



**Planning &
Infrastructure**

**MAJOR PROJECT ASSESSMENT:
*Mixed Use Development Eastlakes Shopping
Centre, Eastlakes*
(MP09_0146)**



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

June 2013

ABBREVIATIONS

CIV	Capital Investment Value
Department	Department of Planning & Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning & Infrastructure
EA	Environmental Assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning and Infrastructure
PAC	Planning Assessment Commission
Part 3A	Part 3A of <i>Environmental Planning and Assessment Act 1979</i>
PEA	Preliminary Environmental Assessment
PPR	Preferred Project Report
Proponent	Crown Prosha Joint Venture
RFDC	Residential Flat Design Code
RtS	Response to Submissions

Cover Image: Architect's perspective drawing of the southern site as viewed from from Evans Avenue (source: Rice Daubney Architects)

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EXECUTIVE SUMMARY

This is a report on a Project Application seeking approval for a mixed use development at the Eastlakes Shopping Centre. The site is within the Botany Bay Local Government Area.

The site is currently zoned 3(a) General Business under the Botany Local Environmental Plan 1995 and is proposed to be zoned 'B2 Local Centre' under the draft Botany Local Environmental Plan 2012. The development is permissible in the existing and proposed zones.

The Project Application, as exhibited, sought approval for a mixed use development over two sites providing 15,960m² of retail floor space at the ground level and residential development above the podium level (up to 7 storeys above podium) providing 361 residential apartments and 82 serviced apartments; car parking; landscaping; infrastructure upgrades and amended access arrangements.

The project constitutes a transitional 'Major Project' under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as it includes development for the purpose of a residential, commercial or retail project under the former provisions of Clause 13 of Schedule 1 of the *State Environmental Planning Policy (Major Development) 2005*. As the Director-General's environmental assessment requirements were issued for this project prior to 1 October 2011, the project is a transitional Part 3A Project.

The Environmental Assessment was exhibited for 58 days between 1 August 2012 and 28 September 2012. The Department received 6 submissions from public authorities, including Botany Bay Council and 256 public submissions. Of the public submissions 146 (57%) objected to the project, and 107 (42%) supported the project.

On 14 March 2013, the proponent submitted a response to submissions and a Preferred Project Report. A further revised Preferred Project Report (PPR) was submitted on 8 May 2013 following discussions between the proponent, the Department and Council.

The revised proposal seeks approval for a mixed use development over two sites with ground floor retail space of 15,037m², covered ground floor plaza area, and residential buildings above (up to 7 storeys) incorporating 428 residential apartments (no serviced apartments); car parking for 1,028 vehicles; podium level communal open space and landscaping including 2 swimming pools; public domain landscaping; footpath and infrastructure upgrades; changes to access arrangements and stratum subdivision. The project has a capital investment value of approximately \$222 million.

The Department received further submissions from Botany Bay Council in response to the PPR and its subsequent revision. No further public submissions were received.

The key issues identified by the Department include density, built form, amenity impacts, traffic and local road network impacts and public transport access. The Department's assessment revealed that the impacts are reasonable and can be managed appropriately through the imposition of recommended conditions.

Subject to recommended conditions, the Department considers that the proposal would result in the renewal and upgrade of the existing town centre and retail precinct. The proposal would also make a significant contribution to the housing stock of the Botany Bay Local Government Area, with good accessibility to retail services and employment opportunities in line with State planning objectives.

The Project Application is referred to the Planning Assessment Commission for determination as Botany Bay Council has objected to the proposal and more than 25 public objections were received during the exhibition period.

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1. BACKGROUND

1.1. Site Description

The subject site is known as the Eastlakes Shopping Centre and is situated in the suburb of Eastlakes, approximately 6 kilometres south of the Sydney CBD. The site is within the Botany Bay Local Government Area.

The site is irregular in shape and comprises two separate land parcels separated by Evans Avenue. The northern portion of the site has frontages to Gardeners Road to the north, Evans Avenue to the south, and adjoins residential flat buildings to the east and west. The southern portion of the site has frontages to Evans Avenue to the north, Barber Avenue to the east and south, and Eastlakes Reserve to the west. The total area of the combined sites is approximately 2.4 hectares. The project location is shown in **FigureS 1 and 2**.



Figure 1: Site Location (Base Image Source: Google Maps 2013)



Figure 2: Aerial photo of site (Base Image Source: Nearmap 2012)

The southern portion of the site currently accommodates a single storey retail development with some rooftop and basement car parking. Open loading dock areas are located on the southern and western sides of the site adjacent to Barber Avenue. A small single storey freestanding retail building and associated at grade car parking are also included in the northwest corner. The northern portion of the site predominantly accommodates an at-grade car park servicing the shopping centre combined with a row of single storey shops along the northern boundary.

The existing shopping centre was built in the early 1960s and has a total gross floor area across both the northern and southern portions of the site of approximately 13,100m². The site slopes gently downward from the north to the south (from Gardeners Road to Barber Avenue). Vegetation is limited as the site has been extensively developed, but there are mature trees within the car park on the northern site, as well as a significant number of street trees on footpaths adjoining the site on all street boundaries. Photos of the site are provided in **Figures 3 to 7**.



Figure 3: Site as viewed looking west along Evans Avenue (Base image: Google Maps)



Figure 4: Northern Site as viewed from Evans Avenue



Figure 5: Rear of the Southern Site as viewed from Barber Avenue



Figure 6: Southern Site as viewed from Eastlakes Reserve



Figure 7: Northern Site as viewed from Gardeners Road looking east

1.2. Surrounding Development

The surrounding locality is characterised by predominantly residential developments consisting of 3 and 4 storey residential flat buildings constructed in the late 1960s and early 1970s. Key development in the vicinity of the site includes:

- 16 Evans Avenue being a 3 to 4 storey residential flat buildings incorporating 36 strata titled units immediately adjoining the northern portion of site. The site is currently zoned residential but is proposed to be incorporated into the Local Centre zoning under the draft Botany Bay Local Environmental Plan 2012. The residential flat buildings on the site are generally separated from the side boundaries by driveways and vehicular circulation spaces;
- 18 Evans Avenue and 293 Gardeners Road include 3 and 4 storey residential flat buildings immediately adjoining the northern portion of the site. These buildings also incorporate driveways and vehicular circulation spaces immediately adjacent to the site (**Figure 9**);
- Development along Barber Avenue opposite the eastern and southern boundaries of the southern site consist entirely of 3 and 4 storey residential flat buildings (**Figure 10**);
- Eastlakes Reserve adjoins the western boundary of the southern site. The Reserve includes numerous mature trees, a children's playground, seating and lighting;
- Development on the opposite side of Gardeners Road to the north is characterised largely by single storey detached dwelling houses; and
- Other developments visible from the subject site include 2 larger (9 to 10 storey) public housing residential flat buildings known as 16 Maloney Street and 1 Florence Street.

The location of surrounding development is shown in **Figure 8** and photos are provided in **Figures 9 - 11**.



Figure 8: Aerial Photo of Locality (source: Proponents EA)



Figure 9: 18 Evans Avenue and 293 Gardeners Road as viewed from the site



Figure 10: Typical development on Barber Avenue opposite the site



Figure 11: Eastlakes Reserve looking east, with the subject site in the background

2. PROPOSED PROJECT

2.1 Project Description (as exhibited)

The proposal, as exhibited in the Environmental Assessment (EA), sought Project Approval for the following:

- Demolition and removal of all existing buildings;
- Construction of a mixed use development varying between 1 and 9 storeys in height;
- Ground floor retail floor space of approximately 15,960m²;
- A total of 361 residential apartments and 82 serviced apartments including:
 - 11 x studio units;
 - 221 x 1 bedroom units;
 - 199 x 2 bedroom units; and
 - 12 x 3 bedroom units;
- A floor space ratio of 2.34:1;
- A total of 1,038 basement car parking spaces;
- Associated landscaping; and
- Associated infrastructure, stormwater, utility works and new access arrangements.

2.2 Preferred Project Report

Following the public exhibition of the EA, the Department advised the proponent of a number of issues which required further consideration and requested the submission of a Preferred Project Report (PPR). The main issues raised were in relation to built form and relationship to neighbouring residences; traffic and transport; streetscape and public domain; internal amenity; and the isolation of No. 16 Evans Avenue.

On 14 March 2013, the proponent submitted a response to submissions and a PPR. On 11 April 2013, the Department requested additional information and further consideration of issues that it considered had not been satisfactorily addressed in the PPR. On 8 May 2013 the proponent submitted additional information relating to unit sizes, landscaping, solar access, stormwater, traffic, noise, and the isolation of 16 Evans Avenue. This information was presented in the form of a revised PPR. The proposal as refined within the Revised PPR is detailed in **Table 1**.

Table 1: Key Project Components

Aspect	Description
Project Application	Mixed use development incorporating ground floor retail and residential apartments
<i>Site preparation</i>	Demolition of all existing structures on the site and excavation.
<i>Built form</i>	Single storey retail podiums on both sites; Ground level void/open space area to create a 8m high plaza area ('market square') at north-east corner of southern site; and Residential development of 2–7 storeys in height above retail podiums and portico on both sites.
<i>Total GFA / FSR</i>	15,045m ² commercial/retail (3,758m ² north site; 11,287m ² south site); 36,800m ² residential (10,714m ² north site; 26,086m ² south site); and Total floor area of 51,845m ² = floor space ratio of 2.15:1.
<i>Commercial component</i>	15,037m ² of retail space located at the ground floor/podium level on both sites incorporating 2 supermarkets and 52 specialty stores.
<i>Apartment Number and Mix</i>	Approximately 428* apartments including: <ul style="list-style-type: none"> • 6 x studio units; • 216 x 1 bedroom units; • 196 x 2 bedroom units; and • 10 x 3+ bedroom units. 15 adaptable units included in the above.
<i>Open Space</i>	Podium level communal open space areas on each site incorporating two swimming pools and landscaping.
<i>Car parking</i>	1,028 car parking spaces in a 2 level basement on each site including 556 residential spaces and 472 retail spaces.
<i>Public Domain</i>	New vehicle access points and associated road works; and Streetscape works including footpaths and street tree planting.
<i>Subdivision</i>	Stratum Subdivision for retail and residential components.

* The PPR seeks approval for variation of the number of units between 415- 440. Refer to **Section 5.5**.

Key changes made to the Project Application by the revised PPR include:

- Increasing the setbacks along Barber Avenue and the south side of Evans Avenue by 3m and associated changes to footpaths and street tree planting;
- Reduction in podium height and increased residential setbacks on eastern and western boundaries of the northern site;
- Reduction in height and changes to building façade on southern side of Building 7 facing Barber Street;
- Deletion of serviced apartments in favour of residential units;
- Reduction in the total number of units from 443 to 428 (approx); and
- Relocation of car park entry on Evans Street.

The revised proposal is illustrated in **Figures 12 to 16**.



Figure 12: Site Plan showing layout of residential development and open space above retail podium level (source: Architectural Plans).



Figure 13: 3D view of site from the north-west (source: Architects Urban Design Response)



Figure 14: 3D view of site from the south-east (source: Architects Urban Design Response)



Figure 15: Photomontage showing plaza / market square area and interface with adjoining Reserve (source: Architects Urban Design Response)



Figure 16: Photomontage showing development as viewed from corner of Evans and Barber Avenue (source: Architects Urban Design Response)

2.3 Project Need and Justification

NSW 2021

NSW 2021 is the NSW Government's strategic plan setting priorities for action and guiding resource attention. NSW 2021 is a 10 year plan to rebuild the economy, provide quality services, renovate infrastructure, restore government accountability and strengthen the local environment and communities.

The provision of residential accommodation on the same site as the Eastlakes shopping centre would contribute to the Plan's goal of building liveable centres. The site is located within 30 minutes of Sydney CBD by public transport and the introduction of medium to high density residential development on the site would increase the supply and variety of housing stock in the area. This would assist in the provision of more affordable housing and placing downward pressure on the cost of living. The proposal is therefore consistent with the NSW 2021 document.

Draft Metropolitan Strategy for Sydney to 2031

The Draft Metropolitan Strategy was released in March 2013 and sets out the NSW Government's vision for Sydney to 2031. The Draft Strategy aims to achieve balanced and sustainable growth for Sydney, including renewal in established suburbs and new greenfield development. Key goals of the Strategy include balanced growth, a liveable city, productivity and prosperity, healthy environment, accessibility and connectivity.

The Draft Metropolitan Strategy forecasts a population increase for Sydney of 1.3 million people by 2031. As a result, Sydney will need 545,000 additional dwellings and 625,000 new jobs across the metropolitan area. Within the 'Central' sub-region, which includes the Botany Bay Local Government Area, targets include an additional 138,000 dwellings and 230,000 jobs by 2031, with a target of 82,000 additional dwellings by 2021. The proposal would make a significant contribution to the dwelling targets under the draft plan.

Specifically, the proposal would provide approximately 428 new dwellings with reasonable access to public transport, jobs and excellent access to retail services and facilities. The proposed increase in retail floor space would also make a positive contribution to long term employment generation, resulting in approximately 40 additional operational jobs. This is in addition to the short term construction jobs that would be creating during the construction of the proposal.

The Draft Metropolitan Strategy, also specifically encourages growth in all centres and Specialised Precincts within the Global Economic Corridor. In this case, the site is considered to be well located, being a centre within the Global Economic Corridor and within close proximity to major centres of employment including the CBD, Green Square, Sydney Airport, Port Botany and the Randwick Health and Education Centre as shown in **Figure 17**.

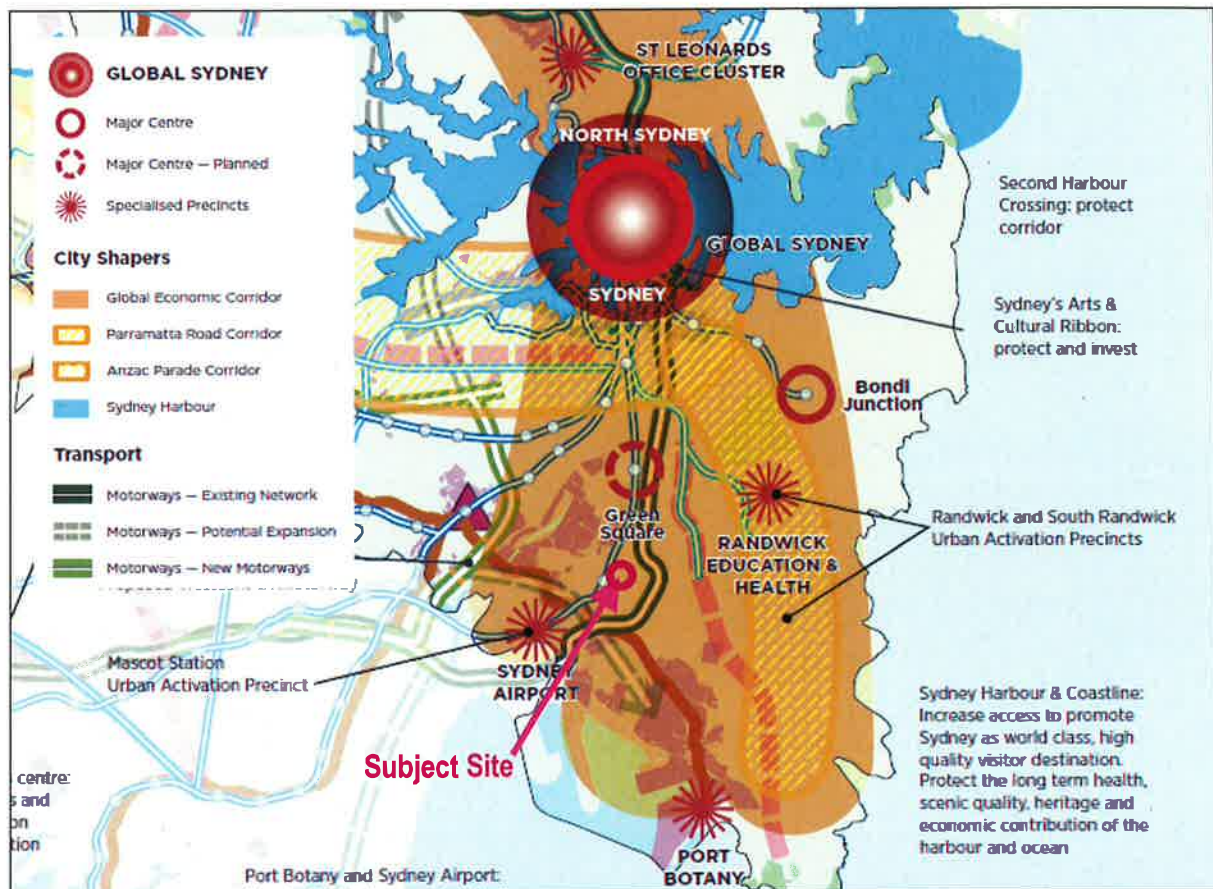


Figure 17: Extract from Draft Metropolitan Strategy showing location of site within the Global Economic Corridor

Draft East Subregional Strategy

The Draft East Subregional Strategy released in July 2008 identifies Eastlakes as a Town Centre. The strategy described the centre as having a catchment of over 7,000 people, and having limited public transport services and links, relying predominantly on car and pedestrian activity. Employment growth is also described as being limited due to its sole retail and service functions. The Department notes the Strategy was drafted seven years ago. An assessment of public transport access is provided in **Section 5.6** of this report and is found to be reasonable.

The Draft East Subregional Strategy set targets of an additional 25,000 jobs and 20,000 new dwellings for the subregion by 2031. However, these targets are largely superseded as the Draft Metropolitan Strategy for Sydney provides more recent targets for Sydney and the Central Subregion. Relevant key actions of the Draft East Subregional Strategy include strengthening the role of retail centres; improving housing choice and providing more housing opportunities. The Draft Strategy also seeks to provide increased residential densities within the walking radius of centres.

The provision of additional retail floor space on the site in conjunction with the rejuvenation and upgrading of the existing retail space would strengthen the role of the retail centre. The proposed provision of medium to high density residential development on a site with immediate access to retail services and community facilities is also consistent with objectives of the Strategy.

The proposal is therefore considered to be consistent with the key directions and would assist in meeting the targets within the Draft Strategy.

3. STATUTORY CONTEXT

3.1. Major Project Declaration

The proposal is a Major Project under Part 3A of the Environmental Planning and Assessment Act, 1979 (EP&A Act) given that it is development for the purpose of a residential, commercial or retail project under the former provisions of Clause 13 of Schedule 1 of the *State Environmental Planning Policy (Major Development) 2005*. The proposal has a capital investment value of \$222 million and therefore Part 3A of the EP&A Act applies to the proposal.

3.2. Continuing Operation of Part 3A

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A to the EP&A Act, continues to apply to transitional Part 3A projects. As Director-General's Environmental Assessment Requirements were issued in respect of this project prior to 8 April 2011, the project is a transitional Part 3A project. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disprove of the carrying out of the project under Section 75J of the EP&A Act.

3.3. Determination under Delegation

The Minister has delegated his functions to determine Part 3A applications to the Planning Assessment Commission (PAC) where an application has been made by persons other than by or on behalf of a public authority and where:

- (a) the relevant local council has not made an objection; or
- (b) a political disclosure statement has not been made; or
- (c) there are more than 25 public submissions in the nature of objections.

In this case, Botany Bay Council has objected to the Project Application and there were 146 objections received during the exhibition of the proposal. Accordingly, the application is to be determined by the PAC under delegation from the Minister.

3.4. Permissibility

The site is subject to the provisions of the Botany Local Environmental Plan 1995. The site is zoned "3(a) General Business" under the Local Environmental Plan 1995 and 'mixed development' is permissible in this zone.

Council has suggested that Building 2, located over the plaza area, may not be permissible as it would not include any shops at the ground floor level. In this regard, the definition of 'mixed development' requires that there be shops, commercial premises or any other non-residential permissible use located at the ground floor level with residential development above.

In considering this issue, the Department concluded that as the ground floor level of the building includes an area that would be used for outdoor café seating and as an outdoor mall associated with the shopping centre, the ground floor of Building 2 incorporates a "non-residential use permissible in the zone". Building 2 therefore falls within the definition of 'mixed development' and is permissible with consent.

In summary, the Department considers the proposal to be compatible with the objectives of the 3(a) General Business zone. In particular, the proposed development is compatible with

the objectives relating to the provision of a range of retail, business and professional service activities; providing services and employment opportunities for the community; and promotion of the vitality of commercial areas and urban consolidation through permitting residential developments within these areas.

The Draft Botany Local Environmental Plan 2012 was placed on public exhibition between 22 May and 22 June 2012. The Draft Botany Local Environmental Plan 2012 proposes to zone the site "B2 Local Centre", under which the proposed development would be permissible as 'commercial premises' (including retail premises); 'residential flat buildings' and 'shop top housing'.

3.5. Environmental Planning Instruments

Under Sections 75I(2)(d) and 75I(2)(e) of the EP&A Act, the Director-General's report for a project is required to include a copy of, or reference to, the provisions of any State Environmental Planning Policy that substantially governs the carrying out of the project, and the provisions of any environmental planning instruments that would (except for the application of Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the assessment of the project.

The Department's consideration of relevant State Environmental Planning Policies and Environmental Planning Instruments is provided in **Appendix D** of this report.

3.6. Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the EP&A Act, as set out in Section 5 of the EP&A Act. The relevant objects are:

- (a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities, and*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (vii) *ecologically sustainable development, and*
 - (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The Department has considered the Objects of the EP&A Act in the assessment of the application. The Project Application is considered consistent with the relevant objects of the EP&A Act, in particular:

- the benefits provided by the Project Application include the contribution to housing stock within an accessible location and the close proximity of housing to services, retail facilities and employment opportunities;

- the renewal of a deteriorating retail centre for mixed use development achieves orderly and economic use and development of the site; and
- the proposed mix of apartment sizes and types would provide a range of housing options for future residents of varying income levels and household size.

3.7. Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle,*
- (b) *inter-generational equity,*
- (c) *conservation of biological diversity and ecological integrity,*
- (d) *improved valuation, pricing and incentive mechanisms.*

The Department considers that the Project Application represents a sustainable use of the site, as it proposes a mix of residential, retail and commercial uses within an established urban area, with access to public transport, amenities, services and employment. The submitted EA explored key ESD opportunities which the proponent has committed to incorporate into the development including rainwater harvesting and other measures to meet energy and water efficiency targets. Further consideration of relevant of ESD principles is included at **Appendix D** of this report.

3.8. Statement of Compliance

In accordance with Section 75I of the EP&A Act, the Department is satisfied that the Director-General's Environmental Assessment Requirements have been complied with.

4. CONSULTATION AND SUBMISSIONS

4.1. Exhibition

Under Section 75H(3) of the EP&A Act, the Director-General is required to make the EA of an application publicly available for at least 30 days. After accepting the EA, the Department publicly exhibited it from 1 August 2012 to 28 September 2012 (58 days). Exhibition documentation was available on the Department's website, at the Department of Planning & Infrastructure Information Centre and at Botany Bay Council's Administration Centre. The Department also advertised the public exhibition in the Sydney Morning Herald and Daily Telegraph on 1 August and 12 September 2012 and in the Southern Courier on 31 July and 11 September 2012. Nearby landholders and relevant State and local government authorities were notified in writing.

The Department received 262 submissions during the exhibition of the EA, comprising 6 submissions from public authorities and 256 submissions from the general public.

On 18 March 2013, the PPR was referred to all agencies and was made publically available on the Department's website. An additional submission was received from Council in response to the PPR. Two other government agencies also advised that previous comments still apply. As the PPR was considered to have a lesser environmental impact, the PPR was not publically exhibited by any other means.

A summary of the issues raised in the submissions is provided below.

4.2. Public Authority Submissions

Six submissions were received from public authorities in response to the EA and a further three submissions were received in response to the PPR. Submissions were received from Botany Bay Council, Roads and Maritime Services, Sydney Buses, NSW Police, Ausgrid and Sydney Water. The submissions from public authorities are summarised in **Table 2** below:

Table 2: Summary of Issues Raised in Public Authority Submissions

City of Botany Bay Council	
EA	<ul style="list-style-type: none"> The project does not meet the standards of quality design and amenity that Council has been pursuing for the area. The EA has not adequately addressed: <ul style="list-style-type: none"> Limited public transport access identified in the draft subregional strategy; Permissibility; non-compliance with floor space ratio control and zone objectives under Botany Local Environmental Plan 1995; Non-compliance with height and floor space under draft Botany Local Environmental Plan 2012; Non-compliance with Council's car parking rates; and Non-compliance with State Environmental Planning Policy No. 65 and Residential Flat Design Code. Buildings are too high and too deep compared to controls and surrounding built forms. Density is much greater than both surrounding development and similar developments in the local government area. Urban design and public domain interface issues including: <ul style="list-style-type: none"> insufficient landscaping provided; unacceptable street tree impacts; poor integration at street edges and lack of setback; and poor interface with adjoining properties. Isolation of 14 and 16 Evans Avenue. Overshadowing impacts to Eastlakes Reserve and Barber Avenue properties. Acoustic impacts have not been adequately assessed and loading docks would result in adverse acoustic impacts. Inadequate building separation resulting in visual privacy impacts within the development. Deficiencies in traffic assessment including inaccurate information regarding floor areas and queuing effects at the Racecourse Place/Evans Avenue roundabout; swept paths for truck routes needed; concerns with truck access route. Council does not wish to enter into a voluntary planning agreement with the proponent. There has not been adequate consultation with Council through the design development stages. No approval has been given for extinguishment of Council drainage easements. Residential amenity issues including inadequate open space areas; non-compliance with the minimum size requirements under State Environmental Planning Policy No. 65; inadequate access to sunlight, ventilation, privacy and storage. Reduced unit sizes should not be supported on the basis of affordability as the proposal would not deliver affordable dwellings.

- Insufficient information in relation to a contextual height study; view loss; waste management; site contamination; stormwater and OSD; social impacts; landscaping and public domain treatments.

PPR

- Re-stated objections raised in the original submission and advised that the revised scheme has failed to address the issues previously raised.
- Further submissions were made in relation the following issues:
 - Insufficient retail and commercial floor space relative to residential floor space, contrary to objectives in local and State Environmental Planning Policy;
 - Landscaping to footpath areas should be further improved and further information is required to demonstrate retained street trees would not be jeopardised;
 - Further improvements to the Evans Avenue frontages are required including pedestrian zone and safety improvements and consideration given to outdoor dining uses in this area;
 - Landscape documentation still requires further detail;
 - Insufficient communal open space proposed;
 - Shadowing of communal open space areas is unacceptable;
 - Adequacy of the acoustic and traffic assessments is still an issue;
 - Capacity of bus services servicing the site;
 - Questions the accuracy and feasibility of the suggested potential future redevelopment opportunities for 16 Evans Avenue; and
 - More information in relation to public art is required.

Transport for NSW: Roads and Maritime Services

EA

- No objection in principle to the proposed development;
- Advises that traffic generation of the proposal does not warrant upgrading of the intersection at Gardeners Road;
- The proposal must not impact the nearby Gardeners Road road reserve;
- Any proposed local traffic control measures should be referred to Botany Bay Council for review and comment;
- Further details of swept paths should be provided; and
- Suggested conditions relating to stormwater and structures adjacent to RMS land and other standard conditions.

PPR

- No objection to the revised scheme. Previous comments still apply.

Transport for NSW: Sydney Buses

EA

- Requested a road safety assessment in relation to the proposed roundabout treatment at Evans Avenue/Racecourse Place;
- Existing bus routes past the site are already operating at capacity during the AM peak. The cost and implications of adding additional trips to cater for patronage growth should be discussed with the TfNSW Bus Planning Group;
- Potential need to upgrade existing Bus stops to comply with disabled access requirements; and
- Questions parking provision and distribution on site and resulting congestion affecting bus services.

PPR

- No formal response to the Department, although TfNSW did liaise directly with the proponent and its response is included in the PPR;
- Advised that the development on its own is unlikely to require additional bus capacity, but rather it is the cumulative effect of all development in

the area. With Stage 1 not due for completion until 2015 there is time to address any capacity issues; and

- Supports STA's previous comments in relation to traffic engineering matters.

NSW Police: Botany Bay Local Area Command

- EA**
- Advised a medium crime risk rating has been identified for the development; and
 - Recommends installation of CCTV; improved lighting; design which minimises potential to climb onto balconies; landscaping which promotes surveillance; car park design without hidden areas; security access; and separation between commercial and residential areas.

- PPR**
- Advises that it has no further comments to make.

Ausgrid

- EA**
- No objection to the proposal; and
 - Further information will be required in relation to existing infrastructure and electrical load calculations.

Sydney Water

- EA**
- Advises that the adjacent site is affected by contamination and is subject to a Voluntary Remediation Agreement; and
 - Suggests conditions and advisory notes regarding trade waste, Section 73 Certificate requirements and Sydney Water e-planning.

4.3. Public Submissions

A total of 256 submissions were received from the public in response to the EA exhibition. This included 3 separate petitions signed by a total of 150 people. Of the 256 public submissions, 146 (57%) objected to the project, and 107 (42%) supported the project. In addition, 49% thought the shopping centre needed renewal. The key issues raised in public submissions are listed in **Table 3**.

Table 3: Summary of Issues Raised in Public Submissions

Issue	Proportion of submissions (%)
Traffic generation and parking issues	56
Excessive density and overdevelopment	45
Excessive Height	34
Truck noise	23
Overshadowing of the park	19
Safety Issues	19
Overshadowing of dwellings	15
Urban Design / Streetscape	13
Insufficient Infrastructure	10
Public Transport Impacts	6
Pollution	5
View Loss	3
Noise generally	3

The Department has considered these issues in its assessment of the project in **Section 5** of this report

4.4. Proponent's Response to Submissions

The proponent provided a response to the key issues raised by the public submissions in response to the exhibition of the EA and PPR. The proponent's full response to submissions is included at **Appendix C** of this report. The Department is satisfied that the issues raised in submissions have been addressed and can be managed by conditions of approval as required.

5. ASSESSMENT

The Department considers the key environmental assessment issues for the project to be:

- density;
- built form (height, setback, urban design / streetscape);
- interface with reserve and public domain;
- amenity to adjoining residential premises;
- internal residential amenity; and
- traffic issues.

5.1. Density

The Botany Bay Local Environmental Plan 1995 sets a maximum floor space ratio (FSR) control of 1:1 for the site. This equates to a maximum floor area of 24,053m². The draft Botany Local Environmental Plan 2012 includes an FSR control of 1.5:1 which equates to a maximum floor area of 36,080m² for the development.

The Project Application seeks to provide 428 new dwellings (equating to approximately 36,800m² of floor space) in conjunction with 15,045m² of commercial/retail floor space. This results in a total gross floor area of 51,832m², equivalent to a floor space ratio of 2.15:1.

Council and community concerns

The issue of density and in particular the density of the residential component were key issues raised by the general public during the exhibition of the EA. Residents were generally supportive of the retail component of the proposal, however concerns were raised about the impacts of residential density including traffic impacts and the lack of infrastructure and public transport to support the increased population. Built form impacts such as height and scale resulting from the proposed density were also raised. The built form impacts are discussed in **Section 5.2** of this report.

Council also raised concerns in relation to density. A primary concern is that the proposed density exceeds the draft Local Environmental Plan controls resulting in a range of impacts including traffic issues and further pressure on the limited public transport services. Visual and amenity impacts and overshadowing arising from the quantum of floor space were also raised as concerns.

The Department's consideration

The Department supports the provision of increased residential densities in suitable locations consistent with the aims of the Draft Metropolitan Strategy. The Draft Metropolitan Strategy specifically aims to deliver an increased rate of housing provision and to "*encourage growth in all centres and Specialised Precincts within the Global Economic Corridor*".

In this regard, the site is considered to be well located, being a centre within the Global Economic Corridor and in close proximity to major centres of employment including the CBD (6 km), Green Square (2km), and the specialised centres of Sydney Airport (2.5km), Port Botany (5km) and the Randwick Health and Education Centre (2.5km). The site is also well suited to provide for increased densities given the proposed provision of excellent retail services including 2 supermarkets on the site to service the anticipated resident population. Further, the site is considered to be reasonably well serviced by public transport, with bus services immediately adjacent to the site. During the morning peak, buses to the city depart every 2 – 3 minutes from the site.

In considering the density on the site, the key assessment issues are considered to be:

- built form and resulting impacts;
- traffic impacts on the surrounding road network; and
- adequate access to public transport; open space and infrastructure.

These issues are assessed in detail in this report (see **Sections 5.2, 5.5, 5.6 and 5.8**). In summary it is found that:

- The site is capable of supporting the scale and built form of development proposed. The built form also results in a much improved relationship between the site and the surrounding public domain with active uses provided to surrounding streets and the Eastlakes Reserve;
- Where traffic impacts arise they can be appropriately managed through conditions; and
- The site has adequate access to public transport, open space and infrastructure to support the development.

On this basis the Department considers the site can support the proposed density and floor space ratio of 2.15:1, and is in line with the strategic objectives for the region.

5.2. Built Form

In assessing the built form of the proposal, the Department carefully considered building height, building setbacks and building design.

5.2.1 Building Heights

The proposed building heights vary across the site. As viewed from the public domain, building heights range from 9 metres (where no development is proposed above the podium level) to 32 metres (at Building 2 in the north-east corner of the southern site which would be up to 7 stories above the market square area). Council's draft Botany Local Environmental Plan 2012 controls would permit maximum building heights of 14 metres on the site.

Council and community concerns

Council and the community raised concerns about the departures from the draft Botany Local Environmental Plan 2012 height control of 14m, and the associated impacts on the character of the area. Concern was also raised that the development would exceed the heights of other buildings surrounding the site and the relationship of the proposed buildings on the northern site with the immediately adjoining buildings; the height of Building 2; and the relationship between the heights of proposed buildings fronting Barber Avenue and the residential buildings on the opposite side of the street.

Submissions also raised concerns with the proponent's use of nearby buildings at 1 Florence Street and 38 Maloney Street as justification for the height limit of the proposed development. Council and community submissions argue that those buildings have a negligible visual influence on the subject property compared to immediately adjoining buildings and that these 30-40 year old social housing developments are not desirable precedents in the context of the surrounding lower density environment.

Other concerns raised by submissions relate to impacts of the proposed heights in terms of:

- View loss to surrounding properties;
- Overshadowing impacts to adjoining properties and to Eastlakes Reserve; and
- Overbearing visual impacts.

The Department's consideration

The Department has considered the visual relationship between the proposal and surrounding development and the associated impacts on the character of the area. Amenity impacts associated with height including solar access, view impacts, and visual impacts to neighbours are discussed in detail in **Section 5.4**.

Building heights in terms of number of stories above podium level are depicted on **Figure 18**.



Figure 18: Proposed building heights in storeys above podium level

The Department considers that the site can support taller building forms than the immediately adjacent development, despite the deviation from the draft Local Environmental Plan controls. The site is differentiated from many of its neighbours, having a commercial rather than residential zoning. As such, a different form of development is to be expected on the

site and the overall character of the site would not match that of the adjoining development within the residential zone.

The Department agrees with Council and the public submissions that the heights of other nearby residential towers should not be used to inform the height of development on this site. The Department considers that the building heights proposed under this application are appropriate for a town centre location, where the centre is in close proximity to the CBD and within the Global Economic Corridor. Even though the character of the site is expected to differ from that of its residential neighbours, in order to ensure an appropriate urban design outcome the building heights should relate appropriately to adjoining development, particularly at the residential zone boundaries. An assessment of proposed heights at each of the public domain boundaries is outlined below.

Building 2: The Department also notes that Building 2 marginally exceeds the heights approved by the Civil Aviation Safety Authority for the proposal (by around 200mm). A condition is recommended to ensure the building complies with the heights approved by the Civil Aviation Safety Authority for the site.

Barber Avenue: The proposed development presents façades to Barber Avenue along the southern and western boundaries of the site. These façades are predominantly characterised by a 6.5m - 8m high podium plus 2 residential storeys directly above, with an additional storey set back from the main building line. The main building line of the façade would generally present as 14 metres in height and is therefore consistent with the draft Botany Local Environmental Plan height control and is appropriate to the scale of the buildings opposite the site which are between 3 and 4 storeys.

Higher building forms are proposed at each end of the Barber Avenue facade. Building 4, at the north-east end and Building 7 at the south-west end would present façades to Barber Avenue of 3 and 4 storeys above the podium respectively (20.5m and 16m in height). These heights are appropriate as they provide a transition in scale to the higher built forms addressing Eastlakes Reserve and Evans Avenue.

As discussed in detail below, the development is setback 3m from the Barber Avenue site boundary. The setback, in conjunction with proposed substantial street tree planting would ensure the proposed heights do not result in an unacceptable dominant visual impact on the Barber Avenue streetscape.

Gardeners Road: The proposed development would generally present as 2 x 6 storey (20 - 24 metres) residential flat buildings to Gardeners Road, including an upper floor level which is setback from the main building line. The retail podium level would not be visible as it would be below ground level to this elevation when viewed from that street, except at the western end. Developments immediately adjoining the site on Gardeners Road present as 3 storey residential flat buildings, however the Department considers that this section of the street contains no contiguous characteristic of built forms.

The Department considers that the height of the development is appropriate for a site located on a significant six lane arterial roadway such as Gardeners Road. At the eastern end, the development presents its main facade as being two storeys taller than adjoining development. This provides a reasonable visual transition in scale for a development within a town centre location (**Figure 19**).

As discussed below conditions are recommended to modify the east façade of the building to break up the massing of the elevation and reduce the appearance of this visual bulk. With the imposition of an appropriate condition, the development is not considered to present an unreasonable height within this part of the streetscape.



Figure 19: Photomontage showing development as viewed from Gardeners Road (source: Architects Urban Design Response)

Due to the slope of the land, the building at the western end of the Gardeners Road frontage would present as 3 to 4 storeys taller than development at 16 Evans Avenue to the west (being a 3 storey residential flat building). The development would have a setback of 20 metres which would incorporate the podium and identification sign further enforcing the visual separation between the building massing of 16 Evans Avenue and the six storey residential tower. Therefore, the proposed six storey building would not be read against the height of the adjoining development.

Furthermore, it is noted that 16 Evans Avenue and 279 Gardeners Road will both be within the commercial zoning of the town centre under the draft Botany Local Environmental Plan. It is therefore likely that these sites may be developed at some point in the future (especially No 279, currently a vacant site).

The Department considers that the proposed development is adequately separated from development on the opposite side of Gardeners Road (being a busy 30m wide 6 lane arterial road) such that it bears no material visual relationship to the other side of the road.

Eastlakes Reserve: The proposed development would present building heights of 21 to 32 metres to Eastlakes Reserve, being equivalent of a 7 to 10 storey residential flat building. Buildings would generally read as being 4 - 6 storeys above a podium level (refer to **Figure 20**). Amenity impacts to the reserve arising from building heights are discussed in detail **Section 5.3**.

In terms of urban design and character, the Reserve visually separates the site from surrounding development which enables the provision of taller building heights here without the visual transition issues that may arise at other locations. The Department considers that the proposed heights can therefore be supported in this location.



Figure 20: Perspective drawing showing development as viewed from Eastlakes Reserve
(source: Architects Urban Design Response)

Evans Avenue: Evans Avenue runs through the centre of the site, and as such the proposed facades on Evans Avenue have limited interface with the adjoining residential zone.

At the western end on the southern side of the street, adjoining the reserve, Building 2 presents as 7 storeys above a 2 storey open plaza. This section mostly relates to the intersection of Evans Avenue and Racecourse Place, and has only limited visual relationship with buildings on the opposite side of the intersection (14 and 16 Evans Avenue). Further, those buildings on the opposite side of the intersection are proposed to be included within the draft Botany Local Environmental Plan 2012, and as such have the potential to be redeveloped in the future. The height of the façade is considered to be appropriate given it would be predominantly viewed from within the commercial zone.

At the western end on the northern side of the street, the development presents only 2 storeys above the podium and is therefore consistent with the height of the adjoining development at 16 Evans Avenue and the 14 metre height control under the draft Botany Local Environmental Plan 2012. The eastern end of both sides of the street would incorporate a 5 storey residential development above the podium level (with the upper floor setback from the main building line). On both sides of the street, the building would be setback (between 10m to 15m) from the eastern boundaries to provide visual separation from the adjoining residential zone and reduce visual impacts of the development.

It is considered that the proposed heights, in conjunction with setbacks and building design would ensure an appropriate visual relationship to the neighbouring development.

Two other boundaries not visible from the public domain are the east and west boundaries of the northern site. Heights along these boundaries do not significantly affect the character of the area as viewed from the public domain, but rather have an impact on the amenity of the immediately adjoining neighbours. They are therefore considered in detail in **Section 5.4** below.

5.2.2 Building Setbacks

Ground floor street setbacks are generally proposed to be 3m across the site, although some wider setbacks would be provided on Evans Avenue and Gardeners Road due to variations in boundary alignments. In addition, a wider splayed setback is proposed at the corner of Barber and Evans Avenues.

Street setbacks were increased from those originally proposed in the PPR (including an increase from 0m to 3m along the Barber Avenue frontage and an increase by 3m metres to a varied setback on the southern side of the Evans Avenue frontage). Following these amendments Council raised no concerns about the size of the setbacks, other than at the eastern end of the Gardeners Road frontage.

Council recommends a 5m setback from the Gardeners Road frontage. The proposed development would have setbacks to Gardeners Road of between 2.7m - 6.5m (other than a fire exit with a setback of 1 metre). The majority of the frontage would exceed the 5m recommendation. Where reduced setbacks are proposed at the western end of the frontage, the adjoining footpath zone is wider, so that a distance of at least 7m is retained between the kerb and the building. The Department considers this to be adequate to enable the provision of a footpath and street tree planting.

The Department considers that all proposed street setbacks, in conjunction with the adjoining footpath reserve, provide sufficient space for pedestrian footpaths, street tree planting, landscaping, and where appropriate, street awnings and street furniture. Furthermore the proposed setbacks are considered to be appropriate for a mixed use development within this town centre location. The details of public domain and landscape treatments are considered in more detail in **Section 5.3**. Setbacks other than street setbacks are considered in **Sections 5.3 and 5.4** below.

5.2.3 Building Design

Concerns were raised by Council in regards to the building design presented in the EA. The concerns included:

- The provision of angled building ends - The Council's Design review panel suggested that building ends should preferably be normal to the street alignment, in keeping with existing buildings in the neighbourhood;
- Treatment of the masonry end walls - Council suggested reconfiguration of the internal planning to increase visual activation of the facades and make better use of the external walls for natural light and ventilation; and
- Car park entries should not appear as uninviting gaps in the streetscape, particularly the proposed entry off the end of Racecourse Place. A canopy roof over the car park entries is one option suggested.

The amended PPR scheme has reduced the use of angled building ends at the corner of Evans Avenue and Barber Avenue. However, the Department considers that where angled ends have been retained in the design, they do not result in adverse impacts, but rather add visual interest to the overall design and distinguish the site from surrounding development.

The amended PPR scheme also included amended treatments for masonry end walls, particularly fronting Barber Avenue and Evans Avenue. Previously large unbroken sections of wall now incorporate extensive glazing and balconies. This has resulted in improved articulation and visual activation of the facades and positive streetscape outcomes.

The Department considers that there are two additional sections of unbroken wall which would benefit from additional façade treatment or articulation to massing. The two walls are located on the east elevation of the northern site, which face adjoining residential premises and are also highly visible from the streetscapes of Evans Avenue and Gardeners Road (**Figure 21**). Provision of additional openings and facade articulation would reduce the

appearance of visual bulk of these walls which would in turn provide a better relationship with the scale and form of adjoining residential premises to the east. A condition is recommended requiring modified plans to this effect.

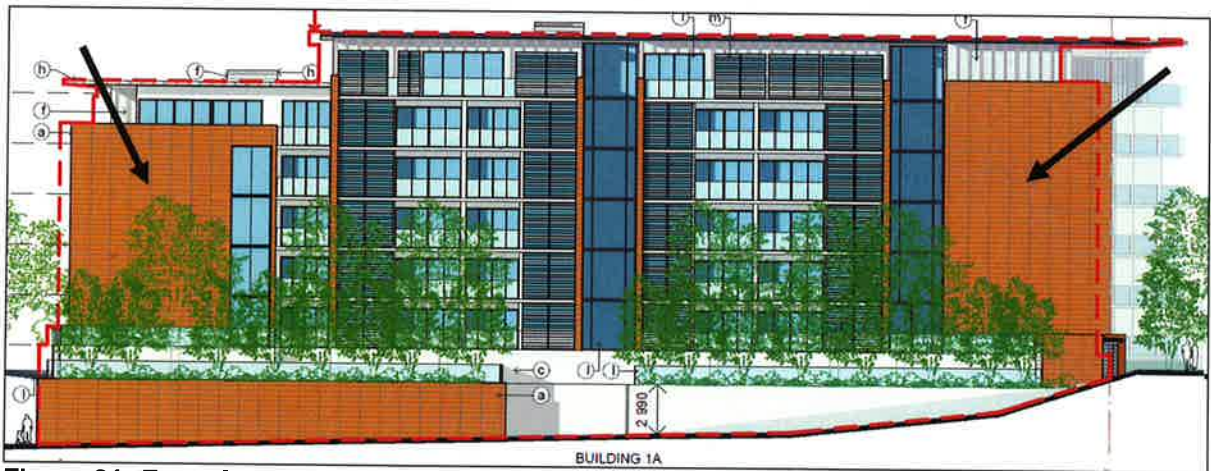


Figure 21: East elevation of northern site showing two large unbroken sections of wall which would benefit from improved articulation to reduce the appearance of visual bulk.

The Department considers that all car park entries have been appropriately designed. The entry from Racecourse Place would be below street level and therefore would not be visually dominant. The canopy roof of the plaza area would extend the entry and would be the dominant visual feature on the streetscape. The car park entry design allows for good views to be retained through this section of the site and would ensure an attractive urban design outcome (refer to photomontage at **Figure 22**).



Figure 22: Perspective drawing of carpark entry from end of Racecourse Place (source: Architects Urban Design Response)

Overall, the Department considers that the proposal would provide a high quality façade design. Proposed building massing and materials distinguish a base, a middle and a top to the buildings and the overall development and facades are well-articulated to break up the massing. The retail facades would provide active and attractive street frontages. Green walls in conjunction with street landscaping provide an attractive finish to the back of house loading areas. A palette of various external materials and finishes, including rendered and painted facades, glass balustrading; glazed tile walls, green walls, metal screening, timber elements and a variety of glazing to openings would ensure interesting and attractive facades on all elevations.

5.3 Interface with Reserve and Public Domain

5.3.1 Eastlakes Reserve

A key concern raised by the public during the exhibition period was the extent of overshadowing to Eastlakes Reserve as a result of the proposal. The proponent subsequently advised that the shadow diagrams submitted with the EA had been incorrect.

Corrected shadow diagrams submitted with the PPR demonstrate that although the proposal would result in some overshadowing of the reserve from 9.00am to 11.15am mid-winter. The extent of the overshadowing would not be significant and solar access would be retained to well in excess of 50% of the reserve area at those times. From 11.15am onwards in midwinter, solar access would be retained to the whole of the reserve and it would not be affected by the proposal (refer **Figures 23 - 26**). The Department considers that the extent of overshadowing is therefore acceptable.



Figure 23: 9am Shadows 21 June



Figure 24: 10am Shadows 21 June



Figure 25: 11am Shadows 21 June



Figure 26: 12 midday Shadows 21 June

The Department considers one of the main public benefits of the proposal to be the activation of the site along the reserve edge. In addition to the provision of a 'market square' area under Building 2 next to the reserve, a boardwalk is proposed with an "eat street" along the reserve edge which would activate the reserve and create a safer environment by providing passive surveillance.

Council suggested that consideration should be given to lowering the retail/ground floor level so that it is not elevated above the level of the reserve to provide a better visual connection.

The Department considers that the stepped treatment of the interface between the reserve and the retail area as shown in **Figure 27** is appropriate and would provide a good visual and physical connection between the two areas. The elevation of the retail area above the reserve level would also assist with providing casual surveillance over the area.



Figure 27: Perspective drawing of interface with Eastlakes Reserve (source: Architects Urban Design Response)

Council also raised a concern about the impact of the development on the trees within the reserve. Most trees on the eastern boundary of the Reserve are located about 8m from the site boundary and therefore most would not be affected by the proposal. Some of the larger trees do however include canopies which overhang the boundary and their root zone may be affected by construction activities. Therefore, it is recommended that a report from a qualified arborist be provided prior to the issue of any Construction Certificate. The report should include recommendations for suitable tree protection measures to ensure the longevity of all trees within the reserve, including where necessary, any amendments to basement design or construction methods to be incorporated into the Construction Certificate approval.

The proponent has also advised that they are agreeable to entering into a Voluntary Planning Agreement with Council including a contribution towards open space in the form of improvements to Eastlakes Reserve. In response, Council advised that they do not wish to enter into an agreement and have requested that Section 94 levies be applied to the development. Section 94 contributions would contribute to Council-wide park acquisition and embellishment plans.

5.3.2 Public Domain

Council and the community raised numerous concerns about the public domain interface. The concerns raised are summarised as follows:

- Documentation is unsatisfactory; with further details of surface and planter wall finishes, pavements, amenity lighting construction and maintenance of the façade

green wall, hardworks treatments and construction details for the integration of the site with the park edge, detailed public domain treatments for footpaths, awnings, street tree pits etc on Council property and for the Gardeners Road frontage;

- Anomaly with soil depths in the Gardeners Road Frontage requires clarification;
- Council recommends that an urban design specialist be engaged to develop the public domain and streetscape treatments;
- On Evans Avenue and Barber Avenue a second layer of landscaping/ground level planter beds would assist with amelioration of building massing and integration with the streetscape;
- The footpath area on the corner of Barber Avenue and Evans Avenue needs enhanced landscape resolution and additional trees with attention to the blending of the 2 different street trees at each road frontage;
- On Evans Avenue consideration should be given to in-road landscaping and different surface treatments to promote the pedestrian environment over vehicular environment and provide additional landscaping amenity;
- Concern that drop off bays in Evans Avenue reduce footpath width and make it less pedestrian friendly;
- The treatment of the car park entry opposite Racecourse Place needs to be pedestrian friendly and integrated with the public domain in Evans Avenue and the market square;
- Use of footpaths for dining on Barber and Evans Avenue should be explored;
- The existing mature street trees shown as being retained may be unachievable as up to 50% of the root zone may be affected by the proposal and further detailed investigation is necessary;
- The proposed awnings are also likely to impact the existing trees;
- The heights of native frangipanis shown on plans are unlikely to reach 12m in this urban area and would be more like 6 - 8m;
- Large canopy trees are essential for ameliorating the impacts of the development across the site and questions the restrictions placed on tall canopy trees or bird-attracting species by the Civil Aviation Safety Authority;
- All of the tree sizes in the plant schedule should be increased to provide super advance specimens (200L - 400L) for enhanced amenity;
- Public Art provision has not been fully addressed;
- Provision of public domain improvements for the area radiating outwards from the site and into adjoining streets is essential; and
- Some elevated podium landscape areas visible from outside the site have not been represented in the landscape elevations.

The Department considers that the quality of the public domain interface is critical in ensuring a positive urban design outcome and integration with the surrounding area. Building massing and façade design are considered acceptable, as outlined in **Section 5.2** above, providing the landscaping and street tree planting is of a quality and scale that ensured good integration of the development with the surrounding area.

The Department considers that there is further opportunity for landscape improvements, particularly on Barber and Evans Avenues. The wide footpath areas provide opportunities for additional landscaping other than just the proposed street trees. There is sufficient space for the provision of planter beds incorporating landscaping to improve the pedestrian environment and enhance the site appearance. There are also opportunities to provide additional street trees along these streets.

The Department considers that where new street trees are proposed, advanced plantings and larger pot sizes should be used to ensure the best amenity outcome in the short term. As the trees would be located on Council land, species selection should be done in consultation with Council. Although Council has raised some concerns about the restrictions imposed by CASA, the restrictions still allow for the provision of non-bird attracting species

that would not protrude into the Obstacle Limitation Surface when mature. The restriction therefore still permits a wide variety of trees with a mature height of up to 32m, providing ample opportunity for tall or canopy trees to make a significant contribution to the landscape character of the area and ameliorate impacts of the building height and scale.

For existing street trees and trees adjoining the site on private land, it is considered that a fully qualified arborist should be engaged to provide recommendations for tree protection measures to ensure the longevity of all trees identified for retention. This should also include, any amendments to basement design or construction methods to be incorporated into the Construction Certificate approval.

Also, details of public art are to be provided and any amendments to street furniture arising from the above changes should also be specified prior to development.

Conditions are therefore recommended requiring amended landscape and public domain plans for all public domain and interface areas to be submitted for approval, by the Department, prior to the issue of a Construction Certificate. The plans should incorporate:

- additional landscaping to Evans Avenue and Barber Avenue frontages;
- improved detailing and specifications of all treatments of Council owned land;
- exact details of all public art provision; and
- larger pot sizes for new street trees.

Where the plans would affect Council property, they will be required to be prepared in consultation with Botany Bay Council.

The Department does not consider that changes are required to the treatment of Evans Avenue to make it appear more like a shared zone. The traffic assessment submitted with the proposal advises that vehicular volumes in this area are too high to meet the requirements for a shared zone. Hard or soft landscaping treatments that give pedestrians the impression of a shared zone may therefore have adverse pedestrian safety impacts.

The development incorporates a well landscaped setback to Gardeners Road, including 23 new trees in addition to new shrubs, groundcovers and numerous existing street trees. The quality and quantity of landscaping proposed on this frontage would result in a positive streetscape outcome. However it is considered that the frontage landscaping should be integrated with the footpath area, which should be included in the landscaping and public domain plan. The submission of a more detailed plan as recommended above would allow for incorporation of the Gardeners Road footpath area and would also allow for some corrections to existing errors in the landscaping plans relating to soil depths at this location.

The Department considers that while the public domain immediately adjacent to the site should be developed and upgraded as part of the proposal, there is no requirement for upgrading the public domain of other streets or footpaths not adjoining the site, as suggested by Council.

Landscaping on the podium areas is addressed in **Sections 5.4 and 5.5** of this report.

Overall, with the imposition of recommended conditions, the Department considers that the proposal would result in a high quality interface and improved public domain outcome compared to the existing development on the site which currently turns its back on the public domain other than at the shopping centre entrance on Evans Avenue.

5.4 Amenity Impacts to adjoining premises

5.4 Amenity Impacts to adjoining premises

Potential amenity impacts arising from the proposed development on the adjoining properties include overshadowing, view impacts, visual impacts privacy and noise. Each of these potential impacts is discussed in the following sections.

5.4.1 Overshadowing

The PPR incorporated a number of amendments to improve the shadowing impacts of the proposal. Increased setbacks from both the eastern and western boundaries of the northern site and increased setbacks along Barber Avenue in conjunction with a reduction in the height of Building 7 have reduced the extent of the overshadowing impacts.

The Residential Flat Design Code (RFDC) provides guidance on the provision of daylight to residences to ensure high levels of residential amenity in new residential flat buildings. This guidance can be applied to assess the impacts of new buildings on adjoining premises. The RFDC recommends that living rooms and private open spaces in at least 70% of apartments achieve 3 hours solar access between 9 am and 3 pm in mid-winter and provide that in dense urban areas a minimum of 2 hours sunlight may be acceptable. Council's DCP recommends that 3 hours of solar access be provided to 90% of apartments.

Adjoining residential premises on Barber Avenue would all be partially overshadowed by the development but would all continue to receive at least 3 hours of solar access midwinter which would ensure an acceptable level of daylight access and amenity is retained.

Adjoining premises to the west of the northern site at 16 Evans Avenue would generally not be affected by the proposal, other than a few units on the eastern façade of the building. Overshadowing of the affected units is limited to around 1 hour (9am to 10am) midwinter. The extent of overshadowing is considered to be minimal and would not result in significant adverse amenity impacts to No 16 Evans Avenue.

At mid-winter, adjoining premises to the east of the northern site (18 Evans Avenue and 293 Gardeners Road) would have their western façade (facing the site) in self-shadow until around 11.30am, but enjoy good solar access in the afternoons as a result of there being no development other than the at-grade carpark adjoining those facades. As a result of the proposal, these facades would be overshadowed from 1.00pm. Solar access to the facades would therefore be limited by the proposal to 1.5 - 2 hours in midwinter.

Windows in the western façades appear to be primarily bedroom and kitchen windows with living rooms generally oriented away from the subject site and not affected by the proposal. There are two balconies in the western façade of 18 Evans Avenue, with a south-western orientation which are already significantly self-shaded. The proponent has provided detailed solar analysis to demonstrate that each balcony would retain some access to sunlight for at least 2 hours in mid-winter, with good levels of solar access at other times of the year. The Department therefore considers that the extent of solar access retained to 18 Evans Avenue and 293 Gardeners Road is reasonable and would ensure an adequate level of amenity to those premises.

5.4.2 View Impacts

Concerns were raised by adjoining residents that the proposed development would result in the loss of some views. Some top floor residences on the opposite side of Barber Avenue currently enjoy views over the top of the site towards the city CBD skyline. Other premises currently enjoy views of the golf course to the north of the site, while others enjoy an outlook over the site with no specific views.

All existing views over the site would be lost under the proposal. As the views are enjoyed from an eye level of no more than 11 metres above ground level, even if the proposed

development was designed to fully comply with the draft Botany Local Environmental Plan 14m height control, it is likely that all existing views over the site would be lost. The Department therefore considers that existing views arise only as a result of the current underdevelopment of the site and the view loss impacts of the proposal are expected and would be reasonable.

5.4.3 Visual Impacts

The proposal would result in visual impacts to properties immediately adjoining the northern site to both the east and west which view their site from their private domain. The visual impacts of the development on these properties are assessed below.

18 Evans Avenue and 293 Gardeners Road (Eastern Boundary)

As viewed from these properties, the development would present a podium wall of up to 4m in height on the boundary, with residential development above setback from the podium. The wall would be partly finished in rendered masonry and partly glazed tile panels. Above the podium, the main residential building line would be setback 9 – 10m from the boundary with 18 Evans Avenue and 293 Gardeners Road and would be 5 ½ - 6 ½ storeys in height above the podium level. Podium planting is proposed, including trees to a mature height of 10m to soften the appearance of the development and provide more of a 'green edge' as viewed from the adjoining premises (**Figures 28 and 29**).



Figure 28: Elevation showing how proposal would present to 18 Evans Avenue and 293 Gardeners Road



Figure 29: Extract from landscape plans showing proposed podium planting adjacent to 18 Evans Avenue and 293 Gardeners Road


The Department considers that the proposed podium wall height would provide a satisfactory interface with the adjoining site as it is only single storey in height and would be adjacent to the driveway and vehicle circulation area of the adjacent property. The proposed 5-6 storey residential buildings above, while approximately 3 storeys taller than neighbouring development, are not considered to result in unacceptable visual impacts to adjoining development. The development would be sufficiently setback from the podium level, and in conjunction with articulation of the façade (as well further articulation as recommended in **Section 5.2**) and proposed landscaping which would assist with softening and partially screening the built forms, the development would not result in unacceptable overbearing or visual impacts to adjoining properties.

16 Evans Avenue (Western Boundary)

As viewed from 16 Evans Avenue, the development would present a taller podium wall on the boundary, with a height of 4.8-7.8m, equivalent to 1½ - 2½ storeys. Above podium level, a two storey residential building would be setback 2m from the podium and a 6 storey building setback between 8-13m. Landscape planting along part of the podium edge is also proposed (refer to **Figure 30**).



Figure 30: Elevation showing how proposal would present to 16 Evans Avenue

 Section of wall that could be setback from boundary to reduce visual impacts.

As with the eastern boundary, the podium wall would be partly finished in rendered masonry and partly glazed tile panels and would be located adjacent to a driveway and vehicular circulation space on 16 Evans Avenue. The proposed height of the podium wall is considered to be acceptable as the living and private open space areas on the adjoining site are generally at the first floor level and above so that the wall would not be visually overbearing from these vantage points.

The exception is the tallest section of wall adjacent to the northern boundary. It would present an unbroken facade 2½ storeys in height facing towards a ground floor window within 16 Evans Avenue, resulting in significant overbearing visual impacts to that part of the site. The upper section of the wall is adjacent to condensers and plant associated with the supermarket at the ground floor. To avoid detrimental amenity impacts to the neighbouring property, it is considered that the plant area should be reduced in size, and if necessary some plant be relocated to other sections of the building, so that the upper section of the podium level could be stepped back from the boundary at this point. A setback of 2m would also allow for the continuation of landscape plantings similar to those proposed above the southern end of the wall. A condition requiring modification to the plans in this regard has therefore been included in the recommendation.

The 6 storey residential building is considered to be sufficiently setback from the boundary (8-13m). In addition, the provision of podium landscape plantings provided along the entire

length of the boundary would assist with softening and partially screening the building. The proposed development is not considered to result in unacceptable visual impacts to adjoining premises subject to recommended conditions requiring a reduction in the boundary wall height adjacent to the plant area and continuation of landscape plantings along the podium edge.

5.4.4 Privacy

The RFDC recommends varied minimum building separation distances, dependent on building height, to maximise visual and acoustic privacy between residential flat buildings. The recommended separation distances between residential flat buildings up to 4 storeys in height (applicable to all neighbouring buildings in this case) are:

- 12 metres between habitable rooms;
- 9 metres between non-habitable rooms and habitable rooms; and
- 6 metres between non-habitable rooms.

The residential components of the proposed development fully comply with the recommended building separation distances to neighbouring premises and are therefore considered to ensure an acceptable level of privacy to adjoining premises. The Department is also satisfied that due to adequate building separation, no detrimental overlooking impacts would arise from the retail component of the development (Internal separation distances and privacy is discussed in **Section 5.5**).

5.4.5 Noise

Concerns were raised by the public and Council in relation to noise impacts from the development on surrounding properties. Concerns related to construction noise; mechanical plant; noise from increased vehicle movements, and specifically from truck noise and the loading dock area.

Council also raised numerous concerns with the acoustic assessment submitted with the application, including insufficient information with regard to road traffic noise; aircraft noise; loading dock noise impacts; internal acoustic privacy; construction noise and errors and inconsistencies in the assessment.

The Department met with the Proponent, the proponent's acoustic consultant (VIPAC), the Council, and the Council's Acoustic Consultant (Atkins Acoustics) to discuss acoustic assessment issues. As a result the Proponent's acoustic consultant (VIPAC) submitted additional information on 8 May 2013. Council's acoustic consultant responded on 24 May 2013. Outstanding issues raised relate to noise traffic monitoring; accuracy of the predicted traffic noise levels; lack of justification for proposed driveway locations; loading dock noise, aircraft noise, and construction noise and vibration. Conditions to address a number of these impacts are recommended.

The Department has reviewed the acoustic assessment provided by VIPAC and is satisfied the assessment is accurate and able to be relied upon. Atkins has not provided any alternative monitoring or assessment to demonstrate that the VIPAC results are incorrect. The Department is also satisfied in relation to the methodology adopted by VIPAC and the explanations provided for the methodology in response to the issues raised by Atkins.

In relation to road traffic noise, the VIPAC acoustic assessment provides that existing noise levels in the vicinity of the site are already very high and exceed the maximum criteria by 5 to 6 decibels. In that case, the NSW Road Noise Policy provides that the primary objective is to reduce noise impacts through feasible and reasonable measures and a secondary objective is to protect against excessive decreases in amenity as the result of a project. The policy provides that in assessing feasible and reasonable mitigation measures, an increase of up to 2 decibels represents a minor impact that is considered barely perceptible to the average person. The VIPAC assessment predicts that future traffic noise, including future heavy

vehicle movements should not lead to an increase of existing noise levels of more than 0.6 decibels. The potential 0.6 decibel increase in traffic noise is therefore considered acceptable providing that all feasible and reasonable measures to reduce traffic noise are incorporated.

The proponent has suggested a number of measures to mitigate loading dock noise. However, the Department considers further mitigation measures should be incorporated to minimise noise impacts. These include:

- Restricting loading dock activities, and therefore noise associated with truck movements in the surrounding streets, to the hours of 7.00am to 10.00pm daily (recommended by the proponent's acoustic consultants but not specifically adopted by the proponent);
- Controlling truck arrival and departure routes. Traffic consultants for the Council and the proponent have agreed that the route with the least impact on residential amenity would be via Gardeners Road; Evans Avenue; Longworth Avenue and Barber Avenue (and in reverse for truck departures); and
- Reducing excess parking spaces on the site. As discussed in **Section 5.6** below, it is proposed that the number of parking spaces should be reduced on site.

The Department considers that these measures are reasonable and would go towards ensuring acceptable residential amenity.

The proposal also incorporates the following proposed noise mitigation measures:

- Loading dock walls to incorporate noise absorption materials;
- Southern dock roller doors being shut for loading and unloading operations in the evenings;
- Provision and enforcement of a service vehicle management plan; and
- Provision of noise and vibration insulation to new units proposed to be located above the loading areas.

The Department considers that the proposed development would result in some improvement to the residential amenity of surrounding premises in terms of noise associated with loading activities. Currently loading areas are external to the building and in direct line of sight of adjoining residential premises. The internalisation of all loading and unloading activities, in conjunction with acoustic treatment of the loading areas as proposed by the proponent would result in an improvement to the acoustic impacts of loading activities. The restriction of loading activities to daytime and evenings as discussed above would further improve acoustic impacts and is considered appropriate for loading areas which adjoin residential areas.

In relation to mechanical plant, the proponent suggests a range of mitigation measures to ensure required levels of acoustic internal amenity are achieved. These relate to plant selection; locating plant away from noise sensitive receivers and not within any 'direct line of sight'; using low noise condenser units and placing mechanical equipment on vibration isolators (pads).

In relation to construction noise, the proponent has provided general criteria and recommendations and has suggested that the issue can be addressed as part of a construction management plan when construction methods and details are known.

The Department considers that mechanical plant noise can be satisfactorily mitigated through the measures recommended by VIPAC and that construction noise can be suitably managed through a construction management plan to be approved by the Director-General, prior to construction. Conditions are included in the recommendation to this effect.

In terms of internal acoustic amenity, Atkins Acoustics, raised concerns regarding future internal amenity from aircraft noise and loading dock noise. Atkins suggested that the aircraft

noise exposure and assessment undertaken by the proponent's consultant, VIPAC, should be revised. The VIPAC assessment was based on Australian Noise Exposure Forecast (ANEF) 2029. Atkins suggested it should be based on Draft ANEF 2033 which would include aircraft flying in closer proximity to the site with associated increased acoustic impacts. The Department reviewed ANEF 2033, noting that it was adopted and published on 14 March 2013. The new ANEF 2033 contours however indicate that the site would no longer be affected by aircraft noise (it would fall outside the ANEF 20 contour) so that no acoustic treatment for aircraft noise would be required under AS2021.

Nevertheless, the proposal has adopted VIPAC's recommendations for acoustic treatment and insulation to mitigate against both traffic and aircraft noise impacts to ensure an acceptable acoustic amenity for future residents on the site.

In relation to loading dock impacts, VIPAC recommended the provision of noise and vibration insulation to new units located above the loading areas, with specific detail to be provided at the Construction Certificate stage.

The Department is satisfied that with the imposition of appropriate conditions requiring acoustic and vibration treatments and insulation in accordance with VIPAC recommendations, the proposal would provide an appropriate level of internal acoustic amenity.

5.5 Internal Residential Amenity

Amenity impacts of the proposal have been considered against the requirements of State Environmental Planning Policy No 65 (Design Quality of Residential Flat Buildings) (SEPP 65) and the accompanying RFDC. A detailed assessment is included at **Appendix D**. Generally, the proposal complies with the requirements of SEPP 65 and the RFDC, with the exception of:

- building depth;
- building separation;
- number of units to a circulation core; and
- unit sizes.

These variations are discussed below. In addition, Council raised concerns about the size and quality of communal open space areas.

5.5.1 Building Depth

The RFDC recommends building depths of no more than 18m. Four of the proposed residential flat buildings (Buildings 1, 1A, 3 and 7) would include building depths up to 25m. Despite the non-compliance with the RFDC guideline of 18m, the proposed buildings achieve RFDC recommended amenity standards in terms of solar access and natural cross ventilation. The maximum distance from any window in the single aspect units in these buildings is 9m which is considered adequate to deliver a good level of internal amenity. The proposed 25m building depths are therefore considered acceptable in this case.

5.5.2 Building Separation

The RFDC recommends minimum building separation distances, dependent on building height, in order to maximise visual and acoustic privacy between residential flat buildings and to minimise the bulk and scale of buildings. The RFDC recommendations for minimum separation between buildings are outlined in **Table 4**.

Table 4: RFDC Building separation recommendations

Building height	Minimum separation (metres)		
	Habitable rooms	Habitable rooms and non habitable rooms	Non habitable rooms
Up to 4 storeys (12m)	12	9	6
5-8 storeys (12 to 25m)	18	13	9

The proposed building envelopes generally provide for a range of building separation distances as demonstrated in **Figure 31**.

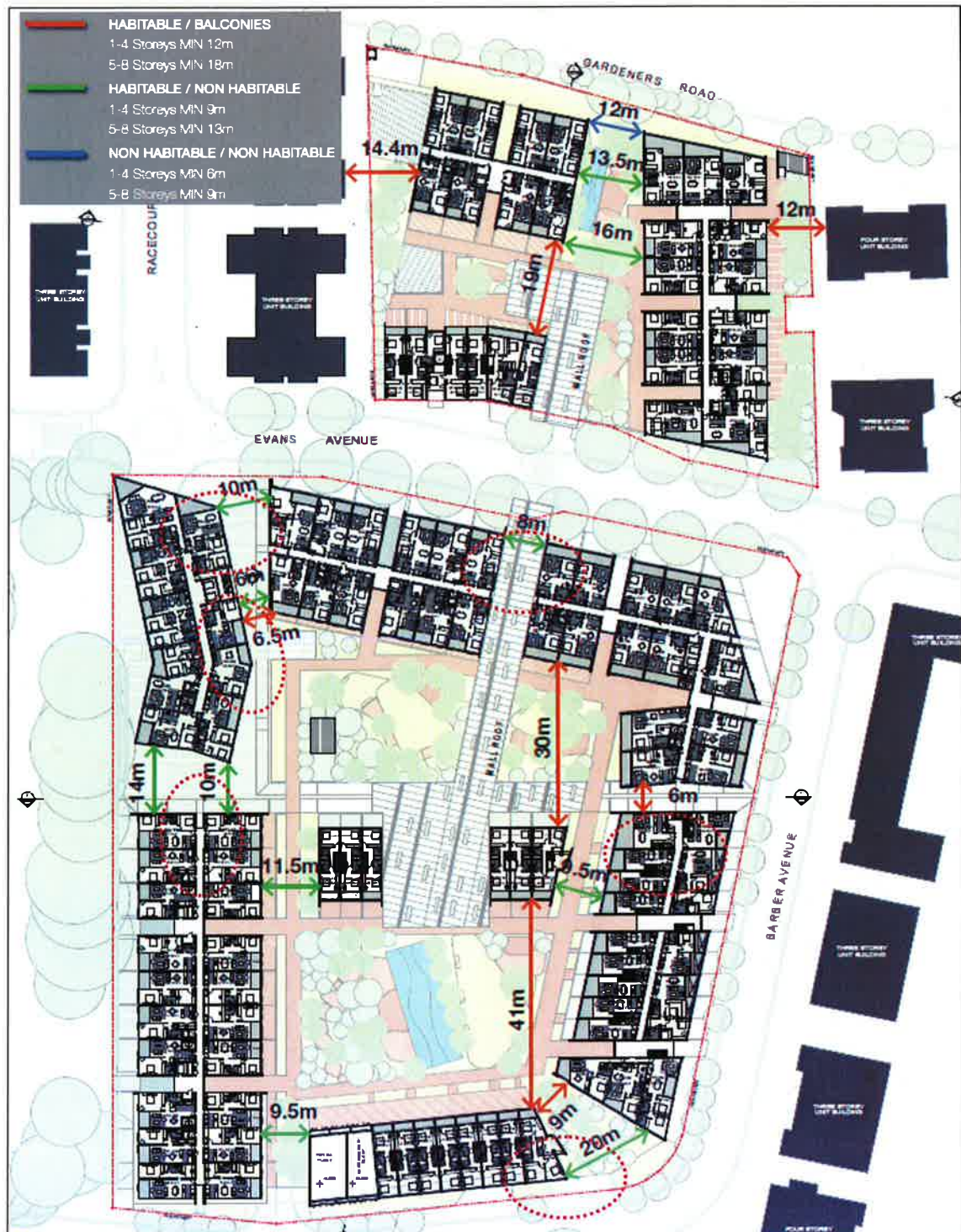


Figure 31: Building separation distances at the shown first floor level.

(dashed line) Non-complying setbacks.

Note that building separation remains the same for upper levels although a number of the proposed buildings would not exceed 2 or 3 storeys in height.

As can be seen in the diagram, buildings have been designed so that units are generally not oriented directly towards each other, and where they are, they enjoy large separation distances of at least 19m in accordance with the RFDC recommendations. The buildings have been arranged so that the primary outlook from most living areas and balcony is of the street, the park, or the internal landscaped communal open space areas, and not of adjoining buildings.

Areas of variance relate to side or secondary walls of buildings. The proponent has advised that where windows are proposed in these elevations and they are opposite each other, they would be treated with fixed external screens to allow light and ventilation without compromising privacy. This is considered an acceptable solution as most of the affected windows are either to non-habitable rooms or are secondary windows with an alternative outlook available from the room. With the provision of appropriate screens or window treatments, it is considered that the proposal includes adequate building separation to ensure acceptable privacy outcomes for future occupants. A condition is included in the recommendation to this effect.

5.5.3 Communal Open Space

Council has raised concerns that the proposal does not provide adequate areas of private open space for future residents. The RFDC provides that communal open space areas should be equivalent to at least 25-30% of the site area, but in dense urban areas, where developments are unable to achieve this level of communal open space, developments should provide residential amenity in the form of increased private open space and/or a contribution to public open space.

Communal open space areas would be provided on the podium level on both sites for the exclusive use of residents on the site. Functional areas of private open space (including central courtyards with landscaping, paving, pathways and pools) equate to 6,328m² (28% of the site). Additional landscaping provided to the podium edges equates to 588m² (another 2.5%). Total open space therefore exceeds that expected under the RFDC.

The Department considers that the proposed provision of open space is adequate to ensure a high level of amenity for the future occupants of the site for a number of reasons:

- Communal open space areas on each site provide a pleasant outlook and break up the massing of the buildings on the site;
- Areas are provided on each site for residents to enjoy passive recreation, as well as recreational activities such as swimming (with pools provided on each site), and a gym (not included in open space calculations);
- Residents have excellent access to Eastlakes Reserve immediately adjoining site, providing a high level of amenity and ample space for active recreation;
- Publically accessible open space is also provided in the form of the 'market square' with an area of 1,800m²; and
- All units on the site include private open space areas. Minimum balcony sizes vary, but average private open space per dwelling exceeds 16m² and therefore ensures a high level of amenity to each unit.

Landscaping to the communal open space areas includes a variety of soft plantings and trees to a height of 10m, as well as numerous shrubs and ground covers. Council has raised concern that larger canopy trees would be necessary in these areas for internal amenity and screening consistent with the scale of the buildings. There is sufficient area and soil depth within each site for the provision of larger canopy trees. The Department considers that just 1 or 2 canopy trees at the podium level on each site with a mature height similar to the surrounding building heights would make a substantial difference to internal vistas and screening inside the site. It is therefore recommended that 3 additional trees (1 on the northern site and 2 on the southern site) to a mature height of 18m be provided. A condition has been included in the recommendation to this effect. With the provision of three additional

canopy trees, the proposal is considered to provide high quality communal open space areas that would provide an acceptable level of amenity for future occupants.

5.5.4 Units to Circulation Core

The RFDC recommends that a maximum of eight units are accessed off a single circulation core. In this case, the maximum number of units accessible from a single circulation core (that is a core including only one set of lifts) is 14 units. With the exception of Building 2, where the number of units exceeds 8 to a circulation core, a good level of amenity is ensured by including windows to the lobbies and circulation areas of each floor for natural light and ventilation, as well as dual lifts and access stairs. Any requirements for additional lifts would result in a reduction in this amenity and therefore the core layouts are supported in their current form.

Building 2 includes no more than 9 units to its circulation core and although windows are not provided to the circulation areas, the core does include dual lifts and access stairs. The minor deviation from the RFDC guideline in this case is considered to result in no material adverse impacts as compared to a core with 8 units. The circulation core designs are therefore considered to be acceptable.

5.5.5 Unit Sizes

A key concern of Council relates to the proposed unit sizes. Council advises it has been actively pursuing a vision and policy of high quality residential development in the area with high levels of internal amenity and generous internal unit sizes. If Council's Development Control Plan were to apply to the development, very few of the proposed units would meet the minimum unit size requirements (also shown in **Table 5**). Further, Council is concerned that only 18% of units would meet the internal areas requirements set out in the RFDC. This calculation does not take into account minimum apartment sizes recommended by the Affordable Housing Service within the RFDC.

The RFDC suggests apartment sizes suitable for various unit types, but recognises that appropriate sizes are to be determined having regard to geographic location, market demands, unit configuration and affordability. **Table 5** sets out the suggested range of unit sizes under the RFDC, with units at the smaller end of the scale representing the suggested minimum apartment sizes to contribute to housing affordability. The proposal includes a range of unit sizes. These are compared to the suggested RFDC sizes and the controls in the Botany Bay DCP as shown in **Table 5**.

Table 5: Proposed Unit sizes; RFDC and Council DCP controls.

	The Proposal	RFDC Rules of Thumb	Proposed units consistent with RFDC affordable housing sizes	Botany Bay DCP 35 (min m ²)
Studio	39 – 46m ²	38.5m ² min	6 (100%)	60m ²
1 Bedroom	50m ² - 73m ²	50m ² - 63m ²	216 (100%)	75m ²
2 Bedroom	65m ² - 124m ²	70m ² -121m ²	144 (73%)	100m ²
3 Bedroom	113m ² - 145m ²	95m ² -124m ²	9 (100%)	130m ²
4 Bedroom	174m ²	Not stated	1 (100%)	160m ²

The unit sizes recommended in the Botany Bay DCP are larger than the sizes recommended by the RFDC. Larger unit sizes are not considered to be commensurate with delivering affordable housing, but the Department considers that a range of unit sizes should be

provided to ensure both reasonable internal amenity and to promote housing choice and housing affordability. It is considered that in general, units should be designed to at least meet the minimum sizes set out in the RFDC as being appropriate to contribute to housing affordability, but recognises that apartment size is only one factor influencing affordability and amenity.

The revised PPR incorporates 428 units of which 376 (88%) comply with the recommended unit sizes for affordable housing under RFDC. Of the remaining 52 units which would not comply, all are 2 bedrooms in size and:

- The majority (36 units) are only 1m² below the minimum area (ie 69m²). All units have either northerly or easterly aspects and all would benefit from natural cross-ventilation. A total of 20 of those units would have northerly views of the city skyline and may incorporate views of the Australian Golf course;
- Another 8 units are 68m² and therefore 2m² below the minimum suggested area. They would also have a northerly aspect and good solar access, natural cross-ventilation, a pleasant outlook with some access to district views; and
- The remaining 8 units are 67m², or 3m² below the minimum suggested areas. They would all be corner units with good cross ventilation and incorporate good design to maximize space. Half of the units would have a northern orientation with good solar access. Four of the units would have a southern orientation and would not receive 2 hours of solar access to living areas or open space areas at mid-winter. They have private open space areas of 8m² except for the podium level unit which has a generous 17m² private open space area.

The Department considers that the three south facing units above the podium level which have neither solar access nor increased open space should be amended to provide improved levels of amenity. This could be achieved by converting to single bedroom units with enlarged living spaces or combining to create a maisonette/duplex style unit as they are located vertically above each other. A condition has been included in the recommendation accordingly.

The Department considers that other than the 3 units to be amended, all units within the development would provide reasonable levels of amenity, given the minor nature of the variance with the RFDC rules of thumb and the other aspects of amenity afforded to them. The variation from the RFDC guidelines can therefore be supported.

The Department notes that the proposal incorporates a wide range of units including some units with very large internal areas. Studio and 3+ bedroom units all meet or exceed the RFDC unit sizes and are all considered generous in their floor plans. 59% of 1 bedroom units would be at least 60m² in size and 20% of 2 bedroom units would exceed 90m². The Department considers that the development would deliver an appropriate range of unit sizes that would promote housing choice, contribute to housing affordability and still deliver an acceptable level of amenity.

5.6 Traffic, Transport, Parking and Access

In assessing the traffic, transport, parking and access implications of the proposed development, the Department has identified the key assessment considerations as being:

- the accuracy of the traffic report;
- intersection management;
- safety;
- access routes;
- parking; and
- access to public transport.

These considerations are discussed in further detail below.

5.6.1 Accuracy of the Traffic Report

Traffic generation and impacts on the local road network were the primary concerns raised by the public during the exhibition period. Residents were concerned that local roads were already saturated, that the vehicle movements arising from the development would result in unacceptable levels of congestion and intersection failure. Further concerns raised relate to amenity impacts such as increased noise and air pollution from vehicle movements.

Council engaged a traffic engineer to provide an assessment of the proposal. The primary concerns raised by Council related to perceived deficiencies with the proponent's traffic assessment including inaccurate or insufficient information in relation to floor areas, queuing effects, pedestrian routes and swept paths. Council also raised concerns about sight lines and safety impacts, proposed truck routes and residential amenity impacts.

The application was referred to the RMS which raised no objection to the development. RMS advised that the proposal would not generate significant additional traffic to warrant any upgrading of the nearest arterial road intersection of Gardeners Road and Racecourse Place. RMS did not comment on impacts to local roads other than to suggested further details of swept paths for trucks should be provided

Throughout the assessment process Council and its traffic consultant (McLaren Traffic Engineering) have requested additional information to verify the proponent's traffic assessment (prepared by Colston Budd Hunt & Kafes) and have raised concerns about aspects of the assessment and methodology. Additional information and explanation has been supplied by the proponent and its traffic consultant as requested. In addition a meeting was held between Department officers, Council officers, McLaren Traffic Engineering, the proponent and Colston Budd Hunt & Kafes in late April 2013 with an aim to resolve outstanding issues. Having considered all submissions and information submitted on behalf of the Council and the proponent, the Department is satisfied that traffic assessment prepared by the proponent is based on sound methodology and data and can reasonably be relied upon.

5.6.2 Operation of Surrounding Streets and Intersections

The proponent's traffic assessment indicates that as a result of the proposal vehicle movements on Racecourse Place, Evans Avenue and Barber Avenue would increase by about 4% or 5% during weekday peak periods.

The proponent's analysis of key intersections including the intersection of Barber Avenue and Evans Avenue; the roundabout intersection of Evans Avenue and Racecourse Place; and the intersection of the northern car park driveway entrance and Evans Avenue demonstrated that all intersections would operate at a service level of A/B, which represents a good level of service with average delays of less than 15 seconds.

The analysis submitted with the EA indicates that the signalised intersection at Gardeners Road and Racecourse Place would operate with a service level of B, which represents a satisfactory level of service with average delays of less than 25 seconds during peak periods. Maximum queue lengths would increase by about one or two vehicles during peak periods.

Information submitted with the PPR suggests that vehicle movements on Evans Avenue would be reduced under the revised PPR scheme and therefore intersection service may be marginally improved as compared to the original proposal. The Department also notes the RMS has no concerns about the operation of this intersection.

The Council raised concerns about queuing distances at boom gate entry points and the potential for flow on effects to traffic movements on surrounding streets. Additional

information submitted by the proponent demonstrates that the queuing area provided at all 3 vehicle entry points is satisfactory with regards to the expected queue lengths.

On this basis, the Department considers that the proposal would not result in unacceptable traffic congestion impacts and that vehicle flows, entry and street intersections in the vicinity of the site would operate at good or satisfactory levels.

5.6.3 Safety

Concerns raised in relation to vehicle safety relate to sight lines at vehicle exit points. The sight distance for trucks exiting the Barber Avenue loading dock was a key concern.

Detailed analysis and surveys by the proponent have demonstrated that the area is a very low speed environment due to the 40km/hr speed limit and a speed bump located in the vicinity of the loading dock. The proponent calculates a sight distance of 39m is required to comply with the intentions of the relevant Australian Standard. The proposal provides 40m. To further ensure the safety of vehicles, the proponent suggests additional measures including a warning sign and warning light to let oncoming vehicles know of trucks exiting the site ahead. Conditions have been recommended in accordance with these suggestions.

Ramp grades and sight lines for vehicles exiting the site at the Evans Avenue/Racecourse Place roundabout have also been analysed in detail and are considered to be satisfactory, with the imposition of a condition ensuring a proposed pedestrian fence does not obscure view lines (refer to **Figure 32**).

Safety in terms of pedestrian access routes were also considered. A key area of concern relates to the main vehicle entry point at the Evans Avenue/Racecourse Place roundabout. To address these concerns, the proposal has been designed to encourage pedestrians to travel around the entrance ramp and through the 'market square' rather than across the intersection. Barriers to discourage pedestrians from entering the intersection are proposed, and vehicle ramp gradients have been maximised to reduce the length of the pedestrian route (refer to **Figure 32**).

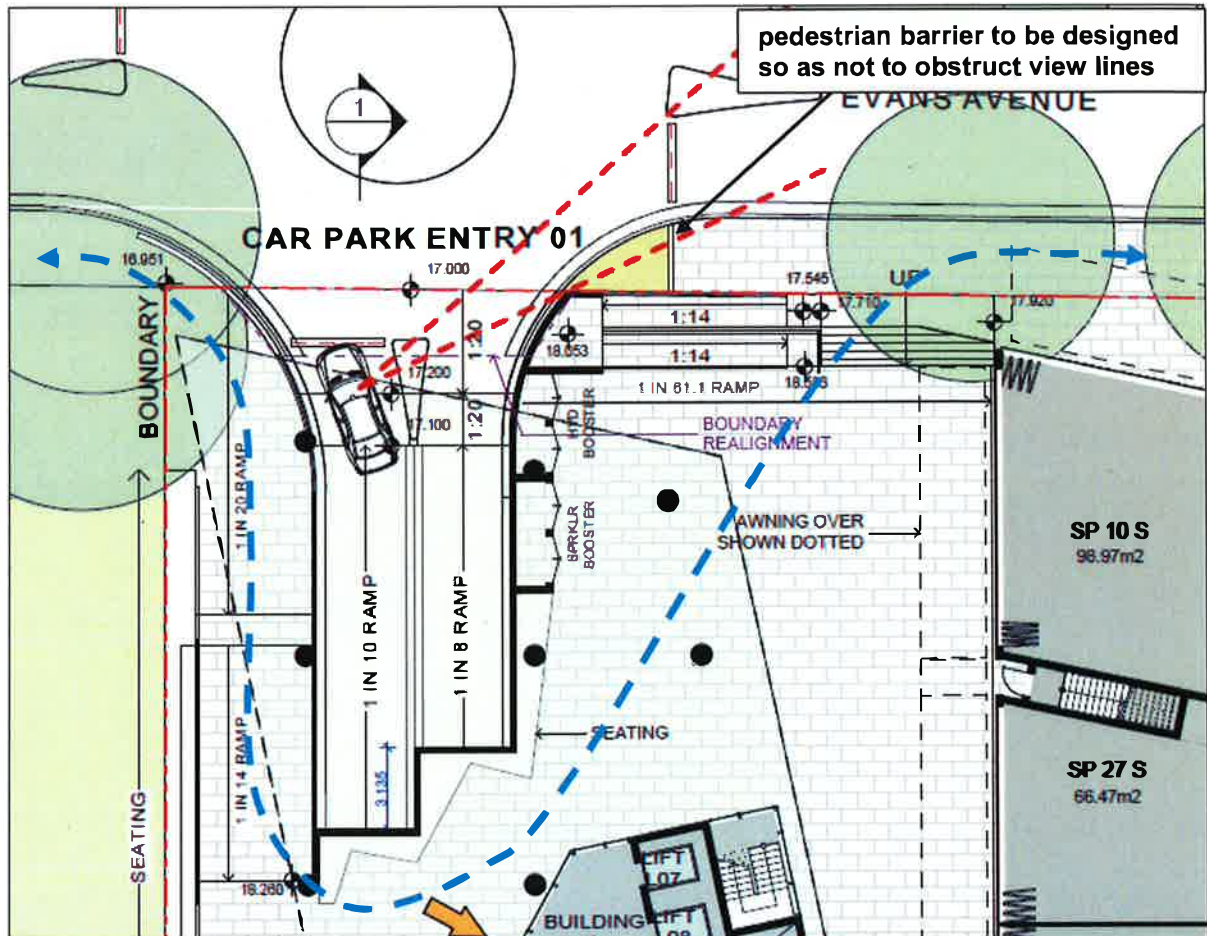


Figure 32: Exit vehicle sight lines (shown in red) and pedestrian route around vehicle entrance (shown in blue).

As the proposal essentially prohibits pedestrians from accessing the current footpath area and involves traversing the site, a condition is recommended requiring the provision of an easement or public right of way over the market square area.

Pedestrian safety at the southern vehicular entrance point to the site (at the roundabout intersection of Barbers Avenue and St Helena Parade) has been addressed by provision of a 2m wide pedestrian refuge between the entry and exit points. The proposal also requires pedestrians to traverse the site. Conditions ensuring public access to the entire footpath/street setback areas on Barber and Evans Avenues have been included in the recommendation.

The Department considers that the proposal provides for an acceptable level of pedestrian and vehicle safety in the vicinity of the site.

5.6.4 Vehicle Access Routes

Primary concerns raised in relation to access include the amenity and safety impacts of vehicles, and in particular trucks, accessing the site through the surrounding residential area. As a result of concerns raised, the PPR included changes to access arrangements to relocate the entrance to the car park on the northern site to the western end of the site, so that vehicles would not need to travel across the pedestrian crossing area on Evans Avenue, thereby reducing vehicle / pedestrian conflict issues.

Council and public submissions suggested that further investigations should be made into providing access to the site directly from Gardeners Road to reduce vehicle movements around the site. Based on the information submitted by the proponent, the Department is satisfied this is not a feasible option due to problems arising from level changes and the

proximity to the signalised intersection with Racecourse Place. Another suggestion included truck access to the southern site via the entrance on Racecourse Place which is also not considered feasible due to conflicts with private vehicles using this route; and various design issues.

Trucks currently service the southern site in a similar location on Barber Avenue and the retention of a loading dock accessed via Barber Avenue is therefore considered acceptable. As discussed in **Section 5.4**, amenity impacts to residents would be reduced under the proposal with loading areas now being fully enclosed. It has been agreed by the traffic consultants for both the proponent and the Council that the preferred truck route both to and from the Barber Avenue loading dock would be via Racecourse Place, Evans Avenue, Longworth Avenue and Barber Avenue. It is agreed that this route would have the least impact on residential amenity and pedestrian safety in the vicinity of the site. A condition has therefore been included in the recommendation requiring a delivery management plan that would ensure trucks using the southern loading dock adopt this route.

With the imposition of this condition, the Department considers that vehicle access routes to and from the site are acceptable.

5.6.5 Parking

Car parking provision and impacts to on-street parking was an issue raised within the public submissions. Transport for NSW (Sydney Buses) raised a concern that the commercial parking calculations would not adequately cater for parking demand and should be increased. Transport for NSW (RMS) however advised that parking rates should be calculated by the Department in consultation with Council.

The proponent has calculated parking demand having regard to a balance between Council's Development Control Plan requirements, the RMS Guide to Traffic Generating Development as well as traffic surveys undertaken at the site. A detailed description of parking rate calculations is included in the EA. **Table 6** provides a comparison of the proposed parking rates with surveyed rates and controls.

Table 6: Parking Rates of the Proposal, Survey, Council and RMS controls

	Proposal Parking Rates	Existing Parking Demand	Botany Bay DCP	RTA Guide (recommended minimum)
1 bedroom unit	1 space	N/A	1 space per small / medium unit (Less than 85m ²)	0.6 spaces
2 bedroom unit	1 space	N/A	1 space per small / medium unit (Less than 85m ²)	0.9 spaces
3 bedroom unit	2 spaces	N/A	2 spaces per large unit (greater than 85m ²)	1.4 spaces
Visitors	1 space / 5 units	N/A	1 space / 5 units	1 space / 5 units
Non-residential	3.5 spaces / 100m ² GLA	3.5 spaces / 100m ² GLA	2.5 spaces/100m ²	5.6 spaces/100m ² GLFA
Total	958 spaces	434 spaces	903 spaces	1104 spaces

It is noted that Council's traffic consultant concurred with the methodology used to assess car parking demand and supply.

Based on the proposed rates, the proposed development generates a total parking demand for 958 spaces (524 residential + 434 retail spaces). A total of 1028 spaces are proposed including 556 residential spaces and 472 retail spaces.

The Department agrees with the parking rates suggested by the proponent and that they represent an appropriate balance between the Council Development Control Plan parking rates and the rates suggested by the RMS as well as the reasonable application of data relating to the existing use of the site.

However, in order to promote public transport use in line with sustainability objectives and to reduce excessive vehicle trips to the site and the associated traffic and noise impacts, it is considered that parking spaces should be capped at the established parking demand of 958 spaces. The surplus 70 spaces should be deleted and a condition has been included in the recommendation. The Department notes the deletion of 70 basement parking spaces may provide opportunities to relocate some podium level plant on the northern site to the basement area, to assist with mitigating visual impacts as discussed previously, or to setback basement areas away from street setbacks to improve landscaping at the public domain interface.

5.6.6 Access to Public Transport

The Draft East Subregional Strategy describes Eastlakes as a centre with limited public transport services and links and which relies predominantly on car and pedestrian activity. Council, Transport for NSW (Sydney Busses) and public submissions all raised concerns about the ability of existing public transport infrastructure to cope with additional capacity.

As a result of the concerns raised, the proponent met with Transport for NSW. Following the meeting, the Transport for NSW Bus Planning Group advised the proponent that:

- *Services are monitored on an ongoing basis and frequency supplementation, where capacity issues emerge, is addressed as time and resources permit;*
- *Eastlakes is proximate to the developing area of Victoria Park (Green Square) to the north. Bus routes (301, 303 and 343) are common to both locations and any future service enhancements to address growing demand in Victoria Park will most likely assist Eastlakes Centre as a 'knock on' effect;*
- *Transport for NSW has a Growth Buses Program which addresses capacity issues in the metropolitan area. As Eastlakes Centre develops this program can be employed to address any emerging capacity issues. However, it is noted that anticipated growth in travel demand arising from this particular development (~420 units) is unlikely to require additional bus capacity on its own as it is the cumulative effect of multiple developments that is important in triggering a capacity response; and*
- *As stage 1 of the development is not due for completion until mid 2015 there is time to address any issues that may emerge.*

The Department considers that a reasonable level of public transport service is currently provided to the site, with buses departing from near the site going to the city every 2–3 minutes during the morning peak. The Department is also satisfied that upgrades to service provision could be made as and when considered necessary by Transport for NSW in the future.

In its original submission, Sydney Buses raised the question of the potential need to upgrade existing bus stops to comply with disabled access requirements. However, Transport for NSW subsequently advised that the development on its own is unlikely to require additional bus capacity, and as none of the nearby bus stops are within the footpath areas immediately adjacent to the site and are therefore not within the public domain areas being redeveloped and upgraded as part of this proposal, it is not considered reasonable nor necessary for the proponent to upgrade the nearby bus stops. Section 94 contributions payable to Council may

assist with any upgrades to other nearby footpaths including bus stop areas if Council deems necessary.

5.7 Other Issues

5.7.1 Isolated sites

The DGRs required the proponent to address potential site isolation and provide a detailed analysis of how the development would integrate with adjoining sites to prevent any adverse impacts. Council has consistently stated that any redevelopment of the site should incorporate 16 Evans Avenue to prevent any isolation of that site, or otherwise a master plan should be developed for the entire precinct which incorporates the development of 14 and 16 Evans Avenue.

The proponent made attempts to acquire 16 Evans Avenue, but as it is held under strata title with 36 separate owners, the proponent was unable to purchase or obtain the necessary options on all of the individual allotments. Details of all negotiations carried out in 2007 to 2009 with 35 of the property owners who agreed to discuss the matter were submitted to show that two units were able to be purchased outright and options were executed over 6 other units. The remaining 28 units were not able to be obtained, with some owners showing no interest in selling under any circumstance.

The Department is satisfied the proponent took reasonable steps to try to acquire the adjoining site and no further actions or negotiations would have resulted in the ability to incorporate the site into the development, as that would have required agreement of all 36 owners.

The proponent advises that they believe that 16 Evans Avenue is large enough (2,580m²) to be redeveloped independently of the proposed development. Sketch plans (**Figures 33 and 34**) of one possible built form layout submitted by the proponent indicate it may be capable of achieving 1,150m² of retail floor space at ground floor podium level; 4-5 levels of residential development providing 39 units (2 and 4 bedrooms); and basement car parking for 62 vehicles.

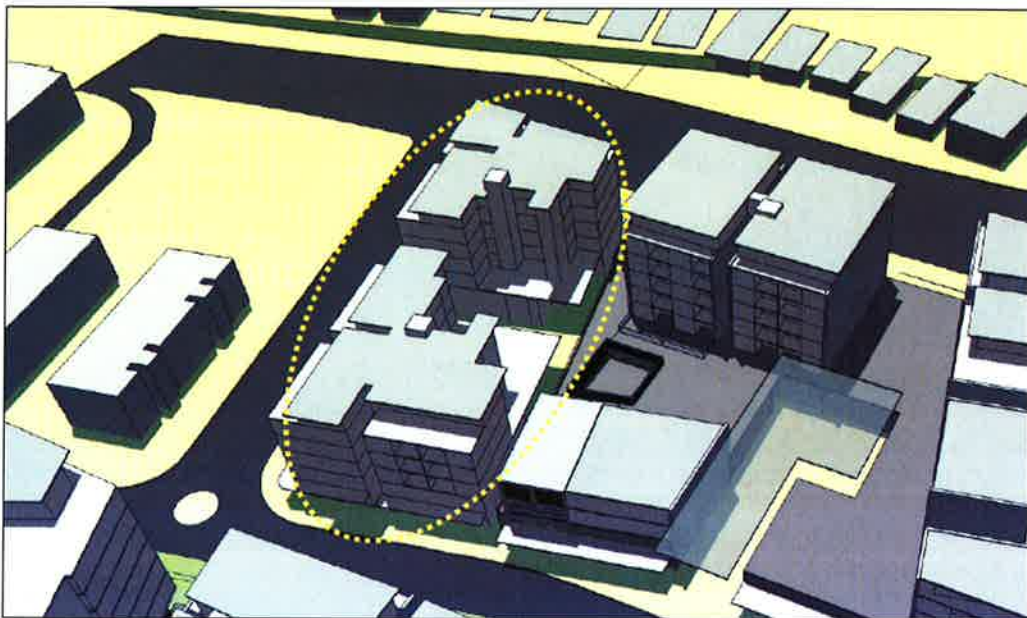


Figure 33: Architects sketch of potential future development at 16 Evans Avenue

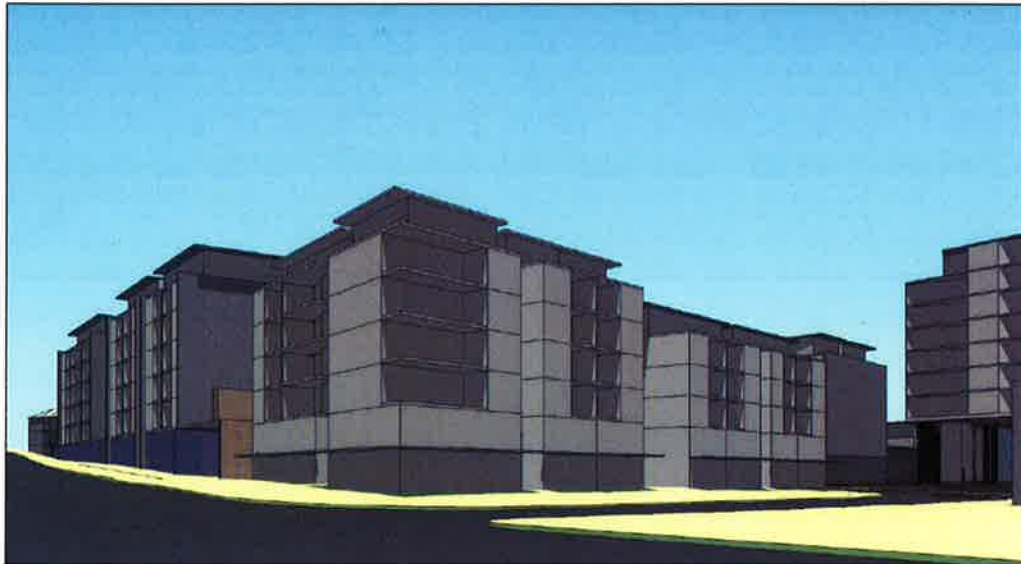


Figure 34: Architects sketch of potential future development at 16 Evans Avenue

Council has questioned the accuracy and feasibility of the sketch plans and is concerned that they result in a building height and floor space ratio that would not comply with the draft Botany Local Environmental Plan 2012 controls and that no information to demonstrate the economic feasibility of the scheme has been provided.

The Department is satisfied that the site is large enough and regular in shape to enable its redevelopment in isolation of the current application. However, it is acknowledged that any future development similar to that suggested by the proponent would require some deviations from the planning controls that would apply to the site. In accordance with the planning principles for isolated sites established by the court in *Cornerstone Property Group Pty Ltd v Warringah Council* [2004] NSWLEC 189, the relevant consideration in cases where variations to the planning controls would be required is "will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity". The Department considers that the schematic plans show that the site is capable of achieving an appropriate urban form, having regard to the proposed surrounding development, and basic floor plan layouts submitted to indicate that it would be possible to also deliver an acceptable level of internal and external amenity.

The Department considers that sufficient information to demonstrate that the orderly and economic use and development of the separate sites can be achieved, and that economic feasibility studies are not necessary to make an assessment of the future development potential of the site.

5.7.2 Number of Dwellings

Although the plans include 428 dwellings, the proponent has requested that the approval allow for permitted unit numbers within a specified range to allow the proponent to determine final total number and mix of apartments at a later stage.

Any modifications to the approved floor plans which would alter unit numbers would have impacts on densities, unit sizes, residential amenity, car parking, orientation, external façade openings, appearance and the range of housing choice available. Changes to unit numbers would also affect Section 94 contributions payable to Council. As this is a Project Application rather than a Concept Plan, it is considered appropriate that the final form of the development, including exact unit numbers be determined as part of this application.

Any future amendments sought by the Proponent could be considered as part of a future modified request where all potential impacts could be carefully considered.

5.7.3 Soil and Groundwater Contamination

The proponent submitted a Preliminary Environmental Site Assessment prepared by Environmental Investigation Services which involved a site history assessment; assessment of adjoining sites; review of regional geological and hydrological data, walkover inspection of the site, field sampling with analysis of soil and groundwater samples, and review of previous geotechnical investigations.

No elevated concentrations of contaminants were found and the Assessment concluded that based on the scope of work undertaken to date, the site can be made suitable for the proposed development provided that a Stage 2 detailed environmental assessment is undertaken and an asbestos inspection is undertaken of all buildings and structures prior to demolition. The proponent has included a statement of commitment to this effect.

The report also recommends further evaluation of the potential for de-watering in reference to contaminated off-site groundwater and potential for acid sulfate soils below a depth of 3m.

Council submits that the additional assessment as recommended in the Assessment should be carried out before determination of the proposal.

However, as the Assessment finds that the site is capable of being made suitable for the proposed development, the Department considers that the objectives of State Environmental Planning Policy No. 55 can be met with the imposition of appropriate conditions.

Conditions are recommended requiring the detailed assessments outlined above including those in relation to groundwater from adjoining sites and acid sulphate soils below 3m. Conditions require that any necessary remediation is to be undertaken prior to the issue of any construction certificate for the site, with an associated Validation Report and Site Audit Statement also to be provided as necessary prior to issue of a Construction Certificate. Conditions are also recommended requiring appropriate solutions for de-watering and construction in acid sulphate soils, should the need arise.

5.7.4 Infrastructure; Stormwater and Flooding

Concerns were raised in public submissions about the ability of existing infrastructure generally to cope with the proposed development. Sydney Water and Ausgrid, both made submissions, but raised no objection to the proposal in terms of infrastructure availability or provision. They both recommended the inclusion of standard conditions or advisory notes and these have been included in the recommendation as appropriate.

Council raised a number of concerns in relation to drainage infrastructure, which would require upgrading as a result of the proposal. Outstanding issues relate mostly to the need for additional information demonstrating overland flow path modelling; DRAINS modelling, and certain calculations, as well as an issue with an access route located over an adjacent premises. Additional Information submitted by the proponent on 8 May 2013 to address Council concerns included the requested modelling and calculations and deleted the access route previously proposed. The information was forwarded to the Council and no further submission has been received.

Stormwater management measures proposed for the site include relocation of drainage easements, new stormwater pipes capturing of all stormwater that falls on the site for minor and major storm events and on-site detention. The MUSIC water quality report also recommends directing all roof water to rainwater re-use tanks for use on site which is consistent with the requirements specified by the BASIX certificate. Recommended conditions require compliance with the MUSIC and BASIX reports.

The Department is satisfied that the proposed upgrades to drainage infrastructure would adequately deal with drainage and stormwater from the site and the adjoining public domain, so that no significant flooding or stormwater impacts would arise from the development.

All other existing infrastructure is able to be utilised, or upgraded as necessary to support the development of the site.

5.7.5 Signage

The proposal includes a range of signage. The proposed directional signage, entrance signage and under awning signage is typical of shopping centre development and would not result in any significant adverse impacts.

Four large signs are subject to assessment under the provisions of State Environmental Planning Policy No. 64. Refer to discussion in **Appendix D**. Two of the signs present lifestyle images and are essentially decoration, rather than advertising. They are oriented towards the market square / plaza rather than to the public domain. Subject to a condition ensuring illumination of the signs does not result in amenity impacts to adjoining residential premises, the signs are unlikely to result in any material adverse impacts. The other two signs are to be located on the western end of the Gardeners Road frontage and include a 14.75m high x 2.4m wide pylon sign in the street setback and a 9.5m wide wall sign facing Gardeners Road as can be seen in **Figure 35**.

The plans indicate that the illuminated wall sign on Gardeners Road would be located within the landscaped setback area, but it is unclear which wall it would be located on. It is not considered possible to provide a visible wall sign in this location without interfering with the proposed setback landscaping and the signage would be inconsistent with the character of this section of the streetscape building which presents only residential development to the street. The sign could be located in the podium wall just to the west of the landscaped area as indicated on the plan below, without adverse impacts to the character, streetscape or landscaping. It may also make a small contribution to activating this section of street frontage which is considered to have some safety issues as discussed below. A condition is therefore included in the recommendation.

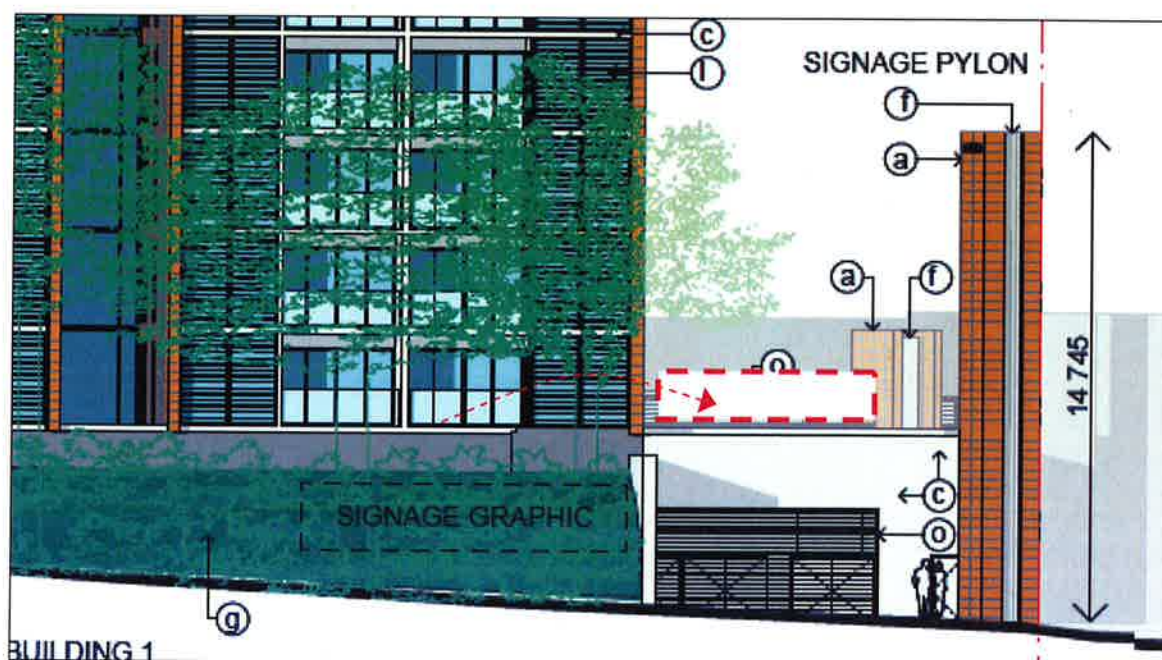


Figure 35: Part of Gardeners Road elevation showing location of proposed signage and possible relocation of wall sign.

The proposed pylon sign is 2.4 metres wide and obstructs pedestrian views in this area, which is essentially a recessed dead street frontage (it includes access to substation and plant area only). The sign also would result in overbearing visual impacts at the pedestrian level. While the overall height and scale of the sign is considered to be acceptable as the main marker for the Eastlakes Town Centre entrance, the Department considers that amendments should be made at the pedestrian level to allow for a more visually open base which permits pedestrians to view through the 2.4 metre wide sign to improve pedestrian amenity and safety.

5.7.6 Safety

Safety concerns raised in public submissions related to the potential for an increase in anti-social behaviour as a result of increased residential densities; and pedestrian safety as result of increased car movements. Safety in relation to traffic is considered previously in this report.

The proposal was forwarded to the Botany Bay Local Area Command which advises that a medium crime risk rating has been identified for the development (out of low; medium; high and extreme). NSW Police made a number of recommendations to address public safety including the installation of CCTV; improved lighting; design which minimises potential to climb onto balconies; landscaping which promotes surveillance; car park design without hidden areas; security access; and separation between commercial and residential areas. Many of these recommendations are already incorporated into the design, however a condition is recommended to ensure the Construction Certificate plans comply with the NSW Police recommendations.

The Department does not consider that the increased residential densities would result in increased antisocial behaviour. Rather, increased densities would further activate the area and assist with improving safety. It is also considered that the design of the proposal would result in substantial improvements to safety and anti-social behaviour in the area due to the improved activation of the reserve and street frontages. Where the proposed design incorporates recessed entry areas, conditions are recommended that the entries be floodlit and include CCTV to ensure a good level of safety is provided. Conditions are also recommended to ensure lighting of the Reserve and footpath areas in the evenings.

Issues relating to impacts of proposed future restaurant use and licencing of premises would be considered as part of future applications for the use or licence of a premises. A condition is recommended accordingly.

5.7.7 Developer Contributions

Council has advised that they do not wish to enter into a Voluntary Planning Agreement and request that the standard \$20,000 per unit cap be applied to each residential unit and Council's Section 94 Contributions Plan apply to any increase in retail floor area.

This is consistent with the approach taken by Council for similar developments in the LGA, including those assessed by the Joint Regional Planning Panel.

The Section 94 contributions are payable in addition to public domain improvements to the footpath reserves including street tree provision which is required to be carried out by the development to mitigate the visual impacts of the proposed development.

5.7.8 Size of shopping centre relative to residential component

A concern raised by Council relates to the density of the residential component relative to the retail component. A total of 71% of the total floor space would be residential and 29% would be retail and commercial uses. Council is concerned this is inconsistent with the primary objective of the General Business 3(a) zone which seeks to provide for a range of retail, business, and professional service activities.

The existing shopping centre was built in the early 1960s and has a gross floor area of approximately 13,100m² and leasable retail area of 10,200m². The proposed new centre

would have a gross floor area of 15,037m² and leasable retail area of 12,405m², being an increase of approximately 2,000m². The Department considers that as a mid-size shopping centre is retained on the site, and as the proposed development would result in both an increase in the quantity and quality of commercial floor space on the site, the proposal would improve the viability of the centre in the mid to long term. The proposal would also satisfy the zone objective, regardless of the density of the residential development above.

5.7.9 Loss of Existing Shopping Outlets

Numerous public submissions were concerned with losing existing retail outlets at the centre, especially during the construction phase. Market demand and loss of specific retail outlets is not a planning matter for consideration. However, the proponent has advised the centre would be developed in two stages, with the northern site developed first ensuring the provision of a supermarket and specialty stores on that site before demolition of the existing supermarket and specialty stores on the southern site. A commitment has been made to this effect in the Statement of Commitments.

6 CONCLUSION

The Department has assessed the merits of the proposal taking into consideration the issues raised in public and agency submissions. The key issues considered in the assessment of the proposal are density, built form and traffic impacts. The site was found to be well suited to provision of increased densities due to its location within close proximity to major centres, access to public transport and excellent access to retail services, in line with the objectives of the Metropolitan Plan.

The Department considers that the site is capable of supporting the scale of development proposed. Although taller than surrounding built forms, the site is differentiated from the surrounding residential area, having a commercial zoning and making up the town centre of Eastlakes. Lower built forms are provided where the development interfaces with the residential zone on Barber Avenue and are considered to be appropriate. The built form also results in a much improved relationship between the site and the surrounding public domain with active uses provided to surrounding streets and the Eastlakes Reserve.

With regards to amenity impacts, the proposal does not result in any unacceptable overshadowing impacts to adjoining sites and does not result in any unexpected view loss impacts beyond the extent of views that would be lost from any development of the site in accordance with local controls. Minor changes to building envelopes and façade detailing are recommended to the eastern and western facades of the northern site to ensure the development does not have an overbearing visual impact on adjoining residential premises. Noise issues have also been assessed and it is considered that with the imposition of appropriate mitigation measures the proposal would not result in undue noise impacts.

Internal amenity impacts have also been assessed and are considered to be acceptable. Buildings are oriented to maximise solar access and reduce privacy impacts, with an adequate level of building separation provided by the proposal. Although some of the units are smaller than the recommended size, with modifications to three of those units, all dwellings are considered to ensure a good internal level of amenity is provided. The proposal would also result in a wide variety of unit sizes to promote both housing affordability and choice. In addition adequate provision of communal open space to support the proposal has been demonstrated in this assessment, with some minor improvements to landscaping recommended.

Parking rates proposed by the proponent were considered appropriate, although an additional 70 spaces shown on the plans above the recommended parking rates are to be deleted to reduce excess vehicle movements in the area and to reduce reliance on private vehicles in line with Metropolitan Strategy objectives to reduce private car use particularly in areas close to public transport.

The Department has also considered a range of other issues including the development potential and isolation of adjoining sites; infrastructure, stormwater and flooding issues; proposed signage impacts; safety and security issues; and land contamination. With the imposition of appropriate conditions, the Department is satisfied that all other impacts have also been satisfactorily addressed.

Based on its assessment, the Department is satisfied that the site is suitable for the proposed development and that the proposal would provide environmental, social and economic benefits to the locality. Subject to modifications and conditions recommended in this report, the proposal is considered to provide a good quality development consistent with local and regional planning strategies. In particular the proposal would result in the renewal and upgrade of a deteriorated town centre and retail precinct and would make a significant contribution to the housing stock of the Botany Bay Local Government Area and to Metropolitan Sydney, with good accessibility to retail services and employment opportunities.

Therefore, the Department recommends that the proposal be approved, subject to the conditions set out in the attached instrument.

7 RECOMMENDATION

It is recommended that the Planning Assessment Commission, as delegate for the Minister for Planning and Infrastructure:

- (a) **Consider** the recommendations of this Report;
- (b) **Approve** the Project Application under the repealed Section 75J of part 3A of the *Environmental Planning and Assessment Act, 1979*;
- (c) **Sign** the attached Instrument of Approval (**Appendix E**).

Endorsed by:



13.6.13

Chris Wilson
Executive Director
Development Assessment Systems and Approvals

APPENDIX A ENVIRONMENTAL ASSESSMENT

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3402

APPENDIX B SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3402

APPENDIX C PROPONENT'S RESPONSE TO SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3402

APPENDIX D CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

Ecologically Sustainable Development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *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);*
- (b) *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);*
- (c) *the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and*
- (d) *improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).*

The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

- **Precautionary Principle** – The application is supported by technical and environmental reports which conclude that the proposal's impacts can be successfully mitigated. No irreversible or serious environmental impacts have been identified. No significant climate change risks are identified as a result of this proposal.
- **Inter-Generational Principle** – The location of new residential development on a site with reasonable access to public transport and excellent access to retail services on site would reduce travel demands and enable residents to make sustainable travel choices which would protect the environment for future generations.
- **Biodiversity Principle** – There is no threat of serious or irreversible environmental damage as a result of the proposal. The proposal is confined to the redevelopment of a site already occupied by retail development and, as such, is unlikely to impact upon biological diversity or ecological integrity.
- **Valuation Principle** – The valuation principle is more appropriately applied to broader strategic planning decisions and not at the scale of this application. The principle is not considered to be relevant to this particular project application.

The Proponent submitted an assessment of the ESD initiatives prepared by Vipac Engineers and Scientists Ltd. The report makes recommendations for incorporation of sustainability measures in the design including wall colourings, insulation, lighting, appliances, and waste. The report finds that with the incorporation of such measures, the development provides a range of sustainability features including:

- Compliance with SEPP 65, BASIX and BCA Section J;
- Use of light colouring for internal walls to maximise natural daylight;
- Rainwater harvesting tank for landscape irrigations;
- Use of external wall and roof / ceiling insulation;
- Use of water and energy efficient appliance
- Use of Air conditioning systems with high co-efficient of performance

On this basis, the Department is satisfied that the proposal is consistent with the principles of ESD.

Section 75I(2) of the Act / Clause 8B of Regulations

Section 75I(2) of the Environmental Planning and Assessment Act 1979 and clause 8B of the Environmental Planning and Assessment Regulation 2000 provides that the Director General's Report is to address a number of requirements. These matters and the Department's response are set out below:

Section 75I(2) criteria	Response
Copy of the proponent's environmental assessment and any preferred project report	The Proponent's EA and PPR are located at Appendices A and C to this report respectively.
Any advice provided by public authorities on the project	All advice provided by public authorities on the project for the Minister's consideration is set out in Section 4 of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project;	No statutory panel was required or convened in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially governs the carrying out of the project;	Each relevant SEPP that substantially governs the carrying out of the project is identified below, including an assessment of proposal against the relevant provisions of the SEPP.
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	An assessment of the development against relevant Environmental Planning Instruments is provided below.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate	The environmental assessment of the project application is this report in its entirety.
A statement of compliance with the environmental assessment requirements under this Division with respect to the project.	In accordance with section 75I of the EP&A Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in Section 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in Section 5 of this report.
The suitability of the site for the project	The suitability of the site for the proposed development is discussed in Section 5 of this report. The proposed density, built form, traffic and other impacts have been considered by the Department and the site is considered suitable for the proposed development.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in Section 4 of this report. The Proponent's response to the submissions appear at Appendix C . A copy of the submissions are provided at Appendix B .

State Environmental Planning Policy (Major Development) 2005

The Project remains a Part 3A project under the former provisions of Schedule 1, Clause 13, Group 5 of the Major Projects SEPP, "residential, commercial or retail projects" as DGRs were issued prior to 8 April 2011. The project has a capital investment value (CIV) of more than \$100 million satisfying the non-discretionary criteria of Clause 13.

State Environmental Planning Policy 55 – Remediation of Land

The proponent submitted a Preliminary Environmental Site Assessment prepared by Environmental Investigation Services (EIS) as discussed in **Section 5.7** of this report.

EIS found no elevated concentrations of contaminants in the soil samples tested and concluded that the site can be made suitable for the proposed development provided that a Stage 2 detailed environmental assessments is undertaken and an asbestos inspection is undertaken of all buildings and structures prior to demolition. The proponent has included a statement of commitment to this effect.

On this basis the Department is satisfied that the objectives of SEPP 55 can be met with the imposition of appropriate conditions.

A condition has been recommended requiring a Stage 2 detailed environmental assessment as well as other investigations recommended by EIS. The condition also provided that where remediation is found to be necessary, it be undertaken prior to the issue of any construction certificate for the site, with an associated Validation Report and Site Audit Statement also to be provided as necessary prior to issue of a Construction Certificate.

State Environmental Planning Policy (Infrastructure) 2007

The proposal exceeds the apartment number thresholds and the commercial area thresholds referred to in Clause 104 and Schedule 3 of the Infrastructure SEPP. Accordingly, the proposal was referred to the Roads and Maritime Services as a 'Traffic Generating Development'. The RMS comments are discussed in **Sections 4.1** and **5.6** of this report.

State Environmental Planning Policy (Building Sustainability Index) 2004

The PPR was accompanied by Basix Certificates to meet water and energy saving requirements under the SEPP. The amended floor plan layouts submitted in early May as discussed in **Section 5.5** will necessitate updated BASIX certificates to be provided. A condition has therefore been included in the recommendation.

State Environmental Planning Policy 64 – Advertising and Signage (SEPP 64)

The proposal incorporates various signage. Directional and under-awning signage is considered to be minor and of no material impact and is not subject to the provisions of SEPP 64. Four large signs are proposed on the site which require assessment against the SEPP. The signs are discussed in detail in **Section 5.7**. Subject to modifications to two of those signs as discussed in the report, the proposed signage is considered to be acceptable, having regard to the assessment criteria in Schedule 1 of the SEPP

State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (SEPP 65)

SEPP 65 seeks to improve the design quality of residential flat development through the application of a series of 10 design principles. An assessment against these principles is provided below.

The EA confirms the development has been designed having respect to the design principles of SEPP 65.

Key Principles of SEPP 65	Department Response
Principle 1: Context	The site makes up the majority of the commercial zone known as the "Eastlakes Town Centre". Although the site is surrounded by 3

	<p>and 4 storey residential flat buildings, The site is differentiated from many of its neighbours, having a commercial rather than residential zoning. As such a different form of development is to be expected on the site as compared to its surrounding context. A detailed discussion of the proposed form of the development and its relationship with adjoining sites and streets is included in Sections 5.2 - 5.4. Despite having a different character the proposal is considered to relate appropriately to adjoining development.</p>
Principle 2: Scale	<p>The proposal involves building heights ranging from 2 to 7 storeys above the podium level. A detailed discussion of building heights and scale is included in Section 5.2. The proposed development is considered to be of an appropriate scale suitable for a town centre development.</p>
Principle 3: Built Form	<p>It is considered that the proposed building envelopes, subject to modifications recommended within this report, will provide an appropriate built form outcome as outlined in Section 5.2 of this report.</p>
Principle 4: Density	<p>The provision of 428 apartments on the site in conjunction with the shopping centre is consistent with local and regional planning strategies which seek to locate housing within centres with access to transport, jobs and services. The Department has undertaken a detailed assessment of density in Section 5.1 of this report.</p>
Principle 5: Resource, Energy and Water Efficiency	<p>The development has been designed to promote energy and water efficiency. In excess of 82% of apartments will achieve 2 hours of solar access. The proposal is accompanied by BASIX certificates and includes an ESD report and MUSIC water quality report to ensure energy efficiency and water efficiency and quality targets are met.</p>
Principle 6: Landscape	<p>Extensive landscape open space areas are provided for the use of residents at the podium level. Refer to discussion in Section 5.5. A publicly accessible open space area in the form of the 'market square' is also provided at the ground floor level and provides an appropriate interface with the adjoining reserve. Street setback and footpath area landscaping is also proposed to make a positive contribution to the streetscape and character of the area. Refer to discussion in Section 5.3.</p>
Principle 7: Amenity	<p>The Department has assessed the proposal in terms of solar access, cross ventilation, privacy and unit sizes. Adequate separation is provided between proposed building envelopes. The Department is satisfied that the proposal will enable a satisfactory level of amenity throughout the development as outlined in Section 5.5.</p>
Principle 8: Safety and Security	<p>The proposal makes a positive contribution to safety and security in the area. Street and reserve interfaces are activated under the proposal in accordance with CPTED principles. It is also considered that the development will provide passive surveillance of public areas from residential living rooms and balconies and use of controlled access points to ensure clear definition of public and private spaces. Refer also to discussion in Section 5.8.</p>
Principle 9: Social Dimensions and Housing Affordability	<p>The proposal provides for a mix of apartment types which would encourage a diverse social mix within the area. 15 adaptable units will also be provided in consistent with rate suggested in Council's DCP.</p>

Principle 10: Aesthetics

The proposal is considered to present high quality façade design. Building massing and materials distinguish a base, a middle and a top to the buildings and the overall development and individual facades are well-articulated. The retail facades are considered to provide active and attractive street frontages. A palette of various external materials, finishes and elements ensure interesting and attractive facades on all elevations.

Residential Flat Design Code (the Code)

The Residential Flat Design Code (the Code) is closely linked to the principles of SEPP 65. The Code sets out a number of "rules of thumb" which detail prescriptive standards for residential flat development that would ensure the development complies with the intent of the Code. An assessment has been undertaken of the proposal.

Residential Flat Design Code Compliance			
	RFDC requirement	Proposed	Complies?
Part 1 Local Context			
Building Depth	Max 18m	12 – 25m	PARTIAL Acceptable on merit (see Section 5.5)
Building Separation (habitable rooms & balconies)	<ul style="list-style-type: none"> Up to 4 storeys :12m between habitable rooms/balconies Five to 8 storeys: 18m 9 storeys and above: 24m 	Varied building separation between 6.0m and 41.0m	PARTIAL Acceptable on merit, subject to recommended modifications and additional privacy measures (see Section 5.5)
Street Setbacks	Compatible with desired streetscape character	Setbacks are considered appropriate (refer to detailed discussion in Section 5.2)	YES
Part 2 Site Design			
Deep Soil Landscaping	Min 25% of open space except in urban areas where site is built out, in which case should include stormwater treatment measures.	Site is built out, but stormwater treatment measures included (refer to Section 5.8)	YES
Communal Open Space	25-30% or if this is not achieved increased private open space and / or in a contribution to public open space	6826m ² =28%	YES
Part 3 Building Design			
Solar Access	70% of living rooms & private open space to achieve 2 hours solar between 9am-3pm on 21 June	Approximately 82% of units will receive 2 hours of solar access.	YES
Single aspect units	Limit those with southerly aspect to no more than 10%	9.3% of units are south facing single aspect	YES

Single aspect units - distance from window	Max 8m	Maximum 9m	PARTIAL Acceptable on merit given the minor deviation, and primary living areas and bedrooms are all within 8 metres of a window.
Naturally cross ventilated	Min 60% of units	More than 60% of units	YES
Max No. of units off a circulation core	Max 8 units	Max 14 units to single circulation core	PARTIAL Acceptable on merit given high level of amenity of the circulation cores (See Section 5.5)
Accessible Storage facilities	One bedroom= 6m ² Two bedroom= 8m ² Three bedroom = 10m ² exclusive of wardrobes	Storage is provided within apartments and within basement area	YES
Apartment Size (min)	Studio 38.5m ² min 1 bedroom: 50m ² - 63m ² 2 bedroom: 70m ² -121m ² 3 bedroom: 95m ² -124m ²	Studio = 39 – 46m ² 1 bedroom = 50m ² - 73m ² 2 bedroom = 65m ² - 124m ² 3 bedroom = 113m ² - 145m ²	YES YES PARTIAL YES Acceptable on merit (see Section 5.5)
Balcony Depth	Min 2m	>2m	YES
Floor to ceiling heights	Ground floor: 3.3m First Floor: 3.3m All other floors 2.7m	Ground floor: 5.3m First Floor: 2.7m All other floors 2.7m	YES Acceptable on Merit YES

Botany Local Environmental Plan (LEP) 1995

The provisions of Botany LEP 1995 apply to the site. The table below contains a summary of the compliance of the proposal against the relevant LEP controls.

Clause	Control	Proposed	Compliance
10: Zone Objectives and Development Control Table: Zone 3(a) General Business	A range of uses, including 'mixed development' are permissible with consent	Mixed Development	Yes – the proposed use is permissible in the zone and is compatible with the zone objectives. Refer to discussion in Section 3.2.
12: Floor Space Ratios	1:1	2.15:1	No – Refer to detailed consideration in Section 5.1. The non-compliances with the FSR control is considered acceptable.

Draft Botany Bay Local Environmental Plan (DLEP) 2012

The draft BLEP 2012 was placed on public exhibition between 22 May and 22 June 2012.

The table below contains a summary of the compliance of the development against the relevant DLEP controls.

Clause	Control	Proposed	Compliance
10: Zone Objectives and Development Control Table: Zone B2 Local Centre	A range of uses, including commercial premises (including retail premises); residential flat buildings and shop top housing are permissible with consent	commercial premises (including retail premises); residential flat buildings and shop top housing	Yes – the proposed use is permissible in the zone and is compatible with the zone objectives. Refer to discussion in Section 3.2.
Floor Space Ratios	1.5:1	2.15:1	No – Refer to detailed consideration in Section 5.1. The non-compliances with the FSR control is considered acceptable.
Building Heights	14m (max)	32m (max)	No – Refer to detailed consideration in Section 5.2. The non-compliances with the height control is considered acceptable.

APPENDIX E RECOMMENDED CONDITIONS OF APPROVAL
