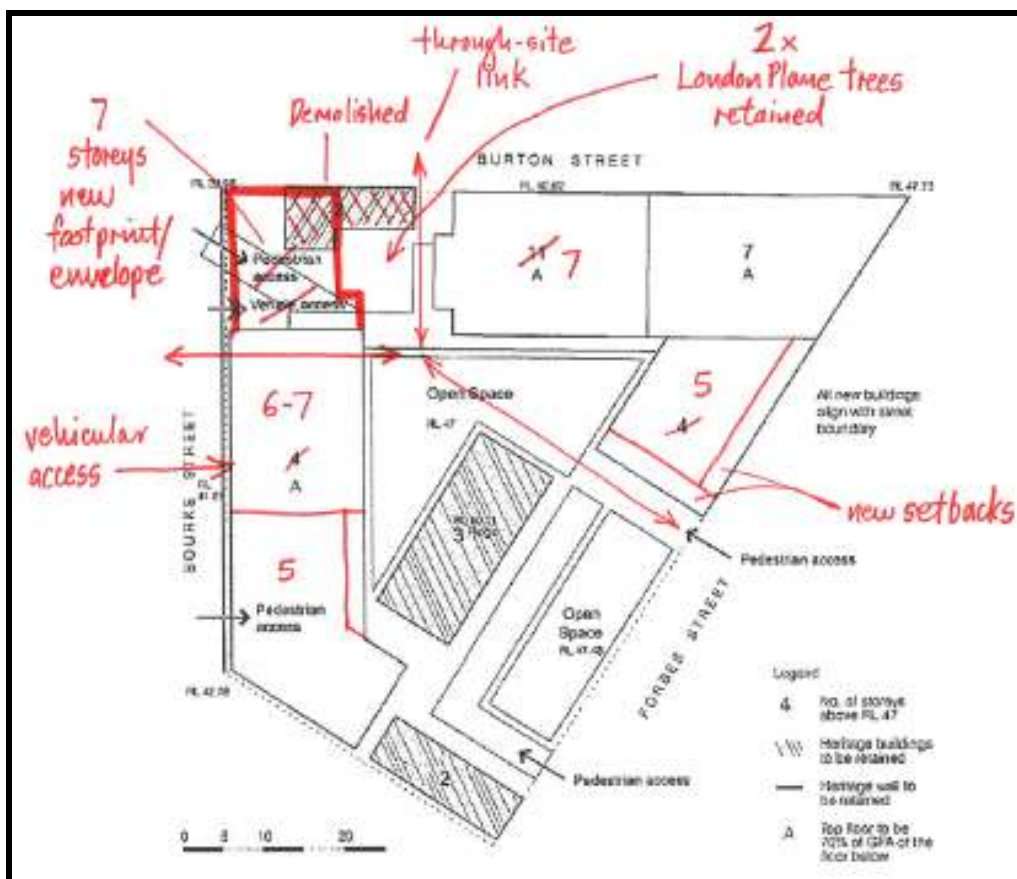


Figure 12: Preferred Project Report (changes marked over initial exhibited scheme)

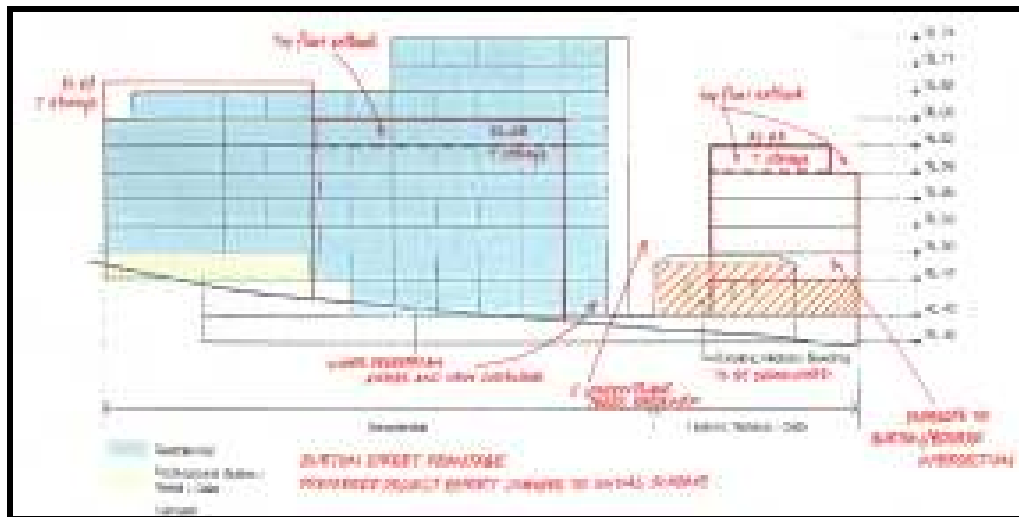


Figure 13: Burton Street Frontage (PPR laid over the initial exhibited scheme)



Source: architectus

Figure 14: Artistic Rendering of Potential Burton Street Elevation

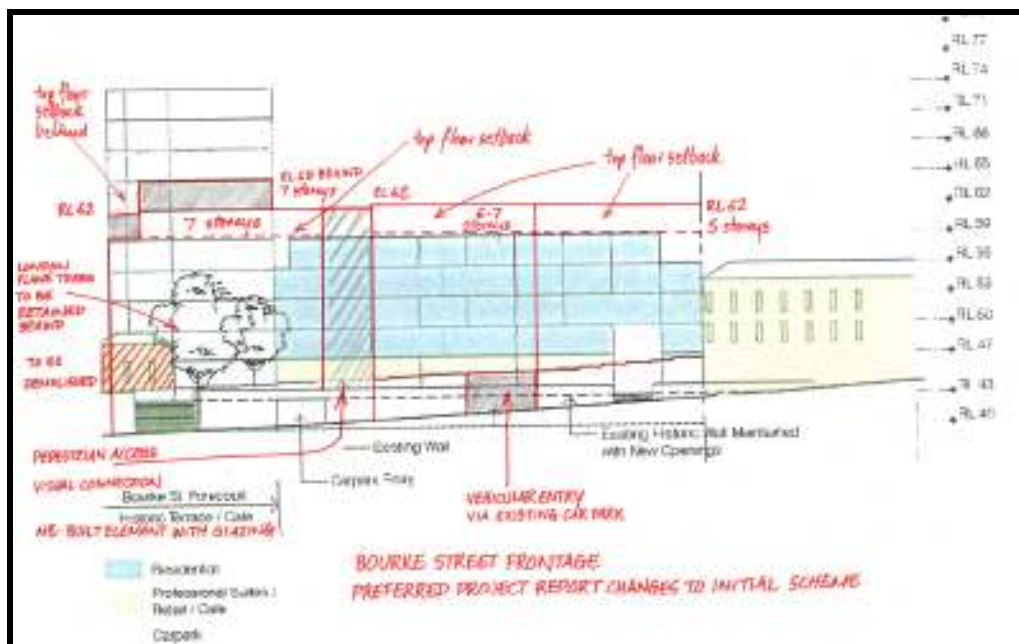


Figure 15: Bourke Street Frontage (PPR laid over the initial exhibited scheme)



Source: architectus

Figure 16: Artistic Rendering of Potential Bourke Street Elevation

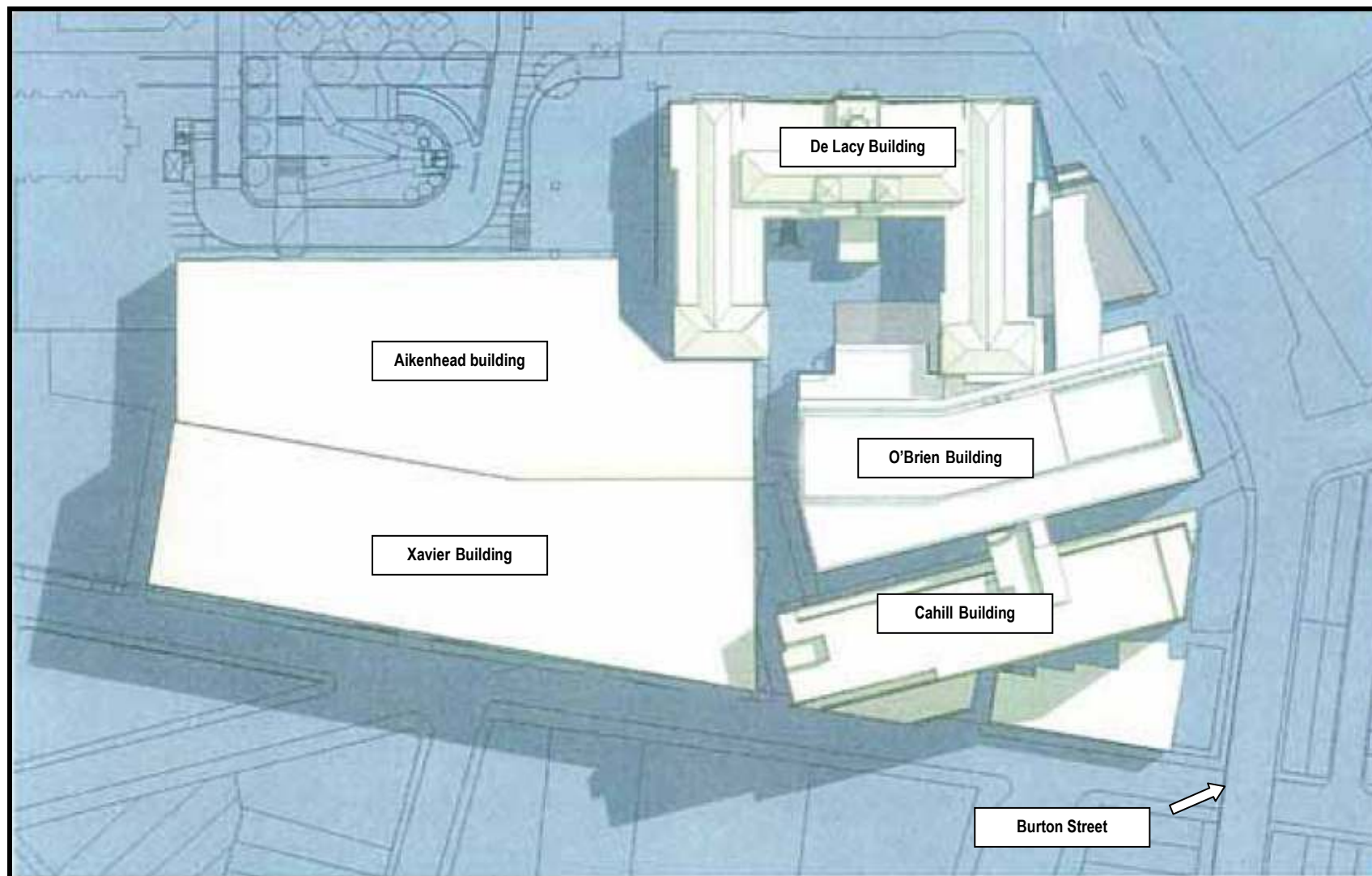
(Note: The heritage listed sandstone wall is proposed to be retained and extend to the Burton Street corner).

- 3.2.6 The merits and details of the proposal are further addressed and considered in Section 6 of this report. It should be noted that at this stage the proposal is principally for development envelopes only. The detailed design and construction of the development will be subject to further application(s).
- 3.2.7 The Preferred Project Report has also made changes to the **O'Brien Building** proposal. These are generally highlighted in the Table 2 below:

Table 2: O'Brien Building: Comparison of Changes from Exhibited Scheme to Preferred Project Report

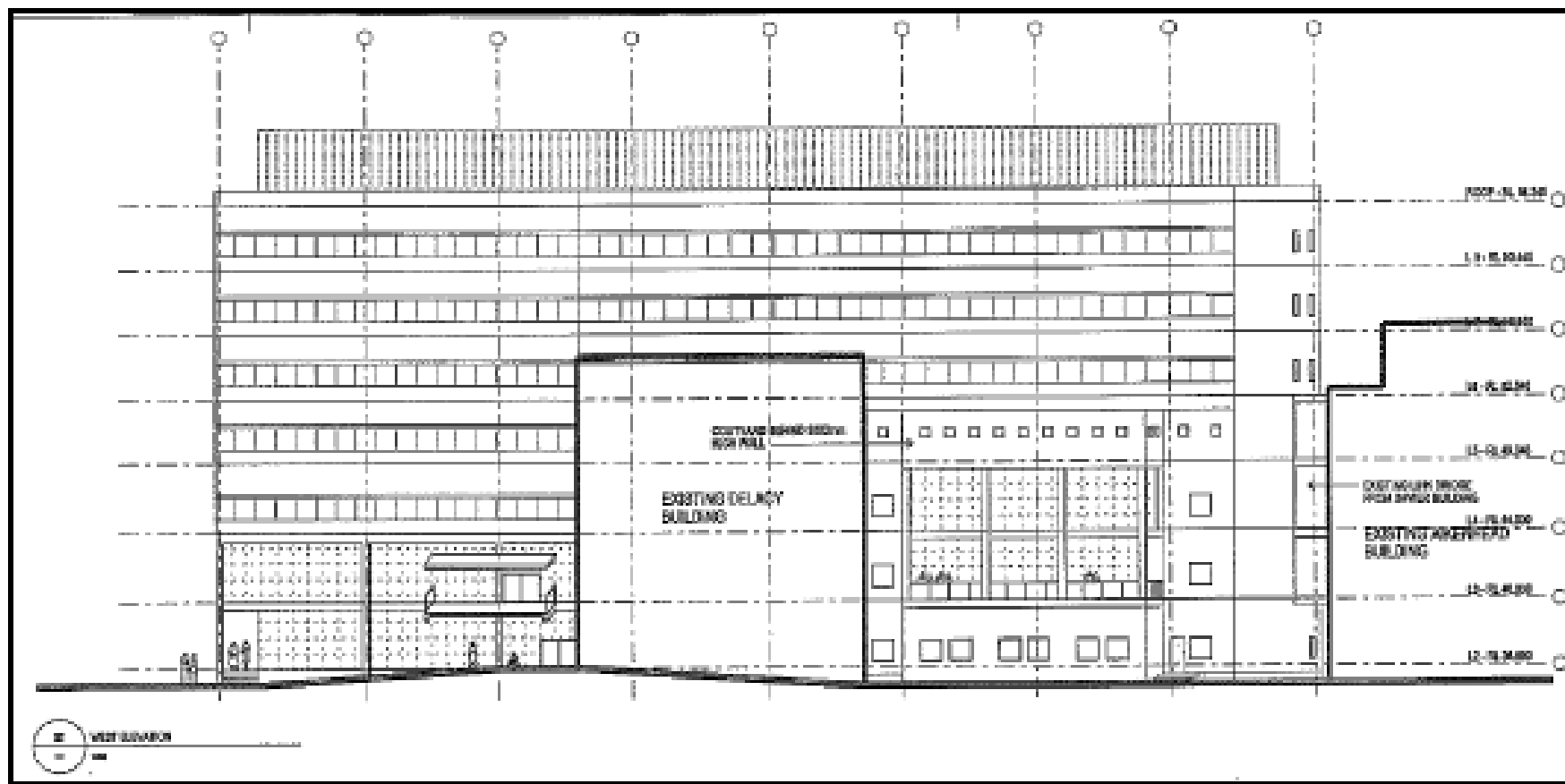
	Exhibited Scheme	Preferred Project Report
Site Area	2860m ²	1732m ²
Height (m) / (RL)	Max. 27.36m (RL 64.2)	Max. 27.36m / (RL 64.2)
Storeys	7 storeys	8 storeys
GFA (m ²) (NB: Average floor plate of 1640m ² in both instances)	17,034m ² (7,250m ² of clinical services)	10,401m ² (10,401m ² of clinical services)
Basement Levels	3 levels	4 levels
Car Parking	228 spaces	228 spaces
Anticipated Staff	200	200

- 3.2.6 The individual changes made within the Preferred Project Report include rectification of the site area to reflect the existing building and basement footprint, an increase in the number of storeys from 7 to 8 without an increase in height beyond RL 64.24 – the existing O'Brien roof level), an increase in area devoted to clinical services, and an additional basement level for parking (now 4 instead of 3 levels). Whilst the floor to ceiling heights have not changed from the exhibited scheme to the preferred project scheme, the new O'Brien Building will have a lower floor to ceiling height (3.8 metres) than the existing building (approximately 4.1 metres).
- 3.2.8 At this stage, it is proposed to only construct the O'Brien Building to 6 storeys (of 8) to RL56.64, with 7.6 metres left to complete the remaining proposed 2 floors. All of the first 6 storeys (Stage One of construction) is devoted to the provision of clinical services, whilst the future 7th and 8th storeys will be for clinical or hospital administration use.



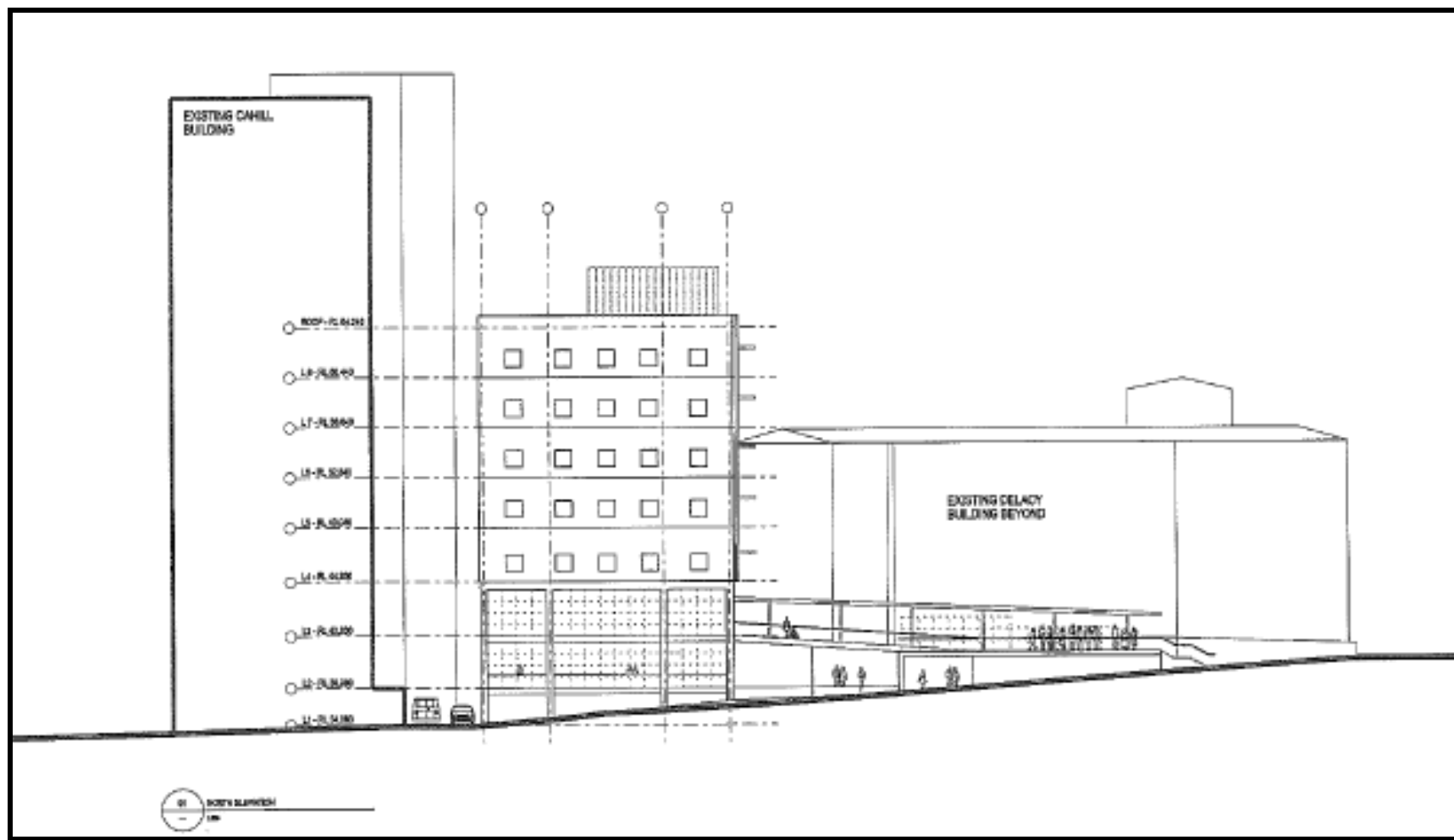
Source: architectus

Figure 17: O'Brien Building Location (in context of the St Vincent's Hospital Campus)



Source: architectus

Figure 18: Western Elevation



Source: architectus

Figure 19: Northern Elevation



Source: architectus

Figure 20: Burton Street Rendered Elevation of the O'Brien Building

3.3 Scope of the proposal

3.3.1 The proponent's application comprises three elements:

- a concept plan covering both sites (i.e.: O'Brien Building and the Caritas property);
- a project application for the demolition and early works to the O'Brien Building; and
- a request to have the Caritas site listed as a State significant site (SSS) listing within Schedule 3 of the Major Projects SEPP to provide a new planning regime consistent with the concept plan approval for that site. The Department is undertaking this process separately pursuant to the SEPP making provisions in Part 3 of the EP& A Act and is likely to make recommendations to the Minister in this regard in the near future.

3.3.2 The applicant has also requested the Department's and Minister's consideration of further construction within the (approved) O'Brien Building envelope to be subject to no further environmental assessment pursuant to section 75P(1)(c) of the Act. Whilst the early works component of the O'Brien proposal is subject of separate approval, the Act enables the Minister to approve works and construction associated with a concept plan without further application, environmental assessment or report. This matter is discussed in further detail within the Assessment section of this report, and approval would be subject to conditions requiring further detailed information being submitted to the Director-General's (or a delegate's) satisfaction.

3.3.3 The Minister in approving the concept plan also has the ability under Section 75P(1)(b) of the Act to determine what development (or stage of the development) should be retained as Part 3A development (with the Minister as the approval authority) and what development should be assessed under Part 4 of the Act with Council as the consent authority. This provision is not being utilised in this instance, as the future SSS listing will address future assessment and approval roles.

4 STATUTORY CONTEXT

4.1 The Environmental Planning and Assessment Act 1979

- 4.1.1 Part 3A of the Environmental Planning and Assessment Act 1979 (the Act) commenced operation on 1 August 2005. Part 3A consolidates the assessment and approval regime of all Major Projects previously considered under Part 4 (Development Assessment) or Part 5 (Environmental Assessment) of the EP&A Act.
- 4.1.2 Under the provisions of Section 75B of the Act development may be declared to be a Major Project by virtue of a State Environmental Planning Policy or by order of the Minister published in the Government Gazette.

4.2 State Environmental Planning Policy (Major Projects) 2005

- 4.2.1 State Environmental Planning Policy (Major Projects) 2005 (Major Projects SEPP) outlines the types of development declared a project for the purposes of Part 3A of the Act.
- 4.2.2 For the purposes of the Major Projects SEPP certain forms of development may be considered a Major Project if the Minister (or his delegate) forms the opinion that the development meets criteria within it.
- 4.2.3 On 28 August 2006, the Minister, formed the opinion that the project is a development which meets the criteria of Clause 18, Schedule 1 of the SEPP, namely:

Hospitals

Development that has a capital investment value of more than \$15 million for the purpose of providing professional health care services to people admitted as in-patients (whether or not out-patients are also cared for or treated there), including ancillary facilities for:

- a) *Day surgery, day procedures or health consulting rooms, or*
 - b) *Accommodation for nurses or other health care workers, or*
 - c) *Accommodation for persons receiving health care or their visitors, or*
 - d) *Shops or refreshment rooms, or*
 - e) *Transport of patients, including helipads and ambulance facilities, or*
 - f) *Educational purposes, or*
 - g) *Research purposes, whether or not they are used only by hospital staff or health care workers and whether or not any such use is a commercial use, or*
 - h) *Any other health-related use.*
- 4.2.4 As the proposal is (in part) for the redevelopment of the O'Brien Building which has a capital investment value of \$41 million and is satisfies the definition of hospital above, the development is considered to be a Major Project and the Minister is the approval authority.

4.2.5 The Caritas component is also covered by the same clause 6 opinion as Section 75B(3) of the EP & A Act provides that if part of any development is a project to which Part 3A applies, the other parts of the development are taken to be a project to which Part 3A applies and is to be dealt with as a single project.

4.2.6 No declarations have been made pursuant to Section 75B(4) in respect of the project that would limit assessment under Part 3A to an aspect of development (such as the construction of a project), to a particular period of carrying out development or otherwise.

4.3 Permissibility

4.3.1 Both sites are currently zoned Special Uses (Hospital) under South Sydney Local Environmental Plan 1998 (SSLEP) as can be seen in Figure 21 overleaf.

4.3.2 The objectives of the zone are:

- a) *to facilitate certain development on land which is, or is proposed to be, used by public authorities, institutions, organisations or the Council to provide community facilities, services, utilities or transport facilities, and*
- b) *to allow other ancillary development which is incidental to the primary use specified on the map, and*
- c) *to provide flexibility in the development of sites identified for special uses by allowing development which is permissible on adjoining or adjacent land, and*
- d) *for land in the zone and within Green Square, in addition to the above:*
 - i. *to reflect and reinforce the need for proper recognition of community land and facilities as part of a robust public domain in the Green Square locality, and*
 - ii. *to recognise that protecting and improving the quality, accessibility and impact of the public domain makes a fundamental contribution to the social, economic, environmental and urban design outcomes for the area, and*
 - iii. *to ensure that development contributes to a sustainable, vibrant community, and reflects equal and integrated consideration of social, economic and environmental design issues.*

4.3.3 Clause 15(3) of the SSLEP provides that hospital uses or land uses ancillary or incidental to hospital uses are permissible with consent. Accordingly the redevelopment of the O'Brien Building is permissible development. Clause 15(3) of the SSLEP also permits development (with consent) that may be carried out (with or without consent) on adjoining or adjacent land in the same or a different zone. This means that the Caritas site can be redeveloped (with consent) for land uses permissible in the 2(b) Residential (Medium Density) and 10 Mixed Uses zones. The zone objectives and land use controls for each of those zones is contained in **Appendix G**.

4.3.4 Whilst the proposal is generally permissible with development consent, Clause 10 of SSLEP provides that development consent must not be granted unless the proposed development is consistent with the zone objectives. The proposal generally accords with the relevant objectives and provisions of the LEP.

4.3.5 Whilst the Caritas site can take on the 2(b) Residential (Medium Density) and 10 Mixed Use zones characteristics, development as proposed on the Caritas site seeks to exceed the height and floor space ratio (FSR) controls in those zones and development for residential purposes that is not permitted, that is development of multi-unit housing rather than terrace housing.

Notwithstanding this, Section 750(3) of the Act provides that the Minister cannot approve the carrying out of a project that would be wholly prohibited under an environmental planning instrument. As the O'Brien Building is a permissible use and the redevelopment of O'Brien Building and the Caritas site is being dealt with as a single project in accordance with Section 75B(3), the proposal is not wholly prohibited (i.e.: it is partly permissible) and as such the Minister can approve the concept plan covering both sites.

4.4 Minister's power to approve

4.4.1 Section 750 of the EP & A Act provides the Minister with the power to approve the concept plan as the proposal is not wholly prohibited.

4.4.2 Section 75P(1) states that when giving an approval for the concept plan for a project, the Minister may any (or any combination) of the following determinations:

- a) the Minister may determine the further environmental assessment requirements for approval to carry out the project or any particular stage of the project under Part 3A (in which case those requirements have the effect of environmental assessment requirements),
- b) the Minister may determine that approval to carry out the project or any particular stage of the project is to be subject to the other provisions of the EP & A Act (in which case the project or that stage of the project ceases to be a project to which Part 3A applies), or
- c) the Minister may determine that no further environmental assessment is required for the project or any particular stage of the project (in which case the Minister may, under Section 75J of the EP & A Act, approve or disapprove of the carrying out of the project or that stage of the project without further application, environmental assessment or report under Division 2).

4.4.3 This report will recommend that the Minister utilise his powers under Section 75P(1)(c), and consequently Section 75J(1), of the EP & A Act for the reasons outlined in Section 6.

4.5 Other relevant legislation and environmental planning instruments

4.5.1 **Appendix G** sets out the relevant consideration of legislation (including other Acts) and environmental planning instruments as required under Part 3A of the Act.

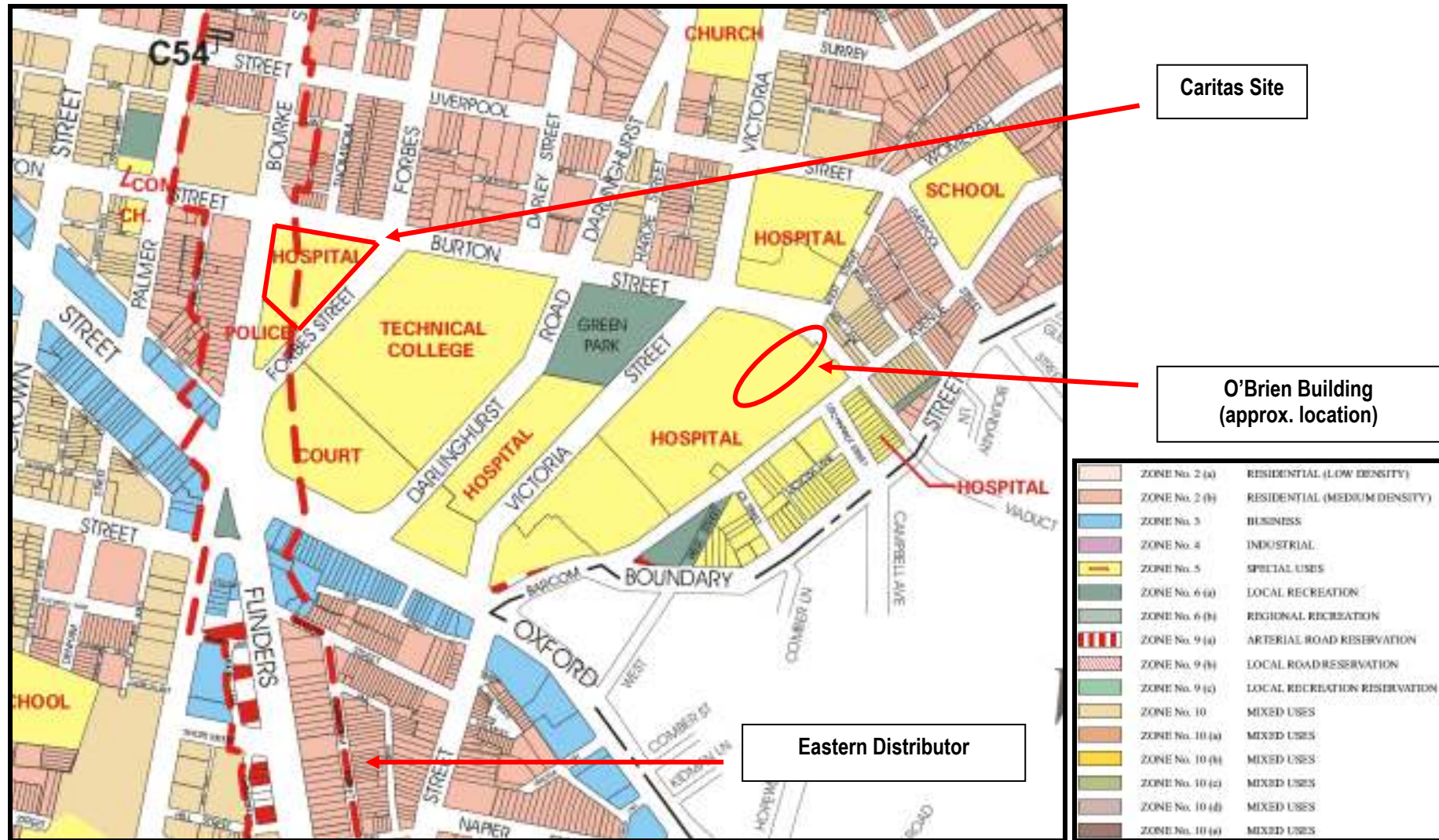


Figure 21: Zoning Controls under the South Sydney Local Environmental Plan 1998

5 CONSULTATION AND ISSUES RAISED

5.1 Public Exhibition

- 5.1.1 Section 75H(3) of the EP&A Act requires that once the Environmental Assessment ("EA") has been accepted by the Director General, the Director General must, in accordance with any guidelines published in the Gazette, make the EA publicly available for at least 30 days. The Director General has not published any specific guidelines in relation to the public exhibition of the Project Application.
- 5.1.2 A "test of adequacy" was undertaken by the Department which determined that the matters contained in the Environmental Assessment Requirements were adequately addressed in the EA prior to public exhibition.
- 5.1.3 Broadly the process followed in terms of the public exhibition was as follows:
- The concept plan was placed on public exhibition from 4 October 2006 until 2 November 2006.
 - Copies of the EA were available for inspection at the City of Sydney Council offices and the Department of Planning's offices in Sydney during the exhibition period.
 - Details of the application were published in the Sydney Morning Herald and Central Sydney (formerly) Wentworth Courier and made available on the Department of Planning's website.
 - Copies of the EA were forwarded to relevant Government agencies, key stakeholders and adjoining businesses.
 - Landowners within the area (generally bounded by Oxford Street, Palmer Street, Liverpool Street, Barcom Ave, Burton/Macdonald Street, and Boundary Road) were notified of the proposal and invited to make submissions – approximately 2000 letters were sent.
 - A full set of the documentation was placed on the Department's website for public inspection during the public exhibition period. The preferred project report was also placed on the web, in accordance with the Environmental Planning and Assessment Regulation, 2000.
- 5.1.4 The proponent advised it also undertook its own independent public consultation which comprised two letterbox drops to 2,250 households in the local area, establishment of a neighbourhood information line, placement of community information and project proposals on the St Vincent's Hospital website, two neighbour information meetings, and letters to stakeholders and peak interest groups.
- 5.1.5 In response, the Department received written submissions from City of Sydney Council, Clover Moore (as Local Member for Bligh), NSW Heritage Office, Department of Housing, Energy Australia, and the East Sydney Neighbourhood Association. 105 further individual public submissions were also received. Copies of Council's and key stakeholder submissions received for the project application are provided at **Appendix E** together with a summary table setting out all issues raised in the public submissions during the exhibition period.
- 5.1.6 The Department forwarded these responses to the proponent on 16 November 2006. The Department also subsequently received a further handful of submissions (including some duplicates of earlier submissions) following this period and forwarded these to the proponent.
- 5.1.7 The relevant planning issues raised during the exhibition period can be summarised as follows and are addressed in detail in Section 6 below:
- Urban Design – Height, Density / Floor Space Ratio, Bulk and Scale, Visual Impact, Setbacks, Solar Access / Overshadowing, Privacy and Amenity;
 - Heritage Impacts – including on Supreme Court, East Sydney TAFE, Old Darlinghurst Courthouse;

- Incompatibility with surrounding development;
- Traffic Generation and Management;
- Car Parking Provision;
- Impact of Commercial / Retail Uses;
- Tree Removal;
- Loss of Open Space;
- Ongoing provision of mental health services / facilities;
- Construction impacts; and
- Infrastructure capacity.

A large proportion of submissions also criticised the proposal due to public concern regarding the nature and extent of public consultation and the perceived disposal of Crown land (discussed in Section 6).

- 5.1.8 The majority of public submitters claimed that they had not been directly notified of the proposal by the Department and had to rely on word of mouth or resident action groups informing them of the proposals exhibition. A number of submissions also expressed concern that there had been no prior consultation with the community nor had there been opportunities for adjoining residents to have input into the design of the scheme. Concern was also raised that the notification letters did not include elevations / architectural plans of the Caritas redevelopment consistent with Council's notification practices.

The Department worked in consultation with City of Sydney Council to ensure the consultation / public exhibition process replicated Council's DA Notification Policy, including advertising in the local newspapers, exhibiting documentation at Council's offices, and relying on Council's rate base for notification. As discussed above, the Department notified up to 2000 landowners in the area bounded by Oxford Street, Palmer Street, Liverpool Street, Barcom Ave, Burton/Macdonald Street, and Boundary Road. Of the letters that were sent out, only 12 were returned (incorrect / incomplete addresses or no longer at that address).

Part 3A of the Act does not contain any specific requirements regarding the scope and nature of consultation / notification of major projects, other than specifying a minimum 30 day exhibition requirement which the Department fully satisfied. Similarly the *Environmental Planning and Assessment Regulation, 2000* is also silent on consultation processes / procedures.

The Department is not in a position to dictate to proponent's that community representatives be involved in the design / layout of development proposals. The Department's DGRs did however require the proponent to document any consultation undertaken with community representatives beyond the formal statutory requirements, which the proponent supplied to the Department for information.

The Department does not attach architectural plans to any notification letters generally. In this instance, the Department believes that many submitters may have been unclear that the proposal is a concept plan being assessed under Part 3A, as opposed to a project or development application to physically construct the development. There are no detailed architectural plans available at this stage that would have succinctly summarised the proposal in its entirety. Notwithstanding this, the Department did attach an information flyer outlining the Part 3A legislation, processes and requirements and encouraged those who were notified to inspect the proposal and all supporting documentation either on the web or at the public exhibition venues.

The Department is satisfied that the nature and extent of consultation meets statutory requirements and provided ample opportunity for residents to be made aware of the proposal, inspect all available documentation and make comments.

- 5.1.9 During and upon expiration of the exhibition period, meetings were conducted between the Department, and the proponent to discuss the issues raised. The proponent lodged a response to the issues raised in those submissions together with a preferred project report and a revised statement of commitments pursuant to Section 75H(6) of the Act on **19 December 2006**. This is provided at **Appendices B, C and D**.

5.2 Independent Hearing and Assessment Panel

- 5.2.1 Section 75G of the Environmental Planning and Assessment Act provides that the Minister may constitute an independent panel to assess any aspect of a project. No panel was constituted for the purposes of Section 75G.

6 ASSESSMENT

6.1 Director General's Environmental Assessment Requirements (DGR's)

- 6.1.1 Section 75F of the EP & A Act provides that the Director General is to prepare Environmental Assessment Requirements for each project (DGR's). The EA outlines the matters that the Director General considers should be considered as part of the assessment process.
- 6.1.2 On 7 September 2006, the Director General issued DGR's in respect of the concept plan which related to:
- Urban Form and Design
 - Traffic, Transport and Access
 - Heritage and Archaeology
 - Planning Agreements and / or Developer Contributions
 - Drainage and Stormwater Management
 - Utilities Infrastructure
 - Contamination and Geotechnical Issues
- 6.1.3 The issued DGR's specifically identified the following matters to be addressed by the O'Brien Building project application in addition to those matters listed in Section 6.1.2 above:
- Traffic Management
 - Contamination and Geotechnical Issues
 - Structural Impacts
 - Acoustics and Noise
 - Waste Management
- 6.1.4 The proponent was also required to address a number of standard key assessment requirements for both the concept plan and project application:
- *the suitability of the site*
 - *the likely environmental, social and economic impacts of the proposal*
 - *justification for undertaking the project*
 - *the public interest*
 - *planning provisions applying to the site including permissibility and the provisions of all plans and policies*
 - *consideration of alternatives to the proposal*
 - *nature and extent of any non compliance with specified EPI's*
 - *proposed mitigation and management of residual impacts*
 - *a draft statement of commitments detailing measures for environmental management and mitigation measures for monitoring the project*

- 6.1.5 The EA and subsequent submissions by the proponent forms the basis for consideration of the significant issues associated with the development. The Department is satisfied that the project complies with the environmental assessment requirements issued on 7 September 2006.

6.2 Director General's Environmental Assessment Report

- 6.2.1 The purpose of this submission is for the Director General to provide a report on the project to the Minister for the purposes of deciding whether or not to grant respective approvals to the concept plan and project pursuant to Section 750 and Section 75J of the EP & A Act.

- 6.2.2 Section 75I(2) sets out the scope of the Director General's report to the Minister. Each of the criteria set out therein have been addressed below, as follows:

- (a) a copy of the proponent's environmental assessment and any preferred project report; and

The proponent's EA is included at **Appendix F** whilst the preferred project report is set out for the Ministers consideration at **Appendix C**.

- (b) any advice provided by public authorities on the project; and

A copy of all submissions provided by public authorities on the project are attached at **Appendix E** in their entirety for the Minister's consideration.

- (c) a copy of any report of a panel constituted under Section 75G in respect of the project; and

No independent hearing and assessment panel was undertaken in respect of this project.

- (d) a copy of or reference to the provisions of any State Environmental Planning Policy (SEPP) that substantially govern the carrying out of the project; and

A brief assessment of each relevant State Environmental Planning Policies that substantially govern the carrying out of the project is set in **Appendix G**.

- (e) except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division; and

An assessment of the development relative to the prevailing EPI's is provided in **Appendix G** and within this section.

- (f) any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate.

The environmental assessment of the project is this report in its entirety.

- (g) a statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.

The Statement relating to compliance with the environmental assessment requirements is located at Section 6.1.5 of this Report.

6.3 Summary of Significant Issues

- 6.3.1 Clause 8B of the Regulations sets out the matters for environmental assessment and Ministerial consideration. It states that the Director General's report is to include an assessment of the environmental impact of the project, any aspect of the public interest that the Director General considers relevant to the project, the suitability of the site for the project and copies of public submissions received by the Director General.

- 6.3.2 The Department, in consultation with the City of Sydney Council, relevant Government Agencies and key stakeholders identified a number of issues that were incorporated into the DGR's (see Section 6.1) which were subsequently addressed in the proponent's EA. Following the exhibition period there are a

number of outstanding issues which require further consideration and resolution under Clause 8B of the Regulations as set out below.

6.4 O'Brien Building Redevelopment

Issue Summary

- 6.4.1 Project approval sought only for early works on O'Brien Building site. Department is recommending that no further environmental assessment is required for the construction of a new 8 storey (maximum) 10, 401m² building with 228 car parking spaces. Accordingly, Department recommends the entire O'Brien Building redevelopment is approved concurrently with Concept Plan approval.

Raised By

- 6.4.2 Department of Planning.

Consideration

- 6.4.3 The proponent is seeking approval for the development of an eight storey building accommodating integrated mental health, drug and alcohol and community services, 27 inpatient beds, an assessment and treatment centre, administration, interview and meeting rooms, service call centre, education and research facilities and staff amenities.
- 6.4.4 Three distinct development stages have been identified which fit into the overall staging of the **O'Brien Building** redevelopment. Stage One involves the demolition of the existing seven storey O'Brien Building, excavation and site preparatory works, and early structural works. Stage Two (Figure 22) comprises construction of a new O'Brien Building comprising four levels of basement car parking and 6 (of 8) levels to RL 56.64. It should be noted that due to the topography of the site, Level 1 and the uppermost basement car parking level are one storey. A plant room is intended to be constructed on the uppermost storey (Level 6) to allow the building to be occupied and operational as soon as possible. The plant room roof RL for the first stage will be constructed to approximately 60.15.
- 6.4.5 Stage Three is a vertical extension of Stage Two, involving the future construction of two additional storeys to RL 64.24. To facilitate the construction of the two uppermost storeys, the plant room constructed as part of Stage One will be demolished and the plant (or new plant) will be relocated to the roof of Level 8 (RL 64.24). The likelihood of Stage Three proceeding is contingent upon the availability of funding which is understood to be sourced from the sale of the Caritas site. Upon completion, the entire building will be capable of housing 200 staff.
- 6.4.6 No overshadowing impacts are anticipated particularly as the site is heavily developed. The existing institutional uses on the site raise no setback, solar access or privacy issues.

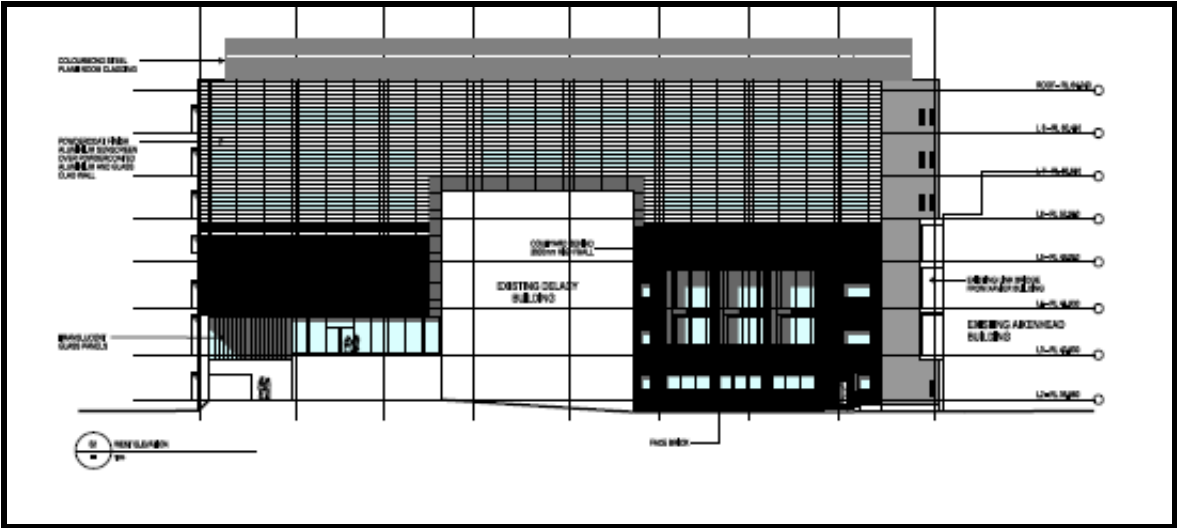
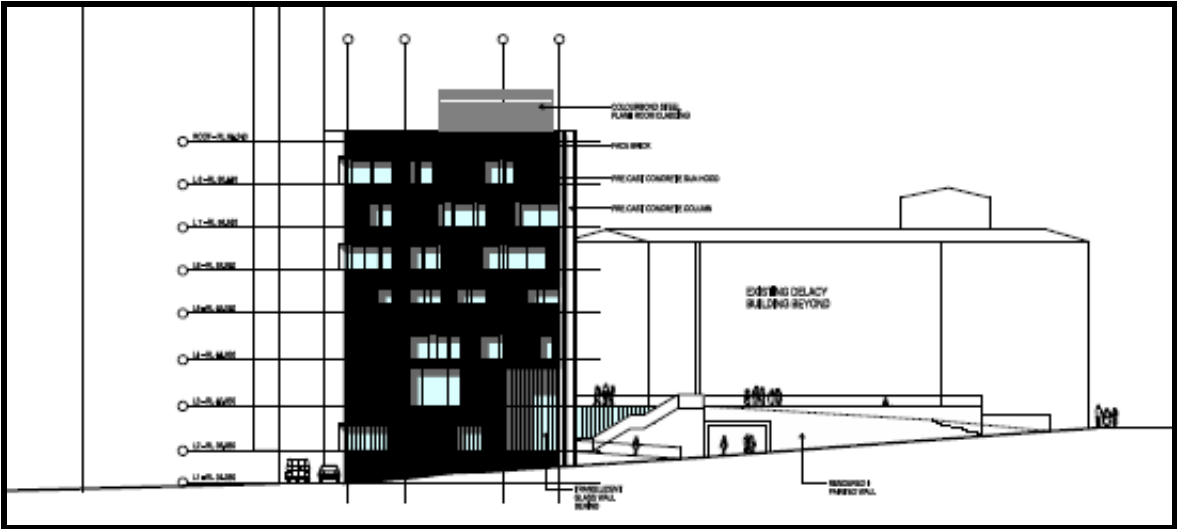


Figure 22: Western and Northern Elevations (respectively) of the proposed O'Brien Building
(Source: architectus)



- 6.4.7 228 car parking spaces are proposed for the exclusive use of O'Brien Building and St Vincent's Hospital staff, representing an increase of 198 car parking spaces (this equates to approximately 1 space per 45m² GFA). Car parking will be accommodated in four basement levels, and accessed off Burton Street. Existing service / delivery vehicular access will be retained via the loading dock and access arrangements via the Aikenhead building. Existing emergency access arrangements will also be retained.
- 6.4.8 The proponent's traffic study "Traffic and Parking Report for O'Brien Building – Burton Street, Darlinghurst" prepared by URaP – TTW Consulting Engineers and dated 19 September 2006, has concluded:
- The site has high accessibility to public transport and is located within close walking distance to commercial and retail uses, satisfying integrated land use principles and alleviating the need for multiple trips to / from the site.
 - Existing traffic patterns are unlikely to differ significantly from current circumstances as the proposal is replacing "like for like". Fifty (50) additional vehicles per hour could be generated as a result of the proposal comprising staff and patient / visitor movements. This increase is unlikely to impact operation of intersections which currently experience good service levels.
 - Total car parking demand will be accommodated on site thereby reducing the demand on existing on street car parking spaces which are also utilised by residents and visitors to the hospital and other establishments in proximity of the O'Brien Building.
 - The access arrangements to / from the basement car parking will provide adequate visibility for vehicles. A "left in, left out" arrangement will minimise the use of Barcom Avenue and other residential streets.
- 6.4.9 The Department supports the proposed car parking and access arrangements and promotes the provision of additional on-site car parking to relieve parking pressure in the surrounding street network – a key community concern. The limitation of traffic movements east to Barcom Avenue and beyond is also supported.
- 6.4.10 The O'Brien Building redevelopment raises no heritage issues. The existing structure is not listed on the Register of the National Estate, the NSW State Heritage Register or the heritage register of the National Trust of Australia. The O'Brien Building is listed in the former South Sydney Council's LEP as a heritage item by virtue of the entire St Vincent's Hospital being nominated as a heritage item. In that particular listing, however only the deLacy Building and not the O'Brien Building is specifically listed. The O'Brien Building has been subject to significant modifications and is not considered to be of any significant heritage value. Furthermore, its utilitarian design detracts from the area. The heritage report submitted with the proposal concludes that the proposed demolition of the O'Brien Building and the adjoining rotunda structure (within which the existing bus stop and memorial plaque and ashes of a homeless person who resided in the shelter for 25 years are located) and associated fire stairs are unlikely to have any heritage impacts on the deLacy building or other Hospital structures of considerable heritage significance. In fact the new O'Brien Building (with no rotunda) will virtually replicate the original street frontage afforded to the O'Brien Building when built in the 1940s as well as the more significant deLacy Building. The removal of the existing fire stairs and their proposed replacement pose no heritage risk. The accompanying heritage impact statement makes provision for the necessary protection to be given to the bus stop relocation, plaque and ashes relocation and fire stairs.
- 6.4.11 There are no vegetation issues associated with the O'Brien Building redevelopment. Preliminary landscaping plans have been prepared by the proponent and will be finalised through the conditions of consent which require lodgement of final plans within six months of the Minister granting project

approval.

- 6.4.12 An initial evaluation of the site in accordance with the requirements of SEPP 55 suggests that contamination will not be a significant issue, given the site's hospital function, although the presence of asbestos is a potential source of contamination. The proponent has committed to undertaking a Stage 2 Detailed Investigation and any required remediation. Extensive Statements of Commitment have also been made in relation to the safe removal of asbestos compliant with WorkCover requirements; an approach supported by the Department.
- 6.4.13 The plans and documentation that have been produced for the preferred project report are preliminary and are currently undergoing revision by the appointed architects, Bligh Voller Nield, pending further design development that needs to be undertaken. Despite the lack of design detail currently available, the conceptual design of the new O'Brien Building generally accommodates the same building envelope as the existing building. The Department is satisfied that ultimate construction of the eight storey building can therefore be approved without further environmental assessment. It is recommended that conditions be imposed requiring submission of detailed design plans, elevations and sections confirming:
- Floor areas and proposed uses.
 - Building footprints, dimensions and height.
 - External materials and finishes.
 - Relationship with adjoining land uses.
 - Demonstration of compatibility with any previous stages.
 - Resultant amendments to any previous stages.
 - Capacity of existing services and utilities.
- 6.4.14 The above documentation will demonstrate that Stage Two can operate in isolation and if necessary in perpetuity, should Stage Three not come to fruition, particularly in the event that funding streams are not forthcoming. With respect to Stage Three specifically, the lack of detail currently available necessitates the need for further detailed design and development. Accordingly the recommended conditions require Stage Three to be subject to a similar further design development process in the future with approval of design details to be administered by the Director General or his delegate.
- 6.4.15 The only outstanding issue concerns the timing between the carrying out of the early works package and the construction of the new O'Brien Building. The site's prominent location and the expanse and depth of the required excavation may create safety and amenity issues, particularly in the event that construction does not simultaneously occur or follow completion of the early works soon thereafter. In this regard, measures need to be put in place that ensure appropriate staging and delivery of the project.

Resolution

- 6.4.16 The Department's assessment of the proposal has been undertaken for the development of an eight storey mental health, drug and alcohol and community services facility with a gross floor area of 10, 401m². It is concluded that the development is acceptable subject to the imposition of conditions requiring provision of design details and additional information for Stages Two and Three.
- 6.4.17 It is recommended that prior to commencement of development of Stages Two and Three, detailed plans and documentation shall be submitted to and approved by the Director General (or his delegate) so as to provide the Department with sufficient clarity and detail to approve the detailed design elements of the two construction stages. Any significant departure from the approved project will require submission and approval of a modification application or approval of a project application afresh. The Director General should determine what constitutes a significant departure.

- 6.4.18 The recommendations set out in the two heritage reports prepared to support the demolition of the existing O'Brien Building and rotunda structure require detailed archiving, archaeological assessment and appropriate management of the memorial plaque and ashes located within the existing Burton Street bus stop. Standard approval conditions are recommended to address heritage and construction impacts and mitigate vehicular / pedestrian conflicts at the car parking entry on Burton Street.
- 6.4.19 Recommended conditions of approval require installation of warning signage and appropriate mitigation measures (including alarms, mirrors, lights, etc) at the car parking entrance / exit to avoid pedestrian / vehicular conflicts. These are proposed to address community concern that there are safety issues associated with traffic entering / exiting the basement car park.
- 6.4.20 The excavation / staging concerns raised in 6.4.15 are addressed through a recommended condition prohibiting commencement of excavation works until the proponent provides the Department with verification that funding for the entire project has been secured. Other standard construction type matters including noise and vibration, construction traffic management, waste management, and the like have been addressed through the proponent's Statement of Commitments or have been augmented through the Department's recommended conditions of approval.

6.5 Urban Design

Issue Summary

- 6.5.1 The proposed **height, density / FSR**, and **bulk and scale** of the Caritas redevelopment were key issues raised. There is also community concern that the exhibited proposal is **inconsistent with the existing character** of Darlinghurst and the redevelopment of the Caritas site in particular, will be **visually dominant** and **overshadow** adjoining properties. **Setbacks, solar access** and **privacy** issues were also raised.
- 6.5.2 No urban design issues were raised in relation to the O'Brien Building redevelopment.

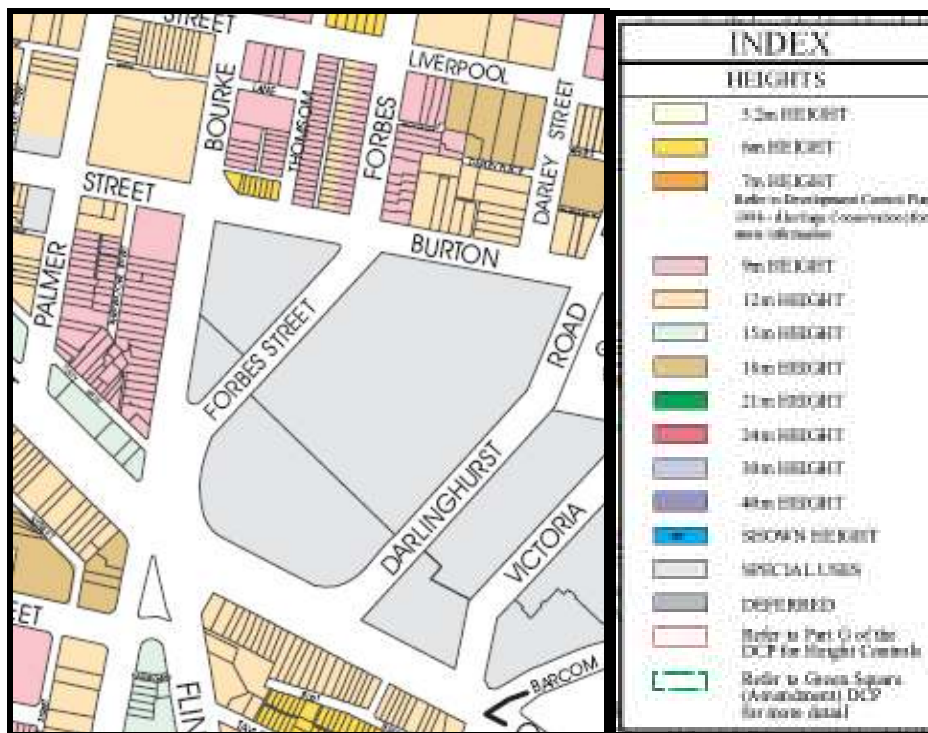
Raised By

- 6.5.3 Department of Planning, Community, City of Sydney Council, NSW Department of Housing, and Clover Moore – Local Member for Bligh.

Consideration

Height

- 6.5.4 In terms of the **Caritas** proposal, the exhibited 12 storey height and 3.36:1 FSR was the subject of the greatest number of comments and objections received. As discussed in Section 3.2.2 the proponent has amended the scheme by reducing the height to a maximum seven (7) storeys or about 21 metres and 2.75:1 FSR following concerns raised by the Department of Planning and other stakeholders.
- 6.5.5 The Preferred Project Report now seeks to deliver an outcome more consistent with existing adjoining development and in particular The Republic building, immediately north-west of the Caritas site, arguing that a precedent has been set by that development within its local context.



Source: City of Sydney

Figure 23: South Sydney LEP 1998 Height Controls

- 6.5.6 In terms of height controls, the Caritas site has no height limit as it falls within the Special Uses zone and the Special Uses category under the relevant Development Control Plan (South Sydney DCP 1997 – Urban Design) – see above. Adjacent height limits are variable and range from 6m to 12m. In the wider context, a 24 metre height limit is located just north of Liverpool Street.
- 6.5.7 Council's DCP however also nominates that the maximum height of development may be determined by a "building envelope control line" based on the width of streets. In this case the adjacent street widths are all 20m (full road reservation width). Council's controls indicate that a maximum building height of 21.6m is possible plus an additional floor for habitable attic space setback and at a 36 degree angle from the ceiling level of the storey below. These controls do not override the DCP height limits and apply to new development on infill sites (such as this).
- 6.5.8 The subject proposal is for a maximum 7 storey envelope in a number of locations across the site (Figure 24). Generally, the 7 storey elements are at a height of between 21 and 22.5 metres above the adjacent street level. Using Council's "building envelope control line" principle, much of the proposal is below 21.6 metres in height. If also applying the additional attic floorspace height, the maximum height of development (with a 3m setback for the topmost floor) would be in the order of 24m for a 20m-wide street. Council's height line and compliance with it is demonstrated below.

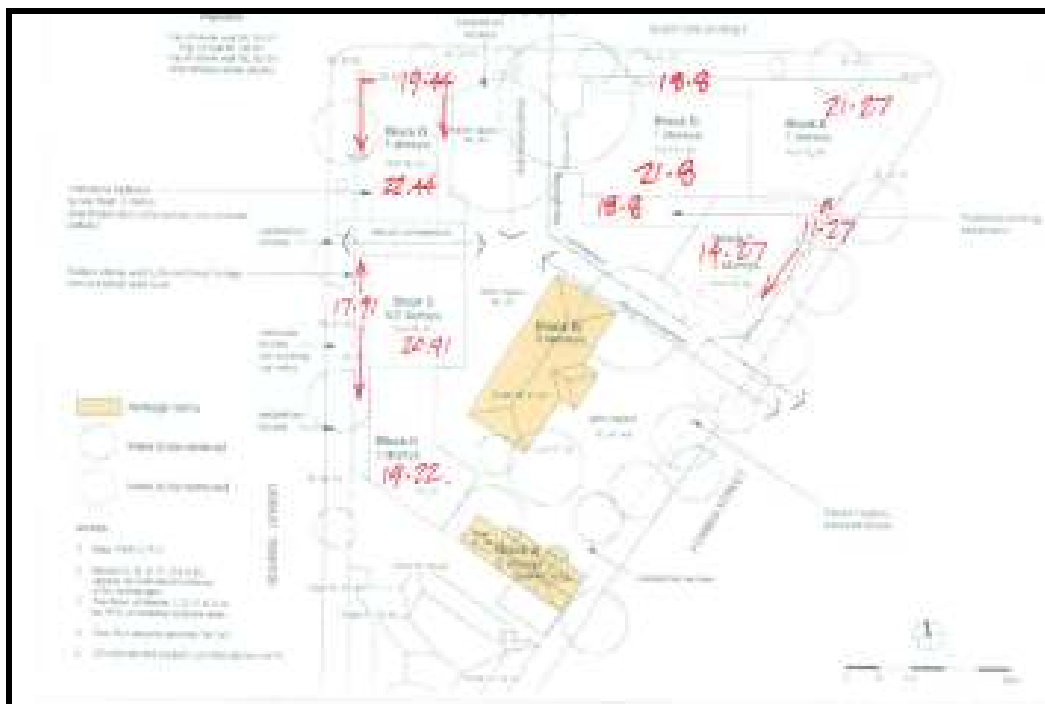
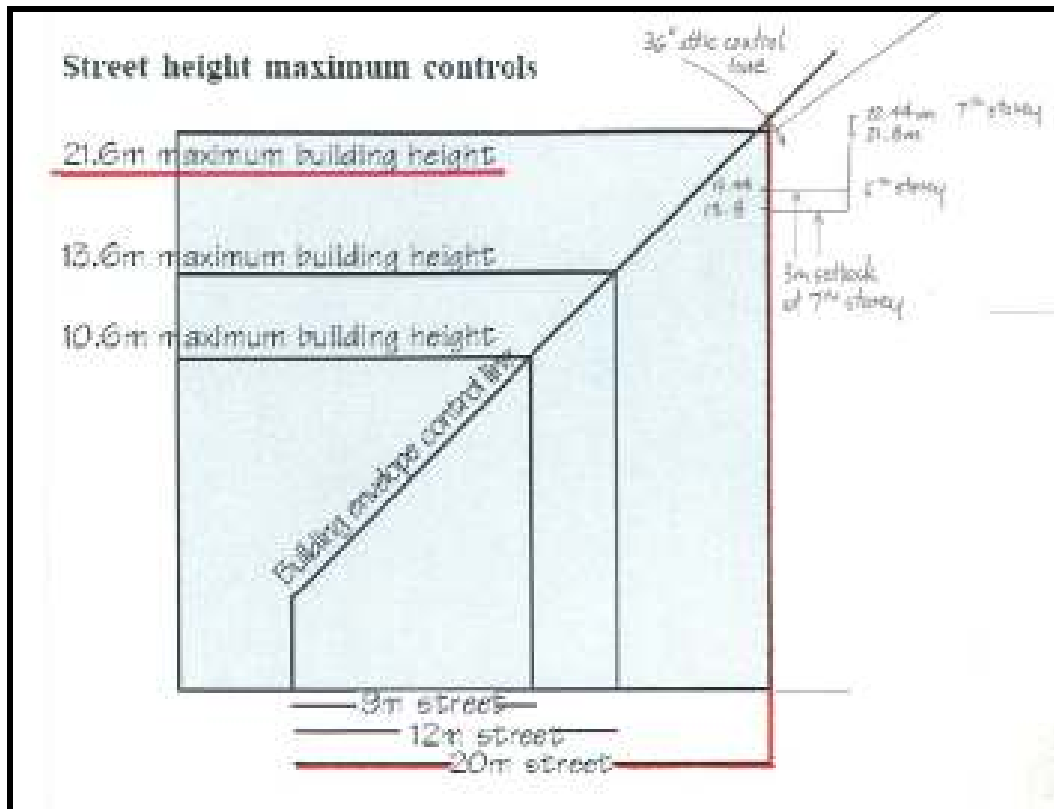


Figure 24: Caritas Site Design Philosophy and Heights

- 6.5.9 The tallest envelopes occur at the Burton Street frontage of the site, at about 21.8 and 22.4 metres above street level. These parts of the envelope are however set back 3m from the top of the street walls, which respectively reach 18.8m and 19.44m. In general, the proposal has satisfied Council's height plane principles, and provides a development that is proportional to the street network around it (Figure 25).
- 6.5.10 The adjacent / opposite The Republic building has a street wall height of about 14m and maximum height of about 18m and sits at 6 storeys (despite a 12m height limit). The Caritas proposal applies the principle of heights stepping with the prevailing topography and continues the pattern set by The Republic. The Burton Street frontage maintains a 7 storey height, but the maximum height RL drops by the same 7m that the street drops from Forbes Street to Bourke Street. This high part of the site (at the junction of Burton and Forbes) is reinforced by no setback within the envelope. The Burton Street envelopes however include a top (7th) storey setback and 6 storey street wall, replicating the precedent set by The Republic, with its 5 to 6 storey transition.



Source: City of Sydney

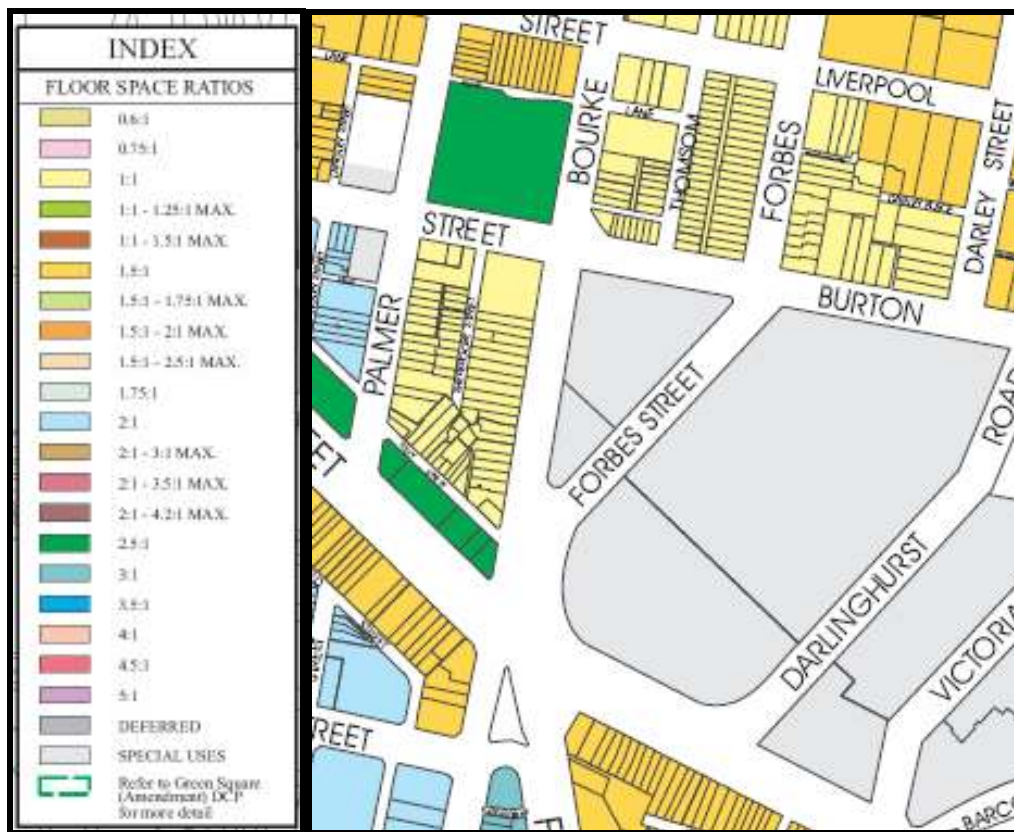
Figure 25: Envelope Heights and Relevant Local Controls

- 6.5.11 The proposal generally satisfies Council's development principles, which seek to reinforce landform and dominant topography, with clusters of buildings on slopes, and taller buildings on the ridgeline. Uniform and variable heights are also adopted to ensure appropriate transition from lower rise adjacent buildings (such as on the Bourke Street frontage of the site) to the lowest part of the site which also seeks to strengthen the corner of Bourke and Burton Streets.
- 6.5.12 The height (and alignment) of the proposal will not adversely affect key local vistas and district views, which are identified as being along Forbes Street and towards the CBD to the north-west, respectively. The proposal will provide new public spaces and reinforce the sense of enclosure and street block alignments along its street frontages.

Density / Floor Space Ratio

- 6.5.13 As for height, the site has no applicable density or floor space ratio (FSR) controls (Figure 26). The adjacent FSRs vary and range from 1:1 to 2.5:1. The proposal is for development of about 12,311m² over a site area of 4477m², giving a FSR of 2.75:1. Using the adjacent / opposite The Republic as a guide, its permitted FSR of 2.5:1, would result in a development of about 11,193m² on the Caritas site. The proposal is 1118m² greater than this, or just under a 10% increase in this density. There are provisions in Council's DCP to enable a bonus 0.25:1 FSR. The bonus is applied if a site provides public benefits such as through site links and other public improvements. In the case of the Caritas proposal additional useable public open space, pedestrian links, and provision of the right of public access through otherwise private space via a through-site link is proposed. Whilst these public domain improvements are proposed at a conceptual level, further other improvements may also be provided through future detailed planning of the site to even further satisfy Council's requirements in securing this bonus FSR.
- 6.5.14 In applying these controls to the Caritas site for the bonus 0.25:1 (in this case 1119m²), the proposal would comply.

- 6.5.15 On its merits, the density and bulk and scale of this mixed use proposal is reasonable in providing a suitable transition from the fringe of the CBD to lower-rise exclusively residential uses. This is consistent with Council's objective of a Mixed Use transition zone within East Sydney/Darlinghurst.



Source: City of Sydney

Figure 26: South Sydney LEP 1998 FSR Controls

Bulk & Scale / Visual Impact

- 6.5.16 The bulk and scale of the proposed envelopes is consistent with controls that are able to be applied regarding height and density. The bulk and scale of future development must fit within the envelopes as proposed. Given development (gross floor area) will typically only fill about 80% of envelopes due to building inefficiencies such as lift cores, stairwells, basements and other voids, the potential resulting bulk and scale of development will appear less than a blank envelope, which is merely the zone within which the development may occur. Furthermore, design refinement of the façade of the resulting development, such as use of transparent, semi-transparent and lightweight materials, and application of articulation and setbacks within the façade will additionally contribute to the apparent reduction in the overall bulk and scale of development. The proponent has conceptually indicated that by adopting a design ethic similar to that of The Republic building the apparent height and density of the building will be reduced. Accordingly, on its merits the bulk and scale of the development in its conceptual sense is appropriate.
- 6.5.17 To further reinforce this consideration, Council's DCP seeks transition between the CBD and areas of residential character. This proposal enables a suitable transition between that bulk and scale and that of lower rise terrace-type development, whilst also providing for a mixed use development in close proximity to Taylor Square and other existing mixed use development.
- 6.5.18 All but two existing trees are to be retained on-site. In general, the Forbes Street frontage of the site will continue to be landscaped with trees in the order of 10-16 metres in height. The two large London Plane trees to be retained towards the Burton and Bourke Sts corner are about 20-25 metres tall. Existing street trees along Bourke Street also rise to about 10 metres. These trees and any additional

on-site and street planting also has the potential to further ameliorate the height and bulk and scale of development, particularly the taller envelopes where the London Plane trees will be taller than the development.

Compatibility with Surrounding development

- 6.5.19 The immediate area surrounding the Caritas site is a wide mix of building types and styles from a number of eras and with a wide range of functions. As discussed above, the heights, densities, form and function of existing development (including key heritage items) is suitably diverse for a locality with proximity to the CBD, the Oxford Street retail strip, Taylor Square and various social and physical infrastructures. Over time the needs and demands of land and land use have changed leaving a palimpsest in urban form. Council's controls reflect this eclectic mix and also promote flexibility for new infill development. Whilst there is no one dominant form of development, the closest to a consistent form is the terracing of up to 3 storeys opposite the site in Bourke Street which provides a row fronting the street (as opposed to the variable and shorter front and side orientation along Burton Street). In stating the case for compatibility with surrounding development, the proposal is consistent with the precedent set by The Republic development.
- 6.5.20 Whilst it could be argued that the terrace form of development should be replicated on the Caritas site there are compelling reasons to suggest that this building type would not be a superior planning outcome from both a local and wider perspective.
- 6.5.21 The area is subject to transition and renewal, and in terms of the proposal responding to its context it does provide for a suitable contribution to the quality and identity of the area. It responds favourably to the need for views to be maintained, block edge development that emphasises the topography of the area, and in doing so by breaking development into a cluster of buildings that enable thoroughfare rather than excluding access. The scale of development is not inconsistent with other similar development adjoining and in proximity of site.
- 6.5.22 The proposal provides development on the site at a scale and density commensurate with satisfying both local and Metropolitan planning objectives. It will provide for a contribution to the social mix in the area, a range of commercial, retail, and residential spaces, which maximise the opportunity to live close to employment, social and physical infrastructure and services, and recreation. To that end the proposal is a sustainable and responsible response to the planning objectives of Metropolitan Sydney and development abutting the CBD. The proposal also creates new public open space and thoroughfares as well as enabling further adaptive reuse and conservation of the heritage buildings on-site.

Setbacks

- 6.5.23 Additional setbacks (beyond those already employed within the envelope controls) are generally not applicable to this proposal due to this proposal being only conceptual and for envelopes at this stage. Council's controls relate to development (not a plan) indicating that setbacks should be adopted principally only to side boundaries and where development is not built to the site boundary. In this regard, the proposal is generally seeking development to be built to the site boundaries along each of the three street frontages. This is appropriate.
- 6.5.24 Council's setback controls, if and when applicable, are able to be applied and enforced upon assessment of development within the proposed envelopes.
- 6.5.25 The proponent, above and beyond application of the proposed setbacks within the envelope, has indicated that design refinement of façades has the potential to incorporate further setbacks.

Solar Access / Overshadowing

- 6.5.26 The proposal will generate new and different shadows and affect solar access around and within the site as experienced currently.

- 6.5.27 Externally, under the worst case scenario (of 21 June), the proposed envelopes (as opposed to future development on the site) will cast shadows over the full width of Bourke Street and onto those facades fronting Bourke at 9am. Similarly, at 3pm on 21 June, Forbes Street will be partly / predominantly overshadowed as will part of the Old Darlinghurst Gaol wall and within the site. The orientation of development coupled with the topography however means the greatest amount of overshadowing is likely to occur on-site.
- 6.5.28 The general standard for overshadowing impacts is to ensure at least between 2-3 hours of direct sunlight is achievable to living rooms and private open spaces between 9am and 3pm in mid-winter. The subject proposal will only overshadow private living rooms and open spaces along Bourke Street (as well as within the site in the morning). There is no overshadowing likely to these premises at all between noon and 3pm. The Old Darlinghurst Gaol site is similarly unaffected by the proposal between 9am and noon in mid-winter. Council's standard is provision of only 2 hours between 9am and 3pm on 21 June. Again the proposal will comply with this requirement. Detailed planning and future applications will need to again demonstrate compliance with this standard.
- 6.5.29 Internally, the revised proposal will permit greater infiltration of sunlight into the proposed courtyard and open space and to Caritas House itself. The proposed open space and public thoroughfare will in part at all stages between 9am and 3pm (in mid-winter) enjoy some solar access, particularly those areas to the north of the site fronting Burton Street. The affect of the proposal on the future internal apartments is to be resolved by detailed planning of individual dwellings.

Privacy / Amenity

- 6.5.30 The proposal at this stage is for development envelopes rather than detailed buildings. Privacy distances between the Caritas site and adjacent development is relevant at development stage when exact façade treatments and window positions are known. Nonetheless, Council's privacy separation distances are a relevant consideration. Under Council's DCP the minimum distance between habitable and non-habitable floorspace is 9m and between two areas of habitable floorspace is 12m. Given all adjacent streets are 20m road reservations the proposal conforms to these requirements in relation to existing development.
- 6.5.31 Internal privacy issues and detailed external privacy issues are to be resolved during detailed design and assessment of subsequent development. For buildings of 12-25m height, the SEPP65 guidelines indicate a separation of 18m is required. Whilst the proposed envelopes are in some cases just within 18m of each other at the lower levels, SEPP65 will need to be satisfied as part of the future submission of applications.
- 6.5.32 In general, existing amenity enjoyed by residents and workers surrounding the site will not be detrimentally affected. Solar access will not be adversely affected given the location of this site to adjoining uses and local context. The tree-lined streets are to be retained and enhanced by new plantings and landscaping within the site. As described above, new open space within the site, which is not currently publicly accessible will contribute to the amenity of the area. Indeed, the replacement of non-heritage buildings and improvement of the site will positively affect current amenity.
- 6.5.33 The proposal has the potential to make a significant positive contribution to the locality in terms of passive surveillance and security (which is presently not enjoyed at any of the three street frontages from the site after hours), particularly Forbes Street.

Resolution

- 6.5.34 The proposal fits within Council's alternative height controls which may be used as guide to determine whether or not the proposal's height is reasonable as an infill development. The maximum of 7 storeys (with the 7th storey set back by 3 metres) is well within the 21.6m guideline as set by Council's "building envelope control line" based on the width of streets. Application of Council's attic control line for the 7th and uppermost habitable storey indicates a height of about 24m is achievable for development envelopes adjacent to a 20m wide road reservation. The maximum heights of the proposal at the 7th

storey are about 21.8m and 22.44m.

- 6.5.35 The proposal provides a responsible and reasonable transition of heights from the CBD to the “village” setting of Darlinghurst in general, and is an appropriate height and density to make full and proper use of its location one block away from Taylor Square in providing living and working opportunities close to public transport, existing services and infrastructure, and the CBD.
- 6.5.36 The FSR and density of the proposal is entirely consistent with the requirements of Council's DCP for development within relevant adjoining zones. In this case, the Mixed Use zone and application FSR of 2.5 (+ bonus 0.25):1 is adhered to by the Caritas proposal. Development of this density satisfies Council's general principle of ensuring that there is a transition of mixed uses to residential uses away from the CBD and key shopping streets. The proposal satisfies the objective of providing no more than 10% non-residential uses (8.8%). Again, application of the higher adjacent density control (in arguably a better located site than The Republic) is a responsible response to taking advantage of the proximity of the site to major transport and social and recreational infrastructure.
- 6.5.37 The proposal is a positive contribution to the streetscape of the locality and will improve amenity and security on its three street frontages. The proposal also satisfies standards and requirements relating to overshadowing and solar access.

6.6 Conservation, Heritage and Archaeology

Issue Summary

- 6.6.1 Conservation, heritage and archaeological impacts arising from the proposal and the adequacy and appropriateness of the measures proposed to mitigate them.

Raised By

- 6.6.2 City of Sydney Council, Clover Moore – Member for Bligh, NSW Heritage Office / NSW Heritage Council, NSW Department of Housing, Community.

Consideration

- 6.6.3 The heritage provisions of South Sydney LEP 1998 and the City of Sydney Heritage Development Control Plan 2006 both apply to the **Caritas** site (see Figure 27 below). The LEP lists the Caritas site as heritage item 461 being the “Caritas Centre Group, part of St Vincent's Hospital, including: two storey Victorian Regency style building, c 1867 with third storey addition, two storey Federation Arts and Craft style building and perimeter fences”. The site also sits within Conservation Area 18 – CA18 East Sydney and Darlinghurst under the LEP.
- 6.6.4 The LEP's provisions for heritage items and conservation areas is as follows:

Heritage aims

The consent authority must not grant consent to the carrying out of development on the site of a heritage item, or within a heritage conservation area or heritage streetscape area, unless it is of the opinion that the proposal is consistent with the following aims and objectives:

- (a) *to conserve the environmental heritage of the land to which this plan applies, and*
- (b) *to integrate heritage conservation into the planning and development control processes, and*
- (c) *to investigate and record sites which have archaeological potential, and*
- (d) *to provide for public involvement in matters relating to the conservation of environmental heritage, and*

- (e) to ensure that any development is undertaken in a manner that is sympathetic to, and does not detract from, the heritage significance of heritage items, of heritage conservation areas and their setting, and of streetscapes within heritage streetscape areas and their setting, and
- (f) to ensure that any development is undertaken in a manner that is sympathetic to, and does not detract from, the heritage significance of distinctive streetscapes, landscapes and architectural styles which define the character of heritage conservation areas or streetscapes within heritage streetscape areas, and
- (g) to enable the adaptation of existing non-residential buildings or works of heritage significance in a manner which is compatible and sympathetic with the fabric and character of the building or works and the use and fabric of neighbouring land and buildings, and
- (h) to encourage the restoration or reconstruction of buildings or works which are heritage items or buildings and works that contribute to the character of heritage conservation areas or streetscapes within heritage streetscape areas, and
- (i) to require, when considered necessary, the consideration of a statement of heritage impact or a conservation management plan before consent is granted for development relating to a heritage item, or development within a heritage conservation area or a heritage streetscape area, or development relating to a building older than fifty years, and
- (j) to ensure the sympathetic use of sites containing buildings or facades of historic or streetscape importance which contribute to the character of the locality.

Protection of heritage conservation areas and heritage streetscapes

- (1) A person must not:
 - i. demolish or alter a building or work within a heritage conservation area or heritage streetscape area, or
 - ii. damage a relic within any such area, or
 - iii. excavate land for the purpose of discovering, exposing or moving a relic within any such area, or
 - iv. damage or despoil a place within any such area, or
 - v. erect a building or subdivide (otherwise than by a strata plan) within any such area, or damage any tree or land within any such area, or
 - make structural changes to the interior of a building or work within any such area, except with the consent of the consent authority.
- (2) The consent authority must not grant consent to a development application required by subclause (1), being an application to erect a new building or to alter an existing building, unless it has made an assessment of:
 - i. the pitch and form of the roof, and
 - ii. the style, size, proportion and position of the openings for windows and doors, and
 - iii. whether the colour, texture, style, size and type of finish of materials to be used on the exterior of the building are compatible with the materials used in the existing buildings in the heritage conservation area or heritage streetscape area in which the building is situated, and
 - iv. the impact on the landscape.
- (3) The consent authority may decline to grant a development application required by this clause until it has considered a statement of heritage impact or a conservation management plan, so as to enable it to fully consider the heritage significance of the heritage conservation area or streetscape within the heritage streetscape area and the impact of the proposed development on the significance of the heritage conservation area or streetscape.



Source: City of Sydney

Figure 27: Extract of Conservation Area 18 East Sydney Darlington SSLEP 1998 showing the site as a Heritage Item and as a Contributing element to the conservation area.

- 6.6.5 The proposal has been supported by a Heritage Impact Statement for the site (Graham Brooks & Assoc. August 2006) and an ancillary report (dated December 2006) as a result of changes made to the proposal by the Preferred Project Report. The findings and recommendations of the Heritage Impact Statement of the various buildings are as follows.
- 6.6.6 The listed items under Council's LEP are known as Caritas House, Caritas Cottage (or the Gate House) and the perimeter fencing and walls. Amongst other unlisted items on site is the Old Kitchen Building on the corner of Burton and Bourke Streets which is proposed to be demolished under the Concept Plan. There is also potential for some archaeological remains and remnants of former use of the site, including a well within the courtyard of the site.
- 6.6.7 The site is **not** listed on the Register of the National Estate, **nor** is it listed on the State Heritage Register. The National Trust has also **not** listed the site. An assessment of the site based on the NSW Heritage Office criteria has been undertaken.
- 6.6.8 The site is deemed to have a high historical significance given its relatively uninterrupted role in servicing and treating the mentally ill in NSW for the past 139 years. The site's associational significance with a life or the work of a group of people is deemed to be of an incidental and moderate level of significance by the applicant's heritage consultants. There is little remaining association with the extant buildings to the origins or foundation of the site and its uses by those specific individuals. Whilst the site's buildings present some strong aesthetic characteristics, particularly masonry, the aesthetic significance is moderate given the interiors and exteriors of the extant buildings have been subject to ongoing and in some cases unsympathetic alterations as well as various new additions within the site and demolitions detracting from the overall degree of significance.
- 6.6.9 In terms of social significance it is deemed that the site has only a moderate significance. While there is a direct and emotional connection to the site by those that it has assisted, yet despite continual change on the site, it is considered to play a part in the precinct legibility of the local community only. The site is ranked as having little technical / research significance as a result of ongoing change and modification. There is little evidence of valuable technical and research-related fabric. It is most likely that records of the site would provide a greater basis for information. The site is also considered to not be a particularly rare example of its genre, again due to in some cases substantial internal and external

modification. Its representativeness is however considered to be moderate to high, as it demonstrates changing modes of care and processes in mental health administration.

- 6.6.10 The applicant's heritage consultant has concluded that the ongoing modification and change at the site is a characteristic of the evolution of mental health care philosophies and modes of care. The proposed redevelopment acts as a further stage in this evolution by shifting and upgrading the current functions to within the St Vincent's Hospital site proper. It is argued that this relocation is consistent with the historical intentions for the site. Nonetheless, given the strong historical and aesthetic significance of the site, a redevelopment of the site should incorporate specific strategies to enhance the site's strong visual presence and local legibility. The proposal does not involve the demolition or destruction of any significant heritage fabric. The redevelopment would lead to renewed vitality and improved aesthetic character of the area.
- 6.6.11 The Heritage Office's / Heritage Council's submission to the Department indicated that the exhibited scheme was likely to have substantial adverse impacts on the significance of the site. This included the suggestion that the approval would result in the demolition of some components of the site prior to an adequate level of assessment. Particular concern was raised about the 11(12) storey tower elements and their relationship to the surrounding conservation area.
- 6.6.12 The Heritage Office was specifically of the view that the Department should consider more detailed heritage assessment(s) of the existing buildings and landscape features of the site and a more detailed assessment of the heritage impacts on the significance of the site. Additionally, the documentation provided inadequate levels of visual analysis of the potential impacts of development. An interpretation strategy and plan was considered to be relevant, as was a future heritage item and common open space management plan for any subdivision required.
- 6.6.13 Since these Heritage Office's comments, the proponent revised the scheme beyond solely reducing envelope heights, retention of trees and creating access to and through the site to also include the demolition of the Old Kitchen Building at the corner of Burton and Bourke Streets. The Heritage Office provided additional comments on the revised scheme in January 2007.
- 6.6.14 The Heritage Office / Heritage Council reiterated its original comments about the applicant providing additional visual studies of the proposal and its impacts on not just the Caritas building but also the proposed envelopes on the conservation area when viewed from Forbes and Burton Streets. This is despite the reductions in envelope heights and inclusion of new wider setbacks. All other comments were also retained and recommendations were made about inclusion of appropriate conditions upon the approval.
- 6.6.15 It is the Department's view that all of the NSW Heritage Office's / Heritage Council's concerns can be adequately and suitably be dealt with at the subsequent application stage. The matter of a visual analysis can also be geared to focus on heritage impacts together with particular urban design outcomes. To that end the Department has included where appropriate either conditions or advisory notes to ensure full and proper documentation is submitted and considered as part of the assessment.
- 6.6.16 Any archaeological remains and remnants that may be buried and have survived the ongoing redevelopment and evolution of the site are likely to be highly significant from a local perspective. Appropriate requirements for the preservation of any such items can be included in future approvals as appropriate for subsequent applications. As the Concept Plan does not seek physical works on the site a condition / modification at this stage is not warranted. The proposed conditions do however include advisory notes detailing specific requirements under separate legislation that will apply to the redevelopment. Further detailed heritage and archaeological requirements can also be stipulated in subsequent planning processes under both the Environmental Planning and Assessment Act and the Heritage Act. Both the Heritage Impact Statement and the Historical Archaeological Assessment contain recommendations that shall be adhered to as a result of the approval.
- 6.6.17 With respect to the **O'Brien Building**, the St Vincent's Hospital Group of buildings is listed as Heritage Item 1114 under South Sydney LEP 1998. The site is **not** within a Conservation Area. Item 1114 is

listed as the "St Vincent's Hospital Group, including the Main Building, three storey Victorian Free Classical style building, 1867". This is taken to be principally the deLacy Building, the modified original St Vincent's Hospital building at this site. Accordingly, the **O'Brien** building is not considered to a heritage item.

- 6.6.18 Clause 24 of the SSLEP nonetheless applies to the O'Brien building as it is development in the vicinity of a heritage items (the deLacy Building) or potential archaeological sites. Under Council's LEP the consent authority must not grant consent to development on land in the vicinity of a heritage item, a heritage conservation area, a heritage streetscape area, an archaeological site or a potential archaeological site unless it has considered an assessment of the impact the proposed development will have on the heritage significance, curtilage and setting of the heritage item, on the heritage significance of buildings within the heritage conservation area, or on the heritage significance of the streetscape within the heritage streetscape area or of the actual or potential archaeological site, as well as the impact of the development on any significant views to or from the heritage item, heritage conservation area or streetscape.
- 6.6.19 The NSW Heritage Office concluded in its submission to the Department that the new O'Brien Building was considered acceptable in general, subject to ensuring that a sympathetic transition between the deLacy building and the replacement O'Brien building can be achieved. Any potential archaeological relics uncovered as a result of the excavation works needs to be suitably addressed in accordance with the Heritage Office guidelines.
- 6.6.20 Any relevant heritage and/or archaeological issues concerning the O'Brien building are dealt with in Section 6.4.14.

Resolution

- 6.6.21 In general the Caritas site is characterised by ongoing evolution and change in the provision of new levels of mental health care as a result of changed philosophies and modes of care and treatment. The site has been subject to ongoing change and in keeping with the evolution of mental health care, the site's redevelopment as a result of the relocation of the facility to the new O'Brien building would be consistent with progress in achieving contemporary levels of care, albeit off the site to a more appropriate location (within the locality).
- 6.6.22 Nonetheless, from a built heritage viewpoint there are strong aesthetic and historical reasons to seek to achieve (as best as is possible) a design outcome that can retain and enhance the site's visual and historical connection with the precinct in which it sits.
- 6.6.23 As a result of submissions made, the proponent has modified the design of the development to reduce visual bulk and scale and to ensure the site is opened to both physical and visual access. The revised height of envelopes is to a level of the roofline of Caritas House (RL62). The urban design objective of the proposal is to provide a street edge development in a cluster of buildings. The principle of clusters is to reduce the bulk and scale of development and provide openings into and through the site. The demolition of the Old Kitchen building provides an opportunity to create an opening to the junction of Bourke and Burton Streets, providing both a new visual and physical access into the site and the potential to view the principal façade of Caritas House (which has been obscured from view for decades).
- 6.6.24 It should be noted that the Old Kitchen Building is not considered to be significant. It is not an individually listed item, and appears to have ceased its intended function around the 1950s. The building and its curtilage has been subject to periodic modification since it was constructed around 1912. Whilst it contains some notable detailing and features, the building is considered to be of a low significance. Its demolition will enable the opening up of the site, which was one of the early principles of the form and function of the former Darlinghurst Reception House.
- 6.6.25 The most significant buildings and items (including the fencing and walls) are to be retained. Caritas House and Caritas cottage are to be adaptively reused and revealed and made accessible by the

proposal, particularly through their adaptive reuse for commercial or mixed use purposes. The proposal seeks amongst other things to provide for a transition of heights, the framing of the heritage items (in particular Caritas House), and create a point of visual interest to draw public into the site and present the site with a level of public-ness that it has not recently enjoyed.

- 6.6.26 On balance the proposal is considered to be acceptable from a heritage perspective. The proposal seeks to provide for a sympathetic adaptive reuse of listed items whilst providing for a responsible and appropriate density of development to match the site's proximity to services. As discussed above, the proposal at this stage is solely for conceptual redevelopment of the site. No items will be removed, destroyed or demolished as a result of approval. The approval requires significant additional work (consistent with the NSW Heritage Office's and NSW Heritage Council's requirements) to be carried out as part of subsequent approval process(es).

6.7 Car Parking Provision (Public Transport Usage / Provision)

Issue Summary

- Proponent's car parking rates are based on Council's higher CBD rates.
- Proposal does not seek to reduce reliance on private vehicles. Options need to be included to ensure high public transport usage and Clover Moore, in a particular, has requested a TravelPlan be required for the development.

Raised By

- 6.7.1 City of Sydney Council, Clover Moore – Member for Bligh, NSW Department of Housing, Community.

Consideration

- 6.7.2 The Caritas redevelopment proposes 142 car parking spaces, comprising 135 residential spaces, nil visitor spaces and 7 commercial spaces. A total of three (3) spaces for people with disabilities is also proposed. The rates have been calculated by applying City of Sydney's CBD rates (rather than the applicable former South Sydney Council's car parking rates) of 1.2 spaces per dwelling for the residential component and application of the City of Sydney's LEP formula (as outlined in clause 65 of the LEP) to calculate commercial rates.
- 6.7.3 The traffic report prepared in support of the **Caritas** proposal concludes that the City of Sydney's rates are a sound basis on which to calculate car parking rates due to the "nature of the development" and the site's location in a "transitional area...more readily identifiable with the edge of Central Sydney than an inner suburb".
- 6.7.4 The relevant car parking objectives of the City of Sydney LEP are to :
- Ensure acceptable car parking levels are provided on-site to minimise unreasonable overflow or on-street parking.
 - Ensure all modes of transport are adequately considered for new developments and needs of pedestrians, cyclists and public transport users are met.
 - To provide for the transport needs of business and industry to support their viability, but discourage unnecessary provision for cars.
- 6.7.5 The Department's assessment of this issue considered provision of car parking consistent with both the proposed LEP rates and the former South Sydney Council's Development Control Plan No. 11 – Traffic Guidelines for Development (DCP 11) which is in fact the applicable policy. In the absence of the proponent providing an indicative dwelling mix, the Department applied the average car parking rates of 0.83 spaces per dwelling and 1 space per dwelling under the DCP and LEP respectively, to the proposed 112 dwellings and 1085m² of commercial space. Application of these average rates

would generate about the same number of car parking spaces between the two policies, but up to 24 spaces less than currently being proposed in the preferred project (Table 3). This anomaly arises from the proponent applying the higher two bedroom dwelling car parking rate and not the 1 bedroom rate.

Table 3: Car Parking Requirements under South Sydney DCP and City of Sydney LEP

Land Use	South Sydney DCP	City of Sydney LEP
Residential*	90	112
Residential Visitors	19	0
Commercial	9	8
TOTAL	118	120

NOTE: In the absence of the preferred dwelling mix, the number of residential car parking spaces has been calculated as an average of all car parking rates (SSDCP = 0.83 space per dwelling and CoSLEP = 1 space per dwelling) and assumes an average unit size of 100m².

- 6.7.6 The Department acknowledges that the above figures rely heavily on a number of assumptions, and most importantly do not rely on a preferred indicative dwelling mix. However, in balancing the different car parking quantum, the Department is satisfied that the application of the CBD rates is warranted. Both the LEP and DCP 11 seek to reduce on site parking in order to promote public transport usage, however they do so with different conclusions on the appropriate number of car spaces to be provided. Whilst the proposal seeks to depart from the DCP 11 rates the objectives of the DCP are still satisfied if the CBD rates are provided. The higher rates of car parking are unlikely to increase traffic movements as the traffic report submitted with the application concludes that provision of residential parking on site in an area that is well serviced by public transport and in close proximity to employment and other facilities will not increase peak hour traffic.
- 6.7.7 The objectives of DCP 11 and LEP 1998 have the wider objective of reducing reliance on cars generally, not only in peak hours. This is to be achieved by the location of compatible uses in close proximity to each other, the improvement in facilities for pedestrians, cyclists and public transport users and the provision of on-site parking to a level that does not result in an over flow of parking to surrounding streets. Again, the Caritas redevelopment meets these objectives through the provision of residential properties in close proximity to existing and proposed mixed uses, key transport nodes and open space / places of public interest. On this basis, the suggestion of a TravelPlan is not pursued in the preferred project report. The proposed car parking will also alleviate the demand that may already exist on car parking spaces provided on street.
- 6.7.8 Further clarification is required to understand how spaces designated for the commercial uses will be accessed. The Department understands that the spaces will be accommodated within the basement car parking however residential / commercial interface issues have not been outlined. The Department is satisfied that this can be readily resolved through the detailed design phase for any future application. Nonetheless, the Department has recommended that any future car parking layout needs to clearly separate future residential and commercial car parking allocations.

Resolution

- 6.7.9 The Department is satisfied with the proponent's justification for applying higher CBD parking rates set out in the City of Sydney LEP. Application of the LEP rates would deliver in the order of 142 spaces for residential and commercial land uses. Whilst nominating a maximum of 142 car parking spaces, the Department notes that this conclusion has been drawn on a number of assumptions and does not include visitor car parking rates. Notwithstanding these factors, the Department supports the proposed car parking arrangements.
- 6.7.10 To ensure the satisfactory provision and allocation of car parking, a modification has been recommended formalising the application of the CBD car parking rates on the Caritas site for the future redevelopment. The separation of residential and commercial car parking provision is recommended and will need to be demonstrated at project / development application stage.

6.8 Traffic Generation and Management

Issue Summary

6.8.1 The concerns raised in relation to traffic generation and management were:

- Traffic generation as result of new residential accommodation. Existing road infrastructure does not have capacity accommodate anticipated traffic generation.
- The traffic generation report is inadequate as it fails to address the full range of transport, traffic and parking issues for the development.
- Whether the justification for the proposed CBD rates of car parking are appropriate given the significant amount of vehicular traffic they could generate.
- Traffic generated by the development should not be focussed on a singular point of entry / exit.
- Proposed commercial uses will generate further traffic in addition to residential uses.

Raised By

6.8.2 City of Sydney Council, Clover Moore – Member for Bligh, NSW Department of Housing, Community.

Consideration

6.8.3 The existing Caritas facility generates about 85 peak hour vehicle movements (or 850 movements per day). This is based on:

- 120 – 150 clients per day at 25% car use = 30 trips
- 120 staff at 25% car use = 30 trips
- patient transfers, company car use and other ancillary traffic movements = approx. 25 trips

6.8.4 The RTA's *Guide to Traffic Generating Developments* (2002) estimates that new high density residential development (as proposed on the Caritas site) generates 0.24 peak hour vehicle trips per dwelling. The Guidelines estimate that office and commercial premises will generate 2 vehicle trips per 100m² of GFA. Traffic generation movements for the preferred project scheme (112 residential dwellings and 1085m² commercial GFA) are therefore estimated to be:

- Residential daily vehicle movements
= 0.24 movements per dwelling
= 0.24 x 112
= 26.88 peak hour vehicle movements
- Commercial daily vehicle movements
= 2 movements per 100m²
= 2 x 10.85
= 21.7 peak hour vehicle movements
- TOTAL
= Residential + Commercial daily vehicle movements
= 48.58 peak hour vehicle movements

As a rule of thumb, daily trips are 10 times the peak hour figures. Accordingly the daily vehicle movements are estimated to be in the order of **490 TOTAL daily vehicle movements**.

6.8.5 A comparison of existing and proposed traffic volumes results in a net loss of 36 peak hour vehicle movements (existing 85 Caritas movements – 49 proposed movements), equating to 360 daily vehicle

trips. This is a 42% reduction in existing traffic movements around the Caritas site.

- 6.8.6 Figure 28 illustrates the existing daily traffic volumes on the three streets bounding the Caritas site. Burton Street experiences the largest traffic volumes, followed by Forbes Street and then Bourke Street. Forbes Street acts as the main vehicular entry point into the Caritas site.

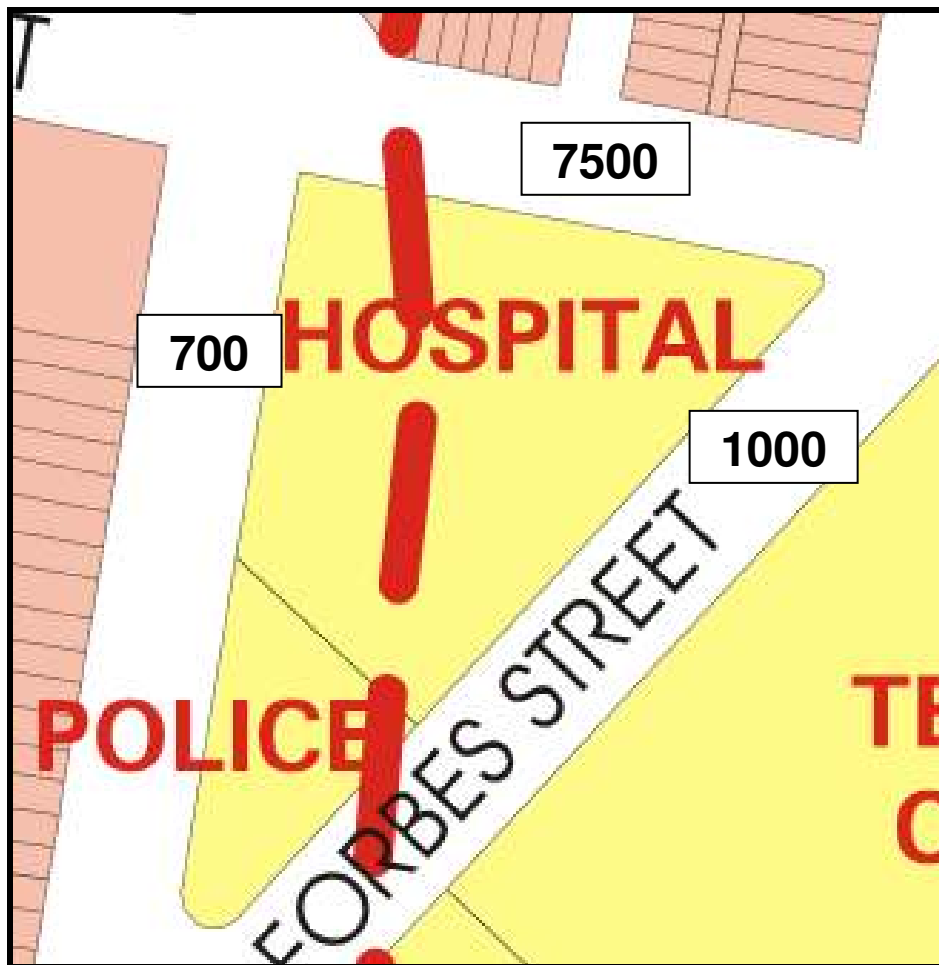


Figure 28: Existing Daily Traffic Movements (i.e. Caritas Facility in Place)

- 6.8.7 Traffic movements on Forbes and Bourke Streets will be redistributed with the closure of the existing Caritas vehicular access on Forbes Street and the provision of the primary vehicular access point on Bourke Street. As the two streets are connected and do not provide through access to Oxford Street, the Department is of the view that the anticipated redistribution of traffic movements will not have a significant impact on the capacity of those streets, more so given the calculated net loss in traffic movements.
- 6.8.8 Nonetheless, the existing and proposed intersections have been examined by the Department to determine whether the proposal will require traffic calming devices. The proponent's traffic investigations used INTANAL (an intersection analysis programme) to determine the average delay that vehicles encounter and consequently the level of service at intersections near the Caritas site. A comparison of these values against recognised performance criteria was then undertaken to determine an intersection's performance. By way of background, intersections are categorised as falling into one of six levels of service (Level A – Level F). Those which experience less than 14 seconds delay are highest performing and allocated a "Level A" service whilst a 15-28 second delay is Level B service. It is not until Level E (57 -70 second delay) that mitigation control / measures are required to be explored. Table 4 indicates that the Forbes / Burton and Burton / Bourke intersections currently operate at good levels of service with minimal delays to traffic passing through them (i.e. less than 14 seconds delay).

Table 4: Existing Intersection Operation

Intersection	AM Peak		PM Peak	
	Avg Delay	Level of Service	Avg Delay	Level of Service
EXISTING				
Forbes Street / Burton Street	2.4	A	2.6	A
Burton Street / Bourke Street	5.3	B	4.0	A
PROPOSED				
Forbes Street / Burton Street	1.3	A	1.7	A
Burton Street / Bourke Street	5.3	B	4.0	A

- 6.8.9 When the future traffic movements were tested by INTANAL, the results showed there would be no adverse traffic impacts and the intersections would continue to operate at good levels of service. The figures in those tables suggest that the redistribution of traffic movements between Forbes and Bourke Streets is unlikely to relegate any of the intersections to a Level E service and therefore require mitigation measures. Accordingly, traffic control measures are not required at this stage.
- 6.8.10 The RTA's submission raised no traffic generation and management issues other than to advise that all works / regulatory sign posting associated with the proposal shall be at no cost to RTA.
- 6.8.11 The proposed conceptual access arrangements into the site are supported at this stage on the basis that it locates the ingress / egress off Burton Street which experiences the greatest traffic volumes, and responds to the proposed distribution of building footprints. A singular point of access is considered appropriate having regard to the site's topography, provision of commercial properties with frontage to Bourke Street, appropriate site lines and distances from existing adjoining driveways and intersections, and the intent to retain the existing heritage wall (with minimal disruption). Retaining Forbes Street as the primary access and thereby keeping traffic movements away from areas of greater residential use would be beneficial however the site's physical constraints require a different approach. Given the topography of the site combined with the proposed parking arrangements, maintaining the Forbes Street access would be inefficient, create additional cost and arguably result in an inferior design outcome.

Resolution

- 6.8.12 Residential development at the Caritas site will reduce the number of daily traffic movements by 360 daily vehicle movements, or 42%. The Forbes / Burton and Burton / Bourke intersections currently operate at a good level of service and will continue to do so following redevelopment of the site. The recommended reduction in car parking (Section 6.6) on the Caritas site will reduce the traffic movements and accordingly respond to concerns that car parking rates are directly related to additional vehicular traffic movements. The proposed access arrangements are supported in principle.
- 6.8.13 No further action is required at this stage.

6.9 Impact of Commercial / Retail Uses

Issue Summary

- 6.9.1 Appropriateness of introducing commercial uses, traffic generation and car parking provision.

Raised By

- 6.9.2 Community

Consideration

- 6.9.3 1085m² of commercial uses are proposed on the ground floor of street facing buildings (Blocks C, D

and G). The Environmental Assessment suggests that buildings with high visibility (Block E on Burton Street / Forbes Street and Block G on Burton Street / Bourke Street) would ideally accommodate cafes and other similar high frequency uses. Smaller scale retail, business or home offices could be housed along all three street frontages.

- 6.9.4 The flexible zone provisions in the South Sydney LEP permit Special Use zones such as that currently applicable to the Caritas site to adopt the permissible land uses in the adjoining zones. The Caritas site is adjacent to Residential 2(b) – Medium Density and Mixed Use 10(b) zones. The objectives of those zones seek to (amongst other things):

- Provide limited opportunities for non-residential development which provides goods, services or employment for residents
- Facilitate opportunities for small scale local business activity which is compatible with existing residential areas;
- Provide urban housing and a range of compatible vibrant non-residential uses, such as shops, offices, retail and studio-type workshops.
- Promote mixed use planning by encouraging the location of facilities such as housing, places of employment and shops in close proximity to each other and so as to be accessible by public transport.

Local businesses; local shops, professional consulting rooms, commercial premises, community centres, local businesses, professional consulting rooms, restaurants, and shops are all permissible uses within those zones and theoretically could be provided under the current planning controls.

- 6.9.5 The introduction of commercial uses in the proposed location is also supported from an urban design perspective as locating residential premises at street level would potentially raise amenity and solar access concerns. Commercial uses fronting Burton, Bourke and Forbes Streets will activate street frontages, provide passive surveillance and encourage frequent use of the heritage courtyard and surrounding open space.

- 6.9.6 The traffic and car parking assessments undertaken above demonstrate that there will be minimal traffic and car parking impacts. Commercial traffic is likely to be up to 219 daily traffic movements, however when the proposal is considered in its entirety, Burton, Bourke and Forbes Streets will actually be experiencing less traffic movements than currently generated by the Caritas mental health facility. Residential and commercial car parking will be separated to avoid user conflicts as well as address security / safety issues.

Resolution

- 6.9.7 Whilst the Department is not suggesting that the proposed 1085m² commercial floor space will accommodate any such use at this stage, Council's statutory controls clearly provide for commercial uses and accordingly it can be argued that some form of commercial uses on the site is appropriate. The proposed scale of the commercial uses (8% of total proposed GFA) is not considered excessive and is within Council's policy requirements.

- 6.9.8 Construction of the new blocks and indeed commercial uses generally will require consent. Future project / development applications provide further opportunity to consider suitability, car parking and traffic, noise and waste specific to the commercial use proposed. No modifications relating to the commercial uses are considered necessary.

6.10 Tree Removal / Tree Loss

Issue Summary

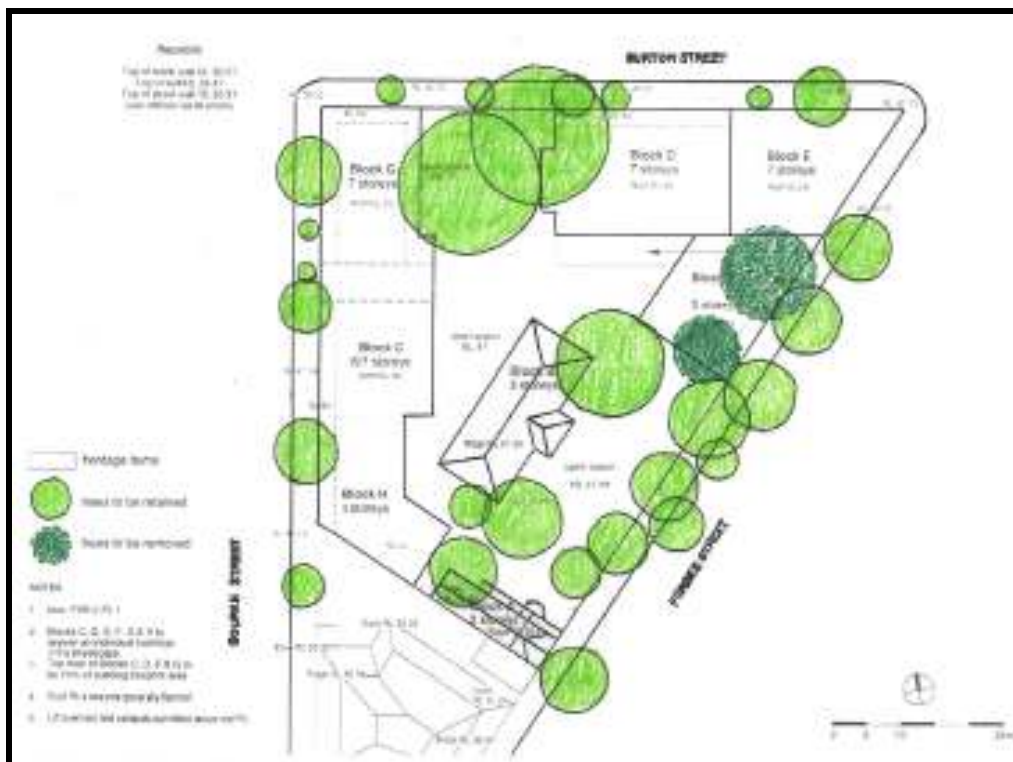
- 6.10.1 The exhibited proposal sought to remove mature trees which provide visual amenity with no proposal to replace them.

Raised By

- 6.10.2 Department of Planning, City of Sydney Council, Clover Moore – Member for Bligh, Community.

Consideration

- 6.10.3 There are approximately 30 trees currently on the site, of which only six were proposed to be retained under the exhibited scheme. The proponent has now confirmed that only 2 trees will be removed whilst 28 existing trees are proposed to be retained under the preferred project scheme (Figure 29).



Source: architectus

Figure 29: Tree Plan at Caritas

- 6.10.4 The two trees to be removed are a *Lophostemon confertus* (Brush Box) and *Corymbia citriodora* (Lemon Scented Gum), neither of which are threatened species under the Threatened Species Conservation Act, 1997. The aboriginal report submitted with the proposal recommends the removal of both trees on the basis that the Brush Box is exhibiting symptoms of dieback and epicormic shoots (formed in response to stress), whilst the Lemon Scented Gum is also showing signs of stress and the branches are stained due to sap-sucking insects.
- 6.10.5 The retention of the trees as now proposed addresses Council's and the community's concerns regarding amenity as well as assist in screening the development from the street.
- 6.10.6 The proponent has committed to the provision of detailed landscaping plans at project application stage, which is supported by the Department.

Resolution

- 6.10.7 No further action is required at this stage.

6.11 Loss of Open Space / Open Space Provision

Issue Summary

- 6.11.1 Community is concerned the proposal will result in loss of open space. Caritas proposal will place further demand on any existing open space in proximity of the site.

Raised By

- 6.11.2 Clover Moore – Member for Bligh, Community

Consideration

- 6.11.3 Currently there is no formal public open space on the Caritas site. Green Park, bounded by Darlinghurst Road, Burton Street, and Victoria Street, is the closest formal public open space to the Caritas site (Figure 30).



Figure 30: Location of Green Park in Context of Caritas Site

- 6.11.4 Within the site, the small expanse of lawn within the site towards the Forbes Street frontage will be retained and made publicly accessible along with the access ways through the site. In its entirety this area equates to approximately 3,141m² of which more than half (1685m²) will be for deep soil planting purposes. This is respectively 2022m² and 1126m² more than the SSLEP and SSDCP minimum open space and deep soil requirements for a site of this size.
- 6.11.5 Council's LEP / DCP controls require a minimum 25% of a development site to be open space, half of which must be deep soil planting. The current proposal exceeds these minimum requirements by proposing to redevelop 43% of the site as open space and provide 63% of that area as deep soil zones. This equates to almost double Council's open space requirements on a pro rata basis. Under the preferred project scheme approximately 17m² per dwelling of public open space will be provided, whilst under the LEP / DCP minimum requirements the 112 proposed dwellings would each garner about 9m² of open space per dwelling (Table 5). The proposed quantum of open space well exceeds the minimum 25%-30% for both open space and deep soil zones recommended by SEPP 65.

Table 5: Open Space at Caritas

	SSLEP / SSDCP	Open Space / Dwelling (m ²)	Preferred Project	Per Dwelling (m ²)	Change (LEP / DCP to PPR)
Open Space (m²) (%)	1 119 (25)	9.9	1 904 (43)	17.0	+ 785 (+70%)
Deep Soil (m²) (%)	559 (50)	4.99	1 195 (63)	10.7	+ 636 (+14%)

- 6.11.6 The community is concerned the quality of the existing and proposed open space will be compromised through overshadowing, restricted solar access and increased demand. Overshadowing diagrams submitted for the revised scheme demonstrate that the open space will receive sunlight between 11:00 am and 1:00 pm on June 21. Whilst the Department acknowledges that the internal open space areas of the site will be overshadowed by varying degrees throughout the day, these impacts can be readily refuted given the orientation and topography of the site, existing arrangement of heritage items, as well as maximising opportunities for views of key heritage vistas and solar access into dwellings (as discussed in Section 6.4.23).
- 6.11.7 In terms of addressing the community's concerns that the Caritas proposal will place further demand on any existing open space in proximity of the site, the South Sydney Section 94 Contributions Plan 1998 does not specifically identify the Caritas site as a landmark open space opportunity under Council's Works Programme. There are however general provisions in the Contributions Plan to ensure the existing 12m² per capita rates in the former South Sydney LGA, as far as possible, are prevented from falling further. The Contributions Plan recognises that additional large development sites are either not apparent or the acquisition of whole sites may become a necessity and accordingly the Plan makes provision for the purchase of open space from such unforeseen sites as they become available.
- 6.11.8 In this regard, the Caritas redevelopment which proposes 17m² of public open space per dwelling (as opposed to per capita) would appear to fall slightly short of this target, however future project applications will be subject to the Section 94 contributions which will supplement the physical provision of open space. Assuming an average 100m² dwelling size, the 112 dwelling proposed in the preferred project scheme would attract Section 94 contributions in the order of \$2 523.00 per dwelling, or \$282, 576 for open space alone.

Resolution

- 6.11.9 The proposed open space and deep soil zones exceed Council's minimum requirements. Whilst the existing Caritas facility currently contains a greater amount of open space (2, 637m² or 59%), this area is for the exclusive use of Caritas users. The proposal will actually result in open space available to the public and wholly catering for the new development (through a combination of works and payment of monetary contributions) – a significant improvement to the current situation.

6.12 Infrastructure Capacity

Issue Summary

- 6.12.1 The capacity of existing utility infrastructure and services to service the Caritas site.

Raised By

- 6.12.2 Energy Australia, Community

Consideration

- 6.12.3 The community expressed particular concern that the Concept Plan does not adequately address the capacity of existing utilities and infrastructure to determine whether future demand generated by the Caritas redevelopment will be catered for.

- 6.12.4 The Department acknowledges that the redevelopment may place additional demand on existing water and energy infrastructure. Energy Australia, for example, has confirmed that an electrical substation is required on the Caritas site whilst Sydney Water, as the water supply authority in the CBD, advised the proponent will be required to comply with Sydney Water's On-Site Detention (OSD) Policy and requirements to connect to the Sydney Water stormwater infrastructure system. A Section 73 Compliance Certificate will also be required at the time of construction. These are development matters that will be addressed through future project / development applications and as far as the Caritas redevelopment is concerned do not need to be addressed at this stage.
- 6.12.5 Energy Australia has advised that it is already in discussions with St Vincent's to determine options and locations however the final logistics (including dimensions, location, access, clearance, overhang, etc) have not been finalised. The proponent has undertaken some preliminary scoping to determine capacity and location requirements, and has advised the Department that kiosk substation of approximately 6m² within a 20m² curtilage (for access and maintenance reasons) should adequately address the energy demands of the Caritas site. At this stage, the open space area between Buildings G and D (approximately 400m²) has been proposed as the most suitable location and could be designed to avoid the removal of the two mature trees currently located in this area.
- 6.12.6 The Department's view is that the Caritas redevelopment is a Concept Plan only at this stage and that the future developer is best placed to deal with the details of the substation, pending final dwelling and commercial yield as well as understand whether any such infrastructure should also cater for future development in the area. The proponent has demonstrated that the required substation can be located on the site with minimal disruption to the general layout of the development.

Resolution

- 6.12.7 Conceptually, the Department is satisfied that the Caritas site can be serviced by the required utilities and infrastructure. Detailed design and technical specifications are best dealt with at construction stage and therefore the Department has recommended a modification be imposed which requires the proponent to submit written evidence from all utility providers demonstrating the site can be serviced to the satisfaction of those providers. Such evidence is required to be submitted prior to lodgement of the first project application for the site.

6.13 Sale of Crown Land / Landowner's Consent

Issue Summary

- 6.13.1 Community is concerned about the sale of Crown land in return for private profit, particularly as the site is not owned by St Vincent's Hospital

Raised By

- 6.13.2 City of Sydney, Clover Moore – Member for Bligh, Community

Consideration

- 6.13.3 The Trustees of St Vincent's Hospital hold a perpetual lease over the Caritas site, which is Crown land owned by Department of Lands. The Trustees are appointed under Section 2 of the St Vincent's Act 1912, and are responsible for all land belonging to or acquired by the Hospital. The Trustees intend to convert the perpetual lease into freehold title, thereby acquiring the Caritas site which will then be vested in the Trustees and be subject to the statutory requirements of the St Vincent's Act 1912.
- 6.13.4 The St Vincent's Act 1912 confers on the Trustees a number of powers in relation to dealings with the land including the power to mortgage land and power to lease land. However, the Act does not confer the power to sell the land. Notwithstanding this, the Supreme Court has certain powers under Sections 81(1) and 81(2)(a) of the Trustee Act 1925 to enable trustees to enter into transactions in circumstances where trustees are otherwise prevented from entering into transactions by the terms of

the instrument creating the thrust or absence of a statutory power. The Court may only exercise these powers where the transaction would be advantageous to the beneficiaries.

- 6.13.5 The Department understands that the Supreme Court has authorised the Trustees to enter into similar transactions in the past subject to it being satisfied that the proposed transaction (i.e. the sale of the Caritas site) would benefit the Hospital. The proponent intends to apply to the Supreme Court for an order to enable the Trustees to sell the Caritas site in order to construct the new O'Brien Building mental health / drug and alcohol / community services facility.

Resolution

- 6.13.6 The Department of Lands has issued landowners consent to St Vincent's Hospital enabling lodgement of the concept plan under Part 3A of the EP&A Act. In order to convert the existing perpetual lease to freehold title and sell the Caritas site, the proponent will be required to fulfil the requirements of the St Vincent's Act, 1912 and the Supreme Court. These matters are outside the scope of the Environmental Planning and Assessment Act, 1979 and therefore cannot be addressed as part of this assessment.
- 6.13.7 Notwithstanding the above, from a planning and environmental perspective, this matter has been addressed through the granting of landowner's consent and consideration of the justification and suitability of the proposed development on the Caritas site. Accordingly, no further action is recommended.

6.14 Ecologically Sustainable Development Principles

Issue Summary

- 6.14.1 The proposal's compliance with the five ESD principles.

Raised By

- 6.14.2 Department of Planning

Consideration

- 6.14.3 There are five accepted ESD principles:
- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);
 - (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);
 - (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);
 - (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
 - (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).
- 6.14.4 The Department has considered the redevelopment in relation to the ESD principles and has made the following conclusions:
- **Integration Principle** - the social and economic benefits of the proposal are well documented. The environmental impacts are and will be addressed through the proponent's Statement of

Commitments and recommended modifications. Additionally the environmental impacts will be assessed as future applications are. The Department's assessment has duly considered all issues raised by the community and public authorities. The proposal as recommended for approval does not compromise a particular stakeholder or hinder the opportunities of others. The proposal's promotion of good public transport access is very important and supported.

- **Precautionary Principle** – the Environmental Assessment is supported by technical and environmental reports which conclude that proposal's impacts can be successfully mitigated. No irreversible or serious environmental impacts have been identified. The Modifications require additional information to ensure the proposal's extent and nature is fully documented and opportunities are provided for proposed mitigation and management measures to incorporate best practices.
- **Inter-Generational Principle** – the site's current use as a private health campus prohibits public use of open space areas. The redevelopment of the Caritas site will ensure that publicly available and functioning open space is provided to the community. Through implementation of the Concept Plan environmental and management practices currently employed on the site will be upgraded, enhanced or introduced to ensure the environment is protected for future generations. The new mental health facilities and services integrated within the new O'Brien Building will also provide an improved legacy for future generations.
- **Biodiversity Principle** – as stated above there is little natural vegetation on the site and the site does not contain any threatened or vulnerable species, populations, communities or significant habitats. The preferred project proposes to retain a high proportion of the existing on-site trees, thereby further satisfying the biodiversity principle.
- **Valuation Principle** – the proposal seeks to promote new residential development in existing urban areas by maximising reliance of existing infrastructure, and enabling residents to live near work, leisure and other opportunities. This means that the proposal will provide relatively affordable residential properties in an existing urban area. The sale and redevelopment of the Caritas site also meets the valuation principle in that the proposal will subsidise the O'Brien Building funding committed to by Treasury therefore alleviate demand on the public purse.

- 6.14.5 The proponent is committed to ESD principles and has reinforced this through the Statement of Commitments and the Environmental Assessment which explores key ESD opportunities, including mechanical, electrical and hydraulic systems as well as architectural designs to ensure high environmental performance is delivered.

7 CONCLUSION

- 7.1 The Department has reviewed the environmental assessment and the preferred project report for both the wider concept plan and the O'Brien Building project application. In doing so, the Department has duly considered advice from public authorities as well as issues raised in general submissions in accordance with Section 75(2) of the Act and has formed the view that the proposal can be recommended for approval.
- 7.2 All relevant environmental issues associated with the proposal have been extensively assessed. The O'Brien Building project raised standard traffic and construction issues. The majority of environmental issues associated with the development proposal have been in relation to the Caritas site. These issues primarily focus upon height, density / FSR, bulk and scale, heritage, traffic generation and management, and car parking. The proponent has scaled back the Caritas component of the proposal in response to the issues raised. The submitted Preferred Project Report and Statement of Commitments further seek to address the concerns and provide added mitigation measures.
- 7.3 In balancing the State significant planning outcomes with the issues raised above, it is considered that no further environmental assessment is required prior to the construction of the O'Brien Building, subject to the proponent complying with the recommended conditions of approval. In terms of the Caritas site, the Department is of the view that the proponent has satisfactorily mitigated the urban design and environmental impacts arising from that aspect of the redevelopment. The recommended modifications to the Concept Plan (at Appendix A) seek to formalise the parameters of the proposal to encourage good urban design, maintain the amenity of the local area, and adequately mitigate the environmental impact of the development.
- 7.4 If developed in accordance with the recommended modifications, the Concept Plan will provide for a mental health facility and a mixed use and open space development that comprises:
- Demolition of the existing O'Brien Building fronting Burton Street;
 - Early and site preparatory works (including excavation) on the O'Brien Building site;
 - Construction of a new 8 storey O'Brien Building (of approximately 10, 401m² GFA), 228 car parking spaces, and ancillary facilities / infrastructure;
 - Demolition of the Caritas Rehabilitation Centre fronting Burton Street (1962);
 - Excavation for new basement car parking;
 - Envelopes for the future construction of new mixed use buildings fronting Burton and Bourke Streets;
 - Demolition of rear additions to Caritas House (generally dated around 1935 and 1962); and
 - Retention and change of use of the heritage items being Caritas House and Caritas Cottage and also the old Kitchen block from institutional use to residential and commercial use.
- 7.5 The redevelopment will facilitate State and regional planning outcomes by contributing to the on going provision of mental health services, renewal of existing areas under the Metropolitan Strategy, providing accessibility to regional transport corridors and access routes, providing desirable residential land uses in close proximity to employment areas, contributing to Metropolitan Strategy objectives such as greater housing mix and diversity, and efficiently utilising land.
- 7.6 Overall, the proposed development is considered to be acceptable and the two sites can sustain the proposed redevelopments. Both the O'Brien Building and the Caritas redevelopment perform adequately in terms of their respective relationships to the surrounding built and natural environment, particularly in relation to likely impacts upon surrounding heritage items. The proposal foremost achieves key service delivery objectives for the mental health sector, however it also supports the objectives of the Metropolitan Strategy and State Environmental Planning Policies particularly those

which seek to encourage urban consolidation, provide greater housing supply and choice and utilise existing public transport and other physical infrastructure. The development of the Caritas site therefore provides an important opportunity to redevelop a site which supports these aims which is currently underutilised. Consequently, the proposal is supported from an environmental planning perspective

- 7.7 The Department is of the view that the combination of statements of commitment made by the proponent together with supplementary conditions of approval that are recommended be imposed by the Minister, should effectively mitigate and manage this and other issues within acceptable environmental limits.

APPENDIX A. CONDITIONS OF APPROVAL

APPENDIX B. STATEMENT OF COMMITMENTS

APPENDIX C. PREFERRED PROJECT REPORT

APPENDIX D. RESPONSE TO SUBMISSIONS

APPENDIX E. SUBMISSIONS

APPENDIX F. ENVIRONMENTAL ASSESSMENT

APPENDIX G. ENVIRONMENTAL PLANNING INSTRUMENTS CONSIDERATION

STATE ENVIRONMENTAL PLANNING POLICIES

Part 3A of the Environmental Planning and Assessment Act 1979 (the Act)

On 1 August 2005, Part 3A was introduced to the Environmental Planning and Assessment Act 1979 ("the Act"). Part 3A and its accompanying Regulations and Guidelines (the latter yet to be gazetted), contains a new assessment and determination framework for major projects.

The Minister has formed the opinion that the development to which this application relates is a project for the purposes of Part 3A of the Act. The Concept Plan application to which this Environmental Assessment report relates has therefore been lodged pursuant to Section 75M of the Act, for approval to carry out a project as defined in Part 3A of the Act.

State Environmental Planning Policy (Major Projects) 2005 (Major Projects SEPP)

The Major Projects SEPP outlines the types of development declared a project for the purposes of Part 3A of the Act.

For the purposes of the Major Projects SEPP certain forms of development may be considered a Major Project if the Minister forms the opinion that the development meets criteria within it.

On 28 August 2006, the Minister formed the opinion that the project is a development which meets the criteria of Clause 18, Schedule 1 of the SEPP, namely "hospitals" and has a capital investment value of more than \$15 million. The Capital Investment Value (CIV) of the project application is \$41 million and up to \$48 million for the Caritas redevelopment. The development is considered to be a Major Project and the Minister is the approval authority.

State Environmental Planning Policy 11 – Traffic Generating Developments (SEPP 11)

The main objectives of SEPP 11 are to ensure that the Traffic Authority is made aware of and is given an opportunity to make representations in respect of development set out in Schedules 1 and 2.

The Concept Plan meets the criteria under Schedule 1 of SEPP as follows:

(n) areas used exclusively for parking or any other development having ancillary accommodation for 200 or more motor vehicles, or the enlargement or extension of a parking area where the enlargement or extension accommodates 200 or more motor vehicles. [The O'Brien Building proposal seeks parking for about 228 vehicles].

The Concept Plan also meets the criteria under Schedule 2 of the SEPP as follows:

(a) the erection of, or the conversion of a building into, a residential flat building comprising 75 or more dwellings or the enlargement or extension of a residential flat building by the addition of 75 or more dwellings [the Caritas proposal is for 112 dwellings].

(c) the erection of a building for the purposes of shops and commercial premises where the gross floor area of the building is or exceeds 1 000 square metres or the enlargement or extension of a building used for the purposes of shops and commercial premises where the gross floor area of that enlargement or extension is or exceeds 1 000 square metres [the Caritas proposal is for 1085m² of commercial floorspace].

- (q) *areas used exclusively for parking or any other development, in each case having ancillary accommodation for 50 or more motor vehicles, or the enlargement or extension of a parking area where the enlargement or extension accommodates 50 or more motor vehicles [the Caritas proposal is for 142 car parking spaces].*

Accordingly, the RTA has been consulted about the Concept Plan. The RTA has advised it considered the proposal under Schedule 1 of the SEPP at its meeting on 10 November 2006. The comments related largely to car parking compliance with relevant Australian Standards, which the proponent considered and has incorporated into statement of commitments.

State Environmental Planning Policy No.32 (Urban Consolidation – Redevelopment of Urban Land) (SEPP32)

The aims and objectives of SEPP32 are as follows:

- (a) *to promote the orderly and economic use and development of land by enabling urban land which is no longer required for the purpose for which it is currently zoned or used to be redeveloped for multi-unit housing and related development, and*
 - (b) *to implement a policy of urban consolidation which will promote the social and economic welfare of the State and a better environment by enabling:*
 - (i) *the location of housing in areas where there are existing public infra-structure, transport and community facilities, and*
 - (ii) *increased opportunities for people to live in a locality which is close to employment, leisure and other opportunities, and*
 - (iii) *the reduction in the rate at which land is released for development on the fringe of existing urban areas.*
- and*
- (a) *to ensure that urban land suitable for multi-unit housing and related development is made available for that development in a timely manner, and*
 - (b) *to ensure that any redevelopment of urban land for multi-unit housing and related development will result in:*
 - (i) *an increase in the availability of housing within a particular locality, or*
 - (ii) *a greater diversity of housing types within a particular locality to meet the demand generated by changing demographic and household needs, and*
 - (c) *to specify:*
 - (i) *the criteria which will be applied by the Minister to determine whether the redevelopment of particular urban land sites is of significance for environmental planning for a particular region, and*
 - (ii) *the special considerations to be applied to the determination of development applications for multi-unit housing and related development on sites of such significance.*

Whilst the SEPP applies to all urban land, it does not strictly apply to the Concept Plan as the policy relates to development applications and the preparation of new planning instruments. Nonetheless, the proposal does in its broadest sense seek to promote new residential development in existing urban areas by maximising reliance of existing infrastructure, and enabling residents to live near work, leisure and other opportunities. The proposal will indirectly reduce the rate of development demand at the urban fringe as well as enabling the orderly and timely redevelopment of land no longer required for its zoned purpose.

State Environmental Planning Policy No. 55 (Remediation of Land) (SEPP 55)

SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment by specifying that certain considerations be made by the consent authority when determining development applications in general, and where relevant, land has been appropriately remediated.

The proponent has prepared a preliminary investigation of the land concerned in accordance with the contaminated land planning guidelines. The draft *Phase 1 Environmental and Geotechnical Assessment* included amongst other things a site inspection, review of existing and historic information concerning the development and ongoing use of the site, check of Workcover and Department of Environment & Conservation records, review of geology, hydrogeology and surface conditions and current range of uses surrounding the site. The Report's conclusions and recommendations are as follows;

- Based on the site history a number of potential areas of environmental concern are identified (including leakage and spillage from underground and aboveground storage tanks and boilers, leaching or weathering of contaminants from previous and current building materials, onsite disposal of building materials following demolition of buildings, and potential importation of contaminated fill to the site);
- Remediation will potentially be required to address these areas of environmental concern and potential contamination issues;
- It is unlikely that the potential contamination issues will pose a major constraint on the redevelopment;
- A Stage 2 Environmental Site Analysis (including field investigations and laboratory analysis) will determine the extent of remediation required to make the site suitable.

The proponent has also prepared an Asbestos Materials Management Plan for the St Vincent's Hospital site, including the O'Brien Building as well as for the Caritas Centre (dated 5 September 2006). It is known that there is damaged asbestos sheeting (and other damaged infrastructure containing - and potentially containing - asbestos) in both the O'Brien Building and the Caritas Centre. The report generally recommends the isolation of such area, sampling and testing to determine method of removal, and removal of the asbestos as soon as possible. An asbestos survey was also carried out on the Caritas site alone in August 2006 also indicating that generally low to medium risk on-site from asbestos and that the appropriate actions are to remove the material during refurbishment or maintenance.

The proponent has committed to undertaking further investigations and implementing appropriate mitigation measures as part of the future development and construction management plan processes consistent with legislative and related requirements.

The Department is generally satisfied with the proponent's approach to this issue.

OTHER ENVIRONMENTAL PLANNING INSTRUMENTS

South Sydney Local Environmental Plan 1998 ("SSLEP 1998")

Zoning

Both the Caritas and O'Brien sites are zoned 5(a) Special Uses (Hospital) pursuant to the provisions of South Sydney LEP 1998, as shown on Figure 18. The objectives of the zone are as follows:

- a) *to facilitate certain development on land which is, or is proposed to be, used by public authorities, institutions, organisations or the Council to provide community facilities, services, utilities or transport facilities, and*
- b) *to allow other ancillary development which is incidental to the primary use specified on the map, and*

- c) *to provide flexibility in the development of sites identified for special uses by allowing development which is permissible on adjoining or adjacent land, and*
- d) *for land in the zone and within Green Square, in addition to the above:*
 - i. *to reflect and reinforce the need for proper recognition of community land and facilities as part of a robust public domain in the Green Square locality, and*
 - ii. *to recognise that protecting and improving the quality, accessibility and impact of the public domain makes a fundamental contribution to the social, economic, environmental and urban design outcomes for the area, and*
 - iii. *to ensure that development contributes to a sustainable, vibrant community, and reflects equal and integrated consideration of social, economic and environmental design issues.*

Development must be consistent with the objectives of the zone

Clause 10 of SSLEP 1998 provides that the consent authority must not grant consent to the carrying out of development on land to which SSLEP 1998 applies unless the consent authority is of the opinion that the proposal is consistent with the objectives of the zone within which the land is located. In general the proposal is consistent with the objectives of the zone. The O'Brien Building proposal is a continuation of health / hospital purposes on the St Vincent's site. The Caritas proposal however, whilst it seeks to make use of objective (c) above, is at a density greater than that permitted under the adjoining / adjacent zones. This is considered below and within the Assessment section of the report.

Development which can be carried out without consent

Under Clause 10A of SSLEP, only Exempt or Complying Development consistent with SSDCP 1999 – Exempt and Complying Development may be carried out without development consent.

As a Concept Plan approval is presently being sought this provision is not relevant to this proposal. The Minister in approving this proposal may however under section 75P of the Act determine which subsequent development may be subject to Part 4 of the Act, including any exempt and complying development provisions.

Development which can be carried out with consent

Pursuant to the provisions of the Special Uses zoning, development which can be carried out only with development consent comprises the particular land use indicated by red lettering on the map (hospital in this case), or land uses which are ancillary or incidental to that land use; development that may be carried out (with or without consent) on adjoining or adjacent land in the same or a different zone; roads; and temporary buildings.

The zones adjoining or adjacent to the **Caritas site** are 2(b) Residential (Medium Density) and 10 Mixed Uses. These zones have the following relevant provisions under the SSLEP.

The objectives of the **Residential 2 (b)** zone are:

- (a) to enhance the amenity of existing medium density residential areas, and
- (b) to nominate those localities which are primarily residential and where future residential development is likely to occur, and
- (c) to ensure that building form including alterations and additions, is in character with the surrounding built environment and does not detract from the amenity enjoyed by nearby residents or the existing quality of the environment, and
- (d) to provide limited opportunities for non-residential development which provides goods, services or employment for residents and is of a type and scale that is compatible with existing or planned residential development and does not detract from the amenity enjoyed by nearby residents or the existing quality of the environment, and
- (e) to facilitate a higher density and diverse forms of residential development on appropriate sites, and

- (f) to facilitate opportunities for small scale local business activity which is compatible with existing residential areas.

Exempt development referred to in clause 10A of SSLEP does not require development consent. Development consent is however required for bed and breakfasts; boarding houses; child care centres; community centres; dwelling houses; educational establishments; home industries; hospitals; local businesses; local shops; multiple dwellings; places of public worship; professional consulting rooms; public buildings; roads; and temporary buildings.

The objectives of the **Mixed Use 10** zone are:

- (a) to allow, in appropriate circumstances, a mixture of compatible land uses such a residential, retail, commercial, light-industrial and industrial development, and
- (b) to promote mixed use planning by locating mutually supportive and compatible uses such as residential uses, places of employment and retail uses in close proximity to each other so as to minimise vehicular travel, and
- (c) to permit appropriate forms of residential development within the zone to mutually support the vitality of nearby commercial and urban village centres, and in doing so, assist successful urban consolidation, and
- (d) to incorporate contemporary urban design principles in the design of new buildings and the interpretation of their relationship with the public domain, and
- (e) to implement the principles of energy efficiency, travel demand management and other sustainable development practices as part of the development assessment process, and
- (f) to encourage the integration of suitable employment and resident intensive activities into accessible locations so as to maximise public transport patronage and encourage travel by foot and bicycle from surrounding areas, and
- (g) to minimise any adverse impact on residential amenity by devising appropriate design assessment criteria and applying specified impact mitigation requirements by the use of development control plans, and
- (h) to ensure that the nuisance generated by non-residential development, such as that related to operating hours, noise, loss of privacy, vehicular and pedestrian traffic or other factors, is controlled so as to preserve the quality of life for residents in the area.

Exempt development referred to in clause 10A is the only development not requiring development consent. Development consent is required for bed and breakfast accommodation; commercial premises; dwelling houses; high technology industries; industries; light industry; local businesses; local shops; roads; shops; temporary buildings; warehouses or distribution centres. It should be noted that dwelling houses are defined as a building containing one, but not more than one, dwelling on an allotment and includes what is commonly known as a terrace house under SSLEP.

The consequences of carrying out development in this zone without development consent are the same as for carrying out prohibited development, unless the development is allowed to be carried out without consent by an Act, this plan or another environmental planning instrument. Clause 10 provides that such a development consent must not be granted unless the Council is of the opinion that the proposed development is consistent with the objectives of this zone.

Conservation Area

The whole of the Caritas site forms part of Conservation Area CA18, "East Sydney Darlinghurst" as referred to in Schedule 2A of SSLEP 1998 and as identified on Figure 19. The O'Brien building site is not within a Conservation area, nor is it a heritage item.

Clauses 22 to 27 of SSLEP 1998 relate to heritage conservation. Clause 23 requires the following consideration to be made in the protection of heritage items:

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
 - (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
 - (b) damage or remove the relic, or
 - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
 - (d) damage or despoil the tree or place, or
 - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
 - (f) damage any tree or land on which the building, work or relic is situated on or on the land which comprises the place, or
 - (g) make structural changes to the interior of the building or work, except with the consent of the consent authority.
- (2) Consent must not be granted to a development application required by subclause (1) unless the consent authority has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item.
- (3) The consent authority may decline to grant a development application required by this clause until it has considered a statement of heritage impact or a conservation management plan, so as to enable it to fully consider the heritage significance of the item and the impact of the proposed development on the significance of the item and its setting.

Additionally clause 23A requires that in the case of the erection of a building in a conservation area the consent authority is to make an assessment of the following:

- (1) A person must not:
 - (a) demolish or alter a building or work within a heritage conservation area or heritage streetscape area, or
 - (b) damage a relic within any such area, or
 - (c) excavate land for the purpose of discovering, exposing or moving a relic within any such area, or
 - (d) damage or despoil a place within any such area, or
 - (e) erect a building or subdivide (otherwise than by a strata plan) within any such area, or
 - (f) damage any tree or land within any such area, or
 - (g) make structural changes to the interior of a building or work within any such area, except with the consent of the consent authority.
- (2) The consent authority must not grant consent to a development application required by subclause (1), being an application to erect a new building or to alter an existing building, unless it has made an assessment of:
 - (a) the pitch and form of the roof, and
 - (b) the style, size, proportion and position of the openings for windows and doors, and
 - (c) whether the colour, texture, style, size and type of finish of materials to be used on the exterior of the building are compatible with the materials used in the existing buildings in the heritage conservation area or heritage streetscape area in which the building is situated, and
 - (d) the impact on the landscape.
- (3) The consent authority may decline to grant a development application required by this clause until it has considered a statement of heritage impact or a conservation management plan, so as to enable it to fully consider the heritage significance of the heritage conservation area or streetscape within the heritage

streetscape area and the impact of the proposed development on the significance of the heritage conservation area or streetscape.

All of these matters are addressed in the Heritage Impact Statement submitted with the application and have been assessed accordingly within Section 6 of the Director General's Environmental Assessment Report.

Regarding the O'Brien Building, Clause 24 of the SSLEP applies. For development in the vicinity of heritage items (such as the deLacy Building), heritage conservation areas, heritage streetscape areas, archaeological sites or potential archaeological sites, the consent authority must not grant consent to development on land in the vicinity of a heritage item, a heritage conservation area, a heritage streetscape area, an archaeological site or a potential archaeological site unless it has considered an assessment of the impact the proposed development will have on the heritage significance, curtilage and setting of the heritage item, on the heritage significance of buildings within the heritage conservation area, or on the heritage significance of the streetscape within the heritage streetscape area or of the actual or potential archaeological site, as well as the impact of the development on any significant views to or from the heritage item, heritage conservation area or streetscape.

Development Control Plans (DCPs)

DCPs applicable to the Caritas and O'Brien Building sites include:

- City of Sydney Heritage Development Control Plan 2006
- South Sydney DCP 1997 Urban Design
- South Sydney DCP No.11 Transport Guidelines for Development 1996

City of Sydney Heritage Development Control Plan 2006

Relevant provisions of this DCP include:

- Appropriate level of documentation to support development of a heritage item or development in the vicinity of a heritage item;
- Provisions for the change of use of a heritage item;
- Ensuring sympathetic development within a Conservation Area;
- Provisions for appropriate infill development and changes to heritage items; and
- Public and community buildings.

South Sydney DCP 1997 Urban Design

Relevant provisions of this DCP include:

- Urban Design Principles - Development context (residential scale preservation and local employment);
- Urban Design Principles - Setting (retention of local and distant views);
- Urban Design Principles – Heritage;
- Public Domain – Avenues of Trees (Bourke and Forbes Streets);
- Social Planning Design – Access to public spaces;
- Social Planning Design – Social and housing mix;

- Social Planning Design – Security;
- Environmental Design Criteria – including car parking, heights, setbacks;
- Design Criteria for specific development types – Residential Flat Buildings / Mixed use development;
- Floor space ratios; and
- Heights.

The assessment in Section 6 of this report considered compliance where relevant with these DCPS.

South Sydney DCP No.11 Transport Guidelines for Development 1996

Relevant provisions of this DCP include:

- Car parking guideline rates (for cars, bicycles, disabled drivers, and visitors); and
- Car parking standards and design criteria.

The application of the CBD rates in place of the SSDCP rates is supported and addressed in Section 6 of this report.

OTHER ACTS AND APPROVALS

Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act 1997

The EPBC Act commenced on 16 July 2000. The EPBC Act includes the assessment and approvals system for actions that have a significant impact on:

1. Matters of National Environmental Significance (NES); and
2. The environment on Commonwealth land.

Should an action be determined to likely have a significant impact, an approval from the Commonwealth Minister for the Environment and Heritage is required.

The EPBC identifies seven matters of national environmental significance being:

1. World Heritage properties;
2. National Heritage places;
3. RAMSAR wetlands of international significance;
4. Nationally listed threatened species and ecological communities;
5. Listed migratory species;
6. Commonwealth marine areas; and
7. Nuclear actions.

The Environmental Assessment identified that no NES matters or Commonwealth land are likely to be impacted by the proposal and therefore an approval from the Commonwealth Minister is not required.