



# BICK & STEELE

Environment & Planning Law Specialists

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

23 March 2025  
Our Ref: DW:24172730  
Your ref: SSD-76927247

Dear Madam

**SSD-76927247 – The Timberyards by RTL Co. (Project) - Objection**

We act for Mr John and Mrs Laila Hallam in relation to the impact of the above Project.

This letter and the following two attachments constitute an objection to the Project by our clients:

1. Letter prepared by Mr John and Mrs Laila Hallam dated 21 March 2025 (**Hallam Letter**).
2. Town planning advice from Don Fox Planning dated 21 March 2025 (**DFP Advice**).

**Background**

Our clients own the property at 115 Sydenham Road, Marrickville (**Property**).

The Property is directly adjacent to (but not presently part of) the Project and is one of the properties (collectively referred to as the **Corner Site**) referred to in the Secretary's Environmental Assessment Requirements, requirement 3, regarding site isolation, issued for the Project (**SEAR 3**).

SEAR 3 is purportedly addressed at section 6.16 of the Environmental Impact Statement for the Project, prepared by Ethos Urban and dated 3 February 2025 (**EIS**). The EIS, at a high level, addresses the future isolation of the Corner Site by stating that:

- (a) the Project applicant "has sought (and continues) to negotiate to acquire the Corner Site and it remains possible that negotiations may allow for the successful acquisition and integration of that site into the broader precinct";
- (b) that the Project applicant has presented reasonable offers to each property owner of lots within the Corner Site;

Bick & Steele Pty Limited

ABN 98 618 795 305

Suite 5.05, Lawson Place, 165-167 Phillip Street Sydney NSW 2000 Australia  
www.bicksteele.com.au info@bicksteele.com.au +61 2 8005 1411

Liability limited by a scheme approved under Professional Standards Legislation.

- (c) in any case, the Planning Principle concerning site amalgamation (set out in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 (**Karavellas**)) does not require the Project applicant to negotiate to acquire surrounding land; and
- (d) the Corner Site can be separately developed in an orderly and economic manner.

The manner in which these issues are addressed in the EIS is, with respect, deficient, and this objection seeks to highlight those deficiencies and set out the correct position vis-à-vis the Project and its relationship to the Corner Site.

### **History of negotiations for acquisition of the Corner Site**

The Project applicant states that the offers for acquisition of the Corner Site properties are set out in Appendix FF to the EIS. However, that document was never made available on exhibition and, despite repeated requests to the Department, not made available to us or our clients.

As a consequence, our clients have no way of knowing the contents of that document. Leaving to one side any contention regarding procedural fairness, our clients have instead sought to provide their own detailed history of negotiations for the acquisition of the properties forming Corner Site in the Hallam Letter.

What is clear from that letter is that our clients have been, and remain, willing to sell their property to the Project applicant. We understand that that state of affairs applies to a number of other owners of properties within the Corner Site.

### **Utilisation of Victoria Road (Precinct 47) Development Control Plan**

The EIS, at page 152, references the fact that Inner West Council's Victoria Road Precinct 47 site-specific development control plan (**DCP**) does not apply to the Project.

That is correct by virtue of clause 2.10(1) of the *State Environmental Planning Policy (Planning Systems) 2021*. However, it is important that the Department consider relevant components of the DCP, which help to inform the intended orderly and economic development of the locality. Specifically:

- (a) **Objective O3:** To ensure redevelopment sites are of a suitable size and shape to enable high density residential and mixed use forms within the precinct can achieve high amenity and architectural quality.
- (b) **Objective O4:** To ensure that smaller allotments of land are not isolated leaving them unable to develop in accordance with the masterplan and provide for and deliver on key infrastructure required on private land.
- (c) **Control C2:** The redevelopment of lots shall be undertaken in a way that facilitates the implementation of the vision for the precinct. (In some cases this may necessitate the amalgamation of smaller properties). Any required amalgamation of sites shall be made in such a way as to align with a fair and reasonable delivery of required infrastructure located on private land as shown on the Indicative Masterplan. This includes the delivery of

the proposed shared zones; proposed publicly accessible open space; new footpaths on private land; and the proposed additional pedestrian activation areas.

- (d) **Control C3:** Development must not be undertaken in a way that causes adjacent sites or any other lots in the locality to be isolated in any way and therefore unable to achieve the vision of the *Indicative Masterplan*.
- (e) **Control C4:** Where practicable, and with the exception of the proposed shared zones, development sites fronting Victoria and Sydenham Roads are required to obtain vehicular access to their properties, other than via these roads.

While not directly applicable, these objectives and controls may be utilised as guiding principles for the assessment of the Project insofar as it will render any subsequent redevelopment of the Corner Site wholly inadequate.

### **Site Isolation Planning Principle**

The Project applicant's contention that the planning principle in Karavellas does not need to be addressed because the Corner Site is not subject to a minimum lot size is simply wrong. That planning principle must be addressed and, in the circumstances, we submit that the Applicant has not met its two-pronged requirement:

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

The answer to (1) is clearly yes, and the Applicant has had ample opportunity to acquire the properties within the Corner Site, as demonstrated in the Hallam Letter. With specific regard to our clients' property, they have been and remain willing to sell their property at a fair market value to the Project applicant.

With regard to (2), the Project applicant has undertaken a short, high-level attempt, at page 344 of Appendix J to the EIS, to demonstrate that the Corner Site could, in fact, be separately developed.

For the reasons set out in the DFP Advice, that scheme lacks proper site analysis and there are serious concerns about any viable development of the Corner Site if it is excluded from the Project.

Specifically, the Project:

- (a) will block almost all solar access to the Corner Site (located to the south of those towers);
- (b) the flooding and traffic impacts on the Corner Site have not been properly assessed;
- (c) the development potential, leaving aside the significant issue of solar access, and the insufficiently addressed flooding and traffic impacts, will be significantly curtailed having regard to setbacks and other site constraints. This lack of development viability is supported by the position set out in the Hallam Letter regarding earlier offers of purchase; and
- (d) will require diversion of a sewer main running through the Corner Site; and

- (e) will have significant noise and vibration impacts on the Corner Site that have not been properly assessed in the EIS.

The answer to (2), having regard to the position set out above and in the DFP Advice, is clearly no.

Accordingly, the application for the Project has not (presently) been completed in a manner that would enable it to be approved, having regard to the site isolation planning principle.

We also submit that the Applicant has failed to satisfy the Department with regard to SEAR 3.

**Proposed outcome**

Our clients are not seeking to stop the development of the land on which the Project is proposed. However, the impact of the Project on the Corner Site (if it is not incorporated) will be devastating, both during construction and as a consequence of the gutting of future development potential.

The Project applicant should be required to purchase (and, if desired, incorporate) those properties within the Corner Site whose owners are willing to sell, to ensure that land is developed in an orderly and economic manner.

Yours faithfully



Daniel Webster  
Director  
**Bick & Steele**

+61 2 8005 1411  
+61 413 990 987  
daniel.webster@bicksteele.com.au

Encl.

21 March 2025  
Ref: 22258A.2KM\_SUB

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

The Secretary,

**Re: Objection to SSD-76927247 - The Timberyards by RTL Co.  
Victoria Road, Sydenham Road, Farr Street and Mitchell Street, Marrickville**

In addition to our formal submission reviewing the legal and technical details of the above submission, we are including an addendum to reflect on our experience of this process.

We own 115 Sydenham Road Marrickville. It has seen four generations of our family in its walls – from grandparents to our children. We purchased the property from family members to house a parent when he became ill. Since his death, it has been rented.

The developers have stated that the key reason for the exclusion of our properties is that **there has not been unanimous agreement to sell, and so the entirety will be excluded.**

If this position remains, then the huge Timberyards development will be constructed behind us, leaving our properties wedged between it and Sydenham Road, with little to no solar access.

### The uncertainty built over time

We have been aware of this development since 2014. We were advised by our neighbours. The proximity, scope and resources invested in the project meant that it was well-placed to proceed, and we made a decision to support it. At the time, it was the Victoria Road Precinct, and plans covered our handful of properties on Sydenham Road. The assumption was that our properties would be included and purchased at a reasonable price.

### Our attempts to constructively engage with the developer

In 2015, six of the eight residential homeowners came together (111, 113, 115, 129, 131, 133 Sydenham Road) and invited the Developer (Danias) to meet with us and outline how things would progress with our properties. Angelo from Danias attended and advised us that we would be looked after.

In the years following the meeting, the group approached the Developer (Danias) on many occasions to encourage the process of negotiating purchases. During this time, the Developer made it clear that if we could organise all the property owners to sell, we could then open discussions. Was it reasonable to expect homeowners to facilitate a group sale on behalf of a developer? Nonetheless, we tried and failed. Of those property owners outstanding that we could contact, we could not speak on behalf of the developer.

From then on, our efforts to engage with the developer were met mostly with silence, with little to no communication in return.

## Our attempts to engage in the planning process

From at least 2018, we also tried to engage with the planning authorities, beginning with our local Inner West Council. We asked for only two things:

- To include the property owners directly impacted in discussions being had over the Victoria Road Precinct which were in active discussions; and
- To ask for the new LEP 11m height limit and 6m setback to be reviewed over our properties along Sydenham Road. The restrictions were out of step with the rest of the block, and significantly disadvantaged these handful of properties.

The Council were sympathetic, but there were no changes.

We followed the project as it went to NSW Planning, and again asked to be engaged in the process. We were advised that we would have our opportunity when it went to public submission. As directed, the six residential property owners engaged in the public process, to no avail. The process had no mechanisms in place to hear or address the position we were placed in.

## Opportunities missed to purchase the properties which have now been excluded

In 2020, a decision was made to sell the six properties in two blocks (111, 113 and 115 + 129, 131 and 133). Through Ray White Commercial, the Developer (Danias) were offered the first option to purchase. They did not respond. The properties were put on the market, and following an active four-week campaign, offers were significantly below residential values. The independent developers who were interested cited the development risk that surrounded the height and setback restrictions. The properties did not sell.

In 2023, the Developer had the opportunity to purchase 203 Victoria Road when it was available for sale but did not.

Also in 2023, under the terms of confidentiality, the developer quietly and separately approached, negotiated and purchased the property owners of 129, 131 and 133.

## The most recent activity at the 11<sup>th</sup> hour

In August 2024, after years of resisting putting another homeowner in the same position we were in, but with no idea how much longer this development would continue to drag on, we decided to sell our property. Again, we approached the developer to advise and offer them the first opportunity to purchase. This time, they immediately agreed. We did not proceed with going to market. We agreed on a price and prepared a contract to exchange. The Developer (now Scape) sent us their Intent to Purchase letter. We signed it immediately, returned it and waited. The Developer, though, would not sign our contract to exchange. As we continued to query the delay, we were eventually informed that they would sign when the other property owners had also agreed to sell. These were new conditions. We continued to wait.

During this process, we had little insight into the status of others, who was in and who was out, or the nature of the discussions. We had no idea that the Commercial sites were also in the same position.

Six months on, and we discovered we were excluded from the development submission.

Since then, we also discovered that five of the six residential property owners had agreed to sell and had been made offers – some written in an Intent to Purchase, while others had verbal agreements. All were waiting for the contracts to come through to finalise the process. As well, two of the three commercial sites were also ready to sell, one also waiting for their contract to exchange.

## Six of eight properties are ready to sell

Six of the eight property owners have been prepared and ready to sell, their positions were known to the Developer prior to lodging their submission, which excluded them.

119, 117 and 115 properties adjoin and form a contiguous border with the development. The all-or-none approach is neither fair nor conducive to encouraging those two outstanding to re-consider their positions, particularly since the development proposal has assumed that it is inevitable these properties will be sold and developed. In the interim, the impact on them through the four-year construction phase, as well as the completed development will be severe.

## What of the two others who are not engaging?

We do not speak for the two remaining property owners who have not engaged with us.

113 Sydenham Road – The owners are an elderly couple who have been engaged as part of our original six property owners trying to sell over the years. In recent weeks, we learned there had been a death. It could be reasonable to consider the timing of these negotiations to be insensitive and insignificant to their immediate family circumstances.

109 Sydenham Road - is a commercial site. We have been advised the owners are overseas.

## A good outcome

### For the excluded property owners

- For planners to recognise the precarious position the excluded property owners have been placed in and support the issues to be resolved to mutual benefit.
- Not to maintain the stalling delay – which has stalled our ability to move on with our lives.
- To strongly encourage the Developers to engage with a genuine intent to purchase our properties at reasonable values.

### For the Developers

- To use the whole land to maximise the development potential.

### For the community and planning authorities

- To use the whole land to maximise the development potential, and create the homes and community spaces to support a vibrant community.
- To ensure those at most risk from the impact of the development are well-informed and not left stranded against their will.
- To do so in a timely way – and with no further delays.

Kind regards,

Laila Hallam  
e: [laila@bsmartmgt.com.au](mailto:laila@bsmartmgt.com.au)  
m: 0404 007 333

John Hallam  
e: [john@bsmartmgt.com.au](mailto:john@bsmartmgt.com.au)  
m: 0401 777 005



planning consultants

21 March 2025  
Our Ref: 22258A.2KM\_SUB

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

Dear Madam

**Re: Objection to SSD-76927247 - The Timberyards by RTL Co.  
Victoria Road, Sydenham Road, Farr Street and Mitchell Street, Marrickville**

### 1.0 Introduction

DFP Planning Pty Ltd (DFP) has been commissioned by Mr and Mrs Hallam (our Clients), owners of 115 Sydenham Road, Marrickville (our Clients' Land), to review the abovementioned development application (DA) and to consider the potential impacts of the proposed development on their home.

We have reviewed the DA material available via the NSW Planning Portal and have concluded that the proposal will have significant adverse impacts and therefore, on behalf of our Clients, we object to the proposal in its current form.

Our objections can be summarised as follows:

- The Applicant suggests that the adjoining land (including our Clients' Land) that would be isolated by the proposed development, has not been able to be acquired. Our Clients inform us that all but one adjoining property owner have been willing to sell their land to the Applicant (including within the last 6 months) although the Applicant has not proceeded with the purchases. Accordingly, the Applicant could reasonably have purchased the majority, if not all, of the adjoining land prior to lodgement of the DA;
- As a consequence of not acquiring the adjoining land (including our Clients' Land) the proposed built form will isolate the land, by preventing it from being developed in a manner that is contemplated by the planning controls. By the Applicant's own admission, the proposed development would result in a future development on the land fronting Sydenham Road achieving an FSR of 2.09:1 which is considerably less than permitted 3:1;
- The proposed Building E will entirely overshadow our Clients' Land between 9am and 2pm midwinter, precluding compliance of any future development with the solar access requirements of SEPP Housing and the ADG. This demonstrates the lack of proper site analysis and lack of holistic approach to the design and development of the entire precinct;
- The proposed development fails to properly consider the adverse impacts of flooding and access arrangements to the land fronting Sydenham Road. In our opinion, vehicular access to this land should be provided through the Development Site via Farr Street or Mitchell Street;



- It is not clear if the traffic impact assessment has assessed the future traffic generation from the land fronting Sydenham Road and this may cause the intersection of Sydenham Road and Victoria Road to fail;
- The proposed development will have significant adverse noise and vibration impacts on our Clients' Land which have not been properly assessed as part of the DA documentation; and
- The proposed development will require diversion of a sewer main which runs through our Clients' Land and the DA documentation does not consider the impacts of this. We note that this would not be the case if the Applicant had acquired the land fronting Sydenham Road and incorporated it into the Development Site.

This remainder of this submission provides a brief description of our Clients' Land in the context of the development site and outlines our assessment of impacts.

In making this submission, DFP declares that it has not made any reportable political donations in the last two years and that we acknowledge the Department's Disclaimer and Declaration.

## 2.0 Our Clients' Land

Our Clients' Land is known as 115 Sydenham Road, Marrickville and is legally described as Lot 1 in Deposited Plan (DP) 900275.

Our Clients' Land is located immediately south of the proposed development (the Development Site) as shown in **Figure 1**. All of this land is within the planning area known Precinct 47.

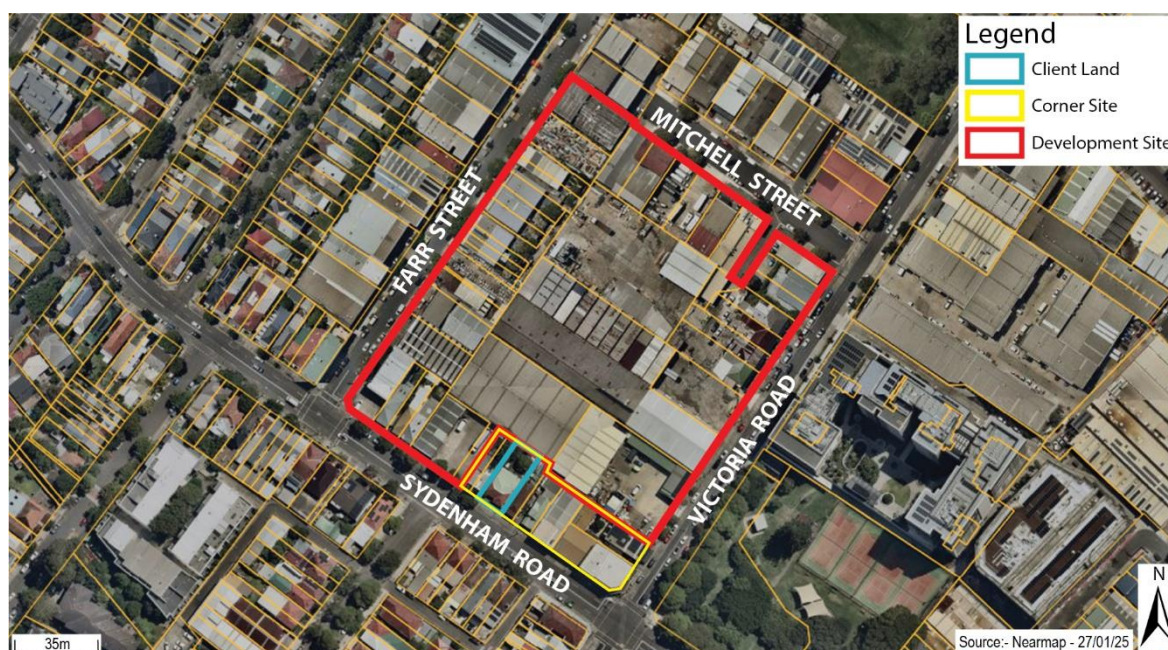


Figure 1 Site Context

Our Clients' Land is zoned R4 High Density Residential (the R4 Zone) pursuant to *Inner West Local Environmental Plan 2022* (the LEP) with the LEP also providing for a maximum Floor Space Ratio (FSR) of 3:1 and a maximum height of buildings of 11m.

Our Clients' Land, together with seven (7) other adjoining and nearby lots at 109, 111, 113, 117 and 119 Sydenham Road and 199 and 203 Victoria Road, constitutes the "Corner Site" as referred to in the Applicant's DA documentation.

### 3.0 Background

The EIS lodged with the DA states (s6.16, p151) the following with regard to site isolation:

*RTL Co. has sought (and continues) to negotiate to acquire the Corner Site, and it remains possible that negotiations may allow for the successful acquisition and integration of that site into the broader precinct. However, negotiations with the various landowners to date have not been sufficiently successful to allow for this to occur, and consequently should this occur in the future these properties would be the subject of a separate planning application. It is not necessary for the carrying out of this project for the Corner Site to be included, which already provides for a much higher level of property amalgamation and coordinated development than was anticipated at the time of the rezoning of the land or finalisation of the Precinct 47 DCP.*

We note that the exhibited DA material does not include documented details of the proposed offers for purchase of these adjoining parcels although our Clients inform us that seven of the property owners within the Corner Site have been willing to sell and this remains the case.

We are advised that one of the owners of another property (No. 113) had been ill and recently passed away and that this may be part of the reason that discussions with that property owner were not able to be progressed.

Accordingly, seven of the eight lots within the Corner Site could reasonably have been acquired by the Applicant in recent months and it is quite possible that the remaining lot would be open to selling.

Even if, according to the Applicant (although unverified because the relevant documents were not made publicly available), the owner of No. 113 or any owners to the south of that property were not willing to sell, the fact remains that 115 (our Clients' Land), 117 and 119 are all contiguous with the Development Site and the owners of these lots have, and remain prepared to sell their land to the Applicant for a fair and reasonable price. There is no valid reason why the DA should not have included these properties.

This is especially the case given the significant adverse impacts that arise from these properties not being part of the proposed development as detailed hereunder.

Our Clients will be making a separate submission to DPHI regarding the conduct of the Applicant in its dealings with the property owners.

### 4.0 Objections to the Proposed Development

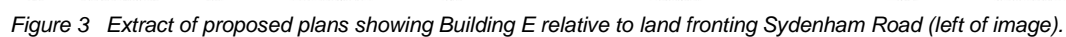
#### 4.1 Setbacks/Building Separation

The proposed development includes numerous tall buildings including proposed Building E, which is located just to the north of our Clients' Land and most of the land within the Corner Site (see **Figure 2**).

Building E has a height above existing ground level of approximately 46m and has habitable rooms and balconies facing our Clients' Land from Level 4 to Level 11 (see **Figure 3**).

The architectural drawings submitted with the DA do not dimension the setback of Building E from the boundary adjoining our Clients' Land although they scale at between approximately 12-13m.





In addition, the setback to a dotted outline for a potential future building on our Clients' Land scales at 9m from the boundary. This would suggest a total separation of 21-22m.

It is noted that the dotted line on our Clients' Land is misleading as it shows a building height that exceeds both the 11m LEP height limit and a height limit of 13.2m (if an affordable housing bonus were to be applied).

There is also an inconsistency between the architectural drawings and a "Reference Scheme" for the Corner Site within the Design Report (Part 5 Appendices p344) which shows a building separation of only 19.5m with a 7.2m setback within our Clients' Land.

However, if Clients' Land were developed for a building up to 4 storeys, a 6m rear setback would apply.

This would result in Building E having a separation from a future residential building on our Clients' Land of only 18-19m.

Irrespective of the discrepancies and misleading information within the DA documentation, such a significant change in building height – i.e. 46m to 11m – warrants a greater building separation or a built form that provides for a graduation of building heights and orientations.

As currently proposed, the height of Building E and lack of appropriate setback from our Clients' Land will have significant adverse impacts on a future residential building within our Clients' Land in terms of overshadowing (see below), privacy and visual bulk and scale.

Accordingly, the assertion in the DA documentation that the Reference Scheme is appropriate and that future development on our Clients' Land will not be prejudiced by the proposed development is flawed.

We note that our Clients' Land is unable to provide for greater building separation as to do so would significantly reduce FSR, which is already shown in the Applicant's Reference Scheme as being 2.09:1, well below the 3:1 maximum permitted on our Clients' Land (see further discussion below).

In our opinion, this conflict arises due to the lack of a holistic design approach - i.e. the incorporation of our Clients' Land within the Development Site.

## 4.2 Overshadowing

The EIS lodged with the DA states (s6.16 p153):

*The [reference] scheme represents an appropriate urban form and acceptable level of amenity, demonstrating opportunity to achieve each of the Housing SEPP's Schedule 9 Design principles for residential apartment development and key design criteria of the Apartment Design Guide (ADG) including solar and natural ventilation amenity.*

However, the information submitted with the DA does not include any analysis of the impact of overshadowing of the proposed development, especially Building E, on the northern façade of a future building on our Clients' Land or other land in the Corner Site.

Our assessment is that Building E will completely block sun to a future building on our Clients' Land between 9am and 2pm at midwinter and almost completely block direct solar access to any building on the Corner Site.

This can be seen from the extracts from the shadow diagrams from the DA documentation at **Figure 4** below.





Figure 4 Extract of shadow diagrams (midwinter) showing our Clients' Land (red dot) (Source: SSD-76927247)

Therefore, residential apartments within a future building on our Clients' Land would not receive the direct solar access in accordance with SEPP Housing and the ADG as misrepresented by the statement in the EIS.

The significant adverse overshadowing effect is a result of:

- The lack of a holistic design approach to the DA site and our Clients' Land (i.e. the incorporation of our Clients' Land within the Development Site);
- The height and overall building form of the proposed Building E; and
- The lack of sufficient building setback within the DA site to acknowledge a future, compliant building form on our Clients' Land.

#### 4.3 Flood

The Flood Report submitted with the DA indicates that in the 1% AEP Event, the depth of flood waters in Sydenham Road near our Clients' Land would be up to 0.35m. Flood waters would rise fast (within 30m) and not subside for several hours. This, together with the velocity of flood water results in a Hazard Category H5 which is unsafe for vehicles and people and all buildings are vulnerable to structural damage.

As the existing ground level at the front of our Clients' Land is RL 3.3m, a future development would have to have a minimum ground floor level of approximately RL 3.8m to provide for the requisite freeboard. Indeed we note that the ground floor level of proposed Building G, to the north-west of our Clients' Land, is at RL 4.66m.

In addition, if any form of vehicular access were contemplated (see below), it would have to have a driveway threshold of at least RL 3.8m. For a basement carpark this would need to be a crest before any ramp down to the basement.

These constraints to development of our Clients' Land suggest that a more holistic approach to development of the entire block (i.e. the incorporation of our Clients' Land within the Development Site) would provide for a better planning outcome.

#### 4.4 Vehicular Access

The Reference Scheme shows a vehicular access to the Corner Site (including our Clients' Land) via Sydenham Road, represented by the blue arrow in **Figure 5**.

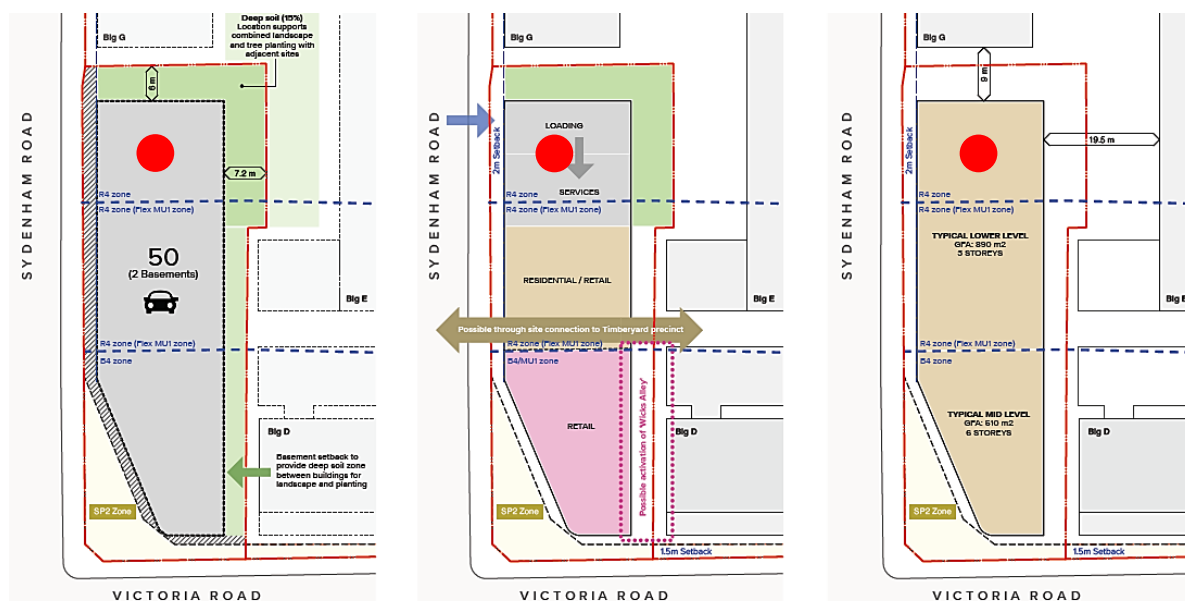


Figure 5 Extract of proposed Reference Scheme. Clients' land shown by red dot.

However, this is contrary to the DCP (Section 9.47.6.2, Objective 5 and Control 4) and does not acknowledge that Sydenham Road is flood affected (see above) and also carries a considerable volume of traffic. Accordingly, it is likely that vehicular access to our Clients' Land would not be supported under a standalone DA for the Corner Site.

Thus the current design accentuates the isolation of the Corner Site and warrants either the acquisition of the properties and their consolidation within the DA or, if the Applicant can demonstrate that it has not been able to acquire these properties, a redesign to facilitate access to the Corner Site.

The better outcome for the entire precinct is for the Development Site to provide for vehicular access via Farr Street or even Mitchell Street to the land which fronts Sydenham Road.

#### 4.5 Site Isolation

Section 6.16 (pp151-154) of the EIS submitted with the DA discusses "Site Isolation". However, in our opinion, that discussion includes a misconceived interpretation of the Case Law.

The Applicant suggests that because there is no minimum allotment size applicable to our Clients' Land, then there is no imperative for the Applicant to enter into negotiations with our Client to purchase our Clients' Land.

However, the Planning Principle derived from the Case Law is not limited to whether or not there is a minimum lot size or preferred amalgamation pattern prescribed by a DCP.

It also extends to whether a proposed development would be prejudicial to adjoining land being able to achieve a development that is consistent with the planning controls.

In this case, the proposed development under the DA will have significant prejudicial impacts on our Clients' Land by virtue of the overshadowing of caused by Building E. Based on our review of the DA, no residential apartments in a future development on our Clients' Land would receive the 2 hours direct solar access as required by SEPP Housing and the ADG.

In addition, if our Clients' Land were to be developed with a 6m rear setback as the planning controls permit, this would result in a building separation to the proposed Building E of only 18-19m. Building E has a height of approximately 46m above existing ground level and has residential apartments with habitable rooms and balconies at Levels 4-11 facing our Clients' Land.

Accordingly, Building E would tower over a future development on our Clients' Land and result in adverse visual impacts and adverse overlooking.

It is inconceivable how the EIS (s6.16 p154) could then conclude as follows:

*As demonstrated by the indicative scheme, which achieves an estimated yield of 42 apartments in a building envelope that demonstrates opportunity to meet ADG amenity criteria, the site in isolation is considered to have a high development potential. Further, future residents on the site have opportunity to utilise the significant quantum of publicly accessible open space and landscaped area in the adjacent proposed development. Development on the Corner Site is therefore not considered to be compromised by the proposed development.*

#### **4.6 Traffic Impacts**

It does not appear that the Traffic Impact Assessment (TIA) lodged with the DA has considered the cumulative impacts of the proposed development and other surrounding developments and hence, is not consistent with the SEARs.

The Applicant's mooted vehicular access to the Corner Site and mooted two levels of basement car parking would result in traffic generation that should feed into the modelling of the performance of the road network, most crucially, the Sydenham Road/Victoria Road intersection. The TIA concludes that this intersection will operate at Level of Service LoS C with the proposed development and that no upgrade is required.

However, a driveway access to the Corner Site and the traffic from that land may cause the SIDRA results to move the performance of that intersection from LoS C to LoS D or worse.

In the absence of the DA providing for an alternate access to the Corner Site (i.e. via Farr or Mitchell) the TIA should be revised to model this scenario.

It is not appropriate to conclude that the Sydenham Road/Victoria Road intersection will operate satisfactorily and therefore, that the Applicant does not need contribute to its upgrade as this will leave smaller development parcels being responsible for such costly upgrades.

#### **5.0 Construction Impacts**

##### **5.1 Noise, Vibration and Dust**

The Acoustic and Vibration Impact Assessment submitted with the DA is flawed as it assumes that the nearest sensitive receivers to the south-west are on the southern side of Sydenham Road.

In fact, the nearest sensitive receivers will be our Clients' Land and adjoining properties on the northern side of Sydenham Road, as they are not part of the Development Site.

Accordingly, there are likely to be significant construction noise, vibration and dust impacts for our Clients and these will be long term impacts, as a project of this scale will take many years to be completed.

Thus the DA as submitted does not satisfactorily respond to the SEARs.

## 5.2 Sewer

We note that there is an existing sewer main running below the proposed Building G and then through the rear of our Clients' Land (see **Figure 6**).



Figure 6 Extract of sewer diagram showing sewer running through our Clients' Land.

This will likely require diversion to accommodate the proposed development although there is no clear detail as to what implications there may be for our Clients' Land, both in the short term whilst our Clients' Land remains undeveloped, or in the long term scenario where our Clients' Land is developed.

It is not appropriate to defer such impacts until after consent is granted.

Again, a more holistic approach to planning of the entire block could have avoided these sorts of impacts.



## 6.0 Conclusion and Recommendations

On behalf of our Clients, the owners of 115 Sydenham Road, Marrickville, we have reviewed the DA material lodged with SSD-76927247.

The Applicant suggests that it has not been able to acquire our Clients' Land or other the adjoining land to the south, although our Clients have informed us that the owners of six of the eight properties have all been prepared to sell their land under fair terms.

The proposed development has been designed without proper regard to the impacts of the development on the land adjoining to the south and this has led to a design that isolates that land such that it cannot be developed in a reasonable manner that is anticipated by the planning controls.

We have set out herein that the proposed development will result in a 46m high building towering over a potential future 3-4 storey building on our Clients' Land and totally obscuring all direct solar access to such a future building.

Thus the design is highly prejudicial to the development potential of our Clients' Land and other land fronting Sydenham Road.

The DA material includes misleading and inconsistent information with regard to the relationship of the Development Site and a Reference Scheme future development on the Corner Site.

The conclusions of the EIS and other DA material that there is no adverse impact on our Clients' Land are incorrect.

Furthermore, the DA material fails to properly assess the impacts of construction on our Clients' Land.

Accordingly, on behalf of our Clients, we object to the proposed development under SSD-76927247 in its current form.

We look forward to DPHI's full and proper consideration of this submission and the DA more generally and should you have any queries, we would welcome the opportunity to discuss our concerns with DPHI's Assessment Officers.

Yours faithfully  
**DFP PLANNING PTY LTD**



**KENDAL MACKAY**  
**MANAGING DIRECTOR**

[kmackay@dfpplanning.com.au](mailto:kmackay@dfpplanning.com.au)



Reviewed: \_\_\_\_\_