



Internal Ref: EXTERNAL/2024/0020

26 March 2025

Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

ATTENTION: Stephen Dobbs

Dear Mr Dobbs,

Inner West Council Response: SSD-76927247 – The Timberyards by RTL Co.

Property: Lots bound by Victoria Road, Sydenham Road, Farr Street and Mitchell Street, Marrickville NSW 2204

Thank you for the opportunity to comment on the proposed Timberyards State Significant Development Application (SSDA). Council has reviewed the submitted SSDA proposal, including the Environmental Impact Statement (EIS) and Industry Specific SEARs.

Council has reviewed the submitted information and whilst it is considered that the redevelopment of the site would be a positive addition to the precinct, there are a number of substantive issues which would need to be resolved prior to approval of the application. It is considered that the proposal fails to adequately address a number of impacts associated with the development which have not been adequately resolved through the current design and information presented with the proposal, which are summarised as follows:

- The proposed development includes a large variation to the applicable height development standard. The extent of variation to Building G is not supported as it will not enable a suitable transition in building height to surrounding properties and the height/massing of Building E compromises the amenity of any future development for the residual lots not forming part of the development site.
- The proposed solar access/overshadowing has not demonstrated compliance with Part 3B *Orientation*, 3D *Communal and Public Open Space* & Part 4A *Solar and Daylight Access* of the Apartment Design Guide (ADG).
- The submitted documentation has not adequately demonstrated that the proposed development will not result in site isolation in accordance with the Planning Principle outlined in *Karavellas v Sutherland Shire Council [2004]*.
- Compliance with Section 6.31(3)(a) of the *IWLEP 2022* must be demonstrated, which requires development to undertake the necessary upgrading of road networks at the Sydenham Road & Victoria Road intersections.
- Insufficient car parking has been provided to service the development, in which a minimum rate of 0.5 spaces per unit should be adopted instead of a rate of 0.2 spaces per unit.

- Concern is raised regarding the proposed public domain works, including the sole use of the unnamed laneway at Mitchell Street, and the insufficient assessment of stormwater infrastructure in Mitchell Street, Farr Street and Victoria Road.
- The upgrading of the signalised intersection at the corner of Victoria Road and Sydenham Road has not been included as part of this development which is not supported.
- The commercial/retail areas are proposed to sit below the Flood Planning Level, which is not supported.
- Insufficient Arboricultural information has been submitted to assess the impacts of the Remediation Action Plan on neighbouring trees (specifically located at Nos. 109-119 Sydenham Road and 199 Victoria Road), or to ensure the protection of public and private trees during demolition and construction.
- The submitted Acoustic Report has not adequately assessed the impacts of traffic noise, noise from plant and mechanical ventilation, noise from future commercial tenancies, or noise from communal living areas.
- A soil vapour/sub-slab vapour investigation should be conducted alongside a groundwater monitoring program, as advised in the submitted Remediation Action Plan. This should be captured in an Environmental Management Plan for the site.
- Further information regarding the adequate disposal of commercial and residential waste is required.

Each of these matters is addressed in detail in the following sections.

Key Issues

1. Building Height

The proposed development includes seven new buildings across the site, six of which seek to vary the site specific building heights under the *IWLEP 2022*. Each applicable building height is inclusive of the 20% GFA bonus under the *Housing SEPP*.

To address the above, the applicant has submitted a Clause 4.6 request to vary the height of buildings development standard. The extent of height variation is reproduced below:

Building	LEP height	Maximum building height*	Proposed building height	Ground level (existing)	Exceedance to maximum building height	Variation % to maximum building height	Overview of variation
A	20m	24m	31.2m	RL 5.340	7.2m	30%**	1 storey + plant
C	23m	27.6m	33.3m	RL 2.860	5.7m	20.7%	Plant + roof
D	23m	27.6m	31.1m	RL 2.850	3.5m	12.7%	Plant + roof
E	RL 50	RL 50	RL 50.8	RL 2.907	0.8m	1.6%	Parapet
F	20m 11m	24m 13.2m	29.2m 27.4m	RL 4.690 RL 4.690	5.2m 14.2m	21.7%** 107.6%	1 storey + plant (primary) The southern corner for 4 storeys (minor – approx. 4m ² only)
G	11m 20m	13.2m 24m	30.2m 28.9m	RL 3.270 RL 4.320	17m 4.9m	155%** 20.4%	4 storeys + plant (primary) The western corner for 1 storey + plant



Source: Ethos Urban 2024

Figure 1: Proposed height variation summary

Central to the Clause 4.6 request is the redistribution of additional floor space from the *Housing SEPP* bonus from Buildings A and E to other buildings across the subject site. This is due to the OLS height limitation at the centre of the site. Buildings F and G receive the greatest amount of additional floorspace, with Building G up to 17m higher than the applicable 13.2m maximum (inclusive of SEPP bonus). This results in an 8 storey built form to Sydenham Road at the southern border of the development site, without a reasonable building height transition to the surrounding lower density residential zones.

The extent of building height variation to Buildings A, C and D is considered generally acceptable, having regard to the location, scale and limited amenity impacts as a result of the variation. Redistribution of floorspace to those buildings, to the extent proposed, will not unreasonably impede the transition in building heights under Objective (c) of Section 4.3 of the *IWLEP 2022*, which is *to provide an appropriate transition between buildings of different heights*.

Considering the shadow impacts explored under Section 2 of this letter, it is contended that the proposed variation fails to achieve Objective (b) of the standard, which is *to minimise adverse impacts on local amenity*. In particular, the area of Building G contravening the height standard results in tangible additional shadowing to Nos. 110-114 Sydenham Road, beyond that of a compliant building. Similarly the massing of Building E will also have direct impacts to the buildings on Sydenham Road. Inevitably any future redevelopment at 109-119 Sydenham Road will be compromised with little to no solar access as a result of the subject development.

Similarly, Section 13 of this letter also refers to building separation and it is unlikely the development adequately affords reasonable and compliant building separation for 110-114 Sydenham Road based on heights proposed.

In relation to Objective (c) of the standard, it is also contended that the proposed variation fails to achieve this objective. *To provide an appropriate transition between buildings of different heights* envisages a tangible, perceivable reduction in building bulk from higher densities to those adjoining. In this context, the site is at the southern border of the 'Victoria Road - Precinct 47' precinct and adjoins 'Marrickville Town Centre North – Precinct 20'. The extent of height variation limits the transition between zones and, due to orientation, contributes to additional shadowing impacts to the adjoining properties on Sydenham Road.

The 2018 Planning Proposal established varying height limits across the site (see **Figure 2**). These heights anticipated and required a transition in building heights, with higher buildings concentrated to the centre of the site, stepping down to nearby residential areas (namely Sydenham Road and Farr Street). As indicated in the submitted Visual Impact Assessment, this has the effect of reducing view and visual impact on these nearby residential areas.

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Source: NSW Planning Portal Digital EPI Viewer 2025, with IWC annotations

Figure 2: IWLEP Height of Buildings Map

While Planning Circular PS-23-003 is relevant to the proposed building height variation, the extent of variation is arguably beyond the flexibility recommended under that direction.

Considering the proposed Clause 4.6 relies upon Test 1 under *Wehbe*, Council's view is that the proposed development has not satisfied this test as the proposed variation does not achieve Objectives (b) and (c). To resolve this matter, a reduction in the proposed building height at Building G is suggested and a shift in massing of Building E and further analysis of building separation be considered.

2. Site Isolation

As the Marrickville Development Control Plan 2011 (MDCP 2011) does not include comprehensive assessment criteria for site isolation and amalgamation, it is considered necessary to rely on the Planning Principle established in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 (*Karavellas*).

The properties located at Nos. 109-119 Sydenham Road and Nos. 199-203 Victoria Road (referred to as Corner Sites) are not included in this SSDA, however, are referred to as potentially forming part of a future application for a mixed-use development. Given the location of these neighbouring sites, being the corner and edge of the subject lots, an assessment is to be made against the aforementioned Planning Principle for site isolation.



In *Karavellas*, the following questions are raised to determine whether a site will be isolated by a development:

- *Firstly, is amalgamation of the sites feasible?*
- *Secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?*

To answer the first question, the principles set out in by Brown C in *Melissa Grech v Auburn Council* [2004] NSWLEC 40 are utilised.

In accordance with Section 4.1 the *IWLEP 2022*, the site is not subject to minimum lot size requirements. However, while it is acknowledged that DCPs do not apply to SSDAs in accordance with the *Planning Systems SEPP*, it is noted that Part 9.47.6 of MDCP 2011 outlines the strategic Masterplan for Victoria Road. This requires development not to be undertaken in a way that causes adjacent lots to be isolated, and unable to achieve the vision of the *Indicative Masterplan*.

The Environmental Impact Statement, prepared by Ethos Urban on 03 February 2025, indicates that the owner/s of the subject land [being RTL Co.] has previously approached the Corner Sites property owner/s with offers to acquire the land, and states that discussions are actively ongoing. The EIS notes that negotiations have not been successful enough to include these sites into the wider development, and that these could occur at a later stage *if* acquisition was successful. It is worth noting that No. 119 Sydenham Road and No. 199 Victoria Road (lots located on the outer edges of the proposed development) have recently been up for sale in 2020 and 2023, respectively, and were not purchased by RTL Co. at this time.

In considering this, the EIS largely refers to *Appendix FF – Acquisition offer to adjacent lots* which includes all previous offers made to, and negotiations held with, these neighbouring lots. However, a search of the submitted documents on the NSW Major Projects website has not found the aforementioned Appendix. Given Appendix FF has not been included in the submitted documents publicly available on the NSW Major Projects website, Council is not satisfied in this regard that the first principle established in *Karavellas* has been adequately demonstrated.

To answer the second question, the principles set out by Crown C in *Cornerstone Property Group Pty Ltd v Warringah Council* [2004] are utilised. A schematic analysis of the Corner Sites has been prepared, shown in *Appendix J – Design Report*, to demonstrate that the site could be reasonably developed in the future.

The schematic analysis has not adequately demonstrated that the adjoining Corner Site could support future development that is consistent with the relevant planning controls, including the vision of the *Indicative Masterplan*. It is noted that the schematic analysis unfairly burdens the Corner Site with the responsibility to provide compliant building separation distances contained in the Apartment Design Guideline (ADG) from adjoining properties (specifically buildings G and D), particularly given these buildings have only provided a minimum of 3 metre setbacks from the shared boundaries (as shown in red arrows below). In addition, it is unlikely that the site could provide sufficient communal open space that would receive a minimum 50% solar access for 3 hours on June 21, or receive compliant solar access to proposed residential

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units, in accordance with the ADG given the extent of overshadowing to this area cast by the proposed development.

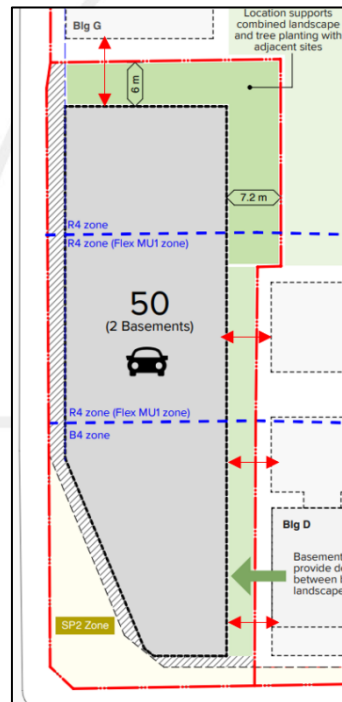


Figure 3: An excerpt from the submitted schematic analysis provided in Appendix J

Furthermore, given a section of Nos. 201-203 Victoria Road is zoned SP2 Future Road Corridor, this further reduces the scale of any development on these sites once the compliant building separation requirements contained in the ADG are applied. While it is acknowledged that the Applicant has received advice from TfNSW stating that the upgrading of this intersection is no longer necessary, Council notes that irrespective of this, the SP2 zoning still applies and as outlined earlier, still greatly reduces the area available for financially viable development. It is further noted that Section 6.31(3)(a) of the *IWLEP 2022* requires the upgrading of road networks and intersections to be included in the *Indicative Masterplan*, however, given this Corner Site has not been included in the development, Council is not satisfied that the SSDA complies with this subclause.

All vehicular access for the Corner Site would need to occur from Sydenham Road, a State-owned Road, which would likely require additional traffic management methods to be introduced (i.e., no right-hand turns for ingress and egress). Alternative vehicular routes could be proposed in the SSDA to allow the Corner Sites to not rely solely on only Sydenham Road, like a shared path from Farr Street through the site.

Should the sites remain as excluded from the SSDA and thus underdeveloped, they will be entirely overshadowed by the proposal on June 21.

It is considered that the submitted schematic analysis has not adequately demonstrated that orderly and economic use and development of the Corner Site could be achieved if acquisition is not pursued. The onus of providing compliant building separation, managing the SP2 zoning and upgrading the surrounding road network in accordance with s6.31(3)(a) of *IWLEP 2022*,



falls on the owner/s of these neighbouring properties as a result of the proposed SSDA, and it is considered that the proposal has not been designed to reduce or alleviate this burden.

Given the above, Council is not satisfied in this regard that the second principle established in *Karavellas* has been adequately demonstrated in the schematic design put forward or the overall design of the development and considers that the SSDA does result in site isolation of these neighbouring properties.

3. Solar Access & Overshadowing

Part 4A *Solar and Daylight Access* of the ADG includes objectives, design criteria and guidance relating to overshadowing from and solar access for new apartments, in which the following design criteria from the ADG are of particular relevance:

Objective 4A-1

- *Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.*
- *In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9am and 3pm at mid-winter.*
- *A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.*

Solar Access/Overshadowing within the Site

Shadow diagrams in plan view have been submitted, which demonstrate there is significant internal overshadowing within the site.

Based on the limited information provided, the shadow diagrams fail to demonstrate compliant solar access is received to the balconies and associated glazing which service principal living areas along all building elevations.

Furthermore, shadow diagrams in elevation view have not been submitted which demonstrate that the required 2 hours of solar access to the balconies and associated glazing which service principal living areas is achieved for;

- The southern elevation of all buildings;
- The eastern elevations of Buildings A, B, E, F & G; and
- The western elevations of Buildings B, D, E & G.

The current diagrams in plan view demonstrate that the northern elevations of the aforementioned buildings will receive solar access at only 3pm on June 21. The aforementioned eastern elevations receive solar access between 9am-10am, and thus only receive 1 hour of solar access between 9am and 3pm on June 21. The aforementioned western elevations receive solar access from 10am-11am, and thus only receive 1 hour of



solar access between 9am and 3pm on June 21. Given the above, it has not been demonstrated as to how the proposed living rooms and private open spaces of at least 70% of apartments on the site receive a minimum of 2 hours direct sunlight between 9am and 3pm in accordance with the design criteria under Objective 4A-1 of the ADG.

Solar Access/Overshadowing beyond the Site

It is noted that there are PV panels along the roof planes on several dwellings on Sydenham Road to the south of the subject site, which would experience increased overshadowing as a result of the proposal. The following properties are impacted:

- 102 Sydenham Road;
- 114 Sydenham Road;
- 116 Sydenham Road;
- 122 Sydenham Road.

The submitted shadow diagrams have demonstrated that the overshadowing impacts on PV Panels have increased as a result of the non-compliant portions of the proposed development (including height breach of Building G).

The primary roof for the dwellings along the southern side of Sydenham Road that contain PV panels should achieve a minimum four (4) hours of direct sunlight between 9.00am and 3.00pm on June 21 in accordance with Part 2.7 of the Marrickville Development Control Plan 2011.

Of considerable concern is the overshadowing impact presented to 109-119 Sydenham Road as a result of the proposed development. As discussed previously, the height and building separation proposed will limit direct solar access to the Corner Site compromising the amenity of any future development in this location.

4. Public Domain Works

The following concerns have been raised regarding the proposed public domain works and must be addressed in the submission of amended plans and documentation:

Works within Council verge

- (a) The upgrading of the signalised intersection at the corner of Victoria and Sydenham Roads must be delivered upon the completion of the first stage of any redevelopment. As the property on the Southeast corner of the precinct is required to provide the road widening as part of the upgrading of the signalised intersection, this corner property must be part of the proposal. Given this, it is considered that compliance with Section 6.31(3)(a) of the *IWLEP 2022* cannot be achieved without the inclusion of this key site and the delivery of an upgraded intersection, as this clause requires development to undertake the necessary upgrading of road networks at the Sydenham Road & Victoria Road intersections.
- (b) The public domain along all frontages of the site inclusive of footpath paving, kerb and gutter, street trees, landscaping, street furniture, etc must be reconstructed and



upgraded in accordance with the Street Tree Master Plan and the IWC Public Domain Design Guide for the area

- (c) As outlined elsewhere in this letter, the SP2 Infrastructure Zone applicable to the land, including the land at no. 199-203 Victoria Road, must be dedicated as public road widening. The existing footpath widths along the road widening must be maintained.
- (d) The Victoria Road frontage shall be a key future activity spine with high quality materials, wide footpaths and landscape design treatments that encourage people to dwell in the area and have generous and safe footpaths. The 1.5m activation area along Victoria Road as required by Part 9.47 of the MDCP 2011 (Figure 4 and objective O15) must be provided and kept clear of all obstructions including the LV electrical pillars resulting from the undergrounding of power (and communication) lines. High quality paving shall be provided in the setback consistent with new verge paving material selection.
- (e) The Sydenham Road paving selection shall be consistent with the future Sydenham Road Strategy. The Farr Street and Mitchell Street frontages with residential interfaces may contrast to the Victoria Road and Sydenham Road verge materials.

Mitchell Street

- (a) The un-named laneway connected to the site off Mitchell Street should be incorporated into the development, given it is used solely for vehicles associated with this development. Discussions with Council's Property Team regarding acquisition of this land should be explored.
- (b) The kerb line on the southern side of Mitchell Street shall be re-aligned to be straight and remove the "kink" in the road. This shall be achieved by the dedication of land on the development site, so as to maintain existing footpath widths.
- (c) Angle parking options within a widened Mitchell Street should be investigated so to increase on street parking within the development.
- (d) The proposal indicates a new footpath along Mitchell Street within the front setback of the site. The footpath is to be for public use, and shall ensure that the footpath, landscape and movement is coordinated with the pocket park approved under development consent DA/2022/1164 at 37-47 Farr Street.

Existing Infrastructure

- (a) The Infrastructure Report has not investigated the adequacy of the stormwater infrastructure in Farr Street, Sydenham Road, Victoria Road or Mitchell Street. It is the only utility service that has not been included in the report. There is no Stormwater Infrastructure in Mitchell Street, Farr Street or Victoria Road. This results in a considerable depth of stormwater flowing in the gutters even during small ARI storm events. As noted in control C27 under Part 9.47 of the Marrickville DCP 2011, all drainage systems within the precinct including the road reserve are to be upgraded to a 5% AEP capacity. Stormwater drainage shall be provided within the road reserve of Victoria Road at approximately 40m intervals (best practice) from the intersection of Mitchell Street to Sydenham Road. In addition, Stormwater drainage shall be provided within the road reserve of Farr Street for the full frontage of the development at 40m intervals.



- (b) All overhead powers lines adjacent to the site should be re-positioned underground. Multi-function pole lighting shall be provided on the Victoria Road, Sydenham Road and Mitchell Street frontages. Any electrical pillars or substations shall be provided clear of the road reserve and the 1.5m footpath Activation Zone.
- (c) A minimum 3mx3m splay shall be provided at all intersection of the development and the land dedication to the public as road widening, in accordance with control C27 under Part 5 of the Marrickville DCP 2011.

Accessibility and internal site circulation

- (a) The landscape plans indicate a footpath with extensive steps within the privately owned lands on the Mitchell Street frontage. The plans need to be amended to indicate the outcome of the requested 90-degree parking/kerbline adjustments on the southern side of Mitchell Street.
- (b) The landscape proposals and movement planning for the Mitchell Street frontage shall be coordinated with design plans for the pocket park approved under development consent DA/2022/1164 at 37-47 Farr Street.
- (c) The shared zone coming off Farr Street (near the Farr Street & Sydenham Road intersection) appear to indicate a dead-end, with no clear indication of how vehicles will turn around and exit the area. It's unclear how the vehicular circulation would function, and whether traffic management measures are in place to ensure pedestrian safety.
- (d) Additional details indicating the extent of accessible pedestrian movement network across the internal site area shall be provided, which identify potential obstacles. E.g. Wheelchair access is difficult along the proposed footpath on Mitchell Street with the level changes, where the design plans indicate extensive use of stairs in the landscape frontage.

5. Traffic & Parking

The following concerns have been raised regarding the proposed traffic & parking impacts and must be addressed in the submission of amended plans and documentation:

- (a) With reference to comments under points 3 & 4 of this letter, should the corner site not form part of the site's re-development and subsequently remain isolated, then the vehicle and future basement access to the isolated corner site shall be provided from this development via a right of way.
- (b) The intersection works primarily were aimed to increase capacity by way of dedicated right turn bays on the Sydenham Road east approach and Victoria Road north approach and plus a left turn slip lane on the Sydenham Road west approach. The SIDRA analysis shows the Victoria Road Sydenham Road intersection has a Level F (Fails) on the Right turns on the east and west legs of the intersections during peak periods with queues of up to 153m. The west leg of the intersection also fails during the Saturday peak with queues of up to 172m. Given that the intersection works were specifically proposed to resolve these issues it is imperative that they become part of the current development proposal and be delivered upon the completion of the first stage of any redevelopment.

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- (c) The TAIA uses no growth in the future developed scenario which is not best practice. It even ignores any future redevelopment in the precinct. The TAIA should be amended to provide a sensitivity analysis on different growth scenarios.
- (d) The proposed new pedestrian signals at mid-block should be relocated to Mitchell Street. The current location only 90 meters from the Victoria Road/Sydenham Road intersection is within the queue length in Victoria Rd for the existing PM peak of 125m and the Saturday Peak of 101m. In addition, the queue from any midblock traffic signals will likely impact the intersection of Victoria Road and Mitchell Street.
- (e) The current provision of car parking is unacceptable. The proponent proposes 238 car parking spaces for 1,188 units (including 22 privately operated car share spaces plus seven RTL Co. staff spaces). A more realistic rate of 0.5 spaces per unit (Council DCP rate for boarding houses) should be adopted instead of a rate of 0.2 spaces per unit. This will result in 594 spaces being required – a difference of 356 spaces (strictly for the residential component alone) that will need to be accommodated within the surrounding road network. This is unsatisfactory in terms of impacts on surrounding streets, due to spill over of parking from the development.
- (f) Further, Clause 73 under *SEPP (Housing) 2021* requires that any Build-to-rent housing is only mandatory for a minimum of 15 years. As any residential component of the development is able to be converted to Strata Title following the relevant period, the shortfall of car parking would be further compounded.
- (g) The rates used for the retail and commercial uses are questioned. It is estimated that 56 spaces are required for the retail area of 2073m² and 4 spaces for the office area equating to 60 spaces required. The proposed number of spaces is 33 equating to a shortfall of 27 spaces. A new level of basement parking shall be provided below the existing retail parking so as to accommodate the shortfall in retail/commercial parking. The TAIA shall be amended to detail how the retail/commercial parking figures were calculated.
- (h) As noted above parking rates must comply with Area 2 of Part 2.10-Parking of the Marrickville DCP. If the proponent proposes less parking that required by Council's DCP then this must be justified via use of parking and car ownership surveys of other similar co living developments. The car ownership rate in Marrickville is approximately 1.2 per dwelling.
- (i) Minimise loss of on street parking and look for opportunities to increase on street parking. The Transport and Accessibility Impact Assessment must include on street parking utilization surveys.
- (j) Determine the impacts of the resulting from the shortfall in parking by the development on "on street" parking within the area by analysing car ownership rates from the latest census data for the suburb. The development must not adversely impact available on street parking.
- (k) The current swept paths provided with the TAIA show that servicing of the site is convoluted and very constrained requiring a minimum of 4 manoeuvres. The Service area shall be redesigned to allow for a more generous loading dock area where heavy vehicles are able to access the loading dock in a maximum of 2 manoeuvres. All servicing of the site including waste servicing shall be in and out in a forward direction without the need of a turntable.



6. Stormwater Management & Water Sensitive Urban Design

The following comments are provided regarding stormwater management & water sensitive urban design requirements:

- (a) All basements must be fully tanked.
- (b) If Water NSW permits a drained basement, groundwater will only be permitted to be discharged to Council's stormwater system if it meets the following water quality requirements:
 - (i) Water must be treated to meet ANZECC (2000) 95% Marine Water Guidelines;
 - (ii) Where the ANZECC (2000) Marine Water Guidelines are silent on any elements or chemicals present in testing samples the water discharge is to comply with endorsed guidelines and recommendations issued by the EPA;
 - (iii) The water shall have a pH of between 6.5-8.5
 - (iv) The water to be discharged must contain no visible oil or grease; and
 - (v) The water must not contain any substances known to be toxic to aquatic life.
- (c) As detailed above under "public domain", all drainage systems within the precinct including the road reserve are to be upgraded to a 5% AEP capacity (Refer to C27 of Part 9.47 of the site specific DCP)
- (d) No water quality landscaped treatments have been provided only filters have been proposed to treat the stormwater. The stormwater plans shall be amended so as to introduce raingardens or other soft landscaped water treatment measures as per the Marrickville Council WSUD Reference Guideline.

7. Flood Planning

The following comments are provided regarding flooding impacts and must be addressed in the submission of amended plans and documentation:

- (a) All floor levels of the proposed development commercial and residential must be set at the Flood Planning Level i.e. 1% AEP storm plus 500mm freeboard. This is consistent with per the recent development in the precinct at 186 Victoria Road, Marrickville. Setting commercial/retail floor space below the Flood Planning Level is not acceptable for new development of this size with no constraints.
- (b) The FIRA shall assess a range of storms to determine the level of service of the major intersections (i.e. the intersections are no longer safe for vehicle traffic) impacted by flooding and measures to improve the level of service to a minimum 5% AEP event.

8. Tree Management

The submitted *Arboricultural Impact Assessment and Method Statement* contains several deficiencies which are necessary to address. The report does not address the Remediation Action Plan and the impacts that any such work will have on trees located on adjoining property (such as trees nominated as 48-53, which are located on the sites 109-119 Sydenham Road & 199 Victoria Road).

Furthermore, it is unclear why the author has listed these trees and a large majority of street trees as *Category Z "Unimportant trees not worthy of being a material constraint"*. Given these



trees are not located on the development site, in accordance with the author's rating system, they should be rated as *Category A "Important trees"*. Consequently, and as discussed in the ensuing paragraph below, insufficient details have been provided confirming tree protection measures that are required to ensure the viable retention of trees 48-53.

As alluded to in the paragraph above, the submitted Tree Protection Plan is generic in nature and is required to be amended to provide more comprehensive details on tree protection measures. It is unclear from the accompanying report as to how the trees nominated for retention will be protected during the construction of the development, as specific protection measures for each tree have not been provided. Specific protection measures that have not been addressed include:

- Will fencing or trunk protection be installed, and why.
- Impacts that the installation of hoarding will have.
- Whether pruning will be required.

It is noted that the *Tristaniopsis Laurina* (Water Gum) has been nominated to be planted along the Victoria Road frontage. The applicant has been previously advised that semi-advanced *Lophostemon Confertus* (Brush Box) will be required to be planted along this frontage, with spacing at 15 to 20 metre intervals.

All replacement planting must comply with AS2303-*Tree stock for landscape use*. Council will require certification that all street tree plantings comply with this standard.

The existing overhead electrical infrastructure located on the Victoria Road and Farr Street frontages must be re-directed underground.

9. Acoustic Impacts

Mechanical Plant – Residential & Commercial Components

The submitted Acoustic Report concludes that windows must be kept closed with acoustically rated external windows and doors to achieve the established internal acoustic criteria. The applicant will need to consider the provision of alternative ventilation, in addition to any natural ventilation for affected residential apartments/living spaces.

When selecting mechanical plant for installation on site, the cumulative impact of all new plant should be assessed against the noise emission criteria in the acoustic report to avoid the risk of noise creep that may occur with a staged large development such as this (i.e. the acoustic report prepared at Construction Certificate stage should demonstrate that the cumulative noise from all mechanical plant selected for installation will comply with the criteria at the receivers, rather than assessing each individual piece of plant against the criteria on its own).

The submitted Acoustic Report has not included any discussion of noise from the proposed communal facilities for residents – such as the fitness centre/clubhouse, yoga terrace, libraries, kitchens/BBQ areas, wellness and juice bar, bicycle repair and makers workshop, music room and dog wash. It is noted that the proposed hours for the fitness centre are 6:00am to 10:00pm (daily), whilst the rooftop terrace and resident communal areas have 24-hour use, with a quiet use period from 10:00pm to 6:00am (daily).



Commercial Tenancies

Given that the type of commercial tenancies to be provided at the site are not yet known, the submitted Acoustic Report recommends that a separate acoustic assessment is required if and when any licensed premises/entertainment premises are proposed for one of the commercial spaces, in accordance with Liquor and Gaming criteria and Councils Good Neighbour Policy.

Traffic Generation, Car Park & Loading Dock

Minimal consideration has been provided towards traffic noise within the submitted Acoustic Report. The only consideration of traffic noise is a list of very basic recommendations to minimise truck noise from use of the loading dock. These recommendations are vague and unenforceable, recommending that truck idling and air brakes be limited “where feasible”, and that loading dock hours be limited to 7am – 10pm “where feasible”. These recommendations are also not reinforced in the submitted Plan of Management (POM), in which concern is raised that the enforcement of these recommendations.

The POM should also be amended to incorporate recommendations for managing noise from the loading dock.

10. Land Contamination

The Remediation Action Plan (RAP) advises that a detailed soil vapour/sub-slab vapour investigation be carried out along with a groundwater monitoring program, to address residual data gaps and inform acceptable soil vapour criteria for the site. This will need to be captured in an Environmental Management Plan (EMP) for the site.

It also appears some materials may need to be dealt with on site via containment cells, which would also need to be covered by an EMP. Any EMP that is put in place would need to be legally enforceable and publicly notified via either a notation on the planning certificate and/or registration on the land title.

11. Waste Management

Commercial waste

Concern is raised regarding the proposed location of commercial bin storage area. The submitted Waste and Recycling Management Plan and architectural drawings indicate a long route of transfer from retail tenancies to the commercial storage area in Building B2.

The waste management plan mentions on page 26 that there will be space in retail/commercial lobbies or Back of House (BOH) will be available, but no spaces have been provided on architectural plans. It is recommended that the architectural plans be amended indicating where these temporary storage areas will be, and that demonstrate they are to be mutually inaccessible from residential BOH areas.



Residential waste

Residential waste and recycling capacity

The waste and recycling management plan indicates that the co-living units will generate 40L of garbage and 40L of recycling per unit per week. While these figures meet the requirements in the MDCP, where 1 x 240L is to be provided per 6 units in boarding houses (also applied to co-living housing), this is an outdated estimation. It is firmly suggested that capacity is still provided for 80L-120L landfill/unit/week. Council waste audits and reports have found that with high transient buildings, waste is generated at a higher capacity, and we will need to prepare for this outcome. This has been recommended previously at a pre-planning meeting and the previous response from Council in November 2024.

To accommodate adequate waste capacity, there will need to be additional bins and associated storage.

Food organics recycling (FOGO)

The waste management plan indicates that food organics and garden organics (FOGO) waste generation rates are expected to be 10L per unit per week. Council recommends one 240L bin be shared between 10 units to accommodate maximum servicing. This is important to ensure there is enough storage for increased FOGO participation.

Collection frequency

The waste management plan indicates that residential garbage bins are to be collected twice per week and residential recycling is to be collected once per week. Inner West Council's maximum residential servicing is garbage collected once per week and recycling collected once per fortnight.

Bin movement between buildings

Previous meetings with the consultant who prepared the waste management plan have indicated that bin movement between buildings poses a safety concern in an area with high foot traffic. This has not been adequately addressed in the waste management plan which only suggests that site management will be responsible for swapping over bins on a rotating schedule so not all buildings will require change every day.

Council Waste Supervisors have recommended a second loading dock to split up collections and reduce bin movements between different buildings. With this size of development, full bins will need to be transferred several times a day to the central loading dock which may impact pedestrian movement. In the case of a single loading dock, we recommend a plan of management for bin manoeuvring.

Litter prevention

Insufficient information has been provided regarding management of litter in public places. Due to the high projected rate of foot traffic in this development, litter bins are to be provided in publicly accessible spaces. The waste from these bins is not to be emptied by Council and is to be included by the property's commercial waste contractors. These public litter bins could also consider having Return and Earn baskets for accepted Container Deposit Scheme containers.



12. Planning Agreement

The following comments are made in relation to the Planning Agreement letter of offer:

- (a) Council and the applicant have been in discussions regarding a potential VPA. These discussions are ongoing, with matters to be resolved in relation to the potential divestment of Mitchell Lane and the valuation of the public benefit on offer.
- (b) As matters relating to the potential VPA offer are unresolved, it is Council's preference that a section 7.11 contribution is imposed as part of development consent. This would enable future works-in-kind agreements (WIKAs) to be developed after consent has been issued, to not cause unreasonable delay in determining this matter. Any updates on these VPA negotiations may be provided to DPHI by Council, upon request.

13. Section 7.11 Contributions

Under section 7.13(2) of the Environmental Planning and Assessment Act 1979, the consent authority must have regard to relevant contributions plan. The Inner West Local Infrastructure Contribution Plan 2023 is the relevant contribution policy applying to the subject land, and in accordance with its section 2.1 Determining the contribution type, the proposed development would attract a section 7.11 contribution as it intensifies the uses and density on the subject site. The below citation is quoted from a recently approved SDD-68067459 issued by the Department, dated 20 December 2024 (see page 7, Condition A9), Council requests that this condition is replicated if approving this application:

Prior to the issue of the first Construction Certificate, the Applicant must provide written evidence to the Certifier that a monetary contribution pursuant to the provisions of Council's Section 7.11 Development Contribution Plan – Inner West Local Infrastructure Contribution Plan 2023, has been paid to Council. Council must be contacted for calculation of required contributions.

Should DPHI require the calculation of s7.11 contributions prior to the issue of consent, Council can provide this upon request.

14. Urban Design

The proposal has potential to meet the design excellence expectations from a residential apartment and co-living development within the Inner West area, once the applicant addresses the below recommendations and questions:

- (a) **Building Separation Distances:** The building separation strategy considered for Buildings G and D in terms of the interface with the potential redevelopment on the adjoining properties (addressing Sydenham Road) needs to be further resolved as there are potential amenity issues. The applicant should demonstrate how their significantly reduced separation distances (inconsistent with the NSW ADG Part 3F guidance) will work in this instance. There is also a concern that proximity of Buildings G and D would limit the future re-development potential of the adjoining properties at 109-119 Sydenham Road and 199-203 Victoria Road.



- (b) **Landscape Design Quality:** As part of the landscape design strategy, the applicant should confirm consistency with the NSW Apartment Design Guide in terms of Part 3E - 15% genuine deep soil area (Excluding planting on structures) and Part 3D 25% communal open space requirements, including the mid-winter solar access for the minimum 2 hours.
- (c) **Re-entrant Corners in Building B:** The Building B re-entrant corners are generally supported. However, screening devices, angled walls or a relevant design strategy should be implemented to eliminate potential cross-viewing issues. The 90-degree unit adjacencies would create direct line-of-sight/s amongst the corner apartments.
- (d) **Concerns for Building G:** Building G is an 8 storey residential flat building and its southern building separation and interface with the adjoining property is considered problematic, particularly since the southern-most apartments - G01, G02, UG01, UG02, 0101, 0102, 0201, 0301, 0401, 0501, and 0601 (a total of 11 apartments) creating primary balcony and habitable rooms address to the side boundary, tending to borrow amenity from the neighbouring property. The applicant is recommended to consider reconfiguration strategies where the primary balcony orientation and address is either to the street or to the internal courtyard (within the site). Additionally, all habitable rooms (living rooms and bedrooms) should have primary address to the street and/or the internal courtyard). Only secondary windows to the side boundaries are acceptable, if a reduced building separation distance (less than the 9m required by the ADG) is considered in this instance.
- (e) **Concern for Building D:** The separation distance of Building D to the side boundary should be confirmed. It is preferred that a minimum 4.5m side setback should be established in this instance, given that a non-habitable interface is created to future potential development on the adjoining properties to the west. A minimum 4.5m opens-up a range of built form interface and configuration possibilities if the adjoining properties are redeveloped in future.
- (f) **Ground Floor Configuration:** All circulation lobbies and lift cores should have barrier-free pedestrian entries. If ramps and stairs are proposed, then these should be well-integrated with architecture and/or landscape design. The G1 lobby appears disconnected from the nearest footpath and the courtyard entries, and further refinement should be considered. Similarly, G2 lobby entry from the footpath relies on a set of stairs, however a pedestrian ramp appears to be missing.
- (g) **Building B Pedestrian Arrival Experience:** The B4 Lobby appears to be directly accessible from the Warehouse Place, similarly to the B1 Lobby from Mitchell Street. However, it is currently unclear as to how the B2 and B3 Lobbies are accessed from the public domain, as these lobbies appear to be accessed via Hardware Lane. Additional section plans across Building B are required to provide clarification on this matter.

Thank you for the opportunity comment on the proposal. It is considered that further information and amended plans be requested addressing the identified matters before determining any application for this site

If you need any further information in relation to the above response, please contact Council's Senior Planner Sean Wilson at 02 9392 5065 or email sean.wilson@innerwest.nsw.gov.au.

Yours faithfully,

INNER WEST



Ruba Osman
Manager Development Assessment (South)

